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PART 329—LIQUIDITY RISK MEASUREMENT STANDARDS

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Subpart A—General Provisions

§ 329.1 Purpose and applicability.

(a) *Purpose*. This part establishes a minimum liquidity standard and a minimum stable funding standard for certain FDIC-supervised institutions on a consolidated basis, as set forth herein.

(b) *Applicability*. (1) An FDIC-supervised institution is subject to the minimum liquidity standard, minimum stable funding standard, and other requirements of this part if:

(i) It is a:

(A) GSIB depository institution supervised by the FDIC;

(B) Category II FDIC-supervised institution; or

(C) Category III FDIC-supervised institution; or

(ii) The FDIC has determined that application of this part is appropriate in light of the FDIC-supervised institution's asset size, level of complexity, risk profile, scope of operations, affiliation with foreign or domestic covered entities, or risk to the financial system.

(2) This part does not apply to:

(i) A bridge financial company as defined in 12 U.S.C. 5381(a)(3), or a subsidiary of a bridge financial company;

(ii) A new depository institution or a bridge depository institution, as defined in 12 U.S.C. 1813(i); or

(iii) An insured branch.

(3) In making a determination under paragraph (b)(1)(ii) of this section, the FDIC will apply, as appropriate, notice and response procedures in the same manner and to the same extent as the notice and response procedures set forth in 12 CFR 324.5.

[84 FR 59279, Nov. 1, 2019, as amended at 86 FR 9218, Feb. 11, 2021]

§ 329.2 Reservation of authority.

(a) The FDIC may require an FDIC-supervised institution to hold an amount of high-quality liquid assets (HQLA) greater than otherwise required under this part, or to take any

other measure to improve the FDIC-supervised institution's liquidity risk profile, if the FDIC determines that the FDIC-supervised institution's liquidity requirements as calculated under this part are not commensurate with the FDIC-supervised institution's liquidity risks. In making determinations under this section, the FDIC will apply notice and response procedures as set forth in 12 CFR 324.5.

(b) The FDIC may require an FDIC-supervised institution to maintain an amount of available stable funding greater than otherwise required under this part, or to take any other measure to improve the FDIC-supervised institution's stable funding, if the FDIC determines that the FDIC-supervised institution's stable funding requirements as calculated under this part are not commensurate with the FDIC-supervised institution's funding risks. In making determinations under this section, the FDIC will apply notice and response procedures as set forth in 12 CFR 324.5.

(c) Nothing in this part limits the authority of the FDIC under any other provision of law or regulation to take supervisory or enforcement action, including action to address unsafe or unsound practices or conditions, deficient liquidity levels, deficient stable funding levels, or violations of law.

[79 FR 61523, Oct. 10, 2014, as amended at 86 FR 9219, Feb. 11, 2021]

§ 329.3 Definitions.

For the purposes of this part:

Affiliated depository institution means with respect to an FDIC-supervised institution that is a depository institution, another depository institution that is a consolidated subsidiary of a bank holding company or savings and loan holding company of which the FDIC-supervised institution is also a consolidated subsidiary.

Asset exchange means a transaction in which, as of the calculation date, the counterparties have previously exchanged non-cash assets, and have each agreed to return such assets to each other at a future date. Asset exchanges do not include secured funding and secured lending transactions.

Average weighted short-term wholesale funding means the average of the FDIC-supervised institution's weighted short-term wholesale funding for each of the four most recent calendar quarters as reported quarterly on the FR Y–15 or, if the FDIC-supervised institution has not filed the FR Y–15 for each of the four most recent calendar quarters, for the most recent quarter or averaged over the most recent quarters, as applicable.

Bank holding company is defined in section 2 of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1841 *et seq.*).

Brokered deposit means any deposit held at the FDIC-supervised institution that is obtained, directly or indirectly, from or through the mediation or assistance of a deposit broker as that term is defined in section 29 of the Federal Deposit Insurance Act (12 U.S.C. 1831f(g)) and the Federal Deposit Insurance Corporation's regulations.

Brokered reciprocal deposit means a brokered deposit that an FDIC-supervised institution receives through a deposit placement network on a reciprocal basis, such that:

(1) For any deposit received, the FDIC-supervised institution (as agent for the depositors) places the same amount with other depository institutions through the network; and

(2) Each member of the network sets the interest rate to be paid on the entire amount of funds it places with other network members.

Calculation date means, for subparts B through J of this part, any date on which an FDIC-supervised institution calculates its liquidity coverage ratio under § 329.10, and for subparts K through M of this part, any date on which an FDIC-supervised institution calculates its net stable funding ratio under § 329.100.

Call Report means the Consolidated Reports of Condition and Income.

Carrying value means, with respect to an asset, NSFR regulatory capital element, or NSFR liability, the value on the balance sheet of the FDIC-supervised institution, each as determined in accordance with GAAP.

Category II FDIC-supervised institution means:

(1)(i) An FDIC-supervised institution that:

(A) Is a consolidated subsidiary of:

(*1*) A company that is identified as a Category II banking organization pursuant to 12 CFR 252.5 or 12 CFR 238.10, as applicable; or

(*2*) A U.S. intermediate holding company that is identified as a Category II banking organization pursuant to 12 CFR 252.5; or

(*3*) A depository institution that meets the criteria in paragraph (2)(ii)(A) or (B) of this definition; and

(B) Has total consolidated assets, calculated based on the average of the FDIC-supervised institution's total consolidated assets for the four most recent calendar quarters as reported on the Call Report, equal to $10 billion or more.

(ii) If the FDIC-supervised institution has not filed the Call Report for each of the four most recent calendar quarters, total consolidated assets is calculated based on its total consolidated assets, as reported on the Call Report, for the most recent quarter or the average of the most recent quarters, as applicable. After meeting the criteria under this paragraph (1), an FDIC-supervised institution continues to be a Category II FDIC-supervised institution until the FDIC-supervised institution has less than $10 billion in total consolidated assets, as reported on the Call Report, for each of the four most recent calendar quarters, or the FDIC-supervised institution is no longer a consolidated subsidiary of an entity described in paragraph (1)(i)(A)(*1*), (*2*), or (*3*) of this definition; or

(2) An FDIC-supervised institution that:

(i) Is not a subsidiary of a depository institution holding company; and

(ii)(A) Has total consolidated assets, calculated based on the average of the depository institution's total consolidated assets for the four most recent calendar quarters as reported on the Call Report, equal to $700 billion or more. If the depository institution has not filed the Call Report for each of the four most recent calendar quarters, total consolidated assets is calculated based on its total consolidated assets, as reported on the Call Report, for the most recent quarter or the average of the most recent quarters, as applicable; or

(B) Has:

(*1*) Total consolidated assets, calculated based on the average of the depository institution's total consolidated assets for the four most recent calendar quarters as reported on the Call Report, of $100 billion or more but less than $700 billion. If the depository institution has not filed the Call Report for each of the four most recent calendar quarters, total consolidated assets means its total consolidated assets, as reported on the Call Report, for the most recent quarter or the average of the most recent quarters, as applicable; and

(*2*) Cross-jurisdictional activity, calculated based on the average of its cross-jurisdictional activity for the four most recent calendar quarters, of $75 billion or more. Cross-jurisdictional activity is the sum of cross-jurisdictional claims and cross-jurisdictional liabilities, calculated in accordance with the instructions to the FR Y–15 or equivalent reporting form.

(iii) After meeting the criteria in paragraphs (2)(i) and (ii) of this definition, an FDIC-supervised institution continues to be a Category II FDIC-supervised institution until the FDIC-supervised institution:

(A)(*1*) Has less than $700 billion in total consolidated assets, as reported on the Call Report, for each of the four most recent calendar quarters; and

(*2*) Has less than $75 billion in cross-jurisdictional activity for each of the four most recent calendar quarters. Cross-jurisdictional activity is the sum of cross-jurisdictional claims and cross-jurisdictional liabilities, calculated in accordance with the instructions to the FR Y–15 or equivalent reporting form; or

(B) Has less than $100 billion in total consolidated assets, as reported on the Call Report, for each of the four most recent calendar quarters; or

(C) Is a GSIB depository institution.

Category III FDIC-supervised institution means:

(1)(i) An FDIC-supervised institution that:

(A) Is a consolidated subsidiary of:

(*1*) A company that is identified as a Category III banking organization pursuant to 12 CFR 252.5 or 12 CFR 238.10, as applicable; or

(*2*) A U.S. intermediate holding company that is identified as a Category III banking organization pursuant to 12 CFR 252.5; or

(*3*) A depository institution that meets the criteria in paragraph (2)(ii)(A) or (B) of this definition; and

(B) Has total consolidated assets, calculated based on the average of the FDIC-supervised institution's total consolidated assets for the four most recent calendar quarters as reported on the Call Report, equal to $10 billion or more.

(ii) If the FDIC-supervised institution has not filed the Call Report for each of the four most recent calendar quarters, total consolidated assets means its total consolidated assets, as reported on the Call Report, for the most recent quarter or the average of the most recent quarters, as applicable. After meeting the criteria under this paragraph (1), an FDIC-supervised institution continues to be a Category III FDIC-supervised institution until the FDIC-supervised institution has less than $10 billion in total consolidated assets, as reported on the Call Report, for each of the four most recent calendar quarters, or the FDIC-supervised institution is no longer a consolidated subsidiary of an entity described in paragraph (1)(i)(A)(*1*), (*2*), or (3) of this definition; or

(2) An FDIC-supervised institution that:

(i) Is not a subsidiary of a depository institution holding company; and

(ii)(A) Has total consolidated assets, calculated based on the average of the depository institution's total consolidated assets for the four most recent quarters as reported on the Call Report, equal to $250 billion or more. If the depository institution has not filed the Call Report for each of the four most recent calendar quarters, total consolidated assets means its total consolidated assets, as reported on the Call Report, for the most recent quarter or the average of the most recent quarters, as applicable; or

(B) Has:

(*1*) Total consolidated assets, calculated based on the average of the depository institution's total consolidated assets for the four most recent calendar quarters as reported on the Call Report, of $100 billion or more but less than $250 billion. If the depository institution has not filed the Call Report for each of the four most recent calendar quarters, total consolidated assets means its total consolidated assets, as reported on the Call Report, for the most recent quarter or the average of the most recent quarters, as applicable; and

(*2*) One or more of the following in paragraphs (2)(ii)(B)(*2*)(*i*) through (*iii*) of this definition, each measured as the average of the four most recent calendar quarters, or if the depository institution has not filed the FR Y–9LP or equivalent reporting form, Call Report, or FR Y–15 or equivalent reporting form, as applicable for each of the four most recent calendar quarters, for the most recent quarter or the average of the most quarters, as applicable:

(*i*) Total nonbank assets, calculated in accordance with instructions to the FR Y–9LP or equivalent reporting form, equal to $75 billion or more;

(*ii*) Off-balance sheet exposure, calculated in accordance with the instructions to the FR Y–15 or equivalent reporting form, minus the total consolidated assets of the depository institution, as reported on the Call Report, equal to $75 billion or more; or

(*iii*) Weighted short-term wholesale funding, calculated in accordance with the instructions to the FR Y–15 or equivalent reporting form, equal to $75 billion or more.

(iii) After meeting the criteria in paragraphs (2)(i) and (ii) of this definition, an FDIC-supervised institution continues to be a Category III FDIC-supervised institution until the FDIC-supervised institution:

(A)(*1*) Has less than $250 billion in total consolidated assets, as reported on the Call Report, for each of the four most recent calendar quarters; and

(*2*) Has less than $75 billion in total nonbank assets, calculated in accordance with the instructions to the FR Y–9LP or equivalent reporting form, for each of the four most recent calendar quarters;

(*3*) Has less than $75 billion in off-balance sheet exposure for each of the four most recent calendar quarters. Off-balance sheet exposure is calculated in accordance with the instructions to the

FR Y–15 or equivalent reporting form, minus the total consolidated assets of the depository institution, as reported on the Call Report; and

(*4*) Has less than $75 billion in weighted short-term wholesale funding, calculated in accordance with the instructions to the FR Y–15 or equivalent reporting form, for each of the four most recent calendar quarters; or

(B) Has less than $100 billion in total consolidated assets, as reported on the Call Report, for each of the four most recent calendar quarters;

(C) Is a Category II FDIC-supervised institution; or

(D) Is a GSIB depository institution.

Client pool security means a security that is owned by a customer of the FDIC-supervised institution that is not an asset of the FDIC-supervised institution, regardless of a FDIC-supervised institution's hypothecation rights with respect to the security.

Collateralized deposit means:

(1) A deposit of a public sector entity held at the FDIC-supervised institution that is required to be secured under applicable law by a lien on assets owned by the FDIC-supervised institution and that gives the depositor, as holder of the lien, priority over the assets in the event the FDIC-supervised institution enters into receivership, bankruptcy, insolvency, liquidation, resolution, or similar proceeding;

(2) A deposit of a fiduciary account awaiting investment or distribution held at the FDIC-supervised institution for which the FDIC-supervised institution is a fiduciary and is required under applicable state law to set aside assets owned by the FDIC-supervised institution as security, which gives the depositor priority over the assets in the event the FDIC-supervised institution enters into receivership, bankruptcy, insolvency, liquidation, resolution, or similar proceeding; or

(3) A deposit of a fiduciary account awaiting investment or distribution held at the FDIC-supervised institution for which the FDIC-supervised institution's affiliated insured depository institution is a fiduciary and where the FDIC-supervised institution under 12 CFR 9.10(c) (national banks), 12 CFR 150.310 (Federal savings associations), or applicable state law (state member and nonmember banks, and state savings associations) has set aside assets owned by the FDIC-supervised institution as security, which gives the depositor priority over the assets in the event the FDIC-supervised institution enters into receivership, bankruptcy, insolvency, liquidation, resolution, or similar proceeding.

Committed means, with respect to a credit or liquidity facility, that under the terms of the facility, it is not unconditionally cancelable.

Company means a corporation, partnership, limited liability company, depository institution, business trust, special purpose entity, association, or similar organization.

Consolidated subsidiary means a company that is consolidated on the balance sheet of an FDIC-supervised institution or other company under GAAP.

Controlled subsidiary means, with respect to a company or an FDIC-supervised institution a consolidated subsidiary or a company that otherwise meets the definition of ''subsidiary'' in section 2(d) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(d)).

Covered depository institution holding company means a top-tier bank holding company or savings and loan holding company domiciled in the United States other than:

(1) A top-tier savings and loan holding company that is:

(i) A grandfathered unitary savings and loan holding company as defined in section 10(c)(9)(A) of the Home Owners' Loan Act (12 U.S.C. 1461 *et seq.*); and

(ii) As of June 30 of the previous calendar year, derived 50 percent or more of its total consolidated assets or 50 percent of its total revenues on an enterprise-wide basis (as calculated under GAAP) from activities that are not financial in nature under section 4(k) of the Bank Holding Company Act (12 U.S.C. 1843(k));

(2) A top-tier depository institution holding company that is an insurance underwriting company;

(3)(i) A top-tier depository institution holding company that, as of June 30 of the previous calendar year, held 25 percent or more of its total consolidated assets in subsidiaries that are insurance underwriting companies (other

than assets associated with insurance for credit risk); and

(ii) For purposes of paragraph (3)(i) of this definition, the company must calculate its total consolidated assets in accordance with GAAP, or if the company does not calculate its total consolidated assets under GAAP for any regulatory purpose (including compliance with applicable securities laws), the company may estimate its total consolidated assets, subject to review and adjustment by the Board of Governors of the Federal Reserve System; or

(4) A U.S. intermediate holding company.

Covered Federal Reserve Facility Funding means a non-recourse loan that is extended as part of the Money Market Mutual Fund Liquidity Facility or Paycheck Protection Program Liquidity Facility authorized by the Board of Governors of the Federal Reserve System pursuant to section 13(3) of the Federal Reserve Act.[1]

Credit facility means a legally binding agreement to extend funds if requested at a future date, including a general working capital facility such as a revolving credit facility for general corporate or working capital purposes. A credit facility does not include a legally binding written agreement to extend funds at a future date to a counterparty that is made for the purpose of refinancing the debt of the counterparty when it is unable to obtain a primary or anticipated source of funding. *See liquidity facility*.

Customer short position means a legally binding written agreement pursuant to which the customer must deliver to the FDIC-supervised institution a non-cash asset that the customer has already sold.

Deposit means ''deposit'' as defined in section 3(*l*) of the Federal Deposit Insurance Act (12 U.S.C. 1813(*l*)) or an equivalent liability of the FDIC-supervised institution in a jurisdiction outside of the United States.

Depository institution is defined in section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)).

Depository institution holding company means a bank holding company or savings and loan holding company.

Deposit insurance means deposit insurance provided by the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act (12 U.S.C. 1811 *et seq.*).

Derivative transaction means a financial contract whose value is derived from the values of one or more underlying assets, reference rates, or indices of asset values or reference rates. Derivative contracts include interest rate derivative contracts, exchange rate derivative contracts, equity derivative contracts, commodity derivative contracts, credit derivative contracts, forward contracts, and any other instrument that poses similar counterparty credit risks. Derivative contracts also include unsettled securities, commodities, and foreign currency exchange transactions with a contractual settlement or delivery lag that is longer than the lesser of the market standard for the particular instrument or five business days. A derivative does not include any identified banking product, as that term is defined in section 402(b) of the Legal Certainty for Bank Products Act of 2000 (7 U.S.C. 27(b)), that is subject to section 403(a) of that Act (7 U.S.C. 27a(a)).

Designated company means a company that the Financial Stability Oversight Council has determined under section 113 of the Dodd-Frank Act (12 U.S.C. 5323) shall be supervised by the Board of Governors of the Federal Reserve System and for which such determination is still in effect.

Dodd-Frank Act means the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376 (2010).

Eligible HQLA means a high-quality liquid asset that meets the requirements set forth in § 329.22.

Encumbered means, with respect to an asset, that the asset:

(1) Is subject to legal, regulatory, contractual, or other restriction on the ability of the FDIC-supervised institution to monetize the asset; or

[1] The Money Market Mutual Fund Liquidity Facility was authorized on March 18, 2020, and the Paycheck Protection Program Liquidity Facility was authorized on April 6, 2020.

(2) Is pledged, explicitly or implicitly, to secure or to provide credit enhancement to any transaction, not including when the asset is pledged to a central bank or a U.S. government-sponsored enterprise where:

(i) Potential credit secured by the asset is not currently extended to the FDIC-supervised institution or its consolidated subsidiaries; and

(ii) The pledged asset is not required to support access to the payment services of a central bank.

Fair value means fair value as determined under GAAP.

FDIC means the Federal Deposit Insurance Corporation.

FDIC-supervised institution means any state nonmember bank or state savings association.

Financial sector entity means an investment adviser, investment company, pension fund, non-regulated fund, regulated financial company, or identified company.

Foreign withdrawable reserves means a FDIC-supervised institution's balances held by or on behalf of the FDIC-supervised institution at a foreign central bank that are not subject to restrictions on the FDIC-supervised institution's ability to use the reserves.

FR Y–9LP means the Parent Company Only Financial Statements for Large Holding Companies.

FR Y–15 means the Systemic Risk Report.

GAAP means generally accepted accounting principles as used in the United States.

Global systemically important BHC means a bank holding company identified as a global systemically important BHC pursuant to 12 CFR 217.402.

GSIB depository institution means a depository institution that is a consolidated subsidiary of a global systemically important BHC and has total consolidated assets equal to $10 billion or more, calculated based on the average of the depository institution's total consolidated assets for the four most recent calendar quarters as reported on the Call Report. If the depository institution has not filed the Call Report for each of the four most recent calendar quarters, total consolidated assets means its total consolidated assets, as reported on the Call Report, for the most recent calendar quarter or the average of the most recent calendar quarters, as applicable. After meeting the criteria under this definition, a depository institution continues to be a GSIB depository institution until the depository institution has less than $10 billion in total consolidated assets, as reported on the Call Report, for each of the four most recent calendar quarters, or the depository institution is no longer a consolidated subsidiary of a global systemically important BHC.

High-quality liquid asset (HQLA) means an asset that is a level 1 liquid asset, level 2A liquid asset, or level 2B liquid asset, in accordance with the criteria set forth in § 329.20.

HQLA amount means the HQLA amount as calculated under § 329.21.

Identified company means any company that the FDIC has determined should be treated for the purposes of this part the same as a regulated financial company, investment company, non-regulated fund, pension fund, or investment adviser, based on activities similar in scope, nature, or operations to those entities.

Individual means a natural person, and does not include a sole proprietorship.

Investment adviser means a company registered with the SEC as an investment adviser under the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 *et seq.*) or foreign equivalents of such company.

Investment company means a person or company registered with the SEC under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) or foreign equivalents of such persons or companies.

Liquid and readily-marketable has the meaning given the term in 12 CFR 249.3.

Liquidity facility means a legally binding written agreement to extend funds at a future date to a counterparty that is made for the purpose of refinancing the debt of the counterparty when it is unable to obtain a primary or anticipated source of funding. A liquidity facility includes an agreement to provide liquidity support to asset-backed commercial paper by lending to, or purchasing assets

from, any structure, program or conduit in the event that funds are required to repay maturing asset-backed commercial paper. Liquidity facilities exclude facilities that are established solely for the purpose of general working capital, such as revolving credit facilities for general corporate or working capital purposes. If a facility has characteristics of both credit and liquidity facilities, the facility must be classified as a liquidity facility. *See credit facility*.

Multilateral development bank means the International Bank for Reconstruction and Development, the Multilateral Investment Guarantee Agency, the International Finance Corporation, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, the European Bank for Reconstruction and Development, the European Investment Bank, the European Investment Fund, the Nordic Investment Bank, the Caribbean Development Bank, the Islamic Development Bank, the Council of Europe Development Bank, and any other entity that provides financing for national or regional development in which the U.S. government is a shareholder or contributing member or which the FDIC determines poses comparable risk.

Municipal obligation means an obligation of:

(1) A state or any political subdivision thereof; or

(2) Any agency or instrumentality of a state or any political subdivision thereof.

Non-regulated fund means any hedge fund or private equity fund whose investment adviser is required to file SEC Form PF (Reporting Form for Investment Advisers to Private Funds and Certain Commodity Pool Operators and Commodity Trading Advisors), other than a small business investment company as defined in section 102 of the Small Business Investment Act of 1958 (15 U.S.C. 661 *et seq.*).

Nonperforming exposure means an exposure that is past due by more than 90 days or nonaccrual.

NSFR liability means any liability or equity reported on an FDIC-supervised institution's balance sheet that is not an NSFR regulatory capital element.

NSFR regulatory capital element means any capital element included in an FDIC-supervised institution's common equity tier 1 capital, additional tier 1 capital, and tier 2 capital, in each case as defined in 12 CFR 324.20, prior to application of capital adjustments or deductions as set forth in 12 CFR 324.22, excluding any debt or equity instrument that does not meet the criteria for additional tier 1 or tier 2 capital instruments in 12 CFR 324.22 and is being phased out of tier 1 capital or tier 2 capital pursuant to subpart G of 12 CFR part 324.

Operational deposit means short-term unsecured wholesale funding that is a deposit, unsecured wholesale lending that is a deposit, or a collateralized deposit, in each case that meets the requirements of §329.4(b) with respect to that deposit and is necessary for the provision of operational services as an independent third-party intermediary, agent, or administrator to the wholesale customer or counterparty providing the deposit.

Operational services means the following services, provided they are performed as part of cash management, clearing, or custody services:

(1) Payment remittance;

(2) Administration of payments and cash flows related to the safekeeping of investment assets, not including the purchase or sale of assets;

(3) Payroll administration and control over the disbursement of funds;

(4) Transmission, reconciliation, and confirmation of payment orders;

(5) Daylight overdraft;

(6) Determination of intra-day and final settlement positions;

(7) Settlement of securities transactions;

(8) Transfer of capital distributions and recurring contractual payments;

(9) Customer subscriptions and redemptions;

(10) Scheduled distribution of customer funds;

(11) Escrow, funds transfer, stock transfer, and agency services, including payment and settlement services, payment of fees, taxes, and other expenses; and

(12) Collection and aggregation of funds.

Pension fund means an employee benefit plan as defined in paragraphs (3) and (32) of section 3 of the Employee Retirement Income and Security Act of 1974 (29 U.S.C. 1001 *et seq.*), a ''governmental plan'' (as defined in 29 U.S.C. 1002(32)) that complies with the tax deferral qualification requirements provided in the Internal Revenue Code, or any similar employee benefit plan established under the laws of a foreign jurisdiction.

Public sector entity means a state, local authority, or other governmental subdivision below the U.S. sovereign entity level.

Publicly traded means, with respect to an equity security, that the equity security is traded on:

(1) Any exchange registered with the SEC as a national securities exchange under section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f); or

(2) Any non-U.S.-based securities exchange that:

(i) Is registered with, or approved by, a national securities regulatory authority; and

(ii) Provides a liquid, two-way market for the security in question.

QMNA netting set means a group of derivative transactions with a single counterparty that is subject to a qualifying master netting agreement and is netted under the qualifying master netting agreement.

Qualifying master netting agreement means a written, legally enforceable agreement provided that:

(1) The agreement creates a single legal obligation for all individual transactions covered by the agreement upon an event of default following any stay permitted by paragraph (2) of this definition, including upon an event of receivership, conservatorship, insolvency, liquidation, or similar proceeding, of the counterparty;

(2) The agreement provides the FDIC-supervised institution the right to accelerate, terminate, and close-out on a net basis all transactions under the agreement and to liquidate or set-off collateral promptly upon an event of default, including upon an event of receivership, conservatorship, insolvency, liquidation, or similar proceeding, of the counterparty, provided that, in any such case,

(i) Any exercise of rights under the agreement will not be stayed or avoided under applicable law in the relevant jurisdictions, other than:

(A) In receivership, conservatorship, or resolution under the Federal Deposit Insurance Act, Title II of the Dodd-Frank Act, or under any similar insolvency law applicable to GSEs, or laws of foreign jurisdictions that are substantially similar[2] to the U.S. laws referenced in this paragraph (2)(i)(A) in order to facilitate the orderly resolution of the defaulting counterparty; or

(B) Where the agreement is subject by its terms to, or incorporates, any of the laws referenced in paragraph (2)(i)(A) of this definition; and

(ii) The agreement may limit the right to accelerate, terminate, and close-out on a net basis all transactions under the agreement and to liquidate or set-off collateral promptly upon an event of default of the counterparty to the extent necessary for the counterparty to comply with the requirements of part 382 of this title, subpart I of part 252 of this title or part 47 of this title, as applicable;

(3) The agreement does not contain a walkaway clause (that is, a provision that permits a non-defaulting counterparty to make a lower payment than it otherwise would make under the agreement, or no payment at all, to a defaulter or the estate of a defaulter, even if the defaulter or the estate of the defaulter is a net creditor under the agreement); and

(4) In order to recognize an agreement as a qualifying master netting agreement for purposes of this subpart, an FDIC-supervised institution must comply with the requirements of § 329.4(a) with respect to that agreement.

Regulated financial company means:

(1) A depository institution holding company or designated company;

(2) A company included in the organization chart of a depository institution holding company on the Form FR Y–6, as listed in the hierarchy report of the

[2] The FDIC expects to evaluate jointly with the Federal Reserve and the OCC whether foreign special resolution regimes meet the requirements of this paragraph.

depository institution holding company produced by the National Information Center (NIC) website,[3] provided that the top-tier depository institution holding company is subject to a minimum liquidity standard under 12 CFR part 249;

(3) A depository institution; foreign bank; credit union; industrial loan company, industrial bank, or other similar institution described in section 2 of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1841 *et seq.*); national bank, state member bank, or state non-member bank that is not a depository institution;

(4) An insurance company;

(5) A securities holding company as defined in section 618 of the Dodd-Frank Act (12 U.S.C. 1850a); broker or dealer registered with the SEC under section 15 of the Securities Exchange Act (15 U.S.C. 78o); futures commission merchant as defined in section 1a of the Commodity Exchange Act of 1936 (7 U.S.C. 1a); swap dealer as defined in section 1a of the Commodity Exchange Act (7 U.S.C. 1a); or security-based swap dealer as defined in section 3 of the Securities Exchange Act (15 U.S.C. 78c);

(6) A designated financial market utility, as defined in section 803 of the Dodd-Frank Act (12 U.S.C. 5462);

(7) A U.S. intermediate holding company; and

(8) Any company not domiciled in the United States (or a political subdivision thereof) that is supervised and regulated in a manner similar to entities described in paragraphs (1) through (7) of this definition (*e.g.*, a foreign banking organization, foreign insurance company, foreign securities broker or dealer or foreign financial market utility).

(9) A regulated financial company does not include:

(i) U.S. government-sponsored enterprises;

(ii) Small business investment companies, as defined in section 102 of the Small Business Investment Act of 1958 (15 U.S.C. 661 *et seq.*);

(iii) Entities designated as Community Development Financial Institutions (CDFIs) under 12 U.S.C. 4701 *et seq.* and 12 CFR part 1805; or

(iv) Central banks, the Bank for International Settlements, the International Monetary Fund, or multilateral development banks.

Reserve Bank balances means:

(1) Balances held in a master account of the FDIC-supervised institution at a Federal Reserve Bank, less any balances that are attributable to any respondent of the FDIC-supervised institution if the FDIC-supervised institution is a correspondent for a pass-through account as defined in section 204.2(l) of Regulation D (12 CFR 204.2(l));

(2) Balances held in a master account of a correspondent of the FDIC-supervised institution that are attributable to the FDIC-supervised institution if the FDIC-supervised institution is a respondent for a pass-through account as defined in section 204.2(l) of Regulation D;

(3) ''Excess balances'' of the FDIC-supervised institution as defined in section 204.2(z) of Regulation D (12 CFR 204.2(z)) that are maintained in an ''excess balance account'' as defined in section 204.2(aa) of Regulation D (12 CFR 204.2(aa)) if the FDIC-supervised institution is an excess balance account participant; or

(4) ''Term deposits'' of the FDIC-supervised institution as defined in section 204.2(dd) of Regulation D (12 CFR 204.2(dd)) if such term deposits are offered and maintained pursuant to terms and conditions that:

(i) Explicitly and contractually permit such term deposits to be withdrawn upon demand prior to the expiration of the term, or that

(ii) Permit such term deposits to be pledged as collateral for term or automatically-renewing overnight advances from the Federal Reserve Bank.

Retail customer or counterparty means a customer or counterparty that is:

(1) An individual;

(2) A business customer, but solely if and to the extent that:

(i) The FDIC-supervised institution manages its transactions with the business customer, including deposits, unsecured funding, and credit facility and liquidity facility transactions, in the

[3] *http://www.ffiec.gov/nicpubweb/nicweb/NicHome.aspx.*

same way it manages its transactions with individuals;

(ii) Transactions with the business customer have liquidity risk characteristics that are similar to comparable transactions with individuals; and

(iii) The total aggregate funding raised from the business customer is less than $1.5 million; or

(3) A living or testamentary trust that:

(i) Is solely for the benefit of natural persons;

(ii) Does not have a corporate trustee; and

(iii) Terminates within 21 years and 10 months after the death of grantors or beneficiaries of the trust living on the effective date of the trust or within 25 years, if applicable under state law.

Retail deposit means a demand or term deposit that is placed with the FDIC-supervised institution by a retail customer or counterparty, other than a brokered deposit.

Retail mortgage means a mortgage that is primarily secured by a first or subsequent lien on one-to-four family residential property.

Savings and loan holding company means a savings and loan holding company as defined in section 10 of the Home Owners' Loan Act (12 U.S.C. 1467a).

SEC means the Securities and Exchange Commission.

Secured funding transaction means any funding transaction that is subject to a legally binding agreement that gives rise to a cash obligation of the FDIC-supervised institution to a wholesale customer or counterparty that is secured under applicable law by a lien on securities or loans provided by the FDIC-supervised institution, which gives the wholesale customer or counterparty, as holder of the lien, priority over the securities or loans in the event the FDIC-supervised institution enters into receivership, bankruptcy, insolvency, liquidation, resolution, or similar proceeding. Secured funding transactions include repurchase transactions, securities lending transactions, other secured loans, and borrowings from a Federal Reserve Bank. Secured funding transactions do not include securities.

Secured lending transaction means any lending transaction that is subject to a legally binding agreement that gives rise to a cash obligation of a wholesale customer or counterparty to the FDIC-supervised institution that is secured under applicable law by a lien on securities or loans provided by the wholesale customer or counterparty, which gives the FDIC-supervised institution, as holder of the lien, priority over the securities or loans in the event the counterparty enters into receivership, bankruptcy, insolvency, liquidation, resolution, or similar proceeding. Secured lending transactions include reverse repurchase transactions and securities borrowing transactions. Secured lending transactions do not include securities.

Securities Exchange Act means the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

Sovereign entity means a central government (including the U.S. government) or an agency, department, ministry, or central bank of a central government.

Special purpose entity means a company organized for a specific purpose, the activities of which are significantly limited to those appropriate to accomplish a specific purpose, and the structure of which is intended to isolate the credit risk of the special purpose entity.

Stable retail deposit means a retail deposit that is entirely covered by deposit insurance and:

(1) Is held by the depositor in a transactional account; or

(2) The depositor that holds the account has another established relationship with the FDIC-supervised institution such as another deposit account, a loan, bill payment services, or any similar service or product provided to the depositor that the FDIC-supervised institution demonstrates to the satisfaction of the FDIC would make deposit withdrawal highly unlikely during a liquidity stress event.

State means any state, commonwealth, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa,

Guam, or the United States Virgin Islands.

Structured security means a security whose cash flow characteristics depend upon one or more indices or that has embedded forwards, options, or other derivatives or a security where an investor's investment return and the issuer's payment obligations are contingent on, or highly sensitive to, changes in the value of underlying assets, indices, interest rates, or cash flows.

Structured transaction means a secured transaction in which repayment of obligations and other exposures to the transaction is largely derived, directly or indirectly, from the cash flow generated by the pool of assets that secures the obligations and other exposures to the transaction.

Sweep deposit means a deposit held at the FDIC-supervised institution by a customer or counterparty through a contractual feature that automatically transfers to the FDIC-supervised institution from another regulated financial company at the close of each business day amounts identified under the agreement governing the account from which the amount is being transferred.

Two-way market means a market where there are independent bona fide offers to buy and sell so that a price reasonably related to the last sales price or current bona fide competitive bid and offer quotations can be determined within one day and settled at that price within a relatively short time frame conforming to trade custom.

U.S. government-sponsored enterprise means an entity established or chartered by the Federal government to serve public purposes specified by the United States Congress, but whose debt obligations are not explicitly guaranteed by the full faith and credit of the United States government.

U.S. intermediate holding company means a top-tier company that is required to be established pursuant to 12 CFR 252.153.

Unconditionally cancelable means, with respect to a credit or liquidity facility, that an FDIC-supervised institution may, at any time, with or without cause, refuse to extend credit under the facility (to the extent permitted under applicable law).

Unsecured wholesale funding means a liability or general obligation of the FDIC-supervised institution to a wholesale customer or counterparty that is not a secured funding transaction. Unsecured wholesale funding includes wholesale deposits. Unsecured wholesale funding does not include asset exchanges.

Unsecured wholesale lending means a liability or general obligation of a wholesale customer or counterparty to the FDIC-supervised institution that is not a secured lending transaction or a security. Unsecured wholesale lending does not include asset exchanges.

Wholesale customer or counterparty means a customer or counterparty that is not a retail customer or counterparty.

Wholesale deposit means a demand or term deposit that is provided by a wholesale customer or counterparty.

[79 FR 61523, Oct. 10, 2014, as amended at 81 FR 71354, Oct. 17, 2016; 82 FR 50261, Oct. 30, 2017; 82 FR 61443, Dec. 28, 2017; 83 FR 44455, Aug. 31, 2018; 84 FR 59279, Nov. 1, 2019; 85 FR 26841, May 6, 2020; 86 FR 9219, Feb. 11, 2021]

§ 329.4 Certain operational requirements.

(a) *Qualifying master netting agreements.* In order to recognize an agreement as a qualifying master netting agreement as defined in § 329.3, an FDIC-supervised institution must:

(1) Conduct sufficient legal review to conclude with a well-founded basis (and maintain sufficient written documentation of that legal review) that:

(i) The agreement meets the requirements of the definition of qualifying master netting agreement in § 329.3; and

(ii) In the event of a legal challenge (including one resulting from default or from receivership, bankruptcy, insolvency, liquidation, resolution, or similar proceeding) the relevant judicial and administrative authorities would find the agreement to be legal, valid, binding, and enforceable under the law of the relevant jurisdictions; and

(2) Establish and maintain written procedures to monitor possible changes in relevant law and to ensure that the

agreement continues to satisfy the requirements of the definition of qualifying master netting agreement in § 329.3.

(b) *Operational deposits.* In order to recognize a deposit as an operational deposit as defined in § 329.3:

(1) The related operational services must be performed pursuant to a legally binding written agreement, and:

(i) The termination of the agreement must be subject to a minimum 30 calendar-day notice period; or

(ii) As a result of termination of the agreement or transfer of services to a third-party provider, the customer providing the deposit would incur significant contractual termination costs or switching costs (switching costs include significant technology, administrative, and legal service costs incurred in connection with the transfer of the operational services to a third-party provider);

(2) The deposit must be held in an account designated as an operational account;

(3) The customer must hold the deposit at the FDIC-supervised institution for the primary purpose of obtaining the operational services provided by the FDIC-supervised institution;

(4) The deposit account must not be designed to create an economic incentive for the customer to maintain excess funds therein through increased revenue, reduction in fees, or other offered economic incentives;

(5) The FDIC-supervised institution must demonstrate that the deposit is empirically linked to the operational services and that it has a methodology that takes into account the volatility of the average balance for identifying any excess amount, which must be excluded from the operational deposit amount;

(6) The deposit must not be provided in connection with the FDIC-supervised institution's provision of prime brokerage services, which, for the purposes of this part, are a package of services offered by the FDIC-supervised institution whereby the FDIC-supervised institution, among other services, executes, clears, settles, and finances transactions entered into by the customer or a third-party entity on behalf of the customer (such as an executing broker), and where the FDIC-supervised institution has a right to use or rehypothecate assets provided by the customer, including in connection with the extension of margin and other similar financing of the customer, subject to applicable law, and includes operational services provided to a nonregulated fund; and

(7) The deposits must not be for arrangements in which the FDIC-supervised institution (as correspondent) holds deposits owned by another depository institution bank (as respondent) and the respondent temporarily places excess funds in an overnight deposit with the FDIC-supervised institution.

Subpart B—Liquidity Coverage Ratio

§ 329.10 Liquidity coverage ratio.

(a) *Minimum liquidity coverage ratio requirement.* Subject to the transition provisions in subpart F of this part, an FDIC-supervised institution must calculate and maintain a liquidity coverage ratio that is equal to or greater than 1.0 on each business day in accordance with this part. An FDIC-supervised institution must calculate its liquidity coverage ratio as of the same time on each calculation date (the elected calculation time). The FDIC-supervised institution must select this time by written notice to the FDIC prior to December 31, 2019. The FDIC-supervised institution may not thereafter change its elected calculation time without prior written approval from the FDIC.

(b) *Calculation of the liquidity coverage ratio.* A FDIC-supervised institution's liquidity coverage ratio equals:

(1) The FDIC-supervised institution's HQLA amount as of the calculation date, calculated under subpart C of this part; *divided by*

(2) The FDIC-supervised institution's total net cash outflow amount as of the calculation date, calculated under subpart D of this part.

[79 FR 61523, Oct. 10, 2014, as amended at 84 FR 59282, Nov. 1, 2019]

Subpart C—High-Quality Liquid Assets

§ 329.20 High-quality liquid asset criteria.

(a) *Level 1 liquid assets.* An asset is a level 1 liquid asset if it is one of the following types of assets:

(1) Reserve Bank balances;

(2) Foreign withdrawable reserves;

(3) A security that is issued by, or unconditionally guaranteed as to the timely payment of principal and interest by, the U.S. Department of the Treasury;

(4) A security that is issued by, or unconditionally guaranteed as to the timely payment of principal and interest by, a U.S. government agency (other than the U.S. Department of the Treasury) whose obligations are fully and explicitly guaranteed by the full faith and credit of the U.S. government, provided that the security is liquid and readily-marketable;

(5) A security that is issued by, or unconditionally guaranteed as to the timely payment of principal and interest by, a sovereign entity, the Bank for International Settlements, the International Monetary Fund, the European Central Bank, European Community, or a multilateral development bank, that is:

(i) Assigned a zero percent risk weight under subpart D of 12 CFR part 324 as of the calculation date;

(ii) Liquid and readily-marketable;

(iii) Issued or guaranteed by an entity whose obligations have a proven record as a reliable source of liquidity in repurchase or sales markets during stressed market conditions; and

(iv) Not an obligation of a financial sector entity and not an obligation of a consolidated subsidiary of a financial sector entity; or

(6) A security issued by, or unconditionally guaranteed as to the timely payment of principal and interest by, a sovereign entity that is not assigned a zero percent risk weight under subpart D of 12 CFR part 324, where the sovereign entity issues the security in its own currency, the security is liquid and readily-marketable, and the FDIC-supervised institution holds the security in order to meet its net cash outflows in the jurisdiction of the sovereign entity, as calculated under subpart D of this part.

(b) *Level 2A liquid assets.* An asset is a level 2A liquid asset if the asset is liquid and readily-marketable and is one of the following types of assets:

(1) A security issued by, or guaranteed as to the timely payment of principal and interest by, a U.S. government-sponsored enterprise, that is investment grade under 12 CFR part 1 as of the calculation date, provided that the claim is senior to preferred stock; or

(2) A security that is issued by, or guaranteed as to the timely payment of principal and interest by, a sovereign entity or multilateral development bank that is:

(i) Not included in level 1 liquid assets;

(ii) Assigned no higher than a 20 percent risk weight under subpart D of 12 CFR part 324 as of the calculation date;

(iii) Issued or guaranteed by an entity whose obligations have a proven record as a reliable source of liquidity in repurchase or sales markets during stressed market conditions, as demonstrated by:

(A) The market price of the security or equivalent securities of the issuer declining by no more than 10 percent during a 30 calendar-day period of significant stress, or

(B) The market haircut demanded by counterparties to secured lending and secured funding transactions that are collateralized by the security or equivalent securities of the issuer increasing by no more than 10 percentage points during a 30 calendar-day period of significant stress; and

(iv) Not an obligation of a financial sector entity, and not an obligation of a consolidated subsidiary of a financial sector entity.

(c) *Level 2B liquid assets.* An asset is a level 2B liquid asset if the asset is liquid and readily-marketable and is one of the following types of assets:

(1) A corporate debt security that is:

(i) Investment grade under 12 CFR part 1 as of the calculation date;

(ii) Issued or guaranteed by an entity whose obligations have a proven record as a reliable source of liquidity in repurchase or sales markets during

stressed market conditions, as demonstrated by:

(A) The market price of the corporate debt security or equivalent securities of the issuer declining by no more than 20 percent during a 30 calendar-day period of significant stress, or

(B) The market haircut demanded by counterparties to secured lending and secured funding transactions that are collateralized by the corporate debt security or equivalent securities of the issuer increasing by no more than 20 percentage points during a 30 calendar-day period of significant stress; and

(iii) Not an obligation of a financial sector entity and not an obligation of a consolidated subsidiary of a financial sector entity;

(2) A publicly traded common equity share that is:

(i) Included in:

(A) The Russell 1000 Index; or

(B) An index that an FDIC-supervised institution's supervisor in a foreign jurisdiction recognizes for purposes of including equity shares in level 2B liquid assets under applicable regulatory policy, if the share is held in that foreign jurisdiction;

(ii) Issued in:

(A) U.S. dollars; or

(B) The currency of a jurisdiction where the FDIC-supervised institution operates and the FDIC-supervised institution holds the common equity share in order to cover its net cash outflows in that jurisdiction, as calculated under subpart D of this part;

(iii) Issued by an entity whose publicly traded common equity shares have a proven record as a reliable source of liquidity in repurchase or sales markets during stressed market conditions, as demonstrated by:

(A) The market price of the security or equivalent securities of the issuer declining by no more than 40 percent during a 30 calendar-day period of significant stress, or

(B) The market haircut demanded by counterparties to securities borrowing and lending transactions that are collateralized by the publicly traded common equity shares or equivalent securities of the issuer increasing by no more than 40 percentage points, during a 30 calendar day period of significant stress;

(iv) Not issued by a financial sector entity and not issued by a consolidated subsidiary of a financial sector entity;

(v) If held by a depository institution, is not acquired in satisfaction of a debt previously contracted (DPC); and

(vi) If held by a consolidated subsidiary of a depository institution, the depository institution can include the publicly traded common equity share in its level 2B liquid assets only if the share is held to cover net cash outflows of the depository institution's consolidated subsidiary in which the publicly traded common equity share is held, as calculated by the FDIC-supervised institution under subpart D of this part; or

(3) A municipal obligation that is investment grade under 12 CFR part 1 as of the calculation date.

[79 FR 61523, Oct. 10, 2014, as amended at 83 FR 44455, Aug. 31, 2018]

§ 329.21 High-quality liquid asset amount.

(a) *Calculation of the HQLA amount.* As of the calculation date, a FDIC-supervised institution's HQLA amount equals:

(1) The level 1 liquid asset amount; plus

(2) The level 2A liquid asset amount; plus

(3) The level 2B liquid asset amount; minus

(4) The greater of:

(i) The unadjusted excess HQLA amount; and

(ii) The adjusted excess HQLA amount.

(b) *Calculation of liquid asset amounts*—(1) *Level 1 liquid asset amount.* The level 1 liquid asset amount equals the fair value of all level 1 liquid assets held by the FDIC-supervised institution as of the calculation date that are eligible HQLA, less the amount of the reserve balance requirement under section 204.5 of Regulation D (12 CFR 204.5).

(2) *Level 2A liquid asset amount.* The level 2A liquid asset amount equals 85 percent of the fair value of all level 2A liquid assets held by the FDIC-supervised institution as of the calculation date that are eligible HQLA.

(3) *Level 2B liquid asset amount.* The level 2B liquid asset amount equals 50 percent of the fair value of all level 2B liquid assets held by the FDIC-supervised institution as of the calculation date that are eligible HQLA.

(c) *Calculation of the unadjusted excess HQLA amount.* As of the calculation date, the unadjusted excess HQLA amount equals:

(1) The level 2 cap excess amount; *plus*

(2) The level 2B cap excess amount.

(d) *Calculation of the level 2 cap excess amount.* As of the calculation date, the level 2 cap excess amount equals the greater of:

(1) The level 2A liquid asset amount plus the level 2B liquid asset amount minus 0.6667 times the level 1 liquid asset amount; and

(2) 0.

(e) *Calculation of the level 2B cap excess amount.* As of the calculation date, the level 2B excess amount equals the greater of:

(1) The level 2B liquid asset amount minus the level 2 cap excess amount minus 0.1765 times the sum of the level 1 liquid asset amount and the level 2A liquid asset amount; and

(2) 0.

(f) *Calculation of adjusted liquid asset amounts*—(1) *Adjusted level 1 liquid asset amount.* A FDIC-supervised institution's adjusted level 1 liquid asset amount equals the fair value of all level 1 liquid assets that would be eligible HQLA and would be held by the FDIC-supervised institution upon the unwind of any secured funding transaction (other than a collateralized deposit), secured lending transaction, asset exchange, or collateralized derivatives transaction that matures within 30 calendar days of the calculation date where the FDIC-supervised institution will provide an asset that is eligible HQLA and the counterparty will provide an asset that will be eligible HQLA; less the amount of the reserve balance requirement under section 204.5 of Regulation D (12 CFR 204.5).

(2) *Adjusted level 2A liquid asset amount.* A FDIC-supervised institution's adjusted level 2A liquid asset amount equals 85 percent of the fair value of all level 2A liquid assets that would be eligible HQLA and would be held by the FDIC-supervised institution upon the unwind of any secured funding transaction (other than a collateralized deposit), secured lending transaction, asset exchange, or collateralized derivatives transaction that matures within 30 calendar days of the calculation date where the FDIC-supervised institution will provide an asset that is eligible HQLA and the counterparty will provide an asset that will be eligible HQLA.

(3) *Adjusted level 2B liquid asset amount.* A FDIC-supervised institution's adjusted level 2B liquid asset amount equals 50 percent of the fair value of all level 2B liquid assets that would be eligible HQLA and would be held by the FDIC-supervised institution upon the unwind of any secured funding transaction (other than a collateralized deposit), secured lending transaction, asset exchange, or collateralized derivatives transaction that matures within 30 calendar days of the calculation date where the FDIC-supervised institution will provide an asset that is eligible HQLA and the counterparty will provide an asset that will be eligible HQLA.

(g) *Calculation of the adjusted excess HQLA amount.* As of the calculation date, the adjusted excess HQLA amount equals:

(1) The adjusted level 2 cap excess amount; *plus*

(2) The adjusted level 2B cap excess amount.

(h) *Calculation of the adjusted level 2 cap excess amount.* As of the calculation date, the adjusted level 2 cap excess amount equals the greater of:

(1) The adjusted level 2A liquid asset amount plus the adjusted level 2B liquid asset amount minus 0.6667 times the adjusted level 1 liquid asset amount; and

(2) 0.

(i) *Calculation of the adjusted level 2B excess amount.* As of the calculation date, the adjusted level 2B excess liquid asset amount equals the greater of:

(1) The adjusted level 2B liquid asset amount minus the adjusted level 2 cap excess amount minus 0.1765 times the sum of the adjusted level 1 liquid asset amount and the adjusted level 2A liquid asset amount; and

(2) 0.

§ 329.22 Requirements for eligible high-quality liquid assets.

(a) *Operational requirements for eligible HQLA.* With respect to each asset that is eligible for inclusion in a FDIC-supervised institution's HQLA amount, an FDIC-supervised institution must meet all of the following operational requirements:

(1) The FDIC-supervised institution must demonstrate the operational capability to monetize the HQLA by:

(i) Implementing and maintaining appropriate procedures and systems to monetize any HQLA at any time in accordance with relevant standard settlement periods and procedures; and

(ii) Periodically monetizing a sample of HQLA that reasonably reflects the composition of the FDIC-supervised institution's eligible HQLA, including with respect to asset type, maturity, and counterparty characteristics;

(2) The FDIC-supervised institution must implement policies that require eligible HQLA to be under the control of the management function in the FDIC-supervised institution that is charged with managing liquidity risk, and this management function must evidence its control over the HQLA by either:

(i) Segregating the HQLA from other assets, with the sole intent to use the HQLA as a source of liquidity; or

(ii) Demonstrating the ability to monetize the assets and making the proceeds available to the liquidity management function without conflicting with a business or risk management strategy of the FDIC-supervised institution;

(3) The fair value of the eligible HQLA must be reduced by the outflow amount that would result from the termination of any specific transaction hedging eligible HQLA;

(4) The FDIC-supervised institution must implement and maintain policies and procedures that determine the composition of its eligible HQLA on each calculation date, by:

(i) Identifying its eligible HQLA by legal entity, geographical location, currency, account, or other relevant identifying factors as of the calculation date;

(ii) Determining that eligible HQLA meet the criteria set forth in this section; and

(iii) Ensuring the appropriate diversification of the eligible HQLA by asset type, counterparty, issuer, currency, borrowing capacity, or other factors associated with the liquidity risk of the assets; and

(5) The FDIC-supervised institution must have a documented methodology that results in a consistent treatment for determining that the FDIC-supervised institution's eligible HQLA meet the requirements set forth in this section.

(b) *Generally applicable criteria for eligible HQLA.* A FDIC-supervised institution's eligible HQLA must meet all of the following criteria:

(1) The assets are not encumbered.

(2) The asset is not:

(i) A client pool security held in a segregated account; or

(ii) An asset received from a secured funding transaction involving client pool securities that were held in a segregated account;

(3) For eligible HQLA held in a legal entity that is a U.S. consolidated subsidiary of an FDIC-supervised institution:

(i) If the U.S. consolidated subsidiary is subject to a minimum liquidity standard under this part, the FDIC-supervised institution may include the eligible HQLA of the U.S. consolidated subsidiary in its HQLA amount up to:

(A) The amount of net cash outflows of the U.S. consolidated subsidiary calculated by the U.S. consolidated subsidiary for its own minimum liquidity standard under this part; *plus*

(B) Any additional amount of assets, including proceeds from the monetization of assets, that would be available for transfer to the top-tier FDIC-supervised institution during times of stress without statutory, regulatory, contractual, or supervisory restrictions, including sections 23A and 23B of the Federal Reserve Act (12 U.S.C. 371c and 12 U.S.C. 371c–1) and Regulation W (12 CFR part 223); and

(ii) If the U.S. consolidated subsidiary is not subject to a minimum liquidity standard under this part, the FDIC-supervised institution may include the eligible HQLA of the U.S.

consolidated subsidiary in its HQLA amount up to:

(A) The amount of the net cash outflows of the U.S. consolidated subsidiary as of the 30th calendar day after the calculation date, as calculated by the FDIC-supervised institution for the FDIC-supervised institution's minimum liquidity standard under this part; *plus*

(B) Any additional amount of assets, including proceeds from the monetization of assets, that would be available for transfer to the top-tier FDIC-supervised institution during times of stress without statutory, regulatory, contractual, or supervisory restrictions, including sections 23A and 23B of the Federal Reserve Act (12 U.S.C. 371c and 12 U.S.C. 371c–1) and Regulation W (12 CFR part 223);

(4) For HQLA held by a consolidated subsidiary of the FDIC-supervised institution that is organized under the laws of a foreign jurisdiction, the FDIC-supervised institution may include the eligible HQLA of the consolidated subsidiary organized under the laws of a foreign jurisdiction in its HQLA amount up to:

(i) The amount of net cash outflows of the consolidated subsidiary as of the 30th calendar day after the calculation date, as calculated by the FDIC-supervised institution for the FDIC-supervised institution's minimum liquidity standard under this part; *plus*

(ii) Any additional amount of assets that are available for transfer to the top-tier FDIC-supervised institution during times of stress without statutory, regulatory, contractual, or supervisory restrictions;

(5) The FDIC-supervised institution must not include as eligible HQLA any assets, or HQLA resulting from transactions involving an asset that the FDIC-supervised institution received with rehypothecation rights, if the counterparty that provided the asset or the beneficial owner of the asset has a contractual right to withdraw the assets without an obligation to pay more than de minimis remuneration at any time during the 30 calendar days following the calculation date; and

(6) The FDIC-supervised institution has not designated the assets to cover operational costs.

(c) *Maintenance of U.S. eligible HQLA.* An FDIC-supervised institution is generally expected to maintain as eligible HQLA an amount and type of eligible HQLA in the United States that is sufficient to meet its total net cash outflow amount in the United States under subpart D of this part.

[79 FR 61523, Oct. 10, 2014, as amended at 86 FR 9220, Feb. 11, 2021]

Subpart D—Total Net Cash Outflow

§ 329.30 Total net cash outflow amount.

(a) *Calculation of total net cash outflow amount.* As of the calculation date, an FDIC-supervised institution's total net cash outflow amount equals the FDIC-supervised institution's outflow adjustment percentage as determined under paragraph (c) of this section multiplied by:

(1) The sum of the outflow amounts calculated under § 329.32(a) through (l); *minus*

(2) The lesser of:

(i) The sum of the inflow amounts calculated under § 329.33(b) through (g); and

(ii) 75 percent of the amount calculated under paragraph (a)(1) of this section; *plus*

(3) The maturity mismatch add-on as calculated under paragraph (b) of this section.

(b) *Calculation of maturity mismatch add-on.* (1) For purposes of this section:

(i) The net cumulative maturity outflow amount for any of the 30 calendar days following the calculation date is equal to the sum of the outflow amounts for instruments or transactions identified in § 329.32(g), (h)(1), (h)(2), (h)(5), (j), (k), and (l) that have a maturity date prior to or on that calendar day *minus* the sum of the inflow amounts for instruments or transactions identified in § 329.33(c), (d), (e), and (f) that have a maturity date prior to or on that calendar day.

(ii) The net day 30 cumulative maturity outflow amount is equal to, as of the 30th day following the calculation date, the sum of the outflow amounts for instruments or transactions identified in § 329.32(g), (h)(1), (h)(2), (h)(5), (j), (k), and (l) that have a maturity date

30 calendar days or less from the calculation date *minus* the sum of the inflow amounts for instruments or transactions identified in § 329.33(c), (d), (e), and (f) that have a maturity date 30 calendar days or less from the calculation date.

(2) As of the calculation date, a FDIC-supervised institution's maturity mismatch add-on is equal to:

(i) The greater of:

(A) 0; and

(B) The largest net cumulative maturity outflow amount as calculated under paragraph (b)(1)(i) of this section for any of the 30 calendar days following the calculation date; *minus*

(ii) The greater of:

(A) 0; and

(B) The net day 30 cumulative maturity outflow amount as calculated under paragraph (b)(1)(ii) of this section.

(3) Other than the transactions identified in § 329.32(h)(2), (h)(5), or (j) or § 329.33(d) or (f), the maturity of which is determined under § 329.31(a), transactions that have an open maturity are not included in the calculation of the maturity mismatch add-on.

(c) *Outflow adjustment percentage.* An FDIC-supervised institution's outflow adjustment percentage is determined pursuant to Table 1 to this paragraph (c).

TABLE 1 TO § 329.30(c)—OUTFLOW ADJUSTMENT PERCENTAGES

	Percent
Outflow adjustment percentage	
GSIB depository institution supervised by the FDIC	100
Category II FDIC-supervised institution	100
Category III FDIC-supervised institution that:	100
(1) Is a consolidated subsidiary of (a) a covered depository institution holding company or U.S. intermediate holding company identified as a Category III banking organization pursuant to 12 CFR 252.5 or 12 CFR 238.10 or (b) a depository institution that meets the criteria set forth in paragraphs (2)(ii)(A) and (B) of the definition of Category III FDIC-supervised institution in this part, in each case with $75 billion or more in average weighted short-term wholesale funding; or	
(2) Has $75 billion or more in average weighted short-term wholesale funding and is not a consolidated subsidiary of (a) a covered depository institution holding company or U.S. intermediate holding company identified as a Category III banking organization pursuant to 12 CFR 252.5 or 12 CFR 238.10 or (b) a depository institution that meets the criteria set forth in paragraphs (2)(ii)(A) and (B) of the definition of Category III FDIC-supervised institution in this part.	
Category III FDIC-supervised institution that:	85
Is a consolidated subsidiary of (a) a covered depository institution holding company or U.S. intermediate holding company identified as a Category III banking organization pursuant to 12 CFR 252.5 or 12 CFR 238.10 or (b) a depository institution that meets the criteria set forth in paragraphs (2)(ii)(A) and (B) of the definition of Category III FDIC-supervised institution in this part, in each case with less than $75 billion in average weighted short-term wholesale funding; or	
(2) Has less than $75 billion in average weighted short-term wholesale funding and is not a consolidated subsidiary of (a) a covered depository institution holding company or U.S. intermediate holding company identified as a Category III banking organization pursuant to 12 CFR 252.5 or 12 CFR 238.10 or (b) a depository institution that meets the criteria set forth in paragraphs (2)(ii)(A) and (B) of the definition of Category III FDIC-supervised institution in this part.	

(d) *Transition into a different outflow adjustment percentage.* (1) An FDIC-supervised institution whose outflow adjustment percentage increases from a lower to a higher outflow adjustment percentage may continue to use its previous lower outflow adjustment percentage until the first day of the third calendar quarter after the outflow adjustment percentage increases.

(2) An FDIC-supervised institution whose outflow adjustment percentage decreases from a higher to a lower outflow adjustment percentage must continue to use its previous higher outflow adjustment percentage until the first day of the first calendar quarter after the outflow adjustment percentage decreases.

[79 FR 61523, Oct. 10, 2014, as amended at 84 FR 59282, Nov. 1, 2019; 86 FR 9220, Feb. 11, 2021]

§ 329.31 Determining maturity.

(a) For purposes of calculating its liquidity coverage ratio and the components thereof under this subpart, an

FDIC-supervised institution shall assume an asset or transaction matures:

(1) With respect to an instrument or transaction subject to § 329.32, on the earliest possible contractual maturity date or the earliest possible date the transaction could occur, taking into account any option that could accelerate the maturity date or the date of the transaction, except that when considering the earliest possible contractual maturity date or the earliest possible date the transaction could occur, the FDIC-supervised institution should exclude any contingent options that are triggered only by regulatory actions or changes in law or regulation, as follows:

(i) If an investor or funds provider has an option that would reduce the maturity, the FDIC-supervised institution must assume that the investor or funds provider will exercise the option at the earliest possible date;

(ii) If an investor or funds provider has an option that would extend the maturity, the FDIC-supervised institution must assume that the investor or funds provider will not exercise the option to extend the maturity;

(iii) If the FDIC-supervised institution has an option that would reduce the maturity of an obligation, the FDIC-supervised institution must assume that the FDIC-supervised institution will exercise the option at the earliest possible date, except if either of the following criteria are satisfied, in which case the maturity of the obligation for purposes of this part will be the original maturity date at issuance:

(A) The original maturity of the obligation is greater than one year and the option does not go into effect for a period of 180 days following the issuance of the instrument; or

(B) The counterparty is a sovereign entity, a U.S. government-sponsored enterprise, or a public sector entity.

(iv) If the FDIC-supervised institution has an option that would extend the maturity of an obligation it issued, the FDIC-supervised institution must assume the FDIC-supervised institution will not exercise that option to extend the maturity; and

(v) If an option is subject to a contractually defined notice period, the FDIC-supervised institution must determine the earliest possible contractual maturity date regardless of the notice period.

(2) With respect to an instrument or transaction subject to § 329.33, on the latest possible contractual maturity date or the latest possible date the transaction could occur, taking into account any option that could extend the maturity date or the date of the transaction, except that when considering the latest possible contractual maturity date or the latest possible date the transaction could occur, the FDIC-supervised institution may exclude any contingent options that are triggered only by regulatory actions or changes in law or regulation, as follows:

(i) If the borrower has an option that would extend the maturity, the FDIC-supervised institution must assume that the borrower will exercise the option to extend the maturity to the latest possible date;

(ii) If the borrower has an option that would reduce the maturity, the FDIC-supervised institution must assume that the borrower will not exercise the option to reduce the maturity;

(iii) If the FDIC-supervised institution has an option that would reduce the maturity of an instrument or transaction, the FDIC-supervised institution must assume the FDIC-supervised institution will not exercise the option to reduce the maturity;

(iv) If the FDIC-supervised institution has an option that would extend the maturity of an instrument or transaction, the FDIC-supervised institution must assume the FDIC-supervised institution will exercise the option to extend the maturity to the latest possible date; and

(v) If an option is subject to a contractually defined notice period, the FDIC-supervised institution must determine the latest possible contractual maturity date based on the borrower using the entire notice period.

(3) With respect to a transaction subject to § 329.33(f)(1)(iii) through (vii) (secured lending transactions) or § 329.33(f)(2)(ii) through (x) (asset exchanges), to the extent the transaction is secured by collateral that has been

pledged in connection with either a secured funding transaction or asset exchange that has a remaining maturity of 30 calendar days or less as of the calculation date, the maturity date is the later of the maturity date determined under paragraph (a)(2) of this section for the secured lending transaction or asset exchange or the maturity date determined under paragraph (a)(1) of this section for the secured funding transaction or asset exchange for which the collateral has been pledged.

(4) With respect to a transaction that has an open maturity, is not an operational deposit, and is subject to the provisions of § 329.32(h)(2), (h)(5), (j), or (k) or § 329.33(d) or (f), the maturity date is the first calendar day after the calculation date. Any other transaction that has an open maturity and is subject to the provisions of § 329.32 shall be considered to mature within 30 calendar days of the calculation date.

(5) With respect to a transaction subject to the provisions of § 329.33(g), on the date of the next scheduled calculation of the amount required under applicable legal requirements for the protection of customer assets with respect to each broker-dealer segregated account, in accordance with the FDIC-supervised institution's normal frequency of recalculating such requirements.

(b) [Reserved]

[79 FR 61523, Oct. 10, 2014, as amended at 86 FR 9220, Feb. 11, 2021]

§ 329.32 Outflow amounts.

(a) *Retail funding outflow amount.* A FDIC-supervised institution's retail funding outflow amount as of the calculation date includes (regardless of maturity or collateralization):

(1) 3 percent of all stable retail deposits held at the FDIC-supervised institution;

(2) 10 percent of all other retail deposits held at the FDIC-supervised institution;

(3) 20 percent of all deposits placed at the FDIC-supervised institution by a third party on behalf of a retail customer or counterparty that are not brokered deposits, where the retail customer or counterparty owns the account and the entire amount is covered by deposit insurance;

(4) 40 percent of all deposits placed at the FDIC-supervised institution by a third party on behalf of a retail customer or counterparty that are not brokered deposits, where the retail customer or counterparty owns the account and where less than the entire amount is covered by deposit insurance; and

(5) 40 percent of all funding from a retail customer or counterparty that is not:

(i) A retail deposit;

(ii) A brokered deposit provided by a retail customer or counterparty; or

(iii) A debt instrument issued by the FDIC-supervised institution that is owned by a retail customer or counterparty (see paragraph (h)(2)(ii) of this section).

(b) *Structured transaction outflow amount.* If the FDIC-supervised institution is a sponsor of a structured transaction where the issuing entity is not consolidated on the FDIC-supervised institution's balance sheet under GAAP, the structured transaction outflow amount for each such structured transaction as of the calculation date is the greater of:

(1) 100 percent of the amount of all debt obligations of the issuing entity that mature 30 calendar days or less from such calculation date and all commitments made by the issuing entity to purchase assets within 30 calendar days or less from such calculation date; and

(2) The maximum contractual amount of funding the FDIC-supervised institution may be required to provide to the issuing entity 30 calendar days or less from such calculation date through a liquidity facility, a return or repurchase of assets from the issuing entity, or other funding agreement.

(c) *Net derivative cash outflow amount.* The net derivative cash outflow amount as of the calculation date is the sum of the net derivative cash outflow amount for each counterparty. The net derivative cash outflow amount does not include forward sales of mortgage loans and any derivatives that are mortgage commitments subject to paragraph (d) of this section. The net derivative cash outflow amount for a counterparty is the sum of:

(1) The amount, if greater than zero, of contractual payments and collateral that the FDIC-supervised institution will make or deliver to the counterparty 30 calendar days or less from the calculation date under derivative transactions other than transactions described in paragraph (c)(2) of this section, less the contractual payments and collateral that the FDIC-supervised institution will receive from the counterparty 30 calendar days or less from the calculation date under derivative transactions other than transactions described in paragraph (c)(2) of this section, provided that the derivative transactions are subject to a qualifying master netting agreement; and

(2) The amount, if greater than zero, of contractual principal payments that the FDIC-supervised institution will make to the counterparty 30 calendar days or less from the calculation date under foreign currency exchange derivative transactions that result in the full exchange of contractual cash principal payments in different currencies within the same business day, less the contractual principal payments that the FDIC-supervised institution will receive from the counterparty 30 calendar days or less from the calculation date under foreign currency exchange derivative transactions that result in the full exchange of contractual cash principal payments in different currencies within the same business day.

(d) *Mortgage commitment outflow amount.* The mortgage commitment outflow amount as of a calculation date is 10 percent of the amount of funds the FDIC-supervised institution has contractually committed for its own origination of retail mortgages that can be drawn upon 30 calendar days or less from such calculation date.

(e) *Commitment outflow amount.* (1) A FDIC-supervised institution's commitment outflow amount as of the calculation date includes:

(i) Zero percent of the undrawn amount of all committed credit and liquidity facilities extended by an FDIC-supervised institution that is a depository institution to an affiliated depository institution that is subject to a minimum liquidity standard under this part;

(ii) 5 percent of the undrawn amount of all committed credit and liquidity facilities extended by the FDIC-supervised institution to retail customers or counterparties;

(iii) 10 percent of the undrawn amount of all committed credit facilities extended by the FDIC-supervised institution to a wholesale customer or counterparty that is not a financial sector entity or a consolidated subsidiary thereof, including a special purpose entity (other than those described in paragraph (e)(1)(viii) of this section) that is a consolidated subsidiary of such wholesale customer or counterparty;

(iv) 30 percent of the undrawn amount of all committed liquidity facilities extended by the FDIC-supervised institution to a wholesale customer or counterparty that is not a financial sector entity or a consolidated subsidiary thereof, including a special purpose entity (other than those described in paragraph (e)(1)(viii) of this section) that is a consolidated subsidiary of such wholesale customer or counterparty;

(v) 50 percent of the undrawn amount of all committed credit and liquidity facilities extended by the FDIC-supervised institution to depository institutions, depository institution holding companies, and foreign banks, but excluding commitments described in paragraph (e)(1)(i) of this section;

(vi) 40 percent of the undrawn amount of all committed credit facilities extended by the FDIC-supervised institution to a financial sector entity or a consolidated subsidiary thereof, including a special purpose entity (other than those described in paragraph (e)(1)(viii) of this section) that is a consolidated subsidiary of a financial sector entity, but excluding other commitments described in paragraph (e)(1)(i) or (v) of this section;

(vii) 100 percent of the undrawn amount of all committed liquidity facilities extended by the FDIC-supervised institution to a financial sector entity or a consolidated subsidiary thereof, including a special purpose entity (other than those described in paragraph (e)(1)(viii) of this section) that is a consolidated subsidiary of a financial sector entity, but excluding

other commitments described in paragraph (e)(1)(i) or (v) of this section and liquidity facilities included in paragraph (b)(2) of this section;

(viii) 100 percent of the undrawn amount of all committed credit and liquidity facilities extended to a special purpose entity that issues or has issued commercial paper or securities (other than equity securities issued to a company of which the special purpose entity is a consolidated subsidiary) to finance its purchases or operations, and excluding liquidity facilities included in paragraph (b)(2) of this section; and

(ix) 100 percent of the undrawn amount of all other committed credit or liquidity facilities extended by the FDIC-supervised institution.

(2) For the purposes of this paragraph (e), the undrawn amount of a committed credit facility or committed liquidity facility is the entire unused amount of the facility that could be drawn upon within 30 calendar days of the calculation date under the governing agreement, less the amount of level 1 liquid assets and the amount of level 2A liquid assets securing the facility.

(3) For the purposes of this paragraph (e), the amount of level 1 liquid assets and level 2A liquid assets securing a committed credit or liquidity facility is the fair value of level 1 liquid assets and 85 percent of the fair value of level 2A liquid assets that are required to be pledged as collateral by the counterparty to secure the facility, provided that:

(i) The assets pledged upon a draw on the facility would be eligible HQLA; and

(ii) The FDIC-supervised institution has not included the assets as eligible HQLA under subpart C of this part as of the calculation date.

(f) *Collateral outflow amount.* The collateral outflow amount as of the calculation date includes:

(1) *Changes in financial condition.* 100 percent of all additional amounts of collateral the FDIC-supervised institution could be contractually required to pledge or to fund under the terms of any transaction as a result of a change in the FDIC-supervised institution's financial condition;

(2) *Derivative collateral potential valuation changes.* 20 percent of the fair value of any collateral securing a derivative transaction pledged to a counterparty by the FDIC-supervised institution that is not a level 1 liquid asset;

(3) *Potential derivative valuation changes.* The absolute value of the largest 30-consecutive calendar day cumulative net mark-to-market collateral outflow or inflow realized during the preceding 24 months resulting from derivative transaction valuation changes;

(4) *Excess collateral.* 100 percent of the fair value of collateral that:

(i) The FDIC-supervised institution could be required by contract to return to a counterparty because the collateral pledged to the FDIC-supervised institution exceeds the current collateral requirement of the counterparty under the governing contract;

(ii) Is not segregated from the FDIC-supervised institution's other assets such that it cannot be rehypothecated; and

(iii) Is not already excluded as eligible HQLA by the FDIC-supervised institution under § 329.22(b)(5);

(5) *Contractually required collateral.* 100 percent of the fair value of collateral that the FDIC-supervised institution is contractually required to pledge to a counterparty and, as of such calculation date, the FDIC-supervised institution has not yet pledged;

(6) *Collateral substitution.* (i) Zero percent of the fair value of collateral pledged to the FDIC-supervised institution by a counterparty where the collateral qualifies as level 1 liquid assets and eligible HQLA and where, under the contract governing the transaction, the counterparty may replace the pledged collateral with other assets that qualify as level 1 liquid assets, without the consent of the FDIC-supervised institution;

(ii) 15 percent of the fair value of collateral pledged to the FDIC-supervised institution by a counterparty, where the collateral qualifies as level 1 liquid assets and eligible HQLA and where, under the contract governing the transaction, the counterparty may replace the pledged collateral with assets that qualify as level 2A liquid assets,

without the consent of the FDIC-supervised institution;

(iii) 50 percent of the fair value of collateral pledged to the FDIC-supervised institution by a counterparty where the collateral qualifies as level 1 liquid assets and eligible HQLA and where under, the contract governing the transaction, the counterparty may replace the pledged collateral with assets that qualify as level 2B liquid assets, without the consent of the FDIC-supervised institution;

(iv) 100 percent of the fair value of collateral pledged to the FDIC-supervised institution by a counterparty where the collateral qualifies as level 1 liquid assets and eligible HQLA and where, under the contract governing the transaction, the counterparty may replace the pledged collateral with assets that do not qualify as HQLA, without the consent of the FDIC-supervised institution;

(v) Zero percent of the fair value of collateral pledged to the FDIC-supervised institution by a counterparty where the collateral qualifies as level 2A liquid assets and eligible HQLA and where, under the contract governing the transaction, the counterparty may replace the pledged collateral with assets that qualify as level 1 or level 2A liquid assets, without the consent of the FDIC-supervised institution;

(vi) 35 percent of the fair value of collateral pledged to the FDIC-supervised institution by a counterparty where the collateral qualifies as level 2A liquid assets and eligible HQLA and where, under the contract governing the transaction, the counterparty may replace the pledged collateral with assets that qualify as level 2B liquid assets, without the consent of the FDIC-supervised institution;

(vii) 85 percent of the fair value of collateral pledged to the FDIC-supervised institution by a counterparty where the collateral qualifies as level 2A liquid assets and eligible HQLA and where, under the contract governing the transaction, the counterparty may replace the pledged collateral with assets that do not qualify as HQLA, without the consent of the FDIC-supervised institution;

(viii) Zero percent of the fair value of collateral pledged to the FDIC-supervised institution by a counterparty where the collateral qualifies as level 2B liquid assets and eligible HQLA and where, under the contract governing the transaction, the counterparty may replace the pledged collateral with other assets that qualify as HQLA, without the consent of the FDIC-supervised institution; and

(ix) 50 percent of the fair value of collateral pledged to the FDIC-supervised institution by a counterparty where the collateral qualifies as level 2B liquid assets and eligible HQLA and where, under the contract governing the transaction, the counterparty may replace the pledged collateral with assets that do not qualify as HQLA, without the consent of the FDIC-supervised institution.

(g) *Brokered deposit outflow amount for retail customers or counterparties.* The brokered deposit outflow amount for retail customers or counterparties as of the calculation date includes:

(1) 100 percent of all brokered deposits at the FDIC-supervised institution provided by a retail customer or counterparty that are not described in paragraphs (g)(5) through (9) of this section and which mature 30 calendar days or less from the calculation date;

(2) 10 percent of all brokered deposits at the FDIC-supervised institution provided by a retail customer or counterparty that are not described in paragraphs (g)(5) through (9) of this section and which mature later than 30 calendar days from the calculation date;

(3) 20 percent of all brokered deposits at the FDIC-supervised institution provided by a retail customer or counterparty that are not described in paragraphs (g)(5) through (9) of this section and which are held in a transactional account with no contractual maturity date, where the entire amount is covered by deposit insurance;

(4) 40 percent of all brokered deposits at the FDIC-supervised institution provided by a retail customer or counterparty that are not described in paragraphs (g)(5) through (9) of this section and which are held in a transactional account with no contractual

maturity date, where less than the entire amount is covered by deposit insurance;

(5) 10 percent of all brokered reciprocal deposits at the FDIC-supervised institution provided by a retail customer or counterparty, where the entire amount is covered by deposit insurance;

(6) 25 percent of all brokered reciprocal deposits at the FDIC-supervised institution provided by a retail customer or counterparty, where less than the entire amount is covered by deposit insurance;

(7) 10 percent of all sweep deposits at the FDIC-supervised institution provided by a retail customer or counterparty:

(i) That are deposited in accordance with a contract between the retail customer or counterparty and the FDIC-supervised institution, a controlled subsidiary of the FDIC-supervised institution, or a company that is a controlled subsidiary of the same top-tier company of which the FDIC-supervised institution is a controlled subsidiary; and

(ii) Where the entire amount of the deposits is covered by deposit insurance;

(8) 25 percent of all sweep deposits at the FDIC-supervised institution provided by a retail customer or counterparty:

(i) That are not deposited in accordance with a contract between the retail customer or counterparty and the FDIC-supervised institution, a controlled subsidiary of the FDIC-supervised institution, or a company that is a controlled subsidiary of the same top-tier company of which the FDIC-supervised institution is a controlled subsidiary; and

(ii) Where the entire amount of the deposits is covered by deposit insurance; and

(9) 40 percent of all sweep deposits at the FDIC-supervised institution provided by a retail customer or counterparty where less than the entire amount of the deposit balance is covered by deposit insurance.

(h) *Unsecured wholesale funding outflow amount.* A FDIC-supervised institution's unsecured wholesale funding outflow amount, for all transactions that mature within 30 calendar days or less of the calculation date, as of the calculation date includes:

(1) For unsecured wholesale funding that is not an operational deposit and is not provided by a financial sector entity or consolidated subsidiary of a financial sector entity:

(i) 20 percent of all such funding, where the entire amount is covered by deposit insurance and the funding is not a brokered deposit;

(ii) 40 percent of all such funding, where:

(A) Less than the entire amount is covered by deposit insurance; or

(B) The funding is a brokered deposit;

(2) 100 percent of all unsecured wholesale funding that is not an operational deposit and is not included in paragraph (h)(1) of this section, including:

(i) Funding provided by a company that is a consolidated subsidiary of the same top-tier company of which the FDIC-supervised institution is a consolidated subsidiary; and

(ii) Debt instruments issued by the FDIC-supervised institution, including such instruments owned by retail customers or counterparties;

(3) 5 percent of all operational deposits, other than operational deposits that are held in escrow accounts, where the entire deposit amount is covered by deposit insurance;

(4) 25 percent of all operational deposits not included in paragraph (h)(3) of this section; and

(5) 100 percent of all unsecured wholesale funding that is not otherwise described in this paragraph (h).

(i) *Debt security buyback outflow amount.* A FDIC-supervised institution's debt security buyback outflow amount for debt securities issued by the FDIC-supervised institution that mature more than 30 calendar days after the calculation date and for which the FDIC-supervised institution or a consolidated subsidiary of the FDIC-supervised institution is the primary market maker in such debt securities includes:

(1) 3 percent of all such debt securities that are not structured securities; and

(2) 5 percent of all such debt securities that are structured securities.

(j) *Secured funding and asset exchange outflow amount.* (1) A FDIC-supervised institution's secured funding outflow amount, for all transactions that mature within 30 calendar days or less of the calculation date, as of the calculation date includes:

(i) Zero percent of all funds the FDIC-supervised institution must pay pursuant to secured funding transactions, to the extent that the funds are secured by level 1 liquid assets;

(ii) 15 percent of all funds the FDIC-supervised institution must pay pursuant to secured funding transactions, to the extent that the funds are secured by level 2A liquid assets;

(iii) 25 percent of all funds the FDIC-supervised institution must pay pursuant to secured funding transactions with sovereign entities, multilateral development banks, or U.S. government-sponsored enterprises that are assigned a risk weight of 20 percent under subpart D of 12 CFR part 324, to the extent that the funds are not secured by level 1 or level 2A liquid assets;

(iv) 50 percent of all funds the FDIC-supervised institution must pay pursuant to secured funding transactions, to the extent that the funds are secured by level 2B liquid assets;

(v) 50 percent of all funds received from secured funding transactions that are customer short positions where the customer short positions are covered by other customers' collateral and the collateral does not consist of HQLA; and

(vi) 100 percent of all other funds the FDIC-supervised institution must pay pursuant to secured funding transactions, to the extent that the funds are secured by assets that are not HQLA.

(2) If an outflow rate specified in paragraph (j)(1) of this section for a secured funding transaction is greater than the outflow rate that the FDIC-supervised institution is required to apply under paragraph (h) of this section to an unsecured wholesale funding transaction that is not an operational deposit with the same counterparty, the FDIC-supervised institution may apply to the secured funding transaction the outflow rate that applies to an unsecured wholesale funding transaction that is not an operational deposit with that counterparty, except in the case of:

(i) Secured funding transactions that are secured by collateral that was received by the FDIC-supervised institution under a secured lending transaction or asset exchange, in which case the FDIC-supervised institution must apply the outflow rate specified in paragraph (j)(1) of this section for the secured funding transaction; and

(ii) Collateralized deposits that are operational deposits, in which case the FDIC-supervised institution may apply to the operational deposit amount, as calculated in accordance with § 329.4(b), the operational deposit outflow rate specified in paragraph (h)(3) or (4) of this section, as applicable, if such outflow rate is lower than the outflow rate specified in paragraph (j)(1) of this section.

(3) A FDIC-supervised institution's asset exchange outflow amount, for all transactions that mature within 30 calendar days or less of the calculation date, as of the calculation date includes:

(i) Zero percent of the fair value of the level 1 liquid assets the FDIC-supervised institution must post to a counterparty pursuant to asset exchanges, not described in paragraphs (j)(3)(x) through (xiii) of this section, where the FDIC-supervised institution will receive level 1 liquid assets from the asset exchange counterparty;

(ii) 15 percent of the fair value of the level 1 liquid assets the FDIC-supervised institution must post to a counterparty pursuant to asset exchanges, not described in paragraphs (j)(3)(x) through (xiii) of this section, where the FDIC-supervised institution will receive level 2A liquid assets from the asset exchange counterparty;

(iii) 50 percent of the fair value of the level 1 liquid assets the FDIC-supervised institution must post to a counterparty pursuant to asset exchanges, not described in paragraphs (j)(3)(x) through (xiii) of this section, where the FDIC-supervised institution will receive level 2B liquid assets from the asset exchange counterparty;

(iv) 100 percent of the fair value of the level 1 liquid assets the FDIC-supervised institution must post to a

counterparty pursuant to asset exchanges, not described in paragraphs (j)(3)(x) through (xiii) of this section, where the FDIC-supervised institution will receive assets that are not HQLA from the asset exchange counterparty;

(v) Zero percent of the fair value of the level 2A liquid assets that FDIC-supervised institution must post to a counterparty pursuant to asset exchanges, not described in paragraphs (j)(3)(x) through (xiii) of this section, where FDIC-supervised institution will receive level 1 or level 2A liquid assets from the asset exchange counterparty;

(vi) 35 percent of the fair value of the level 2A liquid assets the FDIC-supervised institution must post to a counterparty pursuant to asset exchanges, not described in paragraphs (j)(3)(x) through (xiii) of this section, where the FDIC-supervised institution will receive level 2B liquid assets from the asset exchange counterparty;

(vii) 85 percent of the fair value of the level 2A liquid assets the FDIC-supervised institution must post to a counterparty pursuant to asset exchanges, not described in paragraphs (j)(3)(x) through (xiii) of this section, where the FDIC-supervised institution will receive assets that are not HQLA from the asset exchange counterparty;

(viii) Zero percent of the fair value of the level 2B liquid assets the FDIC-supervised institution must post to a counterparty pursuant to asset exchanges, not described in paragraphs (j)(3)(x) through (xiii) of this section, where the FDIC-supervised institution will receive HQLA from the asset exchange counterparty; and

(ix) 50 percent of the fair value of the level 2B liquid assets the FDIC-supervised institution must post to a counterparty pursuant to asset exchanges, not described in paragraphs (j)(3)(x) through (xiii) of this section, where the FDIC-supervised institution will receive assets that are not HQLA from the asset exchange counterparty;

(x) Zero percent of the fair value of the level 1 liquid assets the FDIC-supervised institution will receive from a counterparty pursuant to an asset exchange where the FDIC-supervised institution has rehypothecated the assets posted by the asset exchange counterparty, and, as of the calculation date, the assets will not be returned to the FDIC-supervised institution within 30 calendar days;

(xi) 15 percent of the fair value of the level 2A liquid assets the FDIC-supervised institution will receive from a counterparty pursuant to an asset exchange where the FDIC-supervised institution has rehypothecated the assets posted by the asset exchange counterparty, and, as of the calculation date, the assets will not be returned to the FDIC-supervised institution within 30 calendar days;

(xii) 50 percent of the fair value of the level 2B liquid assets the FDIC-supervised institution will receive from a counterparty pursuant to an asset exchange where the FDIC-supervised institution has rehypothecated the assets posted by the asset exchange counterparty, and, as of the calculation date, the assets will not be returned to the FDIC-supervised institution within 30 calendar days; and

(xiii) 100 percent of the fair value of the non-HQLA the FDIC-supervised institution will receive from a counterparty pursuant to an asset exchange where the FDIC-supervised institution has rehypothecated the assets posted by the asset exchange counterparty, and, as of the calculation date, the assets will not be returned to the FDIC-supervised institution within 30 calendar days.

(k) *Foreign central bank borrowing outflow amount.* A FDIC-supervised institution's foreign central bank borrowing outflow amount is, in a foreign jurisdiction where the FDIC-supervised institution has borrowed from the jurisdiction's central bank, the outflow amount assigned to borrowings from central banks in a minimum liquidity standard established in that jurisdiction. If the foreign jurisdiction has not specified a central bank borrowing outflow amount in a minimum liquidity standard, the foreign central bank borrowing outflow amount must be calculated in accordance with paragraph (j) of this section.

(l) *Other contractual outflow amount.* A FDIC-supervised institution's other contractual outflow amount is 100 percent of funding or amounts, with the exception of operating expenses of the FDIC-supervised institution (such as

rents, salaries, utilities, and other similar payments), payable by the FDIC-supervised institution to counterparties under legally binding agreements that are not otherwise specified in this section.

(m) *Excluded amounts for intragroup transactions.* The outflow amounts set forth in this section do not include amounts arising out of transactions between:

(1) The FDIC-supervised institution and a consolidated subsidiary of the FDIC-supervised institution; or

(2) A consolidated subsidiary of the FDIC-supervised institution and another consolidated subsidiary of the FDIC-supervised institution.

[79 FR 61523, Oct. 10, 2014, as amended at 86 FR 9220, Feb. 11, 2021]

§ 329.33 Inflow amounts.

(a) The inflows in paragraphs (b) through (g) of this section do not include:

(1) Amounts the FDIC-supervised institution holds in operational deposits at other regulated financial companies;

(2) Amounts the FDIC-supervised institution expects, or is contractually entitled to receive, 30 calendar days or less from the calculation date due to forward sales of mortgage loans and any derivatives that are mortgage commitments subject to § 329.32(d);

(3) The amount of any credit or liquidity facilities extended to the FDIC-supervised institution;

(4) The amount of any asset that is eligible HQLA and any amounts payable to the FDIC-supervised institution with respect to that asset;

(5) Any amounts payable to the FDIC-supervised institution from an obligation of a customer or counterparty that is a nonperforming asset as of the calculation date or that the FDIC-supervised institution has reason to expect will become a nonperforming exposure 30 calendar days or less from the calculation date; and

(6) Amounts payable to the FDIC-supervised institution with respect to any transaction that has no contractual maturity date or that matures after 30 calendar days of the calculation date (as determined by § 329.31).

(b) *Net derivative cash inflow amount.* The net derivative cash inflow amount as of the calculation date is the sum of the net derivative cash inflow amount for each counterparty. The net derivative cash inflow amount does not include amounts excluded from inflows under paragraph (a)(2) of this section. The net derivative cash inflow amount for a counterparty is the sum of:

(1) The amount, if greater than zero, of contractual payments and collateral that the FDIC-supervised institution will receive from the counterparty 30 calendar days or less from the calculation date under derivative transactions other than transactions described in paragraph (b)(2) of this section, less the contractual payments and collateral that the FDIC-supervised institution will make or deliver to the counterparty 30 calendar days or less from the calculation date under derivative transactions other than transactions described in paragraph (b)(2) of this section, provided that the derivative transactions are subject to a qualifying master netting agreement; and

(2) The amount, if greater than zero, of contractual principal payments that the FDIC-supervised institution will receive from the counterparty 30 calendar days or less from the calculation date under foreign currency exchange derivative transactions that result in the full exchange of contractual cash principal payments in different currencies within the same business day, less the contractual principal payments that the FDIC-supervised institution will make to the counterparty 30 calendar days or less from the calculation date under foreign currency exchange derivative transactions that result in the full exchange of contractual cash principal payments in different currencies within the same business day.

(c) *Retail cash inflow amount.* The retail cash inflow amount as of the calculation date includes 50 percent of all payments contractually payable to the FDIC-supervised institution from retail customers or counterparties.

(d) *Unsecured wholesale cash inflow amount.* The unsecured wholesale cash inflow amount as of the calculation date includes:

(1) 100 percent of all payments contractually payable to the FDIC-supervised institution from financial sector

entities, or from a consolidated subsidiary thereof, or central banks; and

(2) 50 percent of all payments contractually payable to the FDIC-supervised institution from wholesale customers or counterparties that are not financial sector entities or consolidated subsidiaries thereof, provided that, with respect to revolving credit facilities, the amount of the existing loan is not included in the unsecured wholesale cash inflow amount and the remaining undrawn balance is included in the outflow amount under §329.32(e)(1).

(e) *Securities cash inflow amount.* The securities cash inflow amount as of the calculation date includes 100 percent of all contractual payments due to the FDIC-supervised institution on securities it owns that are not eligible HQLA.

(f) *Secured lending and asset exchange cash inflow amount.* (1) A FDIC-supervised institution's secured lending cash inflow amount as of the calculation date includes:

(i) Zero percent of all contractual payments due to the FDIC-supervised institution pursuant to secured lending transactions, including margin loans extended to customers, to the extent that the payments are secured by collateral that has been rehypothecated in a transaction and, as of the calculation date, will not be returned to the FDIC-supervised institution within 30 calendar days;

(ii) 100 percent of all contractual payments due to the FDIC-supervised institution pursuant to secured lending transactions not described in paragraph (f)(1)(vii) of this section, to the extent that the payments are secured by assets that are not eligible HQLA, but are still held by the FDIC-supervised institution and are available for immediate return to the counterparty at any time;

(iii) Zero percent of all contractual payments due to the FDIC-supervised institution pursuant to secured lending transactions not described in paragraphs (f)(1)(i) or (ii) of this section, to the extent that the payments are secured by level 1 liquid assets;

(iv) 15 percent of all contractual payments due to the FDIC-supervised institution pursuant to secured lending transactions not described in paragraphs (f)(1)(i) or (ii) of this section, to the extent that the payments are secured by level 2A liquid assets;

(v) 50 percent of all contractual payments due to the FDIC-supervised institution pursuant to secured lending transactions not described in paragraphs (f)(1)(i) or (ii) of this section, to the extent that the payments are secured by level 2B liquid assets;

(vi) 100 percent of all contractual payments due to the FDIC-supervised institution pursuant to secured lending transactions not described in paragraphs (f)(1)(i), (ii), or (vii) of this section, to the extent that the payments are secured by assets that are not HQLA; and

(vii) 50 percent of all contractual payments due to the FDIC-supervised institution pursuant to collateralized margin loans extended to customers, not described in paragraph (f)(1)(i) of this section, provided that the loans are secured by assets that are not HQLA.

(2) A FDIC-supervised institution's asset exchange inflow amount as of the calculation date includes:

(i) Zero percent of the fair value of assets the FDIC-supervised institution will receive from a counterparty pursuant to asset exchanges, to the extent that the asset received by the FDIC-supervised institution from the counterparty has been rehypothecated in a transaction and, as of the calculation date, will not be returned to the FDIC-supervised institution within 30 calendar days;

(ii) Zero percent of the fair value of level 1 liquid assets the FDIC-supervised institution will receive from a counterparty pursuant to asset exchanges, not described in paragraph (f)(2)(i) of this section, where the FDIC-supervised institution must post level 1 liquid assets to the asset exchange counterparty;

(iii) 15 percent of the fair value of level 1 liquid assets the FDIC-supervised institution will receive from a counterparty pursuant to asset exchanges, not described in paragraph (f)(2)(i) of this section, where the FDIC-supervised institution must post level 2A liquid assets to the asset exchange counterparty;

(iv) 50 percent of the fair value of level 1 liquid assets the FDIC-supervised institution will receive from counterparty pursuant to asset exchanges, not described in paragraph (f)(2)(i) of this section, where the FDIC-supervised institution must post level 2B liquid assets to the asset exchange counterparty;

(v) 100 percent of the fair value of level 1 liquid assets the FDIC-supervised institution will receive from a counterparty pursuant to asset exchanges, not described in paragraph (f)(2)(i) of this section, where the FDIC-supervised institution must post assets that are not HQLA to the asset exchange counterparty;

(vi) Zero percent of the fair value of level 2A liquid assets the FDIC-supervised institution will receive from a counterparty pursuant to asset exchanges, not described in paragraph (f)(2)(i) of this section, where the FDIC-supervised institution must post level 1 or level 2A liquid assets to the asset exchange counterparty;

(vii) 35 percent of the fair value of level 2A liquid assets the FDIC-supervised institution will receive from a counterparty pursuant to asset exchanges, not described in paragraph (f)(2)(i) of this section, where the FDIC-supervised institution must post level 2B liquid assets to the asset exchange counterparty;

(viii) 85 percent of the fair value of level 2A liquid assets the FDIC-supervised institution will receive from a counterparty pursuant to asset exchanges, not described in paragraph (f)(2)(i) of this section, where the FDIC-supervised institution must post assets that are not HQLA to the asset exchange counterparty;

(ix) Zero percent of the fair value of level 2B liquid assets the FDIC-supervised institution will receive from a counterparty pursuant to asset exchanges, not described in paragraph (f)(2)(i) of this section, where the FDIC-supervised institution must post assets that are HQLA to the asset exchange counterparty; and

(x) 50 percent of the fair value of level 2B liquid assets the FDIC-supervised institution will receive from a counterparty pursuant to asset exchanges, not described in paragraph (f)(2)(i) of this section, where the FDIC-supervised institution must post assets that are not HQLA to the asset exchange counterparty.

(g) *Broker-dealer segregated account inflow amount.* A FDIC-supervised institution's broker-dealer segregated account inflow amount is the fair value of all assets released from broker-dealer segregated accounts maintained in accordance with statutory or regulatory requirements for the protection of customer trading assets, provided that the calculation of the broker-dealer segregated account inflow amount, for any transaction affecting the calculation of the segregated balance (as required by applicable law), shall be consistent with the following:

(1) In calculating the broker-dealer segregated account inflow amount, the FDIC-supervised institution must calculate the fair value of the required balance of the customer reserve account as of 30 calendar days from the calculation date by assuming that customer cash and collateral positions have changed consistent with the outflow and inflow calculations required under §§ 329.32 and 329.33.

(2) If the fair value of the required balance of the customer reserve account as of 30 calendar days from the calculation date, as calculated consistent with the outflow and inflow calculations required under §§ 329.32 and 329.33, is less than the fair value of the required balance as of the calculation date, the difference is the segregated account inflow amount.

(3) If the fair value of the required balance of the customer reserve account as of 30 calendar days from the calculation date, as calculated consistent with the outflow and inflow calculations required under §§ 329.32 and 329.33, is more than the fair value of the required balance as of the calculation date, the segregated account inflow amount is zero.

(h) *Other cash inflow amounts.* A FDIC-supervised institution's inflow amount as of the calculation date includes zero percent of other cash inflow amounts not included in paragraphs (b) through (g) of this section.

(i) *Excluded amounts for intragroup transactions.* The inflow amounts set forth in this section do not include

amounts arising out of transactions between:

(1) The FDIC-supervised institution and a consolidated subsidiary of the FDIC-supervised institution; or

(2) A consolidated subsidiary of the FDIC-supervised institution and another consolidated subsidiary of the FDIC-supervised institution.

§ 329.34 Cash flows related to Covered Federal Reserve Facility Funding.

(a) *Treatment of Covered Federal Reserve Facility Funding.* Notwithstanding any other section of this part and except as provided in paragraph (b) of this section, outflow amounts and inflow amounts related to Covered Federal Reserve Facility Funding and the assets securing Covered Federal Reserve Facility Funding are excluded from the calculation of a FDIC-supervised institution's total net cash outflow amount calculated under § 329.30.

(b) *Exception.* To the extent the Covered Federal Reserve Facility Funding is secured by securities, debt obligations, or other instruments issued by the FDIC-supervised institution or one of its consolidated subsidiaries, the Covered Federal Reserve Facility Funding is not subject to paragraph (a) of this section and this outflow amount must be included in the FDIC-supervised institution's total net cash outflow amount calculated under § 329.30.

[85 FR 26841, May 6, 2020]

Subpart E—Liquidity Coverage Shortfall

§ 329.40 Liquidity coverage shortfall: Supervisory framework.

(a) *Notification requirements.* An FDIC-supervised institution must notify the FDIC on any business day when its liquidity coverage ratio is calculated to be less than the minimum requirement in § 329.10.

(b) *Liquidity plan.* (1) For the period during which an FDIC-supervised institution must calculate a liquidity coverage ratio on the last business day of each applicable calendar month under subpart F of this part, if the FDIC-supervised institution's liquidity coverage ratio is below the minimum requirement in § 329.10 for any calculation date that is the last business day of the applicable calendar month, or if the FDIC has determined that the FDIC-supervised institution is otherwise materially noncompliant with the requirements of this part, the FDIC-supervised institution must promptly consult with the FDIC to determine whether the FDIC-supervised institution must provide to the FDIC a plan for achieving compliance with the minimum liquidity requirement in § 329.10 and all other requirements of this part.

(2) For the period during which an FDIC-supervised institution must calculate a liquidity coverage ratio each business day under subpart F of this part, if a FDIC-supervised institution's liquidity coverage ratio is below the minimum requirement in § 329.10 for three consecutive business days, or if the FDIC has determined that the FDIC-supervised institution is otherwise materially noncompliant with the requirements of this part, the FDIC-supervised institution must promptly provide to the FDIC a plan for achieving compliance with the minimum liquidity requirement in § 329.10 and all other requirements of this part.

(3) The plan must include, as applicable:

(i) An assessment of the FDIC-supervised institution's liquidity position;

(ii) The actions the FDIC-supervised institution has taken and will take to achieve full compliance with this part, including:

(A) A plan for adjusting the FDIC-supervised institution's risk profile, risk management, and funding sources in order to achieve full compliance with this part; and

(B) A plan for remediating any operational or management issues that contributed to noncompliance with this part;

(iii) An estimated time frame for achieving full compliance with this part; and

(iv) A commitment to report to the FDIC no less than weekly on progress to achieve compliance in accordance with the plan until full compliance with this part is achieved.

(c) *Supervisory and enforcement actions.* The FDIC may, at its discretion, take additional supervisory or enforcement actions to address noncompliance

with the minimum liquidity standard and other requirements of this part.

Subpart F—Transitions

§ 329.50 Transitions.

(a) *No transition for certain FDIC-supervised institutions.* An FDIC-supervised institution that is subject to the minimum liquidity standard and other requirements of this part prior to December 31, 2019 must comply with the minimum liquidity standard and other requirements of this part as of December 31, 2019.

(b) [Reserved]

(c) *Initial application.* (1) An FDIC-supervised institution that initially becomes subject to the minimum liquidity standard and other requirements of this part under § 329.1(b)(1)(i) must comply with the requirements of this part beginning on the first day of the third calendar quarter after which the FDIC-supervised institution becomes subject to this part, except that an FDIC-supervised institution must:

(i) For the first two calendar quarters after the FDIC-supervised institution begins complying with the minimum liquidity standard and other requirements of this part, calculate and maintain a liquidity coverage ratio monthly, on each calculation date that is the last business day of the applicable calendar month; and

(ii) Beginning the first day of the fifth calendar quarter after the FDIC-supervised institution becomes subject to the minimum liquidity standard and other requirements of this part and continuing thereafter, calculate and maintain a liquidity coverage ratio on each calculation date.

(2) An FDIC-supervised institution that becomes subject to the minimum liquidity standard and other requirements of this part under § 329.1(b)(1)(ii), must comply with the requirements of this part subject to a transition period specified by the FDIC.

(d) *Transition into a different outflow adjustment percentage.* (1) An FDIC-supervised institution whose outflow adjustment percentage changes is subject to transition periods as set forth in § 329.30(d).

(2) An FDIC-supervised institution that is no longer subject to the minimum liquidity standard and other requirements of this part pursuant to § 329.1(b)(1)(i) based on the size of total consolidated assets, cross-jurisdictional activity, total nonbank assets, weighted short-term wholesale funding, or off-balance sheet exposure calculated in accordance with the Call Report, the instructions to the FR Y–9LP or the FR Y–15 or equivalent reporting form, as applicable, for each of the four most recent calendar quarters may cease compliance with this part as of the first day of the first quarter after it is no longer subject to § 329.1(b)(1).

(e) *Reservation of authority.* The FDIC may extend or accelerate any compliance date of this part if the FDIC determines that such extension or acceleration is appropriate. In determining whether an extension or acceleration is appropriate, the FDIC will consider the effect of the modification on financial stability, the period of time for which the modification would be necessary to facilitate compliance with this part, and the actions the FDIC-supervised supervised institution is taking to come into compliance with this part.

[84 FR 59283, Nov. 1, 2019]

Subparts G–J [Reserved]

Subpart K—Net Stable Funding Ratio

SOURCE: 86 FR 9220, Feb. 11, 2021, unless otherwise noted.

§ 329.100 Net stable funding ratio.

(a) *Minimum net stable funding ratio requirement.* An FDIC-supervised institution must maintain a net stable funding ratio that is equal to or greater than 1.0 on an ongoing basis in accordance with this subpart.

(b) *Calculation of the net stable funding ratio.* For purposes of this part, an FDIC-supervised institution's net stable funding ratio equals:

(1) The FDIC-supervised institution's available stable funding (ASF) amount, calculated pursuant to § 329.103, as of the calculation date; divided by

(2) The FDIC-supervised institution's required stable funding (RSF) amount, calculated pursuant to § 329.105, as of the calculation date.

§ 329.101 Determining maturity.

For purposes of calculating its net stable funding ratio, including its ASF amount and RSF amount, under subparts K through N, an FDIC-supervised institution shall assume each of the following:

(a) With respect to any NSFR liability, the NSFR liability matures according to § 329.31(a)(1) of this part without regard to whether the NSFR liability is subject to § 329.32;

(b) With respect to an asset, the asset matures according to § 329.31(a)(2) of this part without regard to whether the asset is subject to § 329.33 of this part;

(c) With respect to an NSFR liability or asset that is perpetual, the NSFR liability or asset matures one year or more after the calculation date;

(d) With respect to an NSFR liability or asset that has an open maturity, the NSFR liability or asset matures on the first calendar day after the calculation date, except that in the case of a deferred tax liability, the NSFR liability matures on the first calendar day after the calculation date on which the deferred tax liability could be realized; and

(e) With respect to any principal payment of an NSFR liability or asset, such as an amortizing loan, that is due prior to the maturity of the NSFR liability or asset, the payment matures on the date on which it is contractually due.

§ 329.102 Rules of construction.

(a) *Balance-sheet metric.* Unless otherwise provided in this subpart, an NSFR regulatory capital element, NSFR liability, or asset that is not included on an FDIC-supervised institution's balance sheet is not assigned an RSF factor or ASF factor, as applicable; and an NSFR regulatory capital element, NSFR liability, or asset that is included on an FDIC-supervised institution's balance sheet is assigned an RSF factor or ASF factor, as applicable.

(b) *Netting of certain transactions.* Where an FDIC-supervised institution has secured lending transactions, secured funding transactions, or asset exchanges with the same counterparty and has offset the gross value of receivables due from the counterparty under the transactions by the gross value of payables under the transactions due to the counterparty, the receivables or payables associated with the offsetting transactions that are not included on the FDIC-supervised institution's balance sheet are treated as if they were included on the FDIC-supervised institution's balance sheet with carrying values, unless the criteria in 12 CFR 324.10(c)(2)(v)(A) through (C) are met.

(c) *Treatment of Securities Received in an Asset Exchange by a Securities Lender.* Where an FDIC-supervised institution receives a security in an asset exchange, acts as a securities lender, includes the carrying value of the received security on its balance sheet, and has not rehypothecated the security received:

(1) The security received by the FDIC-supervised institution is not assigned an RSF factor; and

(2) The obligation to return the security received by the FDIC-supervised institution is not assigned an ASF factor.

§ 329.103 Calculation of available stable funding amount.

An FDIC-supervised institution's ASF amount equals the sum of the carrying values of the FDIC-supervised institution's NSFR regulatory capital elements and NSFR liabilities, in each case multiplied by the ASF factor applicable in § 329.104 or § 329.107(c) and consolidated in accordance with § 329.109.

§ 329.104 ASF factors.

(a) *NSFR regulatory capital elements and NSFR liabilities assigned a 100 percent ASF factor.* An NSFR regulatory capital element or NSFR liability of an FDIC-supervised institution is assigned a 100 percent ASF factor if it is one of the following:

(1) An NSFR regulatory capital element; or

(2) An NSFR liability that has a maturity of one year or more from the calculation date, is not described in paragraph (d)(9) of this section, and is not a retail deposit or brokered deposit provided by a retail customer or counterparty.

(b) *NSFR liabilities assigned a 95 percent ASF factor.* An NSFR liability of

an FDIC-supervised institution is assigned a 95 percent ASF factor if it is one of the following:

(1) A stable retail deposit (regardless of maturity or collateralization) held at the FDIC-supervised institution; or

(2) A sweep deposit that:

(i) Is deposited in accordance with a contract between the retail customer or counterparty and the FDIC-supervised institution, a controlled subsidiary of the FDIC-supervised institution, or a company that is a controlled subsidiary of the same top-tier company of which the FDIC-supervised institution is a controlled subsidiary;

(ii) Is entirely covered by deposit insurance; and

(iii) The FDIC-supervised institution demonstrates to the satisfaction of the FDIC that a withdrawal of such deposit is highly unlikely to occur during a liquidity stress event.

(c) *NSFR liabilities assigned a 90 percent ASF factor*. An NSFR liability of an FDIC-supervised institution is assigned a 90 percent ASF factor if it is funding provided by a retail customer or counterparty that is:

(1) A retail deposit (regardless of maturity or collateralization) other than a stable retail deposit or brokered deposit;

(2) A brokered reciprocal deposit where the entire amount is covered by deposit insurance;

(3) A sweep deposit that is deposited in accordance with a contract between the retail customer or counterparty and the FDIC-supervised institution, a controlled subsidiary of the FDIC-supervised institution, or a company that is a controlled subsidiary of the same top-tier company of which the FDIC-supervised institution is a controlled subsidiary, where the sweep deposit does not meet the requirements of paragraph (b)(2) of this section; or

(4) A brokered deposit that is not a brokered reciprocal deposit or a sweep deposit, that is not held in a transactional account, and that matures one year or more from the calculation date.

(d) *NSFR liabilities assigned a 50 percent ASF factor*. An NSFR liability of an FDIC-supervised institution is assigned a 50 percent ASF factor if it is one of the following:

(1) Unsecured wholesale funding that:

(i) Is not provided by a financial sector entity, a consolidated subsidiary of a financial sector entity, or a central bank;

(ii) Matures less than one year from the calculation date; and

(iii) Is not a security issued by the FDIC-supervised institution or an operational deposit placed at the FDIC-supervised institution;

(2) A secured funding transaction with the following characteristics:

(i) The counterparty is not a financial sector entity, a consolidated subsidiary of a financial sector entity, or a central bank;

(ii) The secured funding transaction matures less than one year from the calculation date; and

(iii) The secured funding transaction is not a collateralized deposit that is an operational deposit placed at the FDIC-supervised institution;

(3) Unsecured wholesale funding that:

(i) Is provided by a financial sector entity, a consolidated subsidiary of a financial sector entity, or a central bank;

(ii) Matures six months or more, but less than one year, from the calculation date; and

(iii) Is not a security issued by the FDIC-supervised institution or an operational deposit;

(4) A secured funding transaction with the following characteristics:

(i) The counterparty is a financial sector entity, a consolidated subsidiary of a financial sector entity, or a central bank;

(ii) The secured funding transaction matures six months or more, but less than one year, from the calculation date; and

(iii) The secured funding transaction is not a collateralized deposit that is an operational deposit;

(5) A security issued by the FDIC-supervised institution that matures six months or more, but less than one year, from the calculation date;

(6) An operational deposit placed at the FDIC-supervised institution;

(7) A brokered deposit provided by a retail customer or counterparty that is not described in paragraphs (c) or (e)(2) of this section;

(8) A sweep deposit provided by a retail customer or counterparty that is

not described in paragraphs (b) or (c) of this section;

(9) An NSFR liability owed to a retail customer or counterparty that is not a deposit and is not a security issued by the FDIC-supervised institution; or

(10) Any other NSFR liability that matures six months or more, but less than one year, from the calculation date and is not described in paragraphs (a) through (c) or (d)(1) through (d)(9) of this section.

(e) *NSFR liabilities assigned a zero percent ASF factor.* An NSFR liability of an FDIC-supervised institution is assigned a zero percent ASF factor if it is one of the following:

(1) A trade date payable that results from a purchase by the FDIC-supervised institution of a financial instrument, foreign currency, or commodity that is contractually required to settle within the lesser of the market standard settlement period for the particular transaction and five business days from the date of the sale;

(2) A brokered deposit provided by a retail customer or counterparty that is not a brokered reciprocal deposit or sweep deposit, is not held in a transactional account, and matures less than six months from the calculation date;

(3) A security issued by the FDIC-supervised institution that matures less than six months from the calculation date;

(4) An NSFR liability with the following characteristics:

(i) The counterparty is a financial sector entity, a consolidated subsidiary of a financial sector entity, or a central bank;

(ii) The NSFR liability matures less than six months from the calculation date or has an open maturity; and

(iii) The NSFR liability is not a security issued by the FDIC-supervised institution or an operational deposit placed at the FDIC-supervised institution; or

(5) Any other NSFR liability that matures less than six months from the calculation date and is not described in paragraphs (a) through (d) or (e)(1) through (4) of this section.

§ 329.105 Calculation of required stable funding amount.

(a) *Required stable funding amount.* An FDIC-supervised institution's RSF amount equals the FDIC-supervised institution's required stable funding adjustment percentage as determined under paragraph (b) of this section multiplied by the sum of:

(1) The carrying values of an FDIC-supervised institution's assets (other than amounts included in the calculation of the derivatives RSF amount pursuant to §329.107(b)) and the undrawn amounts of an FDIC-supervised institution's credit and liquidity facilities, in each case multiplied by the RSF factors applicable in §329.106; and

(2) The FDIC-supervised institution's derivatives RSF amount calculated pursuant to §329.107(b).

(b) *Required stable funding adjustment percentage.* An FDIC-supervised institution's required stable funding adjustment percentage is determined pursuant to Table 1 to this paragraph (b).

TABLE 1 TO PARAGRAPH (b)—REQUIRED STABLE FUNDING ADJUSTMENT PERCENTAGES

GSIB depository institution supervised by the FDIC	100
Category II FDIC-supervised institution	100
Category III FDIC-supervised institution that:	100
(1) Is a consolidated subsidiary of (a) a covered depository institution holding company or U.S. intermediate holding company identified as a Category III banking organization pursuant to 12 CFR 252.5 or 12 CFR 238.10 or (b) a depository institution that meets the criteria set forth in paragraphs (2)(ii)(A) and (B) of the definition of Category III FDIC-supervised institution in this part, in each case with $75 billion or more in average weighted short-term wholesale funding; or	

TABLE 1 TO PARAGRAPH (b)—REQUIRED STABLE FUNDING ADJUSTMENT PERCENTAGES—Continued

(2) Has $75 billion or more in average weighted short-term wholesale funding and is not a consolidated subsidiary of (a) a covered depository institution holding company or U.S. intermediate holding company identified as a Category III banking organization pursuant to 12 CFR 252.5 or 12 CFR 238.10 or (b) a depository institution that meets the criteria set forth in paragraphs (2)(ii)(A) and (B) of the definition of Category III FDIC-supervised institution in this part.	
Category III FDIC-supervised institution that:	85
(1) Is a consolidated subsidiary of (a) a covered depository institution holding company or U.S. intermediate holding company identified as a Category III banking organization pursuant to 12 CFR 252.5 or 12 CFR 238.10 or (b) a depository institution that meets the criteria set forth in paragraphs (2)(ii)(A) and (B) of the definition of Category III FDIC-supervised institution in this part, in each case with less than $75 billion in average weighted short-term wholesale funding; or	
(2) Has less than $75 billion in average weighted short-term wholesale funding and is not a consolidated subsidiary of (a) a covered depository institution holding company or U.S. intermediate holding company identified as a Category III banking organization pursuant to 12 CFR 252.5 or 12 CFR 238.10 or (b) a depository institution that meets the criteria set forth in paragraphs (2)(ii)(A) and (B) of the definition of Category III FDIC-supervised institution in this part.	

(c) *Transition into a different required stable funding adjustment percentage.* (1) An FDIC-supervised institution whose required stable funding adjustment percentage increases from a lower to a higher required stable funding adjustment percentage may continue to use its previous lower required stable funding adjustment percentage until the first day of the third calendar quarter after the required stable funding adjustment percentage increases.

(2) An FDIC-supervised institution whose required stable funding adjustment percentage decreases from a higher to a lower required stable funding adjustment percentage must continue to use its previous higher required stable funding adjustment percentage until the first day of the first calendar quarter after the required stable funding adjustment percentage decreases.

[86 FR 9220, 9221, Feb. 11, 2021]

§ 329.106 RSF factors.

(a) *Unencumbered assets and commitments.* All assets and undrawn amounts under credit and liquidity facilities, unless otherwise provided in § 329.107(b) relating to derivative transactions or paragraphs (b) through (d) of this section, are assigned RSF factors as follows:

(1) *Unencumbered assets assigned a zero percent RSF factor.* An asset of an FDIC-supervised institution is assigned a zero percent RSF factor if it is one of the following:

(i) Currency and coin;

(ii) A cash item in the process of collection;

(iii) A Reserve Bank balance or other claim on a Reserve Bank that matures less than six months from the calculation date;

(iv) A claim on a foreign central bank that matures less than six months from the calculation date;

(v) A trade date receivable due to the FDIC-supervised institution resulting from the FDIC-supervised institution's sale of a financial instrument, foreign currency, or commodity that is required to settle no later than the market standard, without extension, for the particular transaction, and that has yet to settle but is not more than five business days past the scheduled settlement date;

(vi) Any other level 1 liquid asset not described in paragraphs (a)(1)(i) through (a)(1)(v) of this section; or

(vii) A secured lending transaction with the following characteristics:

(A) The secured lending transaction matures less than six months from the calculation date;

(B) The secured lending transaction is secured by level 1 liquid assets;

(C) The borrower is a financial sector entity or a consolidated subsidiary thereof; and

(D) The FDIC-supervised institution retains the right to rehypothecate the collateral provided by the counterparty for the duration of the secured lending transaction.

(2) *Unencumbered assets and commitments assigned a 5 percent RSF factor*. An undrawn amount of a committed credit facility or committed liquidity facility extended by an FDIC-supervised institution is assigned a 5 percent RSF factor. For the purposes of this paragraph (a)(2), the undrawn amount of a committed credit facility or committed liquidity facility is the entire unused amount of the facility that could be drawn upon within one year of the calculation date under the governing agreement.

(3) *Unencumbered assets assigned a 15 percent RSF factor*. An asset of an FDIC-supervised institution is assigned a 15 percent RSF factor if it is one of the following:

(i) A level 2A liquid asset; or

(ii) A secured lending transaction or unsecured wholesale lending with the following characteristics:

(A) The asset matures less than six months from the calculation date;

(B) The borrower is a financial sector entity or a consolidated subsidiary thereof; and

(C) The asset is not described in paragraph (a)(1)(vii) of this section and is not an operational deposit described in paragraph (a)(4)(iii) of this section.

(4) *Unencumbered assets assigned a 50 percent RSF factor*. An asset of an FDIC-supervised institution is assigned a 50 percent RSF factor if it is one of the following:

(i) A level 2B liquid asset;

(ii) A secured lending transaction or unsecured wholesale lending with the following characteristics:

(A) The asset matures six months or more, but less than one year, from the calculation date;

(B) The borrower is a financial sector entity, a consolidated subsidiary thereof, or a central bank; and

(C) The asset is not an operational deposit described in paragraph (a)(4)(iii) of this section;

(iii) An operational deposit placed by the FDIC-supervised institution at a financial sector entity or a consolidated subsidiary thereof; or

(iv) An asset that is not described in paragraphs (a)(1) through (a)(3) or (a)(4)(i) through (a)(4)(iii) of this section that matures less than one year from the calculation date, including:

(A) A secured lending transaction or unsecured wholesale lending where the borrower is a wholesale customer or counterparty that is not a financial sector entity, a consolidated subsidiary thereof, or a central bank; or

(B) Lending to a retail customer or counterparty.

(5) *Unencumbered assets assigned a 65 percent RSF factor*. An asset of an FDIC-supervised institution is assigned a 65 percent RSF factor if it is one of the following:

(i) A retail mortgage that matures one year or more from the calculation date and is assigned a risk weight of no greater than 50 percent under subpart D of 12 CFR part 324; or

(ii) A secured lending transaction, unsecured wholesale lending, or lending to a retail customer or counterparty with the following characteristics:

(A) The asset is not described in paragraphs (a)(1) through (a)(5)(i) of this section;

(B) The borrower is not a financial sector entity or a consolidated subsidiary thereof;

(C) The asset matures one year or more from the calculation date; and

(D) The asset is assigned a risk weight of no greater than 20 percent under subpart D of 12 CFR part 324.

(6) *Unencumbered assets assigned an 85 percent RSF factor*. An asset of an FDIC-supervised institution is assigned an 85 percent RSF factor if it is one of the following:

(i) A retail mortgage that matures one year or more from the calculation date and is assigned a risk weight of greater than 50 percent under subpart D of 12 CFR part 324;

(ii) A secured lending transaction, unsecured wholesale lending, or lending to a retail customer or counterparty with the following characteristics:

(A) The asset is not described in paragraphs (a)(1) through (a)(6)(i) of this section;

(B) The borrower is not a financial sector entity or a consolidated subsidiary thereof;

(C) The asset matures one year or more from the calculation date; and

(D) The asset is assigned a risk weight of greater than 20 percent under subpart D of 12 CFR part 324;

(iii) A publicly traded common equity share that is not HQLA;

(iv) A security, other than a publicly traded common equity share, that matures one year or more from the calculation date and is not HQLA; or

(v) A commodity for which derivative transactions are traded on a U.S. board of trade or trading facility designated as a contract market under sections 5 and 6 of the Commodity Exchange Act (7 U.S.C. 7 and 8) or on a U.S. swap execution facility registered under section 5h of the Commodity Exchange Act (7 U.S.C. 7b–3) or on another exchange, whether located in the United States or in a jurisdiction outside of the United States.

(7) *Unencumbered assets assigned a 100 percent RSF factor.* An asset of an FDIC-supervised institution is assigned a 100 percent RSF factor if it is not described in paragraphs (a)(1) through (a)(6) of this section, including a secured lending transaction or unsecured wholesale lending where the borrower is a financial sector entity or a consolidated subsidiary thereof and that matures one year or more from the calculation date.

(b) *Nonperforming assets.* An RSF factor of 100 percent is assigned to any asset that is past due by more than 90 days or nonaccrual.

(c) *Encumbered assets.* An encumbered asset, unless otherwise provided in § 329.107(b) relating to derivative transactions, is assigned an RSF factor as follows:

(1)(i) *Encumbered assets with less than six months remaining in the encumbrance period.* For an encumbered asset with less than six months remaining in the encumbrance period, the same RSF factor is assigned to the asset as would be assigned if the asset were not encumbered.

(ii) *Encumbered assets with six months or more, but less than one year, remaining in the encumbrance period.* For an encumbered asset with six months or more, but less than one year, remaining in the encumbrance period:

(A) If the asset would be assigned an RSF factor of 50 percent or less under paragraphs (a)(1) through (a)(4) of this section if the asset were not encumbered, an RSF factor of 50 percent is assigned to the asset.

(B) If the asset would be assigned an RSF factor of greater than 50 percent under paragraphs (a)(5) through (a)(7) of this section if the asset were not encumbered, the same RSF factor is assigned to the asset as would be assigned if it were not encumbered.

(iii) *Encumbered assets with one year or more remaining in the encumbrance period.* For an encumbered asset with one year or more remaining in the encumbrance period, an RSF factor of 100 percent is assigned to the asset.

(2) *Assets encumbered for period longer than remaining maturity.* If an asset is encumbered for an encumbrance period longer than the asset's maturity, the asset is assigned an RSF factor under paragraph (c)(1) of this section based on the length of the encumbrance period.

(3) *Segregated account assets.* An asset held in a segregated account maintained pursuant to statutory or regulatory requirements for the protection of customer assets is not considered encumbered for purposes of this paragraph solely because such asset is held in the segregated account.

(d) *Off-balance sheet rehypothecated assets.* When an NSFR liability of an FDIC-supervised institution is secured by an off-balance sheet asset or results from the FDIC-supervised institution selling an off-balance sheet asset (for instance, in the case of a short sale), other than an off-balance sheet asset received by the FDIC-supervised institution as variation margin under a derivative transaction:

(1) If the FDIC-supervised institution received the off-balance sheet asset under a lending transaction, an RSF

factor is assigned to the lending transaction as if it were encumbered for the longer of:

(i) The remaining maturity of the NSFR liability; and

(ii) Any other encumbrance period applicable to the lending transaction;

(2) If the FDIC-supervised institution received the off-balance sheet asset under an asset exchange, an RSF factor is assigned to the asset provided by the FDIC-supervised institution in the asset exchange as if the provided asset were encumbered for the longer of:

(i) The remaining maturity of the NSFR liability; and

(ii) Any other encumbrance period applicable to the provided asset; or

(3) If the FDIC-supervised institution did not receive the off-balance sheet asset under a lending transaction or asset exchange, an RSF factor is assigned to the on-balance sheet asset resulting from the rehypothecation of the off-balance sheet asset as if the on-balance sheet asset were encumbered for the longer of:

(i) The remaining maturity of the NSFR liability; and

(ii) Any other encumbrance period applicable to the transaction through which the off-balance sheet asset was received.

§ 329.107 Calculation of NSFR derivatives amounts.

(a) *General requirement.* An FDIC-supervised institution must calculate its derivatives RSF amount and certain components of its ASF amount relating to the FDIC-supervised institution's derivative transactions (which includes cleared derivative transactions of a customer with respect to which the FDIC-supervised institution is acting as agent for the customer that are included on the FDIC-supervised institution's balance sheet under GAAP) in accordance with this section.

(b) *Calculation of required stable funding amount relating to derivative transactions.* An FDIC-supervised institution's derivatives RSF amount equals the sum of:

(1) *Current derivative transaction values.* The FDIC-supervised institution's NSFR derivatives asset amount, as calculated under paragraph (d)(1) of this section, multiplied by an RSF factor of 100 percent;

(2) *Variation margin provided.* The carrying value of variation margin provided by the FDIC-supervised institution under each derivative transaction not subject to a qualifying master netting agreement and each QMNA netting set, to the extent the variation margin reduces the FDIC-supervised institution's derivatives liability value under the derivative transaction or QMNA netting set, as calculated under paragraph (f)(2) of this section, multiplied by an RSF factor of zero percent;

(3) *Excess variation margin provided.* The carrying value of variation margin provided by the FDIC-supervised institution under each derivative transaction not subject to a qualifying master netting agreement and each QMNA netting set in excess of the amount described in paragraph (b)(2) of this section for each derivative transaction or QMNA netting set, multiplied by the RSF factor assigned to each asset comprising the variation margin pursuant to § 329.106;

(4) *Variation margin received.* The carrying value of variation margin received by the FDIC-supervised institution, multiplied by the RSF factor assigned to each asset comprising the variation margin pursuant to § 329.106;

(5) *Potential valuation changes.* (i) An amount equal to 5 percent of the sum of the gross derivative values of the FDIC-supervised institution that are liabilities, as calculated under paragraph (b)(5)(ii) of this section, for each of the FDIC-supervised institution's derivative transactions not subject to a qualifying master netting agreement and each of its QMNA netting sets, multiplied by an RSF factor of 100 percent;

(ii) For purposes of paragraph (5)(i) of this section, the gross derivative value of a derivative transaction not subject to a qualifying master netting agreement or of a QMNA netting set is equal to the value to the FDIC-supervised institution, calculated as if no variation margin had been exchanged and no settlement payments had been made based on changes in the value of the derivative transaction or QMNA netting set.

(6) *Contributions to central counterparty mutualized loss sharing arrangements.* The fair value of an FDIC-supervised institution's contribution to a central counterparty's mutualized loss sharing arrangement (regardless of whether the contribution is included on the FDIC-supervised institution's balance sheet), multiplied by an RSF factor of 85 percent; and

(7) *Initial margin provided.* The fair value of initial margin provided by the FDIC-supervised institution for derivative transactions (regardless of whether the initial margin is included on the FDIC-supervised institution's balance sheet), which does not include initial margin provided by the FDIC-supervised institution for cleared derivative transactions with respect to which the FDIC-supervised institution is acting as agent for a customer and the FDIC-supervised institution does not guarantee the obligations of the customer's counterparty to the customer under the derivative transaction (such initial margin would be assigned an RSF factor pursuant to § 329.106 to the extent the initial margin is included on the FDIC-supervised institution's balance sheet), multiplied by an RSF factor equal to the higher of 85 percent or the RSF factor assigned to each asset comprising the initial margin pursuant to § 329.106.

(c) *Calculation of available stable funding amount relating to derivative transactions.* The following amounts of an FDIC-supervised institution are assigned a zero percent ASF factor:

(1) The FDIC-supervised institution's NSFR derivatives liability amount, as calculated under paragraph (d)(2) of this section; and

(2) The carrying value of NSFR liabilities in the form of an obligation to return initial margin or variation margin received by the FDIC-supervised institution.

(d) *Calculation of NSFR derivatives asset or liability amount.*

(1) An FDIC-supervised institution's NSFR derivatives asset amount is the greater of:

(i) Zero; and

(ii) The FDIC-supervised institution's total derivatives asset amount, as calculated under paragraph (e)(1) of this section, less the FDIC-supervised institution's total derivatives liability amount, as calculated under paragraph (e)(2) of this section.

(2) An FDIC-supervised institution's NSFR derivatives liability amount is the greater of:

(i) Zero; and

(ii) The FDIC-supervised institution's total derivatives liability amount, as calculated under paragraph (e)(2) of this section, less the FDIC-supervised institution's total derivatives asset amount, as calculated under paragraph (e)(1) of this section.

(e) *Calculation of total derivatives asset and liability amounts.*

(1) An FDIC-supervised institution's total derivatives asset amount is the sum of the FDIC-supervised institution's derivatives asset values, as calculated under paragraph (f)(1) of this section, for each derivative transaction not subject to a qualifying master netting agreement and each QMNA netting set.

(2) An FDIC-supervised institution's total derivatives liability amount is the sum of the FDIC-supervised institution's derivatives liability values, as calculated under paragraph (f)(2) of this section, for each derivative transaction not subject to a qualifying master netting agreement and each QMNA netting set.

(f) *Calculation of derivatives asset and liability values.* For each derivative transaction not subject to a qualifying master netting agreement and each QMNA netting set:

(1) The derivatives asset value is equal to the asset value to the FDIC-supervised institution, after taking into account:

(i) Any variation margin received by the FDIC-supervised institution that is in the form of cash and meets the following conditions:

(A) The variation margin is not segregated;

(B) The variation margin is received in connection with a derivative transaction that is governed by a QMNA or other contract between the counterparties to the derivative transaction, which stipulates that the counterparties agree to settle any payment obligations on a net basis, taking into account any variation margin received or provided;

(C) The variation margin is calculated and transferred on a daily basis based on mark-to-fair value of the derivative contract; and

(D) The variation margin is in a currency specified as an acceptable currency to settle obligations in the relevant governing contract; and

(ii) Any variation margin received by the FDIC-supervised institution that is in the form of level 1 liquid assets and meets the conditions of paragraph (f)(1)(i) of this section provided the FDIC-supervised institution retains the right to rehypothecate the asset for the duration of time that the asset is posted as variation margin to the FDIC-supervised institution; or

(2) The derivatives liability value is equal to the liability value of the FDIC-supervised institution, after taking into account any variation margin provided by the FDIC-supervised institution.

§ 329.108 Funding related to Covered Federal Reserve Facility Funding.

(a) *Treatment of Covered Federal Reserve Facility Funding*. Notwithstanding any other section of this part and except as provided in paragraph (b) of this section, available stable funding amounts and required stable funding amounts related to Covered Federal Reserve Facility Funding and the assets securing Covered Federal Reserve Facility Funding are excluded from the calculation of an FDIC-supervised institution's net stable funding ratio calculated under § 329.100(b).

(b) *Exception*. To the extent the Covered Federal Reserve Facility Funding is secured by securities, debt obligations, or other instruments issued by the FDIC-supervised institution or one of its consolidated subsidiaries, the Covered Federal Reserve Facility Funding and assets securing the Covered Federal Reserve Facility Funding are not subject to paragraph (a) of this section and the available stable funding amount and required stable funding amount must be included in the FDIC-supervised institution's net stable funding ratio calculated under § 329.100(b).

§ 329.109 Rules for consolidation.

(a) *Consolidated subsidiary available stable funding amount*. For available stable funding of a legal entity that is a consolidated subsidiary of an FDIC-supervised institution, including a consolidated subsidiary organized under the laws of a foreign jurisdiction, the FDIC-supervised institution may include the available stable funding of the consolidated subsidiary in its ASF amount up to:

(1) The RSF amount of the consolidated subsidiary, as calculated by the FDIC-supervised institution for the FDIC-supervised institution's net stable funding ratio under this part; plus

(2) Any amount in excess of the RSF amount of the consolidated subsidiary, as calculated by the FDIC-supervised institution for the FDIC-supervised institution's net stable funding ratio under this part, to the extent the consolidated subsidiary may transfer assets to the top-tier FDIC-supervised institution, taking into account statutory, regulatory, contractual, or supervisory restrictions, such as sections 23A and 23B of the Federal Reserve Act (12 U.S.C. 371c and 12 U.S.C. 371c–1) and Regulation W (12 CFR part 223).

(b) *Required consolidation procedures*. To the extent an FDIC-supervised institution includes an ASF amount in excess of the RSF amount of the consolidated subsidiary, the FDIC-supervised institution must implement and maintain written procedures to identify and monitor applicable statutory, regulatory, contractual, supervisory, or other restrictions on transferring assets from any of its consolidated subsidiaries. These procedures must document which types of transactions the FDIC-supervised institution could use to transfer assets from a consolidated subsidiary to the FDIC-supervised institution and how these types of transactions comply with applicable statutory, regulatory, contractual, supervisory, or other restrictions.

Subpart L—Net Stable Funding Shortfall

SOURCE: 86 FR 9220, Feb. 11, 2021, unless otherwise noted.

§ 329.110 NSFR shortfall: supervisory framework.

(a) *Notification requirements.* An FDIC-supervised institution must notify the FDIC no later than 10 business days, or such other period as the FDIC may otherwise require by written notice, following the date that any event has occurred that would cause or has caused the FDIC-supervised institution's net stable funding ratio to be less than 1.0 as required under § 329.100.

(b) *Liquidity Plan.* (1) An FDIC-supervised institution must within 10 business days, or such other period as the FDIC may otherwise require by written notice, provide to the FDIC a plan for achieving a net stable funding ratio equal to or greater than 1.0 as required under § 329.100 if:

(i) The FDIC-supervised institution has or should have provided notice, pursuant to §329.110(a), that the FDIC-supervised institution's net stable funding ratio is, or will become, less than 1.0 as required under § 329.100;

(ii) The FDIC-supervised institution's reports or disclosures to the FDIC indicate that the FDIC-supervised institution's net stable funding ratio is less than 1.0 as required under § 329.100; or

(iii) The FDIC notifies the FDIC-supervised institution in writing that a plan is required and provides a reason for requiring such a plan.

(2) The plan must include, as applicable:

(i) An assessment of the FDIC-supervised institution's liquidity profile;

(ii) The actions the FDIC-supervised institution has taken and will take to achieve a net stable funding ratio equal to or greater than 1.0 as required under § 329.100, including:

(A) A plan for adjusting the FDIC-supervised institution's liquidity profile;

(B) A plan for remediating any operational or management issues that contributed to noncompliance with subpart K of this part; and

(iii) An estimated time frame for achieving full compliance with § 329.100.

(3) The FDIC-supervised institution must report to the FDIC at least monthly, or such other frequency as required by the FDIC, on progress to achieve full compliance with § 329.100.

(c) *Supervisory and enforcement actions.* The FDIC may, at its discretion, take additional supervisory or enforcement actions to address noncompliance with the minimum net stable funding ratio and other requirements of subparts K through N of this part (see also § 329.2(c)).

Subpart M—Transitions

SOURCE: 86 FR 9221, Feb. 11, 2021, unless otherwise noted.

§ 329.120 Transitions.

(a) *Initial application.* (1) An FDIC-supervised institution that initially becomes subject to the minimum net stable funding requirement under § 329.1(b)(1)(i) after July 1, 2021, must comply with the requirements of subparts K through M of this part beginning on the first day of the third calendar quarter after which the FDIC-supervised institution becomes subject to this part.

(2) An FDIC-supervised institution that becomes subject to the minimum net stable funding requirement under § 329.1(b)(1)(ii) must comply with the requirements of subparts K through M of this part subject to a transition period specified by the FDIC.

(b) *Transition to a different required stable funding adjustment percentage.*

(1) An FDIC-supervised institution whose required stable funding adjustment percentage changes is subject to the transition periods as set forth in § 329.105(c).

(2) An FDIC-supervised institution that is no longer subject to the minimum stable funding requirement of this part pursuant to § 329.1(b)(1)(i) based on the size of total consolidated assets, cross-jurisdictional activity, total nonbank assets, weighted short-term wholesale funding, or off-balance sheet exposure calculated in accordance with the Call Report, or instructions to the FR Y–9LP, the FR Y–15, or equivalent reporting form, as applicable, for each of the four most recent calendar quarters may cease compliance with the requirements of subparts K through M of this part as of the first day of the first calendar quarter after it is no longer subject to § 329.1(b).

(c) *Reservation of authority.* The FDIC may extend or accelerate any compliance date of this part if the FDIC determines such extension or acceleration is appropriate. In determining whether an extension or acceleration is appropriate, the FDIC will consider the effect of the modification on financial stability, the period of time for which the modification would be necessary to facilitate compliance with the requirements of subparts K through M of this part, and the actions the FDIC-supervised institution is taking to come into compliance with the requirements of subparts K through M of this part.

PART 330—DEPOSIT INSURANCE COVERAGE

Sec.

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AUTHORITY: 12 U.S.C. 1813(*l*), 1813(m), 1817(i), 1818(q), 1819(a)(Tenth), 1820(f), 1820(g), 1821(a), 1821(d), 1822(c).

SOURCE: 63 FR 25756, May 11, 1998, unless otherwise noted.

§ 330.1 Definitions.

For the purposes of this part:

(a) *Act* means the Federal Deposit Insurance Act (12 U.S.C. 1811 *et seq.*).

(b) *Corporation* means the Federal Deposit Insurance Corporation.

(c) *Default* has the same meaning as provided under section 3(x) of the Act (12 U.S.C. 1813(x)).

(d) *Deposit* has the same meaning as provided under section 3(l) of the Act (12 U.S.C. 1813(l)).

(e) *Deposit account records* means account ledgers, signature cards, certificates of deposit, passbooks, corporate resolutions authorizing accounts in the possession of the insured depository institution and other books and records of the insured depository institution, including records maintained by computer, which relate to the insured depository institution's deposit taking function, but does not mean account statements, deposit slips, items deposited or cancelled checks.

(f) *FDIC* means the Federal Deposit Insurance Corporation.

(g) *Independent activity.* A corporation, partnership or unincorporated association shall be deemed to be engaged in an ''independent activity'' if the entity is operated primarily for some purpose other than to increase deposit insurance.

(h) *Insured branch* means a branch of a foreign bank any deposits in which are insured in accordance with the provisions of the Act.

(i) *Insured deposit* has the same meaning as that provided under section 3(m)(1) of the Act (12 U.S.C. 1813(m)(1)) and this part.

(j) *Insured depository institution* is any depository institution whose deposits are insured pursuant to the Act, including a foreign bank having an insured branch.

(k) *Interest,* with respect to a deposit, means any payment to or for the account of any depositor as compensation for the use of funds constituting a deposit. A bank's absorption of expenses incident to providing a normal banking function or its forbearance from charging a fee in connection with such a service is not considered a payment of interest.

(l) *Natural person* means a human being.

(m) [Reserved]

(n) *Sole proprietorship* means a form of business in which one person owns all the assets of the business, in contrast to a partnership or corporation.

(o) *Standard maximum deposit insurance amount,* referred to as the ''SMDIA'' hereafter, means $250,000 adjusted pursuant to subparagraph (F) of