

NGR = the net-to-gross ratio (that is, the ratio of the net current replacement cost to the gross current replacement cost). In calculating NGR, the gross current replacement cost equals the sum of the replacement cost for each non-cleared swap and non-cleared security-based swap subject to the eligible master netting agreement for which the cost is positive. The net current replacement cost equals the total replacement cost for all non-cleared swaps and non-cleared security-based swaps subject to the eligible master netting agreement. In cases where the gross replacement cost is zero, the NGR should be set to 1.0.

APPENDIX B TO PART 45—MARGIN VALUES FOR ELIGIBLE NONCASH MARGIN COLLATERAL.

TABLE B—MARGIN VALUES FOR ELIGIBLE NONCASH MARGIN COLLATERAL

Asset class	Discount (%)
Eligible government and related (e.g., central bank, multilateral development bank, GSE securities identified in § 45.6(a)(2)(iv) or (b)(5) debt: residual maturity less than one-year	0.5
Eligible government and related (e.g., central bank, multilateral development bank, GSE securities identified in § 45.6(a)(2)(iv) or (b)(5) debt: residual maturity between one and five years	2.0
Eligible government and related (e.g., central bank, multilateral development bank, GSE securities identified in § 45.6(a)(2)(iv) or (b)(5) debt: residual maturity greater than five years	4.0
Eligible GSE debt securities not identified in § 45.6(a)(2)(iv) or (b)(5): residual maturity less than one-year	1.0
Eligible GSE debt securities not identified in § 45.6(a)(2)(iv) or (b)(5): residual maturity between one and five years:	4.0
Eligible GSE debt securities not identified in § 45.6(a)(2)(iv) or (b)(5): residual maturity greater than five years:	8.0
Other eligible publicly traded debt: residual maturity less than one-year	1.0
Other eligible publicly traded debt: residual maturity between one and five years	4.0
Other eligible publicly traded debt: residual maturity greater than five years	8.0
Equities included in S&P 500 or related index	15.0
Equities included in S&P 1500 Composite or related index but not S&P 500 or related index	25.0
Gold	15.0

¹ The discount to be applied to an eligible investment fund is the weighted average discount on all assets within the eligible investment fund at the end of the prior month. The weights to be applied in the weighted average should be calculated as a fraction of the fund's total market value that is invested in each asset with a given discount amount. As an example, an eligible investment fund that is comprised solely of \$100 of 91 day Treasury bills and \$100 of 3 year US Treasury bonds would receive a discount of $(100/200) \cdot 0.5 + (100/200) \cdot 2.0 = (0.5) \cdot 0.5 + (0.5) \cdot 2.0 = 1.25$ percent.

PART 46—STRESS TESTING

- Sec.
- 46.1 Authority and purpose.
- 46.2 Definitions.
- 46.3 Applicability.
- 46.4 Reservation of authority.
- 46.5 Stress testing.
- 46.6 Stress test methodologies and practices.
- 46.7 Reports to the Office of the Comptroller of the Currency and the Federal Reserve Board.
- 46.8 Publication of disclosures.

AUTHORITY: 12 U.S.C. 93a; 1463(a)(2); 5365(i)(2); and 5412(b)(2)(B).

SOURCE: 77 FR 61246, Oct. 9, 2012, unless otherwise noted.

§ 46.1 Authority and purpose.

(a) *Authority.* 12 U.S.C. 93a; 12 U.S.C. 1463(a)(2); 12 U.S.C. 5365(i)(2); 12 U.S.C. 5412(b)(2)(B).

(b) *Purpose.* This part implements 12 U.S.C. 5365(i)(2), which requires a national bank or Federal savings association with total consolidated assets of more than \$10 billion to conduct an annual stress test and establishes a definition of stress test, methodologies for

conducting stress tests, and reporting and disclosure requirements.

§ 46.2 Definitions.

For purposes of this part, the following definitions apply:

Call Report means the Consolidated Report of Condition and Income.

Covered institution means a national bank or Federal savings association with average total consolidated assets, calculated as required under this part, that are greater than \$250 billion.

Federal savings association has the same meaning as in 12 U.S.C. 1813(b)(2).

Planning horizon means a set period of time over which the impact of the scenarios is assessed.

Pre-provision net revenue means the sum of net interest income and non-interest income less expenses before adjusting for loss provisions.

Reporting year means the calendar year in which a covered institution must conduct, report, and publish its stress test.

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Scenarios means sets of conditions that affect the U.S. economy or the financial condition of a covered institution that the OCC determines are appropriate for use in the stress tests under this part, including, but not limited to, baseline and severely adverse scenarios.

Stress test means a process to assess the potential impact of scenarios on the consolidated earnings, losses, and capital of a covered institution over the planning horizon, taking into account the covered institution's current condition, risks, exposures, strategies, and activities.

[77 FR 61246, Oct. 9, 2012, as amended at 83 FR 7953, Feb. 23, 2018; 84 FR 54475, Oct. 10, 2019]

§ 46.3 Applicability.

(a) *Measurement of average total consolidated assets for a covered institution.* A covered institution's average total consolidated assets is calculated as the average of the covered institution's total consolidated assets, as reported on the covered institution's Call Reports, for the four most recent consecutive quarters. If the covered institution has not filed a Call Report for each of the four most recent consecutive quarters, the covered institution's average total consolidated assets is calculated as the average of the covered institution's total consolidated assets, as reported on the covered institution's Call Reports, for the most recent one or more consecutive quarters. The date on which a national bank or Federal savings association becomes a covered institution shall be the as-of date of the most recent Call Report used in the calculation of the average.

(b) *Covered institutions that become subject to stress testing requirements.* A national bank or Federal savings association that becomes a covered institution shall conduct its first stress test under this part in the first reporting year that begins more than three calendar quarters after the date the national bank or Federal savings association becomes a covered institution, unless otherwise determined by the OCC in writing.

(c) *Ceasing to be a covered institution or changing categories.* A covered institution shall remain subject to the stress test requirements until total

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consolidated assets of the covered institution falls below the relevant size threshold for each of four consecutive quarters as reported by the covered institution's most recent Call Reports, effective on the "as of" date of the fourth consecutive Call Report.

[77 FR 61246, Oct. 9, 2012, as amended at 79 FR 71633, Dec. 3, 2014; 83 FR 7953, Feb. 23, 2018; 84 FR 54476, Oct. 10, 2019]

§ 46.4 Reservation of authority.

(a) *Generally.* The OCC may require a national bank or Federal savings association not otherwise subject to this part to comply with the stress test requirements of this part. With respect to any national bank or Federal savings association subject to the stress test requirements of this part pursuant to § 46.3(a), the OCC may modify or delay some or all of the requirements of this part which include:

(1) *Timing of stress test.* The OCC may accelerate or extend any specified deadline for stress testing, reporting, or publication of disclosures of the stress test results.

(2) *Stress tests.* The OCC may require additional stress tests not otherwise required by this part or may require or permit different or additional analytical techniques and methods, different scenarios, or different assumptions, as appropriate for the covered institution to use in meeting the stress test requirements of this part. In addition, the OCC may specify a different as-of date for any or all categories of financial data used by the stress test. The OCC may also exempt one or more covered institutions from the requirement to conduct a stress test in a particular reporting year.

(3) *Reporting and disclosures.* The OCC may modify the reporting date or any reporting requirement of a report required by this part, or may require any additional reports relating to stress testing as may be appropriate. The OCC may delay or otherwise modify the publication requirements of this part if the disclosure of stress test results under this part would not provide sufficiently meaningful or useful information to the public. In addition, the

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OCC may require different or additional disclosures not otherwise required by this part, if the existing disclosures do not adequately address one or more material elements of the stress test.

(b) *Factors considered.* Any exercise of authority under this section by the OCC will be in writing and will consider the nature and level of the activities, complexity, risks, operations, and regulatory capital of the national bank or Federal savings association, in addition to any other relevant factors.

(c) *Notice and comment procedures.* In making a determination under paragraph (a) of this section, the OCC will apply notice and response procedures, in the same manner and to the same extent as the notice and response procedures in 12 CFR 3.404.

[77 FR 61246, Oct. 9, 2012, as amended at 79 FR 11313, Feb. 28, 2014; 84 FR 54476, Oct. 10, 2019]

§ 46.5 Stress testing.

Each covered institution must conduct the stress test under this part subject to the following requirements:

(a) *Financial data.* A covered institution must use financial data available as of December 31 of the calendar year prior to the reporting year.

(b) *Scenarios provided by the OCC.* In conducting the stress test under this part, each covered institution must use the scenarios provided by the OCC. The scenarios provided by the OCC will reflect a minimum of two sets of economic and financial conditions, including baseline and severely adverse scenarios. The OCC will provide a description of the scenarios required to be used by each covered institution no later than February 15 of the reporting year.

(c) *Significant trading activities.* The OCC may require a covered institution with significant trading activities, as determined by the OCC, to include trading and counterparty components in its adverse and severely adverse scenarios. The trading and counterparty position data to be used in this component will be as of a date between October 1 of the previous calendar year and March 1 of that calendar year in which the stress test is performed, and the OCC will communicate a description of the component to the covered institu-

tion no later than March 1 of that calendar year.

(d) *Use of stress test results.* The board of directors and senior management of each covered institution must consider the results of the stress tests conducted under this section in the normal course of business, including but not limited to the covered institution's capital planning, assessment of capital adequacy, and risk management practices.

(e) *Frequency.* A covered institution that is consolidated under a holding company that is required, pursuant to applicable regulations of the Board of Governors of the Federal Reserve, to conduct a stress test at least once every calendar year must treat every calendar year as a reporting year, unless otherwise determined by the OCC. All other covered institutions must treat every even-numbered calendar year beginning January 1, 2020 (*i.e.*, 2022, 2024, 2026, etc.), as a reporting year, unless otherwise determined by the OCC.

[83 FR 7953, Feb. 23, 2018, as amended at 84 FR 54476, Oct. 10, 2019]

§ 46.6 Stress test methodologies and practices.

(a) *Potential impact on capital.* During each quarter of the planning horizon, a covered institution shall estimate the following for each scenario required to be used:

(1) Pre-provision net revenues, losses, loan loss provisions, and net income, and

(2) The potential impact on the covered institution's regulatory capital levels and ratios applicable to the covered institution under 12 CFR part 3 and any other capital ratios specified by the OCC, incorporating the effects of any capital actions over the planning horizon and maintenance by the covered institution of an allowance for loan losses appropriate for credit exposures throughout the planning horizon.

(b) *Planning horizon.* A covered institution must use a minimum planning horizon of at least nine quarters, beginning with the first day of the period covered by the stress tests.

(c) *Controls and oversight of stress test processes.* (1) The senior management of the covered institution must establish

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and maintain a system of controls, oversight, and documentation, including policies and procedures, designed to ensure that the stress test processes used by the covered institution satisfy the requirements in this part. These policies and procedures must, at a minimum, describe the covered institution's stress test practices and methodologies, and processes for validating and updating the covered institution's stress test practices and methodologies consistent with applicable laws, regulations, and supervisory guidance.

(2) The board of directors of the covered institution, or a committee thereof, shall approve and review the policies and procedures of the covered institution's stress testing processes as frequently as economic conditions or the condition of the institution may warrant, but no less than once every reporting year. The board of directors and senior management must be provided with a summary of the stress test results.

[77 FR 61246, Oct. 9, 2012, as amended at 79 FR 71633, Dec. 3, 2014; 84 FR 54476, Oct. 10, 2019; 84 FR 56376, Oct. 22, 2019]

§ 46.7 Reports to the Office of the Comptroller of the Currency and the Federal Reserve Board.

(a) *Timing.* A covered institution must report to the OCC and to the Board of Governors of the Federal Reserve System, on or before April 5 of the reporting year, the results of the stress test in the manner and form specified by the OCC.

(b) *Confidentiality of Reports.* As provided by § 4.32(b) of this title, the report required under this section is non-public OCC information because it is deemed to be a record created or obtained by the OCC in connection with the OCC's performance of its responsibilities, such as a record concerning supervision, licensing, regulations, and examination, of a national bank, a Federal savings association, a bank holding company, a savings and loan holding company, or an affiliate. The report is the property of the OCC and unauthorized disclosure of the report is

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generally prohibited pursuant to § 4.37 of this part.

[77 FR 61246, Oct. 9, 2012, as amended at 79 FR 71633, Dec. 3, 2014; 83 FR 7953, Feb. 23, 2018; 84 FR 54476, Oct. 10, 2019]

§ 46.8 Publication of disclosures.

(a) *Publication date.* A covered institution must publish a summary of the results of its stress test in the period starting June 15 and ending July 15 of the reporting year, provided:

(1) Unless the OCC determines otherwise, if the \$50 billion or over covered institution is a consolidated subsidiary of a bank holding company or savings and loan holding company subject to supervisory stress tests conducted by the Board of Governors of the Federal Reserve System pursuant to 12 CFR part 252, then within the June 15 to July 15 period such covered institution may not publish the required summary of its annual stress test earlier than the date that the Board of Governors of the Federal Reserve System publishes the supervisory stress test results of the covered bank's parent holding company.

(2) If the Board of Governors of the Federal Reserve System publishes the supervisory stress test results of the covered institution's parent holding company prior to June 15, then such covered institution may publish its stress test results prior to June 15, but no later than July 15, through actual publication by the covered institution or through publication by the parent holding company pursuant to paragraph (b) of this section.

(b) *Publication method.* The summary required under this section may be published on the covered institution's Web site or in any other forum that is reasonably accessible to the public. A covered institution controlled by a bank holding company that is required to conduct a company-run stress test under applicable regulations of the Board of Governors of the Federal Reserve System will be deemed to have satisfied the publication requirement of this section when the bank holding company publicly discloses summary results of its stress test in satisfaction of the requirements of applicable regulations of the Board of Governors of the Federal Reserve System, unless the

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OCC determines that the disclosures at the holding company level do not adequately capture the potential impact of the scenarios on the capital of the covered institution.

(c) *Information to be disclosed in the summary.* The information disclosed shall, at a minimum, include—

(1) A description of the types of risks included in the stress test under this part;

(2) A summary description of the methodologies used in the stress test;

(3) Estimates of aggregate losses, pre-provision net revenue, provisions for credit losses, net income, and pro forma capital ratios (including regulatory and any other capital ratios specified by the OCC); and

(4) An explanation of the most significant causes of the changes in regulatory capital ratios.

(d) *Disclosure of estimates for the planning horizon.* (1) The disclosure of the estimates of aggregate losses, pre-provision net revenue, provisions for credit losses, net income, and pro forma capital ratios (including regulatory and any other capital ratios specified by the OCC), as required by paragraph (b) of this section, must reflect the estimated cumulative effects, as well as the estimated capital ratios, at the end of the planning horizon for the severely adverse scenario.

(2) With respect to the capital ratio disclosure required in paragraph (d)(1) of this section, the disclosure must also include the value at the beginning of the planning horizon, and the minimum over the planning horizon of the estimated quarter-end values of each ratio.

[77 FR 61246, Oct. 9, 2012, as amended at 79 FR 71634, Dec. 3, 2014; 83 FR 7954, Feb. 23, 2018; 84 FR 4240, Feb. 14, 2019; 84 FR 54476, Oct. 10, 2019]

PART 47—MANDATORY CONTRACTUAL STAY REQUIREMENTS FOR QUALIFIED FINANCIAL CONTRACTS

Sec.

47.1 Authority and purpose.

47.2 Definitions.

47.3 Applicability.

47.4 U.S. special resolution regimes.

47.5 Insolvency proceedings.

47.6 Approval of enhanced creditor protection conditions.

47.7 Foreign bank multi-branch master agreements.

47.8 Exclusion of certain QFCs.

AUTHORITY: 12 U.S.C. 1, 93a, 481, 1462a, 1463, 1464, 1467a, 1818, 1828, 1831n, 1831o, 1831p-1, 1831w, 1835, 3102(b), 3108(a), 5412(b)(2)(B), (D)-(F).

SOURCE: 82 FR 56662, Nov. 29, 2017, unless otherwise noted.

§ 47.1 Authority and purpose.

(a) *Authority.* 12 U.S.C. 1, 93a, 1462a, 1463, 1464, 1467a, 1818, 1828, 1831n, 1831p-1, 1831w, 1835, 3102(b), 3108(a), 5412(b)(2)(B), (D)-(F).

(b) *Purpose.* The purpose of this part is to promote the safety and soundness of federally chartered or licensed institutions by mitigating the potential destabilizing effects of the resolution of a global systemically important banking entity on an affiliate that is a covered bank (as defined by this part) by requiring covered banks to include in financial contracts covered by this part certain mandatory contractual provisions relating to stays on acceleration and close out rights and transfer rights.

§ 47.2 Definitions.

As used in this part:

Affiliate means an affiliate as defined in 12 U.S.C. 1841(k) (Bank Holding Company Act).

Central counterparty (CCP) means a counterparty (for example, a clearing house) that facilitates trades between counterparties in one or more financial markets by either guaranteeing trades or novating contracts.

Chapter 11 proceeding means a proceeding under Chapter 11 of Title 11, United States Code (11 U.S.C. 1101-74).

Consolidated affiliate means an affiliate of another company that:

(1) Either consolidates the other company, or is consolidated by the other company, on financial statements prepared in accordance with U.S. Generally Accepted Accounting Principles, the International Financial Reporting Standards, or other similar standards;

(2) Is, along with the other company, consolidated with a third company on a