

funding requirement of this part pursuant to § 50.1(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 § 50.1(b).

(c) *Reservation of authority.* The OCC may extend or accelerate any compliance date of this part if the OCC determines such extension or acceleration is appropriate. In determining whether an extension or acceleration is appropriate, the OCC 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 national bank or Federal savings association is taking to come into compliance with the requirements of subparts K through M of this part.

[86 FR 9210, Feb. 11, 2021]

PART 51—RECEIVERSHIPS FOR UNINSURED NATIONAL BANKS

Sec.

- 51.1 Purpose and scope.
- 51.2 Appointment of receiver.
- 51.3 Notice of appointment of receiver.
- 51.4 Claims.
- 51.5 Order of priorities.
- 51.6 Administrative expenses of receiver.
- 51.7 Powers and duties of receiver; disposition of fiduciary and custodial accounts.
- 51.8 Payment of claims and dividends to shareholders.
- 51.9 Termination of receivership.

AUTHORITY: 12 U.S.C. 16, 93a, 191–200, 481, 482, 1831c, and 1867.

SOURCE: 81 FR 92602, Dec. 20, 2016, unless otherwise noted.

§ 51.1 Purpose and scope.

(a) *Purpose.* This part sets out procedures for receiverships of national banks conducted by the Office of the

Comptroller of the Currency (OCC) under the receivership provisions of the National Bank Act (NBA). These receivership provisions apply to national banks that are not insured by the Federal Deposit Insurance Corporation (FDIC).

(b) *Scope.* This part applies to the appointment of a receiver for uninsured national banks (uninsured banks) and the operation of a receivership after appointment of a receiver for an uninsured bank under 12 U.S.C. 191.³¹

§ 51.2 Appointment of receiver.

(a) *In general.* The Comptroller of the Currency (Comptroller) may appoint any person, including the OCC or another government agency, as receiver for an uninsured bank. The receiver performs its duties under the direction of the Comptroller and serves at the will of the Comptroller. The Comptroller may require the receiver to post a bond or other security. The receiver, with the approval of the Comptroller, may employ such staff and enter into contracts for professional services as are necessary to carry out the receivership.

(b) *Grounds for appointment.* The Comptroller may appoint a receiver for an uninsured bank based on any of the grounds specified in 12 U.S.C. 191(a).

(c) *Judicial review.* If the Comptroller appoints a receiver for an uninsured bank, the bank may seek judicial review of the appointment as provided in 12 U.S.C. 191(b).

§ 51.3 Notice of appointment of receiver.

Upon appointment of a receiver for an uninsured bank, the OCC will provide notice to the public of the receivership, including by publication in a newspaper of general circulation for three consecutive months. The notice of the receivership will provide instructions for creditors and other claimants seeking to submit claims with the receiver for the uninsured bank.

³¹ This part does not apply to receiverships for uninsured Federal branches or uninsured Federal agencies.

Comptroller of the Currency, Treasury

§51.7

§51.4 Claims.

(a) *Submission of claims for consideration by the OCC.* (1) Persons who have claims against the receivership for an uninsured bank may present such claims, along with supporting documentation, for consideration by the OCC. The OCC will determine the validity and approve the amounts of such claims.

(2) The OCC will establish a date by which any person seeking to present a claim against the uninsured bank for consideration by the OCC must present their claim for determination. The deadline for filing such claims will not be less than 30 days after the end of the three-month notice period in §51.3.

(3) The OCC will allow any claim against the uninsured bank received on or before the deadline for presenting claims if such claim is established to the OCC's satisfaction by the information on the uninsured bank's books and records or otherwise submitted. The OCC may disallow any portion of any claim by a creditor or claim of a security, preference, set-off, or priority which is not established to the satisfaction of the OCC.

(b) *Submission of claims to a court.* Persons with claims against an uninsured bank in receivership may present their claims to a court of competent jurisdiction for adjudication. Such persons must submit a copy of any final judgment received from the court to the OCC, to participate in ratable dividends along with other proved claims.

(c) *Right of set-off.* If a person with a claim against an uninsured bank in receivership also has an obligation owed to the bank, the claim and obligation will be set off against each other and only the net balance remaining after set-off shall be considered as a claim, provided such set-off is otherwise legally valid.

§51.5 Order of priorities.

The OCC will pay receivership expenses and proved claims against the uninsured bank in receivership in the following order of priority:

(a) Administrative expenses of the receiver;

(b) Unsecured creditors of the uninsured bank, including secured creditors

to the extent their claim exceeds their valid and enforceable security interest;

(c) Creditors of the uninsured bank, if any, whose claims are subordinated to general creditor claims; and

(d) Shareholders of the uninsured bank.

§51.6 Administrative expenses of receiver.

(a) *Priority of administrative expenses.* All administrative expenses of the receiver for an uninsured bank shall be paid out of the assets of the bank in receivership before payment of claims against the receivership.

(b) *Scope of administrative expenses.* Administrative expenses of the receiver for an uninsured bank include those expenses incurred by the receiver in maintaining banking operations during the receivership, to preserve assets of the uninsured bank, while liquidating or otherwise resolving the affairs of the uninsured bank. Such expenses include pre-receivership and post-receivership obligations that the receiver determines are necessary and appropriate to facilitate the orderly liquidation or other resolution of the uninsured bank in receivership.

(c) *Types of administrative expenses.* Administrative expenses for the receiver of an uninsured bank include:

(1) Salaries, costs, and other expenses of the receiver and its staff, and costs of contracts entered into by the receiver for professional services relating to performing receivership duties; and

(2) Expenses necessary for the operation of the uninsured bank, including wages and salaries of employees, expenses for professional services, contractual rent pursuant to an existing lease or rental agreement, and payments to third-party or affiliated service providers, that in the opinion of the receiver are of benefit to the receivership, until the date the receiver repudiates, terminates, cancels, or otherwise discontinues the applicable contract.

§51.7 Powers and duties of receiver; disposition of fiduciary and custodial accounts.

(a) *Marshalling of assets.* In resolving the affairs of an uninsured bank in receivership, the receiver:

§51.8

12 CFR Ch. I (1–1–25 Edition)

(1) Takes possession of the books, records and other property and assets of the uninsured bank, including the value of collateral pledged by the uninsured bank to the extent it exceeds valid and enforceable security interests of a claimant;

(2) Collects all debts, dues and claims belonging to the uninsured bank, including claims remaining after set-off;

(3) Sells or compromises all bad or doubtful debts, subject to approval by a court of competent jurisdiction;

(4) Sells the real and personal property of the uninsured bank, subject to approval by a court of competent jurisdiction, on such terms as the court shall direct; and

(5) Deposits all receivership funds collected from the liquidation of the uninsured bank in an account designated by the OCC.

(b) *Disposition of fiduciary and custodial accounts.* The receiver for an uninsured bank closes the bank's fiduciary and custodial appointments and accounts or transfers some or all of such accounts to successor fiduciaries and custodians, in accordance with 12 CFR 9.16, and other applicable Federal law.

(c) *Other powers.* The receiver for an uninsured bank may exercise other rights, privileges, and powers authorized for receivers of national banks under the NBA and the common law of receiverships as applied by the courts to receiverships of national banks conducted under the NBA.

(d) *Reports to OCC.* The receiver for an uninsured bank shall make periodic reports to the OCC on the status and proceedings of the receivership.

(e) *Receiver subject to removal; modification of fees.* (1) The Comptroller may remove and replace the receiver for an uninsured bank if, in the Comptroller's discretion, the receiver is not conducting the receivership in accordance with applicable Federal laws or regulations or fails to comply with decisions of the Comptroller with respect to the conduct of the receivership or claims against the receivership.

(2) The Comptroller may reduce the fees of the receiver for an uninsured bank if, in the Comptroller's discretion, the Comptroller finds the performance of the receiver to be deficient, or the fees of the receiver to be

excessive, unreasonable, or beyond the scope of the work assigned to the receiver.

§51.8 Payment of claims and dividends to shareholders.

(a) *Claims.* (1) After the administrative expenses of the receivership have been paid, the OCC shall make ratable dividends from time to time of available receivership funds according to the priority described in §51.5, based on the claims that have been proved to the OCC's satisfaction or adjudicated in a court of competent jurisdiction.

(2) Dividend payments to creditors and other claimants of an uninsured bank will be made solely from receivership funds, if any, paid to the OCC by the receiver after payment of the expenses of the receiver.

(b) *Fiduciary and custodial assets.* Assets held by an uninsured bank in a fiduciary or custodial capacity, as designated on the bank's books and records, will not be considered as part of the bank's general assets and liabilities held in connection with its other business, and will not be considered a source for payment of unrelated claims of creditors and other claimants.

(c) *Timing of dividends.* The payment of dividends, if any, under paragraph (a) of this section, on proved or adjudicated claims will be made periodically, at the discretion of the OCC, as the receiver liquidates the assets of the uninsured bank.

(d) *Distribution to shareholders.* After all administrative expenses of the receiver and proved claims of creditors of the uninsured bank have been paid in full, to the extent there are receivership assets to make such payments, any remaining proceeds shall be paid to the shareholders, or their legal representatives, in proportion to their stock ownership.

§51.9 Termination of receivership.

If there are assets remaining after full payment of the expenses of the receiver and all claims of creditors for an uninsured bank and all fiduciary accounts of the bank have been closed or transferred to a successor fiduciary and fiduciary powers surrendered, the Comptroller shall call a meeting of the shareholders of the uninsured bank, as

Comptroller of the Currency, Treasury

§ 52.4

provided in 12 U.S.C. 197, for the shareholders to decide the manner in which the liquidation will continue. The liquidation may continue by:

(a) Continuing the receivership of the uninsured bank under the direction of the Comptroller; or

(b) Ending the receivership and oversight by the Comptroller and replacing the receiver with a liquidating agent to proceed to liquidate the remaining assets of the uninsured bank for the benefit of the shareholders, as set out in 12 U.S.C. 197.

PART 52—REGULATORY REPORTING

Sec.

52.1 Authority and purpose.

52.2 Definitions.

52.3 Reduced reporting.

52.4 Reservation of authority.

52.5 Temporary relief.

AUTHORITY: 12 U.S.C. 93a, 161, 1463(a), 1464(v), and 1817(a)(12).

SOURCE: 84 FR 29050, June 21, 2019, unless otherwise noted.

§ 52.1 Authority and purpose.

(a) *Authority.* This part is issued pursuant to 12 U.S.C. 93a, 161, 1463(a), 1464(v), and 1817(a)(12).

(b) *Purpose.* This part establishes a reduced reporting requirement for a covered depository institution making its reports of condition for the first and third calendar quarters of a year.

§ 52.2 Definitions.

Covered depository institution means a national bank, Federal savings association, or insured Federal branch that meets the following criteria:

(1) Has less than \$5 billion in total consolidated assets as reported in its report of condition for the second calendar quarter of the preceding year;

(2) Has no foreign offices, as defined in this section;

(3) Is not required to or has not elected to use 12 CFR part 3, subpart E (for advanced approaches banks), to calculate its risk-based capital requirements;

(4) Is not a large institution or highly complex institution, as such terms are defined in 12 CFR 327.8, or treated as a large institution, as requested under 12 CFR 327.16(f); and

(5) Is not subject to the filing requirements for the FFIEC 002 report of condition.

Foreign country refers to one or more foreign nations, and includes the overseas territories, dependencies, and insular possessions of those nations and of the United States.

Foreign office means:

(1) A branch or consolidated subsidiary in a foreign country, unless the branch is located on a U.S. military facility;

(2) An international banking facility as such term is defined in 12 CFR 204.8;

(3) A majority-owned Edge Act or Agreement subsidiary as defined in 12 CFR 28.2, including both its U.S. and its foreign offices; and

(4) For an institution chartered or headquartered in any U.S. state or the District of Columbia, a branch or consolidated subsidiary located in a U.S. territory or possession.

Report of condition means the FFIEC 031, FFIEC 041, or FFIEC 051 versions of the Consolidated Report of Condition and Income (Call Report) or the FFIEC 002 (Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks), as applicable, and as they may be amended or superseded from time to time in accordance with the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35.

Total consolidated assets means total assets as reported in an institution's report of condition.

§ 52.3 Reduced reporting.

A covered depository institution may file the FFIEC 051 version of the Call Report, or any successor thereto, to satisfy its requirement to file a report of condition for the first and third calendar quarters of a year.

§ 52.4 Reservation of authority.

The OCC may determine that a covered depository institution shall not use the reduced reporting in § 52.3. In making this determination, the OCC will consider whether the institution is significantly engaged in complex, specialized, or higher risk activities, for which a reduced reporting requirement