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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2025–2559; Project Identifier MCAI–2025–00053–T; Amendment 39–23295; AD 2026–06–06]

RIN 2120–AA64

Airworthiness Directives; Airbus Canada Limited Partnership (Type Certificate Previously Held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Airbus Canada Limited Partnership Model BD–500–1A10 and BD–500–1A11 airplanes. This AD was prompted by the discovery on the production line that the electrical system harnesses in lavatory A had reduced bend radii, were not properly secured, and did not meet the requirement for clearance from an oxygen supply line. This AD requires an inspection of the sleeve and electrical harness for chafing damage and incorrect installation, and applicable on-condition actions. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective May 1, 2026.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of May 1, 2026.

ADDRESSES:

AD Docket: You may examine the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA–2025–2559; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and

other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For Transport Canada material identified in this AD, contact Transport Canada, Transport Canada National Aircraft Certification, 159 Cleopatra Drive, Nepean, Ontario K1A 0N5, Canada; telephone 888–663–3639; email TC.AirworthinessDirectives-Consignesdenavigabilite.TC@tc.gc.ca. You may find this material on the Transport Canada website at tc.canada.ca/en/aviation.

- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available at [regulations.gov](https://www.regulations.gov) under Docket No. FAA–2025–2559.

FOR FURTHER INFORMATION CONTACT:

Yves Petiote, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 202–975–4867; email: yves.petiote@faa.gov.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Airbus Canada Limited Partnership Model BD–500–1A10 and BD–500–1A11 airplanes. The NPRM was published in the **Federal Register** on September 29, 2025 (90 FR 46533). The NPRM was prompted by AD CF–2025–45, dated August 29, 2025 (Transport Canada AD CF–2025–45) (also referred to as the MCAI), issued by Transport Canada, which is the aviation authority for Canada. The MCAI states it was discovered on the production line that electrical system harnesses in lavatory A had reduced bend radii, were not properly secured and did not meet the requirement for clearance from an oxygen supply line. Inadequately secured and installed wire harnesses could create a chafing condition leading to a source of ignition, and when combined with an oxygen leak as well as loss of ventilation, may lead to an uncontrolled fire.

In the NPRM, the FAA proposed to require an inspection of the sleeve and

electrical harness for chafing damage and incorrect installation, and applicable on-condition actions, as specified in Transport Canada AD CF–2025–45. The FAA is issuing this AD to address the unsafe condition on these products.

You may examine the MCAI in the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA–2025–2559.

Discussion of Final Airworthiness Directive

Comments

The FAA received a comment from the Air Line Pilots Association, International (ALPA) who supported the NPRM without change.

The FAA received additional comments from the Citizens Rulemaking Alliance. The following presents the comments received on the NPRM and the FAA's response to each comment.

Request To Justify Forgoing Notice and Comment or Issue an NPRM

The Citizens Rulemaking Alliance requested that the FAA either provide its justification for finding good cause to bypass notice and comment procedures, convert this action to an NPRM, or stay the effective date until 30 days after close of a comment period of at least 45 days. The commenter asserted the FAA has not adequately justified use of the good cause exemption to bypass notice and comment and the 30-day delayed effective date.

The FAA notes the comment was submitted in response to an NPRM for which the FAA provided a 45-day comment period. This final rule is effective 35 days after its publication in the **Federal Register**. Therefore, no change to this AD is necessary.

Request To Make Incorporation by Reference (IBR) Materials Reasonably Available

The Citizens Rulemaking Alliance stated that the FAA's current practices for IBR frequently fail to meet the legal and regulatory standards for reasonable availability. The commenter called on the FAA to guarantee that all IBR materials are easily and freely accessible to the public and affected parties for both commenting and compliance purposes. The commenter also requested that this access be documented in the rulemaking record.

The FAA's practices comply with 5 U.S.C. 552(a) of the Administrative

Procedure Act and 1 CFR part 51. The FAA makes IBR materials available in the AD docket when the final rule is published in the **Federal Register**, following formal approval of the IBR by the Office of the Federal Register. Materials may only be posted before the final rule's publication if they are already publicly available or if there is written consent from the owner of the IBR material. All relevant materials incorporated by reference will be accessible in the AD docket on *Regulations.gov*, which the public can access without registration or fees.

The FAA also provides summaries and access details in the preamble and regulatory text, makes materials available for inspection at FAA and National Archives and Records Administration (NARA) offices, offers publisher contact information, and obtains formal IBR approval from the Office of the Federal Register. These efforts are intended to ensure that all IBR materials meet the “reasonably available” standard required by 1 CFR part 51. The FAA did not change this AD as a result of this comment.

Request To Comply With the Paperwork Reduction Act (PRA)

The Citizens Rulemaking Alliance requested that the FAA revise the AD to comply with the PRA if reporting is required or remove any reporting provisions until PRA requirements are satisfied. If reporting is not required, the commenter requested the FAA clarify that in the AD.

The FAA notes this AD does not require reporting. If an AD were to require reporting, the preamble of the AD would include a paragraph titled “Paperwork Reduction Act” that would provide the applicable OMB control number, required PRA statements, and the estimated time to collect the required information (burden). Any costs associated with the reporting requirement would be included in the Costs of Compliance section in the preamble of the AD. Therefore, the FAA did not change this AD as a result of this comment.

Request To Consider Impact on Small Entities

The commenter requested that the FAA either provide the reasoned basis for its certification under the Regulatory

Flexibility Act (RFA) that the AD will not have a significant economic impact on a substantial number of small entities, or prepare an initial regulatory flexibility analysis if certification cannot be supported.

The FAA disagrees with preparing an initial regulatory flexibility analysis. The RFA of 1980 (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121) and the Small Business Jobs Act of 2010 (Pub. L. 111–240), requires Federal agencies to consider the effects of the regulatory action on small business and other small entities and to minimize any significant economic impact. The term “small entities” comprises small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The FAA identified two air carriers and two corporate trustees that will be affected by this AD. Based on the Small Business Administration size standard for air carriers and corporate trustees, all four entities are large businesses:

SMALL BUSINESS SIZE STANDARDS ¹

NAICS ² Code	Description	Size standard
481111	Scheduled Passenger Air Transportation	1,500 employees.
523991	Trust, Fiduciary, and Custody Activities	\$47.0 million.

¹ Source: U.S. Small Business Administration, Table of Small Business Size Standards, [https://www.sba.gov/sites/default/files/2023-06/Table%20of%20Size%20Standards Effective%20March%202017%2C%202023%20%282%29.pdf](https://www.sba.gov/sites/default/files/2023-06/Table%20of%20Size%20Standards%20Effective%20March%202017%2C%202023%20%282%29.pdf).
² North American Industrial Classification System.

If an agency determines that a rulemaking will not result in a significant economic impact on a substantial number of small entities, the head of the agency may certify that under section 605(b) of the RFA. Therefore, as provided in section 605(b) and based on the foregoing, the head of FAA certifies that this AD will not result in a significant economic impact on a substantial number of small entities. The FAA did not change this AD as a result of this comment.

Request To Provide Additional Cost Information

The Citizens Rulemaking Alliance requested that the FAA add to the AD docket the methodology and assumptions supporting the estimated cost of the proposed AD and reopen the comment period for public input on the additional cost information. The commenter stated that the FAA should also provide the per airplane labor and parts cost, any assumed downtime or

out-of-service impacts, and the aggregate costs for the U.S. fleet.

The FAA recognizes that, in doing the actions required by an AD, operators might incur indirect or incidental costs in addition to the direct costs. The cost analysis in an AD typically describes only the direct costs of the specific actions required by an AD, which does not include indirect or incidental costs such as downtime, loss of revenue, planning, or time necessitated by other administrative actions since those costs might vary significantly among operators. The number of work hours necessary to do the required actions of an AD is provided by the manufacturer. This number represents the time necessary to perform only the actions actually required by an AD. The cost of parts or special tools, if necessary, to complete the actions required by an AD is also provided by the manufacturer. Further, when the FAA is informed that the manufacturer may cover some or all of the estimated costs of an AD under

warranty, the FAA indicates that in the AD.

In the Cost of Compliance section of the proposed AD, the FAA disclosed the estimated number of work hours, the number of airplanes affected on the U.S. registry, estimated parts cost, and the aggregate costs for the U.S. fleet. Since the FAA has assessed and disclosed the total known costs of the AD requirements in the Costs of Compliance section of the proposed AD, and the commenter did not provide additional cost data for the FAA to consider in its cost analysis, it is not necessary to reopen the comment period or provide additional information in the AD docket. The FAA did not change this AD as a result of this comment.

Conclusion

These products have been approved by the civil aviation authority of another country and are approved for operation in the United States. Pursuant to the FAA’s bilateral agreement with this

State of Design Authority, that authority has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA reviewed the relevant data, considered any comments received, and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products. Except for minor editorial changes this AD is adopted as proposed in the NPRM.

None of the changes will increase the economic burden on any operator.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed Transport Canada AD CF-2025-45, which specifies procedures for an inspection of the sleeve and electrical harness for chafing damage and incorrect installation, and applicable on-condition actions. On-condition actions include repair of

damage and installation of tie-down straps on the electrical harness.

This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the ADDRESSES section.

Costs of Compliance

The FAA estimates that this AD affects 83 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
3 work-hour × \$85 per hour = \$85	\$0	\$255	\$21,165

The FAA estimates the following costs to do any necessary on-condition action that would be required based on

the results of any required actions. The FAA has no way of determining the

number of aircraft that might need these on-condition actions:

ESTIMATED COSTS OF ON-CONDITION INSTALLATIONS *

Labor cost	Parts cost	Cost per product
3 work-hours × \$85 per hour = \$255	\$4,935	\$5,190

* The FAA has received no definitive data on which to base the cost estimates for the on-condition repairs specified in this AD.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

- (1) Is not a "significant regulatory action" under Executive Order 12866,
- (2) Will not affect intrastate aviation in Alaska, and
- (3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

- 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

- 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

2026-06-06 Airbus Canada Limited Partnership (Type Certificate Previously Held by C Series Aircraft Limited

Partnership (CSALP); Bombardier, Inc.):
Amendment 39-23295; Docket No. FAA-2025-2559; Project Identifier MCAI-2025-00053-T.

(a) Effective Date

This airworthiness directive (AD) is effective May 1, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Canada Limited Partnership (Type Certificate previously held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.) Model BD-500-1A10 and BD-500-1A11 airplanes, certificated in any category, as identified in Transport Canada AD CF-2025-45, dated August 29, 2025 (Transport Canada AD CF-2025-45).

(d) Subject

Air Transport Association (ATA) of America Code 92, Electrical system installation.

(e) Unsafe Condition

This AD was prompted by the discovery on the production line that electrical system harnesses in lavatory A had reduced bend radii, were not properly secured and did not meet the requirement for clearance from an oxygen supply line. The FAA is issuing this AD to address inadequately secured and installed wire harnesses, which if not addressed, could result in a chafing condition leading to a source of ignition, and when combined with an oxygen leak as well

as loss of ventilation, may lead to an uncontrolled fire.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, Transport Canada AD CF–2025–45.

(h) Exceptions to Transport Canada AD CF–2025–45

(1) Where Transport Canada AD CF–2025–45 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where Transport Canada AD CF–2025–45 refers to January 30, 2025 (the effective date of Transport Canada AD CF–2025–04, dated January 16, 2025), this AD requires using the effective date of this AD.

(i) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs)*: The Manager, AIR–520, Continued Operational Safety Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the Continued Operational Safety Branch, send it to the attention of the person identified in paragraph (j) of this AD and email to: AMOC@faa.gov. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer*: For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, AIR–520, Continued Operational Safety Branch, FAA; or Transport Canada; or Airbus Canada Limited Partnership's Transport Canada Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(3) *Required for Compliance (RC)*: Except as required by paragraph (i)(2) of this AD, if any material contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(j) Additional Information

For more information about this AD, contact Yves Petiote, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 202–975–4867; email: yves.petiote@faa.gov.

(k) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference of the material listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this material as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) Transport Canada AD CF–2025–45, dated August 29, 2025.

(ii) [Reserved]

(3) For Transport Canada material identified in this AD, contact Transport Canada, Transport Canada National Aircraft Certification, 159 Cleopatra Drive, Nepean, Ontario K1A 0N5, Canada; telephone 888–663–3639; email TC.AirworthinessDirectives-Consignesdenavigabilite.TC@tc.gc.ca. You may find this material on the Transport Canada website at tc.canada.ca/en/aviation.

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

(5) You may view this material at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, visit www.archives.gov/federal-register/cfr/ibr-locations or email fr.inspection@nara.gov.

Issued on March 20, 2026.

Peter A. White,

Deputy Director, Integrated Certificate Management Division, Aircraft Certification Service.

[FR Doc. 2026–05984 Filed 3–26–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Part 402

RIN 0970–AD28

Reducing Bureaucracy and Burden for Refugee Resettlement Programs

AGENCY: Office of Refugee Resettlement (ORR), Administration for Children and Families (ACF), Department of Health and Human Services (HHS).

ACTION: Direct final rule, request for comments.

SUMMARY: The Department of Health and Human Services, Administration for Children and Families rescinds obsolete provisions of the State Legalization Impact Assistance Grants regulations

(45 CFR part 402). The Administration for Children and Families has undertaken a sweeping review aimed at eliminating outdated rules and reducing unnecessary regulatory burdens to streamline, simplify, and efficiently deregulate across multiple fronts simultaneously to better serve the public. The docket on <https://www.regulations.gov> will include a plain language summary of the direct final rule as required by 5 U.S.C. 553(b)(4).

DATES: Effective May 26, 2026, unless significant adverse comments are received on or before May 26, 2026. In the event the Administration for Children and Families receive significant adverse comments, the Administration for Children and Families will publish a timely withdrawal in the **Federal Register** informing the public the provisions of the rule(s) for which significant adverse comments were received and elimination will not take effect.

ADDRESSES: You may submit written comments, identified by docket number ACF–2026–0166 and/or RIN number 0970–AD28, by one of the following methods:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov>. Follow the instructions for submitting comments.

- *Email:* Deregulation@acf.hhs.gov. Include the docket number ACF–2026–0166 and/or RIN number 0970–AD28 in the subject line of the message.

Instructions: All submissions received must include the agency name and docket number or RIN number for this rulemaking. All comments received are a part of the public record and will be posted for public viewing on www.regulations.gov, without change. Please be advised that the substance of the comments and the identity of individuals or entities submitting the comments will be subject to public disclosure. Anonymous comments are accepted.

FOR FURTHER INFORMATION CONTACT:

Adam N. Jones, Deputy Chief of Staff, Immediate Office of the Assistant Secretary, Administration for Children and Families, Department of Health and Human Services, Washington, DC 202–417–0115 or Deregulation@acf.hhs.gov.

SUPPLEMENTARY INFORMATION:

I. Statutory Authority

This final rule is being issued under the authority granted to the Secretary of Health and Human Services by Section 204 the Immigration Reform and Control Act of 1986 (IRCA), as amended, (8 U.S.C. 1255a note), and the subsequent

repeal of Section 204 of IRCA by Section 199(a) of Public Law 105–220.

II. Background

Section 204 of IRCA established a temporary program of State Legalization Impact Assistance Grants (SLIAG) for states. Public Law (Pub. L.) 99–603 (Nov. 6, 1986). Section 201 of IRCA had allowed groups of aliens who had been living in the United States to adjust their immigration status. The purpose of SLIAG was to lessen the financial impact on state and local governments presented by individuals with newly adjusted status seeking public benefits. The SLIAG program provided reimbursement to states for costs of certain public assistance, public health, and education services they had provided these individuals.

IRCA directed HHS to issue regulations establishing a formula for allotting funds to each state and permitted HHS to issue other regulations as long as HHS consulted with state and local governments on any regulations. IRCA 204(b)(1), 204(i). HHS issued 45 CFR part 402 on March 10, 1998. State Legalization Impact Assistance Grants, 53 FR 7832 (Mar. 10, 1988). Part 402 established uniform requirements for grant application, award, and administration, including eligible state uses of SLIAG funds, which included education, health care, and social services. This part also detailed financial management regulations, reporting, and auditing requirements.

Congress appropriated \$4 billion dollars for the SLIAG, starting with \$1 billion appropriated in fiscal year 1988 and another \$1 billion appropriated each year for the next three fiscal years, which states were authorized to obligate through the end of fiscal year 1994. IRCA 204(a)(1), (b)(4). In 1992, Congress amended the legislation to provide that any funds not expended by a state by December 30, 1994, be reallocated to states that had spent their entire SLIAG allotments and still had unreimbursed costs. Labor/Health and Human Services FY 1993, Public Law 102–394 (Oct. 6, 1992). In 1994, Congress provided that all the reallocated funds be spent by July 31, 1995. Labor/Health and Human Services FY 1995 Appropriations Act, Public Law 103–333 (Sept. 30, 1994). After that date, the program ended. In 1998, Congress repealed the program. Workforce Investment Act of 1998, Public Law 105–220 (Aug. 7, 1998).

III. Executive Summary

Effective Date

ACF expects all provisions included in the final rule to become effective 60 days from the date of publication of the final rule.

IV. Discussion of Changes

ORR is removing 45 CFR part 402 in its entirety. The State Legalization Impact Assistance Grants were a time-limited program that operated from 1987 to 1995 to assist state and local agencies with any incurred costs related to the implementation of the Immigration Reform and Control Act of 1986. However, as this program has been inactive and unfunded for over 30 years, the regulatory framework is now obsolete and serves no current purpose. This action will decrease confusion and burden for grantees and will ensure that only actively enforced regulations remain in place.

Waiver of Notice and Comment Process

When engaging in rulemaking, HHS will ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of a rule take effect in accordance with the Administrative Procedure Act (APA), 5 U.S.C. 553(b).¹ Under the APA,² an agency is not required to provide notice and public comment prior to issuing a direct final rule when it determines, for good cause, that such procedures are impracticable, unnecessary, or contrary to the public interest. In such instances, the agency must include in the rule a statement of its findings and the reasons supporting its determination that the notice and public comment procedure generally required under the APA are impracticable, unnecessary, or contrary to the public interest.

At this point in time when the program is no longer functional, ACF finds that it is unnecessary to provide a public comment period before issuing this direct final rule. Courts have found “good cause” that notice and comment is unnecessary when changes are considered “a routine determination, insignificant in nature and impact, and inconsequential to the industry and to the public.” *Mack Trucks, Inc. v. EPA*, 682 F.3d 87, 94 (D.C. Cir. 2012) (quoting *Utility Solid Waste Activities Grp. v. EPA*, 236 F.3d 749, 755 (D.C. Cir. 2001)); accord *Nat. Res. Def. Council v. Nat’l Highway Traffic Safety Admin.*, 894 F.3d 95, 114 (2d Cir. 2018); *N.C. Growers’ Ass’n, Inc. v. United Farm*

Workers, 702 F.3d 755, 766–67 (4th Cir. 2012); see Attorney General’s APA MANUAL 31 (“‘Unnecessary’ refers to the issuance of a minor rule in which the public is not particularly interested.”); APA LEGISLATIVE HISTORY 200 (“‘Unnecessary’ means unnecessary so far as the public is concerned, as would be the case if a minor or merely technical amendment in which the public is not particularly interested were involved.”).

The rescission of this part is not of interest to the public to provide comment on because the program is no longer funded. Rescinding the outdated requirements related to this program poses no harm or burden to programs or the public.

V. Regulatory Process Matters

Paperwork Reduction Act

Under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*, as amended) (PRA), all Departments are required to submit to the Office of Management and Budget (OMB) for review and approval any reporting or recordkeeping requirements inherent in a proposed or final rule. This direct final rule does not contain any information requiring OMB approval under the PRA and, therefore, will not create any new paperwork burdens or modify existing burdens subject to OMB review.

Executive Order 13132

Executive Order 13132 requires federal agencies to consult with state and local government officials if they develop regulatory policies with federalism implications. Federalism is rooted in the belief that issues that are not national in scope or significance are most appropriately addressed by the level of government close to the people. This direct final rule would not have substantial direct impact on the states, on the relationship between the federal government and the states, or on the distribution of power and responsibilities among the various levels of government. This direct final rule would not pre-empt state law. The changes in this direct final rule are removing unnecessary and obsolete regulations from the Office of Refugee Resettlement rules. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this action does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

¹ <https://www.govinfo.gov/link/uscode/5/553>.

² 5 U.S.C. 553(b)(B).

Assessment of Federal Regulations and Policies on Families

Assessment of Federal Regulations and Policies on Families Section 654 of the Treasury and General Government Appropriations Act of 1999 (Pub. L. 105–277) requires federal agencies to determine whether a policy or regulation may negatively affect family well-being. If the agency determines a policy or regulation negatively affects family well-being, then the agency must prepare an impact assessment addressing seven criteria specified in the law. HHS believes it is not necessary to prepare a family policymaking assessment because the actions in this direct final rule will not have any impact on the autonomy or integrity of the family as an institution.

VI. Regulatory Impact Analysis

We have examined the impacts of this direct final rule under Executive Order 12866, Executive Order 13563, Executive Order 14192, the Regulatory Flexibility Act (5 U.S.C. 601–612), the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) and the Congressional Review Act (5 U.S.C. 801, Pub. L. 104–121).

Executive Orders 12866 and 13563 direct us to assess all benefits and costs of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits. Rules are “significant” under Executive Order 12866 Section 3(f)(1) if they “have an annual effect on the economy of \$100 million or more; or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities.” Executive Order 14192 requires that any new incremental costs associated with significant new regulations “shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least ten prior regulations.” The Office of Information and Regulatory Affairs has determined that this direct final rule is a significant action under Executive Order 12866 Section 3(f), but that it does not meet the criteria set forth in 5 U.S.C. 804(2) under the Congressional Review Act. This rule is a deregulatory action under Executive Order 14192 because it eliminates obsolete and unnecessary regulations.

The Regulatory Flexibility Act requires agencies to consider the impact of their regulatory proposals on small entities. Because this action would remove a program that is no longer in existence or funded, the Secretary

certifies that the direct final rule would not have a significant economic impact on a substantial number of small entities.

The Unfunded Mandates Reform Act of 1995 (UMRA) generally requires that each agency conduct a cost-benefit analysis; identify and consider a reasonable number of regulatory alternatives; and select the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule before promulgating any proposed or final rule that includes a Federal mandate that may result in expenditures of more than \$100 million (adjusted for inflation) in at least one year by state, local, and tribal governments, in the aggregate, or by the private sector. Each agency issuing a rule with relevant effects over that threshold must also seek input from state, local, and tribal governments. The current threshold after adjustment for inflation is \$187 million, using the most current (2024) Implicit Price Deflator for the Gross Domestic Product. This direct final rule would not result in an expenditure in any year that meets or exceeds this amount.

VII. Tribal Consultation Statement

Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, requires agencies to consult with Indian tribes when regulations have tribal implications, meaning they have substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. The SLIAG grants were awarded only to the 50 states and the territories, no funds were awarded to tribes. Thus, this change will not have tribal implications.

List of Subjects in 45 CFR Part 402

Education, Grant programs-education, Grant programs-health, Grant programs-social programs, Health care, Immigration, Public assistance programs, Reporting and recordkeeping requirements.

PART 402—[REMOVED AND RESERVED]

■ For the reasons set forth in the preamble, under the authority of section 204 the Immigration Reform and Control Act of 1986 (IRCA), as amended (8 U.S.C. 1255a note), and the subsequent repeal of section 204 of IRCA by section

199(a) of Public Law 105–220, ACF removes and reserves 45 CFR part 402.

Robert F. Kennedy, Jr.,
Secretary, Department of Health and Human Services.

[FR Doc. 2026–06027 Filed 3–26–26; 8:45 am]

BILLING CODE 4184–49–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 18

[Docket No. FWS–R7–ES–2024–0195;
FXES111607MRG01–267–FF07CAMM00]

RIN 1018–BI08

Marine Mammals; Incidental Take of Northern Sea Otters During Specified Activities; Seward, Sitka, and Kodiak, Alaska

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: In accordance with the Marine Mammal Protection Act of 1972, as amended, and its implementing regulations, we, the U.S. Fish and Wildlife Service, finalize incidental take regulations that facilitate the authorization of nonlethal, incidental, unintentional take by harassment of small numbers of northern sea otters during marine construction and pile driving in Seward, Sitka, and Kodiak, Alaska. Incidental take of northern sea otters may result from in-water noise generated during pile driving and marine construction activities. This rule is effective for 5 years from the date of issuance.

DATES:

Effective date: This rule is effective March 27, 2026 and remains effective through March 27, 2031.

Information Collection Requirements:

If you wish to comment on the information collection requirements in this proposed rule, please note that the Office of Management and Budget (OMB) is required to make a decision concerning the collection of information contained in this proposed rule between 30 and 60 days after publication of this rule in the **Federal Register**. Therefore, comments should be submitted to OMB by April 27, 2026.

ADDRESSES: You may view this rule, the associated final environmental assessment and finding of no significant impact (FONSI), comments received, and other supporting material at <https://www.regulations.gov> under Docket No. FWS–R7–ES–2024–0195, or these

documents may be requested as described under **FOR FURTHER INFORMATION CONTACT**.

Information Collection Requirements: This final rule is effective on the date set forth in **DATES**. We will, however, accept and consider all public comments concerning the information collection requirements received in response to this final rule. Written comments and suggestions on the information collection requirements should be submitted within 30 days of publication of this document to <https://www.reginfo.gov/public/do/PRAMain>. Find this particular information collection by selecting “Currently under Review—Open for Public Comments” or by using the search function. Please provide a copy of your comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, 5275 Leesburg Pike, MS: PRB (JAO/3W), Falls Church, VA 22041–3803 (mail); or Info_Coll@fws.gov (email). Please reference “OMB Control Number 1018–BI08/OMB Control No. 1018–0205” in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: Stephanie Burgess, by email at r7mmmregulatory@fws.gov or by telephone 907–786–3800. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION:

Executive Summary

In accordance with the Marine Mammal Protection Act of 1972 (MMPA; 16 U.S.C. 1371(a)(5)(A)) and its implementing regulations, we, the U.S. Fish and Wildlife Service (hereafter FWS or we), finalize incidental take regulations (ITR) that facilitate the authorization of nonlethal, incidental, unintentional take by harassment of small numbers of northern sea otters (*Enhydra lutris kenyoni*) during pile driving and marine construction in Seward, Sitka, and Kodiak, Alaska. This rule will be effective for 5 years from the date of issuance.

This rule sets forth permissible methods of incidental nonlethal taking, mitigation measures to ensure the least practicable adverse impacts upon this species, its habitat, and the availability of this species for subsistence uses, and requirements for monitoring and

reporting. This rule is based on our findings that the total takings of sea otters during pile driving and marine construction activities will impact only small numbers of animals, will have a negligible impact on this species, and will not have an unmitigable adverse impact on the availability of this species for subsistence use by Alaska Natives. We base our findings on data from research on this species; potential and documented effects on this species from similar activities; information regarding the natural history and conservation status of sea otters; and data reported from Alaska Native subsistence hunters. We also prepared an environmental assessment (EA) in accordance with National Environmental Policy Act (NEPA) requirements for this rulemaking and, after consideration of public comments, made a finding of no significant impact (FONSI).

Immediate Promulgation

In accordance with the Administrative Procedure Act (5 U.S.C. 553(d)(3)), we find that we have good cause to make this rule effective less than 30 days after publication. Making this rule effective immediately will shorten the amount of time USCG ships must use temporary moorings that do not provide full services. Utilization of these temporary moorings requires funds that would otherwise be used for permanent waterfront construction and subjects ships to greater risk of damage. Thus, there is good cause to make this rule effectively immediately in order to facilitate USCG’s transition of ships to permanent moorings that will reduce costs and risk of damage to the ships.

Background

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1371(a)(5)(A)) gives the Secretary of the Interior (Secretary) the authority to allow the incidental, but not intentional, taking of small numbers of certain marine mammals, in response to requests by U.S. citizens (as defined in title 50 of the Code of Federal Regulations (CFR) in part 18 (at 50 CFR 18.27(c)) engaged in a specified activity (other than commercial fishing) within a specified geographic region. The Secretary has delegated authority for implementation of the MMPA to the FWS. According to the MMPA, the FWS shall allow this incidental taking for a period of up to 5 consecutive years if we find that the total of such taking:

- (1) will affect only small numbers of individuals of the species or stock;
- (2) will have no more than a negligible impact on the species or stock; and

(3) will not have an unmitigable adverse impact on the availability of the species or stock for taking for subsistence use by Alaska Natives.

If the requisite findings are made, we issue regulations that set forth the following, where applicable:

- (a) permissible methods of taking;
- (b) means of effecting the least practicable adverse impact on the species or stock and its habitat and the availability of the species or stock for subsistence uses; and
- (c) requirements for monitoring and reporting of such taking.

If final regulations allowing such incidental take are issued, we may then subsequently issue letters of authorization (LOA), upon request, to authorize incidental take during the specified activities.

The term “take” means to “harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal” (16 U.S.C. 1362(13)). Harassment for activities other than military readiness activities or scientific research conducted by or on behalf of the Federal Government means any act of pursuit, torment, or annoyance that has the potential to injure a marine mammal or marine mammal stock in the wild (the MMPA defines this as “Level A harassment”), or has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (the MMPA defines this as “Level B harassment”) (16 U.S.C. 1362(18)).

The U.S. Coast Guard’s (hereafter USCG or the applicant) activities may result in the incidental taking of sea otters. The MMPA does not require that the USCG obtain incidental take authorization prior to conducting these activities; however, any incidental taking that occurs without authorization is a violation of the MMPA. An ITR was issued to the USCG for pile driving and marine construction activities at multiple locations in Alaska including Seward, Sitka, and Kodiak from May 19, 2023, through May 19, 2028 (88 FR 24115, April 19, 2023). The specified activities described in this final ITR are outside the scope of the 2023–2028 USCG ITR, and, therefore, the USCG submitted requests for the incidental take of sea otters during their planned activities. This final rule confirms the preliminary determinations made in the proposed rule (90 FR 26486, June 23, 2025) and amends regulations that are codified at 50 CFR part 18, subpart I (§§ 18.100 to 18.110).

Summary of Request and the Proposed Rule

On March 5, 2024, the FWS received a request prepared by Weston Solutions on behalf of the USCG for the nonlethal, incidental harassment of small numbers of northern sea otters (*Enhydra lutris kenyoni*) (hereafter sea otters unless another sea otter subspecies is specified) from the Southwest Alaska stock that may occur during pile driving and marine construction activities in Womens Bay, Kodiak, Alaska. During discussion with the applicant, a request prepared by WSP Environment and Infrastructure on behalf of the USCG (received January 19, 2024) for the nonlethal, incidental harassment of small numbers of sea otters from the Southcentral Alaska stock that may occur during pile driving and marine construction activities in Seward was combined with the USCG's request prepared by Weston Solutions. Additionally, a request prepared by WSP Environment and Infrastructure on behalf of the USCG (received January 19, 2024) for the nonlethal, incidental harassment of small numbers of sea otters from the Southeast Alaska stock that may occur during pile driving and marine construction activities in Sitka was then merged with the USCG's combined request. The USCG provided additional information regarding project activities, timelines, and mitigation measures for their planned activities in Kodiak, Seward, and Sitka requested by the FWS during correspondence. On October 2, 2024, the FWS received a revised application for activities in Kodiak (hereafter referred to as "Weston Solutions 2024 Request"). On October 3, 2024, the FWS received a revised application for activities in Seward and Sitka (hereafter referred to as "WSP Environment and Infrastructure 2024 Request"). The FWS determined USCG's combined request for activities in Kodiak, Seward, and Sitka to be adequate and complete on October 3, 2024.

Based on our analyses, we published a proposed rule for these ITRs on June 23, 2025 (90 FR 26486). The preamble to the proposed rule provided information on several issues, including the following topics:

- sea otter biology and stocks within the specified region;
- potential impacts to sea otters arising from the specified activities, including effects of underwater and airborne sounds, vessel presence, effects to prey, reactions of sea otters to anthropogenic activities, and consequences of disturbance;

- potential impacts of the specified activities on subsistence uses of sea otters;
- the definitions of incidental take under the MMPA as well as definitions of "negligible impact," "unmitigable adverse impact," "small numbers," and "least practicable adverse impact;"
- methods of analyzing and estimating take by harassment;
- critical assumptions of the analyses; and
- a breakdown of incidental take by harassment at each project location.

Please see the June 23, 2025 (90 FR 26486) proposed rule for further background information related to this rulemaking action.

Response to Comments

During the public comment period, we requested written comments from the public on the proposed rule as well as the draft EA. The comment period opened June 23, 2025, and closed July 23, 2025. We received seven comment submissions on the proposed rule.

Response to Comments

Comment: One commenter stated that permanent threshold shift (PTS) noise thresholds were based on outdated information and should be updated to include the National Marine Fisheries Service's (NMFS) revised thresholds for cumulative sound exposure in the 2024 Update to: Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Version 3.0) (NMFS 2024).

Response: We are evaluating the new auditory injury criteria presented in the NMFS (2024) technical guidance to determine whether they are appropriate for FWS trust species. Sea otters, particularly, are not exposed to sound for an entire 24-hour period. On the contrary, activity budgets indicate they are likely to spend an average of 50 percent of their day with their heads above water (Garshelis et al. 1986). Pending the outcome of these evaluations, FWS will continue to use the previous version of the technical guidance (NMFS 2018) in our estimates of potential harassment via in-water noise exposure.

Comment: One commenter stated that the FWS should calculate the harassment zones and ensonified areas caused by in-air noise in addition to those caused by in-water noise, using the weighting functions presented in NMFS (2024) technical guidance.

Response: The FWS has stated in the *Critical Assumptions* of the proposed rule's preamble (90 FR 26486 at 26506, June 23, 2025) that while in-air noise will occur during the specified

activities, harassment zones and ensonified areas attributable to in-air noise will be smaller than those caused by in-water noise, and based on the assumption that a sea otter may be harassed only one time per 24-hour period, we conservatively rely on in-water calculations to estimate potential take.

Comment: One commenter stated that the FWS should use the NMFS continuous sound threshold of 120 decibels (dB) re 1 micropascal (μ Pa) instead of the 160 dB re 1 μ Pa we currently use. In their comment, they state the underlying research used to generate both the 120 dB re 1 μ Pa continuous threshold and the 160 dB re 1 μ Pa impulsive threshold are based on gray whale studies, and thus it is inappropriate to dismiss the 120-dB threshold while accepting the 160-dB threshold. They further cite the Parsons Slough project observations as support that sea otters have been reported to exhibit behavioral responses to vibratory pile driving noise less than 160 dB re 1 μ Pa.

Response: The highest spectral densities for noises generated by vibratory pile driving lie within a range of frequencies at which sea otters have poor hearing ability. In contrast, gray whales, on which the 120-dB threshold is based, are highly sensitive to sounds within this frequency range. We do not dispute that sea otters may hear and may react to noise produced by vibratory pile driving. However, we maintain that it is unlikely that sea otters' reactions will be equivalent to those of gray whales in terms of the noise levels that elicit reactions equivalent to take by harassment. Thus, it is not appropriate to apply the 120-dB threshold to sea otters.

The FWS disagrees with the Marine Mammal Commission's (MMC) conclusions regarding the project in Parsons Slough (ESNERR 2011). After considering the MMC's comments and reviewing the monitoring data (ESNERR 2011 and ESNERR unpublished data 2018), we reaffirm our statement that project-related monitoring of sea otter behavior in areas exposed to underwater sound levels ranging from approximately 135–165 dB during vibratory pile driving (ESNERR 2011) showed no clear pattern of disturbance or avoidance in relation to these levels of underwater sound exposure.

As such, we maintain that use of a 160-dB threshold for both impulsive and non-impulsive sounds is consistent with the best available scientific information.

Comment: One commenter (the MMC) stated that it is inaccurate to associate

takes by Level B harassment with temporary threshold shifts (TTS) and recommended that the FWS remove reference to Level B harassment being due to TTS.

Response: The FWS thanks the MMC for their comment and has modified the characterization of Level B harassment events and the likelihood of TTS in the final rule.

Comment: One commenter (the MMC) stated that the applicants did not include all of the necessary details to estimate the Level A harassment and Level B harassment zones and the FWS did not provide that information either.

Response: The FWS thanks the MMC for their comment and has made the application materials and calculation spreadsheets publicly available on the docket at <https://www.regulations.gov/docket/FWS-R7-ES-2024-0195>.

Comment: One commenter (the MMC) stated that some sound source levels used in the applications and proposed rule were inappropriate and recommended using 144 dB re 1 μ Pa for the single strike sound exposure level (SEL_{ss}) source level for impact driving of 13-inch composite piles and subsequently revising the Level A harassment zones for the final rule. They also recommended that the FWS use 161 dB re 1 μ Pa for vibratory installation of 24-inch steel piles and 167 dB re 1 μ Pa for vibratory installation of 30-inch steel and vibroflot piles and subsequently revise the Level A harassment and Level B harassment zones.

Response: The FWS thanks the MMC for their comment and recognizes the error in the single strike SEL that was used for the calculation of harassment thresholds of impact pile driving of 13-inch composite/plastic piles. The recommendation from the MMC is for a lower single strike SEL that will result in a smaller Level A harassment threshold than what was proposed, and which will still be encompassed by the applicant's proposed 30-meter shutdown zone, so no changes needed to be made to the final rule in response to this comment.

The FWS consulted with the acousticians at the NMFS Office of Protected Resources to determine the most appropriate sound levels to use for project activities. For the vibratory installation of the 24-inch steel piles and 30-inch steel and vibroflot piles, NMFS used the same sound levels in their incidental harassment authorization for the USCG Base Kodiak Homeporting Facility (90 FR 12204, March 14, 2025, and 90 FR 21472, May 20, 2025). We are maintaining these

sound levels for estimates in this final rule.

Comment: One commenter (the MMC) stated that the FWS should revise table 16 in the proposed rule (90 FR 26486 at 26507, June 23, 2025) and the accompanying impact analysis to clarify the maximum number of Level A harassment and Level B harassment events in Kodiak in a single year.

Response: The FWS thanks the MMC for their comment. We have described in detail the proposed activities at Base Kodiak by project year in table 3, and further provided the number of harassment events by activity in tables 14 and 15 (90 FR 26486 at 26491 and 26505–26506, June 23, 2025). In table 16, we provide the largest number of potential harassment events that may occur in a calendar year in order to make our small numbers and negligible impacts determinations using the greatest potential annual impact to the Southwest stock of sea otters. This allows the applicant (USCG) to have flexibility when requesting Letters of Authorization and provides a robust analysis of the potential impact to sea otters.

Comment: One commenter (the MMC) stated that the FWS has greater reporting requirements for injured, dead, or distressed sea otters that are not associated with project activities than for unauthorized take of sea otters associated with project activities. They recommend that the FWS include an additional reporting requirement for unauthorized takes of sea otters associated with project activities that matches the reporting requirements for that of injured, dead, or distressed sea otters not associated with project activities.

Response: The FWS thanks the MMC for their input and has adopted this recommendation in the final rule and in all future incidental take authorizations.

Comment: One commenter stated that the FWS has not sufficiently documented substantive Tribal consultation or engagement and that the positions of Tribes calling for more robust co-management authority has not been acknowledged. They recommend Tribal oversight of project activities.

Response: The FWS has not received any new co-management proposals or requests for sea otters.

The USCG has conducted significant outreach to Tribal organizations. For the work in Kodiak, early public scoping was initiated in September 2020 by sending letters out to a robust contact list announcing the initiation of environmental processes and studies. In 2021, National Historic Preservation Act section 106 consultation was initiated

with Alaska Native Tribes and the State Historic Preservation Office. The USCG has also coordinated with Alaska Native Tribes, Villages, and Corporations in the Kodiak area and worked closely with one Tribe to address concerns related to subsistence species, Tribe-led monitoring during and after construction, and best management and reporting requirements to include in the project.

For the work in Seward, the USCG initiated stakeholder consultation with federally recognized Tribes and Alaska Tribal organizations. Consultation request letters were sent out to Alaska Native organizations, but no replies were received.

For the work in Sitka, the applicant performed consultation with the Sitka Tribe of Alaska—the ancestral inhabitants of Japonski Island where USCG Air Station Sitka is located. They performed a full, detailed section 106 and Executive Order (E.O.) 13175 consultation and worked with the Tribe to identify sacred sites, develop archaeological monitoring plan, and had them as full signatories to a memorandum of agreement to mitigate adverse impacts to cultural resources. The consultation was detailed in section 1.6.7 and 3.5.3.2 of the National Environmental Policy Act (NEPA) compliant environmental assessment (USCG 2024).

Comment: One commenter stated that the proposed rule does not specify spatial and temporal buffers to protect sea otters during sensitive time periods and recommends the FWS impose restrictions to account for subsistence activity and known haul-out areas.

Response: Sea otters are hunted year-round by coastal-dwelling Alaskan Natives; however, as is discussed in the preamble to the proposed rule, the geographic areas in question are immediately adjacent to active USCG facilities, and as such do not allow hunting nearby. Similarly, there is no significant temporal pattern to sea otter pupping in the geographic areas—sea otters pup year-round. The FWS has described in detail the relevant shutdown and monitoring zones that the applicant will implement in § 18.107 below in Regulation Promulgation.

Comment: One commenter stated that the proposed rule's monitoring requirements are insufficient and recommends independent third-party oversight of project activities, incident reports and take logs, and take estimates and LOA renewals.

Response: All reports of project activities, protected species observer (PSO) logs, LOA requests, issued LOAs, and occurrences of takes of sea otters are

publicly available upon request. Third-party observers are not required by the MMPA.

Comment: One commenter stated that due to the change in administration, the FWS has used a circular definition of the small numbers determination and that it is unscientific to expect that regulators will recognize a small number when they see it.

Response: The FWS disagrees. The description of the small numbers determination has not changed. This methodology of determining whether or not a project meets the small numbers determination has been effectively used in numerous incidental take authorizations.

The remaining four comments were not substantive. They expressed support for the protection of sea otters and their ecosystem and general opposition to incidental take authorizations for the take of sea otters.

Summary of Changes From the Proposed Rule

In preparing these final regulations for the incidental take of sea otters, we reviewed and considered comments and information from the public concerning our proposed rule published in the **Federal Register** on June 23, 2025 (90 FR 26486). After the proposed rule was published, we received new information on project activities and sea otter observation data at the USCG Moorings Sitka location from the applicant, which impacted the estimated ensnified areas and estimated take of Southeast Alaska stock sea otters. We reviewed this new information, revised our estimated take for Southeast Alaska stock sea otters, and reevaluated our findings. The new information on project activities represents a logical outgrowth of the activities originally described in the proposed rule, as they still include pile removal and installation by pile driving. As we describe in our reevaluated findings, the anticipated effect of the revised project on sea otters is similar to that described in the proposed rule and remains limited to no more than a negligible impact on a small number of individuals.

We are finalizing these regulations with the following changes from our proposed rule:

- We modified the characterization of the Level B harassment events and likelihood of TTS.
- We updated our reporting requirements for unauthorized take of sea otters to align with reporting requirements for injured, dead, or distressed sea otters that are not associated with project activities.

- We made available more application materials (as described above) in the docket (<https://www.regulations.gov/docket/FWS-R7-ES-2024-0195>).

- We revised the USCG Moorings Sitka project activity description, estimated sea otter density, estimated ensnified areas, estimated take of Southeast Alaska stock sea otters, and mitigation measures incorporating the new information on project activities and sea otter observation data for the USCG Moorings Sitka project.

- We reevaluated our findings with the revised information for the USCG Moorings Sitka project.

Description of the Regulations

These regulations facilitate the authorization of nonlethal, incidental, unintentional take of small numbers of sea otters that may result from the proposed activities based on standards set forth in the MMPA. They do not authorize or “permit” activities. The regulations include:

- (1) Permissible methods of nonlethal taking;
- (2) Measures designed to ensure the least practicable adverse impact on sea otters and their habitat, and on the availability of these species for subsistence uses; and
- (3) Requirements for monitoring and reporting.

Description of Letters of Authorization (LOAs)

An LOA is required to conduct activities pursuant to an ITR. Under these ITRs, the USCG may request LOAs for the authorized nonlethal, incidental, Level B harassment and Level A harassment of sea otters. Requests for LOAs must be consistent with the activity descriptions and mitigation and monitoring requirements of the ITR and be received in writing at least 30 days before the activity is to begin. Requests must include (1) an operational plan for the activity, (2) a digital geospatial file of the project footprint, (3) a site-specific marine mammal monitoring and mitigation plan that specifies the procedures to monitor and mitigate the effects of the activities on sea otters, and, if necessary, (4) plans of cooperation (described below). Once this information has been received, we will evaluate each request and issue the LOA if we find that the level of taking will be consistent with the findings made for the total taking allowable under the ITR. Requests for LOAs may be submitted on an annual basis for additional years of activities within the ITR period. We must receive an after-

action report on the monitoring and mitigation activities within 90 days after the LOA expires. For more information on requesting and receiving an LOA, refer to 50 CFR 18.27(f).

Description of Plans of Cooperation (POCs)

A POC is a documented plan describing measures to mitigate potential conflicts between specified activities and Alaska Native subsistence hunting. The circumstances under which a POC must be developed and submitted with a request for an LOA are described below.

To help ensure that specified activities do not have an unmitigable adverse impact on the availability of the species for Alaska Native subsistence hunting opportunities, all applicants requesting an LOA under this ITR must provide the FWS documentation of communication and coordination with Alaska Native communities potentially affected by the specified activity and, as appropriate, with representative subsistence hunting and co-management organizations. If Alaska Native communities or representative subsistence hunting organizations express concerns about the potential impacts of specified activities on subsistence activities, and such concerns are not resolved during this initial communication and coordination process, then a POC must be developed and submitted with the applicant's request for an LOA. In developing the POC, the USCG will further engage with Alaska Native communities and/or representative subsistence hunting organizations to provide information and respond to questions and concerns. The POC must provide adequate measures to ensure that specified activities will not have an unmitigable adverse impact on the availability of sea otters for Alaska Native subsistence uses.

Description of Specified Geographic Region and Specified Activities

The specified geographic region includes Gulf of Alaska coastal waters of three USCG facilities. The specified activities would occur in the waters and intertidal areas of the eastern shore of Resurrection Bay, Alaska, surrounding the USCG Moorings Seward, the waters and intertidal areas of Sitka Channel, Alaska, surrounding the USCG Moorings Sitka, and the waters and intertidal areas of Womens Bay, Kodiak, Alaska, which surround the USCG Base Kodiak located on the Nyman Peninsula (figure 1, below).

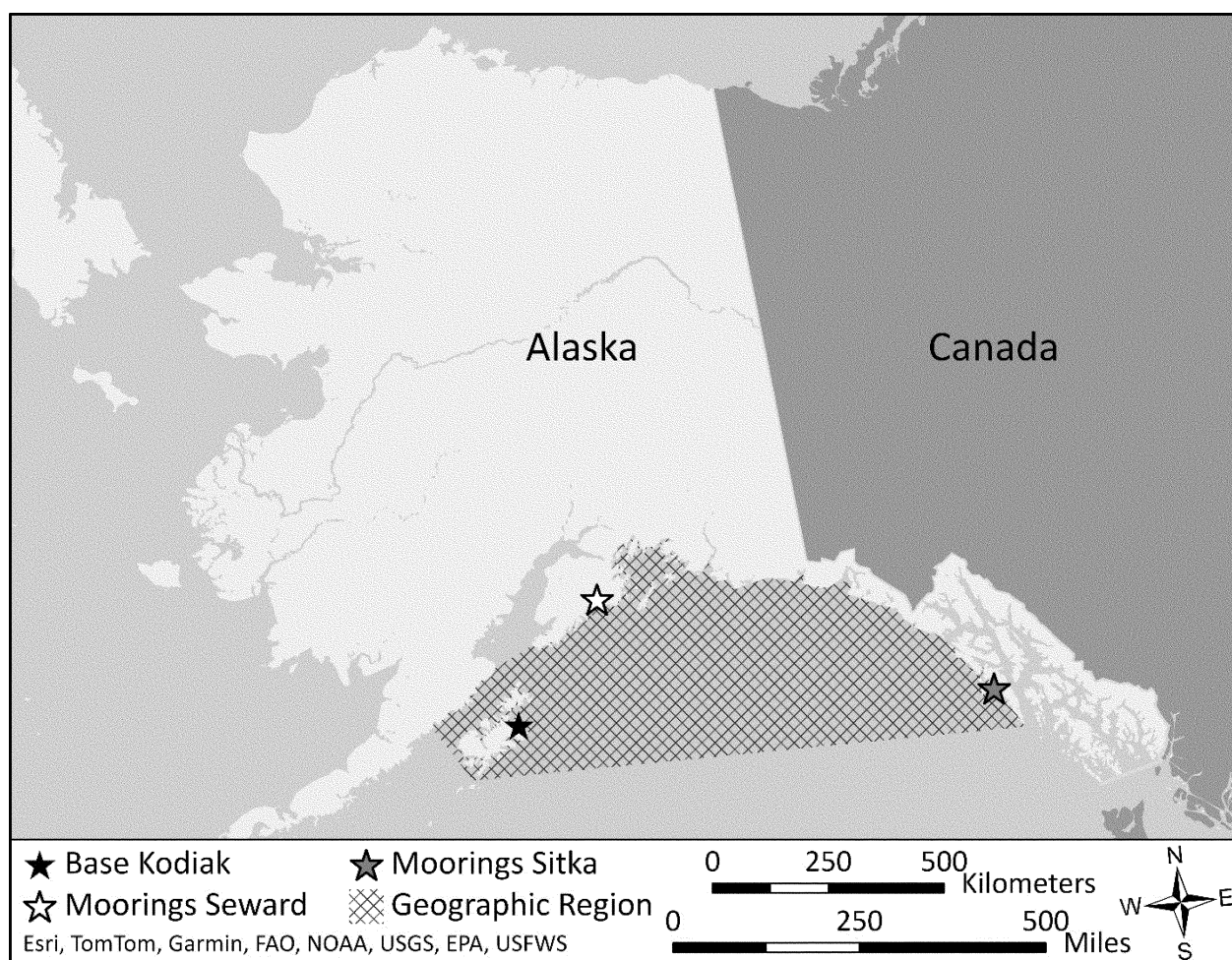


Figure 1—Specific Geographic Region

Three pile driving and marine construction projects would occur within the specified geographic region: Moorings Seward, Moorings Sitka, and Base Kodiak. Brief summaries of each project are provided below, and additional project details for each project may be reviewed in the application materials available as described under **ADDRESSES** or may also be requested as described under **FOR FURTHER INFORMATION CONTACT**.

Moorings Seward Activities

The specified activity (hereafter project) in Seward will include installation and removal of piles for the

construction of shoreside facilities and associated infrastructure at the USCG Moorings Seward in the Seward Marine Industrial Center (SMIC) to homeport 1 fast response cutter (FRC). The project entails construction of a new floating dock parallel to the existing SMIC dock and reconfiguration of the SMIC floating dock to allow for construction of the FRC moorings. For the reconfiguration of the SMIC floating dock, project activities include the removal of up to 10 existing steel guide piles that are no greater than 40.6 centimeters (cm; 16 inches [in]) in diameter and the installation of up to 10 new concrete or steel pipe guide piles that are 76.2 cm (30 in) in diameter. Construction of the

new dock includes installation of up to 20 concrete or steel pipe guide piles that are no greater than 76.2 cm (30 in) in diameter. After the dock is installed, ancillary infrastructure (*i.e.*, electricity, water, sewage) to service the docked FRC will be installed. Pile-driving activities will occur over 22 non-consecutive days for approximately 105 hours. Pile removal will be done with vibratory extraction or cutting at the mud line with a pile clipper or diamond saw. Pile installation will be done with a combination of rock socket down-the-hole (DTH) drilling, impact proofing, and vibratory settling. In-water project activities are summarized in table 1, below.

TABLE 1—USCG MOORINGS SEWARD: PROJECT ACTIVITIES, PILES INSTALLED OR REMOVED, AND ACTIVITY DAYS

Project component	Pile size and material	Activity	Total number of piles	Maximum number of piles per day	Maximum number of activity days
FRC moorings ..	<40.6-cm (<16-in) steel	Removal—vibratory	10	5	2
		Removal—pile clipper		5	
		Removal—diamond wire saw		5	
	76.2-cm (30-in) concrete or steel	Installation—rock socket DTH	10	2	20
		Installation—vibratory settling		2	
		Installation—impact proofing		2	

TABLE 1—USCG MOORINGS SEWARD: PROJECT ACTIVITIES, PILES INSTALLED OR REMOVED, AND ACTIVITY DAYS—Continued

Project component	Pile size and material	Activity	Total number of piles	Maximum number of piles per day	Maximum number of activity days
New dock	76.2-cm (30-in) concrete or steel	Installation—rock socket DTH	20	2	
		Installation—vibratory settling		2	
		Installation—impact proofing		2	

Moorings Sitka Activities

The following description has been updated since the proposed rule with new information on project activities provided by the applicant. The USCG plans to remove a mooring dolphin supported by four steel piles, each of which is 61.0 cm (24 in) in diameter, and a float supported by six timber piles, each of which is 35.6 cm (14 in)

in diameter. A total of 12 steel piles, each of which is 61.0 cm (24 in) in diameter, will be temporarily installed and removed to support installation of the new pier. The USCG plans to install a total of 107 steel piles, each of which will be 61.0 cm (24 in) in diameter, and 60 steel piles, each of which will be 40.6 cm (16 in) in diameter, to support the pier, floating dock, and mooring dolphins. Pile-driving activities will

occur over 113 non-consecutive days. Pile installation will be done with a combination of impact pile driving, vibratory pile driving, and DTH drilling. Temporary and existing piles will be removed by the dead-pull method (a direct lift of the pile using a crane with no vibration), an underwater chainsaw, or vibratory extraction. In-water activities are summarized in table 2, below.

TABLE 2—USCG MOORINGS SITKA: PROJECT ACTIVITIES, PILES INSTALLED OR REMOVED, AND ACTIVITY DAYS

Project component	Pile size and material	Activity	Total number of piles	Maximum number of piles per day	Maximum number of activity days
Demolition	61.0-cm (24-in) steel	Removal—vibratory	4	4	1
	35.6-cm (14-in) timber	Removal—vibratory	6	5	2
Construction	61.0-cm (24-in) steel	Temporary installation—vibratory	12	4	3
		Temporary removal—vibratory	12	4	3
	61.0-cm (24-in) steel	Installation—vibratory	95	6	32
		Installation—impact	95	8	24
		Installation—DTH	25	4	13
	61.0-cm (24-in) steel	Installation—vibratory	4	3	4
		Installation—impact	4	3	4
		Installation—DTH	4	3	4
	61.0-cm (24-in) steel	Installation—vibratory	8	4	4
		Installation—impact	8	6	3
		Installation—DTH	8	4	4
	40.6-cm (16-in) steel	Installation—vibratory	60	8	12

Base Kodiak Activities

The USCG will implement in-water and waterfront improvements at the USCG Base Kodiak to support the commission, temporary and permanent homeporting, and berthing of FRCs and offshore patrol cutters. In-water improvements will consist of replacing and extending existing wharfs,

installing floating docks and camel logs, installing a solid-fill approach bulkhead, and refurbishing small craft floats. In-water activities will include impact pile driving of steel piles and concrete fender piles, vibratory installation and extraction of timber piles, steel piles, steel/concrete piles, concrete piles, and vibroflot columns, and DTH drilling of steel piles. These

activities are anticipated to occur over 339 non-consecutive days from 2 to 5 years. A total of 501 piles of various sizes and types will be removed throughout the project. A total of 918 piles of various sizes and types will be installed throughout the project. In-water activities are summarized in table 3, below.

TABLE 3—USCG BASE KODIAK: PROJECT ACTIVITIES, PILES INSTALLED OR REMOVED, AND ACTIVITY DAYS

Project component	Project year	Pile size and material	Activity	Total number of piles per year	Maximum number of piles per day	Maximum number of activity days per year
Demolition	1	35.6-cm (14-in) timber	Removal—vibratory	158	20	10
		61.0-cm (24-in) timber		24	20	2
		30.5-cm (12-in) steel		147	20	9
		35.6-cm (14-in) steel		30	20	2
Construction		61.0-cm (24-in) steel	Installation—vibratory	22	6	5
			Installation—impact	22	6	5
			Installation—DTH	11	2	7
		76.2-cm (30-in) vibroflot columns	Installation—vibratory	488	10	59
		91.4-cm (36-in) steel	Temporary installation—vibratory	94	6	19
			Temporary removal—vibratory	94	6	19
		106.7-cm (42-in) steel	Installation—vibratory	160	6	32
			Installation—impact	160	6	32
		61.0-cm (24-in) steel/concrete	Removal—vibratory	4	20	1

TABLE 3—USCG BASE KODIAK: PROJECT ACTIVITIES, PILES INSTALLED OR REMOVED, AND ACTIVITY DAYS—Continued

Project component	Project year	Pile size and material	Activity	Total number of piles per year	Maximum number of piles per day	Maximum number of activity days per year
		61.0-cm (24-in) precast concrete reaction.	Installation—vibratory	35	6	7
		61.0-cm (24-in) precast concrete fender	Installation—impact	35	6	7
		63.5–106.7-cm (25–42-in) steel	Installation—DTH	80	2	48
	2	61.0-cm (24-in) steel	Installation—vibratory	20	6	4
			Installation—impact	20	6	4
			Installation—DTH	10	2	6
		76.2-cm (30-in) steel	Installation—vibratory	23	6	5
			Installation—impact	23	6	5
		91.4-cm (36-in) steel	Permanent installation—vibratory	8	4	3
			Permanent installation—impact	8	4	3
			Temporary installation—vibratory	44	6	9
			Temporary removal—vibratory	44	6	9
		106.7-cm (42-in) steel	Installation—vibratory	24	6	5
			Installation—impact	24	6	5
		63.5–106.7-cm (25–42-in) steel	Installation—DTH	28	2	17

Estimated Take*Calculating Take***Sea Otter Density**

We reviewed our take estimates for the Kodiak and Seward project areas and determined they remain valid; therefore, we use the same take estimates for those project areas in our analysis for this final rule. In light of the new information on project activities provided by the applicant and new sea otter observation data, we have revised our take estimates for the Sitka project area as described here. In the proposed rule, we estimated an average of 0.85 sea otters/square kilometer (km²) in the Sitka project area based on sea otter abundance estimates published for the Southeast Alaska sea otter stock (Tinker et al. 2019; Eisaguirre et al. 2021). Since the publication of the proposed rule, we have received sea otter observation data that indicates sea otter density may be higher in the Sitka project area.

Information from three marine mammal observation datasets near the Sitka project area were submitted for our review by the applicant. Only one of these three marine mammal observation datasets reported sea otters were observed in the Sitka project area. This marine mammal observation dataset was an unpublished dataset that reported a total of 37 sea otters observed during a float replacement project across 8 days, with a range from 1 to 8 sea otters observed each day. The average number of sea otters observed each day was five sea otters (SolsticeAK unpublished data). The abundance estimate for the Southeast Alaska sea otter stock has generally increased and sea otters have moved into previously unoccupied areas within the Southeast Alaska sea otter stock region over recent years (Eisaguirre et al. 2023; Schuette et al. 2023; 88 FR 53510, August 8, 2023). It is possible that more sea otters than we initially anticipated in the proposed

rule may move into the Sitka project area during the project period based on this current population trend. We used the highest estimate of sea otters recorded in the marine mammal observation datasets provided by the applicant to inform our sea otter density estimate in order to conservatively estimate the number of sea otters that may be present in the Sitka project area. Based on information from the marine mammal observation datasets, we estimate that up to 5 sea otters/km² will be in the Sitka project area.

Sound Levels for the Specified Activities

The new information on project activities at Sitka changed the sound levels we anticipate for this project due to the changes in pile types, pile numbers, and number of activity days. Sound levels for the new project activities in Sitka are listed in table 4, below.

TABLE 4—USCG MOORINGS SITKA: PROJECT ACTIVITIES; SOUND LEVELS, SOURCE, AND TIMING

Project component	Pile size and material	Activity	Sound levels	Source	Timing per pile (nonimpulsive sound sources) or strikes per pile (impulsive sound sources)
Demolition	61.0-cm (24-in) steel.	Removal—vibratory	163 dB RMS	NMFS 2023	30 minutes.
	35.6-cm (14-in) timber.	Removal—vibratory	162 dB RMS	CalTrans 2020	30 minutes.
Construction	61.0-cm (24-in) steel.	Temporary installation—vibratory.	163 dB RMS	NMFS 2023	15 minutes.
		Temporary removal—vibratory.	163 dB RMS.	NMFS 2023.	15 minutes.
	61.0-cm (24-in) steel.	Installation—vibratory	163 dB RMS	NMFS 2023	75 minutes.
		Installation—impact	190 dB RMS; 177 dB SELss; 203 dB peak.	CalTrans 2015	500 strikes.
		Installation—DTH.	167 dB RMS; 159 dB SELss; 184 dB peak.	Heyvaert & Reyff 2021; NMFS 2022.	120 minutes/108,000 strikes.
	61.0-cm (24-in) steel.	Installation—vibratory	163 dB RMS	NMFS 2023	75 minutes.
		Installation—impact	190 dB RMS; 177 dB SELss; 203 dB peak.	CalTrans 2015	500 strikes.
		Installation—DTH	167 dB RMS; 159 dB SELss; 184 dB peak.	Heyvaert & Reyff 2021; NMFS 2022.	120 minutes/108,000 strikes.

TABLE 4—USCG MOORINGS SITKA: PROJECT ACTIVITIES; SOUND LEVELS, SOURCE, AND TIMING—Continued

Project component	Pile size and material	Activity	Sound levels	Source	Timing per pile (nonimpulsive sound sources) or strikes per pile (impulsive sound sources)
	61.0-cm (24-in) steel.	Installation—vibratory	163 dB RMS	NMFS 2023	75 minutes.
		Installation—impact	190 dB RMS; 177 dB SELss; 203 dB peak.	CalTrans 2015	500 strikes.
		Installation—DTH	167 dB RMS; 159 dB SELss; 184 dB peak.	Heyvaert & Reyff 2021; NMFS 2022.	120 minutes/108,000 strikes.
	40.6-cm (16-in) steel.	Installation—vibratory	163 dB RMS	NMFS 2023	30 minutes.

Ensonified Areas

Distances to below Level A harassment and Level B harassment thresholds with the revised sound levels were calculated for each project activity to determine the ensonified area for a

given project activity. The USCG requested to implement a 20-meter (m; 66-feet [ft]) shutdown zone for all project activities in Sitka to reduce harassment of sea otters by in-water noise and minimize the likelihood that sea otters are impacted by physical

interactions with construction equipment and materials. This shutdown zone will encompass some of the Level A harassment and Level B harassment zones in the Sitka project area (table 5, below).

TABLE 5—USCG MOORINGS SITKA: DISTANCES TO BELOW LEVEL A HARASSMENT AND LEVEL B HARASSMENT ZONES AND SHUTDOWN ZONE *

Project component	Pile size and material	Activity	Distance to below Level A harassment threshold (m)	Distance to below Level B harassment threshold (m)	Distance to below shutdown zone (m)
Demolition	61.0-cm (24-in) steel	Removal—vibratory	0.6	15.9	20.0
	35.6-cm (14-in) timber	Removal—vibratory	0.6	13.6	20.0
Construction	61.0-cm (24-in) steel	Temporary installation—vibratory	0.4	15.9	20.0
		Temporary removal—vibratory	0.4	15.9	20.0
	61.0-cm (24-in) steel	Installation—vibratory	1.5	15.9	20.0
		Installation—impact	39.0	1,000.0	20.0
		Installation—DTH	55.9	29.3	20.0
	61.0-cm (24-in) steel	Installation—vibratory	1.0	15.9	20.0
		Installation—impact	20.3	1,000.0	20.0
		Installation—DTH	46.1	29.3	20.0
	61.0-cm (24-in) steel	Installation—vibratory	1.2	15.9	20.0
		Installation—impact	32.2	1,000.0	20.0
		Installation—DTH	55.9	29.3	20.0
	40.6-cm (16-in) steel	Installation—vibratory	1.0	15.9	20.0

* Work at the USCG's Moorings Sitka is expected to be completed within 1 year.

We created geospatial files to represent the Sitka project area and ensonified water around the project area clipped by land boundaries. To determine the area in which sea otters may experience Level A harassment during the USCG's project activities, we subtracted the area of the 20-m (66-ft)

shutdown zone from the area ensonified to >232 dB peak sound pressure level or >203 dB cumulative SEL (SEL_{CUM}) re 1μPa for impulsive underwater sound and >219 dB SEL re 1μPa for nonimpulsive underwater sound. Next, we multiplied the remaining ensonified area for Level A harassment by the

estimated sea otter density in the Sitka project area (see *Sea Otter Density*) and the maximum number of project activity days to determine the number of sea otters that may experience Level A harassment (table 6, below).

TABLE 6—USCG MOORINGS SITKA: PROJECT ACTIVITIES AND LEVEL A HARASSMENT EVENTS ANTICIPATED

Project component	Pile size and material	Activity	Maximum number of activity days	Sea otter density	Level A area (km ²)	Level A area minus shutdown zone area (km ²)	Estimated sea otters affected by Level A sound per day (rounded)	Total estimated Level A harassment events
Demolition	61.0-cm (24-in) steel	Removal—vibratory.	1	5 sea otters/km ²	<0.001	0	0	0
	35.6-cm (14-in) timber.	Removal—vibratory.	2		<0.001	0	0	0
Construction	61.0-cm (24-in) steel.	Temporary installation—vibratory.	3		<0.001	0	0	0
		Temporary removal—vibratory.	3		<0.001	0	0	0

TABLE 6—USCG MOORINGS SITKA: PROJECT ACTIVITIES AND LEVEL A HARASSMENT EVENTS ANTICIPATED—Continued

Project component	Pile size and material	Activity	Maximum number of activity days	Sea otter density	Level A area (km ²)	Level A area minus shutdown zone area (km ²)	Estimated sea otters affected by Level A sound per day (rounded)	Total estimated Level A harassment events
	61.0-cm (24-in) steel.	Installation—vibratory. Installation—impact.	32 24 13		<0.001 0.015 0.023	0 0.008 0.017	0 ^a 2 ^a 2	0 48 26
	61.0-cm (24-in) steel.	Installation—vibratory. Installation—impact.	4 4 4		<0.001 0.007 0.018	0 <0.001 ≤0.012	0 ^a 0 ^a 2	0 0 8
	61.0-cm (24-in) steel.	Installation—vibratory. Installation—impact.	4 3 4		<0.001 0.012 0.023	0 0.005 0.017	0 ^a 2 ^a 2	0 6 8
	40.6-cm (16-in) steel.	Installation—vibratory.	12		<0.001	0	0	0

* Where the estimated total number of exposures was 0 for 3 or more decimal places (*i.e.*, <0.000X), the total number of exposures was assumed to be 0.

^a Where the estimated total number of exposures expected was greater than 0.001, we rounded to 2 instead to accommodate potential mom and pup pairs of sea otters for project activities.

To estimate the number of sea otters anticipated to experience Level B harassment during the USCG's project activities, we subtracted either the area of the Level A harassment zone or the area of the 20-m (66-ft) shutdown zone

(whichever was greater) from the area ensonified to >160 dB re 1μPa to determine the area in which sea otters may experience Level B harassment. Next, we multiplied the remaining ensonified area for Level B harassment

by the sea otter density for the Sitka project area (see *Sea Otter Density*) and the maximum number of project activity days to determine the number of sea otters that may experience Level B harassment (table 7, below).

TABLE 7—USCG MOORINGS SITKA: PROJECT ACTIVITIES AND LEVEL B HARASSMENT EVENTS ANTICIPATED

Project component	Pile size and material	Activity	Maximum number of activity days	Sea otter density	Level B area (km ²)	Level B area minus Level A/shutdown zone area (km ²)	Estimated sea otters affected by Level B sound per day (rounded)	Total estimated Level B harassment events
Demolition	61.0-cm (24-in) steel.	Removal—vibratory.	1	5 sea otters/km ²	0.005	0	0	0
	35.6-cm (14-in) timber.	Removal—vibratory.	2		0.005	0	0	0
Construction	61.0-cm (24-in) steel.	Temporary installation—vibratory.	3		0.005	0	0	0
		Temporary removal—vibratory.	3		0.005	0	0	0
	61.0-cm (24-in) steel.	Installation—vibratory.	32		0.005	0	0	0
		Installation—impact.	24		0.604	0.589	3	72
		Installation—DTH.	13		0.011	0	0	0
	61.0-cm (24-in) steel.	Installation—vibratory.	4		0.005	0	0	0
		Installation—impact.	4		0.604	0.597	3	12
		Installation—DTH.	4		0.011	0	0	0
	61.0-cm (24-in) steel.	Installation—vibratory.	4		0.005	0	0	0
		Installation—impact.	3		0.604	0.593	3	9
		Installation—DTH.	4		0.011	0	0	0
	40.6-cm (16-in) steel.	Installation—vibratory.	12		0.005	0	0	0

We assumed that the different types of pile-driving activities will occur sequentially and that the total number of activity days would equal the sum of the number of days required to complete each type of pile-driving activity. While it is possible that on some days more than one type of activity will take place, which would reduce the number of days of exposure, we cannot know this information in advance. As such, the estimated number of days is the maximum possible for the planned activity. Where the number of exposures expected per day was 0 to 3 or more decimal places (*i.e.*, <0.000X), the number of exposures per day was assumed to be 0. Where the number of exposures expected per day was greater than 0.001, we rounded to 2 exposures

to accommodate potential mom and pup pairs of sea otters for project activities in Sitka.

Critical Assumptions

In order to conduct this analysis and estimate the maximum anticipated number of takes by Level A harassment and Level B harassment, we added to our critical assumptions described in the proposed rule (90 FR 26486 at 26506, June 23, 2025).

A summary of sea otter observation data during a float replacement project in the Sitka project area was provided without any description of the area in which sea otters were observed (SolsticeAK unpublished data). In order to estimate a sea otter density, we assumed that sea otters were observed

over a 1 km² area. The number of sea otters observed each day of the project ranged from 1 to 8 sea otters, with an average of 5 sea otters observed each day (SolsticeAK unpublished data). Therefore, we estimated that up to 5 sea otters/km² will be in the Sitka project area.

Sum of Harassment From All Sources

The USCG will conduct pile driving and marine construction activities in Seward, Sitka, and Kodiak within the 5-year ITR period. A summary of total numbers of estimated takes by Level A harassment and Level B harassment by project location, year, and 5-year duration of the final ITR is provided in table 8, below.

TABLE 8—FINAL ITR: SEA OTTERS EXPECTED TO BE HARASSED; LEVEL A HARASSMENT AND LEVEL B HARASSMENT EVENTS

Location	Number of sea otters exposed to Level A harassment (single year)	Number of Level A harassment events (single year)	Total number of Level A harassment events (5 years)	Number of sea otters exposed to Level B harassment (single year)	Number of Level B harassment events (single year)	Total number of Level B harassment events (5 years)
Seward (Southcentral AK stock)	0	0	0	80	80	*80
Sitka (Southeast AK stock)	96	96	*96	93	93	*93
Kodiak (Southwest AK stock)	423	433	433	423	4,172	4,172

* Work at the USCG's Moorings Seward and Moorings Sitka is expected to be completed within 1 year.

In a single year, we estimate up to 80 instances of take by Level B harassment of 80 sea otters from the Southcentral Alaska stock, up to 93 instances of take by Level B harassment of 93 sea otters from the Southeast Alaska stock, and up to 4,172 instances of take by Level B harassment of 423 sea otters from the Southwest Alaska stock due to behavioral responses to noise exposure during project activities in Seward, Sitka, and Kodiak. Although multiple instances of Level B harassment of individual sea otters are possible, these events are unlikely to have significant consequences for the health, reproduction, or survival of affected sea otters. The potential effects of multiple Level B harassment noise exposures may include short-term behavioral reactions, displacement of sea otters near active operations, and potential temporary shifts in hearing thresholds. We anticipate that the majority of Level B harassment events will be behavioral responses to noise exposure. Sea otters spend over half of their time above the surface during the summer months (Esslinger et al. 2014), and likely no more than 70 percent of their time foraging during winter months (Gelatt et al. 2002); thus, their ears will not be exposed to continuous noise, thereby reducing their likelihood to experience temporary shifts in hearing thresholds.

Considering the specified activities would occur during a limited amount of time over non-consecutive days and in a localized area, we do not anticipate that the effects of multiple Level B harassment noise exposures would rise to the level of TTS, an injury, or Level A harassment.

In a single year, we estimate no instances of take by Level A harassment of sea otters from the Southcentral Alaska stock, up to 96 instances of take by Level A harassment of 96 sea otters from the Southeast Alaska stock, and up to 433 instances of take by Level A harassment of 423 sea otters from the Southwest Alaska stock due to PTS associated with noise exposure during project activities in Seward, Sitka and Kodiak. While the project activities in Seward will create sound levels above Level A harassment thresholds, the use of acoustic shutdown zones of 85 m (279 ft) for DTH drilling and 30 m (98 ft) for all other activities are expected to preclude Level A harassment events from occurring during these specified activities in Seward. The PSOs will be stationed at multiple vantage points, some elevated, to increase the distances at which sea otters can be reliably detected in Seward. For project activities in Sitka and Kodiak, using soft-start procedures, zone clearance prior to activity startup, and shutdown

zones is likely to decrease both the number of sea otters exposed to noise above Level A harassment thresholds and the exposure time of any sea otters entering the Level A harassment zone. This reduces the likelihood of hearing sensitivity losses that might impact the health, reproduction, or survival of affected sea otters. Despite the implementation of mitigation measures, it is anticipated that some sea otters will experience Level A harassment via exposure to in-water noise above threshold criteria during impact pile driving and DTH drilling activities.

Determinations and Findings

Small Numbers

For our small numbers determination, we considered whether the estimated number of sea otters to be subjected to incidental take is small relative to the population size of the species or stock. More specifically, the FWS compares the number of sea otters anticipated to be taken in each year contemplated by the ITR with the population estimate applicable to each of those years. Here, predicted numbers of sea otters to be taken were determined based on the estimated density of sea otters in the project area and ensonification areas developed using empirical evidence from similar geographic areas. We

estimate that the USCG's projects may annually result in the incidental take of approximately:

- No more than 80 Southcentral Alaska stock sea otters by Level B harassment annually and over the duration of this ITR (see *Sum of Harassment from All Sources*). Annual take of 80 sea otters is 0.37 percent of the best available estimate of the current annual Southcentral Alaska stock size of 21,617 animals (Esslinger et al. 2021; 88 FR 53510, August 8, 2023) $(80 \div 21,617) \times 100 \approx 0.37$ and represents a "small number" of sea otters of that stock.

- No more than 189 Southeast Alaska stock sea otters by Level A harassment and Level B harassment annually and over the duration of this ITR (see *Sum of Harassment from All Sources*). Annual take of 189 sea otters is 0.85 percent of the best available estimate of the current annual Southeast Alaska stock size of 22,359 animals (88 FR 53510, August 8, 2023) $(189 \div 22,359) \times 100 \approx 0.85$ and represents a "small number" of sea otters of that stock.

- No more than 423 Southwest Alaska stock sea otters by Level A harassment and Level B harassment annually and over the duration of this ITR (see *Sum of Take from All Sources*). Annual take of 423 sea otters is 0.81 percent of the best available estimate of the current annual Southwest Alaska stock size of 51,935 animals (88 FR 53510, August 8, 2023) $(423 \div 51,935) \times 100 \approx 0.81$ and represents a "small number" of sea otters of that stock.

Within the specified geographic region, the area of specified activity is expected to be small relative to the range of sea otters. Sea otters range well beyond the boundaries of the specified geographic region. As such, the specified geographic region itself represents only a subset of the potential area in which this species may occur, and we anticipate that only a small proportion of sea otters would be present within the vicinity of the specified activities.

Therefore, we find that the USCG's specified activities will take only small numbers of sea otters because: (1) Only a small proportion of sea otters will overlap with the areas where the specified activities will occur; (2) the estimated number of Southcentral Alaska stock sea otters to be taken will be limited to a total of 80 Southcentral Alaska stock sea otters annually and over the duration of the ITR; (3) the estimated number of Southeast Alaska stock sea otters to be taken will be limited to a total of 189 Southeast Alaska stock sea otters annually and over the duration of the ITR; and (4) the estimated number of Southwest Alaska

stock sea otters to be taken will be limited to a total of 423 Southwest Alaska stock sea otters annually and over the duration of the ITR, which represents a small proportion of each stock of sea otters.

Negligible Impact

For our negligible impact determination, we considered the following:

(1) The documented impacts of previous activities similar to the specified activities on sea otters, taking into consideration cumulative effects, suggests that the types of activities analyzed for this ITR will have minimal effects limited to short-term, temporary behavioral changes, displacement of sea otters near active operations, and potential hearing threshold shifts. This is true not only for Level B harassment, but also Level A harassment. While Level A harassment has the potential to result in the injury of up to 96 sea otters at Sitka and up to 423 sea otters at Kodiak during the ITR period, this type of harassment is not anticipated to result in long-term impacts that are likely to result in mortality. Most sea otters will respond to disturbance by moving away from the sound source, which may cause temporary interruption of foraging, resting, or other natural behaviors. Affected sea otters are expected to resume normal behaviors soon after exposure with no lasting consequences to their survival or reproduction. Sea otters may move in and out of the project area during pile-driving activities, leading to as many as 80 individuals in Seward, 189 individuals in Sitka, and 423 individuals in Kodiak experiencing exposure to noise at levels that may cause harassment. However, it is possible that an individual may enter the ensonification area more than once during the project. At most, if the same sea otter enters the ensonification area every day that pile driving occurs, the sea otter would be exposed to pile driving and marine construction noise for up to 22 non-consecutive days in Seward, 113 non-consecutive days in Sitka, and up to 339 non-consecutive days in Kodiak.

We do not anticipate that sea otters in Seward will be exposed to noise levels equal to or greater than Level A harassment thresholds due to the applicant's implementation of acoustic shutdown zones larger than the Level A harassment zone. It is possible that sea otters in Sitka and Kodiak may be exposed to noise levels equal to or greater than Level A harassment thresholds on multiple days throughout project activities. The potential effects

of multiple Level A harassment noise exposures may include a greater reduction in a sea otter's hearing sensitivity, but this reduction in hearing sensitivity does not equate to total hearing loss. The reduction in sea otter hearing sensitivity caused by PTS would align with the energy produced by pile-driving activities (e.g., low-frequency less than 2 kilohertz (kHz)), which would not impair the majority of a sea otter's hearing range. Sea otters do not rely on sound to orient themselves, locate prey, or communicate under water. Therefore, we do not anticipate PTS from multiple Level A harassment noise exposures would impact sea otters' ability to move, forage, or communicate. Sea otters, especially mothers and pups, do use sound for communication in air (McShane et al. 1995), and sea otters may monitor underwater sound to avoid predators (Davis et al. 1987). However, we anticipate that a sea otter will retain the majority of its hearing range if it experiences PTS from multiple Level A harassment noise exposures and that impacts from PTS will not have long-term consequences to a sea otter's survival and reproduction.

It is possible that sea otters will move away from Level A harassment zones to avoid experiencing PTS. The area that will experience noise levels equal to or greater than Level A harassment thresholds due to pile driving is small (approximately 0.017 km² for Sitka and 0.13 km² for Kodiak), and a sea otter that may be disturbed could escape the noise by moving to nearby quieter areas. Further, sea otters spend over half of their time above the surface during the summer months (Esslinger et al. 2014), and likely no more than 70 percent of their time foraging during winter months (Gelatt et al. 2002); thus, their ears will not be exposed to continuous noise, thereby reducing their likelihood to experience PTS. Some sea otters may exhibit some of the stronger responses typical of Level B harassment, such as fleeing, interruption of feeding, or flushing from a haulout. These responses could have temporary biological impacts for affected individuals but are not anticipated to result in measurable changes in survival or reproduction. The anticipated impacts on sea otters are limited and therefore unlikely to adversely affect annual rates of sea otter survival or recruitment.

(2) The applicant will implement monitoring requirements and mitigation measures designed to reduce the potential impacts of their operations on sea otters. Adaptive mitigation and management responses based on real-

time monitoring of the project areas by PSOs (described in this final rule) will be used to avoid or minimize interactions with sea otters and, therefore, limit potential disturbance of these animals.

(3) The FWS does not anticipate any lethal take or long-term impacts that would remove individual sea otters from the population or prevent their successful reproduction. Incidental harassment events are anticipated to be limited to human interactions that lead to short-term behavioral disturbances, displacement of sea otters near active project operations, and potential hearing threshold shifts. These disturbances would not affect the rates of recruitment or survival for the Southcentral Alaska, Southeast Alaska, and Southwest Alaska stocks of sea otters. This ITR does not authorize take that will likely lead to mortality or lethal take.

We also considered the conjectural or speculative impacts associated with these specified activities. The specific congressional direction described below justifies balancing the probability of such impacts with their severity.

If potential effects of a specified activity are conjectural or speculative, a finding of negligible impact may be appropriate. A finding of negligible impact may also be appropriate if the probability of occurrence is low, but the potential effects may be significant. In this case, the probability of occurrence of impacts must be balanced with the potential severity of harm to the species or stock when determining negligible impact. In applying this balancing test, the FWS will thoroughly evaluate the risks involved and the potential impacts on marine mammal populations. Such determination will be made based on the best available scientific information (53 FR 8474, March 15, 1988; 132 Cong. Rec. S 16304–5 (October 15, 1986)).

The potential effects of most concern here are the potential injury or PTS of sea otters in Sitka and Kodiak resulting from exposure to noise levels equal to or greater than Level A harassment thresholds. The FWS does not anticipate lethal take of sea otters as a result of the USCG's in-water activities. As a result of our analyses presented in the proposed and final rules, we estimate up to 96 takes by Level A harassment may occur annually and up to a total of 96 takes by Level A harassment may occur during project activities in Sitka. We estimate up to 433 takes by Level A harassment may occur annually and up to a total of 433 takes by Level A harassment may occur during project activities in Kodiak. While the FWS found that in-water noise will rise to a level that may cause PTS in the areas

immediately adjacent to pile driving activities, these noise levels will not extend farther than 55.9 m (183.4 ft) from the sound source in Sitka and not farther than 145.1 m (476.0 ft) from the sound source in Kodiak.

The applicant will implement PSO-monitored physical interaction shutdown zones that will encompass the majority of the ensonified areas in which Level A harassment may occur in Sitka and Kodiak, thus minimizing injurious take. Additionally, using soft-start procedures and zone clearance prior to activity startup is likely to decrease both the number of sea otters exposed to noise levels above Level A harassment thresholds and the exposure time of any sea otters entering the Level A harassment zone. These mitigation measures reduce the likelihood of hearing sensitivity losses that might impact the health, reproduction, or survival of affected sea otters. A small number of takes by Level A harassment would be authorized for impact pile driving and DTH drilling activities that have Level A harassment zone radii ranging in size from 20.3 to 55.9 m (66.6 to 183.4 ft) in Sitka and from 21.8 to 145.1 m (71.5 to 476.0 ft) in Kodiak, but mitigation measures would be implemented to minimize take by Level A harassment to the extent possible.

Despite the implementation of mitigation measures, it is anticipated that some sea otters in Sitka and Kodiak will experience Level A harassment via exposure to in-water noise above threshold criteria during impact pile driving and DTH drilling activities. If any sea otters exposed to noise levels above Level A harassment threshold criteria do experience PTS in the sensitivity of their hearing, it does not equate to total hearing loss. We do not anticipate that a reduction in hearing sensitivity would significantly affect a sea otter's health, reproduction, or survival or otherwise cause any population-level effects. Therefore, the FWS does not anticipate that the conjectural or speculative impacts associated with these specified activities warrant a finding of non-negligible impact or otherwise preclude issuance of this ITR.

We reviewed the effects of the specified pile driving and marine construction activities on sea otters, including impacts from pile clipping, use of a wire saw, vibratory pile driving, impact pile driving, and DTH drilling. Based on our review of these potential impacts, past monitoring reports, and the biology and natural history of sea otters, we conclude that the anticipated incidental take from the USCG's specified activities would not affect the

rates of recruitment or survival for the Southwest, Southcentral, and Southeast Alaska stocks of sea otters, and would have a negligible impact on each of those stocks.

Least Practicable Adverse Impacts

We evaluated the practicability and effectiveness of mitigation measures based on the nature, scope, and timing of the specified activities; the best available scientific information; and monitoring data from similar pile driving and marine construction activities. After reviewing the original requests (submitted January 19, 2024, for Seward and Sitka and March 5, 2024, for Kodiak), the FWS discussed additional mitigation measures with the USCG to reduce the potential impacts of the specified activities. These additional mitigation measures included adding more information to the USCG's descriptions of underwater pile cutting operations, vessel activities, and in-water sound levels associated with project support operations (e.g., use of noise-producing hand tools and heavy equipment), deploying noise-dampening materials (e.g., pile caps or cushions) between the pile and hammer during pile-driving activities, and revising sea otter monitoring and shutdown zones. The applicant incorporated these additional mitigation measures in their revised requests and supporting documentation (WSP Environment and Infrastructure 2024 Request; Weston Solutions 2024 Request). We determine that the mitigation measures included within the USCG's request will ensure least practicable adverse impact on sea otters.

In evaluating what mitigation measures are appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses, we considered the manner and degree to which the successful implementation of the measures is expected to achieve this goal. We considered the nature of the potential adverse impact being mitigated (likelihood, scope, range), the likelihood that the measures will be effective if implemented, and the likelihood of effective implementation. We also considered the practicability of the measures for applicant implementation (e.g., cost, impact on operations).

To reduce the potential for disturbance from acoustic stimuli associated with the activities, the applicant has proposed mitigation measures, including the following:

- Using pile caps made of high-density polyethylene or ultra-high-molecular-weight polyethylene

softening materials during impact pile driving;

- Conducting activities that may produce in-water noise during lower tidal conditions as possible to reduce transmission of sound into the water column;
- Using silt curtains or other containment methods to reduce sedimentation and turbidity when conducting DTH drilling and vibroflot column installation;
- Development of marine mammal monitoring and mitigation plans;
- Visual mitigation monitoring by designated PSOs;
- Halting or delaying activity during environmental conditions that may hinder sea otter detection, such as darkness, adverse weather conditions, high sea states, and other times of limited visibility;
- Maintaining the maximum distance practicable between a vessel and raft of sea otters;
- Operating vessels in such a way as to avoid approaching sea otters or impeding sea otter movements when traveling near the shoreline in shallow water (<20 m [66 ft]) whenever practicable;
- Establishment of shutdown and monitoring zones;
- Site clearance before activity startup;
- Soft-start procedures; and
- Shutdown procedures.

A number of additional potential mitigation measures were considered but determined to be not practicable. One proposed mitigation measure for project activities in Sitka was determined to be not practicable after publication of the proposed rule (90 FR 26486, June 23, 2025). All these measures are listed below:

- *Require use of bubble curtains*—At the time of publication of the proposed rule (90 FR 26486, June 23, 2025), the applicant indicated that they were unable to find a contractor with access to bubble curtain equipment for project activities in Seward and Sitka. The applicant indicated that bubble curtains would likely increase turbidity in the Kodiak project area, which may impact water quality and marine life including sea otter prey species. The FWS determined the required use of bubble curtains was not practicable because bubble curtains are impossible to undertake for project activities in Seward and Sitka and bubble curtains would not be effective in reducing the impacts to sea otters during project activities in Kodiak.
- *Require use of other noise-dampening methods*—The FWS determined the required use of other

noise-dampening methods, such as cofferdams, pile-surrounding casings, sound mitigation screens, and nets around piles, was not practicable because these methods were impossible to undertake considering the number of piles being removed or installed and the close proximity of piles to each other for project activities in each of the three locations.

- *Require use of alternate detection methods*—The FWS determined that the required use of alternate detection methods, such as infrared sensors, thermal imaging, or surveys conducted by aircraft, unmanned aircraft system, or vessel, was not practicable considering that these alternate detection methods would not be as effective in reducing impacts to sea otters and the applicant would employ PSOs to monitor the project area for sea otters.

- *Require 500-m minimum distance between vessels and sea otter rafts for Kodiak*—The FWS determined that vessels maintaining a minimum distance of 500 m (1,640 ft) from a raft of sea otters was impossible to undertake considering the width of the project area in Kodiak is approximately 488 m (1,601 ft) wide or less, but the applicant agreed to vessels maintaining the maximum distance between the vessel and rafts of sea otters as practicable. The FWS determined that requiring vessels to avoid traveling in nearshore shallow water (<20 m [<66 ft]) was impossible to undertake considering the project area in Kodiak is located on the shoreline in water less than 20 m (66 ft) deep, but the applicant agreed that vessels would avoid approaching or impeding sea otter movements when traveling near the shoreline in shallow water (<20 m [<66 ft]) whenever practicable.

- *Require acoustic shutdown zones greater than 20 m (66 ft) for Sitka*—The applicant indicated that acoustic shutdown zones greater than 20 m (66 ft) would be difficult to implement in Sitka because of the congested layout of multiple docks and construction barges obscuring the project monitoring area. The FWS determined that acoustic shutdown zones greater than 20 m (66 ft) was not practicable because this mitigation measure would not be effectively implemented for project activities in Sitka.

Impact on Subsistence Use

The specified projects will not preclude access to harvest areas or interfere with the availability of sea otters for harvest by Alaska Native Peoples. Additionally, the USCG facilities are located in developed areas and largely within areas where firearm

use is prohibited. We therefore make a finding that the USCG's anticipated harassment will not have an unmitigable adverse impact on the availability of Southcentral Alaska, Southeast Alaska, or Southwest Alaska stocks of sea otters for subsistence uses by Alaska Native Peoples during the specified timeframe. In making this finding, we considered the timing and location of the specified activities and the timing and location of subsistence harvest activities in the area of the specified project.

Monitoring and Reporting

The purpose of monitoring requirements is to assess the effects of specified activities on sea otters; to ensure that take is consistent with that anticipated in the small numbers, negligible impact, and subsistence use analyses; and to detect any unanticipated effects on the species or stock. Monitoring plans document when and how sea otters are observed, the number of sea otters, and their behavior during the observation. This information allows the FWS to measure encounter rates, examine trends in sea otter activity and distribution in the project areas, and estimate the number of sea otters potentially affected by the specified activities. The USCG is required to report all observations of sea otters. To the extent possible, PSOs will record group size, age, sex, behavior, duration of observation, and closest approach to the project activity. Activities within the specified geographic region may incorporate daily watch logs as well.

Monitoring activities will be summarized and reported in a formal report each year. The USCG must submit a final monitoring report to us no later than 90 days after the expiration of the LOA. We will base each year's monitoring objective on the previous year's monitoring results. We will require an approved plan for monitoring and reporting the effects of pile driving and marine construction activities on sea otters prior to issuance of an LOA. We will require approval of the monitoring results for continued operation under the LOA.

We find that these monitoring and reporting requirements to evaluate the potential impacts of planned activities will ensure that the effects of the activities remain consistent with the rest of the findings.

Required Determinations

National Environmental Policy Act (NEPA)

We have prepared an environmental assessment in accordance with the NEPA (42 U.S.C. 4321 *et seq.*). We have concluded that issuing a final ITR would not significantly affect the quality of the human environment, and, thus, preparation of an environmental impact statement for this incidental take regulation is not required by section 102(2) of NEPA or the Department's NEPA handbook. A copy of the EA and the FWS's FONSI can be obtained at <https://www.regulations.gov> under Docket No. FWS-R7-ES-2024-0195, or these documents may be requested as described under **FOR FURTHER INFORMATION CONTACT**.

Endangered Species Act (ESA)

Under the ESA (16 U.S.C. 1536(a)(2)), all Federal agencies are required to ensure the actions they authorize are not likely to jeopardize the continued existence of any threatened or endangered species or result in destruction or adverse modification of critical habitat. The planned activities occur within the range of Southwest Alaska, Southcentral Alaska, and Southeast Alaska stocks of northern sea otters. The first of these, the Southwest Alaska stock, is listed as threatened under the ESA, whereas the Southcentral Alaska and Southeast Alaska stocks are not listed under the ESA. Prior to issuance of this ITR, the FWS conducted intra-service consultation under section 7 of the ESA on our issuance of an ITR. These evaluations and findings may be requested from the FWS.

Government-to-Government Consultation

It is our responsibility to communicate and work directly on a Government-to-Government basis with federally recognized Alaska Native Tribes and organizations in developing programs for healthy ecosystems. We seek their full and meaningful participation in evaluating and addressing conservation concerns for protected species. It is our goal to remain sensitive to Alaska Native culture, and to make information available to Alaska Natives. Our efforts are guided by the following policies and directives:

- (1) *The Native American Policy of the Service* (January 20, 2016);
- (2) *The Service's Alaska Native Relations Policy* (January 10, 2025);
- (3) *Executive Order (E.O.) 13175* (January 9, 2000);

(4) *Department of the Interior Secretary's Orders 3206* (June 5, 1997), 3225 (January 19, 2001), 3342 (October 21, 2016), and 3403 (November 15, 2021), including *Director's Order 227* (September 8, 2022);

(5) the *Alaska Government-to-Government Policy* (a departmental memorandum issued January 18, 2001); and

(6) the Department of the Interior's policies on consultation with Alaska Native Tribes and organizations in Part 512 of the Departmental Manual, Chapters 4 through 7.

We have evaluated possible effects of the specified activities on federally recognized Alaska Native Tribes and organizations. The FWS has determined that, due to this project's locations and activities, the Tribal organizations and communities near Kodiak, Seward, and Sitka, as well as relevant Alaska Native Claims Settlement Act (ANCSA; 43 U.S.C. 1601 *et seq.*) corporations, will not be impacted by this project. Regardless, the FWS has contacted Tribal organizations in neighboring communities, as well as relevant ANCSA corporations, to inform them of the availability of this authorization and offer them the opportunity to consult.

Regulatory Planning and Review—E.O. 12866 and 13563

E.O. 12866, as reaffirmed by E.O. 13563, provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB) will review all significant rules. The OIRA has determined that this rulemaking action is not significant.

The OIRA bases its determination of significance upon the following four criteria: (a) Whether the rule will have an annual effect of \$100 million or more on the economy or adversely affect an economic sector, productivity, jobs, the environment, or other units of the government; (b) whether the rule will create inconsistencies with other Federal agencies' actions; (c) whether the rule will materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients; (d) whether the rule raises novel legal or policy issues.

Expenses will be related to, but not necessarily limited to: the development of requests for LOAs; monitoring, recordkeeping, and reporting activities conducted during pile driving and marine construction; development of activity- and species-specific marine mammal monitoring and mitigation plans; and coordination with Alaska Natives to minimize effects of operations on subsistence hunting. Realistically, costs of compliance with

this rule are minimal in comparison to those related to actual pile driving and marine construction. The actual costs to develop the petition for promulgation of regulations and LOA requests do not exceed \$100,000 per year, short of the "major rule" threshold that would require preparation of a regulatory impact analysis.

Small Business Regulatory Enforcement Fairness Act

We have determined that this rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. The rule is also not likely to result in a major increase in costs or prices for consumers, individual industries, or government agencies or have significant adverse effects on competition, employment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

We have determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The USCG and their contractors conducting pile driving and marine construction in Kodiak, Sitka, and Seward, are the only entities subject to these ITRs. Therefore, neither a regulatory flexibility analysis nor a small entity compliance guide is required.

Takings Implications

This rule does not have takings implications under E.O. 12630 because it authorizes the nonlethal, incidental, but not intentional, take of sea otters by pile driving and marine construction activities and, thereby, exempts the USCG from civil and criminal liability as long as they operate in compliance with the terms of their LOAs. Therefore, a takings implications assessment is not required.

Federalism Effects

This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 13132. The MMPA gives the FWS the authority and responsibility to protect sea otters.

Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), this rule will not "significantly or uniquely" affect small governments. A small government agency plan is not required. The FWS has determined and

certifies pursuant to the Unfunded Mandates Reform Act that this rulemaking will not impose a cost of \$100 million or more in any given year on local or State governments or private entities. This rule will not produce a Federal mandate of \$100 million or greater in any year, *i.e.*, it is not a “significant regulatory action” under the Unfunded Mandates Reform Act.

Civil Justice Reform

The Departmental Solicitor’s Office has determined that this rule will not unduly burden the judicial system and meets the applicable standards provided in sections 3(a) and 3(b)(2) of E.O. 12988.

Paperwork Reduction Act

This rule includes new information collections requiring approval by the OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number. The FWS will ask OMB to review and approve the new information collection requirements contained in this rulemaking related to incidental take of marine mammals in proposed 50 CFR subpart I.

In accordance with the PRA and its implementing regulations at 5 CFR 1320.8(d)(1), we provide the general public and other Federal agencies with a second opportunity to comment on the proposed information collections contained in this rule. This input will help us assess the impact of our information collection requirements and minimize the public’s reporting burden. It will also help the public understand our information collection requirements and provide the requested data in the desired format.

This is a nonform collection. Respondents must comply with the regulations at 50 CFR part 18, which outline the procedures and requirements for submitting a request. Specific regulations governing authorized incidental take of marine mammal activities are contained in 50 CFR part 18, subpart I (nonlethal, incidental, unintentional take by harassment of small numbers of northern sea otters). These regulations provide the applicant with a detailed description of information that we need to evaluate the proposed activity and determine if it is appropriate to issue specific regulations and, subsequently, LOAs. We use the information to verify the findings required to issue incidental take regulations, to decide if we should issue an LOA, (if an LOA is issued)

what conditions should be included in the LOA, and to monitor compliance with the regulations and LOA(s). In addition, we analyze the information to determine impacts to polar bears, Pacific walruses, northern sea otters, and the availability of those marine mammals for subsistence purposes of Alaska Natives.

In conjunction with this rulemaking, we will request OMB approval of the following:

(1) *Incidental Take of Marine Mammals—Application for Regulations*—Regulations at 50 CFR part 18 require the applicant to provide information on the activity as a whole, which includes, but is not limited to, an assessment of total impacts by all persons conducting the activity. Applicants can find specific requirements in 50 CFR part 18, subpart I. These regulations provide the applicant with a detailed description of information that we need to evaluate the proposed activity and determine whether to issue specific regulations and, subsequently, LOAs. The required information includes:

1. A description of the specific activity or class of activities that can be expected to result in incidental taking of marine mammals.

2. The dates and duration of such activity and the specific geographical region where it will occur.

3. Based on the best available scientific information, each applicant must also provide:

a. An estimate of the species and numbers of marine mammals likely to be taken by age, sex, and reproductive conditions;

b. The type of taking (*e.g.*, disturbance by sound, injury or death resulting from collision, etc.) and the number of times such taking is likely to occur;

c. A description of the status, distribution, and seasonal distribution (when applicable) of the affected species or stocks likely to be affected by such activities;

d. The anticipated impact of the activity upon the species or stocks; and

e. The anticipated impact of the activity on the availability of the species or stocks for subsistence uses.

4. The anticipated impact of the activity upon the habitat of the marine mammal populations and the likelihood of restoration of the affected habitat.

5. The availability and feasibility (economic and technological) of equipment, methods, and manner of conducting such activity or other means of effecting the least practicable adverse impact upon the affected species or stocks, their habitat, and, where relevant, on their availability for

subsistence uses, paying particular attention to rookeries, mating grounds, and areas of similar significance. (The applicant and those conducting the specified activity and the affected subsistence users are encouraged to develop mutually agreeable mitigating measures that will meet the needs of subsistence users.)

6. Suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species through an analysis of the level of taking or impacts and suggested means of minimizing burdens by coordinating such reporting requirements with other schemes already applicable to persons conducting such activity.

7. Suggested means of learning of, encouraging, and coordinating research opportunities, plans, and activities relating to reducing such incidental taking from such specified activities, and evaluating its effects.

8. Applicants must develop and implement a site-specific (or umbrella plan addressing site-specific considerations), FWS-approved marine mammal monitoring and mitigation plan to monitor and evaluate the effectiveness of mitigation measures and the effects of activities on marine mammals and the subsistence use of these species.

9. Applicants must also provide trained, qualified, and FWS-approved onsite observers to carry out monitoring and mitigation activities identified in the marine mammal monitoring and mitigation plan. Resumes for candidate PSOs will be made available for the FWS to review. This information is necessary for the FWS to anticipate the impact of the activity on the species or stocks and on the availability of the species or stocks for Alaska Native subsistence uses. Under requirements of the MMPA, we cannot authorize a take unless the total of all takes will have a negligible impact on the species or stocks and, where appropriate, will not have an unmitigable adverse impact on the availability of the species or stocks for subsistence uses. These requirements ensure that applicants are aware of related monitoring and research efforts they can apply to their situation, and that the monitoring and reporting that we impose are the least burdensome to the applicant.

(2) *Requests for Letters of Authorization (LOA)*—LOAs, which may be issued only to U.S. citizens, are required to conduct activities pursuant to any specific regulations established. Once specific regulations are effective, the FWS will, to the maximum extent possible, process subsequent

applications for LOAs within 30 days after receipt of the application by the FWS. All LOAs will specify the period of validity and any additional terms and conditions appropriate for the specific request. Issuance of LOAs will be based on a determination that the level of taking will be consistent with the findings made for the total taking allowable under the specific regulations.

The request for an LOA must comply with the requirements set forth in proposed § 18.103 and must include the following information:

1. An operational plan that describes in detail the activity (e.g., type of project, methods, and types and numbers of equipment and personnel, etc.), the dates and duration of the activity, and the specific locations affected by the activity;
2. A digital geospatial file of the project footprint;
3. A site-specific marine mammal monitoring and mitigation plan that specifies the procedures to monitor and mitigate the effects of the activities on sea otters; and
4. Plan of Cooperation (POC), if required, to mitigate potential conflicts between the activity and subsistence hunting.

(3) *Withdrawal of LOA*—Once issued, the LOA may be withdrawn or suspended if the project activity is modified in a way that undermines the results of the evaluation conducted per proposed § 18.104(a), if the conditions of the regulations in the proposed subpart are not being substantially met, or if the taking allowed is or may be having more than a negligible impact on the affected stock of sea otters or an unmitigable adverse impact on the availability of sea otters for subsistence uses.

(4) *Mitigation—3rd Party Notifications (Community Consultation)*—All applicants for an LOA must contact affected Alaska Native subsistence communities and hunter organizations to discuss potential conflicts caused by the activities and provide the FWS documentation of communications as described in § 18.103.

Documentation must include a summary of any concerns identified by community members and hunter organizations and the applicant's responses to identified concerns. A POC may not be required for an LOA request if no concerns are raised during community consultation regarding impacts to subsistence harvest or Alaska Native communities and subsistence user organizations.

(5) *Mitigation—3rd Party Notifications (Vessel Operations)*—Vessel operators must be provided

written guidance for avoiding collisions and minimizing disturbances to sea otters. Guidance will include measures identified in § 18.107, Mitigation.

(6) *Mitigation—Plan of Cooperation*—When appropriate, a holder of an LOA will be required to develop and implement an FWS-approved POC.

1. The POC must include a description of the procedures by which the holder of the LOA will work and consult with potentially affected subsistence hunters and a description of specific measures that have been or will be taken to avoid or minimize interference with subsistence hunting of marine mammals and to ensure continued availability of the species for subsistence use.

2. The FWS will review the POC to ensure that any potential adverse effects on the availability of the animals are minimized. The FWS will reject POCs if they do not provide adequate safeguards to ensure the least practicable adverse impact on the availability of marine mammals for subsistence use.

(7) *Mitigation—Designation and Training of Protected Species Observers (PSOs)*—The applicant will designate trained and qualified PSOs to monitor for the presence of sea otters, initiate mitigation measures, and monitor, record, and report the effects of the activities on sea otters. The applicant is responsible for providing training to PSOs to carry out mitigation and monitoring.

(8) *Mitigation and Monitoring Plan*—Applicants must have an approved mitigation and monitoring plan on file with the FWS's Marine Mammals Management Program (MMM) and onsite that includes the following information:

1. The type of activity and where and when the activity will occur (i.e., a summary of the plan of operation);
2. Personnel training policies, procedures, and materials;
3. Site-specific sea otter interaction risk evaluation and mitigation measures;
4. Sea otter avoidance and encounter procedures; and
5. Sea otter observation and reporting procedures.

(9) *Onsite Monitoring and Observation Reports*—The regulations also require that each holder of an LOA submit a monitoring report indicating the nature and extent of all takes of marine mammals that occurred incidentally to the specific activity. Since the inception of incidental take authorizations for polar bears (*Ursus maritimus*), Pacific walrus (walrus; *Odobenus rosmarus divergens*), and northern sea otters (otters; *Enhydra lutris kenyoni*), we have required monitoring and reporting during

industrial activities. The purpose of monitoring and reporting requirements is to assess the effects of industrial activities on sea otters to ensure that take is minimal to their populations, and to detect any unanticipated effects of take. The monitoring focus has been site-specific, area-specific, or population-specific. Site-specific monitoring measures animal-human encounter rates, outcomes of encounters, and trends of animal activity in the industrial areas, such as sea otter numbers, behavior, and seasonal use. Area-specific monitoring includes analyzing animal spatial and temporal use trends, sex/age composition, and risk assessment to unpredictable events, such as oil spills. Population-specific monitoring includes investigating species life-history parameters, such as population size, recruitment, survival, physical condition, status, and mortality.

(A) *In-Season Monitoring (Observation Reports)*—Duties of PSOs include watching for and identifying sea otters, recording observation details, documenting presence in any applicable monitoring zone, identifying and documenting potential harassment, and working with operators to implement all appropriate mitigation measures. Information in the observation report must include, but is not limited to:

1. PSOs will monitor a pre-clearance zone for 30 minutes prior to the commencement of in-water noise-generating activities and following periods of inactivity of more than 30 minutes to ensure all sea otters are not within the shutdown zone prior to initiating or resuming in-water noise-generating activities.

2. Observers will collect data using the following procedures:

- i. All data will be recorded onto a field form or database.
- ii. Global positioning system data, sea state, tidal state, wind force, visibility, and weather condition will be recorded at the beginning and end of a monitoring period, at least every hour in between, at the change of an observer, and upon observation of sea otters.
- iii. Observation records of sea otters will include date; time; the observers' locations; sea otter's heading (if moving); weather condition; visibility; number of sea otters; group composition (adults/juveniles); and the location of the sea otters (or distance and direction from the observer).

iv. Observation records will also include initial behaviors of the sea otters, descriptions of project activities and in-water noise levels being generated, the position of sea otters

relative to applicable monitoring and mitigation zones, any mitigation measures applied, and any apparent reactions to the project activities before and after mitigation.

v. For all sea otters in or near a mitigation zone, observers will record the distance from the sound source to the sea otter upon initial observation, the duration of the encounter, and the distance at last observation in order to monitor cumulative sound exposures.

vi. The PSOs will note any instances of sea otters lingering close to or traveling with vessels for prolonged periods of time.

vii. Monitoring of the shutdown zone must continue for 30 minutes following completion of in-water noise-generating activities.

(B) *In-Season Monitoring (Activity Progress Reports)*—Holders of an LOA must:

1. Notify the FWS at least 48 hours prior to the commencement of activities.

2. Provide the FWS monthly progress reports for all months during which noise-generating work takes place. The monthly report will contain and summarize the following information:

i. dates, times, weather, and sea conditions (including the Beaufort Scale sea state and wind force conditions) when sea otters were observed;

ii. the number, location, distance from the sound source, and behavior of the sea otters; and

iii. the associated project activities; and a description of the implementation and effectiveness of mitigation measures with a discussion of any specific behaviors the sea otters exhibited in response to mitigation.

(10) *Final Monitoring Report*—A final report will be submitted to the FWS's MMM within 90 days after the expiration of each LOA. The report will include:

1. A summary of monitoring efforts (hours of monitoring, activities monitored, number of PSOs, and, if requested by the FWS, the daily monitoring logs).

2. A description of all project activities, any additional work yet to be done, factors influencing visibility and detectability of marine mammals (*e.g.*, sea state, fog, glare, and number of observers), and factors correlated with the presence and distribution of sea otters (*e.g.*, weather, sea state, and project activities).

3. An estimate will be included of the number of sea otters exposed to noise at received levels greater than or equal to Level A harassment and Level B harassment (based on visual observation).

4. A description of changes in sea otter behavior resulting from project activities and any specific behaviors of interest.

5. A discussion of the mitigation measures implemented during project activities and their observed effectiveness for minimizing impacts to sea otters. Sea otter observation records will be provided to the FWS in the form of electronic database or spreadsheet files.

6. All reports must be submitted by email to fw7_mmm_reports@fws.gov.

7. Injured, dead, or distressed sea otters that are not associated with project activities (*e.g.*, animals known to be from outside the project area, previously wounded animals, or carcasses with moderate to advanced decomposition or scavenger damage) must be reported to the FWS within 24 hours of the discovery to either the FWS's MMM (1-800-362-5148, business hours); or the Alaska SeaLife Center in Seward (1-888-774-7325, 24 hours a day); or both. Photographs, video, location information, or any other available documentation must be provided to the FWS.

8. Operators must notify the FWS upon project completion or end of the work season.

(11) *Notification of LOA Incident Report*—

1. Except as otherwise provided in the regulations in the subpart, prohibited taking includes the provisions of § 18.11 as well as: intentional take, lethal incidental take of sea otters, and any take that fails to comply with the regulations in this subpart or with the terms and conditions of an LOA.

2. If specified activities cause unauthorized take, the holder of an LOA must:

i. Cease activities immediately (or reduce activities to the minimum level necessary to maintain safety);

ii. Report the details of the incident within 24 hours to the FWS's MMM at 1-800-362-5148 (business hours) or via email at FW7_MMM_Reports@fws.gov. If the unauthorized taking results in a sea otter being injured or killed, call the FWS MMM during business hours or the Alaska SeaLife Center in Seward (1-888-774-7325, 24 hours a day);

iii. Provide photographs, video, location information, and any other available documentation related to the unauthorized take of the sea otter(s) to the FWS; and

iv. Suspend further activities until the FWS has reviewed the circumstances, determined whether additional mitigation measures are necessary to avoid further unauthorized taking, and

notified the LOA holder that project activities may resume.

Title of Collection: Incidental Take of Marine Mammals During Specified Activities (50 CFR 18.27 and 50 CFR 18, Subpart I).

OMB Control Number: 1018-0205.

Form Numbers: None.

Type of Review: New.

Respondents/Affected Public: Federal Government—U.S. Coast Guard.

Total Estimated Number of Annual Respondents: 32.

Total Estimated Number of Annual Responses: 59.

Estimated Completion Time per Response: Completion times vary between 15 minutes and 130 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 515.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Total Estimated Annual Non-hour Burden Cost: None.

On June 23, 2025, we published in the **Federal Register** (90 FR 26486) a proposed rule (RIN 1018-BI08) which announced our intention to request OMB approval of the information collections explained in this rule. In that proposed rule, we solicited comments for 60 days on the information collections, ending on August 22, 2025. We did not receive any comments on the proposed information collections in response to that proposed rule.

As part of our continuing effort to reduce paperwork and respondent burdens, and in accordance with 5 CFR 1320.8(d)(1), we invite the public and other Federal agencies to comment on any aspect of this proposed information collection, including:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of response.

Comments that you submit in response to this rulemaking are a matter

of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Send your written comments and suggestions on this information collection by the date indicated in **DATES** to OMB, with a copy to the FWS Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS: PRB/PERMA (JAO), 5275 Leesburg Pike, Falls Church, VA 22041–3803 (mail); or by email to Info_Coll@fws.gov. Please reference “RIN 1018–BI08/OMB Control No. 1018–0205” in the subject line of your comments.

Energy Effects

E.O. 13211 requires agencies to prepare statements of energy effects when undertaking certain actions. This rule provides exceptions from the MMPA’s taking prohibitions for entities engaged in specified pile driving and marine construction activities in the specified geographic region. By providing certainty regarding compliance with the MMPA, this rule will have a positive effect on the pile driving and marine construction activities. Although the rule requires an applicant to take a number of actions, these actions have been undertaken by pile driving and marine construction activities for many years as part of similar past regulations. Therefore, this rule is not expected to significantly affect energy supplies, distribution, or use and does not constitute a significant

energy action. No statement of energy effects is required.

References

For a list of the references cited in this rule, see Docket No. FWS–R7–ES–2024–0195, available at <https://www.regulations.gov>.

List of Subjects in 50 CFR Part 18

Administrative practice and procedure, Alaska, Imports, Indians, Marine mammals, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

For the reasons set forth in the preamble, the U.S. Fish and Wildlife Service amends part 18, subchapter B of chapter 1, title 50 of the Code of Federal Regulations as set forth below.

PART 18—MARINE MAMMALS

■ 1. The authority citation of 50 CFR part 18 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*

■ 2. Amend part 18 by adding subpart I to read as follows:

Subpart I—Nonlethal Taking of Northern Sea Otters Incidental to Pile Driving and Marine Construction in Seward, Sitka, and Kodiak, Alaska

Sec.

- 18.100 Specified activities covered by this subpart.
- 18.101 Specified geographic region where this subpart applies.
- 18.102 Dates this subpart is in effect.
- 18.103 Procedure to obtain a Letter of Authorization (LOA).
- 18.104 How the FWS will evaluate a request for an LOA.
- 18.105 Authorized take allowed under an LOA.
- 18.106 Prohibited take under an LOA.
- 18.107 Mitigation.
- 18.108 Monitoring.

18.109 Reporting requirements.

18.110 Information collection requirements.

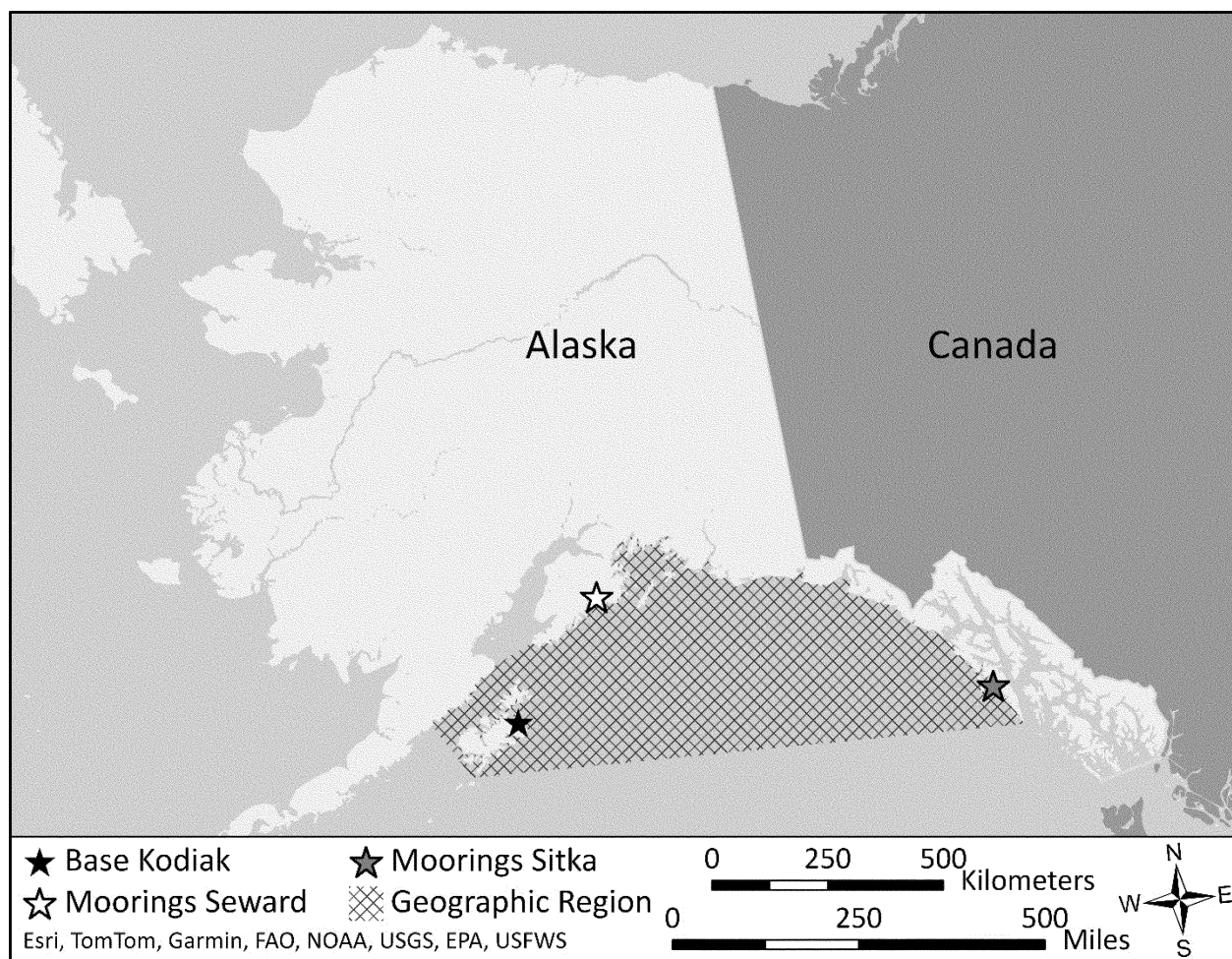
§ 18.100 Specified activities covered by this subpart.

Regulations in this subpart apply to the nonlethal incidental, but not intentional, take, as defined in § 18.3 and under section 3 of the Marine Mammal Protection Act (MMPA; 16 U.S.C. 1371 *et seq.*), of small numbers of northern sea otters (*Enhydra lutris kenyoni*; hereafter “sea otters”) by the U.S. Coast Guard (hereafter “USCG” or “the applicant”) while engaged in activities associated with or in support of pile driving and marine construction activities in Seward, Sitka, and Kodiak, Alaska. The applicant is a U.S. citizen as defined in § 18.27(c). A Letter of Authorization (LOA) from the U.S. Fish and Wildlife Service (FWS) is required to authorize incidental take that may occur during the specified activities.

§ 18.101 Specified geographic region where this subpart applies.

The specified geographic region for the incidental take regulations (ITR) in this subpart includes Gulf of Alaska coastal waters of three USCG facilities. The specified activities would occur in the waters and intertidal areas of the eastern shore of Resurrection Bay, Alaska, surrounding the new USCG Moorings Seward, the waters and intertidal areas of Sitka Channel, Alaska, surrounding the USCG Moorings Sitka, and the waters and intertidal areas of Womens Bay, Kodiak, Alaska, which surround the USCG Base Kodiak located on the Nyman Peninsula.

Figure 1 to § 18.101—Map of the ITR region including USCG’s Moorings Seward, Moorings Sitka, and Base Kodiak in Alaska where the activities covered by this subpart will occur.



§ 18.102 Dates this subpart is in effect.

The regulations in this subpart are effective from March 27, 2026 through March 27, 2031.

§ 18.103 Procedure to obtain a Letter of Authorization (LOA).

(a) The applicant must submit the request for an LOA to the FWS Alaska Region, Marine Mammals Management Office (MMM), MS 341, 1011 East Tudor Road, Anchorage, Alaska 99503, at least 30 days prior to the start of the specified activity.

(b) The request for an LOA must comply with the requirements set forth in §§ 18.107 through 18.109 and must include the following information:

(1) An operational plan that describes in detail the activity (e.g., type of project, methods, and types and numbers of equipment and personnel, etc.), the dates and duration of the activity, and the specific locations affected by the activity.

(2) A digital geospatial file of the project footprint.

(3) A site-specific marine mammal monitoring and mitigation plan that specifies the procedures to monitor and

mitigate the effects of the activities on sea otters.

(4) Documentation of the applicant's communication with potentially affected subsistence communities surrounding Seward, Sitka, and Kodiak and appropriate subsistence user organizations to discuss the location, timing, and methods of activities and identify and mitigate any potential conflicts with subsistence sea otter hunting activities.

(i) The applicant must specifically inquire of relevant communities and organizations if the activity will interfere with the availability of sea otters for the subsistence use of those groups.

(ii) Documentation must include a summary of any concerns identified by community members and hunter organizations and the applicant's responses to identified concerns.

(iii) A plan of cooperation (POC) may not be required for an LOA request if no concerns are raised during community consultation regarding impacts to subsistence harvest or Alaska Native communities and subsistence user organizations.

(5) A POC, if required, to mitigate potential conflicts between the activity and subsistence hunting.

§ 18.104 How the FWS will evaluate a request for an LOA.

(a) The FWS will evaluate each request for an LOA to determine if the specified activity is consistent with the analysis and findings we made during the rulemaking process for this subpart.

(1) We will determine whether the level of activity identified in the request exceeds the level that we analyzed in estimating the number of animals to be taken and evaluating whether there will be a negligible impact on the species or stock and an unmitigable adverse impact on the availability of the species or stock for subsistence uses.

(2) If the level of activity is greater, we will evaluate the potential impact of this greater level of activity to determine if the potential impact is consistent with our findings. Depending on the results of the evaluation, we may grant the requested authorization, add further conditions, or deny the request for an LOA. An LOA will be limited to a 1-year

period or less within the period set forth in § 18.102.

(b) The FWS will make decisions concerning withdrawal or suspension of an LOA (see § 18.27(f)(5) and (6)).

§ 18.105 Authorized take allowed under an LOA.

(a) To incidentally take marine mammals pursuant to the regulations in this subpart, the applicant must apply for and obtain an LOA in accordance with §§ 18.27(f), 18.103, and 18.104.

(b) An LOA issued under this subpart allows for the nonlethal, incidental, but not intentional take by harassment, as defined under section 3 of the MMPA (16 U.S.C. 1362), of sea otters during activities specified in § 18.100 within the Seward, Sitka, and Kodiak ITR region of Alaska described in § 18.101.

(c) Each LOA will set forth:

(1) Permissible methods of incidental take;

(2) Means of effecting the least practicable adverse impact on the species, its habitat, and the availability of the species for subsistence uses; and

(3) Requirements for monitoring and reporting.

(d) Allowable take under these regulations is limited to take by Level B harassment and Level A harassment (as those terms are defined at 16 U.S.C. 1362).

(e) Each LOA will identify terms and conditions for each activity and location.

§ 18.106 Prohibited take under an LOA.

(a) Except as otherwise provided in this subpart, prohibited taking includes the provisions of § 18.11 as well as: intentional take, lethal incidental take of sea otters, and any take that fails to comply with the regulations in this subpart or with the terms and conditions of an LOA.

(b) If specified activities cause unauthorized take, the holder of an LOA must:

(1) Cease activities immediately (or reduce activities to the minimum level necessary to maintain safety);

(2) Report the details of the incident within 24 hours to the FWS's MMM at 907-786-3800 (business hours) or via email at FW7_MMM_Reports@fws.gov. If the unauthorized taking results in a sea otter being injured or killed, call the FWS MMM during business hours or the Alaska SeaLife Center in Seward (1-888-774-7325, 24 hours a day);

(3) Provide photographs, video, location information, and any other available documentation related to the unauthorized take of the sea otter(s) to the FWS; and

(4) Suspend further activities until the FWS has reviewed the circumstances,

determined whether additional mitigation measures are necessary to avoid further unauthorized taking, and notified the LOA holder that project activities may resume.

§ 18.107 Mitigation.

(a) *Mitigation measures for all LOAs.* The applicant, including all personnel operating under the applicant's authority (or "operators," including contractors, subcontractors, and representatives) must undertake the following activities to avoid and minimize take of sea otters by harassment.

(1) Implement policies and procedures to avoid interactions with and minimize to the greatest extent practicable adverse impacts on sea otters, their habitat, and the availability of these marine mammals for subsistence uses.

(2) Develop avoidance and minimization policies and procedures, in cooperation with the FWS, that include temporal or spatial activity restrictions to be used in response to the presence of sea otters engaged in a biologically significant activity (e.g., resting, feeding, hauling out, mating, or nursing).

(3) Cooperate with the FWS's MMM Office and other designated Federal, State, and local agencies to monitor and mitigate the impacts of pile driving and marine construction activities on sea otters.

(4) Allow FWS personnel or the FWS's designated representative to board project vessels or visit project worksites for the purpose of monitoring impacts to sea otters and to subsistence uses of sea otters at any time throughout project activities so long as it is safe to do so.

(5) Designate trained and qualified protected species observers (PSOs) to monitor for the presence of sea otters, initiate mitigation measures, and monitor, record, and report the effects of the activities on sea otters. The applicant is responsible for providing training to PSOs to carry out mitigation and monitoring.

(6) Have an approved mitigation and monitoring plan on file with the FWS MMM and onsite that includes the following information:

(i) The type of activity and where and when the activity will occur (i.e., a summary of the plan of operation);

(ii) Personnel training policies, procedures, and materials;

(iii) Site-specific sea otter interaction risk evaluation and mitigation measures;

(iv) Sea otter avoidance and encounter procedures; and

(v) Sea otter observation and reporting procedures.

(b) *Mitigation measures for in-water noise-generating work.* The applicant must carry out the following measures:

(1) Construction activities must be conducted using equipment that generates the lowest practicable levels of in-water noise within the range of frequencies audible to sea otters.

(2) If a sea otter enters or appears likely to enter the shutdown zone, in-water activities must be shut down until either the sea otter has been visually observed outside the shutdown zone or at least 15 minutes have elapsed since the last observation time without redetection of the sea otter.

(i) During in-water activities at Seward, an acoustic shutdown zone of 85 meters (m; 280 feet [ft]) must be enforced during down-the-hole (DTH) drilling of concrete piles, and a shutdown zone of 30 m (99 ft) must be enforced during all other in-water activities.

(ii) During in-water activities at Sitka and Kodiak, regardless of predicted sound levels, a physical interaction shutdown zone of at least 20 m (66 ft) must be enforced.

(3) If the impact driver has been idled for more than 30 minutes, an initial set of three strikes from the impact driver must be delivered (at reduced energy if possible), followed by a 1-minute waiting period. This procedure will be conducted a total of three times before full-powered strikes if practicable. If unsafe working conditions during soft-starts occur (e.g., equipment failure), then the applicant may elect to discontinue soft-starts, and the applicant must notify the FWS if the soft-start procedure is discontinued.

(4) If practicable, a soft-start procedure for vibratory pile-driving activities may be implemented if the vibratory hammer has been idled for more than 30 minutes. During the soft-start procedure, initial noise generation must be limited to 15 seconds (at reduced energy if possible), followed by a 1-minute waiting period. This procedure will be conducted a total of three times before full-powered vibratory pile driving commences. If unsafe working conditions during soft-starts occur (e.g., equipment failure), then the applicant may elect to discontinue soft-starts and the applicant must notify the FWS if the soft-start procedure is discontinued.

(5) In-water activity must be conducted in daylight. If environmental conditions prevent visual detection of sea otters within the shutdown zone, in-water activities must be stopped until visibility is regained.

(6) All in-water work along the shoreline must be conducted during lower tidal conditions when the site is dewatered to the maximum extent practicable.

(7) When practicable, or when required by applicable local, State, or Federal regulations, the applicant must use containment methods (e.g., silt curtains) to isolate areas with high levels of turbidity during DTH drilling and vibroflot column installation.

(c) *Mitigation measures for vessel operations.* Vessel operators must take every precaution to avoid harassment of sea otters during vessel operations. The applicant must carry out the following measures:

(1) Vessels must maintain a minimum distance of 500 m (0.3 mile [mi]) from rafts of 10 or more sea otters unless otherwise needed for safety. If a vessel must transit within 500 m (0.3 mi) from rafts of sea otters, the vessel must travel at a reduced speed and maintain the maximum distance practicable between the vessel and raft of sea otters. Vessels must reduce speed and maintain a minimum distance of 100 m (328 ft) from all sea otters unless otherwise needed for safety.

(2) Vessels must not be operated in such a way as to separate members of a group of sea otters (two or more sea otters) from other members of the group, encircle sea otters, or impede movement of sea otters. Vessels must use established navigation channels or commonly recognized vessel traffic corridors and avoid approaching sea otters or impeding sea otter movements when traveling near the shoreline in shallow water (<20 m [<66 ft]) whenever practicable.

(3) When weather conditions require, such as when visibility drops, vessels must adjust speed accordingly to reduce the likelihood of injury to sea otters.

(4) Vessel operators must be provided written guidance for avoiding collisions and minimizing disturbances to sea otters. Guidance will include measures identified in paragraphs (c)(1) through (4) of this section.

(d) *Mitigation measures for the subsistence use of sea otters.* Holders of an LOA must conduct their activities in a manner that, to the greatest extent practicable, minimizes adverse impacts on the availability of sea otters for subsistence uses.

(1) *Community consultation.* Prior to receipt of an LOA, applicants must consult with potentially affected communities and appropriate subsistence user organizations to discuss potential conflicts with subsistence sea otter hunting caused by the location, timing, and methods of

operations and support activities (see § 18.103 for details). If community concerns suggest that the activities may have an adverse impact on the subsistence uses of this species, the applicant must address conflict avoidance issues through a POC as described in paragraph (d)(2) of this section.

(2) *Plan of cooperation.* Based on community consultations, the holder of an LOA will be required to modify their POC if directed by the FWS.

(i) The POC must include a description of the procedures by which the holder of the LOA will work and consult with potentially affected subsistence hunters and a description of specific measures that have been or will be taken to avoid or minimize interference with subsistence hunting of sea otters and to ensure continued availability of the species for subsistence use.

(ii) The FWS will review the POC to ensure that any potential adverse effects on the availability of sea otters are minimized. The FWS will reject POCs if they do not provide adequate safeguards to ensure the least practicable adverse impact on the availability of sea otters for subsistence use.

§ 18.108 Monitoring.

(a) Operators shall work with PSOs to apply mitigation measures and shall recognize the authority of PSOs up to and including stopping work, except where doing so poses a significant safety risk to personnel.

(b) Duties of PSOs include watching for and identifying sea otters, recording observation details, documenting presence in any applicable monitoring zone, identifying and documenting potential harassment, and working with operators to implement all appropriate mitigation measures.

(c) A sufficient number of PSOs will be available to meet the following criteria: 100 percent monitoring of shutdown zones during all daytime periods of in-water noise-generating work; a maximum of 4 consecutive hours on watch per PSO; a maximum of 12 hours on watch per day per PSO.

(d) All PSOs will complete a training course designed to familiarize individuals with monitoring and data collection procedures. This training will be completed prior to starting work. A field crew leader with prior experience as a sea otter observer will supervise the PSO team. Initially, new or inexperienced PSOs will be paired with experienced PSOs so that the quality of marine mammal observations and data recording is kept consistent. Resumes

for candidate PSOs will be made available for the FWS to review.

(e) The PSOs will be provided with reticule binoculars (7×50 or better), big-eye binoculars or spotting scopes (30×), inclinometers, and range finders. Field guides, instructional handbooks, maps, and a contact list will also be made available.

(f) The PSOs will monitor a pre-clearance zone for 30 minutes prior to the commencement of in-water noise-generating activities and following periods of inactivity of more than 30 minutes to ensure all sea otters are not within the shutdown zone prior to initiating or resuming in-water noise-generating activities.

(g) Observers will collect data using the following procedures:

(1) All data will be recorded onto a field form or database.

(2) Global positioning system data, sea state, tidal state, wind force, visibility, and weather condition will be recorded at the beginning and end of a monitoring period, at least every hour in between, at the change of an observer, and upon observation of sea otters.

(3) Observation records of sea otters will include date; time; the observers' locations; sea otter's heading (if moving); weather condition; visibility; number of sea otters; group composition (adults/juveniles); and the location of the sea otters (or distance and direction from the observer).

(4) Observation records will also include initial behaviors of the sea otters, descriptions of project activities and in-water noise levels being generated, the position of sea otters relative to applicable monitoring and mitigation zones, any mitigation measures applied, and any apparent reactions to the project activities before and after mitigation.

(5) For all sea otters in or near a mitigation zone, observers will record the distance from the sound source to the sea otter upon initial observation, the duration of the encounter, and the distance at last observation in order to monitor cumulative sound exposures.

(6) The PSOs will note any instances of sea otters lingering close to or traveling with vessels for prolonged periods of time.

(7) Monitoring of the shutdown zone must continue for 30 minutes following completion of in-water noise-generating activities.

§ 18.109 Reporting requirements.

(a) Operators must notify the FWS at least 48 hours prior to commencement of activities.

(b) Monthly reports will be submitted to the FWS's MMM for all months

during which noise-generating work takes place. The monthly report will contain and summarize the following information: dates, times, weather, and sea conditions (including the Beaufort Scale sea state and wind force conditions) when sea otters were observed; the number, location, distance from the sound source, and behavior of the sea otters; the associated project activities; and a description of the implementation and effectiveness of mitigation measures with a discussion of any specific behaviors the sea otters exhibited in response to mitigation.

(c) A final report will be submitted to the FWS's MMM within 90 days after the expiration of each LOA. The report will include:

(1) A summary of monitoring efforts (hours of monitoring, activities monitored, number of PSOs, and, if requested by the FWS, the daily monitoring logs).

(2) A description of all project activities, any additional work yet to be done, factors influencing visibility and detectability of marine mammals (*e.g.*, sea state, fog, glare, and number of observers), and factors correlated with the presence and distribution of sea otters (*e.g.*, weather, sea state, and project activities).

(3) An estimate will be included of the number of sea otters exposed to noise at received levels greater than or equal to Level A harassment and Level B harassment (based on visual observation).

(4) A description of changes in sea otter behavior resulting from project activities and any specific behaviors of interest.

(5) A discussion of the mitigation measures implemented during project activities and their observed effectiveness for minimizing impacts to sea otters. Sea otter observation records will be provided to the FWS in the form of electronic database or spreadsheet files.

(d) All reports must be submitted by email to FW7 MMM_Reports@fws.gov.

(e) Injured, dead, or distressed sea otters that are not associated with project activities (*e.g.*, animals known to be from outside the project area, previously wounded animals, or carcasses with moderate to advanced decomposition or scavenger damage) must be reported to the FWS within 24 hours of the discovery to either the FWS's MMM (907-786-3800, business hours); or the Alaska SeaLife Center in Seward (1-888-774-7325, 24 hours a day); or both. Photographs, video, location information, or any other available documentation must be provided to the FWS.

(f) Operators must notify the FWS upon project completion or end of the work season.

§ 18.110 Information collection requirements.

The Office of Management and Budget (OMB) has approved the information collection requirements contained in this part and assigned OMB Control Number 1018-0205. Federal agencies may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Direct comments regarding the burden estimate or any other aspect of the information collection to the FWS Information Collection Clearance Officer at the address provided at 50 CFR 2.1(b).

Kevin Lilly,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks, Exercising the Delegated Authority of the Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2026-05976 Filed 3-26-26; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 260324-0089]

RIN 0648-BO34

Fisheries of the Northeastern United States; Framework Adjustment 40 to the Atlantic Sea Scallop Fishery Management Plan

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Interim final rule.

SUMMARY: NMFS approves and implements Framework Adjustment 40 to the Atlantic Sea Scallop Fishery Management Plan (FMP) that establishes specifications for fishing years 2026 and 2027, including days-at-sea, limited access general category allocations, and modified area designations to optimize yield and to protect juvenile scallops. This action is necessary to prevent overfishing and improve resource yield-per-recruit and management of the fishery.

DATES: Effective April 1, 2026.

Comments must be received by April 27, 2026.

ADDRESSES: The New England Fishery Management Council (Council) has prepared a supplemental information

report (SIR) for this action that describes the measures in Framework 40. Copies of Framework 40, the SIR, and information on the economic impacts of this rulemaking are available upon request by mail from Dr. Cate O'Keefe, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950 and accessible via the internet at <https://www.nefmc.org/library/scallop-framework-40>. These documents and a plain language summary of this interim final rule are available at <https://www.regulations.gov/docket/NOAA-NMFS-2025-1494>. You may submit comments on the interim final rule, identified by NOAA-NMFS-2025-1494, by the following method:

Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter NOAA-NMFS-2025-1494 in the Search box (note: copying and pasting the FDMS Docket Number directly from this document may not yield search results). Click on the "Comment" icon, complete the required fields, and enter or attach your comments.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on <https://www.regulations.gov> without change. All personal identifying information (*e.g.*, name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Emily Keiley, Fishery Policy Analyst, 978-281-9116, email: emily.keiley@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

The scallop fishery's management unit ranges from the shorelines of Maine through North Carolina to the outer boundary of the Exclusive Economic Zone. The Atlantic Sea Scallop FMP, established in 1982, includes a number of amendments and framework adjustments that have revised and refined the fishery's management. The Council recommends scallop fishery catch limits and other management measures through specifications or framework adjustments that occur annually or biennially. Each year, the

scallop resource is surveyed and area-specific estimates of scallop biomass are produced to support the dynamic management system. These surveys, resulting data, and analysis are critical to the development of science-driven allocations. The Council adopted Framework Adjustment 40 to the Atlantic Sea Scallop FMP on December 3, 2025. Council action on Framework 40 could not be taken until the December meeting because the data and scientific analysis required to support the action was not complete and available until the end of November 2025. The Council submitted the SIR to NMFS on February 4, 2026, for approval. To help ensure that Framework 40 is implemented as close as possible to April 1, 2026, the start of the fishing year, NMFS is implementing Framework 40 through this interim final rule and is also affording the public the opportunity to comment on this action by accepting public comment until April 27, 2026. NMFS will review all of the comments received on this interim

final rule. If substantive comments are received, and NMFS intends to make changes to the rule in response, NMFS will publish a final rule.

NMFS has approved all of the measures in Framework 40 recommended by the Council, as described below. This interim final rule implements Framework 40, which establishes (1) scallop specifications and other measures for fishing years 2026, including changes to the catch, effort, and quota allocations and adjustments to the rotational area management program, and (2) default specifications for fishing year 2027. The measures approved in this action will allow for increased scallop harvest relative to the default specifications set through Framework 39, while continuing to meet the conservation objectives of the FMP.

The default measures established in Framework 39 (90 FR 16644, April 21, 2025) would be effective if NMFS implements these measures after the start of the fishing year. The default allocations for full-time limited access

vessels and limited access general category vessels are significantly lower than the allocations in Framework 40. Additionally, the default Northern Gulf of Maine (NGOM) set-aside is higher than the Framework 40 set-aside. If this action were delayed, the Framework 40 NGOM set-aside could be exceeded within a week, resulting in overharvest of the NGOM. Overharvest of the NGOM set-aside would not only negatively impact the scallop resource, it would also trigger a pound-for-pound payback in fishing year 2027, which would reduce fishing opportunities and have negative socioeconomic impacts on the scallop fleet. Given the size of the anticipated 2027 NGOM set-aside, the overage and resulting payback could eliminate the 2027 NGOM scallop fishing season.

To evaluate the economic impact of this rule, Framework 40 measures were compared to two baselines: default measures that would be effective if this rule were not implemented and status quo (table 1).

TABLE 1—LIMITED ACCESS BASELINE CONDITIONS AND FRAMEWORK 40

	Status quo	Default measures	Framework 40
Days-at-Sea	24	18	36.
Access Area Allocations	24,000 lb	0 lb	0 lb.

Framework 40 is expected to have a positive social and economic impact on the scallop fishery compared to both the default measures that would go into effect if this action were not

implemented and the status quo. This measure will expand access to the resource and is projected to result in a cost savings benefit of \$129 million compared to the default regulation that

would go into effect in its absence. Compared to the status quo a 31 percent increase (\$56 million) in net revenues is projected from implementing the Framework 40 measures.

TABLE 2—NET SCALLOP REVENUE FOR LIMITED ACCESS VESSELS IN FY 2026 AND PERCENT CHANGE FROM THE STATUS QUO

[Revenues in million 2024 dollars, landings in million lbs.]

	Status quo	FY 2026 default (FW 39)	IFR provisions
Estimated scallop annual projected landings (APL) (before set-asides removed)	18.355	10.134	18.686
Estimated Limited Access scallop landings (94.5% net of set asides)	15.827	8.057	16.139
Average No. of Entities (2020–2024), both small and large	152	152	152
Estimated revenues for scallop APL	\$297.475	\$168.673	\$299.909
Estimated Limited Access scallop revenues	\$256.499	\$134.112	\$259.037
Estimated Net Revenue for scallop APL	\$207.060	\$133.126	\$272.055
Estimated Limited Access net scallop revenue	\$178.538	\$105.848	\$234.979
Net scallop revenue per Entity	\$1.364	\$0.877	\$1.792
Change in net revenue compared to Status Quo	0.00%	– 40.71%	31.61%

Source: Table 50, Framework 40 to the Atlantic Sea Scallop FMP SIR.

The impacts of the measures in this IFR on the target species (Atlantic sea scallops) are also expected to be positive. The OFLs and ABCs for fishing years 2026 and 2027 (default) recommended by the Scientific and Statistical Committee (SSC) are

summarized in Table 3. The 2026 and 2027 OFL and ABC values are based on the most updated survey information and model configurations. Although generally the existing and default fishing targets are set lower than the limits in this IFR, they are too liberal for

the NGOM fishery; thus the IFR measures reduce the risk of overfishing and optimize overall yield from the fishery over the long term.

Specification of Scallop Overfishing Limit (OFL), Acceptable Biological Catch (ABC), Annual Catch Limits (ACL), Annual Catch Targets (ACT), Annual Projected Landings (APL) and Set-Asides for the 2026 Fishing Year and Default Specifications for Fishing Year 2027

The OFL is based on a fishing mortality rate (F) of 0.49, equivalent to the F threshold updated through the Northeast Fisheries Science Center's most recent scallop benchmark stock assessment that was completed in 2025 (NEFSC, 2025). The ABC and the equivalent total ACL for each fishing year are based on an F of 0.36, which is the F associated with a 25-percent probability of exceeding the OFL. The SSC recommended scallop fishery ABCs of 28.1 million pounds (lb; 12,757 metric tons (mt)) for 2026 and 31.3 million lb (14,206 mt) for the 2027 fishing year, after accounting for discards and incidental mortality. In support of the development of the next

framework adjustment, the SSC will reevaluate the best available scientific information and, if warranted by the science at that time, the SSC may recommend modifications to the ABC for the 2027 fishing year.

Table 3 outlines the scallop fishery catch limits. After deducting the incidental target total allowable catch (TAC), the research set-aside (RSA), and the observer set-aside, the remaining ACL available to the fishery is allocated according to the following fleet proportions established in amendment 11 to the Atlantic Sea Scallop FMP (72 FR 20090, April 14, 2008): 94.5 percent is allocated to the limited access scallop fleet (*i.e.*, the larger "trip boat" fleet); 5 percent is allocated to the limited access general category (LAGC) individual fishing quota (IFQ) fleet (*i.e.*, the smaller "day boat" fleet); and the remaining 0.5 percent is allocated to limited access scallop vessels that also have LAGC IFQ permits. Amendment 15 (76 FR 43746, July 21, 2011) specified that buffers to

account for management uncertainty are not necessary in setting the LAGC ACLs (*i.e.*, the LAGC ACL is equal to the LAGC ACT). For the limited access fleet, the management uncertainty buffer is based on the F associated with a 75-percent probability of remaining below the F associated with ABC/ACL, which, using the updated Fs applied to the ABC/ACL, now results in an F of 0.29. Amendment 21 to the Atlantic Sea Scallop FMP (87 FR 1688, January 12, 2023) modified the ACL flowchart to account for the scallop biomass in the NGOM as part of the legal limits in the fishery by adding biomass from the area into calculations of the OFL and ABC. That action moved the accounting of the NGOM ACL from within the NGOM OFL only into the OFL and ABC/ACL for the entire fishery. In addition, Amendment 21 created the NGOM Set-Aside to support a directed LAGC fishery (including NGOM and LAGC IFQ permitted vessels) in the NGOM Management Area.

TABLE 3—SCALLOP CATCH LIMITS (mt) FOR FISHING YEARS 2026 AND 2027 FOR THE LIMITED ACCESS AND LAGC IFQ FLEETS

Catch limits	2026 (mt)	2027 (mt) ¹
OFL	19,645	21,741
ABC/ACL (discards removed)	12,757	14,206
Incidental Landings	23	23
RSA	578	578
Observer Set-Aside	128	142
NGOM Set-Aside	199	99
ACL for fishery	12,028	13,463
Limited Access ACL	11,367	12,722
LAGC Total ACL	661	740
LAGC IFQ ACL (5 percent of ACL)	601	673
Limited Access with LAGC IFQ ACL (0.5 percent of ACL)	60	67
Limited Access ACT	10,169	11,026
APL (after set-asides removed)	7,747	(¹)
Limited Access APL (94.5 percent of APL)	7,321	(¹)
Total IFQ Annual Allocation (5.5 percent of APL) ²	426	320
LAGC IFQ Annual Allocation (5 percent of APL) ²	387	290
Limited Access with LAGC IFQ Annual Allocation (0.5 percent of APL) ²	39	29

¹ The catch limits for the 2027 fishing year are subject to change through a future specifications action or framework adjustment. This includes the setting of an APL for 2027 that will be based on the 2026 annual scallop surveys.

² As a precautionary measure, the 2027 IFQ and annual allocations are set at 75 percent of the 2026 IFQ Annual Allocations.

Research Set-Aside

This action deducts 1.275 million lb (578 mt) of scallops annually for 2026 and 2027 from the ABC for use as the Scallop RSA to fund scallop research. Vessels participating in Scallop RSA are compensated through the sale of scallops harvested under RSA projects. Of the 1.275 million-lb (578-mt) 2026 allocation, NMFS has already allocated 482,631 lb (218,918 kg) to previously-funded multi-year projects as part of the 2024 and 2025 RSA awards processes.

This action allows vessels participating in RSA projects to harvest

RSA compensation from the open bottom. No access areas have been allocated for RSA compensation fishing (see explanation of access areas below).

Vessels are prohibited from fishing for RSA compensation in the NGOM, unless the vessel is fishing on an RSA compensation trip using NGOM RSA allocation that was awarded to an RSA project. Lastly, Framework 40 prohibits the harvest of RSA from any rotational area under default 2027 measures. Until a new framework measure is published prior to the 2027 fishing year, RSA compensation may only be harvested

from open areas. The Council and NMFS will re-evaluate this default prohibition measure in the action that would set final 2027 specifications.

Observer Set-Aside

This action deducts one percent of the ABC for the industry-funded observer program to help defray the cost to scallop vessels that carry an observer. When a scallop vessel carries an observer, the vessel is allocated additional days-at-sea (DAS) or quota from the observer set-aside. This additional allocation is intended to help

defray the out-of-pocket costs paid by the vessel for the observer coverage. The observer set-aside is 282,192 lb (128 mt) for 2026 and 313,056 lb (142 mt) for 2027. The Council may adjust the 2027 observer set-aside when it develops specific, non-default measures for 2027.

Open Area Days-at-Sea (DAS) Allocations

This action implements vessel-specific DAS allocations for each of the three limited access scallop DAS permit categories (*i.e.*, full-time, part-time, and occasional) for 2026 and 2027 (table 2). The 2026 DAS allocations are more than those allocated to the limited access fleet in 2025. Framework 40 sets 2027 DAS allocations at 75 percent of fishing year 2026 DAS allocations as a precautionary measure to avoid over-allocating DAS to the fleet in the event that the 2027 specifications action is delayed past the start of the 2027 fishing year. The allocations in table 4 exclude any DAS deductions that are required if the limited access scallop fleet exceeds its 2025 sub-ACL.

TABLE 4—SCALLOP OPEN AREA DAS ALLOCATIONS FOR 2026 AND DEFAULT 2027

Permit category	2026	2027 (default)
Full-Time	36	27
Part-Time	14.4	10.8
Occasional	3	2.25

Changes to Fishing Year 2026 Sea Scallop Rotational Area Program—Access Areas

The formal access area rotational program was established in 2003 to promote optimal yield in the fishery. Under the rotation program, areas with large concentrations of fast-growing, small scallops are closed before the scallops are exposed to fishing. Scallops grow fastest when they are very small and protection of these small scallops through area closures is critical in the rotational management of the scallop resource. After a period of closure, and after evaluation according to the criteria and procedures established in the FMP, the areas can be re-opened for scallop fishing when the scallops are larger and more suitable for harvest. This process boosts scallop meat yield and yield per recruit. When the areas are open for access (*i.e.*, “access areas”), vessels are allocated a number of trips with corresponding trip limits that they may use in those dedicated access areas. Once the high concentrations of scallops in an access area have been fished down, the area may be closed if it appears that the resource will rebound in a few years after protecting any small scallops that may be there, or it could be converted back to an “open area.” where limited access vessels fish for scallops under DAS allocations and LAGC IFQ vessels can fish open area trip limits.

Framework 40 does not open any access areas for fishing year 2026 or identify any access areas that are anticipated to be opened in 2027. The 2025 scallop surveys suggest that there

are no areas of high-density scallops that can support rotational fishing in 2026 comparable to recent years (*i.e.*, access area allocations of 12,000 lb (5,443 kg) or more).

Changes to Fishing Year 2026 Sea Scallop Rotational Area Program—Closed Areas

Framework 40 maintains the closure of Nantucket Lightship-North and Nantucket Lightship-South (table 3) and closes Area II (table 4).

The continued closure of the Nantucket Lightship-North and Nantucket Lightship-South is anticipated to optimize growth of juvenile scallops on Georges Bank with the expectation of supporting scallop fishing in the future. Scallops in the Nantucket Lightship-South are in very high densities and are likely to recruit to the 4-inch ring by the 2027 fishing year. This recruitment event appears to extend up to the boundary with the Nantucket Lightship-North, and a continued closure is expected to help further protect these animals. The growth potential for these juveniles is high if they survive over the next several years. The continued closure of the Nantucket Lightship-North and Nantucket Lightship-South to scallop fishing is intended to support the growth of this cohort of scallops in the absence of fishing pressure.

The closure of Area II allows for the recovery of the area after 6 years of rotational fishing and protect moderate densities of small scallops in the Area II-Extension observed in the 2025 surveys.

TABLE 5—NANTUCKET LIGHTSHIP SCALLOP ROTATIONAL AREA

Point	Latitude	Longitude
NL1	40°20.0' N	69°30.0' W
NL2	40°20.0' N	68°48.0' W
NL3	40°33.0' N	68°48.0' W
NL4	40°33.0' N	69°00.0' W
NL5	40°50.0' N	68°60.0' W
NL6	40°50.0' N	69°30.0' W
NL1	40°20.0' N	69°30.0' W

TABLE 6—AREA II

Point	Latitude	Longitude	Note
AII1	41°30' N	67°20' W	
AII2	41°30' N	(1)	(2)
AII3	40°40' N	(3)	(2)
AII4	40°40' N	67°20' W	

¹ The intersection of 41°30' N Lat. and the U.S.-Canada Maritime Boundary, approximately 41°30' N Lat., 66°34.73' W Long.

² From Point AII2 connected to Point AII3 along the U.S.-Canada Maritime Boundary.

³ The intersection of 40°40' N Lat. and the U.S.-Canada Maritime Boundary, approximately 40°40' N Lat. and 65°52.61' W Long.

Elephant Trunk Closure Converting to Open Area

Framework 40 opens the Elephant Trunk area, which was closed during the 2025 fishing year to allow growth of small scallops observed in the 2024 surveys. The area no longer meets the criteria for either closure or controlled access as defined in 50 CFR 648.55(a)(6). This area is becoming part of the open area and can be fished as part of the DAS program or on LAGC IFQ open area beginning on April 1, 2026.

Area I Rotational Area Converting to Open Area

Framework 40 will revert the Area I Rotational Area to the open area. This area was previously managed as part of the area rotation program; however, there is not enough biomass to support rotational access, nor was there enough recruitment seen in the 2025 annual survey to support keeping this area as part of the program. The area no longer meets the criteria for either closure or controlled access as defined in § 648.55(a)(6). This area will become part of the open area and could be fished as part of the DAS program or on LAGC IFQ open area trips after the 60-day carryover period, *i.e.*, after May 30, 2026.

LAGC Measures

1. ACL and IFQ Allocation for LAGC Vessels With IFQ-Only Permits

This action implements a 1.325 million-lb (601-mt) ACL for 2026, and a 1.484 million-lb (673-mt) default ACL for 2027, for LAGC vessels with IFQ permits (see table 1). These sub-ACLs provide a ceiling on overall landings by the LAGC IFQ fleet. If the fleet were to

exceed this ceiling, any overages would be deducted from the following year's sub-ACL. Framework Adjustment 28 to the FMP (82 FR 15155, March 27, 2017) changed the way the LAGC IFQ allocations are set from a percentage of the ACL to a percentage of the APL. The purpose of this change was to help ensure that the allocation of potential catch between the fleets is more consistent with the concept of spatial management by allocating catch to the LAGC IFQ fleet based on harvestable scallops, all of which are in fishable areas, instead of total biomass, some of which is located in closed areas and unavailable for harvest. Since Framework 28 was implemented in 2017, the LAGC IFQ allocation has been equal to 5.5 percent of the projected landings (5 percent for LAGC IFQ vessels and 0.5 percent for LAGC IFQ vessels that also have a limited access scallop permit). The annual allocation to the LAGC IFQ-only fleet for fishing years 2026 and 2027 based on APL is 853,189 lb (387 mt) for 2026 and 639,341 lb (290 mt) for 2027 (see table 1). Each vessel's IFQ will be calculated from these allocations based on APL.

2. ACL and IFQ Allocation for Limited Access Scallop Vessels With IFQ Permits

This action implements a 132,277-lb (60-mt) ACL for 2026 and a default 147,710-lb (67-mt) ACL for 2027 for limited access scallop vessels with IFQ permits (see table 1). These sub-ACLs provide a ceiling on overall landings by this fleet. If the fleet were to reach this ceiling, any overages would be deducted from the following year's sub-ACL. The annual allocation to limited access scallop vessels with IFQ permits is 85,980 lb (39 mt) for 2026 and 63,934

lb (29 mt) for 2027 (see table 1). Each vessel's IFQ will be calculated from these allocations based on APL. NMFS will notify IFQ permit holders of their Framework 40 IFQ allocations.

3. NGOM Scallop Fishery Landing Limits

This action implements a total allowable landing limit (TAL) in the NGOM of 482,753 lb (218,973 kg) for fishing year 2026. This action deducts 25,000 lb (11,340 kg) of scallops annually for 2026 and 2027 from the NGOM TAL to increase the overall Scallop RSA to fund scallop research. In addition, this action deducts one percent of the NGOM ABC from the NGOM TAL for fishing years 2026 and 2027 to support the industry-funded observer program to help defray the cost to scallop vessels that carry an observer (table 7).

Amendment 21 developed landing limits for all permit categories in the NGOM and established an 800,000-lb (362,874-kg) NGOM Set-Aside trigger for the NGOM directed fishery, with a sharing agreement for access by all permit categories for allocation above the trigger. Allocation above the trigger (*i.e.*, the NGOM APL) is split 5 percent for the NGOM fleet and 95 percent for limited access and LAGC IFQ fleets. Framework 40 sets a NGOM Set-Aside of 437,867 lb (198,613 kg) for fishing year 2026 and a default NGOM Set-Aside of 219,934 lb (99,760 kg) for fishing year 2027. Because the NGOM Set-Aside for fishing years 2026 and 2027 is below the 800,000-lb (362,874-kg) trigger, Framework 40 does not allocate any landings to the NGOM APL. Table 10 describes the breakdown of the NGOM TAL for the 2026 and 2027 (default) fishing years.

TABLE 7—NGOM SCALLOP FISHERY LANDING LIMITS FOR FISHING YEAR 2026 AND 2027

Landings limits	2026		2027 ¹	
	lb	kg	lb	kg
NGOM TAL	482,753	218,973	.....	.....
1 percent NGOM ABC for Observers	19,886	9,020	.....	.....
RSA Contribution	25,000	11,340	25,000	11,340
NGOM Set-Aside	437,867	198,613	219,934	99,760
NGOM APL	(²)	(²)	(²)	(²)

¹ The catch limits for the 2027 fishing year are subject to change through a future specifications action or framework adjustment. This includes the setting of an APL for 2027 that will be based on the 2026 annual scallop surveys.

² NGOM APL is set when the NGOM Set-Aside is above 800,000 lb (362,874 kg).

4. Scallop Incidental Landings Target TAL

This action sets a 50,000-lb (22,680-kg) scallop incidental landings target TAL for each respective fishing year, 2026 and 2027, to account for mortality

from vessels that catch scallops while fishing for other species and ensure that F targets are not exceeded. The Council and NMFS may adjust this target TAC in a future action if vessels catch more

scallops under the incidental target TAC than predicted.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Fishery Conservation and Management Act

(Magnuson-Stevens Act), the NMFS Assistant Administrator has determined that this interim final rule is consistent with the FMP, other provisions of the Magnuson-Stevens Act and other applicable law.

Executive Order 12866

This interim final rule has been determined to be economically significant under Executive Order 12866.

Executive Order 14192

This interim final rule is a routine fishing action exempt from E.O. 14192.

Executive Order 13175

NMFS has determined that this action would not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes; therefore, consultation with Tribal officials under E.O. 13175 is not required, and the requirements of sections (5)(b) and (5)(c) of E.O. 13175 also do not apply. A Tribal summary impact statement under section (5)(b)(2)(B) and section (5)(c)(2) of E.O. 13175 is not required and has not been prepared.

Administrative Procedure Act

The Assistant Administrator for Fisheries has determined under 5 U.S.C. 553(b) that it is contrary to the public interest to provide for prior notice for this action. It is necessary to implement the measures of this rule in an expedited manner to achieve conservation objectives for the scallop fishery. Similarly, the need to implement these measures in a timely manner constitutes good cause, under authority contained in 5 U.S.C. 553(d)(3), to waive the 30-day delay in the date of effectiveness and to make Framework 40 measures effective as soon as possible.

Need for the Rule

Without this rule, on April 1, 2026, the default specifications would be effective for the scallop fishery. The default specifications were previously approved in Framework 39. At the time Framework 39 and its 2026 default specifications were developed, NMFS did not have the survey and assessment information that is now available, and the default specifications do not appropriately allocate scallop effort relative to updated scientific information. Based upon the current best available science, the default

regulations are too restrictive for the limited access and LAGC fleets and too liberal for the NGOM fishery. If this rule were delayed and default specifications were put into place, both of these scenarios would have negative impacts on the resource and fishery.

Limited Access and Limited Access General Category Fisheries

Because most of the default specifications are more conservative than those that would be implemented in Framework 40, delaying the implementation of this action to allow prior notice and opportunity for public comment or a 30-day delay in effective date would be contrary to the public interest because it would cause the scallop fleet to lose the positive economic benefits of immediate implementation and could also negatively impact the area rotation program by delaying fishing in areas where scallops are more abundant. There is good cause to immediately implement the rule rather than delay the effective date by 30-days because this action provides full-time limited access vessels with an additional 18 DAS (36 DAS total), and LAGC IFQ vessels will receive an additional 89-mt (426-mt total) of allocation. Framework 40 will also open the Elephant Trunk area and convert Area I to open bottom. Opening both of these areas provides more access and opportunity for the scallop fleet to fish in areas of higher scallop densities; increased access area flexibility is critical to supporting the scallop industry. Framework 40 could not have been put into place sooner to allow for a 30-day delayed effectiveness because the information and data necessary for the Council to develop the framework were not available in time for this action to be forwarded to NMFS and implemented by April 1, 2026, the beginning of the scallop fishing year. Additionally, because this rule relieves restrictions by increasing these allocations, it is not subject to the 30-day delayed effectiveness provision of the APA pursuant to 5 U.S.C. 553(d)(1).

Northern Gulf of Maine

The 2026 NGOM set-aside implemented by this action is 437,867 lb (198,613 kg), which is lower than the default 2026 NGOM set-aside by 69,196 lb (31,387 kg). If there were a delay in the implementation of this rule, beyond April 1, 2026, there is a high likelihood that the 2026 NGOM set-aside established in Framework 40 would be exceeded within a week of the start of the scallop fishing year. Not only would this result in localized overharvest of the NGOM scallop fishery, it would also

have negative socio-economic impacts on the scallop fishery. An overage of the NGOM set-aside would trigger the accountability measure and require a pound-for-pound pay back as soon as practicable, likely in the 2027 fishing year. The overage payback would result in a significantly lower 2027 NGOM set-aside and diminished opportunity for the scallop fleet in 2027, possibly eliminating scallop fishing in the area in 2027 altogether. Recent biomass trends suggest the 2027 NGOM set-aside could be lower than previous years, exacerbating the effect of any accountability measure. Delaying the implementation of this action to allow prior notice and opportunity for public comment or a 30-day delay in effective date would be contrary to the public interest because it would cause the scallop fleet to lose the future economic benefits and could also negatively impact the scallop resource in the NGOM.

Regulatory Flexibility Act

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

Paperwork Reduction Act

This final rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

List of Subjects 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: March 24, 2026.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS amends 50 CFR part 648 as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

Subpart D—Management Measures for the Atlantic Sea Scallop Fishery

■ 2. In § 648.53, revise paragraphs (a)(9), (b)(3), (c)(1), and (c)(2) to read as follows:

§ 648.53 Overfishing limit (OFL), acceptable biological catch (ABC), annual catch limits (ACL), annual catch targets (ACT), annual projected landings (APL), DAS allocations, and individual fishing quotas (IFQ).

(a) * * *

(9) *Scallop fishery catch limits.* The following catch limits will be effective for the 2026 and 2027 fishing years:

TABLE 1 TO PARAGRAPH (a)(9)—SCALLOP FISHERY CATCH LIMITS

Catch limits	2026 (mt)	2027 (mt) ¹
OFL	19,645	21,741
ABC/ACL (discards removed)	12,757	14,206
Incidental Landings	23	23
RSA	578	578
Observer Set-Aside	128	142
NGOM Set-Aside	199	99
ACL for fishery	12,028	13,463
Limited Access ACL	11,367	12,722
LAGC Total ACL	661	740
LAGC IFQ ACL (5 percent of ACL)	601	673
Limited Access with LAGC IFQ ACL (0.5 percent of ACL)	60	67
Limited Access ACT	10,169	11,026
APL (after set-asides removed)	7,747	(¹)
Limited Access APL (94.5 percent of APL)	7,321	(¹)
Total IFQ Annual Allocation (5.5 percent of APL) ²	426	320
LAGC IFQ Annual Allocation (5 percent of APL) ²	387	290
Limited Access with LAGC IFQ Annual Allocation (0.5 percent of APL) ²	39	29

¹ The catch limits for the 2027 fishing year are subject to change through a future specifications action or framework adjustment. This includes the setting of an APL for 2027 that will be based on the 2026 annual scallop surveys. The 2027 default allocations for the limited access component are defined for DAS in paragraph (b)(3) of this section and for access areas in § 648.59(b)(3)(i)(B).

² As specified in paragraph (a)(6)(iii)(B) of this section, the 2027 IFQ annual allocations are set at 75 percent of the 2026 IFQ Annual Allocations.

(b) * * *

(3) *DAS allocations.* The DAS allocations for limited access scallop vessels for fishing years 2026 and 2027 are as follows:

TABLE 2 TO PARAGRAPH (b)(3)—SCALLOP OPEN AREA DAS ALLOCATIONS

Permit category	2026	2027 ¹
Full-Time	36	27
Part-Time	14.4	10.8
Occasional	3	2.25

¹ The DAS allocations for the 2027 fishing year are subject to change through a future specifications action or framework adjustment. The 2027 DAS allocations are set at 75 percent of the 2026 allocation as a precautionary measure.

* * * * *

(c) * * *

(1) *Limited access AM exception.* If NMFS determines that the fishing mortality rate associated with the limited access fleet's landings in a fishing year is less than 0.29, the AM specified in paragraph (c) of this section shall not take effect. The fishing mortality rate of 0.29 is the fishing mortality rate that is one standard deviation below the fishing mortality rate for the scallop fishery ACL, currently estimated at 0.36.

(2) *Limited access fleet AM and exception provision timing.* The Regional Administrator shall determine whether the limited access fleet exceeded its sub-ACL, defined in paragraph (a)(5) of this section, by July of the fishing year following the year for which landings are being evaluated. On or about July 1, the Regional Administrator shall notify the New England Fishery Management Council of the determination of whether or not the sub-ACL for the limited access fleet was exceeded, and the number of landings in excess of the sub-ACL. Upon this notification, the Scallop Plan Development Team (PDT) shall evaluate the overage and determine if the fishing mortality rate associated with total landings by the limited access scallop fleet is less than 0.29. On or about September 1 of each year, the Scallop PDT shall notify the Council of its determination, and the Council, on or about September 30, shall make a recommendation, based on the Scallop PDT findings, concerning whether to invoke the limited access AM exception. If NMFS concurs with the Scallop PDT's recommendation to invoke the limited access AM exception, in accordance with the Administrative Procedure Act (APA), the limited access AM shall not be implemented. If NMFS does not

concur, in accordance with the APA, the limited access AM shall be implemented as soon as possible after September 30 each year.

* * * * *

- 3. Amend § 648.59 by
- a. Removing and reserving paragraph (a)(2)(i) and;
- b. Revising paragraphs (b)(3)(i)(B), (c), (e), and (g)(3)(v);

The revisions read as follows:

§ 648.59 Sea Scallop Rotational Area Management Program and Access Area Program requirements.

(b) * * *

(3) * * *

(i) * * *

(B) There are no scallop rotational areas available for continuous transit for the 2026 and 2027 fishing years.

* * * * *

(c) *Scallop Access Area scallop allocation carryover.* With the exception of vessels that held a Confirmation of Permit History as described in § 648.4(a)(2)(i)(J) for the entire fishing year preceding the carry-over year, a limited access scallop vessel may fish any unharvested Scallop Access Area allocation from a given fishing year within the first 60 days the access area is open in the subsequent fishing year, unless otherwise specified in this section. However, the vessel may not

exceed the Scallop Rotational Area trip possession limit. For example, if a full-time vessel has 7,000 lb (3,175 kg) remaining in the Area II Access Area at the end of fishing year 2025, that vessel may harvest those 7,000 lb (3,175 kg) during the first 60 days that the Area II Access Area is open in fishing year 2026. Area II will be open for carry-over fishing from May 15, 2026, through July 13, 2026. Area I will be open for carry-over fishing from April 1, 2026, through May 30, 2026.

* * * * *

(e) *Sea Scallop Research Set-Aside Harvest in Scallop Access Areas.* Unless otherwise specified, RSA may be harvested in any access area that is open in a given fishing year, as specified

through a specifications action or framework adjustment and pursuant to § 648.56. The amount of scallops that can be harvested in each access area by vessels participating in approved RSA projects shall be determined through the RSA application review and approval process. The access areas open for RSA harvest for fishing years 2026 and 2027 are:

- (1) 2026. No access areas.
(2) 2027. No access areas.

* * * * *

- (g) * * *
(3) * * *

(v) *LAGC IFQ access area allocations.*

There are no LAGC IFQ access area trip allocations for the 2026 and 2027 fishing years.

* * * * *

■ 4. Amend § 648.60 by:

■ a. Removing and reserving paragraphs (a) and (b);

■ b. Redesignating table 3 to paragraph (g)(1) as table 1 to paragraph (g)(1).

■ c. Revising paragraph (h);

The revision read as follows:

§ 648.60 Sea Scallop Rotational Areas.

* * * * *

(h) *Area II Scallop Rotational Area boundary.* The Area II Scallop Rotational Area is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

TABLE 2 TO PARAGRAPH (h)

Point	N latitude	W longitude	Note
All1	41°30'	67°20'	.....
All2	41°30'	(a)	(b)
All3	40°40'	(c)	(b)
All4	40°40'	67°20'	.....
All1	41°30'	67°20'	.....

^a The intersection of lat. 41°30' N and the United States-Canada Maritime Boundary, approximately lat. 41°30' N, long. 66°34.73' W.

^b From Point All2 connected to Point All3 along the United States-Canada Maritime Boundary.

^c The intersection of lat. 40°40' N and the United States-Canada Maritime Boundary, approximately lat. 40°40' N and long. 65°52.61' W.

* * * * *

■ 5. Amend § 648.62 by:

■ a. Revising paragraph (b)(1); and

■ b. Removing paragraph (e).

The revision read as follows:

§ 648.62 Northern Gulf of Maine (NGOM) Management Program.

(b) * * *

(1) The following landings limits will be effective for the NGOM for the 2026 and 2027 fishing years.

TABLE 1 TO PARAGRAPH (b)(1)

Landings limits	2026	2027 ^a
NGOM TAL	482,753	.....
1 percent NGOM ABC for Observers	19,886	.....
RSA Contribution	25,000	25,000
NGOM Set-Aside	437,867	219,934
NGOM APL	(b)	(b)

^a The landings limits for the 2027 fishing year are subject to change through a future specifications action or framework adjustment. This includes the setting of an APL for 2027 that will be based on the 2026 annual scallop surveys.

^b NGOM APL is set when the NGOM Set-Aside is above 800,000 lb (362,874 kg).

* * * * *

[FR Doc. 2026-05990 Filed 3-26-26; 8:45 am]

BILLING CODE 3510-22-P

Proposed Rules

Federal Register

Vol. 91, No. 59

Friday, March 27, 2026

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 751

[EPA-HQ-OPPT-2026-0992; FRL-13023-01-OCSPP]

RIN 2070-AL37

Perchloroethylene (PCE) and Carbon Tetrachloride (CTC); Regulation Under the Toxic Substances Control Act (TSCA); Compliance Date Extensions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA or Agency) is proposing to extend certain compliance dates applicable to certain entities subject to the regulation of perchloroethylene (PCE) and carbon tetrachloride (CTC) under the Toxic Substances Control Act (TSCA). EPA is proposing to extend certain Workplace Chemical Protection Program (WCPP) compliance dates for non-federal owners and operators to match the compliance dates for federal agencies and their contractors. For both PCE and CTC, this proposal would extend the compliance date for initial monitoring for inhalation exposure to June 21, 2027, and extend the compliance date to meet the existing chemical exposure limit (ECEL), establish a regulated area, provide any required respiratory personal protective equipment (PPE), and establish a respiratory PPE program to September 20, 2027. For PCE, EPA is also proposing to extend the compliance date for non-federal entities to establish and implement an exposure control plan to December 20, 2027.

DATES: Comments must be received on or before April 27, 2026.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA-HQ-OPPT-2026-0992, using the Federal eRulemaking Portal at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically

any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at <https://www.epa.gov/dockets/>.

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Bennett Thompson, Existing Chemicals Risk Management Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; telephone number: (202) 564-1071; email address: PCE.TSCA@epa.gov and CarbonTetrachlorideTSCA@epa.gov.

For general information contact: The TSCA Assistance Information Service Hotline, Goodwill Vision Enterprises, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (800) 471-7127 or (202) 554-1404; email address: TSCA-Hotline@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. Does this action apply to me?

You may be potentially affected by this rule if you manufacture, process, distribute in commerce, use, or dispose of PCE, CTC, or products containing these chemicals. TSCA section 3(9) defines the term “manufacture” to mean “to import into customs territory of the United States (as defined in general note 2 of the Harmonized Tariff Schedule of the United States), produce, or manufacture.” Therefore, unless expressly stated otherwise, importers of PCE and CTC are subject to provisions regulating manufacture of PCE and CTC once the chemical enters the customs territory of the United States. Under the following list of North American Industrial Classification System (NAICS) codes, potentially affected entities may include:

- Chemical Manufacturing (NAICS code 325);
- Nonmetallic Mineral Product Manufacturing (NAICS code 327);
- Primary Metal Manufacturing (NAICS code 331);
- Waste Management and Remediation Services (NAICS code 562);
- Crude Petroleum Extraction (NAICS code 21120).

- Support Activities for Oil and Gas Operations (NAICS code 213112).

- Nonwoven Fabric Mills (NAICS code 313230).

- Wood Window and Door Manufacturing (NAICS code 321911).

- Paper Bag and Coated and Treated Paper Manufacturing (NAICS code 322220).

- Commercial Screen Printing (NAICS code 323113).

- Petroleum Refineries (NAICS code 324110).

- Petroleum Lubricating Oil and Grease Manufacturing (NAICS code 324191).

- Petrochemical Manufacturing (NAICS code 325110).

- Industrial Gas Manufacturing (NAICS code 325120).

- Other Basic Inorganic Chemical Manufacturing (NAICS code 325180).

- Cyclic Crude, Intermediate, and Gum and Wood Chemical

- Manufacturing (NAICS code 325194);

- All Other Basic Organic Chemical Manufacturing (NAICS code 325199).

- Plastics Material and Resin

- Manufacturing (NAICS code 325211).

- Synthetic Rubber Manufacturing (NAICS code 325212).

- Pesticide and Other Agricultural Chemical Manufacturing (NAICS code 325320);

- Paint and Coating Manufacturing (NAICS code 325510).

- Adhesive Manufacturing (NAICS code 325520).

- Soap and Other Detergent

- Manufacturing (NAICS code 325611).

- Polish and Other Sanitation Good Manufacturing (NAICS code 325612).

- All Other Miscellaneous Chemical Product and Preparation Manufacturing (NAICS code 325998).

- Unlaminated Plastics Film and Sheet (except Packaging) Manufacturing (NAICS code 326113).

- All Other Plastics Product Manufacturing (NAICS code 326199).

- Rubber and Plastics Hoses and Belting Manufacturing (NAICS code 326220).

- Rubber Product Manufacturing for Mechanical Use (NAICS code 326291).

- All Other Rubber Product Manufacturing (NAICS code 326299).

- Pottery, Ceramics, and Plumbing Fixture Manufacturing (NAICS code 327110).

- Glass Container Manufacturing (NAICS code 327213).

- Cement Manufacturing (NAICS code 327310).
- Ground or Treated Mineral and Earth Manufacturing (NAICS code 327992);
- Nonferrous Metal (except Aluminum) Smelting and Refining (NAICS code 331410);
- Secondary Smelting, Refining, and Alloying of Nonferrous Metal (except Copper and Aluminum) (NAICS code 331492).
- Metal Crown, Closure, and Other Metal Stamping (except Automotive) (NAICS code 332119).
- Metal Kitchen Cookware, Utensil, Cutlery, and Flatware (except Precious) Manufacturing (NAICS code 332215).
- Saw Blade and Handtool Manufacturing (NAICS code 332216).
- Other Fabricated Wire Product Manufacturing (NAICS code 332618).
- Metal Heat Treating (NAICS code 332811).
- Metal Coating, Engraving (except Jewelry and Silverware), and Allied Services to Manufacturers (NAICS code 332812).
- Electroplating, Plating, Polishing, Anodizing, and Coloring (NAICS code 332813).
- Industrial Valve Manufacturing (NAICS code 332911).
- Fluid Power Valve and Hose Fitting Manufacturing (NAICS code 332912).
- Plumbing Fixture Fitting and Trim Manufacturing (NAICS code 332913).
- Other Metal Valve and Pipe Fitting Manufacturing (NAICS code 332919).
- Ball and Roller Bearing Manufacturing (NAICS code 332991).
- Small Arms Ammunition Manufacturing (NAICS code 332992).
- Ammunition (except Small Arms) Manufacturing (NAICS code 332993).
- Small Arms, Ordnance, and Ordnance Accessories Manufacturing (NAICS code 332994).
- Fabricated Pipe and Pipe Fitting Manufacturing (NAICS code 332996).
- All Other Miscellaneous Fabricated Metal Product Manufacturing (NAICS code 332999).
- Other Industrial Machinery Manufacturing (NAICS code 333249).
- Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing (NAICS code 333415).
- Machine Tool Manufacturing (NAICS code 333517).
- Measuring, Dispensing, and Other Pumping Equipment Manufacturing (NAICS code 333914).
- Welding and Soldering Equipment Manufacturing (NAICS code 333992).
- Packaging Machinery Manufacturing (NAICS code 333993).
- Industrial Process Furnace and Oven Manufacturing (NAICS code 333994).
- Fluid Power Cylinder and Actuator Manufacturing (NAICS code 333995).
- Fluid Power Pump and Motor Manufacturing (NAICS code 333996).
- All Other Miscellaneous General Purpose Machinery Manufacturing (NAICS code 333999).
- Instruments and Related Products Manufacturing for Measuring, Displaying, and Controlling Industrial Process Variables (NAICS code 334513).
- Analytical Laboratory Instrument Manufacturing (NAICS code 334516).
- Motor Vehicle Body Manufacturing (NAICS code 336211).
- Travel Trailer and Camper Manufacturing (NAICS code 336214).
- Other Motor Vehicle Parts Manufacturing (NAICS code 336390).
- Aircraft Manufacturing (NAICS code 336411).
- Aircraft Engine and Engine Parts Manufacturing (NAICS code 336412).
- Other Aircraft Parts and Auxiliary Equipment Manufacturing (NAICS code 336413).
- Guided Missile and Space Vehicle Manufacturing (NAICS code 336414).
- Guided Missile and Space Vehicle Propulsion Unit and Propulsion Unit Parts Manufacturing (NAICS code 336415).
- Other Guided Missile and Space Vehicle Parts and Auxiliary Equipment Manufacturing (NAICS code 336419).
- Ship Building and Repairing (NAICS code 336611).
- Surgical and Medical Instrument Manufacturing (NAICS code 339112).
- Jewelry and Silverware Manufacturing (NAICS code 339910).
- Sporting and Athletic Goods Manufacturing (NAICS code 339920).
- Doll, Toy, and Game Manufacturing (NAICS code 339930).
- Office Supplies (except Paper) Manufacturing (NAICS code 339940).
- Gasket, Packing, and Sealing Device Manufacturing (NAICS code 339991).
- Musical Instrument Manufacturing (NAICS code 339992).
- Fastener, Button, Needle, and Pin Manufacturing (NAICS code 339993).
- Broom, Brush, and Mop Manufacturing (NAICS code 339994).
- Burial Casket Manufacturing (NAICS code 339995).
- All Other Miscellaneous Manufacturing (NAICS code 339999).
- Motor Vehicle Supplies and New Parts Merchant Wholesalers (NAICS code 423120).
- Home Furnishing Merchant Wholesalers (NAICS code 423220).
- Industrial Supplies Merchant Wholesalers (NAICS code 423840).
- Service Establishment Equipment and Supplies Merchant Wholesalers (NAICS code 423850).
- Other Miscellaneous Durable Goods Merchant Wholesalers (NAICS code 423990).
- Grain and Field Bean Merchant Wholesalers (NAICS code 424510).
- Other Chemical and Allied Products Merchant Wholesalers (NAICS code 424690).
- Petroleum Bulk Stations and Terminals (NAICS code 424710).
- Petroleum and Petroleum Products Merchant Wholesalers (except Bulk Stations and Terminals) (NAICS code 424720).
- New Car Dealers (NAICS code 441110).
- Used Car Dealers (NAICS code 441120).
- Other Gasoline Stations (NAICS code 447190).
- Sporting Goods Stores (NAICS code 451110).
- All Other Miscellaneous Store Retailers (except Tobacco Stores) (NAICS code 453998).
- Scheduled Passenger Air Transportation (NAICS code 481111).
- Scheduled Freight Air Transportation (NAICS code 481112).
- Pipeline Transportation of Natural Gas (NAICS code 486210).
- Teleproduction and Other Postproduction Services (NAICS code 512191).
- Other Motion Picture and Video Industries (NAICS code 512199).
- Miscellaneous Intermediation (NAICS code 523910).
- Other Financial Vehicles (NAICS code 525990).
- Lessors of Other Real Estate Property (NAICS code 531190).
- Offices of Real Estate Agents and Brokers (NAICS code 531210).
- Testing Laboratories (NAICS code 541380).
- Research and Development in the Physical, Engineering, and Life Sciences (except Nanotechnology and Biotechnology) (NAICS code 541715).
- Marketing Research and Public Opinion Polling (NAICS code 541910).
- All Other Professional, Scientific, and Technical Services (NAICS code 541990).
- Offices of Other Holding Companies (NAICS code 551112).
- Solid Waste Combustors and Incinerators (NAICS code 562213).
- General Automotive Repair (NAICS code 811111).
- Automotive Exhaust System Repair (NAICS code 811112).
- Automotive Transmission Repair (NAICS code 811113).

- Other Automotive Mechanical and Electrical Repair and Maintenance (NAICS code 811118).
- Automotive Body, Paint, and Interior Repair and Maintenance (NAICS code 811121).
- Automotive Glass Replacement Shops (NAICS code 811122).
- Automotive Oil Change and Lubrication Shops (NAICS code 811191).
- All Other Automotive Repair and Maintenance (NAICS code 811198).
- Consumer Electronics Repair and Maintenance (NAICS code 811211).
- Computer and Office Machine Repair and Maintenance (NAICS code 811212).
- Communication Equipment Repair and Maintenance (NAICS code 811213).
- Other Electronic and Precision Equipment Repair and Maintenance (NAICS code 811219).
- Commercial and Industrial Machinery and Equipment (except Automotive and Electronic) Repair and Maintenance (NAICS code 811310).
- Home and Garden Equipment Repair and Maintenance (NAICS code 811411).
- Other Personal and Household Goods Repair and Maintenance (NAICS code 811490).
- Drycleaning and Laundry Services (except Coin-Operated) (NAICS code 812320).
- Industrial Launderers (NAICS code 812332).

B. What is the agency's authority for taking this action?

EPA has the authority under TSCA section 6(a) (15 U.S.C. 2605(a)) to conduct rulemaking to address unreasonable risks of injury to health or the environment presented by a chemical substance under its condition(s) of use. EPA must specify compliance dates under TSCA section 6(d) (15 U.S.C. 2605(d)) for any TSCA section 6(a) rule. In 2024, EPA promulgated final risk management rules under TSCA section 6(a) for PCE ("PCE Final Rule") (Ref. 1) and CTC ("CTC Final Rule") (Ref. 2), including compliance dates pursuant to TSCA section 6(d). This action proposes to alter some of the compliance dates finalized in 2024. Unless provided otherwise by law, agencies may change existing positions (*e.g.*, reconsider, revise, or rescind prior rules) provided that they acknowledge the change in position, offer a reasoned explanation for the change, and take any serious reliance interests into account. *See, e.g., FDA v. Wages & White Lion Invs., L.L.C.*, 145 S. Ct. 898, 917 (2025); *Encino Motorcars v. Navarro*, 579 U.S. 211, 221

(2016); *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009); *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29 (1983).

C. What action is the agency taking?

1. PCE

EPA is proposing to amend 40 CFR 751.607 to extend certain WCPP compliance dates for non-federal owners and operators to match the compliance dates for federal agencies and their contractors. Specifically, EPA proposes to extend the compliance date for initial monitoring from December 15, 2025, to June 21, 2027; extend the compliance date to meet the ECEL, establish a regulated area, provide any required respiratory PPE, and establish a respiratory PPE program from March 13, 2026, to September 20, 2027; and extend the compliance date to establish and implement an exposure control plan from June 7, 2027, to December 20, 2027. EPA is currently proposing to extend only the PCE WCPP compliance dates related to the ECEL and inhalation exposure, and EPA is not proposing to extend the WCPP compliance dates to implement dermal protection required by the PCE Final Rule.

2. CTC

EPA is also proposing to amend 40 CFR 751.707 to extend certain WCPP compliance dates for non-federal owners and operators for an additional twelve months to match the compliance dates for federal agencies and their contractors. Specifically, EPA proposes to extend the compliance date for initial monitoring from June 11, 2026, to June 21, 2027, and to extend the compliance date to meet the ECEL, establish a regulated area, provide any required respiratory PPE, and establish a respiratory PPE program from September 9, 2026, to September 20, 2027. EPA is currently proposing to extend only the CTC WCPP compliance dates related to the ECEL and inhalation exposure, and EPA is not proposing to extend the WCPP compliance dates to implement dermal protection required by the CTC Final Rule.

D. Why is the agency taking this action?

1. PCE

EPA is proposing to address unanticipated WCPP/ECEL implementation difficulties associated with the PCE Final Rule for non-federal owners and operators due to challenges for facilities implementing WCPP/ECEL requirements for multiple chemicals simultaneously as described in public comments received after the rule was published. As detailed further in Unit

III.A., EPA received comment from industry and trade organizations stating that facilities subject to multiple WCPPs under TSCA section 6 actions may face significant resource constraints and logistical challenges in implementing overlapping requirements on separate timelines. EPA has considered this new information and is taking action to ensure a reasonable transition period for WCPP/ECEL implementation and compliance dates that are as soon as practicable.

2. CTC

EPA is also proposing to address unanticipated WCPP/ECEL implementation difficulties associated with the CTC Final Rule for non-federal owners and operators due to limitations with available monitoring methods to adequately measure CTC exposure during tasks of short duration. As detailed further in Unit III.B., EPA received comment from industry and trade organizations stating that there are no adequate monitoring methods for short-term tasks that can reliably measure down to the ECEL. EPA has considered this new information and is taking action to ensure a reasonable transition period for non-federal owners and operators and an initial monitoring compliance date and subsequent WCPP/ECEL compliance dates that are as soon as practicable.

E. What are the incremental economic impacts?

EPA evaluated the potential incremental economic impacts and determined that these changes would have minimal impacts on the estimated costs and benefits of the existing actions and would primarily result in a delay when those costs and benefits begin accruing. Quantified costs are expected to be the same as estimated in the PCE and CTC Final Rules but will not be incurred until the proposed compliance date extensions expire. Relying on the cost estimates in Section 7 of the economic analysis of the PCE Final Rule (Ref. 3), and Section 3 of the economic analysis of the CTC Final Rule (Ref. 4), EPA estimates the annualized cost savings of extending compliance dates in this action to be \$6.2–8.3 million.

II. Background

A. PCE Final Rule

EPA published the PCE Final Rule on December 18, 2024 (Ref. 1). The PCE Final Rule established, among other things, WCPP requirements for certain conditions of use to protect workers from cancer and non-cancer effects from inhalation exposures. The PCE Final

Rule established different WCPP compliance deadlines for federal and non-federal entities. Non-federal entities were required to conduct initial monitoring by December 15, 2025; meet the ECEL, establish a regulated area, provide any required respiratory PPE, and establish a respiratory PPE program by March 13, 2026; and establish and implement an exposure control plan by June 7, 2027. Federal entities (including contractors acting for or on behalf of the federal government) were required to conduct initial monitoring by June 21, 2027; meet the ECEL, establish a regulated area, provide any required respiratory PPE, and establish a respiratory PPE program by September 20, 2027; and establish and implement an exposure control plan by December 20, 2027. As explained in the PCE Final Rule, EPA understood that federal agencies and their contractors would need additional time to comply due to federal procurement requirements.

After issuing the PCE Final Rule, EPA received several petitions for review that were consolidated in the U.S. Court of Appeals for the Fifth Circuit. On May 12, 2025, EPA filed a declaration advising the Court that the Agency intended to reconsider the PCE Final Rule and to solicit early stakeholder input on a rulemaking to revise the rule. To that end, EPA solicited public comment to inform its reconsideration of the PCE rule (Ref. 5). EPA has initiated action to reconsider aspects of the 2024 PCE Rule and intends to publish a separate Notice of Proposed Rulemaking to potentially amend various aspects of that rule.

B. CTC Final Rule

EPA published the CTC final rule on December 18, 2024 (Ref. 2). The CTC Final Rule established, among other things, WCPP requirements for certain conditions of use to protect workers from cancer and non-cancer effects from inhalation exposures. The CTC Final Rule established different compliance deadlines for federal and non-federal entities. Non-federal entities were required to conduct initial monitoring by June 11, 2026, and meet the ECEL, establish a regulated area, provide any required respiratory PPE, and establish a respiratory PPE program by September 9, 2026. Federal entities were required to conduct initial monitoring by June 21, 2027, and meet the ECEL, establish a regulated area, provide any required respiratory PPE, and establish a respiratory PPE program by September 20, 2027. As explained in the CTC Final Rule, EPA understood that federal agencies and their contractors would need additional time to comply due to

federal procurement requirements. However, both federal and non-federal entities were required to establish and implement an exposure control plan by December 20, 2027.

After issuing the CTC Final Rule, EPA received several petitions for review that were consolidated in the U.S. Court of Appeals for the Eighth Circuit. On September 12, 2025, EPA announced its decision to reconsider the CTC Final Rule through further rulemaking. In that announcement, the Agency expressed its intent to open a comment period on the final rule. To that end, EPA solicited public comment on the requirements and implementation of the CTC Final Rule, including feasibility of exposure monitoring (Ref. 6). EPA has initiated action to reconsider aspects of the 2024 CTC Rule and intends to publish a separate Notice of Proposed Rulemaking to potentially amend various aspects of that rule.

III. Provisions of This Proposed Rule

For any TSCA section 6(a) rule, EPA must specify mandatory compliance dates that are “as soon as practicable,” while allowing for “a reasonable transition period.” 15 U.S.C. 2605(d)(1)(B) and (E). EPA acknowledges that it is proposing a change in position from the PCE Final Rule and the CTC Final Rule. EPA intended that the compliance timeframes in the PCE Final Rule and the CTC Final Rule would be practicable and allow for a reasonable transition period (see Unit III.B.1 of the PCE Final Rule and Unit III.B of the CTC Final Rule). However, the Agency did not fully anticipate the challenges that certain entities are now experiencing in implementing WCPP/ECEL requirements related to exposure monitoring and implementing new WCPP requirements for multiple chemicals on overlapping timeframes. EPA also did not anticipate the additional complications and confusion that would arise by establishing different compliance dates for Federal and non-Federal entities. Accordingly, EPA proposes that the compliance dates detailed below would be more consistent with EPA’s obligations under TSCA section 6(d) for the PCE and CTC rules than those finalized in 2024.

A. Proposed Compliance Date Extensions for PCE

Among the issues raised by stakeholders in response to the Agency’s July 2025 request for public comment was the practicability of the existing compliance dates and the reasonableness of the transition period for the WCPP. One commenter raised

concerns about the suitability of existing exposure monitoring methods for PCE, asserting that additional time is needed for method validation and ensuring laboratory capacity (Ref. 7). Two industry trade organizations (Refs. 8, 9) stated that facilities subject to multiple WCPPs under TSCA section 6 actions may face significant resource constraints and logistical challenges in implementing overlapping requirements on separate timelines. One of these commenters asserted that the 2024 PCE Final Rule had created timelines that are not practically achievable and urged EPA to extend WCPP compliance timeframes so that facilities facing multiple overlapping WCPP obligations can realistically comply (Ref. 8). The other commenter suggested that EPA consider (1) aligning compliance timelines of the WCPPs for commercial entities and federal entities to a single date, (2) extending both sets of compliance dates to provide regulated parties with sufficient time for planning, or (3) phasing in exposure limits over longer timelines to allow business to program and invest in capital-intensive worker protections at the top of the hierarchy of controls, while controlling exposures in the interim (Ref. 9).

EPA recognizes the complexities of implementing multiple WCPP requirements on different timelines. To better ensure a reasonable transition period for WCPP/ECEL implementation and compliance dates that are as soon as practicable, EPA is proposing to extend the WCPP compliance deadlines for non-federal entities to match the current deadlines for federal entities. If finalized as proposed, this would require non-federal entities to:

- Conduct initial monitoring by June 21, 2027;
- Meet the ECEL, establish a regulated area, provide any required respiratory PPE, and establish a respiratory PPE program by September 20, 2027; and
- Establish and implement an exposure control plan by December 20, 2027.

EPA seeks comment on regulated entities’ ability to comply with both the original WCPP/ECEL compliance deadlines and the proposed compliance date extensions for non-federal entities, including whether the extended compliance dates proposed by EPA are “as soon as practicable” and “provide for a reasonable transition period.” EPA also seeks comment on whether, and to what extent, any other interrelated compliance dates should be extended to ensure that the WCPP is fully implementable as soon as practicable with a reasonable transition period (for

example, WCPP compliance date for workplace information and training). EPA is currently proposing to extend only the PCE WCPP compliance dates related to the ECEL and inhalation exposure because the Agency is not aware of any practicability concerns with implementing the dermal protection required by the PCE Final Rule by the current compliance dates. However, EPA welcomes comments on the implementation of dermal protection requirements and whether the current dates applicable to non-federal entities are practicable. Because EPA is proposing to change its position from the PCE Final Rule in 2024, EPA also seeks comment on any reliance interests that may be impacted if EPA finalizes this rule as proposed.

In this action, EPA is only proposing to extend a subset of certain non-federal WCPP compliance dates set forth in 40 CFR 751.607. EPA is actively reconsidering the PCE Final Rule, including comments received in 2025 during the open comment period, and intends to propose amendments to various aspects of the rule in a separate action.

B. Proposed Compliance Date Extensions for CTC

Among the public comments received in response to the Agency's October 2025 request for comment on the requirements and implementation of the CTC Final Rule (Ref. 6) were comments from industry and trade associations stating that there are currently no standard, commercially available in-the-field monitoring devices that can reliably measure to the ECEL, particularly for short-term tasks such as connecting or disconnecting equipment for sampling, loading, unloading, or disposal (Refs. 10, 11, 12, 13). Given the lack of a reliable, commercially available monitoring method for short-term tasks, an industry trade organization recommended alternative risk management approaches for short-term tasks and stated that additional time would be required for implementation. The commenter suggested that the WCPP compliance deadlines for all owners and operators be revised to align with the current compliance dates for federal entities and their contractors or 18 months from the effective date of the revised CTC rule, whichever is later (Ref. 13). In addition, EPA met with the ACC Chlorine Panel on December 17, 2025, where member companies highlighted implementation challenges of the ECEL since analytical monitoring methods are not feasible for short-term tasks, making it uncertain when, and for how long, PPE needs to

be used when performing high-exposure short-term tasks (Ref. 14).

EPA recognizes there are ongoing difficulties in conducting the initial monitoring to implement the WCPP/ECEL given the monitoring challenges associated with short-term tasks. To ensure a reasonable transition period for WCPP implementation and compliance dates that are as soon as practicable, EPA is proposing to extend the initial monitoring compliance deadline for non-federal entities to match the current deadline for federal entities. EPA is proposing to similarly extend the subsequent deadlines for non-federal entities to meet the ECEL, establish a regulated area, provide any required respiratory PPE, and establish a respiratory PPE program, to match the current deadline for federal entities. If finalized as proposed, this would require non-federal entities to conduct initial compliance monitoring by June 21, 2027, and to meet the ECEL, establish a regulated area, provide any required respiratory PPE, and establish a respiratory PPE program by September 20, 2027.

EPA seeks comment on regulated entities' ability to comply with both the original WCPP compliance deadlines—particularly the initial monitoring deadlines—and the proposed compliance date extension for non-federal entities, including whether the proposed compliance dates are “as soon as practicable” and “provide for a reasonable transition period.” EPA is also interested in comments on whether, and to what extent, any other interrelated compliance dates should be extended to ensure the WCPP is fully implementable as soon as practicable with a reasonable transition period (e.g., WCPP compliance date for workplace information and training). Because EPA is changing its position from the CTC Final Rule in 2024, EPA also seeks comment on any reliance interests that may be impacted if EPA finalizes this rule as proposed.

In this proposed rule, EPA is only proposing to extend a subset of certain non-federal WCPP compliance dates in 40 CFR 751.707. EPA is actively reconsidering the 2024 CTC Final Rule, including comments received in 2025 during the open comment period and intends, if appropriate, to propose amendments to various aspects of the rule in a separate action.

IV. References

The following is a listing of the documents that are specifically referenced in this document. The docket includes these documents and other information considered by EPA,

including documents that are referenced within the documents that are included in the docket, even if the referenced document is not physically located in the docket. For assistance in locating these other documents, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

1. EPA. Perchloroethylene (PCE); Regulation Under the Toxic Substances Control Act (TSCA); Final Rule. **Federal Register** (89 FR 103560, December 18, 2024) (FRL–8329–01–OCSPP). <https://www.govinfo.gov/content/pkg/FR-2024-12-18/pdf/2024-30117.pdf>.
2. EPA. Carbon Tetrachloride (CTC); Regulation Under the Toxic Substances Control Act (TSCA); Final Rule. **Federal Register** (89 FR 103512, December 18, 2024) (FRL–8206–02–OCSPP). <https://www.govinfo.gov/content/pkg/FR-2024-12-18/pdf/2024-29517.pdf>.
3. EPA. Economic Analysis of the Final Regulation of Perchloroethylene Under TSCA Section 6(a). December 2024. <https://www.regulations.gov/document/EPA-HQ-OPPT-2020-0720-0347>.
4. EPA. Economic Analysis of the Final Regulation of Carbon Tetrachloride Under TSCA Section 6(a). December 2024. <https://www.regulations.gov/document/EPA-HQ-OPPT-2020-0592-0176>.
5. EPA. Perchloroethylene (PCE); Regulation Under the Toxic Substances Control Act (TSCA); Request for Comment; Notice. **Federal Register** (90 FR 35858, July 30, 2025) (FRL–8329–03–OCSPP). <https://www.govinfo.gov/content/pkg/FR-2025-07-30/pdf/2025-14429.pdf>.
6. EPA. Carbon Tetrachloride (CTC); Regulation Under the Toxic Substances Control Act (TSCA); Request for Comment; Notice. **Federal Register** (90 FR 48203, October 9, 2025) (FRL–12982–01–OCSPP). <https://www.govinfo.gov/content/pkg/FR-2025-10-09/pdf/2025-19500.pdf>.
7. LeaAnne Forest. American Chemistry Council Chlorine Panel. Comment EPA–HQ–OPPT–2020–0720–0393. August 29, 2025. <https://www.regulations.gov/comment/EPA-HQ-OPPT-2020-0720-0393>.
8. Christopher Phalen. National Association of Manufacturers. Comment EPA–HQ–OPPT–2020–0720–0391. August 29, 2025. <https://www.regulations.gov/comment/EPA-HQ-OPPT-2020-0720-0391>.
9. David Hyde. Aerospace Industries Association. Comment EPA–HQ–OPPT–2020–0720–0387. August 29, 2025. <https://www.regulations.gov/comment/EPA-HQ-OPPT-2020-0720-0387>.
10. Dr. Casey Mulligan and Nick Goldstein. U.S. Small Business Administration. Comment EPA–HQ–OPPT–2020–0592–0199. November 7, 2025. <https://www.regulations.gov/comment/EPA-HQ-OPPT-2020-0592-0199>.
11. W. Caffey Norman. Olin Corporation. Comment EPA–HQ–OPPT–2020–0592–0200. November 7, 2025. <https://www.regulations.gov/comment/EPA-HQ-OPPT-2020-0592-0200>.

12. Rayna Laiosa. Chemours Company. Comment EPA–HQ–OPPT–2020–0592–0205. November 10, 2025. <https://www.regulations.gov/comment/EPA-HQ-OPPT-2020-0592-0205>.
13. Kat Gale. American Chemistry Council Chlorine Panel. Comment EPA–HQ–OPPT–2020–0592–0208. November 10, 2025. <https://www.regulations.gov/comment/EPA-HQ-OPPT-2020-0592-0208>.
14. EPA. American Chemistry Council Chlorine Panel Meeting Memo. December 17, 2025.
15. EPA. Risk Evaluation for Perchloroethylene. Document ID No. EPA–HQ–OPPT–2020–0720–0035. EPA Publication No. 740–R1–8011. December 2020. <https://www.regulations.gov/document/EPA-HQ-OPPT-2019-0502-0058>.
16. EPA. Risk Evaluation for Carbon Tetrachloride (Methane, Tetrachloro-). EPA Publication No. EPA–740–R1–8014. October 2020. <https://www.regulations.gov/document/EPA-HQ-OPPT-2019-0499-0061>.

V. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at <https://www.epa.gov/laws-regulations/laws-and-executive-orders>.

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action under Executive Order 12866 (58 FR 51735, October 4, 1993) and was therefore not submitted to the Office of Management and Budget (OMB) for review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

B. Executive Order 14192: Unleashing Prosperity Through Deregulation

This action is expected to be an Executive Order 14192 deregulatory action. This proposed rule is expected to provide burden reduction by providing relief against existing compliance deadlines.

C. Paperwork Reduction Act (PRA)

This action does not impose any new information collection activities or burden subject to OMB review and approval under the PRA, 44 U.S.C. 3501 *et seq.* However, this action defers the costs associated with paperwork and recordkeeping burden for two existing information collections because the delayed compliance dates alter the time horizon of the collection's analysis. Burden is defined in 5 CFR 1320.3(b). OMB has previously approved the information collection activities contained in the existing regulations

and associated burden under OMB Control Nos. 2070–0228 (EPA ICR No. 2744.02) and 2070–0233 (EPA ICR No. 2740.02). An agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register**, are listed in 40 CFR part 9, and included on the related collection instrument or form, if applicable.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA, 5 U.S.C. 601 *et seq.* In making this determination, EPA concludes that the impact of concern for this action is any significant adverse economic impact on small entities, and the Agency is certifying that this rule will not have a significant economic impact on a substantial number of small entities because the rule relieves regulatory burden on the small entities subject to the rule. This action would extend the PCE final rule non-federal compliance dates for: initial monitoring requirements from December 15, 2025, to June 21, 2027; ECEL, regulated area, respiratory PPE, and respiratory PPE program requirements from March 13, 2026, to September 20, 2027; and exposure control plan requirements from June 7, 2027, to December 20, 2027. This action would also extend the CTC final rule non-federal compliance dates for initial monitoring requirements from June 11, 2026, to June 21, 2027, and ECEL, regulated area, respiratory PPE, and respiratory PPE program requirements from September 9, 2026, to September 20, 2027 (aligning with the current compliance date for Federal agencies and Federal contractors acting for or on behalf of the Federal government). We have therefore concluded that this action will relieve regulatory burden for all directly regulated small entities.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The costs involved in this action are estimated not to exceed \$187 million in 2024\$ (\$100 million in 1995\$, adjusted for inflation using the GDP implicit price deflator) or more in any one year. This action is expected to

relieve regulatory burdens on entities subject to the December 2024 final rules' provisions, as described in Unit III.

F. Executive Order 13132: Federalism

This action does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999) because it will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175 (65 FR 67249, November 9, 2000) because it does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. Thus, Executive Order 13175 does not apply to this action.

H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 (62 FR 19885, April 23, 1997) directs federal agencies to include an evaluation of the health and safety effects of the planned regulation on children in federal health and safety standards and explain why the regulation is preferable to potentially effective and reasonably feasible alternatives. This action is not subject to Executive Order 13045 because it is not a significant regulatory action under section 3(f)(1) of Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action does not alter the WCPP requirements from the PCE and CTC Final Rules, but delays when non-federal entities must comply with certain provisions. Consequently, EPA's findings that the PCE and CTC Final Rules would not have a disproportionate risk to children are applicable here. In the 2020 Risk Evaluation for PCE (Ref. 15), EPA did not find that the adverse health impacts for children and for men and women of reproductive age was disproportionate in comparison to other populations. In the 2020 Risk Evaluation for CTC (Ref. 16), while the Agency found risks to children and adults from occupational use, the Agency determined that risks to

children were not disproportionate. The CTC Final Rule's health and risk assessments and impacts on both children and adults from occupational use from inhalation and dermal exposures are described in Units II.C.3 and V.A. of the CTC Final Rule (Ref. 2), and the 2020 Risk Evaluation for Carbon Tetrachloride (Ref. 16).

As in the PCE and CTC Final Rules, EPA's Policy on Children's Health applies to this action. Information on how the Policy was applied in the PCE Final Rule and on the action's health and risk assessments are contained in Unit II.D.2.c. of the PCE Final Rule (Ref. 1), the 2020 Risk Evaluation for PCE (Ref. 15), and the Economic Analysis for the PCE Final Rule (Ref. 3). Information on how the Policy was applied in the CTC Final Rule and on the action's health and risk assessments are contained in Unit II.D.2.c. of the CTC Final Rule (Ref. 2), and the 2020 Risk Evaluation for CTC (Ref. 16), and the Economic Analysis for the CTC Final Rule (Ref. 4).

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer and Advancement Act (NTTAA)

Pursuant to the NTTAA section 12(d), 15 U.S.C. 272, the Agency has determined that this proposed rulemaking involves environmental monitoring or measurement, specifically for occupational inhalation exposures to carbon tetrachloride and perchloroethylene. Consistent with the Agency's Performance Based Measurement System (PBMS), EPA has decided not to require the use of specific, prescribed analytic methods. Rather, the Agency will allow the use of any method that meets the prescribed performance criteria. The PBMS approach is intended to be more flexible and cost-effective for the regulated community; it is also intended to encourage innovation in analytical technology and improved data quality. EPA is not precluding the use of any method, whether it constitutes a voluntary consensus standard or not, as long as it meets the performance criteria specified.

For this proposed rulemaking, the key consideration for the PBMS approach is the ability to accurately detect and measure airborne concentrations of

carbon tetrachloride at the ECEL, and perchloroethylene at the ECEL and ECEL action level.

List of Subjects in 40 CFR Part 751

Environmental protection, Chemicals, Export notification, Hazardous substances, Import certification, Reporting and recordkeeping.

Lee Zeldin,
Administrator.

For the reasons set forth in the preamble, the EPA proposes to amend 40 CFR part 751 as follows:

PART 751—REGULATION OF CERTAIN CHEMICAL SUBSTANCES AND MIXTURES UNDER SECTION 6 OF THE TOXIC SUBSTANCES CONTROL ACT

■ 1. The authority citation for part 751 continues to read as follows:

Authority: 15 U.S.C. 2605, 15 U.S.C. 2625(l)(4).

■ 2. Amend § 751.607 by revising paragraphs (b)(2), (b)(3)(ii), (b)(4)(i), (d)(1)(i)(A), (d)(2) introductory text, (f)(2)(i), and (f)(2)(iii) to read as follows:

§ 751.607 Workplace Chemical Protection Program (WCPP).

* * * * *

(b) * * *

(2) *Eight-hour time-weighted average (TWA) ECEL.* Beginning September 20, 2027, or beginning four months after introduction of PCE into the workplace if PCE use commences after June 21, 2027, the owner or operator must ensure that no person is exposed to an airborne concentration of PCE in excess of the ECEL, consistent with the requirements of paragraph (d)(1)(i) of this section and, if necessary, paragraph (f) of this section.

(3) * * *

(ii) *Initial monitoring.* By June 21, 2027, or within 30 days of introduction of PCE into the workplace, whichever is later, each owner or operator covered by this section must perform initial monitoring of potentially exposed persons. Where the owner or operator has monitoring results from monitoring conducted within five years prior to February 18, 2025, and the monitoring satisfies all other requirements of this section, the owner or operator may rely on such earlier monitoring results to satisfy the requirements of this paragraph (b)(3)(ii).

* * * * *

(4) * * *

(i) *Establishment.* By September 20, 2027, or within three months after receipt of any exposure monitoring that indicates exposures exceeding the ECEL, the owner or operator must

establish and maintain a regulated area wherever airborne concentrations of PCE exceed, or can reasonably be expected to exceed, the ECEL.

* * * * *

(d) * * *

(1) * * *

(i) * * *

(A) By December 20, 2027, the owner or operator must institute one or a combination of elimination, substitution, engineering controls, or administrative controls to reduce exposure to or below the ECEL except to the extent that the owner or operator can demonstrate that such controls are not feasible, in accordance with the hierarchy of controls.

* * * * *

(2) *Exposure control plan.* By December 20, 2027, each owner and operator must establish and implement an exposure control plan.

* * * * *

(f) * * *

(2) * * *

(i) By September 20, 2027, or within three months after receipt of any exposure monitoring that indicates exposures exceeding the ECEL, if an owner or operator is required to provide respiratory protection pursuant to paragraph (f)(1) of this section, the owner or operator must ensure that each potentially exposed person is provided with a respirator according to the requirements of this section.

* * * * *

(iii) By September 20, 2027, or within three months after receipt of any exposure monitoring that indicates exposures exceeding the ECEL, if an owner or operator is required to provide respiratory protection pursuant to paragraph (f)(1) of this section, the owner or operator must develop and administer a written respiratory protection program consistent with the requirements of 29 CFR 1910.134(c)(1), (c)(3) and (c)(4).

* * * * *

■ 3. Amend § 751.707 by revising paragraphs (b)(1), (b)(2)(ii), (b)(3)(i), (f)(2)(i), and (f)(2)(iii) to read as follows:

§ 751.707 Workplace Chemical Protection Program (WCPP).

* * * * *

(b) * * *

(1) *Eight-hour time-weighted average (TWA) ECEL.* Beginning September 20, 2027, or beginning four months after introduction of carbon tetrachloride into the workplace if carbon tetrachloride use commences after June 21, 2027, the owner or operator must ensure that no person is exposed to an airborne concentration of carbon tetrachloride in

excess of the ECEL, consistent with the requirements of paragraph (d)(1)(i) of this section and, if necessary, paragraph (f) of this section.

(2) * * *

(ii) *Initial monitoring.* By June 21, 2027, or within 30 days of introduction of carbon tetrachloride into the workplace, whichever is later, each owner or operator covered by this section must perform initial monitoring of potentially exposed persons. Where the owner or operator has monitoring results from monitoring conducted within five years prior to February 18, 2025, and the monitoring satisfies all other requirements of this section, the owner or operator may rely on such earlier monitoring results to satisfy the requirements of this paragraph (b)(2)(ii).

* * * * *

(3) * * *

(i) *Establishment.* By September 20, 2027, or within three months after receipt of any exposure monitoring that indicates exposures exceeding the ECEL, the owner or operator must establish and maintain a regulated area wherever airborne concentrations of carbon tetrachloride exceed, or can reasonably be expected to exceed, the ECEL.

* * * * *

(f) * * *

(2) * * *

(i) By September 20, 2027, or within three months after receipt of any exposure monitoring that indicates exposures exceeding the ECEL, if an owner or operator is required to provide respiratory protection pursuant to paragraph (f)(1) of this section, the owner or operator must ensure that each potentially exposed person is provided with a respirator according to the requirements of this section.

* * * * *

(iii) By September 20, 2027, or within three months after receipt of any exposure monitoring that indicates exposures exceeding the ECEL, if an owner or operator is required to provide respiratory protection pursuant to paragraph (f)(1) of this section, the owner or operator must develop and administer a written respiratory protection program consistent with the requirements of 29 CFR 1910.134(c)(1), (c)(3) and (c)(4).

* * * * *

[FR Doc. 2026-05977 Filed 3-26-26; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Parts 211 and 212

RIN 0970-AD40

Reducing Bureaucracy and Burden for Human Services and Emergency Response Programs—Repatriation Program

AGENCY: Office of Human Services Emergency Preparedness and Response (OHSEPR), Administration for Children and Families (ACF), Department of Health and Human Services (HHS).

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Health and Human Services, Administration for Children and Families proposes to amend the Care and Treatment of Mentally Ill Nationals of the United States, Returned from Foreign Countries regulations and the Assistance for United States Citizens Returned from Foreign Countries regulations to eliminate unnecessary or obsolete regulations. The docket on <https://www.regulations.gov> will include a plain language summary of the NPRM.

DATES: In order to be considered, written comments on this proposed rule must be received on or before April 27, 2026.

ADDRESSES: You may submit written comments, identified by docket number ACF-2026-0232 and/or RIN number 0970-AD40, by one of the following methods:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov>. Follow the instructions for submitting comments.

- *Email:* Deregulation@acf.hhs.gov. Include the docket number ACF-2026-0232 and/or RIN number 0970-AD40 in the subject line of the message.

Instructions: All submissions received must include the agency name and docket number or RIN number for this rulemaking. All comments received are a part of the public record and will be posted for public viewing on www.regulations.gov, without change. Please be advised that the substance of the comments and the identity of individuals or entities submitting the comments will be subject to public disclosure.

FOR FURTHER INFORMATION CONTACT:

Adam N. Jones, Deputy Chief of Staff, Immediate Office of the Assistant Secretary, Administration for Children and Families, Department of Health and Human Services, Washington, DC 202-417-0115 or Deregulation@acf.hhs.gov.

SUPPLEMENTARY INFORMATION:

I. Statutory Authority

This proposed regulation is being issued under the authority granted to the Secretary of Health and Human Services by 74 Stat. 308–310 (24 U.S.C. 321–329) and Sections 1102 and 1113 of the Social Security Act (42 U.S.C. 1302, 42 U.S.C. 1313).

II. Background

45 CFR part 211, “Care and Treatment of Mentally Ill Nationals of the United States, Returned from Foreign Countries” is a comprehensive regulatory framework established under the 74 Stat. 308–310, 42 U.S.C. 321–329. Originally published on July 19, 1974, Part 211 establishes uniform procedures for program applications, including requirements addressing eligibility, procedures for the care and treatment of mentally ill repatriates, and general administrative standards. 45 CFR part 212, “Assistance for United States Citizens Returned from Foreign Countries” is a set of regulations established under the authority of the Social Security Act (42 U.S.C. 1302, 42 U.S.C. 1313) that was designed to implement 42 U.S.C. 1313 by providing more detailed requirements for temporary assistance to United States (U.S.) Citizen repatriates and their dependents.

III. Executive Summary

This NPRM proposes to rescind multiple regulations that are either unnecessary or wholly obsolete. The proposed regulations contained in this NPRM to be rescinded and reserved can be categorized into three groups: those that are duplicative, those that are better suited as a different type of sub-regulatory format, and those that are obsolete.

Duplicative regulations are those that carry no impact as the authority and requirements stated in the regulation exist or are stated elsewhere such as in statute, which would make these existing regulations otherwise unnecessary.

The regulations that are better suited to a different format, *i.e.* as a sub-regulatory document, are those that generally read like a Frequently Asked Questions document or are overly prescriptive and carry technical details that belong in programmatic instruction. ACF proposes to rescind this category of regulations to allow for publication in a more appropriate format following the final rule becoming effective.

The final category are those regulations that are obsolete or outdated. This includes regulations that refer to

grant programs that are no longer funded, practices that are no longer followed, or are otherwise no longer relevant.

Effective Date

ACF expects all provisions included in the proposed rule, if finalized, to become effective 30 days from the date of publication of the final rule.

Severability

The provisions of this NPRM, once it becomes final, are intended to be severable, such that, in the event a court were to invalidate any particular provision or deem it to be unenforceable, the remaining provisions would continue to be valid. None of the provisions contained herein are central to an overall intent of the proposed rule, nor are any provisions dependent on the validity of other, separate provisions.

IV. Discussion of Proposed Changes

45 CFR Part 211 Care and Treatment of Mentally Ill Nationals of the United States, Returned From Foreign Countries

§ 211.1 General Definitions

This Section defines the terms used in this Part. This Section is proposed for repeal due to the fact that many of the terms that are defined are duplicated in 24 U.S.C. 321 “Definitions.” There were a few regulatory definitions that were not defined in statute, but those terms were either commonly defined and did not need to be further defined or were utilized only in Sections that are proposed to be repealed.

§ 211.2 General

This Section specifies that ACF will consult with appropriate agencies to ensure that any aid that is provided is provided by the right organization. This provision is proposed for removal as the text of the regulation is merely rephrasing and restating the language found in the statute that authorizes the creation of the regulation, 24 U.S.C. 321–329. Thus, as the authority to consult with appropriate agencies as well as the other statements described in this Section are already found in statute, this Section is unnecessary and duplicate, and therefore proposed for repeal.

§ 211.4 Notification to Legal Guardian, Spouse, Next of Kin, or Interested Persons

This Section specifies that ACF will notify the next of kin and legal guardians when repatriates with mental health needs arrive in the United States or are transferred between states. This

provision is proposed for removal as the requirement for notifying the next of kin and legal guardian still applies irrespective of this rule. The rescission of this rule will not hinder the ability for next of kin and legal guardians to be notified of the repatriation of their relatives. As such, this rule is unnecessary and thus is proposed for repeal.

§ 211.5 Action Under State Law; Appointment of Guardian

This Section details that ACF will act according to state law on how to act and care for an individual who is unable to give consent, either due to being a minor or due to their mental state, with regard to the appointment of a guardian. As this regulation states that ACF will follow state law, the rescission of this regulation does not impact the necessity to follow state law. In other words, by repealing this Section, state law and the status quo will still be followed. As such, this Section is unnecessary and is proposed to be repealed.

§ 211.7 Transfer and Release of Eligible Person

This Section lists the conditions under which an eligible repatriate will be transferred and released into the care of a relative. Furthermore, this Section details that if an individual is unable to be released to a relative, that the individual may be released to the appropriate state health authority. This Section is proposed for removal as the language and authorization are found to be duplicated in 24 U.S.C. 323 “Care and treatment of eligible persons until transfer and release.” As the regulation simply mirrors the statute, it is unnecessary and duplicate and thus proposed for repeal.

§ 211.8 Continuing Hospitalization

This Section details the appropriate arrangements for placement and treatment of an eligible individual needing continued care in furtherance of the regulations found in § 211.7. Much like § 211.7, this Section is also found to be duplicative of statutory language found at 24 U.S.C. 324 “Care and treatment of eligible persons until transfer and release.” As this Section also mirrors statute, the language found in regulation is simply duplicative and therefore not needed. Thus, this rulemaking proposes to repeal this Section.

§ 211.9 Examination and Reexamination

This Section details the frequency by which an examination must be conducted on any individual admitted

to a hospital pursuant to Part 211. The language requiring that patients be examined no more than five days after their admission and every six months thereafter is a copy of the requirements found at 24 U.S.C. 325 “Examination of persons admitted.” As this is a duplication of existing requirements, this Section is not necessary and is proposed to be repealed.

§ 211.10 Termination of Hospitalization

This Section details that the process for discharge or conditional release of a patient must comply with state laws as well as the requirement to notify the committing court of the release. The first component of this Section requires the hospital to release an individual from care if they are determined to not or no longer require hospitalization, pursuant to state laws and regulations. Thus, this component of the rule requires hospitals to follow existing laws, which they would be required to do irrespective of this regulation. As such, this first component of this Section is unnecessary as it does not carry any requirement that is not found in state specific statutes and is proposed to be repealed.

The second component of this Section that deals with mandating the notification to the committing court duplicates federal law in 24 U.S.C. 327 “Notification to committing court of discharge or conditional release.” As this is purely duplicative, this regulation is not needed, and the repeal will not produce any policy change.

§ 211.11 Request for Release From Hospitalization

This Section describes the process that must be followed when a patient or their next of kin or legal guardian requests a release from hospitalization. This process is described in complete detail already at 24 U.S.C. 326 “Release of patient.” As the regulation merely restates the statutory language, it is duplicative and thus unnecessary. The repeal of this Section will not change policy for those requesting a release from hospitalization.

§ 211.12 Federal Payments

This Section details the requirement that an agreement must be established between an Administrator and a hospital as to how a hospital or agency will be paid for services. This Section is not needed as this describes an outdated approach which predated government-wide regulations at 2 CFR part 200 which describe payment methods, allowable costs, and financial management requirements. As this

Section is both outdated it is proposed to be repealed provide clarity to the public.

§ 211.13 Financial Responsibility of the Eligible Person; Collections, Compromise, or Waiver of Payment

Section 211.13 details the financial responsibility for the eligible person. This Section is proposed to be repealed as it is duplicated in statutory language found at 24 U.S.C. 328 “Payment for care and treatment.” As the requirements for who is liable and what waiver authority of costs exist is stated in both statute and in regulations, the regulations are not needed and are proposed to be repealed.

§ 211.14 Disclosure of Information

This part details the protections against the disclosure of information regarding individuals receiving care. This Section is proposed to be repealed as this information is heavily expanded upon and covered by the Health Insurance Portability and Accountability Act of 1996 (HIPAA). This law prohibits the disclosure of patient information without authorization, which mirrors the intent of the regulation. As both regulations, and statute to a stronger degree, protect patient data and information, the regulation is duplicative and unnecessary. This repeal does not change policy with respect to disclosure of patient information.

§ 211.15 Nondiscrimination

This Section details the prohibition of discrimination based on various characteristics, which is duplicative of federal law found at 42 U.S.C. 2000d. The recission of this part is due to the existence of other protections against discrimination which cover the topics discussed in this Part. As such, this repeal is not intended to, nor will enable, the discrimination of any individual based on the characteristics described therein.

45 CFR Part 212 Assistance for United States Citizens Returned from Foreign Countries

Much like many Sections of Part 211, this Part is found to mirror existing statutory language. The entire Part is found to rephrase and repeat the authorizing statute, 42 U.S.C. 1313 “Assistance for United States citizens returned from foreign countries.” As the regulation is a duplication without providing significant additional clarifying language or detail, it is unnecessary and proposed for repeal.

V. Regulatory Process Matters

Paperwork Reduction Act

Under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*, as amended) (PRA), all Departments are required to submit to the Office of Management and Budget (OMB) for review and approval any reporting or recordkeeping requirements inherent in a proposed or final rule. This NPRM does not contain any information requiring OMB approval under the PRA and, therefore, will not create any new paperwork burdens or modify existing burdens subject to OMB review.

Executive Order 13132

Executive Order 13132 requires federal agencies to consult with State and local government officials if they develop regulatory policies with federalism implications. Federalism is rooted in the belief that issues that are not national in scope or significance are most appropriately addressed by the level of government close to the people. This proposed rule would not have substantial direct impact on the States, on the relationship between the federal government and the States, or on the distribution of power and responsibilities among the various levels of government. This NPRM would not pre-empt State law. The changes proposed in the NPRM are removing unnecessary and obsolete regulations from the Office of Human Services Emergency Preparedness and Response Repatriation Program rules. Therefore, in accordance with Section 6 of Executive Order 13132, it is determined that this action does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Assessment of Federal Regulations and Policies on Families

Assessment of Federal Regulations and Policies on Families Section 654 of the Treasury and General Government Appropriations Act of 1999 (Pub. L. 105–277) requires federal agencies to determine whether a policy or regulation may negatively affect family well-being. If the agency determines a policy or regulation negatively affects family well-being, then the agency must prepare an impact assessment addressing seven criteria specified in the law. HHS believes it is not necessary to prepare a family policymaking assessment because the actions proposed in this NPRM will not have any impact on the autonomy or integrity of the family as an institution.

VI. Regulatory Impact Analysis

We have examined the impacts of the proposed rule under Executive Order 12866, Executive Order 13563, Executive Order 14192, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

Executive Orders 12866 and 13563 direct us to assess all benefits and costs of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits. Rules are “significant” under Executive Order 12866 Section 3(f)(1) if they “have an annual effect on the economy of \$100 million or more; or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities.” Executive Order 14192 requires that any new incremental costs associated with significant new regulations “shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least ten prior regulations.” The Office of Information and Regulatory Affairs (OIRA) has determined that this proposed rule is not a significant action under Executive Order 12866 Section 3(f). This analysis indicates that the proposed rule, if finalized would be a deregulatory action as defined by Section 3 of Executive Order 14192.

The Regulatory Flexibility Act (RFA) requires agencies to consider the impact of their regulatory proposals on small entities. Because this is simply repealing obsolete and unnecessary language, we propose to certify that the proposed rule would not have a significant economic impact on a substantial number of small entities.

The Unfunded Mandates Reform Act of 1995 (UMRA) generally requires that each agency conduct a cost-benefit analysis; identify and consider a reasonable number of regulatory alternatives; and select the least costly, most cost effective, or least burdensome alternative that achieves the objectives of the rule before promulgating any proposed or final rule that includes a Federal mandate that may result in expenditures of more than \$100 million (adjusted for inflation) in at least one year by State, local, and tribal governments, in the aggregate, or by the private sector. Each agency issuing a rule with relevant effects over that threshold must also seek input from State, local, and tribal governments. The current threshold after adjustment for inflation is \$193 million, using the most current (2025) Implicit Price Deflator for

the Gross Domestic Product. This proposed rule would not result in an expenditure in any year that meets or exceeds this amount.

VII. Tribal Consultation Statement

Executive Order 13175, *Consultation and Coordination with Indian Tribal Governments*, requires agencies to consult with Indian Tribes when regulations have “substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.” Similarly, ACF’s Tribal Consultation Policy says that consultation is triggered for any legislative proposal, new rule adoption, or other policy change that significantly affects Tribes, meaning there exists a reasonable presumption that it has or may have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian tribes, on the amount or duration of ACF program funding, on the delivery of ACF programs or services to one or more Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. However, as this is a deregulatory action, per OMB M–25–36, *Streamlining the Review of Deregulatory Actions*, this action presumptively does not trigger the Tribal Consultation requirements of Executive Order 13175 nor does it meet ACF’s standard for consultation.

List of Subjects

45 CFR Part 211

Grant programs-social programs, Health care, Mental health programs, Public assistance programs.

45 CFR Part 212

Grant programs-social programs, Public assistance programs.

For the reasons set forth in the preamble, ACF proposes to amend 45 CFR parts 211 and 212 as follows:

PART 211—CARE AND TREATMENT OF MENTALLY ILL NATIONALS OF THE UNITED STATES, RETURNED FROM FOREIGN COUNTRIES

■ 1. The authority citation for part 211 continues to read as follows:

Authority: Secs. 1–11, 74 Stat. 308–310; 24 U.S.C. 321–329.

§§ 211.1, 211.2, 211.4, 211.5, and 211.7 through 211.15 [Removed and Reserved]

■ 2. Remove and reserve §§ 211.1, 211.2, 211.4, 211.5, 211.5, and 211.7 through 211.15.

PART 212—[REMOVED AND RESERVED]

■ 3. Under the authority 74 Stat. 308–310 (24 U.S.C. 321–329) and Sections 1102 and 1113 of the Social Security Act (42 U.S.C. 1302, 42 U.S.C. 1313), remove and reserve part 212.

Robert F. Kennedy, Jr.,

Secretary, Department of Health and Human Services.

[FR Doc. 2026–05997 Filed 3–26–26; 8:45 am]

BILLING CODE 4184–PL–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Part 1336

RIN 0970–AD36

Reducing Bureaucracy and Burden for Native American Programs

AGENCY: Administration for Native Americans (ANA), Administration for Children and Families (ACF), Department of Health and Human Services (HHS).

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Health and Human Services, Administration for Children and Families proposes to amend the Native American Programs Act regulations (45 CFR part 1336) to eliminate unnecessary or obsolete regulations. The docket on <https://www.regulations.gov> will include a plain language summary of the NPRM as required by 5 U.S.C. 553(b)(4).

DATES: In order to be considered, written comments on this proposed rule must be received on or before April 27, 2026.

ADDRESSES: You may submit written comments, identified by docket number ACF–2026–0133 and/or RIN number 0970–AD36, by one of the following methods:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov>. Follow the instructions for submitting comments.
- *Email:* Deregulation@acf.hhs.gov. Include the docket number ACF–2026–0133 and/or RIN number 0970–AD36 in the subject line of the message.

Instructions: All submissions received must include the agency name and docket number or RIN number for this rulemaking. All comments received are a part of the public record and will be posted for public viewing on www.regulations.gov, without change. Please be advised that the substance of

the comments and the identity of individuals or entities submitting the comments will be subject to public disclosure.

FOR FURTHER INFORMATION CONTACT:

Adam N. Jones, Deputy Chief of Staff, Immediate Office of the Assistant Secretary, Administration for Children and Families, Department of Health and Human Services, Washington, DC 202–417–0115 or Deregulation@acf.hhs.gov.

SUPPLEMENTARY INFORMATION:

I. Statutory Authority

This proposed regulation is being issued under the authority granted to the Secretary of Health and Human Services by the Native American Programs Act of 1974, as amended (42 U.S.C. 2991 *et seq.*), hereafter referred to as the “Act.”

II. Background

The Native American Programs Act of 1974 (NAPA), as amended (42 U.S.C. 2991 *et seq.*), authorizes the Administration for Native Americans (ANA) to promote social development and economic self-sufficiency in Native communities through competitive grant funding. Under Section 803 of NAPA (42 U.S.C. 2991b), ANA provides financial assistance on a single-year or multi-year basis to public and nonprofit private agencies, including governing bodies of Indian Tribes on federal and state reservations, Alaska Native villages and regional corporations established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*), and public and nonprofit agencies serving Native Hawaiians and Indian and Alaska Native organizations in urban or rural areas that are not reservations or Alaska Native villages. ANA implements its mission through competitive discretionary grants that support Native-led, community-based projects aimed at strengthening families and communities and reducing long-term dependency through social and economic development, Native language preservation, and environmental regulatory enhancement. ANA typically provides short-term “seed” funding ranging from 12 to 60 months to help communities launch or expand sustainable efforts. In Federal Fiscal Year (FFY) 2025, ANA awarded a total of \$50,738,495, which included new awards and continued funding for previously awarded projects.

III. Executive Summary

This NPRM proposes to rescind multiple regulations that are either unnecessary or wholly obsolete. These rescissions would impact States,

Territories, and Tribal Lead Agencies. The regulations contained in this NPRM to be removed and reserved can be categorized into three groups: those that are duplicative, those that are better suited as a different type of sub-regulatory format, and those that are obsolete.

The duplicative regulations are those that exist yet, carry no impact as the authority and requirements stated in the regulation exist or are stated elsewhere such as in statute. This renders the language found in the regulation to be either duplicative or otherwise generally unnecessary.

The regulations that are better suited to a different format, *i.e.*, as a sub-regulatory document, are those that generally read like a Frequently Asked Questions document, or are overly prescriptive and carry technical details that belong to programmatic instruction. These documents are being proposed to be removed in order to allow them to be published in the more appropriate format.

Finally, obsolete regulations are those that are outdated. This includes regulations that refer to grant programs that are no longer funded, practices that are no longer followed, or are no longer relevant.

Effective Date

ACF expects all provisions included in the proposed rule, if finalized, to become effective 30 days from the date of publication of the final rule.

Severability

The provisions of this NPRM, once it becomes final, are intended to be severable, such that, in the event a court were to invalidate any particular provision or deem it to be unenforceable, the remaining provisions would continue to be valid. The changes address a variety of issues relevant to the Administration for Native Americans. None of the provisions contained herein are central to an overall intent of the proposed rule, nor are any provisions dependent on the validity of other, separate provisions.

IV. Discussion of Proposed Changes

Subpart B—Purpose of the Native American Programs

§ 1336.20 Program Purpose

This proposed change removes the program's purpose statement. The purpose statement does not carry any policy language that is not already covered in the authorizing statute, the Native American Programs Act of 1974, as amended. See 42 U.S.C. 2991a. As

this Section is needlessly duplicative, it is proposed to be removed.

Subpart C—Native American Projects

§ 1336.30 Eligibility Under Sections 804 and 805 of the Native American Programs Act of 1974

This proposed change removes the regulation that duplicates the statute in that financial assistance made to grantees for research, demonstration and pilot projects as well as technical assistance and training is eligible for public and private agencies. The Act specifically states in Section 803 that funding is available to both public and private non-profit agencies, thus limiting private agencies to non-profits. However, in Sections 804 and 805 of the Act, the terminology is changed to public and private agencies. The removal of the qualifier “non-profit” from Sections 804 and 805 gives statutory authority to allow research, demonstration and pilot projects as well as technical assistance and training dollars to be awarded to for-profit private agencies. Thus, as this Section is needlessly duplicative, it is proposed to be removed and reserved.

§ 1336.31 Project Approval Procedures

This proposed change removes the requirements detailing project approval procedures. This regulation, as it currently exists, has two issues: (1) it essentially states that applicants for financial assistance must submit a work plan that follows the law, which is a statutory requirement, and (2) it states processes and guidelines that are better suited in sub-regulatory documents such as a notice of funding opportunity (NOFO). By moving this kind of unnecessary language out of regulation, grantees and applicants can more easily find important information when reading through CFR. As such, this Section is not needed and is proposed to be removed.

§ 1336.32 Grants

This proposed change removes the requirements detailing the length of grants as well as specific application submission requirements. This type of information is better located in a NOFO than in regulation as other comparable information is historically found in those kinds of sub regulatory documents. If remaining in its current form, grantees and applicants would be required to read the CFR for information that pertains to applications and NOFOs. Thus, this Section is not needed in regulation and is proposed to be removed.

§ 1336.33 Eligible Applicants and Proposed Activities Which Are Ineligible

This proposed change repeals the Section of regulation that details eligible applicants and what proposed activities are ineligible for funding. As this Section is specific to essentially a grant's terms and conditions, and will be found in both locations, it does not make sense to exist in regulation. As such, this Section is being proposed to be removed and inserted into the grant's terms and conditions or into a related NOFO.

Subpart D—Evaluation

§ 1336.40 General

This proposed change removes the unnecessary regulation that applications provide sufficient information for ANA to make a determination as to whether the application meets the standards. This requirement exists irrespective of the regulation as ANA has the authority to review applications and reports and make decisions to award or not award funds for a number of reasons, including the completeness of the application. This Section is being proposed to be removed and reserved as the authority exists with or without the regulation in place.

Subpart E—Financial Assistance Provisions

§ 1336.51 Project Period

This proposed change removes the unneeded regulation specifying that the length of the funding award will be included in the NOFO. This Section is not needed as it is standard practice for agencies to include in the NOFO the length of time for any particular funding opportunity. The removal of this Section will not preclude the duration of the award being included in the NOFOs. As such, this Section is being proposed to be removed and reserved.

Subpart F—Native Hawaiian Revolving Loan Fund Demonstration Project

§ 1336.60 Through § 1336.77

This proposed change removes an outdated and unfunded program titled the Native Hawaiian Revolving Loan Fund. This program had its appropriations end in FY2021 and the demonstration project period has since ended. As such, this regulation serves no current purpose and is proposed to be removed and reserved.

V. Regulatory Process Matters

Paperwork Reduction Act

Under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*, as amended)

(PRA), all Departments are required to submit to the Office of Management and Budget (OMB) for review and approval any reporting or recordkeeping requirements inherent in a proposed or final rule. This NPRM does not contain any information collection requirements requiring OMB approval under the PRA and, therefore, will not create any new paperwork burdens or modify existing burdens subject to OMB review.

Executive Order 13132

Executive Order 13132 requires federal agencies to consult with State and local government officials if they develop regulatory policies with federalism implications. Federalism is rooted in the belief that issues that are not national in scope or significance are most appropriately addressed by the level of government close to the people. This proposed rule would not have substantial direct impact on the States, on the relationship between the federal government and the States, or on the distribution of power and responsibilities among the various levels of government. This NPRM would not pre-empt State law. The changes proposed in the NPRM are removing unnecessary and obsolete regulations from the Native American Program rules. Therefore, in accordance with Section 6 of Executive Order 13132, it is determined that this action does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Assessment of Federal Regulations and Policies on Families

Assessment of Federal Regulations and Policies on Families Section 654 of the Treasury and General Government Appropriations Act of 1999 (Pub. L. 105–277) requires federal agencies to determine whether a policy or regulation may negatively affect family well-being. If the agency determines a policy or regulation negatively affects family well-being, then the agency must prepare an impact assessment addressing seven criteria specified in the law. HHS believes it is not necessary to prepare a family policymaking assessment because the actions proposed in this NPRM will not have any impact on the autonomy or integrity of the family as an institution.

VI. Regulatory Impact Analysis

We have examined the impacts of the proposed rule under Executive Order 12866, Executive Order 13563, Executive Order 14192, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

Executive Orders 12866 and 13563 direct us to assess all benefits and costs of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits. Rules are “significant” under Executive Order 12866 Section 3(f)(1) if they “have an annual effect on the economy of \$100 million or more; or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities.” Executive Order 14192 requires that any new incremental costs associated with significant new regulations “shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least ten prior regulations.” The Office of Information and Regulatory Affairs (OIRA) has determined that this proposed rule is not a significant action under Executive Order 12866 Section 3(f). This analysis indicates that the proposed rule, if finalized would be a deregulatory action as defined by Section 3 of Executive Order 14192.

The Regulatory Flexibility Act (RFA) requires agencies to consider the impact of their regulatory proposals on small entities. Because this is simply repealing obsolete and unnecessary language, we propose to certify that the proposed rule would not have a significant economic impact on a substantial number of small entities.

The Unfunded Mandates Reform Act of 1995 (UMRA) generally requires that each agency conduct a cost-benefit analysis; identify and consider a reasonable number of regulatory alternatives; and select the least costly, most cost effective, or least burdensome alternative that achieves the objectives of the rule before promulgating any proposed or final rule that includes a Federal mandate that may result in expenditures of more than \$100 million (adjusted for inflation) in at least one year by State, local, and tribal governments, in the aggregate, or by the private sector. Each agency issuing a rule with relevant effects over that threshold must also seek input from State, local, and tribal governments. The current threshold after adjustment for inflation is \$193 million, using the most current (2025) Implicit Price Deflator for the Gross Domestic Product. This proposed rule would not result in an expenditure in any year that meets or exceeds this amount.

VII. Tribal Consultation Statement

Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, requires agencies to

consult with Indian Tribes when regulations have substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. *Consultation and Coordination With Indian Tribal Governments*, 65 FR 67249. Similarly, ACF’s Tribal Consultation Policy says that consultation is triggered for a new rule adoption that significantly affects tribes, meaning the new rule adoption has substantial direct effects on one or more Indian tribes, on the amount or duration of ACF program funding, on the delivery of ACF programs or services to one or more Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. However, as this is a deregulatory action, per OMB M–25–36, *Streamlining the Review of Deregulatory Actions*, this action presumptively does not trigger the consultation requirements of Executive Order 13175. ACF is nevertheless committed to consulting with Indian Tribes and Tribal leadership on this action to the extent practicable and permitted by law.

List of Subjects in 45 CFR Part 1336

Administrative practice and procedure, American Samoa, Grant programs—Indians, Grant programs—social programs, Guam, Hawaiian Natives, Indians, Northern Mariana Islands, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, ACF proposes to amend 45 CFR part 1336 as follows:

PART 1336—NATIVE AMERICAN PROGRAMS

- 1. The authority citation for part 1336 continues to read:

Authority: 42 U.S.C. 618, 9858 *et seq.*
* * * * *

- 2. § 1336.20, titled “Program purpose,” is removed and reserved.

* * * * *

- 3. § 1336.30, titled “Eligibility under sections 804 and 805 of the Native American Programs Act of 1974,” is removed and reserved.

* * * * *

- 4. § 1336.31, titled “Project approval procedures,” is removed and reserved.

* * * * *

- 5. § 1336.32, titled “Grants,” is removed and reserved.

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■ 6. § 1336.33, titled “Eligible applicants and proposed activities which are ineligible,” is removed and reserved.

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■ 7. § 1336.40, titled “General,” is removed and reserved.

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■ 8. § 1336.51, titled “Project period,” is removed and reserved.

* * * * *

■ 9. § 1336.60, titled “Purpose of this subpart,” is removed and reserved.

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■ 10. § 1336.61, titled “Purpose of the Revolving Loan Fund,” is removed and reserved.

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■ 11. § 1336.62, titled “Definitions,” is removed and reserved.

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■ 12. § 1336.63, titled “General responsibilities of the Loan Administrator,” is removed and reserved.

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■ 13. § 1336.64, titled “Development of goals and strategies: Responsibilities of the Loan Administrator,” is removed and reserved.

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■ 14. § 1336.65, titled “Staffing and organization of the Revolving Loan Fund: Responsibilities of the Loan Administrator,” is removed and reserved.

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■ 15. § 1336.66, titled “Procedures and criteria for administration of the Revolving Loan Fund: Responsibilities of the Loan Administrator,” is removed and reserved.

* * * * *

■ 16. § 1336.67, titled “Security and collateral: Responsibilities of the Loan Administrator,” is removed and reserved.

* * * * *

■ 17. § 1336.68, titled “Defaults, uncollectible loans, liquidations: Responsibilities of the Loan Administrator,” is removed and reserved.

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■ 18. § 1336.69, titled “Reporting requirements: Responsibilities of the Loan Administrator,” is removed and reserved.

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■ 19. § 1336.70, titled “Technical assistance: Responsibilities of the Loan Administrator,” is removed and reserved.

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■ 20. § 1336.71, titled “Administrative costs,” is removed and reserved.

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■ 21. § 1336.72, titled “Fiscal requirements,” is removed and reserved.

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■ 22. § 1336.73, titled “Eligible borrowers,” is removed and reserved.

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■ 23. § 1336.74, titled “Time limits and interest on loans,” is removed and reserved.

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■ 24. § 1336.75, titled “Allowable loan activities,” is removed and reserved.

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■ 25. § 1336.76, titled “Unallowable loan activities,” is removed and reserved.

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■ 26. § 1336.77, titled “Recovery of funds,” is removed and reserved.

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Robert F. Kennedy, Jr.,

Secretary, Department of Health and Human Services.

[FR Doc. 2026–05994 Filed 3–26–26; 8:45 am]

BILLING CODE 4184–34–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 392

[Docket No. FMCSA–2021–0050]

RIN 2126–AC39

Railroad Grade Crossings; Stopping Required: Exception for Railroad Grade Crossing Equipped With Active Warning Device Not in Activated State

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notification of data availability; request for comments.

SUMMARY: This notification of data availability (NODA) is to alert interested parties about information that FMCSA believes may be relevant to this proceeding. This NODA identifies information the Agency has developed and provides an opportunity for public comment. The Agency may consider this information in preparation of further regulatory action.

DATES: Comments must be received by April 27, 2026.

ADDRESSES: You may submit comments identified by Docket Number FMCSA–2021–0050 using any of the following methods:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov/docket/FMCSA-2021-0050/document>. Follow the online instructions for submitting comments.

- *Mail:* Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, W58–213, Washington, DC 20590–0001.

- *Hand Delivery or Courier:* Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, W58–213, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

- *Fax:* (202) 493–2251.

FOR FURTHER INFORMATION CONTACT: Ms. Melissa Williams, Hazardous Materials Division, Office of Enforcement and Compliance, FMCSA, 1200 New Jersey Ave. SE, Washington, DC 20590–0001, (202) 366–4163, melissa.williams@dot.gov. If you have questions on viewing or submitting material to the docket, call Dockets Operations at (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

A. Submitting Comments

If you submit a comment, please include the docket number for this proceeding (FMCSA–2021–0050), indicate the specific section of this document to which your comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so FMCSA can contact you if there are questions regarding your submission. To submit your comment online, go to <https://www.regulations.gov/docket/FMCSA-2021-0050/document>, click on this NODA, click “Comment,” and type your comment into the text box on the following screen. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing.

FMCSA will consider all comments and material received during the comment period.

Confidential Business Information (CBI)

CBI is commercial or financial information that is both customarily and

actually treated as private by its owner. Under the Freedom of Information Act (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to the NODA contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to the NODA, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission that constitutes CBI as "PROPIN" to indicate it contains proprietary information. FMCSA will treat such marked submissions as confidential under the Freedom of Information Act, and they will not be placed in the public docket of the proceeding. Submissions containing CBI should be sent to Mr. Brian Dahlin, Chief, Regulatory Evaluation Division, Office of Policy, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590-0001 or via email at brian.g.dahlin@dot.gov. At this time, you need not send a duplicate hardcopy of your electronic CBI submissions to FMCSA headquarters. Any comments FMCSA receives not specifically designated as CBI will be placed in the public docket for this rulemaking.

B. Viewing Comments and Documents

To view any documents mentioned as being available in the docket, go to <https://www.regulations.gov/docket/FMCSA-2021-0050/document> and choose the document to review. To view comments, click this notice, then click "Browse Comments." If you do not have access to the internet, you may view the docket online by visiting Dockets Operations, U.S. Department of

Transportation, 1200 New Jersey Avenue SE, W58-213, Washington, DC 20590-0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366-9317 or (202) 366-9826 before visiting Dockets Operations.

C. Privacy

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its regulatory process. DOT posts these comments, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice DOT/ALL 14 (Federal Docket Management System (FDMS)), which can be reviewed at <https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notices>. The comments are posted without edit and are searchable by the name of the submitter.

II. Background

On May 30, 2025, FMCSA published a notice of proposed rulemaking (NPRM) in this proceeding stating the Agency proposed to amend 49 Code of Federal Regulations (CFR) 392.10 by adding an exception for any railroad grade crossing equipped with an active warning device that is not in an activated state (e.g., flashing lights or crossing gates down, indicating the arrival of a train) (90 FR 22914). Under local law, this would permit the commercial motor vehicle (CMV) to proceed across the railroad tracks without slowing or stopping.

The NPRM provided detailed information on the background and

history of FMCSA regulations regarding railroad grade crossings, the proposed amendments, and the legal basis for such amendments. The deadline for submitting comments in response to the NPRM was July 29, 2025.

III. What information is available?

Using data from the Federal Railroad Administration, FMCSA has identified information on vehicle and railroad collisions, rear-end CMV fatal crashes, and signal failures. This information has been summarized and posted to the docket and FMCSA may consider it in the context of further regulatory action.

IV. What is the scope of comments FMCSA is seeking and what supporting documentation do I need to include in my comments?

FMCSA has provided the information identified above and is considering whether to rely upon it in further regulatory action. This NODA is necessary to disclose such possible reliance and to provide the interested public an opportunity to comment on the accuracy and relevance of the information (49 CFR 5.5(a)(1)).

The comment period for the NPRM ended on July 29, 2025. Comments submitted in response to this NODA must be limited to addressing any relevant information identified above. Comments addressing other matters will not be considered by FMCSA.

Issued under authority delegated in 49 CFR 1.87.

Derek Barrs,
Administrator.

[FR Doc. 2026-06013 Filed 3-26-26; 8:45 am]

BILLING CODE 4910-EX-P

Notices

Federal Register

Vol. 91, No. 59

Friday, March 27, 2026

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2025–0021]

Bayer CropScience: Determination of Nonregulated Status of MON 95275 Maize (Corn)

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public of our determination that MON 95275 maize (corn), which was developed using genetic engineering to produce two insecticidal proteins and a double-stranded RNA transcript to provide protection from feeding damage caused by targeted coleopteran (corn rootworm) insect pests, is no longer considered regulated. Our determination is based on our evaluation of information and data Bayer CropScience submitted in its petition for a determination of nonregulated status, available scientific data, the plant pest risk assessment, and public comments received in response to a previous notice announcing the availability of the petition for nonregulated status and a draft plant pest risk assessment. This notice announces the availability of our written determination and supporting documents.

DATES: This change in regulatory status is recognized as of March 19, 2026.

ADDRESSES: You may read the petition, our determination referenced in this notice, and supporting documents by any of the following methods:

- *Federal eRulemaking Portal:* Go to www.regulations.gov. Enter APHIS–2025–0021 in the Search field.
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2025–0021, Regulatory Analysis and Development, PPD, APHIS, 5601

Sunnyside Ave. #AP760, Beltsville, MD 20705.

- Our reading room, located in 1620 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Mr. Alan Pearson, Biotechnology Regulatory Services, APHIS, USDA, 5601 Sunnyside Avenue, AP100–3–WS–1151, Beltsville, MD 20705; (301) 851–3944; email: alan.pearson@usda.gov.

SUPPLEMENTARY INFORMATION: Under the authority of the plant pest provisions of the Plant Protection Act (7 U.S.C. 7701–7772, 7781–7786) and the regulations in 7 CFR part 340, “Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason to Believe Are Plant Pests,” APHIS regulates, among other things, the introduction (importation, interstate movement, or release into the environment) of organisms and products altered or produced through genetic engineering that are plant pests or that there is reason to believe are plant pests. Such organisms and products are considered “regulated articles.”

Section 340.6(a) of the regulations provides that any person may submit a petition to the Animal and Plant Health Inspection Service (APHIS) seeking a determination that an article should not be regulated under 7 CFR part 340.

APHIS received a petition (APHIS Petition Number 25–083–01p) from Bayer CropScience (Bayer) seeking a determination of nonregulated status for MON 95275 maize (corn), which has been developed using genetic engineering to produce two insecticidal proteins and a double-stranded RNA transcript to provide protection from feeding damage caused by targeted coleopteran (corn rootworm) insect pests. The petition provides information in support of petitioners’ position that MON 95275 is unlikely to pose a plant pest risk and therefore should not be regulated under APHIS’ regulations in 7 CFR part 340.

As part of our decision-making process regarding the organism’s regulatory status, APHIS prepared a draft plant pest risk assessment (PPRA)

to assess the plant pest risk of the organism.

APHIS published the petition and draft PPRA in the **Federal Register** [90 FR 30035, APHIS–2025–0021] and accepted public comments from July 8, 2025, through September 8, 2025. APHIS received 11 comments by the close of the comment period. No comments addressed the PPRA. Five comments from individuals stated general opposition to genetic engineering. These comments are non-substantive and will not be addressed further. One comment specifically opposed deregulating the product and also expressed concerns related to deregulation contributing to carbon dioxide (CO₂) emissions. This comment is addressed in our response to comments. One comment remained neutral regarding the petition, but also expressed concerns related to deregulation contributing to CO₂ emissions. This comment is also addressed in our response to comments. The remaining four comments from non-government organizations expressed support in the deregulation of the corn. We note the support expressed by these commenters to deregulate the corn for the record.

Determination

Based on APHIS’ evaluation in the PPRA of information and data submitted by Bayer in its petition, available scientific data, and public comments received in response to the petition and draft PPRA, APHIS has determined that MON 95275 is unlikely to pose a greater plant pest risk than the unmodified comparator and therefore is no longer subject to the regulations in 7 CFR part 340 governing the introduction of certain organisms developed using genetic engineering.

Copies of the signed determination, PPRA, and response to comments, as well as the previously published petition and supporting documents, are available as indicated in the **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT** sections of this notice.

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 25th day of March 2026.

Kelly Moore,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2026-05978 Filed 3-26-26; 8:45 am]

BILLING CODE 3410-34-P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS-2026-0069]

Notice of Request To Renew an Approved Information Collection: Laboratory Assessment Requests

AGENCY: Food Safety and Inspection Service (FSIS), U.S. Department of Agriculture (USDA).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and Office of Management and Budget (OMB) regulations, FSIS is announcing its intention to request a renewal of the approved information collection for non-FSIS laboratories (state, local, or private) that test food samples during illness outbreaks and recall investigations. There are no changes to the existing information collection. The approval for this information collection will expire on August 31, 2026.

DATES: Submit comments on or before May 26, 2026.

ADDRESSES: FSIS invites interested persons to submit comments on this **Federal Register** notice. Comments may be submitted by one of the following methods:

- **Federal eRulemaking Portal:** This website provides commenters the ability to type short comments directly into the comment field on the web page or to attach a file for lengthier comments. Go to <https://www.regulations.gov>. Follow the online instructions at that site for submitting comments.

- **Mail:** Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, 1400 Independence Avenue SW, Mailstop 3758, Washington, DC 20250-3700.

- **Hand- or courier-delivered submittals:** Deliver to 1400 Independence Avenue SW, Jamie L. Whitten Building, Room 350-E, Washington, DC 20250-3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS-2026-0069. Comments received in response to this docket will be made available for public inspection and posted without change, including any

personal information, to <https://www.regulations.gov>.

Docket: For access to background documents or comments received, call (202) 286-2255 to schedule a time to visit the FSIS Docket Room at 1400 Independence Avenue SW, Washington, DC 20250-3700.

FOR FURTHER INFORMATION CONTACT: Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW, Mailstop 3758, South Building, Washington, DC 20250-3700; 202-720-5046.

SUPPLEMENTARY INFORMATION:

Title: Laboratory Assessment Requests.

OMB Number: 0583-0183.

Type of Request: Renewal of an approved information collection.

Abstract: FSIS has been delegated the authority to exercise the functions of the Secretary (7 CFR 2.18 and 2.53), as specified in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*), the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 *et seq.*), and the Egg Products Inspection Act (EPIA) (21 U.S.C. 1031 *et seq.*). These statutes mandate that FSIS protect the public by verifying that meat, poultry, and egg products are safe, wholesome, and properly labeled.

FSIS is announcing its intention to renew the approved information collection for non-FSIS laboratories (State, local, or private) that test food samples during illness outbreak and recall investigations. There are no changes to the existing information collection. The approval for this information collection will expire on August 31, 2026.

As a public health regulatory agency, FSIS investigates reports of foodborne illness, contamination, and adulteration potentially associated with FSIS-regulated products. During these investigations, non-FSIS laboratories may test FSIS-regulated product and share the results with FSIS. FSIS Office of Public Health Science (OPHS) Microbiological and Chemical Hazards Staff (MCHS) will review the results and associated documentation shared by the non-FSIS laboratory to determine whether FSIS will accept the results. If the MCHS lead investigator determines the non-FSIS laboratory result is acceptable, FSIS may use the result to inform regulatory action (*e.g.*, request a recall or detain product).

As part of the process to determine if the non-FSIS laboratory result is acceptable, the MCHS lead investigator collects information from the non-FSIS laboratory and verifies that the non-FSIS

laboratory can provide the appropriate certifications and documentation of accreditation, such as ISO 17025, or another third-party accreditation entity covering the methods performed. The MCHS lead investigator also verifies that the laboratory has submitted to FSIS all the necessary information, including evidence of chain of custody, and the appropriate laboratory reports with sample identification, final results, and authorization by the responsible official for affirming results. Finally, the MCHS investigator collects and verifies laboratory methods and quality-assurance records documentation from the accredited, non-FSIS laboratory.

FSIS has made the estimates below based on an information collection assessment.

Respondents: Non-FSIS laboratories.
Estimated Number of Respondents: 3.
Estimated Number of Annual Responses per Respondent: 1.
Estimated Total Annual Burden on Respondents: 22.5 hours.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record. Copies of this information collection assessment can be obtained from Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW, Mailstop 3758, South Building, Washington, DC 20250-3700; 202-720-5046.

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of FSIS' functions, including whether the information will have practical utility; (b) the accuracy of FSIS' estimate of the burden of the proposed collection of information, including the validity of the method and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology. Comments may be sent to both FSIS, at the addresses provided above, and the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20253.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this **Federal Register** publication on-line through the FSIS

web page located at: <https://www.fsis.usda.gov/federal-register>.

FSIS will also announce and provide a link to this **Federal Register** publication through the FSIS *Constituent Update*, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The *Constituent Update* is available on the FSIS web page. Through the web page, FSIS can provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service that provides automatic and customized access to selected food safety news and information. This service is available at: <https://www.fsis.usda.gov/subscribe>. The available information ranges from recalls to export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves and have the option to password protect their accounts.

USDA Non-Discrimination Statement

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complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Mail Stop 9410, Washington, DC 20250-9410; (2) fax: (202) 690-7442; or (3) email: program.intake@usda.gov.

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Justin Ransom,
Administrator.

[FR Doc. 2026-06010 Filed 3-26-26; 8:45 am]

BILLING CODE 3410-DM-P

DEPARTMENT OF COMMERCE

Economic Development Administration

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Regional Economic Development Data Collection Instrument

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on January 23, 2026 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: Economic Development Administration, Department of Commerce.

Title: Regional Economic Development Data Collection Instrument.

OMB Control Number: 0610-0110.

Form Number(s): None.

Type of Request: Extension of a Currently Approved Collection.

Number of Respondents: A total of 21 coalitions (with a designated lead) will respond.

Average Hours per Response: 2.5 hours per respondent per quarter.

Burden Hours: 210 hours.

Needs and Uses: To effectively administer and monitor its economic development assistance programs, EDA collects certain information from applications for, and recipients of, EDA investment assistance. The purpose of

this notice is to seek comments from the public and other Federal agencies on a request for recipients of awards under the EDA Build Back Better Regional Challenge.

The proposed information collection employs a mixed methods approach to gather traditional metrics in addition to qualitative data on all regions participating in the Build Back Better Regional Challenge program. Secondary data will be gathered and monitored for each of the regions/awardees. A quarterly questionnaire is sent to each of the BBBRC coalition leads which will gather the relevant data and stories for each of the 21 BBBRC coalitions, resulting in coalition regional impact evaluation, resources, and tools for regional economic development decision-makers.

The collection explores several thematic areas for the Build Back Better Regional Challenge, where each of the following areas are based on survey scope of work themes:

1. Accelerating innovation in emerging technologies to gain an understanding of the long-term impact of economic and social sectors.
2. Helping workers access information on new job opportunities, job placement, and job training and prepare for and be hired into jobs.
3. Increasing new business growth and entrepreneurial activities within industry sectors.
4. Building critical infrastructure such as roads, water and sewer miles, business and industries to allow for economic development and growth.
5. Helping businesses adopt new technologies so that they may enter new markets, increasing their economic capacity and overall sustainability.

Coalition leads will respond to the appropriate thematic area, answering questions related to the following process and progress:

- Reflections and updates on the coalition implementation process and progress.
- The ability to secure additional non-federal investments.
- Detailing the programs, training, and curricula developed/launched for job training/workforce development.
- Job creation, wage growth, and existing employee growth and development.

Affected Public: Recipients of Build Back Better Regional Challenge awards, which may include a(n): district organization; Indian Tribe or a consortium of Indian Tribes; state, county, city, or other political subdivision of a State, including a special purpose unit of a state or local government engaged in economic or

infrastructure development activities or a consortium of political subdivisions; institution of higher education or a consortium of institutions of higher education; or public or private non-profit organization or association, including labor unions, acting in cooperation with officials of a political subdivision of a state.

Frequency: Quarterly.
Respondent's Obligation: Mandatory.
Legal Authority: The Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 et seq).

This information collection request may be viewed at www.reginfo.gov. Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function and entering either the title of the collection or the OMB Control Number 0610–0110.

Sheleen Dumas,
Departmental PRA Compliance Officer, Office of the Under Secretary of Economic Affairs, Commerce Department.
[FR Doc. 2026–05953 Filed 3–26–26; 8:45 am]
BILLING CODE 3510–34–P

DEPARTMENT OF COMMERCE

International Trade Administration
[C–721–002]

Steel Concrete Reinforcing Bar From Algeria: Final Affirmative Countervailing Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.
SUMMARY: The U.S. Department of Commerce (Commerce) determines that countervailable subsidies are being provided to producers and exporters of steel concrete reinforcing bar (rebar)

from Algeria. The period of investigation (POI) is January 1, 2024, through December 31, 2024.
DATES: Applicable March 27, 2026.
FOR FURTHER INFORMATION CONTACT: Henry Wolfe or Shane Subler, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0574 or (202) 482–6241, respectively.

SUPPLEMENTARY INFORMATION:

Background

On January 13, 2026, Commerce published in the **Federal Register** the *Preliminary Determination* in this investigation and invited interested parties to comment.¹ Because no comments were submitted by interested parties, we have adopted our *Preliminary Determination* for purposes of this final determination. According, no decision memorandum accompanies this **Federal Register** notice. The deadline for the final determination of this investigation is March 24, 2026.

Scope of the Investigation

The product covered by this investigation is rebar from Algeria. For a complete description of the scope of this investigation, *see* the appendix to this notice.

Scope Comments

No interested party commented on the scope of the investigation as it appeared in the *Preliminary Determination*.² Therefore, we made no changes to the scope of the investigation from that published in the *Preliminary Determination*.

Methodology

Commerce conducted this investigation in accordance with section 701 of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found to be countervailable, Commerce determines that there is a subsidy, *i.e.*, a financial contribution by an “authority” that gives rise to a benefit to the recipient, and that the subsidy is specific.³ In

making this final determination, Commerce relied on facts available, including with an adverse inference, pursuant to sections 776(a) and (b) of the Act. For a full discussion of our application of adverse facts available (AFA), *see Preliminary Determination*.⁴

Verification

Because the non-responsive respondent, Tosyali Iron Steel Industry Algeria SPA, did not participate in this investigation and because the Government of Algeria (GOA) did not provide information Commerce requested, Commerce did not conduct a verification in this investigation.⁵

All-Others Rate

Sections 703(d) and 705(c)(5)(A) of the Act provide that Commerce shall determine an estimated all-others rate for companies not individually examined. Pursuant to section 705(c)(5)(A)(ii) of the Act, if the individual estimated countervailable subsidy rates established for all exporters and producers individually examined are zero, *de minimis*, or determined based entirely on section 776 of the Act, Commerce may use any reasonable method to establish the estimated subsidy rate for all other producers or exporters. In this investigation, Commerce has determined the estimated subsidy rate for the individually examined respondent under section 776 of the Act. This is the only rate available in this proceeding for deriving the all-others rate. Consequently, pursuant to sections 703(d) and 705(c)(5)(A)(ii) of the Act, Commerce established the all-others rate by applying the countervailable subsidy rate assigned to the non-responsive company listed below. For a full description of the methodology underlying Commerce’s analysis, *see the Preliminary Determination*.⁶

Final Determination

Commerce determines that the following estimated countervailable subsidy rates exist:

Company	Subsidy rate (percent <i>ad valorem</i>)
Tosyali Iron Steel Industry Algeria SPA	* 72.94

¹ See *Steel Concrete Reinforcing Bar From Algeria: Preliminary Affirmative Countervailing Duty Determination*, 91 FR 1261 (January 13, 2026) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

² See *Preliminary Determination*, 91 FR at 1261.
³ See sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

⁴ See *Preliminary Determination* PDM at the section “Use of Facts Otherwise Available and Application of Adverse Inferences.”
⁵ See *Preliminary Determination*, 91 FR at 1262.
⁶ *Id.*, 91 FR at 1261–62.

Company	Subsidy rate (percent <i>ad valorem</i>)
All Others	72.94

* Rate is based on facts available with adverse inferences.

Disclosure

Normally, Commerce discloses to interested parties the calculations performed in a final determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of the final determination in the **Federal Register**, in accordance with 19 CFR 351.224(b). However, because the program rates assigned as AFA in the *Preliminary Determination* are unchanged, there are no new calculations to disclose.

Continuation of Suspension of Liquidation

In accordance with sections 703(d)(1)(B) and (d)(2) of the Act, Commerce instructed U.S. Customs and Border Protection (CBP) to collect cash deposits and suspend liquidation of entries of rebar from Algeria, as described in the appendix to this notice, entered, or withdrawn from warehouse, for consumption on or after January 13, 2026, the date of publication of the *Preliminary Determination* in the **Federal Register**, at the cash deposit rate indicated above.

If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, we will issue a countervailing duty (CVD) order and require a cash deposit of estimated countervailing duties for such entries of subject merchandise in the amounts indicated above, in accordance with section 706(a) of the Act. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated, and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, Commerce will notify the ITC of its final affirmative determination that countervailable subsidies are being provided to producers and exporters of rebar from Algeria. As Commerce's final determination is affirmative, in accordance with section 705(b) of the Act, the ITC will determine, within 45 days, whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of rebar from Algeria.

In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance.

If the ITC determines that material injury or threat of material injury does not exist, this proceeding will be terminated and all cash deposits will be refunded or canceled. If the ITC determines that such injury does exist, Commerce intends to issue a CVD order directing CBP to assess, upon further instruction by Commerce, countervailing duties on all imports of the subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the "Continuation of Suspension of Liquidation" section.

Administrative Protective Order

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to the APO of their responsibility concerning the destruction of proprietary information disclosed under APO, in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act, and 19 CFR 351.210(c).

Dated: March 24, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

Scope of the Investigation

The merchandise subject to this investigation is steel concrete reinforcing bar imported in either straight length or coil form (rebar) regardless of metallurgy, length, diameter, or grade or lack thereof.

The subject merchandise includes rebar that has been further processed in the subject country or a third country, including but not limited to cutting, grinding, galvanizing, painting, coating, or any other processing that would not otherwise remove the merchandise from the scope of this investigation if performed in the country of manufacture of the rebar.

Specifically excluded are plain rounds (*i.e.*, nondeformed or smooth rebar).

The subject merchandise is classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) primarily under subheadings 7213.10.0000, 7214.20.0000, and 7228.30.8010. The subject merchandise may also enter under other HTSUS subheadings including 221.00.0017, 7221.00.0018, 7221.00.0030, 7221.00.0045, 7222.11.0001, 7222.11.0057, 7222.11.0059, 7222.30.0001, 7227.20.0080, 7227.90.6030, 7227.90.6035, 7227.90.6040, 7228.20.1000, and 7228.60.6000. HTSUS subheadings are provided for convenience and customs purposes; however, the written description of the scope remains dispositive.

[FR Doc. 2026-06006 Filed 3-26-26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-428-850]

Thermal Paper From Germany: Preliminary Results and Rescission, in Part, of Antidumping Duty Administrative Review; 2023–2024

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that sales of thermal paper from Germany were not made at less than normal value (NV) during the period of review (POR), November 1, 2023, through October 31, 2024. We are also rescinding this review, in part, with

respect to 14 companies. Interested parties are invited to comment on these preliminary results.

DATES: Applicable March 27, 2026.

FOR FURTHER INFORMATION CONTACT: Anne Entz, AD/CVD Operations, Office IX, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3845.

Background

On November 22, 2021, Commerce published in the **Federal Register** the antidumping duty (AD) order on thermal paper from Germany.¹ On December 18, 2024, based on timely requests for review, in accordance with 19 CFR 351.221(c)(1)(i), we initiated an administrative review of the *Order*.² On January 29, 2025, Commerce selected Koehler Paper SE and Koehler Kehl GmbH (collectively, Koehler) and Matra Atlantic GmbH (Matra) as the mandatory respondents in this review.³

Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days.⁴ Additionally, due to a backlog of documents that were electronically filed via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) during the Federal Government shutdown, on November 24, 2025, Commerce tolled all deadlines in administrative proceedings by an additional 21 days.⁵ Further, on December 19, 2025, January 16, 2026, February 25, 2026, and March 12, 2026, Commerce extended the time limit for these preliminary results.⁶ Accordingly,

the deadline for the preliminary results is now March 24, 2026.

For a complete description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.⁷ The Preliminary Decision Memorandum is a public document and is on file electronically via ACCESS. ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Scope of the Order

The merchandise subject to the *Order* is thermal paper from Germany. For a complete description of the scope of the *Order*, *see* the Preliminary Decision Memorandum.

Rescission of Administrative Review, in Part

In accordance with 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if a party who requested a review withdraws its request within 90 days of the date of publication of notice of initiation. On January 2, 2025, pursuant to 19 CFR 351.213(d)(1), Domtar Corporation and Appvion, LLC (collectively, the petitioners) timely withdrew their requests for review for the 14 producers and/or exporters listed in Appendix II.⁸ Because no other party requested a review of these companies, we are rescinding this review with respect to them, pursuant to 19 CFR 351.213(d)(1).

and “Fourth Extension of Deadline for Preliminary Results of 2023–2024 Antidumping Duty Administrative Review,” dated March 12, 2026.

⁷ *See* Memorandum, “Decision Memorandum for the Preliminary Results of the 2023–2024 Administrative Review of the Antidumping Duty Order on Thermal Paper from Germany,” dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

⁸ *See* Petitioners’ Letter, “Partial Withdrawal of Request for Administrative Review,” dated January 2, 2025. On June 30, 2025, Commerce issued a memorandum noting its intent to rescind this administrative review for companies with no suspended entries during the POR, including Koehler Oberkirch GmbH (Koehler Oberkirch). *See* Memorandum, “Notice of Intent to Rescind Review, In Part,” dated June 30, 2025 (Intent to Rescind Memorandum). However, because Koehler Oberkirch is an affiliate of Koehler, we are not rescinding this review for it. Moreover, we note that the petitioners withdrew their requests for review for the remaining companies in the Intent to Rescind Memorandum.

Review-Specific Rate for Non-Examined Companies

The Act and Commerce’s regulations do not address the establishment of a weighted-average dumping margin to be applied to companies not selected for individual examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Tariff Act of 1930, as amended (the Act). Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in a less-than-fair-value (LTFV) investigation, for guidance when calculating the weighted-average dumping margin for companies which were not selected for individual examination in an administrative review. Under section 735(c)(5)(A) of the Act, the all-others rate is normally “an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely {on the basis of facts available}.” Therefore, because the rate calculated for Koehler in this administrative review is a zero, consistent with section 735(c)(5)(A) of the Act, for the companies not selected for individual examination in this review (*i.e.*, Convertidoras PCM, S.A. de C.V. (Convertidoras) and Papeles y Conversiones de Mexico, S.A. de C.V. (Papeles)), we are preliminarily assigning the most recent above-*de minimis* rate calculated in this proceeding as the review-specific rate, *i.e.*, 0.76 percent.

Methodology

Commerce is conducting this review in accordance with section 751(a) of the Act. We calculated constructed export price in accordance with section 772 of the Act. We calculated NV in accordance with section 773 of the Act. For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum. A list of the topics discussed in the Preliminary Decision Memorandum is attached as Appendix I to this notice.

Preliminary Results of Review

As a result of this review, we preliminarily determine that the following weighted-average dumping margins exist for the period November 1, 2023, through October 31, 2024:

¹ *See Thermal Paper from Germany, Japan, the Republic of Korea, and Spain: Antidumping Duty Orders*, 86 FR 66284 (November 22, 2021) (*Order*).

² *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 89 FR 102856 (December 18, 2024).

³ *See* Memorandum, “Respondent Selection,” dated January 29, 2025.

⁴ *See* Memorandum, “Deadlines Affected by the Shutdown of the Federal Government,” dated November 14, 2025.

⁵ *See* Memorandum, “Tolling of all Case Deadlines,” dated November 24, 2025.

⁶ *See* Memoranda, “Extension of Deadline for Preliminary Results of 2023–2024 Antidumping Duty Administrative Review,” dated December 19, 2025; “Second Extension of Deadline for Preliminary Results of 2023–2024 Antidumping Duty Administrative Review,” dated January 16, 2026; “Third Extension of Deadline for Preliminary Results of 2023–2024 Antidumping Duty Administrative Review,” dated February 25, 2026;

Exporter/producer	Weighted-average dumping margin (percent)
Koehler Paper SE; Koehler Kehl GmbH	0.00
Convertidoras PCM, S.A. de C.V.	0.76
Papeles y Conversiones de Mexico, S.A. de C.V.	0.76

Disclosure

Commerce intends to disclose its calculations and analysis performed for these preliminary results to interested parties within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance. Pursuant to 19 CFR 351.309(c)(1)(ii), we have modified the deadline for interested parties to submit case briefs to Commerce to no later than 21 days after the date of the publication of this notice.⁹ Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than five days after the date for filing case briefs.¹⁰ Interested parties who submit case or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.¹¹

As provided under 19 CFR 351.309(c)(2)(iii) and (d)(2)(iii), we request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.¹² Further, we request that interested parties limit their public executive summary of each issue to no more than 450 words, not including citations. We intend to use the public executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final determination in this review. We request that interested parties include footnotes for relevant citations in the public executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the

service of documents in 19 CFR 351.303(f).¹³

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS, by 5 p.m. Eastern time, within 30 days after the date of publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants and whether any participant is a foreign national; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. If a request for a hearing is made, Commerce will inform interested parties of the scheduled date for the hearing.¹⁴

All submissions, including case and rebuttal briefs, as well as hearing requests, should be filed via ACCESS.¹⁵ An electronically filed document must be received successfully in its entirety in ACCESS by 5:00 p.m. Eastern Time on the established deadline.

Assessment Rates

Upon completion of the administrative review, Commerce shall determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review. Pursuant to 19 CFR 351.212(b)(1), because Koehler did not report the entered value for all of its U.S. sales, we calculated importer-specific per-unit duty assessment rates by aggregating the total amount of antidumping duties calculated for the examined sales and dividing this amount by the total quantity of those sales. Where either Koehler's weighted-average dumping margin is zero or *de minimis* within the meaning of 19 CFR 351.106(c), or an importer-specific rate is zero or *de minimis*, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

Commerce's "automatic assessment" practice will apply to entries of subject merchandise during the POR produced by Koehler for which it did not know that the merchandise it sold to an intermediary (e.g., a reseller, trading

company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate those entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.¹⁶

For Convertidoras and Papeles which were not selected for individual review, we will assign an assessment rate based on the most recent above-*de minimis* rate calculated in this proceeding as the review-specific rate, i.e., 0.76 percent, as discussed in the section "Review-Specific Rate for Non-Examined Companies," above.

For the companies listed in Appendix II for which Commerce is rescinding this review, Commerce will instruct CBP to assess antidumping duties on all appropriate entries at a rate equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, during the period November 1, 2023, through October 31, 2024, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue assessment instructions to CBP regarding these companies no earlier than 35 days after the date of publication of this notice in the **Federal Register**.

In accordance with section 751(a)(2)(C) of the Act, the final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable. Commerce intends to issue assessment instructions to CBP regarding Koehler, Convertidoras, and Papeles no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (i.e., within 90 days of publication).

Cash Deposit Requirements

The following deposit requirements will be effective for all shipments of the

⁹ Commerce is exercising its discretion to alter the time limit for filing of case briefs. See 19 CFR 351.309(c)(1)(ii).

¹⁰ See 19 CFR 351.309(d); see also *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Final Rule*).

¹¹ See 19 CFR 351.309(c)(2) and (d)(2).

¹² We use the term "issue" here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

¹³ See *APO and Service Final Rule*.

¹⁴ See 19 CFR 351.310(d).

¹⁵ See 19 CFR 351.303.

¹⁶ For a full discussion of this practice, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for the companies listed above will be that established in the final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for previously reviewed or investigated companies not covered by this review, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding in which the company participated; (3) if the exporter is not a firm covered in this review, a prior review, or the LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent segment for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers and/or exporters will be 6.27 percent, the all-others rate established in the *Amended Final Determination*.¹⁷ These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(d), (h) and 351.221(b)(4).

¹⁷ See Order, 86 FR at 66286; see also *Thermal Paper from Germany: Notice of Court Decision Not in Harmony with the Final Determination of Antidumping Investigation; Notice of Amended Final Determination; Notice of Amended Order, In Part*, 90 FR 60617 (December 29, 2025) (*Amended Final Determination*).

Dated: March 24, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Discussion of the Methodology
- V. Currency Conversion
- VI. Recommendation

Appendix II

Companies Rescinded From Review

1. Akon Rulo Kagit Plastik Imalat IHR İTH. SAN. TİC. A.Ş.
 2. Amtress (M) Sdn. Bhd.
 3. Besto Sdn. Bhd.
 4. Dor Etiket San VE Tic. Ltd.
 5. Engin Kagit Mamulleri San. Tic.
 6. Formas para Negocios, S.A. de C.V.
 7. Formularios de México S.A. de C.V.
 8. Kagit Mamulleri San. Tic. Ltd., Stl.
 9. Kooka Paper Manufacturing Sdn. Bhd.
 10. Sailing Paper (Malaysia) Sdn. Bhd.
 11. ShenZhen Sailing Paper Co., Ltd.
 12. Tele-Paper (M) Sdn. Bhd.
 13. Wellden (M) Sdn. Bhd.
 14. Wingle Industrial (Malaysia) Sdn. Bhd.
- [FR Doc. 2026-06016 Filed 3-26-26; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-192, C-570-193]

Erythritol From the People's Republic of China: Antidumping Duty and Countervailing Duty Orders

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: Based on affirmative final determinations by the U.S. Department of Commerce (Commerce) and the U.S. International Trade Commission (ITC), Commerce is issuing antidumping duty (AD) and countervailing duty (CVD) orders on erythritol from the People's Republic of China (China).

DATES: Applicable March 27, 2026.

FOR FURTHER INFORMATION CONTACT: Hannah Lee and Brian Smith (AD), or Christopher Doyle (CVD), AD/CVD Operations, Offices VIII and IX, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-1216, (202) 482-1766, and (202) 482-5882, respectively.

SUPPLEMENTARY INFORMATION:

Background

In accordance with sections 705(d) and 735(d) of the Tariff Act of 1930, as amended (the Act), on February 10, 2026, Commerce published its affirmative final determination of sales at less than fair value (LTFV) for erythritol from China,¹ and its affirmative final determination that countervailable subsidies are being provided to producers and exporters of erythritol from China.²

On March 23, 2026, pursuant to sections 705(d) and 735(d) of the Act, the ITC notified Commerce of its final affirmative determinations that an industry in the United States is materially injured by reason of LTFV imports of erythritol from China, and subsidized imports of erythritol from China, within the meaning of sections 705(b)(1)(A)(i) and 735(b)(1)(A)(i) of the Act.³

Scope of the Orders

The product covered by these orders is erythritol from China. For a complete description of the scope of the orders, see the appendix to this notice.

AD Order

On March 23, 2026, in accordance with section 735(d) of the Act, the ITC notified Commerce of its final determination that an industry in the United States is materially injured within the meaning of section 735(b)(1)(A)(i) of the Act by reason of imports of erythritol from China that is sold in the United States at LTFV.⁴ Therefore, in accordance with sections 735(c)(2) and 736 of the Act, Commerce is issuing this AD order. Because the ITC determined that imports of erythritol from China are materially injuring a U.S. industry, unliquidated entries of such merchandise from China, entered or withdrawn from warehouse for consumption, are subject to the assessment of antidumping duties.

Therefore, in accordance with section 736(a)(1) of the Act, Commerce intends to direct U.S. Customs and Border Protection (CBP) to assess, upon further instruction by Commerce, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price (or constructed

¹ See *Erythritol from the People's Republic of China: Final Affirmative Determination of Sales at Less-Than-Fair-Value*, 91 FR 5895 (February 10, 2026) (*AD Final Determination*).

² See *Erythritol from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 91 FR 5920 (February 10, 2026).

³ See ITC's Letter, "Notification of ITC Final Determination," dated March 23, 2026 (ITC Notification Letter).

⁴ *Id.*

export price) of the merchandise on all relevant entries of erythritol from China. Antidumping duties will be assessed on unliquidated entries of erythritol from China entered, or withdrawn from warehouse, for consumption on or after July 16, 2025, the date of publication of the *AD Preliminary Determination*,⁵ but will not include entries occurring after the expiration of the provisional measures period and before publication of the ITC's final injury determination, as further described below.

Suspension of Liquidation and Cash Deposits—AD

Except as noted in the “Provisional Measures—AD” section of this notice,

Commerce intends to instruct CBP to reinstitute the suspension of liquidation of erythritol from China, effective on the date of publication of the ITC's final affirmative injury determination in the **Federal Register** in accordance with section 736 of the Act. These instructions suspending liquidations will remain in effect until further notice.

Commerce also intends to instruct CBP to require cash deposits equal to the estimated weighted-average dumping margins indicated in the table below, adjusted by the relevant export subsidy offsets. Accordingly, effective on the date of publication in the **Federal Register** of the notice of the ITC's final

affirmative injury determination, CBP will require, at the same time as importers would normally deposit estimated customs duties on subject merchandise, a cash deposit equal to the rates listed in the table below. The rate for the China-wide entity applies to all producers and exporters not specifically listed, as appropriate. These cash deposit requirements will remain in effect until further notice.

Estimated Weighted-Average Dumping Margins

The estimated weighted-average dumping margins are as follows:

Exporter	Producer	Weighted-average dumping margin (percent)	Cash deposit rate (adjusted for subsidy offsets) (percent) ⁶
Beijing Refine Biology Co., Ltd	Chuzhou Refine Biology Co., Ltd	85.04	84.95
Hunan Nutramax Inc	Hunan Nutramax Inc	85.04	84.95
Shandong Newnature Biotechnology Co., Ltd	Shandong Sanyuan Biotechnology Co., Ltd.	85.04	84.95
Baolingbao Biology Co., Ltd	Baolingbao Biology Co., Ltd	85.04	84.86
China-wide Entity		* 184.26	184.26

* This rate is based on facts available with adverse inferences.

Provisional Measures—AD

Section 733(d) of the Act states that suspension of liquidation pursuant to an affirmative preliminary determination may not remain in effect for more than four months, except where exporters representing a significant proportion of exports of the subject merchandise request that Commerce extend the four-month period to no more than six months. At the request of exporters that accounted for a significant proportion of exports of erythritol from China, Commerce extended the four-month period to no more than six months.⁷ In the underlying investigation, Commerce published the *AD Preliminary Determination* on July 16, 2025. Therefore, the six-month period beginning on the date of the publication of the *AD Preliminary Determination* ended on January 11, 2026. Pursuant to section 737(b) of the Act, the collection of cash deposits at the rates listed above will begin on the date of publication of the ITC's final injury determination. Therefore, in accordance with section 736(a)(1) of the Act and our practice, Commerce will instruct CBP to terminate the suspension of liquidation

and to liquidate, without regard to antidumping duties, unliquidated entries of erythritol from China entered, or withdrawn from warehouse, for consumption on or after January 12, 2026, the first day provisional measures were no longer in effect, until and through the day preceding the date of publication of the ITC's final injury determination in the **Federal Register**. Suspension of liquidation and the collection of cash deposits will resume on the date of publication of the ITC's final determination in the **Federal Register**.

CVD Order

As stated above, on March 23, 2026, the ITC notified Commerce of its final determination that an industry in the United States is materially injured within the meaning of section 705(b)(1)(A)(i) of the Act by reason of subsidized imports of erythritol from China.⁸ Therefore, in accordance with section 705(c)(2) of the Act, Commerce is issuing this CVD order. Moreover, because the ITC determined that imports of erythritol from China are materially injuring a U.S. industry, unliquidated entries of subject

merchandise from China entered, or withdrawn from warehouse, for consumption, are subject to the assessment of countervailing duties.

Therefore, in accordance with section 706(a) of the Act, Commerce intends to direct CBP to assess, upon further instructions by Commerce, countervailing duties on all relevant entries of erythritol from China, which are entered, or withdrawn from warehouse, for consumption on or after May 16, 2025, the date of publication of the *CVD Preliminary Determination*,⁹ but will not include entries occurring after the expiration of the provisional measures period and before the publication of the ITC's final injury determination under section 705(b) of the Act, as further described below.

Suspension of Liquidation and Cash Deposits—CVD

In accordance with section 706 of the Act, Commerce intends to instruct CBP to reinstitute the suspension of liquidation of erythritol from China, effective on the date of publication of the ITC's final affirmative injury determination in the **Federal Register**, and to assess, upon further instruction

⁵ See *Erythritol from People's Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination and Extension of Provisional Measures*, 90 FR 31962 (July 16, 2025) (*AD Preliminary Determination*).

⁶ See *AD Final Determination*, 91 FR at 5897.

⁷ See *AD Preliminary Determination*.

⁸ See ITC Notification Letter.

⁹ See *Erythritol from the People's Republic of China: Preliminary Affirmative Countervailing Duty*

Determination, and Alignment of Final Determination with Final Antidumping Duty Determination, 90 FR 21000 (May 16, 2025) (*CVD Preliminary Determination*).

by Commerce, pursuant to section 706(a)(1) of the Act, countervailing duties on each entry of subject merchandise in an amount based on the net countervailable subsidy rates below. These instructions suspending liquidation will remain in effect until further notice.

Commerce also intends, pursuant to section 706(a)(1) of the Act, to instruct CBP to require cash deposits equal to the amounts as indicated below. Accordingly, effective on the date of publication of the ITC's final injury determination in the **Federal Register**, CBP will require, at the same time as importers would normally deposit estimated customs duties on this merchandise, a cash deposit equal to the rates listed in the table below.¹⁰ The all-others rate applies to all producers or exporters not specifically listed below, as appropriate. These cash deposit requirements will remain in effect until further notice.

Estimated Countervailing Subsidy Rates

The estimated countervailing subsidy rates are as follows:

Company	Subsidy rate (percent <i>ad valorem</i>)
Baolingbao Biology Co., Ltd Shandong Sanyuan Bio- technology Co., Ltd	4.54
All Others	8.63
	8.12

Provisional Measures—CVD

Section 703(d) of the Act states that the suspension of liquidation pursuant to an affirmative preliminary determination may not remain in effect for more than four months. Commerce published the *CVD Preliminary Determination* on May 16, 2025.¹¹ As such, the four-month period beginning on the date of the publication of the *CVD Preliminary Determination* ended on September 12, 2025.

Therefore, in accordance with section 703(d) of the Act, we instructed CBP to terminate the suspension of liquidation and to liquidate, without regard to countervailing duties, unliquidated entries of erythritol from China or withdrawn from warehouse, for consumption, on or after September 13, 2025, the first date on which the provisional measures were no longer in effect, until and through the day preceding the date of publication of the ITC's final injury determination in the **Federal Register**. Suspension of liquidation and the collection of cash deposits will resume on the date of

publication of the ITC's final determination in the **Federal Register**.

Establishment of the Annual Inquiry Service Lists

On September 20, 2021, Commerce published the *Final Rule* in the **Federal Register**.¹² On September 27, 2021, Commerce also published the *Procedural Guidance* in the **Federal Register**.¹³ The *Final Rule* and *Procedural Guidance* provide that Commerce will maintain an annual inquiry service list for each order or suspended investigation, and any interested party submitting a scope ruling application or request for circumvention inquiry shall serve a copy of the application or request on the persons on the annual inquiry service list for that order, as well as any companion order covering the same merchandise from the same country of origin.

In accordance with the *Procedural Guidance*, for orders published in the **Federal Register** after November 4, 2021, Commerce will create an annual inquiry service list segment in Commerce's online e-filing and document management system, Antidumping and Countervailing Duty Electronic Service System (ACCESS), available at <https://access.trade.gov>, within five business days of publication of the notice of the order. Each annual inquiry service list will be saved in ACCESS, under each case number, and under a specific segment type called "AISL-Annual Inquiry Service List."¹⁴

Interested parties who wish to be added to the annual inquiry service list for an order must submit an entry of appearance to the annual inquiry service list segment for the order in ACCESS within 30 days after the date of publication of the order. For ease of administration, Commerce requests that law firms with more than one attorney representing interested parties in an order designate a lead attorney to be

included on the annual inquiry service list. Commerce will finalize the annual inquiry service list within five business days thereafter. As mentioned in the *Procedural Guidance*,¹⁵ the new annual inquiry service list will be in place until the following year, when the *Opportunity Notice* for the anniversary month of the order is published.

Commerce may update an annual inquiry service list at any time as needed based on interested parties' amendments to their entries of appearance to remove or otherwise modify their list of members and representatives, or to update contact information. Any changes or announcements pertaining to these procedures will be posted to the ACCESS website at <https://access.trade.gov>.

Special Instructions for the Petitioner and Foreign Governments

In the *Final Rule*, Commerce stated that, "after an initial request and placement on the annual inquiry service list, both petitioners and foreign governments will automatically be placed on the annual inquiry service list in the years that follow."¹⁶ Accordingly, as stated above, the petitioner and the Government of China (GOC) should submit their initial entries of appearance after publication of this notice in order to appear in the first annual inquiry service lists for these orders. Pursuant to 19 CFR 351.225(n)(3), the petitioner and the GOC will not need to resubmit their entries of appearance each year to continue to be included on the annual inquiry service list. However, the petitioner and the GOC are responsible for making amendments to their entries of appearance during the annual update to the annual inquiry service list in accordance with the procedures described above.

Notification to Interested Parties

This notice constitutes the AD and CVD orders with respect to erythritol from China, pursuant to sections 706(a) and 736(a) of the Act. Interested parties can find a list of AD and CVD orders currently in effect at <https://www.trade.gov/datavisualization/adcvd-proceedings>.

These AD and CVD orders are issued and published in accordance with sections 706(a) and 736(a) of the Act, and 19 CFR 351.211(b).

¹⁰ See section 706(a)(3) of the Act.

¹¹ See *CVD Preliminary Determination*.

¹² See *Regulations to Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws*, 86 FR 52300 (September 20, 2021) (*Final Rule*).

¹³ See *Scope Ruling Application; Annual Inquiry Service List; and Informational Sessions*, 86 FR 53205 (September 27, 2021) (*Procedural Guidance*).

¹⁴ This segment will be combined with the ACCESS Segment Specific Information (SSI) field which will display the month in which the notice of the order or suspended investigation was published in the **Federal Register**, also known as the anniversary month. For example, for an order under case number A-000-000 that was published in the **Federal Register** in January, the relevant segment and SSI combination will appear in ACCESS as "AISL-January Anniversary." Note that there will be only one annual inquiry service list segment per case number, and the anniversary month will be pre-populated in ACCESS.

¹⁵ See *Procedural Guidance*, 86 FR at 53206.

¹⁶ See *Final Rule*, 86 FR at 52335.

Dated: March 24, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

Scope of the Orders

The product within the scope of these orders is erythritol, which is a sugar alcohol, commonly referred to as a polyol, typically produced by the fermentation of glucose using enzymes and yeast or yeast-like fungi (though the scope includes erythritol produced using any other feedstock or organism). Erythritol is an organic compound with the molecular formula C₄H₁₀O₄ and a Chemical Abstracts Service (CAS) registry number of 149–32–6. Other names for erythritol include meso-erythritol, (2R, 3S)-butan-1,2,3,4-tetrol, butane-1,2,3,4-tetrol, or meso-1,2,3,4-Tetrahydroxybutane.

Erythritol typically appears as a white crystalline, odorless product that rapidly dissolves in water. While erythritol is typically produced in the crystalline form or as a fine powder or in directly compressible form, the scope of these orders covers all physical forms and grades of erythritol, including organic erythritol.

The merchandise covered by these orders is classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheading 2905.49.4000. Erythritol may also enter under HTSUS subheading 2106.90.9998. Although the HTSUS subheadings and the CAS registry number are provided for convenience and customs purposes, the written description of the merchandise covered by these orders is dispositive.

Specifically excluded from the scope are certain tabletop sugar substitute products that contain erythritol as an ingredient. Tabletop sugar substitute products include erythritol as an ingredient as well as a high intensity sweetener such as monk fruit, stevia, sucralose, aspartame, and saccharin. The following tabletop sugar substitute products are excluded: finished goods packaged and labeled for retail sale or individual consumption.

[FR Doc. 2026–06008 Filed 3–26–26; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Procedures for Importation of Supplies for Use in Emergency Relief Work

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance

with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on January 21, 2026, during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: International Trade Administration, Department of Commerce.

Title: Procedures for Importation of Supplies for Use in Emergency Relief Work.

OMB Control Number: 0625–0256.

Form Number(s): None.

Type of Request: Regular submission, reinstatement without change.

Number of Respondents: 1.

Average Hours per Response: 15.

Burden Hours: 15.

Needs and Uses: The regulations (19 CFR 358.101–104) provide procedures for requesting the Secretary of Commerce to permit the importation of supplies, such as food, clothing, and medical, surgical, and other supplies, for use in emergency relief work free of antidumping and countervailing duties.

Affected Public: Business or other for-profit organizations.

Frequency: Varies.

Respondent's Obligation: Voluntary.

This information collection request may be viewed at www.reginfo.gov. Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function and entering either the title of the collection or the OMB Control Number 0635–0256.

Sheleen Dumas,

Departmental PRA Compliance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2026–06012 Filed 3–26–26; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–825, A–570–924, A–533–824, A–583–837, A–520–803]

Polyethylene Terephthalate Film, Sheet, and Strip from India, Taiwan, the People's Republic of China, and the United Arab Emirates: Continuation of Antidumping Duty and Countervailing Duty Orders

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: As a result of determinations by the U.S. Department of Commerce (Commerce) and the U.S. International Trade Commission (ITC) that revocation of the antidumping duty (AD) and countervailing duty (CVD) orders on polyethylene terephthalate film, sheet, and strip (PET film) from India, Taiwan, the People's Republic of China (China), and the United Arab Emirates (UAE) would likely lead to the continuation or recurrence of dumping, countervailable subsidies, and material injury to an industry in the United States, Commerce is publishing a notice of continuation of these AD and CVD orders.

DATES: Applicable March 24, 2026.

FOR FURTHER INFORMATION CONTACT: David De Falco, Trade Agreements Policy and Negotiations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2178.

SUPPLEMENTARY INFORMATION:

Background

On July 1, 2002, Commerce published in the **Federal Register** the AD orders on PET film from India and Taiwan and the CVD order on PET film from India.¹ On November 10, 2008, Commerce published in the **Federal Register** the AD orders on PET film from China and UAE.² On August 1, 2025 the ITC

¹ See Notice of Amended Final Antidumping Duty Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from Taiwan, 67 FR 44174, (July 1, 2002); see also Notice of Amended Final Antidumping Duty Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Polyethylene Terephthalate Film, Sheet, and Strip from India, 67 FR 44175 (July 1, 2002); and Notice of Countervailing Duty Order: Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from India, 67 FR 44179 (July 1, 2002).

² Id.; see also Polyethylene Terephthalate Film, Sheet, and Strip from Brazil, the People's Republic of China and the United Arab Emirates:

Continued

instituted,³ and Commerce initiated,⁴ the third and fourth sunset review of the *Orders*, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). As a result of its reviews, Commerce determined that revocation of the *Orders* would likely lead to the continuation or recurrence of dumping and countervailable subsidies, and therefore, notified the ITC of the magnitude of the margins of dumping and subsidy rates likely to prevail should the *Orders* be revoked.⁵

On March 24, 2026, the ITC published its determination, pursuant to sections 751(c) and 752(a) of the Act, that revocation of the *Orders* would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.⁶

Scope of the Orders

The products covered by each of these orders are all gauges of raw, pre-treated, or primed PET film, whether extruded or co-extruded. Excluded are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer more than 0.00001 inches thick. Also excluded is roller transport cleaning film which has at least one of its surfaces modified by application of 0.5 micrometers of SBR latex. Tracing and drafting film is also excluded. PET film is classifiable under subheading 3920.62.00.90 of the Harmonized Tariff Schedule of the United States (HTSUS). While HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of these orders is dispositive.

Antidumping Duty Orders and Amended Final Determination of Sales at Less Than Fair Value for the United Arab Emirates, 73 FR 66595 (November 10, 2008) (collectively, *Orders*).

³ See *Polyethylene Terephthalate Film, Sheet, and Strip from China, India, Taiwan, and the United Arab Emirates; Institution of Five-Year Reviews*, 90 FR 36188 (August 1, 2025).

⁴ See *Initiation of Five-Year (Sunset) Reviews*, 90 FR 36139 (August 1, 2025).

⁵ See *Polyethylene Terephthalate Film, Sheet, and Strip from the United Arab Emirates and the People's Republic of China: Final Results of the Expedited Third Sunset Reviews of the Antidumping Duty Orders*, 91 FR 5891 (February 10, 2026); *Polyethylene Terephthalate Film, Sheet, and Strip from Taiwan and India: Final Results of the Expedited Fourth Sunset Reviews of the Antidumping Duty Orders*, 91 FR 6620 (February 12, 2026); and *Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of the Expedited Fourth Sunset Review of the Countervailing Duty Order*, 91 FR 5890 (February 10, 2026).

⁶ See *Polyethylene Terephthalate Film, Sheet, and Strip from China, India, Taiwan, and the United Arab Emirates; Determination*, 91 FR 14040 (March 24, 2026) (*ITC Final Determination*).

Continuation of the Orders

As a result of the determinations by Commerce and the ITC that revocation of the *Orders* would likely lead to continuation or recurrence of dumping, countervailable subsidies, and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, Commerce hereby orders the continuation of the *Orders*. U.S. Customs and Border Protection will continue to collect AD and CVD cash deposits at the rates in effect at the time of entry for all imports of subject merchandise.

The effective date of the continuation of the *Orders* will be March 24, 2026.⁷ Pursuant to section 751(c)(2) of the Act and 19 CFR 351.218(c)(2), Commerce intends to initiate the next five-year reviews of the *Orders* not later than 30 days prior to fifth anniversary of the date of the last determination by the ITC.

Administrative Protective Order (APO)

This notice also serves as a final reminder to parties subject to an APO of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

These five-year (sunset) reviews and this notice are in accordance with sections 751(c) and 751(d)(2) of the Act, and published in accordance with section 777(i) of the Act and 19 CFR 351.218(f)(4).

Dated: March 24, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.
[FR Doc. 2026-06007 Filed 3-26-26; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XF520]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Mal Coombs Stairway Replacement Project in Shelter Cove, California

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; proposed incidental harassment authorization; request for comments on proposed authorization and possible renewal.

SUMMARY: NMFS has received a request from the Bureau of Land Management (BLM) for authorization to take marine mammals incidental to the Mal Coombs Stairway Replacement Project in Shelter Cove, California. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an incidental harassment authorization (IHA) to incidentally take marine mammals during the specified activities. NMFS is also requesting comments on a possible one-time, 1-year renewal that could be issued under certain circumstances and if all requirements are met, as described in Request for Public Comments at the end of this notice. NMFS will consider public comments prior to making any final decision on the issuance of the requested MMPA authorization and agency responses will be summarized in the final notice of our decision.

DATES: Comments and information must be received no later than April 27, 2026.

ADDRESSES: Comments should be addressed to Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service and should be submitted via email to ITP.Fleming@noaa.gov. Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities>. In case of problems accessing these documents, please call the contact listed below.

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments, including all attachments, must not exceed a 25-

⁷ See *ITC Final Determination*.

megabyte file size. All comments received are a part of the public record and will generally be posted online at <https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act> without change. All personal identifying information (e.g., name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Kate Fleming, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Background

The MMPA prohibits the “take” of marine mammals, with certain exceptions. Section 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) directs the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are proposed or, if the taking is limited to harassment, a notice of a proposed IHA is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking; other “means of effecting the least practicable adverse impact” on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stocks for taking for certain subsistence uses (referred to as “mitigation”); and requirements pertaining to the monitoring and reporting of the takings. The definitions of all applicable MMPA statutory terms used above are included in the relevant

sections below (see also 16 U.S.C. 1362; 50 CFR 216.3, 216.103).

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must review our proposed action (*i.e.*, the issuance of an IHA) with respect to potential impacts on the human environment.

This action is consistent with categories of activities identified in Categorical Exclusion B4 (IHAs with no anticipated serious injury or mortality) of the Companion Manual for NAO 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has preliminarily determined that the issuance of the proposed IHA qualifies to be categorically excluded from further NEPA review.

Summary of Request

On January 15, 2026, NMFS received a request from BLM for an IHA to take marine mammals incidental to Mal Coombs Stairway Replacement Project in Shelter Cove, CA. Following NMFS’ review of the application, BLM submitted a revised version on January 28, 2026. The application was deemed adequate and complete on February 23, 2026. BLM’s initial request was for authorization of take of California sea lion (*Zalophus californianus*), Steller sea lion (*Eumetopias jubatus*), and harbor seal (*Phoca vitulina*). Following additional analysis, NMFS is proposing to authorize take of these species and northern elephant seal (*Mirounga angustirostris*), by Level B harassment only. Neither BLM nor NMFS expect serious injury or mortality to result from this activity and, therefore, an IHA is appropriate.

Description of Proposed Activity

Overview

BLM is proposing construction to replace a pre-existing wooden stairway

that was removed in 2022 with a prefabricated staircase at Mal Coombs Park in Shelter Cove, California. The staircase provides visitors with access to the beach and tidepools. The presence of construction crews and noise from equipment may result in incidental take via behavioral disturbance (take by Level B harassment) of pinnipeds that haul out near the construction site.

Dates and Duration

The proposed IHA would be valid for the statutory maximum of 1 year from the date of effectiveness. It will become effective upon written notification from the applicant to NMFS, but not beginning later than 1 year from the date of issuance or extending beyond 2 years from the date of issuance. Construction is anticipated to occur between August 1, 2026 and October 31, 2026. However, project delays may occur due to a number of factors, including project funding, permitting requirements, availability of equipment and/or materials, weather-related delays, equipment maintenance and/or repair, and other contingencies.

Construction is planned to take place for up to 4 days, for up to 8 daylight hours each day. Two construction segments consisting of two days each will be separated by a 2-week curing period. However, to account for unforeseen delays due to inclement weather, mechanical failures, or slower production rates, NMFS and BLM estimate that the project would be completed in up to 5 days.

Specific Geographic Region

Mal Coombs Park is one of four coastal locations and green spaces that BLM manages within Shelter Cove, California. The BLM maintains a large parking area, two restrooms, an information kiosk, interpretive panels, trash cans, and a large picnic area with barbeque facilities at Mal Coombs Park. The park receives approximately 95,000 visitors annually. The project is planned along the Mal Coombs Stairway Trail, which is a steep coastal access path that leads down to a small, rocky beach and tide pools.



Figure 1 -- Project location at Mal Coombs Park in relation to beach and intertidal rocks where pinnipeds haul out

Detailed Description of the Specified Activity

Stairway replacement on the Mal Coombs Stairway Trail would require construction at three sites:

1. Upper landing: located at the top of the bluff, within a 10 by 10 foot (ft; 3 by 3 meter (m)) section that is south and east of the Mal Coombs Stairway Trail trailhead. The Upper Landing is approximately 90 ft (27 m) from the nearest harbor seal haulout on the beach and approximately 388 ft (118 m) from the sea lion haulout on the intertidal rocks.

2. Middle landing: A 6 by 6 ft (1.8 by 1.8 m) area along the stretch of the Mal Coombs Stairway Trail located halfway between the Upper Landing and the Lower Landing. The Middle Landing is approximately 62 ft (19 m) from the harbor seal haulout on the beach and approximately 375 ft (114 m) from the sea lion haulout on the intertidal rocks.

3. Lower landing: Existing concrete pad at the top of the current staircase. The Lower Landing is approximately 48 ft from the nearest harbor seal haul-out and 348 ft from the sea lion haulout on the intertidal rocks.

A landing would be installed at the Upper Landing site and Middle Landing site (two landings total), as no current landing pad exists at these locations. Concrete piers and steel posts would also be installed at the Upper and

Middle landings, in locations that have been determined as not likely to contain cultural resources. Two sets of stairs would be installed between the Upper and Middle landings and the Middle and Lower landings so that they "float" above the existing trail, limiting further erosion.

On the first day of construction, the Upper and Middle Landing sites would be cleared of vegetation and leveled using hand tools, weed eaters, and shovels.

On the second day of construction, a two-person crew would use an auger to excavate eight 8-inch (in; 20 centimeter (cm)) diameter holes at the Upper landing site and eight 8-inch (20 cm) diameter holes at the Middle landing site to create space for the installation of 8-in by 4 ft (20 cm by 1.2 m) deep concrete piers. BLM estimates that the drilling of each hole could take 30 minutes to 1 hour.

As the auger crew drills and moves to the next pier location, another two- to four-person crew would insert a Sono tube form and pump concrete from a concrete mixing truck located in the parking lot (280 ft (85 m) from the nearest harbor seal haulout), to construct concrete piers. Posts would be set into the concrete piers.

The concrete piers would need a two-week curing period. During this time, no construction activities would be planned at the project site.

After the curing period (approximately 18 days into the construction project), construction would resume at the project site. BLM estimates approximately 2 days of construction would be needed to anchor a metal or Fiber Reinforced Polymer stair landing to the posts and float above the ground and piers, using crews of two to four people. All of these components would be installed manually with standard power tools.

Proposed mitigation, monitoring, and reporting measures are described in detail later in this document (please see Proposed Mitigation and Proposed Monitoring and Reporting).

Description of Marine Mammals in the Area of Specified Activities

The application summarizes available information regarding status and trends, distribution and habitat preferences, and behavior and life history of the potentially affected species. NMFS fully considered all of this information, and we refer the reader to these descriptions, instead of reprinting the information. Additional information regarding population trends and threats may be found in NMFS' Stock Assessment Reports (SARs; <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments>) and more general information about these species (e.g., physical and behavioral descriptions)

may be found on NMFS' website (<https://www.fisheries.noaa.gov/find-species>).

Table 1 lists all species or stocks for which take is expected and proposed to be authorized for this activity and summarizes information related to the population or stock, including regulatory status under the MMPA and Endangered Species Act (ESA) and potential biological removal (PBR), where known. PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing

that stock to reach or maintain its optimum sustainable population (as described in NMFS' SARs). While no serious injury or mortality is anticipated or proposed to be authorized here, PBR and annual mortality and serious injury (M/SI) from anthropogenic sources are included here as gross indicators of the status of the species or stocks and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS' stock

abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS' U.S. Pacific and Alaska SARs. All values presented in table 1 are the most recent available at the time of publication (including from the draft 2024 SARs) and are available online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments>.

TABLE 1—SPECIES, STOCKS, AND THE STATUS OF MARINE MAMMALS¹ WITH ESTIMATED TAKE FROM THE SPECIFIED ACTIVITIES

Common name	Scientific name	Stock	ESA/ MMPA status; Strategic (Y/N) ²	Stock abundance (CV, N _{min} , most recent abundance survey) ³	PBR	Annual M/SI ⁴
Order Carnivora—Pinnipedia						
<i>Family Otariidae (eared seals and sea lions)</i>						
California sea lion	<i>Zalophus californianus</i> ...	U.S.	–, –, N	257,606 (N/A, 233,515, 2014)	14,011	>321
Steller sea lion	<i>Eumetopias jubatus</i>	Eastern	–, –, N	36,308 (N/A ⁵ , 36,308, 2022)	2,178	93.2
<i>Family Phocidae (earless seals)</i>						
Harbor seal	<i>Phoca vitulina</i>	CA	–, –, N	30,968 (N/A, 27,348, 2012)	1,641	43
Northern elephant seal	<i>Mirounga angustirostris</i> ..	CA Breeding	–, –, N	187,386 (N/A, 85,369, 2013)	5,122	13.7

¹ Information on the classification of marine mammal species can be found on the web page for The Society for Marine Mammalogy's Committee on Taxonomy (<https://marinemammalscience.org/science-and-publications/list-marine-mammal-species-subspecies/>).

² Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (–) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

³ NMFS marine mammal stock assessment reports online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports-region>. CV is coefficient of variation; N_{min} is the minimum estimate of stock abundance.

⁴ These values, found in NMFS's SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (e.g., commercial fisheries, ship strike). Annual M/SI often cannot be determined precisely and is in some cases presented as a minimum value or range.

⁵ N_{est} is best estimate of counts, which have not been corrected for animals at sea during abundance surveys. Estimates provided are for the U.S. only.

As indicated above, all four species (with four managed stocks) in table 1 temporally and spatially co-occur with the activity to the degree that take is reasonably likely to occur.

California Sea Lion

California Sea lions breed on the offshore islands of southern and central California from May through July (Heath and Perrin, 2008). During the non-breeding season, adult and subadult males and juveniles migrate northward along the coast to central and northern California, Oregon, Washington, and Vancouver Island (Jefferson, *et al.* 1993). Females and some juveniles tend to remain closer to rookeries (Melin *et al.*, 2008). In warm water (El Niño) years, some females are found as far north as Washington and Oregon, presumably following prey.

In preparation for this project, BLM conducted pinniped census surveys of

the beach and intertidal rocks on 12 days between June 3 and September 29, 2025. California sea lions were regular visitors, with animals present on the intertidal rocks on 10 out of 12 survey days. An average of 21 adult California sea lions were present each day (ranging between 0 and 56 adults). A total of 3 California sea lion pups were documented on a single day in late June.

Steller Sea Lion

Steller sea lions are most typically found in coastal waters on the continental shelf, but they also occur and sometimes forage in much deeper continental slopes and pelagic waters. Haulout and rookery sites consist of beaches (gravel, rocky, or sand), ledges, and rocky reefs. They usually return to their natal rookery sites to breed. The eastern stock of Steller sea lions has historically bred on rookeries located in Southeast Alaska, British Columbia,

Oregon, and California. Within the last several years a new rookery has become established on the outer Washington coast (Muto *et al.*, 2020).

During BLM's pinniped census surveys (described above), a total of 7 adult Steller sea lions were observed on the intertidal rocks on just one survey day in mid-July.

Harbor Seal

Harbor seals tend to exhibit strong site fidelity within seasons and across years, generally forage close to haulout sites, and repeatedly visit specific foraging areas (Suryan and Harvey, 1998; Thompson *et al.*, 1998). Harbor seals tend to forage at night and return to the haulout during the day with the highest proportion of seals coming ashore

around low tide (Brown and Mate 1983, Schneider and Payne 1983).

During BLM's pinniped census surveys (described above), harbor seals were found to be regular visitors, with animals hauled out on the beach on 10 out of 12 survey days. An average of 32 adult harbor seals were present each day (ranging between 0 and 104 adults). A total of six harbor seal pups were documented across the first 2 survey days in June.

Northern Elephant Seal

Northern elephant seals (*Mirounga angustirostris*) range widely throughout the eastern Pacific for most of the year to forage. They return to haulout locations along the west coast of the continental United States including the Channel Islands, the central California coast, and islands off Baja California, to breed and molt. Breeding occurs from mid-December through the end of March, with males returning to haulout locations earlier than females to establish dominance hierarchies. Molting occurs from late April to August, with juveniles and adult females returning to haulout locations earlier than adult males.

During BLM's pinniped census surveys (described above), no northern elephant seals were observed. However, single northern elephant seals occasionally haul out on beaches to molt or rest, and there is a known northern elephant seal colony just 35 km to the north of Mal Coombs Park, on the beach below Punta Gorda Lighthouse. As such, it is possible that northern elephant seals could occur in the project area during the project period.

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

This section provides a discussion of the ways in which components of the specified activity may impact marine mammals and their habitat. The Estimated Take of Marine Mammals section later in this document includes a quantitative analysis of the number of individuals that are expected to be taken by this activity. The Negligible Impact Analysis and Determination section considers the content of this section, the Estimated Take of Marine Mammals section, and the Proposed Mitigation section, to draw conclusions regarding the likely impacts of these activities on the reproductive success or survivorship of individuals and whether those impacts are reasonably expected to, or reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

Presence of Humans

Visual and acoustic stimuli generated by the appearance of construction personnel and construction equipment may have the potential to cause Level B harassment of pinnipeds hauled out on the beach and intertidal rocks at Mal Coombs Park. This section includes a summary and discussion of the ways that the types of stressors associated with the specified activity (e.g., personnel presence and noise from use of construction equipment) have been observed to impact marine mammals. This discussion may also include reactions that we consider to rise to the level of a take and those that we do not consider to rise to the level of a take. This section provides background information on potential effects of these activities. For a discussion of the manner in which the mitigation measures will be implemented, and how the mitigation measures will shape the anticipated impacts from this specific activity, see the Proposed Mitigation section below.

Reactions to human presence, if any, depend on species, state of maturity, experience, current activity, reproductive state, time of day, and many other factors (Richardson *et al.*, 1995; Southall *et al.*, 2007; Weilgart 2007). These behavioral reactions from marine mammals are often shown as: changing durations of surfacing and dives, number of blows per surfacing, or moving direction and/or speed; reduced/increased vocal activities; changing/cessation of certain behavioral activities (such as socializing or feeding); visible startle responses or aggressive behavior; avoidance of areas; and/or flight responses (e.g., pinnipeds flushing into the water from haulouts or rookeries). If a marine mammal does react briefly to human presence by changing its behavior or moving a small distance, the impacts of the change are unlikely to be significant to the individual, let alone the stock or population. However, if visual stimuli from human presence displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on individuals and populations could be significant (e.g., Lusseau and Bejder 2007; Weilgart, 2007). Numerous studies have shown that human activity can flush harbor seals off haulout sites (Allen *et al.*, 1984; Suryan and Harvey, 1999; Ruiz-Mar *et al.*, 2022; Bankhead *et al.*, 2023). The Hawaiian monk seal (*Neomonachus schauinslandi*) has been shown to avoid beaches that have been disturbed often by humans (Kenyon, 1972; Gerrodette and Gilmartin, 1990). In one case, human disturbance

appeared to cause Steller sea lions to desert a breeding area at Northeast Point on St. Paul Island, Alaska (Kenyon, 1962), a behavior demonstrated at other locations as well (Kucey, 2005; Chayahara *et al.*, 2024).

The appearance of personnel may have the potential to cause Level B harassment of any pinnipeds hauled out at research sites. Disturbance may result in reactions ranging from an animal simply becoming alert to the presence of field personnel (e.g., turning the head, assuming a more upright posture) to flushing from the haulout site into the water. NMFS does not consider the lesser reactions to constitute behavioral harassment, or Level B harassment takes, but rather assumes that pinnipeds that flee some distance or change the speed or direction of their movement in response to the presence of field personnel are behaviorally harassed, and thus subject to the taking by Level B harassment. Animals that respond to the presence of field personnel by becoming alert, but do not move or change the nature of locomotion as described, are not considered to have been subject to behavioral harassment.

Avoidance

Avoidance is the displacement of an individual from an area or migration path as a result of the presence of a sound or other stressors, and is one of the most obvious manifestations of disturbance in marine mammals (Richardson *et al.*, 1995). Avoidance is qualitatively different from the flight response, but also differs in the magnitude of the response (*i.e.*, directed movement, rate of travel, *etc.*). Often avoidance is temporary, and animals return to the area once the noise has ceased. Acute avoidance responses have been observed in captive porpoises and pinnipeds exposed to a number of different sound sources (Kastelein *et al.*, 2001; Finneran *et al.*, 2003; Kastelein *et al.*, 2006a; Kastelein *et al.*, 2006b; Kastelein *et al.*, 2015a; Kastelein *et al.*, 2015b; Kastelein *et al.*, 2018). Short-term avoidance of seismic surveys, low frequency emissions, and acoustic deterrents have also been noted in wild populations of odontocetes (Bowles *et al.*, 1994; Goold, 1996; Goold and Fish, 1998; Morton and Symonds, 2002; Hiley *et al.*, 2021) and to some extent in mysticetes (Malme *et al.*, 1984; McCauley *et al.*, 2000; Gailey *et al.*, 2007). Longer-term displacement is possible, however, which may lead to changes in abundance or distribution patterns of the affected species in the affected region if habituation to the presence of the sound does not occur (e.g., Blackwell *et al.*, 2004; Bejder *et al.*,

2006; Teilmann *et al.*, 2006). While NMFS acknowledges that most research and literature cited here is related to cetaceans, who are not expected to be harassed or taken by BLM's specified activities, we include these to provide context as pinnipeds behaviorally react in a similar manner when expected to an external stimulus (*e.g.*, human presence, noise, *etc.*) when onshore or in the water.

While NMFS expects that hauled out pinnipeds may avoid the BLM field personnel, we expect these effects would be temporary. Harbor seals in particular have high site fidelity; any external stimuli would be fleeting, and easily avoidable, meaning that the pinnipeds, if performing avoidance behaviors during activities, would be able to resume their original behaviors once the stimulus has ended.

Flight Response

A flight response is a dramatic change in normal movement to a directed and rapid movement away from the perceived location of a sound source. The flight response differs from other avoidance responses in the intensity of the response (*e.g.*, directed movement, rate of travel). Relatively little information on flight responses of marine mammals to anthropogenic signals exist, although observations of flight responses to the presence of predators have occurred (Connor and Heithaus, 1996). The result of a flight response could range from brief, temporary exertion and displacement from the area where the signal provokes flight to, in extreme cases, marine mammal strandings (Evans and England, 2001). There are limited data on flight response for marine mammals in water; however, there are examples of this response in species on land. For instance, the probability of flight responses in Dall's sheep (*Ovis dalli dalli*) (Frid, 2003), hauled out ringed seals (*Phoca hispida*) (Born *et al.*, 1999), Pacific brant (*Branta bernicla nigricans*), and Canada geese (*B. canadensis*) increased as a helicopter or fixed-wing aircraft more directly approached groups of these animals (Ward *et al.*, 1999). However, it should be noted that response to a perceived predator does not necessarily invoke flight (Ford and Reeves, 2008), and whether individuals are solitary or in groups may influence the response.

Behavioral disturbance can also impact marine mammals in more subtle ways. Increased vigilance may result in costs related to diversion of focus and attention (*i.e.*, when a response consists of increased vigilance, it may come at the cost of decreased attention to other

critical behaviors such as foraging or resting). These effects have generally not been observed in marine mammals, but studies involving fish and terrestrial animals have shown that increased vigilance may substantially reduce feeding rates and efficiency (*e.g.*, Beauchamp and Livoreil, 1997; Fritz *et al.*, 2002; Purser and Radford, 2011). In addition, chronic disturbance can cause population declines through reduction of fitness (*e.g.*, decline in body condition) and subsequent reduction in reproductive success, survival, or both (*e.g.*, Harrington and Veitch, 1992; Daan *et al.*, 1996; Bradshaw *et al.*, 1998).

Many animals perform vital functions, such as feeding, resting, traveling, and socializing, on a diel cycle (24-hour cycle). Disruption of such functions resulting from reactions to stressors such as sound exposure are more likely to be significant if they last more than one diel cycle or recur on subsequent days (Southall *et al.*, 2007). Consequently, a behavioral response lasting less than 1 day and not recurring on subsequent days is not considered particularly severe unless it could directly affect reproduction or survival (Southall *et al.*, 2007). Note that there is a difference between multi-day substantive behavioral reactions and multi-day anthropogenic activities. For example, just because an activity lasts for multiple days does not necessarily mean that individual animals are either exposed to activity-related stressors for multiple days or, further, exposed in a manner resulting in sustained multi-day substantive behavioral responses.

There are other ways in which disturbance, as described previously, could result in more than Level B harassment of marine mammals. They are most likely to be consequences of stampeding (which is typically a response to startle and/or avoidance behaviors), a potentially dangerous occurrence in which large numbers of animals succumb to mass panic and rush away from a stimulus. These situations are: (1) pinnipeds falling when entering the water at high-relief locations (*e.g.*, cliffs); (2) extended separation of mothers and pups; and (3) crushing of pups by larger animals during a stampede. However, NMFS does not expect any of these scenarios to occur at Mal Coombs Park. As stated, there is the risk of injury if animals stampede towards shorelines with precipitous relief; however, at Mal Coombs Park, pinniped out sites are primarily offshore rocks that have little relief, with the harbor seal sites becoming submerged at high tide. While the sea lion haul outs are always exposed, they are not very steep.

Habituation

Habituation can occur when an animal's response to a stimulus wanes with repeated exposure, usually in the absence of unpleasant associated events (Wartzok *et al.*, 2003). Animals are most likely to habituate to sounds that are predictable and unvarying. It is important to note that habituation is appropriately considered as a "progressive reduction in response to stimuli that are perceived as neither aversive nor beneficial," rather than as, more generally, moderation in response to human disturbance (Bejder *et al.*, 2009). The opposite process is sensitization, when an unpleasant experience leads to subsequent responses, often in the form of avoidance, at a lower level of exposure. As noted, behavioral state may affect the type of response. For example, animals that are resting may show greater behavioral change in response to disturbing sound levels than animals that are highly motivated to remain in an area for feeding (Richardson *et al.*, 1995; NRC, 2003; Wartzok *et al.*, 2003). Controlled experiments with captive marine mammals have shown pronounced behavioral reactions, including avoidance of loud sound sources (Ridgway *et al.*, 1997; Finneran *et al.*, 2003). Observed responses of wild marine mammals to loud impulsive sound sources (typically seismic airguns or acoustic harassment devices) have been varied but often consist of avoidance behavior or other behavioral changes suggesting discomfort (Morton and Symonds, 2002; see also Richardson *et al.*, 1995; Nowacek *et al.*, 2007).

Stress Response

An animal's perception of a threat may be sufficient to trigger stress responses consisting of some combination of behavioral responses, autonomic nervous system responses, neuroendocrine responses, or immune responses (*e.g.*, Seyle, 1950; Moberg, 2000). In many cases, an animal's first and sometimes most economical (in terms of energetic costs) response is behavioral avoidance of the potential stressor. Autonomic nervous system responses to stress typically involve changes in heart rate, blood pressure, and gastrointestinal activity. These responses have a relatively short duration and may or may not have a significant long-term effect on an animal's fitness.

Neuroendocrine stress responses often involve the hypothalamus-pituitary-adrenal system. Virtually all neuroendocrine functions that are affected by stress—including immune

competence, reproduction, metabolism, and behavior—are regulated by pituitary hormones. Stress-induced changes in the secretion of pituitary hormones have been implicated in failed reproduction, altered metabolism, reduced immune competence, and behavioral disturbance (e.g., Moberg, 1987; Blecha, 2000). Increases in the circulation of glucocorticoids are also equated with stress (Romano *et al.*, 2004).

The primary distinction between stress (which is adaptive and does not normally place an animal at risk) and “distress” is the cost of the response. During a stress response, an animal uses glycogen stores that can be quickly replenished once the stress is alleviated. In such circumstances, the cost of the stress response would not pose serious fitness consequences. However, when an animal does not have sufficient energy reserves to satisfy the energetic costs of a stress response, energy resources must be diverted from other functions. This state of distress will last until the animal replenishes its energetic reserves sufficient to restore normal function.

Relationships between these physiological mechanisms, animal behavior, and the costs of stress responses are well studied through controlled experiments and for both laboratory and free-ranging animals (e.g., Holberton *et al.*, 1996; Hood *et al.*, 1998; Jessop *et al.*, 2003; Krausman *et al.*, 2004; Lankford *et al.*, 2005). Stress responses due to exposure to anthropogenic sounds or other stressors and their effects on marine mammals have also been reviewed (Fair and Becker 2000; Romano *et al.*, 2002b) and, more rarely, studied in wild populations (e.g., Romano *et al.*, 2002a). For example, Rolland *et al.* (2012) found that noise reduction from reduced ship traffic in the Bay of Fundy was associated with decreased stress in North Atlantic right whales. These and other studies lead to a reasonable

expectation that some marine mammals will experience physiological stress responses upon exposure to acoustic stressors and that it is possible that some of these would be classified as “distress.” However, distress is an unlikely result of these projects based on observations of marine mammals during previous, similar research and monitoring projects.

Marine Mammal Habitat Effects

There are no habitat modifications associated with the proposed activity other than the presence of project personnel to perform the proposed activities and to monitor animals. No substantial construction is anticipated to occur for this proposed project, only activities that rise to the level of maintenance, removal, and installation, which are all expected to occur within a small footprint when compared to the entire size of the available habitat at Mal Coombs Park. Moreover, construction is planned for just 4 days across a 3-week period. Thus, NMFS does not expect that the proposed activity would have any effects on marine mammal habitat and NMFS expects that there will be no long- or short-term physical impacts to pinniped habitat at Mal Coombs Park.

Proposed Activities on Potential Foraging Habitat

Marine mammal prey (e.g., fish) varies by species, season, and location. However, as all of the BLM’s proposed activities are occurring onshore and the prey species for pinnipeds are located in the ocean, NMFS does not expect the proposed activities to affect the habitat, availability, or presence of prey for pinnipeds.

Estimated Take of Marine Mammals

This section provides an estimate of the number of incidental takes proposed for authorization through the IHA, which will inform NMFS’ consideration of “small numbers,” the negligible

impact determinations, and impacts on subsistence uses.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines “harassment” as any act of pursuit, torment, or annoyance, which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Authorized takes would be by Level B harassment only, in the form of behavioral reactions for individual marine mammals resulting from exposure to construction crew and noise associated with the operation of their equipment. Based on the nature of the activity, Level A harassment is neither anticipated nor proposed to be authorized.

As described previously, no serious injury or mortality is anticipated or proposed to be authorized for this activity. Below, in the *Take Estimation* section, we describe how the proposed take numbers are estimated.

Marine Mammal Occurrence

In this section we provide information about the occurrence of marine mammals, including density or other relevant information which will inform the take calculations.

As described in the Description of Marine Mammals in the Area of Specified Activities section, BLM conducted pinniped census surveys of the beach and intertidal rocks at Mal Coombs Park on 12 days between June 3 and September 29. Counts of California sea lions, Steller sea lions, and harbor seals are presented below:

TABLE 2—PINNIPED CENSUS COUNTS AT MAL COOMBS PARK

Survey date	Number of harbor seals (pups)	Number of california sea lions (pups)	Number of steller sea lions
June 3, 2025	80 (4)	6	0
June 20, 2025	85 (2)	10	0
June 25, 2025	12	56 (3)	0
July 9, 2025	104	0	0
July 17, 2025	14	0	0
July 23, 2025	32	16	7
August 19, 2025	0	24	0
August 27, 2025	0	34	0
August 31, 2025	4	28	0
September 16, 2025	11	35	0
September 23, 2025	36	25	0
September 29, 2025	6	15	0

TABLE 2—PINNIPED CENSUS COUNTS AT MAL COOMBS PARK—Continued

Survey date	Number of harbor seals (pups)	Number of California sea lions (pups)	Number of Steller sea lions
Average daily count	33	21	1
Maximum daily count	104	56	7

Take Estimation

Here we describe how the information provided above is synthesized to produce a quantitative estimate of the take that is reasonably likely to occur and proposed for authorization.

Generally, take estimates are the product of marine mammal occurrence and the proposed number of days of construction. Specifically, take estimates are calculated by multiplying the expected daily occurrence of marine mammals in the activity area by the number of construction days planned. A summary of the method is illustrated with the following formula:

Estimated take = Marine mammal occurrence × # of construction days.

In its application, BLM bases marine mammal occurrence assumptions on the

daily average occurrence reported during BLM's 2025 census surveys described above. However, since the duration of this project is very short (just 5 construction days), NMFS bases marine mammal occurrence assumptions on the maximum daily occurrence observed during BLM's 2025 census surveys described above to account for the possibility that larger numbers of pinnipeds could occur on site on the few days when construction activities are implemented.

BLM estimates take by Level B harassment for each species according to Level 2 and Level 3 of the Levels of Pinniped Behavioral Disturbance Scale (see table 4). However, NMFS does not differentiate between these levels when estimating take by Level B harassment.

As such, NMFS and BLM have agreed to revise estimated take by Level B harassment according to the inputs displayed in table 3. Therefore, NMFS proposes to authorize 280 takes by Level B harassment of California sea lions, 35 takes by Level B harassment of Steller sea lions, and 520 takes by Level B harassment of harbor seals.

BLM has not documented northern elephant seals at the haul outs at Mal Coombs Park and BLM and NMFS are not aware of reports of this species occurring at the project site from other sources. However, NMFS proposes to authorize a total of two takes by Level B harassment of northern elephant seals to account for the potential that this species occurs at the project site during the construction period.

TABLE 3—TAKE BY STOCK AND AS A PERCENTAGE OF STOCK ABUNDANCE

Species	Stock	Construction days	Marine mammal occurrence ¹	Total take estimated and proposed for authorization	% Stock
California sea lion	U.S.	5	56	280	<1
Steller sea lion	Eastern	5	7	35	<1
Harbor seal	California	5	104	520	<1
Northern elephant seal	California breeding	N/A	N/A	2	<1

¹ Occurrence of California sea lions, Steller sea lions, and harbor seals is based on the maximum daily occurrence reported from BLM's 2025 pinniped census data.

Proposed Mitigation

In order to issue an IHA under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to the activity, and other means of effecting the least practicable impact on the species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stock for taking for certain subsistence uses (latter not applicable for this action). NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting the activity or other means of effecting the least practicable adverse impact upon the affected species or stocks, and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, NMFS considers two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned), the likelihood of effective implementation (probability implemented as planned); and

(2) The practicability of the measures for applicant implementation, which may consider such things as cost, and impact on operations.

The mitigation requirements described in the following were proposed by BLM in its adequate and complete application or are the result of subsequent coordination between NMFS and BLM. BLM has agreed that all of the mitigation measures are practicable. NMFS has fully reviewed the specified activities and the mitigation measures to determine if the mitigation measures would result in the least practicable adverse impact on marine mammals and their habitat, as required by the MMPA, and has determined the proposed measures are appropriate. NMFS describes these below as proposed mitigation requirements and has included them in the proposed IHA:

- BLM intends to implement the project outside of the harbor seal pupping season, in the late summer, to ensure that any hauled-out harbor seal pups would be old enough to be self sufficient if the colony temporarily flushes into the water. This is described here due to the beneficial effects of project timing, but is considered part of BLM's described specified activity rather than a mitigation measure.

- At least one professional wildlife biologist employed by BLM would serve as a Protected Species Observer (PSO) to monitor for marine mammals.

- The PSO must observe the site from a distance to detect any marine mammals prior to approach to determine if mitigation is required.

- BLM would delay visits to the project site if offshore pinniped predators are observed in the area prior to commencing work.

- BLM would cease or delay visits to the project site if a species for which the number of takes that have been authorized for a species are met, or if a species for which takes were not authorized, is observed.

- Training would be required to ensure that construction supervisors and crews, monitors, and relevant BLM staff are trained prior to the start of activities subject to this IHA, so that responsibilities, communication procedures, monitoring protocols, and operational procedures are clearly understood, and

- Operations would be suspended if a dead or injured marine mammal is found near the project area and the death or injury of the animal could be attributable to BLM activities. Any such takes will immediately be reported to the Office of Protected Resources (PR.ITP.MonitoringReports@noaa.gov and ITP.fleming@noaa.gov) and the West Coast Regional Stranding Coordinator (562-980-3264).

NMFS conducted an independent evaluation of the proposed measures, and has preliminarily determined that

the proposed mitigation measures provide the means of effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Proposed Monitoring and Reporting

In order to issue an IHA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present while conducting the activities. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (e.g., presence, abundance, distribution, density);
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) action or environment (e.g., source characterization, propagation, ambient noise); (2) affected species (e.g., life history, dive patterns); (3) co-occurrence of marine mammal species with the activity; or (4) biological or behavioral context of exposure (e.g., age, calving or feeding areas);
- Individual marine mammal responses (behavioral or physiological)

to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors;

- How anticipated responses to stressors impact either: (1) long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks;

- Effects on marine mammal habitat (e.g., marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and

- Mitigation and monitoring effectiveness.

The monitoring and reporting requirements described in the following were proposed by BLM in its adequate and complete application and/or are the result of subsequent coordination between NMFS and BLM. BLM has agreed to the requirements. NMFS describes these below as requirements and has included them in the proposed IHA.

Monitoring would be conducted by at least one trained wildlife biologist employed by BLM. Prior to the work crew arriving on site to commence work each day, the PSO would conduct counts of hauled out pinnipeds for at least 10 minutes. The PSO would record all observations of marine mammals, regardless of distance to construction activities.

In addition to the daily pre-activity count data, at least one PSO would monitor for haulout disturbances. This monitoring would continue through the duration of the construction activity. Methods for recording disturbances would follow a three-point scale as shown in table 4. For each disturbance event, the disturbance source and seal response would be recorded and tallied. We specifically note that only observations of disturbance levels 2 and 3 would be recorded as takings.

TABLE 4—LEVELS OF PINNIPED BEHAVIORAL DISTURBANCE

Level	Type of response	Definition
0	Observation	Observation by PSO; no disturbance to pinniped.
1	Alert	Seal head orientation or brief movement in response to disturbance, which may include turning head towards the disturbance, craning head and neck while holding the body rigid in a u-shaped position, changing from lying to a sitting position, or brief movement of less than twice the animal's body length.
2	Movement	Movements in response to the source of disturbance, ranging from short withdrawals at least twice the animal's body length to longer retreats over the beach, or if already moving a change of direction of greater than 90 degrees.
3	Flush	All retreats (flushes) to the water.

Note: Only Levels 2 and 3 would be recorded as takes by Level B harassment.

Reporting

A draft marine mammal monitoring report would be submitted to NMFS within 90 days following the end of the project activities or 60 calendar days prior to the requested issuance of any subsequent IHA for similar activity at the same location, whichever comes first. The draft summary report would include an overall description of the construction activities completed, a narrative regarding marine mammal sightings, and associated raw PSO data sheets (in electronic spreadsheet format). Specifically, the report must include:

- Dates and times (begin and end) of all marine mammal monitoring;
- Start and end time of activity;
- PSO location during marine mammal monitoring;
- Environmental conditions during monitoring periods;
- Seal census data from pre-activity haul-out monitoring including
 - Time of the sighting;
 - Identification of the animal(s) (*e.g.*, genus/species, lowest possible taxonomic level, or unidentified), observer confidence in identification, the composition of the group if there is a mix of species;
 - Estimated number of animals (min/max/best estimate);
 - Estimated number of animals by cohort (*e.g.*, adults, juveniles, neonates, group composition, *etc.*);
 - Details of any marine mammal behavioral disturbances, including information regarding the activity, the estimated distances between the activity and seals when disturbance occurs, the type of behavioral response to the disturbance (according to the 3-point scale as shown in table 2), and the estimated number of seals taken (by species and age class if possible); and
 - Detailed information about implementation of any mitigation, a description of specified actions that ensued, and resulting changes in behavior of the animal(s), if any.

If no comments are received from NMFS within 30 days after the submission of the draft summary report, the draft report would constitute the final report. If BLM receives comments from NMFS, a final summary report addressing NMFS' comments must be submitted within 30 days after receipt of comments.

Additionally, BLM would report all observations of marked or tag-bearing pinnipeds or carcasses and unusual behaviors, or numbers of pinnipeds to the NMFS West Coast Regional Office.

Reporting Injured or Dead Marine Mammals

In the event that personnel involved in the construction activities discover an injured or dead marine mammal, BLM would report the incident to the NMFS Office of Protected Resources (PR.ITP.MonitoringReports@noaa.gov and ITP.Fleming@noaa.gov) and the NMFS West Coast Regional Stranding Coordinator ((562) 980–3230). If death or injury was clearly caused by the specified activity, BLM would immediately cease the specified activities until NMFS is able to review the circumstances of the incident and determine what, if any, additional measures are appropriate to ensure compliance with the terms of the IHAs. The BLM would not resume their activities until notified by NMFS. The report must include the following information:

1. Time, date, and location (latitude/longitude) of the first discovery (and updated location information if known and applicable);
2. Species identification (if known) or description of the animal(s) involved incident;
3. Condition of the animal(s) (including carcass condition if the animal is dead);
4. Observed behaviors of the animal(s), if alive;
5. Photographs or video footage of the animal(s) (if the equipment is available); and
6. General circumstances under which the animal was discovered.

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.*, population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be "taken" through harassment, NMFS considers other factors, such as the likely nature of any impacts or responses (*e.g.*, intensity, duration), the context of any impacts or responses (*e.g.*, critical reproductive time or location, foraging impacts affecting energetics), as well as effects on habitat, and the likely

effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS' implementing regulations (54 FR 40338, September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the baseline (*e.g.*, as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

To avoid repetition, the discussion of our analysis applies to California sea lions, Steller sea lions and harbor seals, given that the anticipated effects of this activity on these different marine mammal stocks are expected to be similar. There is little information about the nature or severity of the impacts, or the size, status, or structure of any of these species or stocks that would lead to a different analysis for this activity.

Construction activities have the potential to disturb or displace marine mammals. Specifically, the project activities may result in take, in the form of Level B harassment from the construction crew's movements and equipment handling. Potential takes could occur if individuals of these species are present nearby when these activities are underway. No injuries or mortalities are anticipated to occur as a result of BLM's Mal Coombs Stairway Replacement Project, and none are proposed to be authorized.

Typically, even those reactions constituting Level B harassment would result, at most, in a temporary, short-term behavioral disturbance. Construction crew would be present on site for no more than 2 consecutive days, and only four 8-hour construction days are planned in total. Therefore, disturbance of pinnipeds resulting from the presence of construction crew would last only for short periods.

Of the marine mammal species anticipated to occur in the proposed activity areas, none are listed under the ESA, and there are no known areas of biological importance in the project area. Taking into account the planned mitigation measures, effects to marine mammals are generally expected to be restricted to short-term changes in behavior or temporary displacement from haul-out sites, pinnipeds are not expected to permanently abandon any area. No adverse effects to prey species are anticipated as no work would occur in-water, and habitat impacts are limited and highly localized, consisting of the placement of two new landing

pads to support a stairway installation adjacent to the beach where pinniped haul out. Based on this analysis of the likely effects of the specified activity on marine mammals and their habitat, and considering the implementation of the proposed mitigation and monitoring measures, NMFS finds that the total marine mammal incidental take from BLM's construction will not adversely affect annual rates of recruitment or survival. Therefore, such incidental take will have a negligible impact on the affected species or stocks.

In summary and as described above, the following factors primarily support our preliminary determination that the impacts resulting from this activity are not expected to adversely affect any of the species or stocks through effects on annual rates of recruitment or survival:

- No serious injury or mortality is anticipated or authorized;
- No take by Level A harassment is expected, or proposed for authorization;
- The intensity of anticipated takes by Level B harassment is relatively low for all stocks. Level B harassment would be in the form of behavioral disturbance, resulting in temporary avoidance of the haul-out adjacent to the construction site;

- Few pups are expected to be disturbed, and would not be abandoned or otherwise harmed by other seals flushing from the area;

- No prey species (*i.e.*, fish) would be affected by the proposed activities. Therefore any associated impacts on marine mammal foraging is not expected to result in significant or long-term consequences for individuals, or to accrue to adverse impacts on their populations;

- No impacts to pinniped habitat are anticipated; and

- Effects of the construction activities would be limited to short-term, localized behavioral changes;

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, NMFS preliminarily finds that the total marine mammal take from the proposed activity will have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

As noted previously, only take of small numbers of marine mammals may be authorized under section 101(a)(5)(A) and (D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice,

where estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. When the predicted number of individuals to be taken is fewer than one-third of the species or stock abundance, the take is considered to be of small numbers (86 FR 5322, January 19, 2021). Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

NMFS is proposing to authorize incidental take by Level B harassment of four species (four stocks) of marine mammals. The maximum number of instances of takes by Level B harassment, relative to the best available population abundance, is less than one-third for all species and stocks potentially impacted (table 3).

Based on the analysis contained herein of the proposed activity (including the proposed mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS preliminarily finds that small numbers of marine mammals would be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act

Section 7(a)(2) of the ESA of 1973 (16 U.S.C. 1531 *et seq.*) requires that each Federal agency ensures that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of incidental take authorizations, NMFS consults internally whenever we propose to authorize take for ESA-listed species.

No incidental take of ESA-listed species is proposed for authorization or expected to result from this activity. Therefore, NMFS has determined that formal consultation under section 7 of the ESA is not required for this action.

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue an IHA to BLM for conducting the Mal Coombs Stairway Replacement Project at Shelter Cove, CA, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. A draft of the proposed IHA can be found at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities>.

Request for Public Comments

We request comment on our analyses, the proposed authorization, and any other aspect of this notice of proposed IHA for the proposed Mal Coombs Stairway Replacement Project. We also request comment on the potential renewal of this proposed IHA as described in the paragraph below. Please include with your comments any supporting data or literature citations to help inform decisions on the request for this IHA or a subsequent renewal IHA.

On a case-by-case basis, NMFS may issue a one-time, 1-year renewal IHA following notice to the public providing an additional 15 days for public comments when (1) up to another year of identical or nearly identical activities as described in the Description of Proposed Activity section of this notice is planned or (2) the activities as described in the Description of Proposed Activity section of this notice would not be completed by the time the IHA expires and a renewal would allow for completion of the activities beyond that described in the *Dates and Duration* section of this notice, provided all of the following conditions are met:

- A request for renewal is received no later than 60 days prior to the needed renewal IHA effective date (recognizing that the renewal IHA expiration date cannot extend beyond 1 year from expiration of the initial IHA).

- The request for renewal must include the following:

1. An explanation that the activities to be conducted under the requested renewal IHA are identical to the activities analyzed under the initial IHA, are a subset of the activities, or include changes so minor (*e.g.*, reduction in pile size) that the changes do not affect the previous analyses, mitigation and monitoring requirements, or take estimates (with the exception of reducing the type or amount of take).

2. A preliminary monitoring report showing the results of the required monitoring to date and an explanation

showing that the monitoring results do not indicate impacts of a scale or nature not previously analyzed or authorized.

- Upon review of the request for renewal, the status of the affected species or stocks, and any other pertinent information, NMFS determines that there are no more than minor changes in the activities, the mitigation and monitoring measures will remain the same and appropriate, and the findings in the initial IHA remain valid.

Dated: March 23, 2026.

Kimberly Damon-Randall,

*Director, Office of Protected Resources,
National Marine Fisheries Service.*

[FR Doc. 2026-05987 Filed 3-26-26; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Technical Information Service

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Revision of Currently Approved Information Collection; Comment Request; Limited Access Death Master File Certification Program Forms

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed and continuing information collections, which helps us

assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on January 30, 2026, during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: National Technical Information Service (NTIS), Commerce.

Title of Information Collection: Limited Access Death Master File (LADMF) Certification Program Forms

OMB Control Number: 0692-0013

Form Number(s): NTIS FM161, NTIS FM101, NTIS FM100A and NTIS FM100B

Type of Request: Regular Submission. Revision of currently approved collection.

Number of Respondents, Average Hours per Response, Burden Hours, Frequency:

	NTIS FM161	NTIS FM101	NTIS FM100A	NTIS FM100B
<i>Number of Respondents</i>	260	65	250	30
<i>Average Hours Per Response</i>	3 hours	1 hour	3 hours	3 hours
<i>Burden Hours</i>	780	65	750	90
<i>Frequency</i>	Once a year	Every 3 years	Every 3 years	Every 3 years

Needs and Uses: The final rule for the LADMF Certification Program was promulgated under Section 203 of the Bipartisan Budget Act of 2013, Public Law 113-67 (Act) and published on June 1, 2016 (81 FR 34882). The rule became effective on November 28, 2016 (15 CFR part 1110).

The Act prohibits the Secretary of Commerce (Secretary) from disclosing Death Master File (DMF) information during the three-year period following an individual's death (Limited Access DMF or LADMF), unless the person requesting the information has been certified to access the Limited Access DMF pursuant to certain criteria in a program that the Secretary establishes. The Secretary delegated the authority to carry out Section 203 to the Director of NTIS. The final rule requires that:

a. a Person, as defined in 15 CFR 1110.2, seeking access to the LADMF establish a legitimate fraud prevention interest or legitimate business purpose pursuant to a law, governmental rule, regulation, or fiduciary duty. The Certification Form (NTIS FM161) collects information that NTIS will use to evaluate whether the respondent qualifies to receive the LADMF under the rule.

b. a Person seeking certification or a Certified Person, as defined in 15 CFR 1110.2, seeking renewal of a certification must submit a written attestation from an "Accredited

Conformity Assessment Body" (ACAB), as defined in 15 CFR 1110.2, that such Person or Certified Person has information security systems, facilities and procedures in place to protect the security of the Limited Access DMF, as required under 15 CFR 1110.102(a)(2). The ACAB Systems Safeguards Attestation Form (NTIS FM100A) collects information based on an assessment by the ACAB conducted within three years prior to the date of the Person or Certified Person's submission of a completed certification statement under 15 CFR 1110.101(a). This collection includes specific requirements of the final rule, which the ACAB must certify are satisfied, and the provision of specific information by the ACAB, such as the date of the assessment and the auditing standard(s) used for the assessment.

c. the ACAB must be independent of the Person or Certified Person seeking certification, unless it is a conformity assessment body which qualifies for "firewalled status" pursuant to 15 CFR 1110.502.

The Firewalled Status Application Form (NTIS FM101) collects information that NTIS will use to evaluate whether the respondent qualifies for "firewalled status" under the rule, and, therefore, can provide a written attestation in lieu of an independent ACAB's attestation. This information includes specific

requirements of 15 CFR 1110.502(b), which the respondent ACAB must certify are satisfied, and the provision of specific information by the respondent ACAB, such as the identity of the Person or Certified Person that would be the subject of the attestation and the basis upon which the certifications were made.

d. under 15 CFR 1110.501(a)(2), a state or local government office of Auditor General (AG) or Inspector General (IG) and a Person or Certified Person that is a department or agency of the same state or local government, respectively, are not considered to be owned by a common "parent" entity under 15 CFR 1110.501(a)(1)(ii) for the purpose of determining independence, and attestation by the AG or IG is possible. The AG or IG Systems Safeguards Attestation Form (NTIS FM100B) is for the use of a state or local government AG or IG to attest on behalf of a state or local government department or agency Person or Certified Person. The AG or IG Systems Safeguards Attestation Form requires the state or local government AG or IG to attest that a Person seeking certification or a Certified Person seeking renewal of certification has information security systems, facilities and procedures in place to protect the security of the Limited Access DMF, as required under 15 CFR 1110.102(a)(2). The AG or IG Systems Safeguards

Attestation Form collects information based on an assessment by the state or local government AG or IG conducted within three years prior to the date of the Person or Certified Person's submission of a completed certification statement under 15 CFR 1110.101(a). This collection includes specific requirements of the final rule, which the state or local government AG or IG must certify are satisfied, and the provision of specific information by the state or local government AG or IG, such as the date of the assessment.

Affected Public: Anyone seeking access to the Limited Access Death Master File and Accredited Conformity Assessment Bodies and state or local government Auditors General or Inspectors General attesting that a Person seeking certification or a Certified Person seeking renewal of certification under the final rule for the "Certification Program for Access to the Limited Access Death Master File" has information security systems, facilities and procedures in place to protect the security of the Limited Access DMF, as required by the final rule.

Respondent's Obligation: Voluntary.

Legal Authority: Section 203 of the Bipartisan Budget Act of 2013, Public Law 113–67; 15 CFR part 1110.

This information collection request may be viewed at www.reginfo.gov. Follow the instructions to view the Department of Commerce collections currently under review by OMB.

If there is an existing OMB control number: Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function and entering either the title of the collection or the OMB Control Number 0692–0013.

Sheleen Dumas,

Departmental PRA Compliance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2026–06019 Filed 3–26–26; 8:45 am]

BILLING CODE 3510–04–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Segal Education Award-Related Information Collection Requests

AGENCY: Corporation for National and Community Service.

ACTION: Notice of information collection; request for comment.

SUMMARY: The Corporation for National and Community Service, operating as AmeriCorps, has submitted three information collections associated with the Segal Education Award for renewal: the voucher and payment request form, the forbearance request form, and the interest accrual form.

DATES: Written comments must be submitted to the individual and office listed in the **ADDRESSES** section by April 27, 2026.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

FOR FURTHER INFORMATION CONTACT: Copies of this ICR, with applicable supporting documentation, may be obtained by calling Nahid Jarrett at AmeriCorps, 202–606–6753 or by email to njarrett@americorps.gov.

SUPPLEMENTARY INFORMATION: The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of CNCS, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions;
- Propose ways to enhance the quality, utility, and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments

A 60-day Notice requesting public comment was published in the **Federal Register** on January 15, 2026 at 91 FR 1758. The comment period ended March 16, 2026. AmeriCorps received one public comment that addressed several aspects of the information collection, summarized as follows:

- **Comment:** The burden hour estimates should be increased for each of the forms for the individual to provide details about their loan and loan servicer or calculate accrued interest. **Response:** AmeriCorps did not adjust the burden hour estimates in response to this comment because these information collections do not require the member to provide the detailed information. The loan servicer, who will readily have the information available as a matter of business, provides the detailed information.
- **Comment:** Individuals may submit multiple forbearance or voucher forms within a single award period, so there should be a per-individual annual burden estimate to account for that, and first-time and repeat-user burden should be disaggregated. **Response:** AmeriCorps is not adjusting its estimates in response to this comment because the burden estimate is an estimate of one annual submission per individual for each form. While some individuals do submit multiple forms in a year, others submit only once every few years. AmeriCorps has averaged the time burden to account for both first-time and repeat users.
- **Comment:** AmeriCorps should conduct a structured usability study with individuals of various demographics. **Response:** AmeriCorps has calculated and refined its estimates over years of public consultation and outreach, which have captured the range of respondents' experiences in responding to this information collection.
- **Comment:** Individuals' financial costs are not captured. **Response:** This comment appears to be based on a misunderstanding that individuals must themselves obtain documents from loan servicers to provide to AmeriCorps.
- **Comment:** Student loan servicer burden was excluded. **Response:** The time burden estimate does consider loan servicer burden, including time to review instructions, process payments, and perform any recordkeeping beyond their normal course of business.
- **Comment:** Combine the three forms into one with single unified OMB coverage. **Response:** The three forms cannot be combined without significantly increasing burden because each form serves a distinct purpose. The

voucher form is used to disburse education award funds from the Trust, the forbearance request form allows a member to obtain forbearance on their loan while they are serving in an AmeriCorps program, and the interest form allows AmeriCorps to pay the interest accrued during a member's national service if their loans were in forbearance during that time.

- *Comment:* Integrate MyAmeriCorps with the Federal Student Aid (FSA) and NSLDS. *Response:* AmeriCorps already uses the current information collection to facilitate payments to the FSA network. The NSLDS does not contain information AmeriCorps needs on state-issued student loans.

- *Comment:* The forms handle personal financial information and AmeriCorps has not disclosed the security architecture for handling this data. *Response:* The information collection is covered by the System of Records Notice CNCS-04-CPO-MMF-Member Management Files (MMF) at 85 FR 3896.

- *Comment:* Small businesses employers that hire AmeriCorps alumni face indirect impacts, in that delays in obtaining [members'] education awards affects [employers'] ability to reduce employer tuition assistance obligations. *Response:* AmeriCorps has not identified any correlation between small business employers that hire AmeriCorps alumni and this information collection, nor with the subset of employers that offer tuition assistance.

- *Comment:* Both individuals and loan servicers must maintain records under this information collection. *Response:* The records are maintained in the MyAmeriCorps portal.

The remaining comments were substantively redundant or beyond the scope of this information collection.

Information Collection Abstracts

1. *Title of Collection:* Voucher and Payment Request Form.

OMB Control Number: 3045-0014.

Type of Review: Renewal.

Respondents/Affected Public:

Individuals (AmeriCorps members and alumni who request payment on qualified student loans) and businesses (qualified student loan servicers).

Total Estimated Number of Annual Responses: 34,385.

Average Time per Response: 5 minutes.

Total Estimated Number of Annual Burden Hours: 2,865.

Abstract: The National Service Trust AmeriCorps Voucher and Payment Form/National Service Trust AmeriCorps—Manual Payment Request

Form is used to repay qualified student loans and to pay for the cost of attending eligible post-secondary educational institutions and approved School-to-Work programs. Prior to making the payments, AmeriCorps will review information from the forms and compare it to information taken from the AmeriCorps members' education award account(s) to ensure that the payments meet the requirements of the law. This information collection is not required to be considered for obtaining grant funding support. The currently approved information collection is due to expire on March 31, 2026.

2. *Title of Collection:* Forbearance Request of National Service Form.

OMB Control Number: 3045-0030.

Type of Review: Renewal.

Respondents/Affected Public:

Individuals (AmeriCorps members and alumni who wish to request forbearance on qualified student loans) and businesses (qualified student loan servicers).

Total Estimated Number of Annual Responses: 13,182.

Frequency: One or more per education award.

Average Time per Response: 10 minutes.

Total Estimated Number of Annual Burden Hours: 2,197.

Abstract: The National Service Trust AmeriCorps Forbearance Request for National Service Form is used to certify that AmeriCorps members are eligible for forbearance based on their enrollment in a national service position. AmeriCorps members use the form, or its electronic equivalent, to request forbearance for their loan. This information collection is not required to be considered for obtaining grant funding support. The currently approved information collection is due to expire on March 31, 2026.

3. *Title of Collection:* Interest Accrual Form.

OMB Control Number: 3045-0053.

Type of Review: Renewal.

Respondents/Affected Public:

Individuals (AmeriCorps members and alumni who wish to request forbearance on qualified student loans) and businesses (qualified student loan servicers).

Total Estimated Number of Annual Responses: 320.

Average Time per Response: 5 minutes.

Total Estimated Number of Annual Burden Hours: 27.

Abstract: The National Service Trust Interest Payment Form is used by AmeriCorps members to request payment of accrued interest on qualified student loans and to authorize the

release of loan information to the National Service Trust. Schools and lenders verify eligibility for the payments and both parties verify certain legal requirements. AmeriCorps uses the information from the form to ensure that the accrued interest payment is allowable under law. AmeriCorps seeks to renew the currently approved information collection, which is due to expire on March 31, 2026.

AmeriCorps seeks to renew these current information collections, which will be used in the same manner as the existing approved information collections. AmeriCorps also seeks to continue using the current information collections until the renewals are approved by OMB.

Jerry Prentice,

Director, National Service Trust.

[FR Doc. 2026-05934 Filed 3-26-26; 8:45 am]

BILLING CODE 6050-28-P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket Number DARS-2026-0002; OMB Control Number 0704-0369]

Information Collection Requirement; Defense Federal Acquisition Regulation Supplement; Rights in Technical Data and Computer Software

AGENCY: Defense Acquisition Regulations System; Department of Defense (DoD).

ACTION: Notice.

SUMMARY: The Defense Acquisition Regulations System has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by April 27, 2026.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to <https://www.reginfo.gov/public/do/PRAMain>. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

You may also submit comments, identified by docket number and title, by the following method: Federal eRulemaking Portal: <https://www.regulations.gov>. Follow the instructions for submitting comments.

FOR FURTHER INFORMATION CONTACT: Mr. Reginald T. Lucas, 571-372-7574, or

whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.

SUPPLEMENTARY INFORMATION:

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Subpart 227.71, Rights in Technical Data, and Subpart 227.72, Rights in Computer Software and Computer Software Documentation, and related provisions and clauses of the Defense Federal Acquisition Regulation Supplement (DFARS); OMB Control Number 0704-0369.

Type of Request: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Respondent's Obligation: Required to obtain or retain benefits.

Frequency: On occasion.

Number of Respondents: 46,534.

Responses per Respondent: 9, approximately.

Annual Responses: 427,717.

Average Burden per Response: 1.6 hours, approximately.

Annual Response Burden Hours: 647,484.

Annual Recordkeeping Burden Hours: 55,841.

Total Annual Burden Hours: 703,325.

Needs and Uses: DFARS subparts 227.71 and 227.72 prescribe the use of solicitation provisions and contract clauses containing information collection requirements that are associated with rights in technical data and computer software. DoD needs this information to implement 10 U.S.C. 3771-3775, Rights in technical data, and 10 U.S.C. 3781-3786, Validation of proprietary data restrictions. DoD uses the information to recognize and protect contractor rights in technical data and computer software that are associated with privately funded developments; and to ensure that technical data delivered under a contract are complete and accurate and satisfy contract requirements. DoD has revised the estimated burden due to use of more current data and correction of mathematical errors.

DoD uses the following DFARS provisions and clauses in solicitations and contracts to require offerors and contractors to identify and mark data or software requiring protection from unauthorized use, release, or disclosure in accordance with 10 U.S.C. 3771-3775:

252.227-7013, Rights in Technical Data—Other Than Commercial Products and Commercial Services.

252.227-7014, Rights in Other Than Commercial Computer Software and Other Than Commercial Computer Software Documentation.

252.227-7017, Identification and Assertion of Use, Release, or Disclosure Restrictions.

252.227-7018, Rights in Other Than Commercial Technical Data and Computer Software—Small Business Innovation Research Program and Small Business Technology Transfer Program.

In accordance with 10 U.S.C. 3771(b)(4), DoD may disclose limited rights data to persons outside the Government, or allow those persons to use data with use, release, or disclosure restrictions, if the recipient agrees not to further release, disclose, or use the data. Therefore, the clause at DFARS 252.227-7013, Rights in Technical Data—Other Than Commercial Products and Commercial Services, requires the contractor to identify and mark data or software that it provides with limited rights.

In accordance with 10 U.S.C. 3781(b), contractors and subcontractors at any tier must be prepared to furnish written justification for any asserted restriction on the Government's rights to use or release data. The following DFARS clauses require contractors and subcontractors to maintain adequate records and procedures to justify any asserted restrictions:

252.227-7019, Validation of Asserted Restrictions—Computer Software.

252.227-7037, Validation of Asserted Restrictions on Technical Data.

In accordance with 10 U.S.C. 3771(b)(2), DoD must protect the rights of contractors that have developed items, components, or processes exclusively at private expense. Therefore, the clause at DFARS 252.227-7025, Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends, requires a contractor or subcontractor to submit a use and nondisclosure agreement when it obtains data from the Government to which the Government has less than unlimited rights. In addition, DFARS 227.7103-7, Use and nondisclosure agreement, requires intended recipients of technical data or computer software delivered to the Government with restrictions on use, modification, reproduction, release, performance, display, or disclosure, to sign the use and nondisclosure agreement at 227.7103-7(c) prior to release or disclosure of the data, unless the recipient is a Government contractor that requires access to a third party's data or software for the performance of a Government contract that contains the clause at 252.227-7025, Limitations on Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends. According to 10

U.S.C. 3771(b)(4), DoD may disclose limited rights data to persons outside the Government, or allow those persons to use limited rights data, if the recipient agrees not to further use, release, or disclose the data.

The provision at DFARS 252.227-7028, Technical Data or Computer Software Previously Delivered to the Government, requires an offeror to identify any technical data or computer software that it previously delivered, or will deliver, under any Government contract. DoD needs this information to avoid paying for rights in technical data or computer software that the Government already owns.

DoD Clearance Officer: Mr. Reginald T. Lucas. Requests for copies of the information collection proposal should be sent to Mr. Lucas at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Kimberly R. Ziegler,

Editor/Publisher, Defense Acquisition Regulations System.

[FR Doc. 2026-05935 Filed 3-26-26; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF DEFENSE

Department of the Navy

Meeting of the U.S. Naval Academy Board of Visitors

AGENCY: Department of the Navy, Department of Defense (DoD).

ACTION: Notice of Partially Closed Meeting.

SUMMARY: The DoD is publishing this notice to announce that the following Federal Advisory Committee meeting of the U.S. Naval Academy Board of Visitors, hereafter "Board," will take place.

DATES: Open to the public, April 13, 2026, from 09:00 a.m. to 11:00 a.m. Eastern Time Zone (ET). Closed to the public, April 13, 2026, from 11:00 a.m. to 12:00 p.m. ET.

ADDRESSES: This meeting will be held at the U.S. Naval Academy, Annapolis, MD. The meeting will be handicap accessible. Escort is required.

FOR FURTHER INFORMATION CONTACT: Major Shawn C. Wehrle, USMC, Executive Secretary to the Board of Visitors, Office of the Superintendent, U.S. Naval Academy, Annapolis, MD 21402-5000, 410-293-1503, *wehrle@usna.edu*.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) (5 U.S.C. 1001-

1014), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and the General Services Administration's Federal Advisory Committee Management Final Rule (41 CFR part 102-3).

Purpose of Meeting: The U.S. Naval Academy Board of Visitors will meet to make such inquiry, as the Board deems necessary, into the state of morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, and academic methods of the Naval Academy.

Agenda

Proposed meeting agenda for April 13, 2026.

- 9:00 a.m.—Call to Order (Open to Public)
- 9:00–10:50 a.m.—Opening Meeting (Open to Public)
- 10:50–11:00 a.m.—Break (Open to Public)
- 11:00–12:00 a.m.—Closed Meeting (Closed to Public)

The closed meeting from 11:00–12:00 p.m. ET will consist of discussions of new and pending administrative or minor disciplinary infractions and non-judicial punishments involving midshipmen attending the Naval Academy to include but not limited to, individual honor or conduct violations within the Brigade, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. For this reason, a portion of this meeting will be closed to the public, as the discussion of such information cannot be adequately segregated from other topics, which precludes opening the closed meeting to the public. The Principal Deputy General Counsel has determined in writing that the meeting shall be partially closed to the public because the discussions during the closed meeting from 11:00 a.m.–12:00 p.m. ET will be concerned with matters protected under sections 552b(c) (5), (6), and (7) of title 5, U.S.C.

Authority: 5 U.S.C. 552b.

Meeting Accessibility: Pursuant to FACA and 41 CFR 102-3.140, this meeting is open to the public. Please contact the Executive Secretary five business days prior to the meeting at Admin-Routing@usna.edu to coordinate access to the meeting.

Written Statements: Pursuant to 5 U.S.C. 1009(a)(3), interested persons may submit a written statement for consideration at any time, but it should be received by the Designated Federal Officer at least five business days prior to the meeting date so that the comments may be made available to the Board for their consideration prior to

the meeting. Written statements should be submitted via mail to 121 Blake Rd., Annapolis, MD 21402. Please note that since the Board operates under the provisions of the FACA, as amended, all submitted comments and public presentations may be treated as public documents and may be made available for public inspection, including, but not limited to, being posted on the board website.

Dated: March 25, 2026.

A.R. DeMaio,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2026-05983 Filed 3-26-26; 8:45 am]

BILLING CODE 3810-FF-P

DEPARTMENT OF EDUCATION

[Docket No.: ED-2025-SCC-1339]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Fiscal Operations Report for 2025–2026 and Application To Participate 2027–2028 (FISAP) and Reallocation Form

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing an extension without change of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before April 27, 2026.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be submitted within 30 days of publication of this notice. Click on this link www.reginfo.gov/public/do/PRAMain to access the site. Find this information collection request (ICR) by selecting “Department of Education” under “Currently Under Review,” then check the “Only Show ICR for Public Comment” checkbox. Reginfo.gov provides two links to view documents related to this information collection request. Information collection forms and instructions may be found by clicking on the “View Information Collection (IC) List” link. Supporting statements and other supporting documentation may be found by clicking on the “View Supporting Statement and Other Documents” link.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Carolyn Rose, (202) 453-5967.

SUPPLEMENTARY INFORMATION: The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Fiscal Operations Report for 2025–2026 and Application to Participate 2027–2028 (FISAP) and Reallocation Form.

OMB Control Number: 1845-0030.

Type of Review: Extension without change of a currently approved ICR.

Respondents/Affected Public: State, Local, and Tribal Governments; Private Sector.

Total Estimated Number of Annual Responses: 3,691.

Total Estimated Number of Annual Burden Hours: 84,756.

Abstract: The Higher Education Act of 1965, as amended, requires participating Title IV institutions to apply for funds and report expenditures for the Federal Perkins Loan (Perkins), the Federal Supplemental Educational Opportunity Grant (FSEOG) and the Federal Work-Study (FWS) Programs on an annual basis. The data submitted electronically in the Fiscal Operations Report and Application to Participate (FISAP) is used by the Department of Education to determine the institution's funding need for the award year and monitor program effectiveness and accountability of fund expenditures. The data is used in conjunction with institutional program reviews to assess the administrative capability and compliance of the applicant. There are no other resources for collecting this data.

The HEA requires that if an institution anticipates not using all of its allocated funds for the FWS, and FSEOG programs by the end of an award year, it must specify the anticipated remaining unused amount to the

Secretary, who reduces the institution's allocation accordingly.

Ross Santy,

Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2026–06000 Filed 3–26–26; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2026–SCC–0827]

Agency Information Collection Activities; Comment Request; Vocational Rehabilitation Financial Report (RSA–17)

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing an extension without change of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before May 26, 2026.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use <http://www.regulations.gov> by searching the Docket ID number ED–2026–SCC–0827. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at <http://www.regulations.gov> by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the www.regulations.gov site is not available to the public for any reason, the Department will temporarily accept comments at ICDocketMgr@ed.gov. Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. Please note that comments submitted after the comment period will not be accepted. Written requests for information or comments submitted by postal mail or delivery should be addressed to the Rehabilitation Services Administration, U.S. Department of Education, 400 Maryland Ave. SW, LBJ, Room 4B104, Washington, DC 20202–1200.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact David Steele, 202–245–6358.

SUPPLEMENTARY INFORMATION: The Department, in accordance with the

Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. The Department is soliciting comments on the proposed information collection request (ICR) that is described below. The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Vocational Rehabilitation Financial Report (RSA–17).

OMB Control Number: 1820–0017.

Type of Review: An extension without change of a currently approved ICR.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 312.

Total Estimated Number of Annual Burden Hours: 10,193.

Abstract: The Vocational Rehabilitation Financial Report (RSA–17) collects data on the State Vocational Rehabilitation (VR) Services program activities for agencies funded under the Rehabilitation Act of 1973 (Rehabilitation Act), as amended by title IV of the Workforce Innovation and Opportunity Act (WIOA). The Rehabilitation Services Administration (RSA) of the Office of Special Education and Rehabilitative Services (OSERS), U.S. Department of Education (Department) uses the data to evaluate and monitor the financial and programmatic performance of VR agencies. This report is used in lieu of the SF–425 Federal Financial Report because the SF–425 does not capture the required data elements necessary to ensure compliance with the financial requirements of the VR program. The data collected via the RSA–17 are necessary to ensure Federal

requirements imposed by the Rehabilitation Act and its implementing Federal regulations are satisfied; including matching, maintenance of effort, carryover, and earmarking.

This is a request for revision of the RSA–17 form with extension of the revised form for three years. RSA identified a unique circumstance where a VR grantee may not receive credit for non-Federal expenditures for establishment or construction expenditures when the grantee's compliance with the maintenance of effort requirement is calculated. The current RSA–17 form does not collect the data element necessary to address this unique circumstance. The proposed revision to the form corrects this issue by providing the ability to track unliquidated obligations and liquidations for the Establishment and Construction of Facilities for Community Rehabilitation Program (CRP) purposes through revisions to lines 28, 32 and 33. In addition, the revisions remove reporting element, line 15(a), Required and Coordination Pre-employment Transition Service Activities and Other VR Services that Support Access to and Participation in Pre-Employment Transition Services and include minor typographical edits.

Ross Santy,

Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2026–06001 Filed 3–26–26; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[Docket No. 16–28–LNG]

Venture Global Plaquemines LNG, LLC; Application for Limited Amendment of Authorization To Export Liquefied Natural Gas to Non-Free Trade Agreement Nations

AGENCY: Hydrocarbons and Geothermal Energy Office, Department of Energy.

ACTION: Notice of application.

SUMMARY: The Hydrocarbons and Geothermal Energy Office (formerly the Office of Fossil Energy and Carbon Management) of the Department of Energy (DOE) gives notice (Notice) of receipt of an application (Application) filed by Venture Global Plaquemines LNG, LLC (Plaquemines LNG) on March 5, 2026. Plaquemines LNG asks DOE to amend its existing authorization to export domestically produced liquefied natural gas (LNG) from the Plaquemines LNG Terminal (Export Terminal or Project), located on the west bank of the Mississippi River, near river mile

marker 55, in Plaquemines Parish, Louisiana, to non-free trade agreement countries set forth in DOE/FE Order No. 4446, as amended. Specifically, Plaquemines LNG asks DOE to authorize additional exports in a volume equivalent to approximately 467.67 billion cubic feet per year (Bcf/yr) of natural gas. Plaquemines LNG filed the Application under the Natural Gas Act (NGA).

DATES: Protests, motions to intervene, or notices of intervention, as applicable, and written comments are to be filed electronically as detailed in the Public Comment Procedures section no later than 4:30 p.m., Eastern time, May 26, 2026.

ADDRESSES:

Electronic Filing by email (Strongly encouraged): fergas@hq.doe.gov.

Postal Mail, Hand Delivery, or Private Delivery Services (e.g., FedEx, UPS, etc.) U.S. Department of Energy (EX-31), Office of Global Energy Security, Hydrocarbons and Geothermal Energy Office, Forrestal Building, Room 3E-056, 1000 Independence Avenue SW, Washington, DC 20585.

Due to potential delays in DOE's receipt and processing of mail sent through the U.S. Postal Service, we encourage respondents to submit filings electronically to ensure timely receipt.

FOR FURTHER INFORMATION CONTACT:

Jennifer Wade or Peri Ulrey, U.S. Department of Energy (EX-31), Office of Global Energy Security, Office of Strategic Resources, Hydrocarbons and Geothermal Energy Office, Forrestal Building, Room 3E-042, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586-4749 or (202) 586-7893, jennifer.wade@hq.doe.gov or peri.ulrey@hq.doe.gov.

Ajoke Agboola, U.S. Department of Energy (GC-76), Office of the Assistant General Counsel for Energy Delivery and Resilience, Forrestal Building, Room 6D-033, 1000 Independence Avenue SW, Washington, DC 20585, (240) 805-2147, ajoke.agboola@hq.doe.gov.

SUPPLEMENTARY INFORMATION: On October 16, 2019, in Order No. 4446 (Order),¹ DOE's Office of Fossil Energy (now known as the Hydrocarbons and Geothermal Energy Office)² authorized

Plaquemines LNG to export domestically produced LNG in a volume equivalent to 1,240 Bcf/yr of natural gas by vessel from the then-proposed Project to any country with which the United States does not have a free trade agreement (FTA) requiring national treatment for trade in natural gas, which currently has or in the future develops the capacity to import LNG, and with which trade is not prohibited by U.S. law or policy (non-FTA countries), for a 20-year term, pursuant to NGA section 3(a).³ On October 21, 2020, in Order No. 4446-A, DOE extended the term of the authorization through December 31, 2050.⁴ On March 13, 2026, in Order No. 4446-B, DOE amended Plaquemines LNG's authorization to increase its non-FTA export volume from 1,240 Bcf/yr to 1405.33 Bcf/yr.⁵

In the Application,⁶ as relevant here,⁷ Plaquemines LNG asks DOE to increase its authorized non-FTA volume by the equivalent of 467.67 Bcf/yr of natural gas, from 1,405.33 Bcf/yr to 1,873 Bcf/yr of natural gas.⁸ Plaquemines LNG states that its requested increase "reflects a refined analysis of the peak liquefaction capacity of the authorized Project facilities under optimal conditions."⁹ Plaquemines LNG adds that it has asked the Federal Energy Regulatory Commission (FERC) to increase its authorized liquefaction capacity from 27.2 metric tons per annum (MTPA) of LNG to 35.0 MTPA of LNG, which equals the volume increase for which it now seeks DOE's authorization.¹⁰

the Hydrocarbons and Geothermal Energy Office (HCEO). DOE uses the acronym in effect at the time of each order or action discussed herein.

³ 15 U.S.C. 717b(a).

⁴ *Venture Global Plaquemines LNG, LLC*, DOE/FE Order No. 4446-A, Docket No. 16-28-LNG, Order Extending Export Term for Authorization to Non-Free Trade Agreement Nations Through December 31, 2050, at 9-10 (Ordering Para. C) (Oct. 21, 2025).

⁵ *Venture Global Plaquemines LNG, LLC*, DOE/HCEO Order No. 4446-B, Docket No. 16-28-LNG, Order Amending Long Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Nations (Mar. 13, 2026).

⁶ *Venture Global Plaquemines LNG, LLC*, Application for Limited Amendment of Authorizations to Export Liquefied Natural Gas to Free Trade and Non-Free Trade Agreement Nations, Docket No. 16-28-LNG (Mar. 5, 2026) [hereinafter App.].

⁷ This Notice applies only to the portion of the Application requesting an amendment to Plaquemines LNG's non-FTA authorization under NGA section 3(a). DOE will review the portion of the Application requesting an amendment to Plaquemines LNG's existing authorization to export LNG to FTA countries separately pursuant to NGA section 3(c), 15 U.S.C. 717b(c).

⁸ App. at 3 & n.9. *See also* App. at 13.

⁹ App. at 2.

¹⁰ *See id.* at 2 & n.5; *see also id.* at 3. FERC, having previously approved the Terminal's 24.0 MTPA capacity, approved Plaquemines LNG's

Plaquemines LNG states that this proposed increase in its non-FTA export volume "does not require the construction of any new facilities or the material modification of any existing facilities."¹¹

Additional details can be found in Plaquemines LNG's Application, posted on the DOE website at <https://www.energy.gov/sites/default/files/2026-03/VG%20Plaquemines%20Uprate%20DOE%20Application%20%283.4.26%29.pdf>.

DOE Evaluation

In reviewing the Application, DOE will consider any issues required by law or policy under NGA section 3(a), DOE's regulations, and any other documents deemed appropriate.

Parties that may oppose the Application should address these issues and documents in their comments and/or protests, as well as other issues deemed relevant to the Application.

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed decisions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this Notice, any person may file a protest, comments, or a motion to intervene or notice of intervention, as applicable, addressing the Application. Interested parties will be provided 60 days from the date of publication of this Notice in the **Federal Register** in which to submit comments, protests, motions to intervene, or notices of intervention.

Any person wishing to become a party to this proceeding evaluating the Application must file a motion to intervene or notice of intervention.¹² The filing of comments or a protest with respect to the Application will not serve to make the commenter or protestant a party to this proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the Application. All protests, comments, motions to intervene, or notices of intervention must meet the requirements specified by DOE's regulations in 10 CFR part 590, including the service requirements.

Filings may be submitted using one of the following methods:

requested capacity increase from 24.0 MTPA to 27.2 MTPA in February 2025. *See id.* at 2 & n.5.

¹¹ *Id.* at 12.

¹² 10 CFR 590.303.

¹ *Venture Global Plaquemines LNG, LLC*, DOE/FE Order No. 4446, Docket No. 16-28-LNG, Opinion and Order Granting Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Nations (Oct. 16, 2019).

² The Office of Fossil Energy (FE) changed its name to the Office of Fossil Energy and Carbon Management (FECM) on July 4, 2021. Subsequently, on November 20, 2025, FECM changed its name to

(1) Submitting the filing electronically at fergas@hq.doe.gov;

(2) Mailing the filing to the Office of Global Energy Security at the address listed in the **ADDRESSES** section; or

(3) Hand delivering the filing to the Office of Global Energy Security at the address listed in the **ADDRESSES** section.

For administrative efficiency, DOE prefers filings to be filed electronically. All filings must include a reference to “Docket No. 16–28–LNG” or “Plaquemines LNG Second Uprate Application” in the title line. Filings must be submitted in English to be considered.¹³

For electronic submissions: Please include all related documents and attachments (e.g., exhibits) in the original email correspondence. Please do not include any active hyperlinks or password protection in any of the documents or attachments related to the filing. All electronic filings submitted to DOE must follow these guidelines to ensure that all documents are filed in a timely manner.

The Application, and any filed protests, motions to intervene, notices of intervention, and comments will be available electronically on the DOE website at www.energy.gov/hgeo/regulation.

A decisional record on the Application will be developed through responses to this Notice by parties, including the parties’ written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final Order may be issued based on the official record, including the Application and responses filed by parties pursuant to this Notice, in accordance with 10 CFR 590.316.

Signed in Washington, DC, on March 24, 2026.

Amy Sweeney,

*Director, Office of Global Energy Security,
Office of Strategic Resources.*

[FR Doc. 2026–05991 Filed 3–26–26; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[Docket No. 26–28–LNG]

Argent LNG, LLC; Application for Long-Term Authorization To Export Liquefied Natural Gas to Non-Free Trade Agreement Nations

AGENCY: Hydrocarbons and Geothermal Energy Office, Department of Energy.

ACTION: Notice of application.

SUMMARY: The Hydrocarbons and Geothermal Energy Office (H GEO) (formerly the Office of Fossil Energy and Carbon Management (FECM)) of the Department of Energy (DOE) gives notice (Notice) of receipt of an application (Application), filed by Argent LNG, LLC (Argent LNG) on March 10, 2026. Argent LNG requests long-term, multi-contract authorization to export domestically produced liquefied natural gas (LNG) in a volume equivalent to approximately 1,293.75 billion cubic feet (Bcf) of natural gas per year (Bcf/yr). Argent LNG seeks to export this LNG from its proposed natural gas liquefaction and LNG export terminal, Argent LNG Project (Project), to be located at Port Fourchon in Lafourche Parish, Louisiana. Argent LNG filed the Application under the Natural Gas Act (NGA).

DATES: Protests, motions to intervene, or notices of intervention, as applicable, and written comments are to be filed electronically as detailed in the Public Comment Procedures section no later than 4:30 p.m., Eastern time, May 26, 2026.

ADDRESSES:

Electronic Filing by email (Strongly encouraged): fergas@hq.doe.gov.

Postal Mail, Hand Delivery, or Private Delivery Services (e.g., FedEx, UPS, etc.) U.S. Department of Energy (EX–31), Office of Global Energy Security, Hydrocarbons and Geothermal Energy Office, Forrestal Building, Room 3E–056, 1000 Independence Avenue SW, Washington, DC 20585.

Due to potential delays in DOE’s receipt and processing of mail sent through the U.S. Postal Service, we encourage respondents to submit filings electronically to ensure timely receipt.

FOR FURTHER INFORMATION CONTACT:

Jennifer Wade or Peri Ulrey, U.S.

Department of Energy (EX–31), Office of Global Energy Security, Office of Strategic Resources, Hydrocarbons and Geothermal Energy Office, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–4749 or (202) 586–7893,

jennifer.wade@hq.doe.gov or peri.ulrey@hq.doe.gov.

Ajoke Agboola, U.S. Department of Energy (GC–76), Office of the Assistant General Counsel for Energy Delivery and Resilience, Forrestal Building, Room 6D–033, 1000 Independence Avenue SW, Washington, DC 20585, (240) 805–2147, ajoke.agboola@hq.doe.gov.

SUPPLEMENTARY INFORMATION: Argent LNG requests authorization to export domestically produced LNG from its proposed Project, which will be constructed on an approximately 900-acre parcel under long-term lease by Argent LNG, at Port Fourchon in Lafourche Parish, Louisiana, adjacent to Belle Pass and Bayou Lafourche.¹ Argent LNG states that the proposed Project will consist of pre-treatment facilities, 12 modular liquefaction units, two full-containment LNG storage tanks, a simple-cycle gas turbine power generation facility, two marine loading berths capable of accommodating LNG carriers, as well as smaller LNG bunkering vessels, and supporting infrastructure.² Argent LNG seeks to export LNG in a volume equivalent to 1,293.75 Bcf/yr of natural gas (equivalent to approximately 25 million metric tons per annum) by ocean-going vessel on a non-additive basis to: (i) any country with which the United States has entered into a free trade agreement (FTA) requiring national treatment for trade in natural gas (FTA countries), and (ii) any other country with which trade is not prohibited by U.S. law or policy (non-FTA countries).³ This Notice applies only to the portion of the Application requesting authority to export LNG to non-FTA countries pursuant to section 3(a) of the NGA.⁴ DOE will review Argent LNG’s request for authorization to export LNG to FTA countries separately pursuant to NGA section 3(c).⁵

Argent LNG seeks this authorization on its own behalf and as agent for other entities that will hold title to the LNG at the time of export.⁶ Argent LNG requests authorization for a 20-year term following the commencement of commercial operation of the Project, plus a three-year Make-Up Period at the end of that term.⁷

¹ *Argent LNG, LLC, Application for Long-term Authorization to Export Liquefied Natural Gas to Free Trade and Non-Free Trade Agreement Nations*, Docket No. 26–28–LNG (Mar. 10, 2026) [hereinafter *App.*].

² *App.* at 4.

³ *Id.* at 1–2.

⁴ 15 U.S.C. 717b(a).

⁵ 15 U.S.C. 717b(c).

⁶ *App.* at 2.

⁷ *Id.*

¹³ Executive Order 14224 of March 1, 2025, *Designating English as the Official Language of the United States*, 90 FR 11363 (Mar. 6, 2025).

Additional details can be found in Argent LNG's Application, posted on the DOE website at https://www.energy.gov/sites/default/files/2026-03/Argent%20LNG%20LLC%20-%20DOE%20FTA%20and%20Non-FTA%20Final%20Application%20-%202023.10.2026_.pdf.

DOE Evaluation

In reviewing the Application, DOE will consider any issues required by law or policy under NGA section 3(a), DOE's regulations, and any other documents deemed appropriate.

Parties that may oppose the Application should address these issues and documents in their comments and/or protests, as well as other issues deemed relevant to the Application.

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed decisions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this Notice, any person may file a protest, comments, or a motion to intervene or notice of intervention, as applicable, addressing the Application. Interested parties will be provided 60 days from the date of publication of this Notice in the **Federal Register** in which to submit comments, protests, motions to intervene, or notices of intervention.

Any person wishing to become a party to this proceeding evaluating the Application must file a motion to intervene or notice of intervention.⁸ The filing of comments or a protest with respect to the Application will not serve to make the commenter or protestant a party to this proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the Application. All protests, comments, motions to intervene, or notices of intervention must meet the requirements specified by DOE's regulations in 10 CFR part 590, including the service requirements.

Filings may be submitted using one of the following methods:

(1) Submitting the filing electronically at fergas@hq.doe.gov;

(2) Mailing the filing to the Office of Global Energy Security at the address listed in the **ADDRESSES** section; or

(3) Hand delivering the filing to the Office of Global Energy Security at the address listed in the **ADDRESSES** section.

For administrative efficiency, DOE prefers filings to be filed electronically. All filings must include a reference to "Docket No. 26–28–LNG" or "Argent LNG, LLC Application" in the title line. Filings must be submitted in English to be considered.⁹

For electronic submissions: Please include all related documents and attachments (e.g., exhibits) in the original email correspondence. Please do not include any active hyperlinks or password protection in any of the documents or attachments related to the filing. All electronic filings submitted to DOE must follow these guidelines to ensure that all documents are filed in a timely manner.

The Application, and any filed protests, motions to intervene, notices of intervention, and comments will be available electronically on the DOE website at www.energy.gov/hgeo/regulation.

A decisional record on the Application will be developed through responses to this Notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final Order may be issued based on the official record, including the Application and responses filed by parties pursuant to this Notice, in accordance with 10 CFR 590.316.

Signed in Washington, DC, on March 24, 2026.

Amy Sweeney,

*Director, Office of Global Energy Security,
Office of Strategic Resources.*

[FR Doc. 2026–05992 Filed 3–26–26; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: CP26–142–000.

Applicants: Port Arthur Pipeline, LLC.

Description: Application of Port Arthur Pipeline, LLC for an Amended Limited Jurisdiction Certificate of Public Convenience and Necessity.

Filed Date: 3/20/26.

Accession Number: 20260320–5402.

Comment Date: 5 p.m. ET 4/3/26.

Docket Numbers: RP26–664–000.

Applicants: Southwest Gas Storage Company.

Description: § 4(d) Rate Filing: Update Tariff Map Links to be effective 4/23/2026.

Filed Date: 3/23/26.

Accession Number: 20260323–5166.

Comment Date: 5 p.m. ET 4/6/26.

Docket Numbers: RP26–665–000.

Applicants: Sea Robin Pipeline Company, LLC.

Description: § 4(d) Rate Filing: Update Tariff Map Links to be effective 4/23/2026.

Filed Date: 3/23/26.

Accession Number: 20260323–5167.

Comment Date: 5 p.m. ET 4/6/26.

Docket Numbers: RP26–666–000.

Applicants: Stingray Pipeline Company, L.L.C.

Description: § 4(d) Rate Filing: Update Tariff Map Link to be effective 4/23/2026.

Filed Date: 3/23/26.

Accession Number: 20260323–5174.

Comment Date: 5 p.m. ET 4/6/26.

Docket Numbers: RP26–667–000.

Applicants: Horizon Pipeline Company, L.L.C.

Description: Compliance filing: Horizon Penalty Revenue Crediting Report for Year 2025 to be effective N/A.

Filed Date: 3/24/26.

Accession Number: 20260324–5043.

Comment Date: 5 p.m. ET 4/6/26.

Docket Numbers: RP26–668–000.

Applicants: Kern River Gas Transmission Company.

Description: 2025 Annual Fuel and Unaccounted for Gas Report of Kern River Gas Transmission Company.

Filed Date: 3/24/26.

Accession Number: 20260324–5081.

Comment Date: 5 p.m. ET 4/6/26.

Docket Numbers: RP26–669–000.

Applicants: Natural Gas Pipeline Company of America LLC.

Description: Compliance filing: Penalty Revenue Crediting Report From July Through December 2025 to be effective N/A.

Filed Date: 3/24/26.

Accession Number: 20260324–5087.

Comment Date: 5 p.m. ET 4/6/26.

Any person desiring to intervene, to protest, or to answer a complaint in any

⁸ 10 CFR 590.303.

⁹ Executive Order 14224 of March 1, 2025, *Designating English as the Official Language of the United States*, 90 FR 11363 (Mar. 6, 2025).

of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502-6595 or OPP@ferc.gov.

Dated: March 24, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026-05980 Filed 3-26-26; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC26-74-000.

Applicants: Viridon California LLC, Viridon Mid-Atlantic LLC, Viridon Midcontinent LLC, Viridon New York Inc., Viridon New England LLC, Viridon Southwest LLC, Viridon Path 15 LLC, Viridon Wisconsin LLC, California Grid Holdings LLC, Wabash Valley Transmission Company, LLC.

Description: Joint Application for Authorization Under Section 203 of the Federal Power Act of Viridon California LLC, et al.

Filed Date: 3/20/26.

Accession Number: 20260320-5410.

Comment Date: 5 p.m. ET 4/10/26.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER21-59-000.

Applicants: Brookfield Renewable Trading and Marketing LP.

Description: Refund Report: Refund Report on Recoupment to be effective N/A.

Filed Date: 3/24/26.

Accession Number: 20260324-5115.

Comment Date: 5 p.m. ET 4/14/26.

Docket Numbers: ER25-3193-001.

Applicants: Twelvemile Solar Energy, LLC.

Description: Notice of Change in Status of Twelvemile Solar Energy, LLC.

Filed Date: 3/23/26.

Accession Number: 20260323-5280.

Comment Date: 5 p.m. ET 4/13/26.

Docket Numbers: ER26-1011-001.

Applicants: Newton Solar BESS LLC.

Description: Tariff Amendment: Supplement to MBR Application to be effective 1/26/2026.

Filed Date: 3/24/26.

Accession Number: 20260324-5150.

Comment Date: 5 p.m. ET 4/3/26.

Docket Numbers: ER26-1308-001.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Amendment: Amendment to Pending GIA No. 7827; Project Identifier No. AE1-185/AG2-478 to be effective 1/12/2026.

Filed Date: 3/24/26.

Accession Number: 20260324-5169.

Comment Date: 5 p.m. ET 4/14/26.

Docket Numbers: ER26-1344-001.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Amendment: Amendment to Pending Filing of GIA, SA No. 7839; Project Identifier No. AG1-320 to be effective 1/14/2026.

Filed Date: 3/24/26.

Accession Number: 20260324-5151.

Comment Date: 5 p.m. ET 4/14/26.

Docket Numbers: ER26-1510-001.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Amendment: Errata to Cancellation of GIA SA No. 7404 & CSA SA No. 7405; Project ID AG1-511 to be effective 1/6/2026.

Filed Date: 3/24/26.

Accession Number: 20260324-5180.

Comment Date: 5 p.m. ET 4/14/26.

Docket Numbers: ER26-1888-000.

Applicants: Navajo Tribal Utility Authority.

Description: Request for Prospective Tariff Waiver, et al. of Navajo Tribal Utility Authority.

Filed Date: 3/20/26.

Accession Number: 20260320-5416.

Comment Date: 5 p.m. ET 3/30/26.

Docket Numbers: ER26-1895-000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original GIA, SA No. 7940; Project Identifier No. AF2-142 to be effective 2/20/2026.

Filed Date: 3/23/26.

Accession Number: 20260323-5260.

Comment Date: 5 p.m. ET 4/13/26.

Docket Numbers: ER26-1896-000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original GIA, SA No. 7939; Project Identifier No. AF2-143 to be effective 2/20/2026.

Filed Date: 3/23/26.

Accession Number: 20260323-5263.

Comment Date: 5 p.m. ET 4/13/26.

Docket Numbers: ER26-1897-000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2026-03-24 Filing to Reconcile the Tariff to be effective 6/1/2026.

Filed Date: 3/24/26.

Accession Number: 20260324-5052.

Comment Date: 5 p.m. ET 4/14/26.

Docket Numbers: ER26-1898-000.

Applicants: Midcontinent Independent System Operator, Inc., Michigan Electric Transmission Company, LLC.

Description: § 205(d) Rate Filing: Michigan Electric Transmission Company, LLC submits tariff filing per 35.13(a)(2)(iii): 2026-03-24 SA 4709 METC-DTE Electric E&P (J3059) to be effective 3/19/2026.

Filed Date: 3/24/26.

Accession Number: 20260324-5060.

Comment Date: 5 p.m. ET 4/14/26.

Docket Numbers: ER26-1900-000.

Applicants: Jicarilla Solar 2 LLC.

Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff Filing and Notice of Change in Status to be effective 3/25/2026.

Filed Date: 3/24/26.

Accession Number: 20260324-5130.

Comment Date: 5 p.m. ET 4/14/26.

Docket Numbers: ER26-1901-000.

Applicants: Jicarilla Storage 1 LLC.

Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff Filing and Notice of Change in Status to be effective 3/25/2026.

Filed Date: 3/24/26.

Accession Number: 20260324-5131.

Comment Date: 5 p.m. ET 4/14/26.

Docket Numbers: ER26-1902-000.

Applicants: Jicarilla Solar 1 LLC.

Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff Filing and Notice of Change in Status to be effective 3/25/2026.

Filed Date: 3/24/26.

Accession Number: 20260324-5133.

Comment Date: 5 p.m. ET 4/14/26.

Docket Numbers: ER26-1903-000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 4734 Platt Solar GIA to be effective 3/17/2026.

Filed Date: 3/24/26.

Accession Number: 20260324–5136.

Comment Date: 5 p.m. ET 4/14/26.

Docket Numbers: ER26–1904–000.

Applicants: Puget Sound Energy, Inc.

Description: § 205(d) Rate Filing: PSE Legacy Facilities and Capacity Arrangement with BPA (RS–9008) to be effective 4/1/2026.

Filed Date: 3/24/26.

Accession Number: 20260324–5145.

Comment Date: 5 p.m. ET 4/14/26.

Docket Numbers: ER26–1905–000.

Applicants: Oregon Clean Energy, LLC.

Description: Tariff Amendment: Notice of Cancellation—Reactive Power Tariff to be effective 3/2/2026.

Filed Date: 3/24/26.

Accession Number: 20260324–5154.

Comment Date: 5 p.m. ET 4/14/26.

Docket Numbers: ER26–1906–000.

Applicants: Duke Energy Indiana, LLC.

Description: § 205(d) Rate Filing: Annual Reconciliation Filing (2026) to be effective 7/1/2025.

Filed Date: 3/24/26.

Accession Number: 20260324–5163.

Comment Date: 5 p.m. ET 4/14/26.

Docket Numbers: ER26–1907–000.

Applicants: Black Hills Power, Inc.

Description: Informational Filing of Balancing Authority of Black Hills Power, Inc.

Filed Date: 3/17/26.

Accession Number: 20260317–5247.

Comment Date: 5 p.m. ET 4/7/26.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or

before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or OPP@ferc.gov.

Dated: March 24, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–05979 Filed 3–26–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the-Record Communications; Public Notice

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a

summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e) (1) (v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. Each filing may be viewed on the Commission's website at <http://www.ferc.gov> using the eLibrary link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Docket Nos.	File date	Presenter or requester
Prohibited:		
1. EC26–58–000	03–17–2026	FERC Staff. ¹
Exempt:		
1. P–15410–001	03–19–2026	U.S. Senator Angus S. King, Jr.
2. ER26–1556–000	03–19–2026	U.S. Representative Frank Pallone, Jr.

¹ Email communication dated 03/16/2026 from Robert Rutkowski.

Dated: March 24, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–05981 Filed 3–26–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

2028 Resource Pool—Parker-Davis Project, Final Power Allocations

AGENCY: Western Area Power Administration, Department of Energy (DOE).

ACTION: Notice of Parker-Davis Project final 2028 resource pool power allocations.

SUMMARY: Western Area Power Administration (WAPA), a Federal Power Marketing Administration of the Department of Energy (DOE), announces its Parker-Davis Project (P-DP) final 2028 resource pool power allocations, developed under the requirements of the Final 2028 P-DP Power Marketing Plan. This notice also includes a summary of all comments received on WAPA's Proposed 2028 Resource Pool Allocations and WAPA's responses.

DATES: This final 2028 resource pool power allocations decision will become effective April 27, 2026 and service will begin on October 1, 2028.

FOR FURTHER INFORMATION CONTACT: Jennifer Henn, Power Marketing Advisor, Desert Southwest Region, Western Area Power Administration, phone: (602) 812–2348, or email: pdp-remarketing@wapa.gov.

SUPPLEMENTARY INFORMATION:

Background

WAPA published the Final 2028 P-DP Power Marketing Plan (Final 2028 Plan) on November 12, 2024 (89 FR 88999), to define how WAPA will market hydropower from the P-DP beginning October 1, 2028, and ending September 30, 2048. The current marketing plan and contracts expire on September 30, 2028. As part of the Final 2028 Plan, WAPA adjusted each existing preference contractor's Contract Rate of Delivery (CROD) by applying a pro rata share of an anticipated 3,750-

kilowatt (kW) capacity increase at Davis Dam Unit 3 and then reduced the adjusted CROD by two percent to create a resource pool. The resulting resource pool included 5,259 kW of summer season capacity, including 748 kW of summer season withdrawable capacity, and 4,041 kW of winter season capacity, including 146 kW of winter season withdrawable capacity, for allocation to new allottees.

WAPA published a call for resource pool applications in the **Federal Register** on November 12, 2024 (89 FR 88999), and applications were due by January 31, 2025. In response to the call for resource pool applications, WAPA received four applications for the 2028 resource pool. After reviewing and considering the applications using the Eligibility Criteria and Allocation Criteria for Resource Pool Allocations described in the Final 2028 Plan, WAPA published the P-DP Proposed 2028 Resource Pool Power Allocation in the **Federal Register** on September 3, 2025 (90 FR 42576), and opened a 45-day comment period. The comment period ended on October 20, 2025. Summaries of the comments received and WAPA's responses are provided below. After considering all comments, WAPA has finalized the proposed power allocations as discussed herein.

Response to Comments on Resource Pool Proposed Power Allocations

During the public comment period, WAPA received two comments on the Proposed 2028 Resource Pool Power Allocations. The comments are available on WAPA's website at www.wapa.gov/about-wapa/regions/dsw/pdpremarketing. There were no comments made during the public comment forum held on October 3, 2025. Transcripts from the public meetings are also available on WAPA's website.

The following is a summary of the comments received during the comment period, and WAPA's responses to those comments. Comments are paraphrased for brevity.

Comments and Responses

Comment: A commenter commended WAPA for its adherence to federal statutes and regulations throughout the

evaluation of resource pool applications and for following the 2028 Resource Pool Eligibility Criteria. The commenter stated that the process was clearly communicated, inclusive of stakeholder engagement, and consistent with the criteria and principles outlined in the Proposed 2028 Marketing plan.

Response: WAPA appreciates the feedback.

Comment: A commenter liked that WAPA set aside power for new groups, but felt two percent was too small and requested WAPA give access to underserved and tribal communities and make the rules clearer, so smaller utilities have a fair chance.

Response: Thank you for the comment. WAPA published a Proposed 2028 P-DP Power Marketing Plan (89 FR 43841) with a proposal for the resource pool size and eligibility criteria and accepted public comments from May 20, 2024, through August 19, 2024. WAPA balanced its statutory obligation to encourage widespread use of federal hydropower with the current challenging hydrological conditions in the Colorado River Basin. As detailed in the Final 2028 Plan, energy deliveries from the P-DP have been significantly impacted by drought. A larger resource pool would necessitate a greater reduction in allocations for existing contractors, who are already facing reduced energy deliveries under the new Quarterly Energy methodology.

WAPA is committed to fostering widespread use of federal power, including for underserved and tribal communities. The Eligibility Criteria for Resource Pool Allocations (Section III.C of the Final 2028 Plan) specifically includes Native American tribes as qualified applicants, exempting them from the requirement to achieve electric utility status and have a distribution system in place. This provision is designed to remove potential barriers to participation for tribal communities.

Final 2028 Resource Pool Power Allocations

The final 2028 resource pool allottees and capacity allocations for firm electric service (FES) are listed in the following table:

Allottees	Final Parker-Davis Project post-2028 pool capacity allocations					
	Summer			Winter		
	Non-withdrawable FES allocation (kW)	Withdrawable FES allocation (kW)	Total FES allocation (kW)	Non-withdrawable FES allocation (kW)	Withdrawable FES allocation (kW)	Total FES allocation (kW)
Industry Public Utilities	703	304	1,007	936	73	1,009

Allottees	Final Parker-Davis Project post-2028 pool capacity allocations					
	Summer			Winter		
	Non-withdrawable FES allocation (kW)	Withdrawable FES allocation (kW)	Total FES allocation (kW)	Non-withdrawable FES allocation (kW)	Withdrawable FES allocation (kW)	Total FES allocation (kW)
San Pasqual Band of Indians	703	304	1,007	936	73	1,009
Total 2028 Resource Pool	1,406	608	2,014	1,872	146	2,018

The resource pool final power allocations, listed in the table above, are based on the P–DP marketable resource available at this time. If the P–DP marketable resource is adjusted in the future, P–DP power allocations may be adjusted accordingly. The CROD adjustments for existing contractors are posted on DSW’s website at www.wapa.gov/about-wapa/regions/dsw/pdpremarketing. The existing CROD for Priority Use Power contractors will remain unchanged.

All allocations, including the new resource pool allocations, will be based on P–DP marketable capacity deemed to be available effective October 1, 2028.

Contracting Process

After the effective date of this notice, DSW will start contract development. All allocations are subject to the execution of a contract in accordance with the General Criteria and Contract Principles contained in the Final 2028 Plan. Energy associated with the new resource pool will be based on a pro rata share of the allottee’s seasonal CROD and published in the form of Quarterly Energy, as defined in the Final 2028 Plan.

WAPA solely determines the terms, conditions, rates, or charges of its power contracts. Each allottee is responsible for obtaining transmission arrangements beyond WAPA’s system for the delivery of federal power to the allottee’s load. WAPA must receive a letter of commitment from each allottee’s serving utility or their transmission provider by January 31, 2028, confirming the allottee will be able to receive the benefit of WAPA’s 2028 resource pool, unless otherwise agreed to in writing by WAPA. Upon request, WAPA may assist an allottee in obtaining transmission arrangements for the delivery of power.

Allottees will be required to execute an electric service contract no later than May 31, 2028, unless otherwise agreed to in writing by WAPA. Electric service contracts will be effective upon WAPA’s signature, and service will begin on October 1, 2028, and continue through September 30, 2048.

Consistent with the Final 2028 Plan, allottees will be required to prepay for service according to the applicable rate schedule. Allottees may participate in advance funding of WAPA’s and Reclamation’s operation and maintenance expenses by agreeing to sign the existing Advancement of Funds (AOF) agreement. The existing AOF agreement will continue for current signatories in the new marketing plan.

Legal Authorities

The Final 2028 Plan was established under the Department of Energy Organization Act (42 U.S.C. 7101, *et seq.*); the Reclamation Act of June 17, 1902 (ch. 1093, 32 Stat. 388), as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)); and other acts specifically applicable to the projects involved. Allocating power from the resource pool falls within the Final 2028 Plan and is covered by this authority.

Regulatory Procedure Requirements Environmental Compliance

WAPA has determined this final action fits within the following categorical exclusions listed in appendix B to 10 CFR part 1021 and appendix B of DOE’s National Environmental Policy Act (NEPA) implementing procedures published on June 30, 2025: B4.1 (Contracts, policies, and marketing and allocation plans for electric power) and B4.4 (Power marketing services and activities). Under 10 CFR 1021.102, categorically excluded projects and activities do not require preparation of either an environmental impact statement or an environmental assessment.¹ A copy of the categorical exclusion determination is available on WAPA’s website under the categorical exclusion 2024 menu at www.wapa.gov/about-wapa/regions/dsw/environment.

¹ The determination was done in compliance with NEPA (42 U.S.C. 4321–4347) and DOE NEPA Implementing Procedures, including 10 CFR part 1021.

Determination Under Executive Order 12866

WAPA has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this **Federal Register** notice by the Office of Management and Budget is required.

Signing Authority

This document of the Department of Energy was signed on March 24, 2026, by Tracey A. LeBeau, Administrator, Western Area Power Administration. The document, with the original signature and date, is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on March 25, 2026.

Jennifer Hartzell,

*Alternate Federal Register Liaison Officer,
U.S. Department of Energy.*

[FR Doc. 2026–06002 Filed 3–26–26; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2026–1420; EPA–HQ–OPP–2026–0991; EPA–HQ–OPP–2026–1256; FRL–13274–01–OCSPP]

Pesticide Product Registration; Emergency Exemption Request and Application for a New Active Ingredient

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of receipt and request for comment.

SUMMARY: This document announces the Agency’s receipt of and solicits comment on an application from the

United States Department of Agriculture (USDA) to register a new pesticide product containing an unregistered pesticide, NovoFly male-only genetically engineered (GE) New World screwworm (NWS) in USDA's Sterile Insect Technique (SIT) programs. Additionally, the Agency received a Section 18 quarantine emergency exemption application requesting use of the same pesticide to maintain broad suppression of and help prevent the pest from moving further northward from Mexico toward the United States. The Agency is providing this notice in accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Due to the urgent nature of the emergency, the limited time available to authorize the Section 18 quarantine emergency exemption request, and the related FIFRA Section 3 product registration application under review for the same use, EPA is waiving the comment period associated with the emergency exemption request, but is soliciting public comment in conjunction with the application for Section 3 product registration of NovoFly.

DATES: Comments must be received on or before April 27, 2026.

ADDRESSES: Submit your comments on the Section 3 product registration application, identified by the docket identification (ID) number, EPA-HQ-OPP-2026-0991 and the *EPA File Symbol*, 91213-L, as shown in Unit II. of this document, online at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting and visiting the docket, along with more information about dockets generally, are available at <https://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT: Each application summary in Unit II. specifies a contact division. The appropriate division contacts are identified as follows:

- BPPD (Biopesticides and Pollution Prevention Division) (Mail Code 7511M); Shannon Borges; main telephone number: (202) 566-1400; email address: BPPDFRNotices@epa.gov.
- RD (Registration Division) (Mail Code 7505T); Charles Smith; main telephone number: (202) 566-1030; email address: RDFRNotices@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. Does this action apply to me?

This action provides information that is directed to the public in general.

B. What is the Agency's authority for taking this action?

EPA is taking this action pursuant to section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136a(c)(4), and 40 CFR 152.102.

C. What action is the Agency taking?

EPA is hereby providing notice of receipt of an application to register a new Section 3 pesticide product containing an unregistered active ingredient in addition to receipt of an application requesting authorization of a Section 18 quarantine emergency exemption. EPA is providing an opportunity to comment on the application to register a new Section 3 pesticide product containing an unregistered active ingredient. This document identifies applications that were received and are currently being evaluated by EPA in accordance with FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on either the Section 3 pesticide product registration or Section 18 quarantine emergency exemption applications. For the Section 3 product registration being evaluated under EPA's public participation process, there will be an additional opportunity for public comment on the proposed decisions. Please see EPA's public participation website for additional information on this process (<https://www.epa.gov/pesticide-registration/public-participation-process-registration-actions>).

D. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit CBI to EPA through <https://www.regulations.gov> or email. If you wish to include CBI in your comment, please follow the applicable instructions at <https://www.epa.gov/dockets/commenting-epa-dockets#rules> and clearly mark the information that you claim to be CBI. In addition to one complete version of the comment that includes CBI, a copy of the comment without CBI must be submitted for inclusion in the public docket. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at

<https://www.epa.gov/dockets/commenting-epa-dockets>.

II. Applications To Register and Authorize New Pesticide Product and Section 18 Quarantine Emergency Exemption, Respectively

This unit provides the following information about each application received: The EPA File Symbol or Emergency Exemption Number; EPA docket ID number for the application; Name and address of the applicant; Name of the active ingredient, product type and proposed uses; and the division to contact for that application. Additional information about the application may also be available in the docket for the application as identified in this unit.

A. Application for a New Active Ingredient

File Symbol: 91213-L. *Docket ID number:* EPA-HQ-OPP-2026-0991. *Applicant:* United States Department of Agriculture—Agricultural Research Service (USDA-ARS), George Washington Carver Center, 5601 Sunnyside Ave., Beltsville, MD 20706. *Product Name:* NovoFly. *Active Ingredients:* (1) Lshid^{Ala2} protein and the genetic material necessary to produce the protein in vivo in female embryos *Cochliomyia hominivorax*; and (2) tTAo protein and the genetic material necessary to produce the protein in vivo in female embryos *Cochliomyia hominivorax*. *Product Type:* Biopesticide. *Proposed Use:* *Cochliomyia hominivorax* (New World Screwworm) female lethal trait to be used as part of wide area sterilization and eradication program. *Date of Receipt:* January 30, 2026. *Contact:* BPPD.

B. Section 18 Emergency Exemption

Under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), at the discretion of the EPA Administrator, a Federal or State agency may be exempted from any provision of FIFRA if the EPA Administrator determines that emergency conditions exist which require the exemption. This notice does not constitute a decision by EPA on the application itself. The regulations governing FIFRA section 18 require publication of a notice of receipt of an application for a quarantine exemption proposing a new use of a pesticide (*i.e.*, an active ingredient) which has not been registered by EPA. Due to the urgent nature of the emergency, the limited time available to authorize the Section 18 quarantine emergency exemption request, and the related FIFRA Section

3 product registration application under review for the same use, EPA is waiving the comment period associated with the emergency exemption request, but is soliciting public comment in conjunction with the application for product registration of NovoFly.

As part of this request, the applicant asserts that the NWS (*Cochliomyia hominivorax*) is a devastating pest that causes serious and often deadly damage to livestock, wildlife, pets, and in rare cases, humans. Recent detections have been identified, spreading north in Mexico, thereby threatening re-emergence in the United States and necessitating new tools to stop it. If NWS enters and establishes in the United States, widespread economic losses are expected; each outbreak can cause millions of dollars in production losses and economic damage. It has been calculated that an outbreak in Texas would cost \$1.8 billion to the Texas economy today. USDA-ARS has developed the NovoFly GE NWS using sterile insect technique (SIT), which results in all flies raised being males. Use of male-only NWS populations in SIT effectively doubles the output of traditional SIT (which is dependent on sterile male NWS), providing a significant efficiency. The NovoFly males will be sterilized through irradiation prior to release, which will achieve rapid population control. Current registered insecticides can be applied to animals to control adult flies or kill larvae developing in animal wounds. However, because NWS has been eradicated from the U.S. for so long, many of the products historically applied to animals are no longer available.

File Symbol: 26DA05. *Docket ID number:* EPA-HQ-OPP-2026-1256. *Applicant:* United States Department of Agriculture—Agricultural Research Service (USDA-ARS), George Washington Carver Center, 5601 Sunnyside Ave., Beltsville, MD 20706. *Product Name:* NovoFly. *Active Ingredients:* (1) Lshid^{Ala2} protein and the genetic material necessary to produce the protein in vivo in female embryos *Cochliomyia hominivorax*; and (2) tTAo protein and the genetic material necessary to produce the protein in vivo in female embryos *Cochliomyia hominivorax*. *Product Type:* Biopesticide. *Proposed Use:* *Cochliomyia hominivorax* (New World Screwworm) female lethal trait to be used as part of wide area sterilization and eradication program across areas where NWS is detected, and sterile insect dispersal areas to maintain broad suppression and help prevent the pest from moving further north from Mexico

toward the United States. NovoFly NWS *Cochliomyia hominivorax* carry traits that allow inducible sex-selection which is lethal to female NWS at the embryonic stage during production. This genetically engineered trait allows for the controlled mass-rearing of male-only populations of NWS. NovoFly males are sterilized through irradiation using typical SIT procedures prior to release, making them incapable of reproducing. Use of male-only NWS populations in SIT effectively doubles the output of traditional SIT (which is dependent on sterile male NWS), providing a significant efficiency. USDA ARS is requesting that sterile male-only NovoFly be integrated into existing or future mass-rearing and SIT programs to prevent the establishment of, and to control NWS (*Cochliomyia hominivorax*), a devastating pest that causes serious and often deadly damage to livestock, wildlife, pets, and in rare cases, humans. The applicant proposes the use of a new active ingredient in a pesticide which has not been registered by EPA.

Area-wide releases of sterile, male-only Novofly will follow typical SIT procedures. According to the USDA, sterile insect technique, when paired with surveillance, animal movement restrictions, and education and outreach, is a proven and effective tool for controlling and eradicating NWS. Female NWS flies only mate once in their lives, so if they mate with a sterile male, they lay unfertilized eggs that do not hatch. USDA currently produces sterile flies for dispersal through aerial or ground releases. The historical range (prior to eradication) of NWS is 45° N and 45° S, and NWS could remain established during mild winters as far north as 35° N. USDA closely evaluates the location and circumstances of each new case to adjust sterile insect release efforts and locations as needed. USDA's Animal and Plant Health Inspection Service (APHIS) determines the SIT dispersal area based on NWS detections. Changes to the sterile insect dispersal area, or polygon, occur as needed to maintain broad suppression and help prevent the pest from moving further north toward the United States. For the current dispersal polygon see the current status page on [screwworm.gov](https://www.screwworm.gov) (<https://www.aphis.usda.gov/livestock-poultry-disease/stop-screwworm/current-status>).

The applicant proposes to release NovoFly males from aircraft and/or via ground releases. Flies are released from the aircraft at a rate of 1500 to 3000 flies per nautical mile. Flight plans typically cover 665 nautical miles flying parallel lines over the specified release polygon.

Ground releases utilize hanging chambers which hold up to 10 liters of pupae (roughly 90,000 pupae). For male-only releases, 5 liters (roughly 45,000 pupae) are recommended. As adults emerge, they disperse and provide localized control 2–5 kilometers in radius from the release point. Typically, release chambers are refilled once per week for three subsequent weeks when targeting specific cases. The total release polygon can vary in size from 25 million to 40 million acres. At a maximum production capacity of 5.72 billion flies per year, annual release density is 143 to 229 flies per acre if the site remains with the polygon. The active ingredients contained in Novofly are (1) Lshid^{Ala2} protein and the genetic material necessary to produce the protein in vivo in female embryos *Cochliomyia hominivorax*, <0.00007%; and (2) tTAo protein and the genetic material necessary to produce the protein in vivo in female embryos *Cochliomyia hominivorax*, <0.00003%. *Date of Receipt:* January 30, 2026. *Contact:* RD.

Authority: 7 U.S.C. 136 *et seq.*

Dated: March 25, 2026.

Edward Messina,

Director, Office of Pesticide Programs.

[FR Doc. 2026–05998 Filed 3–26–26; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2025-0030; FRL-12880-02-OCSPP]

Product Cancellation Order for Certain Pesticide Registrations (From July 31, 2025, Notice)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's order for the cancellations, voluntarily requested by the registrant and accepted by the Agency, of the products listed in Table 1 of Unit II, pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). This cancellation order follows a July 31, 2025, **Federal Register** Notice of Receipt of Requests from the registrant listed in Table 2 of Unit II, to voluntarily cancel these product registrations. In the July 31, 2025, notice, EPA indicated that it would issue an order implementing the cancellations, unless the Agency received substantive comments within the 180-day comment period that would merit its further review of these requests, or unless the registrant

withdrew their requests. The registrant did not withdraw their requests. Accordingly, EPA hereby issues in this notice a cancellation order granting the requested cancellations. Any distribution, sale, or use of the products subject to this cancellation order is permitted only in accordance with the terms of this order, including any existing stocks provisions.

DATES: The cancellations are effective March 27, 2026.

FOR FURTHER INFORMATION CONTACT:

Christopher Green, Regulatory & Information Services Division, Office of Mission Critical Operations, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; telephone number: (202) 566-2707; email address: green.christopher@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

B. How can I get copies of this document and other related information?

The docket for this action, identified by docket identification (ID) number EPA-HQ-OPP-2025-0030, is available at <https://www.regulations.gov> or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the

Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460-0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OPP Docket is (202) 566-1744. Please review the visitor instructions and additional information about the docket available at <https://www.epa.gov/dockets>.

II. What action is the Agency taking?

This notice announces the cancellation, as requested by registrants, of products registered under FIFRA section 3 (7 U.S.C. 136a). These registrations are listed in sequence by registration number in Table 1 of this unit.

TABLE 1—PRODUCT CANCELLATIONS

Registration No.	Company No.	Product name	Active ingredient
100-1192	100	Tilt Bravo SE	Chlorothalonil (081901/1897-45-6)—(38.5%), Propiconazole (122101/60207-90-1)—(2.9%).
5481-599	5481	Image 1.5 LC Herbicide	3-Quinolinecarboxylic acid, 2-(4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1H-imidazol-2-yl)-, monoammonium salt (128840/81335-47-9)—(17.3%).

Table 2 of this unit includes the name and address of record for the registrants of the products in Table 1 of this unit,

in sequence by EPA company number. This number corresponds to the first part of the EPA registration numbers of

the products listed in Table 1 of this unit.

TABLE 2—REGISTRANTS OF CANCELLED PRODUCTS

Company No.	Company name and address
100	Syngenta Crop Protection, LLC, 410 Swing Road, P.O. Box 18300, Greensboro, NC 27419-8300.
5481	Amvac Chemical Corporation, 4695 MacArthur Court, Suite 1200, Newport Beach, CA 92660-1706.

III. Summary of Public Comments Received and Agency Response to Comments

During the public comment period provided, EPA received eight comments in response to the July 31, 2025, **Federal Register** notice announcing the Agency's receipt of the requests for voluntary cancellations of the products listed in Table 1 of Unit II. Comments number one and number six, regarded broader questions and concerns related to PFAS usage. Our response. This action is based on requests from the registrant to voluntarily cancel these product registrations, and as such, those comments are outside of the scope of this action. Comments number two, number three, number seven and number eight regarded broader questions and concerns related to

pesticide usage. Our response. This action is based on requests from the registrant to voluntarily cancel these product registrations, and as such, those comments are outside of the scope of this action. For comment number four the cancellation process was supported; however, it suggests listing the products being canceled and explaining how existing stocks can be used. Our response. The specific products being canceled in this action are listed in Table 1, and provisions for disposition of existing stocks are provided in Unit VI. For comment number five, the comment is a request for EPA to issue more information concerning the reasons for Section 6(f) cancellations and alleges that many registrants use voluntary cancellation to avoid situations in which the Agency might seek involuntary cancellation,

suspension, or some other restriction on products. The comment specifically requests that FIFRA be amended. Our response. Only Congress may amend FIFRA. FIFRA Section 6(f) sets out specific procedures that EPA must follow, after it receives a voluntary request to cancel a pesticide product. Registrants are not required to provide the Agency with a particular reason for seeking voluntary cancellation.

IV. Cancellation Order

Pursuant to FIFRA section 6(f) (7 U.S.C. 136d(f)), EPA hereby approves the requested cancellations of the registrations identified in Table 1 of Unit II. Accordingly, the Agency hereby orders that the product registrations identified in Table 1 of Unit II are canceled. The effective date of the cancellations that are the subject of this

notice is March 27, 2026. Any distribution, sale, or use of existing stocks of the products identified in Table 1 of Unit II, in a manner inconsistent with any of the provisions for disposition of existing stocks set forth in Unit VI, will be a violation of FIFRA.

V. What is the Agency's authority for taking this action?

Section 6(f)(1) of FIFRA (7 U.S.C. 136d(f)(1)) provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled or amended to terminate one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, following the public comment period, the EPA Administrator may approve such a request. The notice of receipt for this action was published for comment in the **Federal Register** of July 31, 2025, (90 FR 36045) (FRL-12880-01-OCSP). The comment period ends on January 27, 2026.

VI. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products which are currently in the United States, and which were packaged, labeled, and released for shipment prior to the effective date of the cancellation action. The existing stocks provisions for the products subject to this order are as follows.

The registrants may continue to sell and distribute existing stocks of the products listed in Table 1 of Unit II, until March 29, 2027, which is 1 year after the publication of the Cancellation Order in the **Federal Register**. Thereafter, the registrants are prohibited from selling or distributing the products listed in Table 1 of Unit II, except for export in accordance with FIFRA section 17 (7 U.S.C. 136o), or proper disposal.

People other than the registrant may sell, distribute, or use existing stocks of products listed in Table 1 of Unit II, until existing stocks are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the canceled products.

Authority: 7 U.S.C. 136 *et seq.*

Dated: March 20, 2026.

Charles Smith,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 2026-05929 Filed 3-26-26; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL OPRM-FAD-216]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information 202-993-3272 or <https://www.epa.gov/nepa>.

Weekly receipt of Environmental Impact Statements (EIS)

Filed March 16, 2026 10 a.m. EST

Through March 23, 2026 10 a.m. EST
Pursuant to CEQ Guidance on 42 U.S.C. 4332

Notice: Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: <https://cdxapps.epa.gov/cdx-enepa-II/public/action/eis/search>.

EIS No. 20260030, Draft, NRC, KY, Environmental Impact Statement for the Global Laser Enrichment, LLC License Application for the Paducah Laser Enrichment Facility Draft Report for Comment, Comment Period Ends: 05/11/2026. Contact: Amy Minor 817-200-1454. EIS No. 20260031, Final, NNSA, NM, Final Site-Wide Environmental Impact Statement for Continued Operation of Los Alamos National Laboratory, Contact: Lawrence Kwei 505-665-8774.

Dated: March 23, 2026.

Nancy Abrams,

Deputy Director, Federal Activities Division.

[FR Doc. 2026-05986 Filed 3-26-26; 8:45 am]

BILLING CODE 6560-50-P

EXPORT-IMPORT BANK

Privacy Act of 1974; System of Records

AGENCY: Export Import Bank of the United States.

ACTION: Notice of a modified system of records.

SUMMARY: Pursuant to the Privacy Act of 1974, the Export Import Bank of the United States ("EXIM", "EXIM Bank", or "The Bank") proposes to update a system of records notice ("SORN"). The updated system of records described in this notice, EXIM Federal Personnel Payroll System (FPPS) enables EXIM's Security Office staff to process EXIM's personnel, payroll, and time and labor data to facilitate payments, benefits, and pensions. FPPS also provides personnel and payroll data to the FPPS Datamart application which EXIM uses to perform

queries and report on FPPS information. FPPS is an online personnel and payroll system providing support to Federal agency customers through interagency agreement with the IBC. FPPS is customized to meet customer needs for creating and generating the full life cycle of personnel transactions. FPPS allows for immediate updates and edits of personnel and payroll data. FPPS also handles regulatory requirements such as specialized pay, garnishments, and special appointment programs. FPPS also operates in batch mode for performing close of business, payroll calculation, and other processes. FPPS customers can use a web-enabled interface, WebFPPS, to access FPPS through a web browser to perform personnel and payroll tasks. FPPS is a major application that consists of several minor applications to include time and attendance applications, a system for creating retirement cards and updating retirement records, a system for converting client data for integration into FPPS. The purpose of this system is to ensure proper payment of salary and benefits to EXIM personnel, and to track time worked, leave, or other absences for reporting and compliance purposes. Use of this system will streamline EXIM Bank's personnel, payroll and other human resources functions into a unified, secure system, thereby improving employee input into these systems while enhancing data integrity and security and improving operational efficiency.

DATES: The system of records described herein will become effective March 27, 2026. The deadline to submit comments on this system of records, as well as the date on which the below routine uses will become effective, will be 30 days after **Federal Register** publication.

ADDRESSES: You may submit written comments to EXIM Bank by any of the following methods:

- *Federal e-Rulemaking Portal:* <https://www.regulations.gov>. Follow the website instructions for submitting comments.

- *Email:* Sorn.Comments@exim.gov. Refer to SORN in the subject line.

- *Mail or Hand Delivery:* Address letters to the Freedom of Information Act Office and the Office of Information Management and Technology, Export Import Bank of the United States, 811 Vermont Avenue NW, Washington, DC 20571.

Commenters are strongly encouraged to submit public comments electronically. EXIM Bank expects to have limited personnel available to process public comments that are submitted on paper through mail. Until

further notice, any comments submitted on paper will be considered to the extent practicable.

All submissions must include the agency's name (Export Import Bank of the United States, or EXIM Bank) and reference this notice. Comments received will be posted without change to EXIM Bank's website. Do not submit comments that include any Personally Identifiable Information (PII) or confidential business information. Copies of comments may also be obtained by writing to the Freedom of Information Act Office and the Office of Information Management and Technology, Export Import Bank of the United States, 811 Vermont Avenue NW, Washington, DC 20571.

FOR FURTHER INFORMATION CONTACT: For further information, contact Michael Soybel, Acting Assistant General Counsel for Administration, at michael.soybel@exim.gov or (202) 565-3475 or by going to the website: <https://exim.gov/about/freedom-information-act/privacy-act-requests/pia-notice-assessments>.

SUPPLEMENTARY INFORMATION: EXIM FPPS processes EXIM's personnel, payroll, and time and labor data to facilitate payments, benefits, and pensions. FPPS also provides personnel and payroll data to the FPPS Datamart application which EXIM uses to perform queries and report on FPPS information.

The report of this update to this system of records has been submitted to the Committee on Oversight and Government Reform of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Office of Management and Budget, pursuant to OMB Circular A-108, "Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act" (Dec. 2016) and the Privacy Act, 5 U.S.C. 552a(r).

The purpose of this notice is to update the routine uses of this system to comport to the requirements of M-25-32—Preventing Improper Payments and Protecting Privacy through the Do Not Pay—issued by OMB on August 20, 2025.

SYSTEM NAME AND NUMBER:

System Name: EXIM Federal Personnel Payroll System (FPPS)
System Number: N/A

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

This electronic system will be used via a web interface by EXIM staff from the HQ of the Export Import Bank of the

United States, 811 Vermont Avenue NW, Washington, DC 20571, through an electronic database managed by the DOI IBC in Denver, Colorado. FPPS customers will use a web-enabled interface, WebFPPS, to access FPPS through a web browser to perform personnel and payroll tasks. The FPPS functionality of certain applications are only accessible via the IBC or EXIM Bank intranets, and interconnections with the FPPS are outlined in the Interconnection Security Agreement and/or Memorandum of Understanding between EXIM Bank and IBC. The system is located and managed at U.S. Department of the Interior, Interior Business Center, Human Resources and Payroll Services, 7301 W Mansfield Ave. MS D-2000 Denver, CO 80235.

SYSTEM MANAGER(S):

Nakia Burton, Deputy Chief Human Capital Officer (DCHCO),
Export-Import Bank of the United States, 811 Vermont Avenue NW, Washington, DC 20571 Email: Nakia.Burton@exim.gov.
Telephone number: (202)565-3335.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

EXIM requests the information in this application under the following authorization: The Export-Import Bank Act of 1945, as amended (12 U.S.C. 635 *et seq.*; 5 U.S.C. 5101, *et seq.*, 5501 *et seq.*, 5525 *et seq.*, and 6301 *et seq.*; 31 U.S.C. 3512; Executive Order 9397 as amended by Executive Order 13478, relating to Federal agency use of Social Security numbers. 31 U.S.C. 3512 *et seq.*; and 5 CFR part 293; and Executive Order (E.O.) 14249, Protecting America's Bank Account Against Fraud, Waste, and Abuse.

PURPOSE(S) OF THE SYSTEM:

EXIM Federal Personnel Payroll System (FPPS) processes EXIM's personnel, payroll, and time and labor data to facilitate payments, benefits, and pensions. FPPS also provides personnel and payroll data to the FPPS Datamart application which EXIM uses to perform queries and report on FPPS information.

FPPS is an online personnel and payroll system providing support to Federal agency customers through interagency agreement with the IBC. FPPS is customized to meet customer needs for creating and generating the full life cycle of personnel transactions. FPPS allows for immediate updates and edits of personnel and payroll data. FPPS also handles regulatory requirements such as specialized pay, garnishments, and special appointment programs. FPPS also operates in batch mode for performing close of business,

payroll calculation, and other processes. FPPS customers can use a web-enabled interface, WebFPPS, to access FPPS through a web browser to perform personnel and payroll tasks. FPPS is a major application that consists of several minor applications to include time and attendance applications, a system for creating retirement cards and updating retirement records, a system for converting client data for integration into FPPS. The purpose of this system is to ensure proper payment of salary and benefits to EXIM personnel, and to track time worked, leave, or other absences for reporting and compliance purposes. Use of this system will streamline EXIM Bank's personnel, payroll and other human resources functions into a unified, secure system, thereby improving employee input into these systems while enhancing data integrity and security and improving operational efficiency.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The FPPS system data contains Personally Identifiable Information (PII) on current and former EXIM Bank employees, including volunteers and emergency employees, and limited information regarding employee spouses, dependents, emergency contact, or in the case of an estate, a trustee.

CATEGORIES OF RECORDS IN THE SYSTEM:

Categories of Records in the FPPS System include:

- Name
- Citizenship
- Sex
- Birth Date
- Marital Status
- Other Names Used
- Truncated SSN
- Legal Status
- Place of Birth
- Security Clearance
- Spouse Information
- Financial Information
- Medical Information
- Disability Information
- Education Information
- Emergency Contact
- Race/Ethnicity
- Social Security Number (SSN)
- Personal Cell Telephone Number
- Personal Email Address
- Home Telephone Number
- Employment Information
- Military Status/Service
- Mailing/Home Address
- Taxpayer Identification Number
- Bank Account Information such as Routing and Account Numbers
- Beneficiary Information
- Savings Bond Co-Owner Name(S) and Information

- Family Member and Dependents Information
- Professional Licensing and Credentials
 - Family Relationships
 - Age
 - Involuntary Debt (Garnishments or Child Support Payments)
 - Court Order Information
 - Back Pay Information
 - User ID
 - Time and Attendance Data
 - Leave Time Information
 - Employee Common Identifier (ECI)
 - Volunteer Emergency Contact Information
 - Person Number which is a unique number that identifies a person within FPPS
 - Person Number-Emergency which is a unique number identifying an individual within FPPS for a Leave Share Occurrence
 - Person Number-Volunteer which is a unique number identifying an individual within the FPPS Volunteer Database.

RECORD SOURCE CATEGORIES:

The source of the information maintained in EXIM FPPS is the Individual/employee, HR staff personnel and other: state courts for garnishments.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures that are generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed to authorized entities, as is determined to be relevant and necessary, outside EXIM as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

a. To the Department of Justice (DOJ) when:

- (1) EXIM, or
- (2) Any employee of EXIM in his or her official capacity, or
- (3) Any employee of EXIM in his or her individual capacity when the DOJ has been asked, or has agreed, to represent the employee, or
- (4) The United States, when EXIM determines that litigation is likely to affect the agency, is a party to litigation, or has an interest in such litigation, and the use of such records by the DOJ is deemed by EXIM to be relevant and necessary to the litigation.

b. To a court or adjudicative body in a proceeding, when:

- (1) EXIM, or
- (2) Any employee of EXIM in his or her official capacity,

(3) Any employee of EXIM in his or her individual capacity when the EXIM has agreed to represent the employee, or

(4) The United States, when EXIM determines that litigation is likely to affect EXIM, is a party to litigation or has an interest in such litigation, and the use of such records by the DOJ is deemed by EXIM to be relevant and necessary to the litigation.

c. Except as noted on Standard Forms SF 85, 85-P, 86, and 86-C, when a record, alone or in conjunction with other records, indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant to such a statute, to the appropriate public authority, whether federal, state, local, foreign, tribal, or otherwise, responsible for enforcing, investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant to the statute, if the information disclosed is relevant to any enforcement, regulatory, investigative or prosecutorial responsibility of the receiving entity.

d. To a congressional office in response to an inquiry from that office made at the written request of the constituent about whom the record is maintained.

e. To the National Archives and Records Administration (NARA) for records management functions authorized by laws, regulations, and policies governing NARA operations and agency records management responsibilities.

f. To contractors or other authorized individuals performing work on a contract, service, cooperative agreement, job, or other activity on behalf of the EXIM Bank who have a need to access the information in the performance of their duties or activities.

g. To a court, magistrate, or administrative tribunal during an administrative proceeding or judicial proceeding, including disclosures to opposing counsel or witnesses (including expert witnesses) during discovery or other pre-hearing exchanges of information, litigation, or settlement negotiations, where relevant and necessary to a proceeding, or in connection with criminal law proceedings.

h. To any source or potential source from which information is requested in the course of an investigation concerning the retention of an employee or other personnel action (other than hiring), or the retention of a security clearance, contract, grant, license, or

other benefit, to the extent necessary to identify the individual, inform the source of the nature and purpose of the investigation, and to identify the type of information requested.

i. To a Federal, State, local, foreign, or Tribal or other public authority to the extent that this system of records contains information relevant to the retention of an employee, the retention of a security clearance, the letting of a contract, or the issuance or retention of a license, grant, or other benefit. The other agency or licensing organization may then make a request supported by the written consent of the individual for the entire record if it so chooses. No disclosure will be made unless the information has been determined to be sufficiently reliable to support a referral to another office within the agency or to another federal agency for criminal, civil, administrative personnel or regulatory action.

j. To the news media or the general public, factual information the disclosure of which would be in the public interest, and which would not constitute an unwarranted invasion of personal privacy, consistent with Freedom of Information Act standards.

k. To a Federal, State, or local agency, or other appropriate entities or individuals, or through established liaison channels to selected foreign governments, in order to enable an intelligence agency to carry out its responsibilities under the National Security Act of 1947 as amended, the CIA Act of 1949 as amended, Executive Order 12333 or any successor order, applicable national security directives, or classified implementing procedures approved by the Attorney General and promulgated pursuant to such statutes, orders.

l. To appropriate agencies, entities, and persons when: (1) EXIM suspects or has confirmed that there has been a breach of the system of records; (2) EXIM has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, EXIM (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with EXIM's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

m. To Another Federal agency or Federal entity, when EXIM determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed

breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

n. To the U.S. Department of the Treasury when disclosure of the information is relevant to review payment and award eligibility through the Do Not Pay Working System for the purposes of identifying, preventing, or recouping improper payments to an applicant for, or recipient of, Federal funds, including funds disbursed by a state (meaning a state of the United States, the District of Columbia, a territory or possession of the United States, or a federally recognized Indian tribe) in a state-administered, federally funded program.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Data maintained in FPPS will be stored electronically by IBC. Data is protected by the following electronic security systems: Password, Firewall, Encryption, User ID, Intrusion Detection System, Virtual Private Network (VPN), Public Key Infrastructure (PKI) Certificates, Personal Identity Verification (PIV) Card.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

FPPS authorized users, including EXIM authorized Human Capital personnel, may retrieve information on an individual using full name, SSN and Employee Common Identifier (ECI).

Certain personnel within EXIM and IBC, involved in operations and maintenance of FPPS payroll operations, can retrieve information on an individual using:

- ECI—unique number identifying employees across Federal automated systems
- SSN and full name
- Person Number—unique number which identifies a person within FPPS
- Person Number-Emergency—unique number identifying an individual within FPPS for a leave share occurrence
- Person Number-Volunteer—unique number identifying an individual within the FPPS volunteer database
- Taxpayer Identification Number (TIN)—unique number identifying a trustee for the estate of a deceased employee

Additionally, reports can be produced on an individual containing many of the data elements in FPPS. FPPS also routinely generates a variety of reports

related to employment that are required by law, such as Internal Revenue Service (IRS) forms (1099—MISC and W-2); reports of withholdings and contributions for benefits and union dues; and reports on individuals who are delinquent on child-support payments. Access to the reports is limited to employees who process or file the reports and individuals who are granted access on a need-to-know basis. Copies of the reports may also be provided to government entities as required by law, such as tax forms to the IRS.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are archived/disposed of during the routine data sync for individuals who are no longer employees or contractors of EXIM. Otherwise, records are maintained and destroyed in accordance with the National Archives and Record Administration's ("NARA") Basic Laws and Authorities (44 U.S.C. 3301, *et seq.*) or an EXIM Bank records disposition schedule approved by NARA.

EXIM Bank is responsible for purging employee data according to the records schedule after an employee's access authority is terminated or the employee retires, changes jobs, or dies. The IBC may purge or delete any customer payroll or personnel records if it is agreed upon in the Inter-Agency Agreement with the IBC.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

- Information about individuals whose data is in FPPS cannot be retrieved without knowing specific information about the employee. FPPS supports a full suite of human resources functions, including calculating payroll. The data in FPPS is necessary to perform those functions and to comply with related Federal laws and regulations. To prevent misuse, (*e.g.*, unauthorized browsing) EXIM Bank signed a Service Level Agreement (SLA) with the IBC to clearly establish and document IBC and client security roles and responsibilities. Most of the employee data in FPPS is collected from individuals and entered into FPPS by an authorized Federal human resource professional with access to the system.

- Access to FPPS related records is restricted to HR personnel. Access to the records is restricted to those with specific roles in the Personal Identity Verification (PIV) process, requires access to background investigation forms to perform their duties, and who have been given a password and PIV

card to access applicable files within the system.

- The FPPS system has undergone a formal Security Authorization and Accreditation and has been granted an authority to operate by DOI in accordance with FISMA and NIST standards. FPPS is rated as FISMA moderate based upon the type of data, and it requires strict security and privacy controls to protect the confidentiality, integrity, and availability of the sensitive PII contained in the system.

- The security of the information being stored and transmitted in FPPS is protected through the use of FIPS 140-2 approved encryption mechanisms.

RECORD ACCESS PROCEDURES:

Requests to access records under the Privacy Act must be submitted in writing and must be signed by the requestor. Requests should be addressed to the Freedom of Information Act Office and the Office of Information Management and Technology, Export Import Bank of the United States, 811 Vermont Avenue NW, Washington, DC 20571. The request must comply with the requirements of 12 CFR 404.14.

CONTESTING RECORD PROCEDURES:

Individuals seeking to contest and/or amend records under the Privacy Act must submit a request in writing. The request must be signed by the requestor and should be addressed to the Freedom of Information Act Office and the Office of Information Management and Technology, Export Import Bank of the United States, 811 Vermont Avenue NW, Washington, DC 20571. The request must comply with the requirements of 12 CFR 404.14.

NOTIFICATION PROCEDURES:

Individuals wishing to determine whether this system of records contains information about them may do so by submitting a written request to the Freedom of Information Act Office and the Office of Information Management and Technology, Export Import Bank of the United States, 811 Vermont Avenue NW, Washington, DC 20571. The written request must include the following:

1. Name;
2. Type of information requested;
3. Address to which the information should be sent; and
4. Signature.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

82 FR 20878 (May 4, 2017).

Lin Zhou,

Information System Security Manager (ISSM).

[FR Doc. 2026-05931 Filed 3-26-26; 8:45 am]

BILLING CODE 6690-01-P

EXPORT-IMPORT BANK**Privacy Act of 1974; System of Records**

AGENCY: Export Import Bank of the United States.

ACTION: Notice of a modified system of records.

SUMMARY: Pursuant to the Privacy Act of 1974, the Export Import Bank of the United States ("EXIM", "EXIM Bank", or "The Bank") proposes to update a system of records notice ("SORN"). The updated system of records described in this notice, EXIM Financial Management System- Next Generation, supports flexible financial accounting, control and disbursement of funds, management accounting, loan and guarantee servicing, and financial report processes. Information contained in Financial Management System—Next Generation include but is not limited to: Customer name, the name of the "Care Of" entity, U.S. address, foreign address, and foreign contact name, bank account information, Corporate Name, Corporate Address, Phone Number, Employer Identification Number (EIN), and banking account and banking routing number. The purpose of this notice is to update the routine uses of this system to comport to the requirements of M-25-32—Preventing Improper Payments and Protecting Privacy through the Do Not Pay—issued by OMB on August 20, 2025.

DATES: The system of records described herein will become effective March 27, 2026. The deadline to submit comments on this system of records, as well as the date on which the below routine uses will become effective, will be 30 days after **Federal Register** publication.

ADDRESSES: You may submit written comments to EXIM Bank by any of the following methods:

- *Federal e-Rulemaking Portal:* <https://www.regulations.gov>. Follow the website instructions for submitting comments.

- *Email:* SORN.Comments@exim.gov. Refer to SORN in the subject line.

- *Mail or Hand Delivery:* Address letters to the Freedom of Information Act Office and the Office of Information Management and Technology, Export Import Bank of the United States, 811

Vermont Avenue NW, Washington, DC 20571.

Commenters are strongly encouraged to submit public comments electronically. EXIM Bank expects to have limited personnel available to process public comments that are submitted on paper through mail. Until further notice, any comments submitted on paper will be considered to the extent practicable.

All submissions must include the agency's name (Export Import Bank of the United States, or EXIM Bank) and reference this notice. Comments received will be posted without change to EXIM Bank's website. Do not submit comments that include any Personally Identifiable Information (PII) or confidential business information. Copies of comments may also be obtained by writing to the Freedom of Information Act Office and the Office of Information Management and Technology, Export Import Bank of the United States, 811 Vermont Avenue NW, Washington, DC 20571.

FOR FURTHER INFORMATION CONTACT: For further information, contact Michael Soybel, Acting Assistant General Counsel for Administration, at michael.soybel@exim.gov or (202) 565-3475 or by going to the website: <https://exim.gov/about/freedom-information-act/privacy-act-requests/pia-notice-assessments>.

SUPPLEMENTARY INFORMATION: The update to system of records described in this notice, EXIM Financial Management System— Next Generation, to support flexible financial accounting, control and disbursement of funds, management accounting, loan and guarantee servicing, and financial report processes. The report of this update to a system of records has been submitted to the Committee on Oversight and Government Reform of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Office of Management and Budget, pursuant to OMB Circular A-108, "Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act" (Dec. 2016) and the Privacy Act, 5 U.S.C. 552a(r).

The purpose of this notice is to update the routine uses of this system to comport to the requirements of M-25-32—Preventing Improper Payments and Protecting Privacy through the Do Not Pay—issued by OMB on August 20, 2025.

SYSTEM NAME AND NUMBER:

System Name: EXIM Financial Management System—Next Generation (FMS—NG).

System Number: N/A.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

This electronic system is used via a web interface by EXIM staff from the HQ of the Export Import Bank of the United States, 811 Vermont Avenue NW, Washington, DC 20571.

SYSTEM MANAGER(S):

Dae Sung Batoff, IT Program Manager, Export Import Bank of the United States, 811 Vermont Avenue NW, Washington, DC 20571.

Email: daesung.batoff@exim.gov.

Telephone number: (202) 860-5870.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

EXIM requests the information in this application under the following authorization: Export-Import Bank Act of 1945, as amended (12 U.S.C. 635 et seq.).¹ 5 U.S.C. 301. Executive Order 9397 as amended by Executive Order 13478 signed by President George W. Bush on November 18, 2008, relating to Federal agency use of Social Security Numbers.

PURPOSE(S) OF THE SYSTEM:

Financial Management System— Next Generation (FMS—NG) is a custom configured COTS solution, which supports flexible financial accounting, control and disbursement of funds, management accounting, loan and guarantee servicing, and financial report processes. More specifically, FMS—NG maintains EXIM's spending budget, supports buying of goods and services, vendor payments, records general ledger entries, reports to Department of Treasury, Office of Management and Budget, other agencies, and external parties, is used to verify data accuracy, properly clears and closes ledgers and journals, and provides complete loan and guarantee servicing over the entire life of a credit.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The FMS—NG system holds information on EXIM customers, employees, contractors, vendors, and invitational travelers who have been asked to speak at or attend a function at the request of EXIM and who are seeking reimbursements for expenses incurred.

¹ More specifically, sections 635(a)(1) and 635a(j)(1)(C) of the Export-Import Bank Act of 1945, as amended.

CATEGORIES OF RECORDS IN THE SYSTEM:

FMS-NG contains customer information related to the financial obligations of the Bank to and from individuals and corporate entities, starting from the point of obligation through final disbursement. It provides complete loans and guarantees servicing throughout the entire life of a credit. The FMS-NG system stores Personally Identifiable Information (PII) about Ex-Im Bank employees, public individuals with pre-authorized reimbursable expenses, Ex-Im product applicants, contracted suppliers, and other business partners.

(1) Administrative and Employee-Related Records

These records relate to employees and individuals who receive payments, reimbursements, or other financial actions through FMS-NG:

- Employee Name
- Employee Address
- Employee email address
- Employee Phone Number
- Employee Bank Account Number (for payroll or reimbursements)
- Travel reimbursement and expense records linked to an identifiable individual

(2) Vendor/Payee Records (Individuals and Sole Proprietors Only)

The following records are included only when the vendor or payee is an individual or sole proprietor, and the record is retrieved using an individual identifier:

- Individual Vendor Name
- Vendor ID assigned to an individual
- Tax Identification Number (individual or sole proprietor)
- Bank Account Holder Name (individual only)

- Bank Account Number
- Bank Routing/SWIFT Code

(3) Individual Beneficiary or Applicant Records

• Records related to individuals who receive or apply for EXIM financial services, disbursements, or program benefits:

- Name
- Address
- Contact Information
- Payment or disbursement information

• Records necessary to determine eligibility or process financial transaction

RECORD SOURCE CATEGORIES:

The source of the record information in EXIM FMS-NG system is coming from interconnected EXIM financial business applications. The record information contained in the FMS-NG is obtained using one of two methods: Manual entry, and through data

consumption from source flat files imported after validating data with business rules using PLSQL procedural upload to the FMS-NG database.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures that are generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed to authorized entities, as is determined to be relevant and necessary, outside EXIM as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

a. To the Department of Justice (DOJ) when:

- (1) EXIM, or
- (2) Any employee of EXIM in his or her official capacity, or
- (3) Any employee of EXIM in his or her individual capacity when the DOJ has been asked, or has agreed, to represent the employee, or
- (4) The United States, when EXIM determines that litigation is likely to affect the agency, is a party to litigation, or has an interest in such litigation, and the use of such records by the DOJ is deemed by EXIM to be relevant and necessary to the litigation.

b. To a court or adjudicative body in a proceeding, when:

- (1) EXIM, or
- (2) Any employee of EXIM in his or her official capacity,
- (3) Any employee of EXIM in his or her individual capacity when the EXIM has agreed to represent the employee, or
- (4) The United States, when EXIM determines that litigation is likely to affect EXIM, is a party to litigation or has an interest in such litigation, and the use of such records by the DOJ is deemed by EXIM to be relevant and necessary to the litigation.

c. Except as noted on Standard Forms SF 85, 85-P, 86, and 86-C, when a record, alone or in conjunction with other records, indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant to such a statute, to the appropriate public authority, whether federal, state, local, foreign, tribal, or otherwise, responsible for enforcing, investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant to the statute, if the information disclosed is relevant to any enforcement, regulatory, investigative or prosecutorial responsibility of the receiving entity.

d. To a congressional office in response to an inquiry from that office made at the written request of the constituent about whom the record is maintained.

e. To the National Archives and Records Administration (NARA) for records management functions authorized by laws, regulations, and policies governing NARA operations and agency records management responsibilities.

f. To contractors or other authorized individuals performing work on a contract, service, cooperative agreement, job, or other activity on behalf of the EXIM Bank who have a need to access the information in the performance of their duties or activities.

g. To a court, magistrate, or administrative tribunal during an administrative proceeding or judicial proceeding, including disclosures to opposing counsel or witnesses (including expert witnesses) during discovery or other pre-hearing exchanges of information, litigation, or settlement negotiations, where relevant and necessary to a proceeding, or in connection with criminal law proceedings.

h. To any source or potential source from which information is requested in the course of an investigation concerning the retention of an employee or other personnel action (other than hiring), or the retention of a security clearance, contract, grant, license, or other benefit, to the extent necessary to identify the individual, inform the source of the nature and purpose of the investigation, and to identify the type of information requested.

i. To a Federal, State, local, foreign, or Tribal or other public authority to the extent that this system of records contains information relevant to the retention of an employee, the retention of a security clearance, the letting of a contract, or the issuance or retention of a license, grant, or other benefit. The other agency or licensing organization may then make a request supported by the written consent of the individual for the entire record if it so chooses. No disclosure will be made unless the information has been determined to be sufficiently reliable to support a referral to another office within the agency or to another federal agency for criminal, civil, administrative personnel or regulatory action.

j. To the news media or the general public, factual information the disclosure of which would be in the public interest, and which would not constitute an unwarranted invasion of personal privacy, consistent with Freedom of Information Act standards.

k. To a Federal, State, or local agency, or other appropriate entities or individuals, or through established liaison channels to selected foreign governments, in order to enable an intelligence agency to carry out its responsibilities under the National Security Act of 1947 as amended, the CIA Act of 1949 as amended, Executive Order 12333 or any successor order, applicable national security directives, or classified implementing procedures approved by the Attorney General and promulgated pursuant to such statutes, orders.

l. To appropriate agencies, entities, and persons when: (1) EXIM suspects or has confirmed that there has been a breach of the system of records; (2) EXIM has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, EXIM (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with EXIM's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

m. To Another Federal agency or Federal entity, when EXIM determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

n. To the U.S. Department of the Treasury when disclosure of the information is relevant to review payment and award eligibility through the Do Not Pay Working System for the purposes of identifying, preventing, or recouping improper payments to an applicant for, or recipient of, Federal funds, including funds disbursed by a state (meaning a state of the United States, the District of Columbia, a territory or possession of the United States, or a federally recognized Indian tribe) in a state-administered, federally funded program.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

The records are stored digitally in encrypted format in FMS-NG Amazon Web Services (AWS) FedRAMP authorized cloud environment. The storage records for FMS-NG production

database resides on a virtual server running Redhat Linux on AWS US East hosted in Northern Virginia.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Comprehensive electronic records are maintained by EXIM Office Of Chief Financial Officer stored in the FMS-NG database. Access to the records is restricted to those with specific roles. To access FMS-NG data multifactor authentication is required. Primary access to FMS-NG data is via FMS-NG forms and reports. FMS-NG users that have been granted access can retrieve data by personal identifiers (*e.g.*, Customer's EIN). The identifiers used are:

- *Name:* Used as the unique identifier.
- *Banking Information:* Employee and supplier bank account numbers are stored in a hashed/masked format (*e.g.*, "XXXXXX9913").
- *Employee work email address:* Work email address used for all employee records.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are archived/disposed of during the routine data sync for individuals who are no longer employees or contractors of EXIM. Otherwise, records are maintained and destroyed in accordance with the National Archives and Record Administration's ("NARA") Basic Laws and Authorities (44 U.S.C. 3301, *et seq.*) or an EXIM Bank records disposition schedule approved by NARA.

FMS-NG data is considered a temporary Federal Record with the retention period subject to the applicable Record Schedules. FMS-NG is designed to mark records inactive when no longer required for EXIM business, whereupon these records become subject to the retention period as defined by the applicable Records Schedule. Records that are at the end of the specified legal retention period will be deleted by following the procedures documented in Oracle Financials Application Guides, based on the built-in criteria categories:

- Invoice Purge Criteria
- Payment Purge Criteria
- Supplier Purge Criteria
- Requisition Purge Criteria
- Purchase Order Purge Criteria
- Supplier Schedules Purge Criteria

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Information will be stored in electronic format within the FMS-NG. FMS-NG has configurable responsibilities-based (processes and

data) user access rules. User access is granted only to the authorized internal users. The authorized FMS-NG users will have restricted access only to the data subset necessary to perform their job function. This access is managed via Oracle Application System Administration, User and Responsibility security functions. The infrastructure that FMS-NG is installed on, AWS, is compliant with the Federal Risk and Authorization Management Program (FedRAMP). The PII information in FMS-NG is stored encrypted in place. HTTPS protocol is employed in accessing FMS-NG.

RECORD ACCESS PROCEDURES:

Requests to access records under the Privacy Act must be submitted in writing and must be signed by the requestor. Requests should be addressed to the Freedom of Information Act Office and the Office of Information Management and Technology, Export Import Bank of the United States, 811 Vermont Avenue NW, Washington, DC 20571. The request must comply with the requirements of 12 CFR 404.14.

CONTESTING RECORD PROCEDURES:

Individuals seeking to contest and/or amend records under the Privacy Act must submit a request in writing. The request must be signed by the requestor and should be addressed to the Freedom of Information Act Office and the Office of Information Management and Technology, Export Import Bank of the United States, 811 Vermont Avenue NW, Washington, DC 20571. The request must comply with the requirements of 12 CFR 404.14.

NOTIFICATION PROCEDURES:

Individuals wishing to determine whether this system of records contains information about them may do so by submitting a written request to the Freedom of Information Act Office and the Office of Information Management and Technology, Export Import Bank of the United States, 811 Vermont Avenue NW, Washington, DC 20571. The written request must include the following:

1. Name.
2. Type of information requested.
3. Address to which the information should be sent; and
4. Signature.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

(85 FR 3372)

Lin Zhou,*Information System Security Manager.*

[FR Doc. 2026–05932 Filed 3–26–26; 8:45 am]

BILLING CODE 6690–01–P**FEDERAL COMMUNICATIONS COMMISSION****[OMB 3060–0236; FR ID 337308]****Information Collection Being Reviewed by the Federal Communications Commission****AGENCY:** Federal Communications Commission.**ACTION:** Notice; request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before May 26, 2026. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email PRA@fcc.gov and to Cathy.Williams@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:*OMB Control Number:* 3060–0236.*Title:* Sections 74.703 Interference.*Form Number:* Not applicable.*Type of Review:* Revision of a currently approved collection.*Respondents:* Businesses or other for-profit entities, State, local or Tribal Governments and Not for-profit institutions.*Number of Respondents and Responses:* 50 respondents; 50 responses.*Estimated Time per Response:* 2 hours.*Frequency of Response:* On occasion reporting requirement.*Obligation to Respond:* Required to obtain or retain benefits. The statutory authority for this collection is contained in Section 154(i) of the Communications Act of 1934, as amended.*Total Annual Burden:* 100 hours.*Total Annual Cost:* 100,000.

Needs and Uses: The Commission adopted on April 17, 2023, the *Report and Order (R&O)*, In the Matter of Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules for Digital Low Power Television and Television Translator Stations, Update of Parts 74 of the Commission's Rules Related to Low Power Television and Television Translator Stations, MB Docket Nos. 03–185 and 22–261, FCC 23–25. The *Report and Order* adopted the following revision to 47 CFR 74.703(h): 47 CFR 74.703(h) requires in each instance where suspension of operation is required, the licensee shall submit a full report to the FCC via a Resumption of Operations notice in the Commission's Licensing and Management System (LMS) after operation is resumed, containing details of the nature of the interference, the source of the interfering signals, and the remedial steps taken to eliminate the interference.

The Commission is revising OMB control number 3060–0236. The Commission adopted on October 25, 2021, the *Order (Order)*, In the Matter of Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auction, GN Docket No. 12–268. The *Order* adopted a number of changes, including removing 47 CFR 74.703(f) and 74.703(g). This means that collection 3060–0236 now only covers the information collection

requirements covered under 47 CFR 74.703(h).

Federal Communications Commission.

Marlene Dortch,*Secretary, Office of the Secretary.*

[FR Doc. 2026–05995 Filed 3–26–26; 8:45 am]

BILLING CODE 6712–01–P**FEDERAL COMMUNICATIONS COMMISSION****[DA 26–258; FR ID 337480]****Notice Debarment; Federal E-Rate Program****AGENCY:** Federal Communications Commission.**ACTION:** Notice.

SUMMARY: The Enforcement Bureau (the “Bureau”) debars Ben Klein from the federal schools and libraries universal service support mechanism (E-Rate program) and all federal universal service support mechanisms for three years.

DATES: Debarment commences on the date Mr. Klein receives the debarment letter or March 27, 2026, whichever date comes first, and will continue for three years.

ADDRESSES: Federal Communications Commission, Enforcement Bureau, Investigations and Hearings Division, 45 L Street NE, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Christopher Sova, Federal Communications Commission, Enforcement Bureau, Investigations and Hearings Division, 45 L Street NE, Washington, DC 20554. Christopher Sova may be contacted by phone at (202) 418–1420 or by email at Christopher.Sova@fcc.gov.

SUPPLEMENTARY INFORMATION: The Bureau debars Mr. Klein from the E-Rate program and all federal universal service support mechanisms for three years pursuant to 47 CFR 54.8. Attached is the debarment letter, DA 26–258, which was mailed to Mr. Klein and released on March 27, 2026. The complete text of the notice of debarment is available on the FCC's website at <https://docs.fcc.gov/public/attachments/DA-26-258A1.pdf>.

Federal Communications Commission.

Christopher Sova,*Chief, Investigations and Hearings Division, Enforcement Bureau.***BILLING CODE 6712–01–P**

**Federal Communications Commission**

Enforcement Bureau
Investigations and Hearings Division
45 L Street, NE
Washington, DC 20554

March 20, 2026

DA 26-258

SENT VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Ben Klein
c/o Paul B. Brickfield, Esq.
Brick & Donahue
70 Grand Ave
River Edge, NJ 07661-1935

Re: Notice of Debarment, File No. EB-IHD-24-00036796

Dear Mr. Klein:

The Enforcement Bureau (Bureau) of the Federal Communications Commission (Commission or FCC) hereby notifies you that, pursuant to section 54.8 of the Commission's rules, you are prohibited from participating in activities associated with or related to the federal schools and libraries universal service support mechanism (E-Rate program) and any other program funded by federal universal service support mechanisms for three years, commencing on either the date of your receipt of this Notice of Debarment or of its publication in the Federal Register, whichever comes first (Debarment Date).¹

On April 16, 2025, the Bureau sent you a notice of suspension and initiation of debarment proceeding (*Notice of Suspension*) that was published in the Federal Register on April 29, 2025.² The *Notice of Suspension* suspended you from participating in or receiving any benefit associated with the E-Rate program as well as any other program funded by federal universal service support mechanisms.³ It also described the basis for initiating the debarment proceeding against you, the applicable debarment procedures, and the effect of debarment.⁴

As discussed in the *Notice of Suspension*, on January 24, 2020, you pleaded guilty to a wire fraud conspiracy that involved knowingly and willingly devising a scheme to obtain money from the E-Rate program fraudulently.⁵ This scheme resulted in the fraudulent award of more than \$14 million paid to

¹ 47 CFR 54.8 (e), (g); 47 CFR 0.111 (delegating to the Bureau authority to resolve universal service suspension and debarment proceedings). In 2007, the Commission extended the debarment rules to apply to all federal universal service support mechanisms, including the E-Rate program. See *Comprehensive Review of the Universal Service Fund Management, Administration, & Oversight*, Report and Order, 22 FCC Rcd 16372, 16410–12 (2007) (*Program Management Order*) (renumbering Section 54.521 of the universal service debarment rules as Section 54.8 and amending subsections (a)(1), (a)(5), (c), (d), (e)(2)(i), (e)(3), (e)(4), and (g)).

² Letter from Christopher J. Sova, Acting Chief, Investigations and Hearings Division, FCC Enforcement Bureau, to Ben Klein, Notice of Suspension and Initiation of Debarment Proceeding, 90 Fed. Reg. 17798 (April 29, 2025) (*Notice of Suspension*).

³ *Id.*

⁴ *Id.*

⁵ See *United States v. Goldbrener et al.*, Case No. 7:18-cr-00614, Judgment in a Criminal Case (S.D.N.Y., filed Dec. 6, 2022) (detailing Ben Klein's plea agreement with the government); see also *Notice of Suspension*.

corporations which in turn paid hundreds of thousands of dollars to you and your co-conspirators for participating in the scheme.⁶ You enriched yourself at the expense of the underprivileged children the program was designed to serve by causing the disbursement of millions of dollars for services and equipment that were not provided.⁷ Pursuant to section 54.8(c) of the Commission's rules, your conviction of criminal conduct in connection with the E-Rate program is the basis for this debarment.⁸

In accordance with the Commission's debarment rules, you were required to file with the Commission any opposition to the suspension or its scope, or to the proposed debarment or its scope, no later than 30 calendar days from either the date of your receipt of the *Notice of Suspension* or of its publication in the Federal Register, whichever date occurred first.⁹ The Commission received no opposition.

For the above reasons, you are debarred from involvement with the E-Rate program for three years from the Debarment Date.¹⁰ During this debarment period, you are excluded from participating in any activities associated with or related to the E-Rate program and any other program funded by federal universal service support mechanisms, including the receipt of funds or discounted services through the E-Rate program, or consulting with, assisting, or advising applicants or service providers regarding the E-Rate program.¹¹

Sincerely yours,

Christopher J. Sova
Chief
Investigations and Hearings Division
Enforcement Bureau

cc: Fred Theobald, Universal Service Administrative Company (via e-mail)

<FRDOC> [FR Doc. 2026-06014 Filed 3-26-26; 8:45 am]
<BILCOD> BILLING CODE 6712-01-P

⁶ See *United States v. Goldbrener et al.*, Case No. 7:18-cr-00614, Indictment (S.D.N.Y., filed Aug. 27, 2018).

⁷ *Notice of Suspension*.

⁸ 47 CFR § 54.8(c).

⁹ *Id.* 54.8 (e)(3)–(4). Any opposition had to be filed no later than May 29, 2025.

¹⁰ 47 CFR 54.8(g).

¹¹ 47 CFR 54.8(a)(1), (d), (g).

FEDERAL RESERVE SYSTEM**Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company**

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at <https://www.federalreserve.gov/foia/request.htm>. Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments received are subject to public disclosure. In general, comments received will be made available without change and will not be modified to remove personal or business information including confidential, contact, or other identifying information. Comments should not include any information such as confidential information that would not be appropriate for public disclosure.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Benjamin W. McDonough, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington DC 20551-0001, not later than April 13, 2026.

A. *Federal Reserve Bank of St. Louis* (Holly A. Rieser, Senior Manager) P.O. Box 442, St. Louis, Missouri 63166-2034. Comments can also be sent electronically to Comments@stls.frb.org.

1. *Ismet ("Michael") I. Sema, Miami Beach, Florida*; to retain voting shares of Brighton Bancorp, Inc., and thereby indirectly retain voting shares of Brighton Bank, both of Brighton, Tennessee.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Associate Secretary of the Board.

[FR Doc. 2026-05993 Filed 3-26-26; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY**Office of the Comptroller of the Currency****FEDERAL RESERVE SYSTEM****FEDERAL DEPOSIT INSURANCE CORPORATION****Proposed Agency Information Collection Activities; Comment Request**

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury; Board of Governors of the Federal Reserve System (Board); and Federal Deposit Insurance Corporation (FDIC).

ACTION: Joint notice and request for comment.

SUMMARY: The agencies are publishing in today's **Federal Register** issuance two proposals: Regulatory Capital Rules: Category I and II Banking Organizations, Banking Organizations with Significant Trading Activity, and Optional Adoption for Other Banking Organizations (Expanded Risk-Based Proposal); and Regulatory Capital and Standardized Approach for Risk-weighted Assets (Standardized Approach Proposal). In accordance with the requirements of the Paperwork Reduction Act of 1995 (PRA), the OCC, the Board, and the FDIC (together, the agencies) may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. In connection with the above proposals, the agencies are therefore concurrently seeking comment on a proposal to extend for three years, with revision, the following information collections: Reporting, Recordkeeping, and Disclosure Requirements Associated with Regulatory Capital Rules (OMB Nos. 1557-0318 (OCC), 7100-0313 (Board), and 3064-0153 (FDIC)), and Reporting, Recordkeeping, and Disclosure Requirements Associated with Market Risk Capital Rules (OMB Nos. 1557-0247 (OCC), 7100-0314 (Board), and 3064-0178 (FDIC)).

DATES: Comments must be submitted on or before May 26, 2026.

ADDRESSES: Interested parties are invited to submit written comments to any or all of the agencies. All comments, which should refer to the "Regulatory Capital Rules: Category I and II Banking Organizations, Banking Organizations with Significant Trading Activity, and Optional Adoption for Other Banking Organizations and Regulatory Capital

and Standardized Approach for Risk-weighted Assets," will be shared among the agencies.

OCC: You may submit comments, which should refer to "Regulatory Capital Rules: Category I and II Banking Organizations, Banking Organizations with Significant Trading Activity, and Optional Adoption for Other Banking Organizations and Regulatory Capital and Standardized Approach for Risk-weighted Assets," by any of the following methods:

- **Email:** prainfo@occ.treas.gov.
- **Mail:** Chief Counsel's Office, Office of the Comptroller of the Currency, Attention: 1557-0318 and 1557-0247, 400 7th Street SW, Suite 3E-218, Washington, DC 20219.
- **Hand Delivery/Courier:** 400 7th Street SW, suite 3E-218, Washington, DC 20219.
- **Fax:** (571) 293-4835.

Instructions: You must include "OCC" as the agency name and "1557-0318 and 1557-0247" in your comment. In general, the OCC will publish comments on www.reginfo.gov without change, including any business or personal information provided, such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

You may review comments and other related materials that pertain to this information collection beginning on the date of publication of the second notice for this collection by the following method:

- **Viewing Comments Electronically:** Go to www.reginfo.gov. Hover over the "Information Collection Review" tab and click on "Information Collection Review" from the drop-down menu. From the "Currently under Review" drop-down menu, select "Department of the Treasury" and then click "submit." This information collection can be located by searching OMB control number "1557-0318" or "1557-0247." Upon finding the appropriate information collection, click on the related "ICR Reference Number." On the next screen, select "View Supporting Statement and Other Documents" and then click on the link to any comment listed at the bottom of the screen.

For assistance in navigating www.reginfo.gov, please contact the Regulatory Information Service Center at (202) 482-7340.

Board: You may submit comments, which should refer to “Regulatory Capital Rules: Category I and II Banking Organizations, Banking Organizations with Significant Trading Activity, and Optional Adoption for Other Banking Organizations and Regulatory Capital and Standardized Approach for Risk-weighted Assets,” by any of the following methods:

- **Agency website:** <https://www.federalreserve.gov/apps/proposals/>. Follow the instructions for submitting comments, including attachments. *Preferred Method.*
- **Mail:** Benjamin W. McDonough, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.
- **Hand Delivery/Courier:** Same as mailing address.
- **Other Means:** publiccomments@frb.gov. You must include the docket number in the subject line of the message.

Comments received are subject to public disclosure. In general, comments received will be made available on the Board’s website at <https://www.federalreserve.gov/apps/proposals/> without change and will not be modified to remove personal or business information including confidential, contact, or other identifying information. Comments should not include any information such as confidential information that would be not appropriate for public disclosure. Public comments may also be viewed electronically or in person in Room M–4365A, 2001 C St. NW, Washington, DC 20551, between 9 a.m. and 5 p.m. during Federal business weekdays.

FDIC: You may submit comments, which should refer to “Regulatory Capital Rules: Category I and II Banking Organizations, Banking Organizations with Significant Trading Activity, and Optional Adoption for Other Banking Organizations and Regulatory Capital and Standardized Approach for Risk-weighted Assets,” by any of the following methods:

- **Agency website:** <https://www.fdic.gov/regulations/laws/federal/>. Follow the instructions for submitting comments on the FDIC’s website.
- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments.
- **Email:** comments@FDIC.gov.

Include “Regulatory Capital Rules: Category I and II Banking Organizations, Banking Organizations with Significant Trading Activity, and Optional Adoption for Other Banking Organizations and Regulatory Capital

and Standardized Approach for Risk-weighted Assets,” in the subject line of the message.

- **Mail:** Robert Meiers, Regulatory Counsel, MB–3013, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.
- **Hand Delivery:** Comments may be hand delivered to the guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7:00 a.m. and 5:00 p.m.
- **Public Inspection:** All comments received will be posted without change to <https://www.fdic.gov/regulations/laws/federal/> including any personal information provided. Paper copies of public comments may be requested from the FDIC Public Information Center by telephone at (877) 275–3342 or (703) 562–2200.

Additionally, commenters may send a copy of their comments to the OMB desk officers for the agencies by mail to the Office of Information and Regulatory Affairs, U.S. Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503; by fax to (202) 395–6974; or by email to oira_submission@omb.eop.gov.

FOR FURTHER INFORMATION CONTACT: For further information about the proposed revisions to the information collections discussed in this notice, please contact any of the agency staff whose names appear below.

OCC: Kevin Korzeniewski, Counsel, Chief Counsel’s Office, (202) 649–5490.

Board: Nuha Elmaghrabi, Federal Reserve Board Clearance Officer, (202) 452–3884, Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, 20th and C Streets NW, Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may call (202) 263–4869.

FDIC: Robert Meiers, Regulatory Counsel, MB–3013, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

I. Affected Information Collections

This notice seeks comment on a three-year extension of and proposed revisions to the following information collections: (1) Reporting, Recordkeeping, and Disclosure Requirements Associated with Regulatory Capital Rules (OMB Nos. 1557–0318, 3064–0153, and 7100–0313), and (2) Reporting, Recordkeeping, and Disclosure Requirements Associated with Market Risk Capital Rules (OMB Nos. 1557–0247, 3064–0178, and 7100–0314).

II. Current Actions

A. Reporting, Recordkeeping, and Disclosure Requirements Associated With Regulatory Capital Rules (OMB Nos. 1557–0318, 3064–0153, and 7100–0313)

The current estimated total annual burdens associated with OMB Nos. 1557–0318, 3064–0153, and 7100–0313 are 87,087 hours, 93,621 hours, and 76,250 hours, respectively.

1. Expanded Risk-Based Proposal Overview—Regulatory Capital Rules

The Expanded Risk-Based Proposal would streamline the risk-based capital requirements applicable to Category I and II banking organizations. Currently, these banking organizations are subject to two sets of risk-based capital ratio requirements: one based on the standardized approach (which also generally applies to other banking organizations) and the other based on an internal models framework, the advanced approaches.¹ Under the proposal, Category I and II banking organizations would be subject to a single set of risk-based capital ratio requirements based on the “expanded risk-based approach”—which would include requirements for credit risk, equity risk, and operational risk—and the revised market risk framework.² The standardized approach would no longer apply to these banking organizations, and the advanced approaches would be removed from the regulatory capital framework. Other banking organizations could also choose to adopt the expanded risk-based approach.³

With respect to the PRA, the Expanded Risk-Based Proposal would modify the regulatory capital rules by revising existing reporting, recordkeeping, and disclosure requirements. Please see the Expanded Risk-Based Proposal for a detailed description of the proposed revisions.

OCC:

The net PRA burden associated with the Expanded Risk-Based Proposal is –24,142 hours.

Board:

The net PRA burden associated with the Expanded Risk-Based Proposal is –14,516 hours.

FDIC:

¹ See 12 CFR part 3, subparts D and E (OCC); 12 CFR part 217, subparts D and E (Board); 12 CFR part 324, subparts D and E (FDIC).

² For purposes of this discussion, unless otherwise noted, the revised market risk framework is inclusive of requirements for credit valuation adjustment risk, as applicable.

³ Banking organizations that choose to adopt the expanded risk-based approach would also be subject to the definition of capital that applies to Category I and II banking organizations.

The net PRA burden associated with the Expanded Risk-Based Proposal is –904 hours.

2. Standardized Approach Proposal Overview—Regulatory Capital Rules

The Standardized Approach Proposal would revise certain elements of the calculation of the denominator of the risk-based capital ratios (risk-weighted assets) under the standardized approach and make certain adjustments to the definition of regulatory capital. The proposed changes aim to improve risk sensitivity while generally retaining the simplicity of the current framework.

With respect to the PRA, the Standardized Approach Proposal would modify the regulatory capital rules by adding new requirements and revising existing recordkeeping and disclosure requirements. Please see the Standardized Approach Proposal for a detailed description of the proposed revisions.

OCC:

The net PRA burden associated with the Standardized Approach Proposal is –6,637 hours.

Board:

The net PRA burden associated with the Standardized Approach Proposal is –6,911 hours.

FDIC:

The net PRA burden associated with the Standardized Approach Proposal is –33,602 hours.

3. Additional Changes to the Information Collections

In connection with this notice, the agencies are proposing to change how certain provisions are accounted for under the PRA. These proposed revisions increased the calculation of “burden hours” under the PRA but do not reflect changes to the existing requirements in the agencies’ respective information collections. Instead, the revisions reflect existing requirements in the capital rule, and their proposed addition to the agencies’ information collections are purely administrative, to ensure compliance with the legal requirements of the PRA.

OCC:

The net PRA burden associated with these changes is 26,996 hours.

Board:

The net PRA burden associated with these changes is 34,589 hours.

FDIC:

The net PRA burden associated with these changes is 52,234 hours.

I. Proposed Extension for Three Years, With Revision

Collection title: Reporting, Recordkeeping, and Disclosure

Requirements Associated with Regulatory Capital Rules.

OCC

OMB control number: 1557–0318.

Frequency: Quarterly, annually, event-generated.

Affected Public: Businesses or other for-profit.

Respondents: National banks, state member banks, state nonmember banks, and state and federal savings associations.

Estimated number of respondents: 663 (16 expanded risk-based approach).

Estimated average hours per response:

Initial Setup

Minimum Capital Ratios

Recordkeeping

Section 3.3(a)(3)–8.

Section 3.3(b)–8.

Section 3.3(c)–8.

Section 3.3(d)(1)–8.

Section 3.3(d)(2)–8.

Section 3.3(e)–8.

Standardized Approach

Recordkeeping

Section 3.35(b)(3)(i)(A)–8.

Section 3.36(e)(1)(ii)–8.

Section 3.41(c)(2)(i)–40.

Section 3.52(c)(2)–4.

Section 3.62(b)–40.

Disclosure

Section 3.42(e)(2)–6.

Sections 3.61, 3.62, 3.63(a)–(b), and 3.63 Tables–220.

Section 3.63(c)–75.

Expanded Risk Based Approach

Recordkeeping

Section 3.116(b)(3)–8.

Section 3.120(e)–8.

Sections 3.130(c)(2)(i)–40.

Section 3.141(c)(2)–4.

Sections 3.161(b)–40.

Disclosure

Section 3.132(e)(2)–6.

Section 3.162(b)(1)–40.

Section 3.162(b)(2)–75.

Section 3.162 Tables 1–12–268.

Ongoing

Minimum Capital Ratios

Recordkeeping

Section 3.3(a)(3)–2.

Section 3.3(b)–2.

Section 3.3(c)–2.

Section 3.3(d)(1)–2.

Section 3.3(d)(2)–2.

Section 3.3(e)–2.

Standardized Approach

Recordkeeping

Section 3.35(b)(3)(i)(A)–2.

Section 3.36(e)(1)(ii)–2.

Section 3.41(c)(2)(ii)–10 (quarterly).

Section 3.52(c)(2)–1.

Section 3.62(b)–2.

Disclosure

Section 3.42(e)(2)–1.

Sections 3.61, 3.62, 3.63(a)–(b), and 3.63 Tables–110 (quarterly).

Section 3.63(c)–16.

Expanded Risk Based Approach

Reporting

Section 3.150(c)(1)(ii)(5)–5.

Recordkeeping

Section 3.116(b)(3)–2.

Section 3.120(e)–2.

Sections 3.130(c)(2)(i)–(ii)–10 (quarterly).

Section 3.141(c)(2)–1.

Sections 3.161(b)–2.

Disclosure

Section 3.162(b)(1)–5.

Section 3.162(b)(2)–16.

Section 3.162 Tables 1–12–86.

Estimated annual burden hours:

46,106 (6,820 initial setup and 39,286 ongoing).

Board

Collection identifier: FR Q.

OMB control number: 7100–0313.

Frequency: Quarterly, annually, event-generated.

Affected Public: Businesses or other for-profit.

Respondents: State member banks, certain bank holding companies, U.S. intermediate holding companies, certain covered savings and loan holding companies.

Estimated number of respondents: 846 (14 expanded risk-based approach).

Estimated average hours per response:

Initial Setup

Minimum Capital Ratios

Recordkeeping

Section 217.3(a)(3)–8.

Section 217.3(b)–8.

Section 217.3(c)–8.

Section 217.3(d)(1)–8.

Section 217.3(d)(2)–8.

Section 217.3(e)–8.

Standardized Approach

Recordkeeping

Section 217.35(b)(3)(i)(A)–8.

Section 217.36(e)(1)(ii)–8.

Section 217.41(c)(2)(i)–40.

Section 217.52(c)(2)–4.

Section 217.62(b)–40.

Disclosure

Section 217.42(e)(2)–6.

Sections 217.61, 217.62, 217.63(a)–(b), and 217.63 Tables–220.

Section 217.63(c)–75.

Expanded Risk Based Approach

Recordkeeping

Section 217.116(b)(3)–8.

Section 217.120(e)–8.

Sections 217.130(c)(2)(i)–40.
 Section 217.141(c)(2)–4.
 Sections 217.161(b)–40.

Disclosure
 Section 217.162(b)(1)–40.
 Section 217.162(b)(2)–75.
 Section 217.162 Tables 1–12 –268.

Ongoing

Minimum Capital Ratios

Recordkeeping
 Section 217.3(a)(3)–2.
 Section 217.3(b)–2.
 Section 217.3(c)–2.
 Section 217.3(d)(1)–2.
 Section 217.3(d)(2)–2.
 Section 217.3(e)–2.

Standardized Approach

Recordkeeping
 Section 217.35(b)(3)(i)(A)–2.
 Section 217.36(e)(1)(ii)–2.
 Section 217.41(c)(2)(ii)–10 (quarterly).
 Section 217.52(c)(2)–1.
 Section 217.62(b)–2.

Disclosure
 Section 217.42(e)(2)–1.
 Sections 217.61, 217.62, 217.63(a)–(b),
 and 217.63 tables–110 (quarterly).
 Section 217.63(c)–16.

Expanded Risk Based Approach

Reporting
 Section 217.150(c)(1)(ii)(5)–5.

Recordkeeping
 Section 217.116(b)(3)–2.
 Section 217.120(e)–2.
 Sections 217.130(c)(2)(i)–(ii)–10
 (quarterly).
 Section 217.141(c)(2)–1.
 Sections 217.161(b)–2.

Disclosure
 Section 324.132(e)(2)–6.
 Section 217.162(b)(1)–5.
 Section 217.162(b)(2)–16.
 Section 217.162 Tables 1–12–86.
Estimated annual burden hours:
 74,204 (8,092 initial setup and 66,112
 ongoing).

FDIC
OMB control number: 3064–0153.
Frequency: Quarterly, annually,
 event-generated.
Affected Public: Businesses or other
 for-profit.
Respondents: State nonmember
 banks, state savings associations, and
 certain subsidiaries of those entities.
Estimated number of respondents:
 1,625 (2 expanded risk-based approach).
Estimated average hours per response:

Initial Setup

Minimum Capital Ratios

Recordkeeping
 Section 324.3(a)(3)–8.
 Section 324.3(b)–8.

Section 324.3(c)–8.
 Section 324.3(d)(1)–8.
 Section 324.3(d)(2)–8.
 Section 324.3(e)–8.

Standardized Approach

Recordkeeping
 Section 324.35(b)(3)(i)(A)–8.
 Section 324.36(e)(1)(ii)–8.
 Section 324.41(c)(2)(i)–40.
 Section 324.52(c)(2)–4.
 Section 324.62(b)–40.

Disclosure
 Section 324.42(e)(2)–6.
 Sections 324.61, 324.62, 324.63(a)–(b),
 and 324.63 Tables–220.
 Section 324.63(c)–75.

Expanded Risk Based Approach

Recordkeeping
 Section 324.116(b)(3)–8.
 Section 324.120(e)–8.
 Sections 324.130(c)(2)(i)–40.
 Section 324.141(c)(2)–4.
 Sections 324.161(b)–40.

Disclosure
 Section 324.162(b)(1)–40.
 Section 324.162(b)(2)–75.
 Section 324.162 Tables 1–12–268.

Ongoing

Minimum Capital Ratios

Recordkeeping
 Section 324.3(a)(3)–2.
 Section 324.3(b)–2.
 Section 324.3(c)–2.
 Section 324.3(d)(1)–2.
 Section 324.3(d)(2)–2.
 Section 324.3(e)–2.

Standardized Approach

Recordkeeping
 Section 324.35(b)(3)(i)(A)–2.
 Section 324.36(e)(1)(ii)–2.
 Section 324.41(c)(2)(ii)–10 (quarterly).
 Section 324.52(c)(2)–1.
 Section 324.62(b)–2.

Disclosure
 Section 324.42(e)(2)–1.
 Sections 324.61, 324.62, 324.63(a)–(b),
 and 324.63 tables–110 (quarterly).
 Section 324.63(c)–16.

Expanded Risk Based Approach

Reporting
 Section 324.150(c)(1)(ii)(5)–5.

Recordkeeping
 Section 324.116(b)(3)–2.
 Section 324.120(e)–2.
 Sections 324.130(c)(2)(i)–(ii)–10
 (quarterly).
 Section 324.141(c)(2)–1.
 Sections 324.161(b)–2.

Disclosure
 Section 324.132(e)(2)–6.
 Section 324.162(b)(1)–5.
 Section 324.162(b)(2)–16.
 Section 324.162 Tables 1–12–86.

Estimated annual burden hours:
 111,349 (14,937 initial and 96,412
 ongoing).⁴

*B. Reporting, Recordkeeping, and
 Disclosure Requirements Associated
 With Market Risk Capital Rules (OMB
 Nos. 1557–0247, 3064–0178, and 7100–
 0314)*

The current estimated total annual
 burdens associated with OMB Nos.
 1557–0247, 3064–0178, and 7100–0314
 are 33,388 hours, 428 hours, and 36,236
 hours, respectively.

**I. Expanded Risk-Based Overview—
 Market Risk Capital Rules**

The Expanded Risk-Based Proposal
 also introduces a revised market risk
 framework, which would be applicable
 to Category I and II depository
 institution holding companies and to
 other banking organizations with
 significant trading activity. Significant
 trading activity would be defined to
 mean (1) more than \$5 billion in trading
 activity⁵ or (2) trading activity equal to
 or higher than 10 percent of the banking
 organization's total assets.

The new market risk framework
 would include a new standardized
 approach for market risk and a revised
 models-based approach for market risk
 that may be used only with supervisory
 approval.

With respect to the PRA, the
 Expanded Risk-Based Proposal would
 modify the market risk capital
 requirements by revising existing
 reporting, recordkeeping, and disclosure
 requirements. Please see the Expanded
 Risk-Based Proposal for a detailed
 description of the proposed revisions.

OCC:

The net PRA burden associated with
 the Market Risk Capital Rules is –28,248
 hours.

Board:

The net PRA burden associated with
 the Market Risk Capital Rules is –21,634
 hours.

FDIC:

The net PRA burden associated with
 the Market Risk Capital Rules is 167
 hours.

**Proposed Extension for Three Years,
 with Revision**

Collection title: Reporting,
 Recordkeeping, and Disclosure

⁴ The total estimated annual burden for 3064–0153 is derived as follows: 93,621 hours from the currently cleared annual burden + 52,234 hours from net additional changes, as described above –904 hours from net changes in the Expanded Risk-Based Proposal, and –33,602 hours from net changes in the Standardized Approach proposal.

⁵ The current market risk framework includes a monetary trading activity threshold of \$1 billion.

Requirements Associated with Market Risk Capital Rules.

OCC

OMB control number: 1557–0247.

Frequency: Quarterly, annually, weekly, event-generated.

Affected Public: Businesses or other for-profit.

Respondents: National banks and Federal savings associations.

Estimated number of respondents: 10.

Estimated average hours per response:

Initial Setup

Market Risk Capital

Reporting

Section 3.203(h)(2)–40.

Section 3.204(f)(2)(v)–1.

Section 3.208(h)(3)(ii)(B)–1.

Section 3.212(b)(2)–5.

Section 3.212(c)–40.

Section 3.223(a)(1)–30.

Recordkeeping

Section 3.203(i)–150.

Section 3.217(c)–40.

Section 3.220(c)–40.

Section 3.223(b)–40.

Disclosure

Section 3.217(g)(Table 1)–30.

Section 3.217(g)(Table 2)–30.

Ongoing

Market Risk Capital

Reporting

Section 3.203(h)(2)(ii)–10 (quarterly).

Section 3.204(f)(1)(ii)–1.

Section 3.204(g)(1)(iii)–30.

Section 3.212(b)(3)(i)–(ii)–1.

Section 3.212(c)(2)(ii)–1 (quarterly).

Section 3.214(b)(2)(vi)–1.

Section 3.224(d)(3)(ii)–1.

Recordkeeping

Section 3.203(i)–30.

Section 3.204(f)(1)(i)–1.

Section 3.217(c)–5.

Disclosure

Section 3.217(g)(Table 1)–2.

Section 3.217(g)(Table 2)–2.

Estimated annual burden hours: 5,140 (3,965 initial setup and 1,175 ongoing).

Board

Collection identifier: FR Q–2.

OMB control number: 7100–0314.

Frequency: Quarterly, annually, event-generated.

Affected Public: Businesses or other for-profit.

Respondents: Bank holding companies, savings and loan holding companies, intermediate holding companies, and state member banks that meet certain risk thresholds.

Respondents: Bank holding companies, savings and loan holding companies, intermediate holding companies, and state member banks that meet certain risk thresholds.

Estimated number of respondents: 28.

Estimated average hours per response:

Initial Setup

Market Risk Capital

Reporting

Section 217.203(h)(2)–40.

Section 217.204(f)(2)(v)–1.

Section 217.208(h)(1)(ii)(B)–1.

Section 217.212(b)(2)–5.

Section 217.212(c)–40.

Section 217.223(a)(1)–30.

Recordkeeping

Section 217.203(i)–150.

Section 217.217(c)–40.

Section 217.220(c)–40.

Section 217.223(b)–40.

Disclosure

Section 217.217(g)(Table 1)–30.

Section 217.217(g)(Table 2)–30.

Ongoing

Market Risk Capital

Reporting

Section 217.203(h)(2)(ii)–10

(quarterly).

Section 217.204(f)(1)(ii)–1.

Section 217.204(g)(1)(iii)–30.

Section 217.212(b)(3)(i)–(ii)–1.

Section 217.212(c)(2)(ii)–1 (quarterly).

Section 217.214(b)(2)(vi)–1.

Section 217.224(d)(3)(ii)–1.

Recordkeeping

Section 217.203(i)–30.

Section 217.204(f)(1)(i)–1.

Section 217.217(c)–5.

Disclosure

Section 217.217(g)(Table 1)–2.

Section 217.217(g)(Table 2)–2.

Estimated annual burden hours: 14,602 (12,249 initial setup and 2,353 ongoing).

FDIC

OMB control number: 3064–0178.

Frequency: Quarterly, annually, weekly, event-generated.

Affected Public: Businesses or other for-profit.

Respondents: State nonmember banks, state savings associations, and certain subsidiaries of those entities.

Estimated number of respondents: 1.

Estimated average hours per response:

Initial Setup

Market Risk Capital

Reporting

Section 324.203(h)(2)–40.

Section 324.204(f)(2)(v)–1.

Section 324.208(h)(3)(ii)(B)–1.

Section 324.212(b)(2)–5.

Section 324.212(c)–40.

Section 324.223(a)(1)–30.

Recordkeeping

Section 324.203(i)–150.

Section 324.217(c)–40.

Section 324.220(c)–40.

Section 324.223(b)–40.

Disclosure

Section 324.217(g)(Table 1)–30.

Section 324.217(g)(Table 2)–30.

Ongoing

Market Risk Capital

Reporting

Section 324.203(h)(2)(ii)–10

(quarterly).

Section 324.204(f)(1)(ii)–1.

Section 324.204(g)(1)(iii)–30.

Section 324.212(b)(3)(i)–(ii)–1.

Section 324.212(c)(2)(ii)–1 (quarterly).

Section 324.214(b)(2)(vi)–1.

Section 324.224(d)(3)(ii)–1.

Recordkeeping

Section 324.203(i)–30.

Section 324.204(f)(1)(i)–1.

Section 217.217(c)–5.

Disclosure

Section 324.217(g)(Table 1)–2.

Section 324.217(g)(Table 2)–2.

Estimated annual burden hours: 595 hours (290 initial setup and 305 ongoing).⁶

III. Request for Comment

Public comment is requested on all aspects of this joint notice. Comment is specifically invited on:

(a) Whether the proposed revisions to the information collections that are the subject of this notice are necessary for the proper performance of the agencies' functions, including whether the information has practical utility;

(b) The accuracy of the agencies' estimates of the burden of the information collections as they are proposed to be revised, including the validity of the methodology and assumptions used for purposes of determining such estimates;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of information collections on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Comments submitted in response to this joint notice will be shared among the agencies. At the end of the comment period for this notice, the agencies will review any comments received to determine whether to modify the proposal in response to such comments. Comments that are not related to these information collections but that are

⁶ The 595 estimated annual burden hours include 428 previously cleared annual hours + 167 hours from changes in the Expanded Risk-Based Proposal.

related to the connected proposals, Regulatory Capital Rules: Category I and II Banking Organizations, Banking Organizations with Significant Trading Activity, and Optional Adoption for Other Banking Organizations and Regulatory Capital; and Standardized Approach for Risk-weighted Assets, should be submitted on those proposals, rather than on this notice, which only addresses the related PRA revisions.

Carl Kaminski,

Assistant Director, Office of the Comptroller of the Currency.

Benjamin W. McDonough,

Secretary of the Board, Federal Deposit Insurance Corporation.

Dated at Washington, DC on March 19, 2026.

Jennifer M. Jones,

Deputy Executive Secretary.

[FR Doc. 2026–05958 Filed 3–26–26; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee on Immunization Practices; Cancellation of Meeting

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: This is to notify the public that pursuant to the preliminary order issued on March 16, 2026, in *American Academy of Pediatrics et al. v. Kennedy et al.*, No. 1:25–cv–11916 (D. Mass.), the ACIP meeting previously scheduled for March 18–19, 2026, has been stayed until further notice.

FOR FURTHER INFORMATION CONTACT: ACIP Secretariat, Advisory Committee on Immunization Practices, Centers for Disease Control and Prevention, 1600 Clifton Road NE, Mailstop H21–12, Atlanta, Georgia, 30329–4027. Email: ACIP@cdc.gov.

SUPPLEMENTARY INFORMATION: Notice is hereby given of a change in the meeting of the Advisory Committee on Immunization Practices; March 18, 2026, from 8 a.m. to 5:00 p.m., EST, and March 19, 2026, from 8 a.m. to 5 p.m., EST, in the original **Federal Register** notice.

The meeting notice was published in the **Federal Register** on February 26, 2026, 91 FR 9617 and 9618.

The Director, Office of Strategic Business Initiatives, Office of the Chief Operating Officer, Centers for Disease

Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Office of Strategic Business Initiatives, Office of the Chief Operating Officer, Centers for Disease Control and Prevention

[FR Doc. 2026–05948 Filed 3–26–26; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Lead Exposure and Prevention Advisory Committee; Notice of Charter Renewal

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of charter renewal.

SUMMARY: The Centers for Disease Control and Prevention (CDC), within the Department of Health and Human Services (HHS), announces the renewal of the charter of the Lead Exposure and Prevention Advisory Committee (LEPAC).

FOR FURTHER INFORMATION CONTACT: Paul Allwood, Ph.D., MPH, Designated Federal Officer, National Center for Environmental Health, Centers for Disease Control and Prevention, Department of Health and Human Services, 1600 Clifton Road NE, MS S106–5, Atlanta, Georgia 30329–4018. Telephone (770) 488–6774; PAllwood@cdc.gov.

SUPPLEMENTARY INFORMATION: CDC is providing notice under 5 U.S.C. 1001–1014 of the renewal of the charter of the Lead Exposure and Prevention Advisory Committee, Centers Disease Control and Prevention, Department of Health and Human Services. This charter has been renewed for a two-year period through March 11, 2028.

The Director, Office of Strategic Business Initiatives, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and

Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Office of Strategic Business Initiatives, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2026–05949 Filed 3–26–26; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–1957]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by May 26, 2026.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to <http://www.regulations.gov>. Follow the instructions for “Comment or Submission” or “More Search Options” to find the information collection

document(s) that are accepting comments.

2. By *regular mail*. You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier: /OMB Control Number: , Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: <https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing>.

FOR FURTHER INFORMATION CONTACT: William N. Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term “collection of information” is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Social Security Office (SSO) Report of State Buy-in

Problems; *Use:* A State can enter into an agreement to provide Medicare protection to individuals who are members of a Buy-in coverage group, as specified in the State's Buy-in agreement. When problems arise that cannot be resolved through the normal data exchange process, clerical actions are required. This collection is intended to help identify and resolve beneficiary complaints and inquiries regarding State Buy-in eligibility. *Form Number:* CMS–1957 (OMB control number: 0938–0035); *Frequency:* On occasion; *Affected Public:* Individuals and households; *Number of Respondents:* 1,400; *Total Annual Responses:* 1,400; *Total Annual Hours:* 467. (For policy questions regarding this collection contact Keith Johnson at 410–786–1148.)

William N. Parham, III,

Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2026–06018 Filed 3–26–26; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Temporary Assistance for Needy Families (TANF) Pilot Evaluation

AGENCY: Office of Planning, Research, and Evaluation; Administration for Children and Families; U.S. Department of Health and Human Services.

ACTION: Request for public comments.

SUMMARY: The Office of Planning, Research, and Evaluation (OPRE), Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS), is proposing to collect data for the new Temporary Assistance for Needy Families (TANF) Pilot Evaluation.

DATES: Comments due May 26, 2026.

ADDRESSES: In compliance with the requirements of the Paperwork Reduction Act of 1995, ACF is soliciting public comment on the specific aspects of the information collection described above. You can obtain copies of the proposed collection of information and submit comments by emailing opreinfocollection@acf.hhs.gov. Identify

all requests by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: The *TANF Pilot Evaluation* will include implementation and outcomes studies of pilot programs authorized under the Fiscal Responsibility Act (FRA) of 2023 (Pub. L. 118–5), which authorizes HHS to select up to five states to test new outcomes-based performance benchmarks in the TANF program. The implementation study will describe pilot design, staffing, service provision, partnerships, contextual details, and factors that support or hinder the pilot's implementation. The outcomes study will assess changes in participant outcomes using surveys and administrative data. This new information collection request includes a semi-structured discussion guide, staff survey, time-use survey, cost and resource workbooks, and in-depth participant interview guide for the implementation study. It also includes a 12-month post-TANF-exit survey for the outcomes study. These instruments will provide information on how states implement the pilots, how services and staffing evolve, and how outcomes change under the new performance benchmarks. The data will be used to produce a report on outcomes to be submitted to Congress, as required by the FRA; inform future TANF policy development; and contribute to the broader evidence base on outcomes-based performance monitoring.

Respondents: Most of the implementation study data collection instruments will be conducted with TANF staff including state and local-level leadership staff, data specialists, supervisors, and frontline staff. The in-depth interview guide will be conducted with TANF participants. The 12-month post-TANF-exit survey will be conducted with TANF participants who provided contact information through the Study Information Form, which was approved under ACF's generic clearance for formative research (Office of Management and Budget #: 0970–0356), and agreed to be contacted for this survey.

Annual Burden Estimates

Instruments 1, 2, and 5 will be tailored based on the respondent and, therefore, the burden table shows the breakdown by respondent type.

Instrument	Respondent	Total number of respondents	Total number of responses per respondent	Average burden per response	Total burden hours (3 years)	Annual burden hours
Instrument 1: Semi-structured program discussion guide.	state-level leadership staff	50	6	1.5	450	150
	local-level leadership staff	200	6	1.5	1,800	600
	data specialists	10	6	1	60	20
	supervisors	100	6	1	600	200
	frontline staff	200	6	1	1,200	400
Instrument 2: Leadership and staff survey	local-level leadership staff	500	2	0.33	330	110
	supervisors	500	2	0.33	330	110
	frontline staff	2,140	2	0.33	1412	471
Instrument 3: Staff survey	frontline staff	2,140	9	0.17	3274	1,091
Instrument 4: Staff time use survey	state-level leadership staff	10	3	4	120	40
	local-level leadership staff	10	3	4	120	40
Instrument 5: Pilot costs and resources workbook	participants	100	1	1.25	125	42
Instrument 6: In-depth participant interview guide	participants	3,000	1	0.75	2,250	750
Instrument 7: 12-Month Post-TANF-Exit Survey .....	.....	.....	.....	.....	.....	4,024
Estimated Total Annual Burden Hours .....	.....	.....	.....	.....	.....	.....

Comments: The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

(Authority: 42 U.S.C. 613.)

Mary C. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2026-05938 Filed 3-26-26; 8:45 am]

BILLING CODE 4184-09-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Office of Management and Budget #: 0970-0604]

Submission for Office of Management and Budget Review; Administration for Children and Families Congressionally Directed Community Projects—Uniform Project Description

AGENCY: Office of Planning, Research, and Evaluation, Administration for

Children and Families, U.S. Department of Health and Human Services.

ACTION: Request for public comments.

SUMMARY: The Administration for Children and Families (ACF) Office of Planning, Research, and Evaluation (OPRE) is requesting a 3-year extension with revisions to the information collection activities approved by the Office of Management and Budget (OMB): ACF Congressionally Directed Community Projects—Universal Project Description (CDCP-UPD)(OMB#: 0970-0604, expiration March 31, 2026). Revisions are based on lessons learned from previous years. Language is simplified for application requirements. This is expected to reduce the application burden.

DATES: *Comments due April 27, 2026.*

ADDRESSES: The public may view and comment on this information collection request at: https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202603-0970-013. You can also obtain copies of the proposed collection of information by emailing opreinfocollection@acf.hhs.gov. Identify all emailed requests by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: CDCP-UPD recipients are identified annually by Congress through Appropriations for ACF. The CDCP-UPD provides standard language and sections available for use by ACF program offices to solicit the required project description and project budget information from recipients of CDCP projects. Applications are required for CDCP as prescribed by HHS regulations 2 CFR 200.206. In addition to the

information required by regulation, the CDCP-UPD provides a selection of text options for the program offices to communicate the application requirements to the recipients, as required by 2 CFR 200.207.

The CDCP-UPD gathers information regarding the CDCP recipients' project activities, timeline, organizational capacity, and budget justification. The CDCP-UPD ensures sufficient information is obtained to assess risk, identify needs for technical assistance and monitoring, and address other requirements of Congress, ACF, HHS, OMB, and funding and statutory regulation.

The CDCP-UPD has been streamlined and revised to improve navigation and usability. Critical required information is highlighted and easier to find, unnecessary or redundant information removed, language simplified and some sections reformatted for easier reading.

Respondents: The CDCP-UPD recipients are organizations identified annually by Congress under annual appropriations. It is estimated that 125 CDCP recipients will be identified annually in future ACF appropriations.

Annual Burden Estimates

The revisions will reduce respondent burden by decreasing the average time required to complete the application. The streamlined format will improve navigability, allowing applicants to more easily identify required information. Simplified language and formatting will clarify application requirements and reduce the submission of unnecessary information.

Instrument	Annual number of respondents	Total number of responses per respondent	Average burden hours per response	Annual burden hours
CDCP-UPD	125	1	20	2,500

Authority: Social Security Act § 1110 [42 U.S.C. 1310].

Mary C. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2026–05954 Filed 3–26–26; 8:45 am]

BILLING CODE 4184–78–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection: 30-Day Comment Request; The Clinical Trials Reporting Program (CTRP) Database (NCI)

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995 to provide an opportunity for public comment on proposed data collection projects, the National Institutes of Health, National Cancer Institute (NCI) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

DATES: Comments regarding this information collection are best assured of having their full effect if received by April 27, 2026.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent

within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Melissa Park, PRA Liaison, Office of Management Policy and Compliance, National Cancer Institute, 9609 Medical Center Drive, Room 2E196, Bethesda, MD 20892 or call non-toll-free number (240) 276–5717 or email your request, including your address to: melissa.park@nih.gov. Formal requests for additional plans and instruments must be requested in writing.

SUPPLEMENTARY INFORMATION: This proposed information collection was previously published in the **Federal Register** on December 23, 2025 (Vol. 90, No. 244, FR 60112) and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Cancer Institute (NCI), National Institutes of Health, may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or

after October 1, 1995, unless it displays a currently valid OMB control number.

In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

Proposed Collection Title: The Clinical Trials Reporting Program (CTRP) Database, 0925–0600, Expiration Date 02/28/2026—REINSTATEMENT WITH CHANGE, National Cancer Institute (NCI), National Institutes of Health (NIH).

Need and Use of Information Collection: The Clinical Trials Reporting Program (CTRP) is an electronic resource that serves as a single, definitive source of information about all NCI-supported clinical research. This resource allows the NCI to consolidate reporting, aggregate data, and reduce redundant submissions. Clinical research administrators submit information as designees of clinical investigators who conduct NCI-supported clinical research. The designees can electronically access the CTRP website to complete the initial trial registration. After registration, three amendments and four study subject accrual updates occur per trial annually.

OMB approval is requested for three years. There are no costs to respondents other than their time. The estimated annualized burden hours are 18,000.

ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Type of respondents	Number of respondents	Number of responses per respondent	Average time per response (in hours)	Total annual burden hours
Initial Trial Registration	Individuals	3,000	1	1	3,000
Trial Registration Update		1,500	3	1	4,500
Trial Registration Amendment		1,500	3	1	4,500
Accrual Updates		3,000	4	30/60	6,000
Totals		9,000	24,000	.....	18,000

Dated: March 24, 2026.

Melissa M. Park,

Project Clearance Liaison, National Cancer Institute, National Institutes of Health.

[FR Doc. 2026–05937 Filed 3–26–26; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections

552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Emerging Technologies and Training Neurosciences Integrated Review Group; Neuromodulation

and Imaging of Neuronal Circuits Study Section.

Date: April 16–17, 2026.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Pablo Miguel Blazquez Gamez, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 435–1042, pablo.blazquezgamez@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Program Project: Cancer Research.

Date: April 22, 2026.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Sandhya Sanghi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 496–2879, sandhya.sanghi@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Metabolic-Associated Liver Disease.

Date: April 22, 2026.

Time: 9:00 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Murali Ganesan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, murali.ganesan@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Research Enhancement Award and SuRE Programs (R15 and R16).

Date: April 22, 2026.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Susan Wohler Sunnarborg, Ph.D., Scientific Review Officer, Center for Scientific Review (CSR), National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 827–7987, susan.sunnarborg@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Special: Topics in pathophysiology, imaging, and therapeutic strategies for eye diseases.

Date: April 22, 2026.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Sindhu Kizhakke Madathil, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 827–5702, sindhu.kizhakkemadathil@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Special: Respiratory Topics.

Date: April 22, 2026.

Time: 9:00 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Prashant Sharma, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (240) 275–6351, prashant.sharma@nih.gov.

Name of Committee: Risk, Prevention and Health Behavior Integrated Review Group; Interventions to Prevent and Treat Addictions Study Section.

Date: April 22–23, 2026.

Time: 9:30 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Izabella Zandberg, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–0359, izabella.zandberg@nih.gov.

Name of Committee: Population Sciences and Epidemiology Integrated Review Group; Analytics and Statistics for Population Research Panel B Study Section.

Date: April 22–23, 2026.

Time: 10:00 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Ivan Tadeu Rebustini, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive Bethesda, MD 20892, (301) 827–1641, ivan.rebustini@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; T32 Institutional Training Grant Review.

Date: April 22, 2026.

Time: 10:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Kan Ma, Ph.D., Scientific Review Officer, Center for Scientific Review,

National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 451–4838, mak2@mail.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics in Molecular Virology, Pathogenesis, and Vaccine Development.

Date: April 22, 2026.

Time: 10:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Joshua D Powell, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–5370, josh.powell@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Topics in Addiction Risks and Mechanisms.

Date: April 22, 2026.

Time: 10:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Li Jia, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 451–2854, li.jia@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics in Infectious Diseases.

Date: April 22, 2026.

Time: 10:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Dayadevi Jirage, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4422, Bethesda, MD 20892, (301) 867–5309, jiragedb@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Training: Immunology and Infectious Diseases C.

Date: April 22, 2026.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Susham Shankarrao Ingavale, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (240) 961–1172, susham.ingavale@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 24, 2026.

Rosalind M. Niamke,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026-05957 Filed 3-26-26; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HOMELAND SECURITY

Notice of Adoption of Categorical Exclusions Under Section 109 of the National Environmental Policy Act

AGENCY: Office of the Secretary, Department of Homeland Security.

ACTION: Notice of Adoption of Categorical Exclusions pursuant to Section 109 of the National Environmental Policy Act, 42 U.S.C. 4336c.

SUMMARY: The Department of Homeland Security (DHS) is notifying the public and documenting the adoption of five categorical exclusions (CEs) under the National Environmental Policy Act (NEPA). This notice identifies the types of actions to which DHS will apply the CEs, the considerations that DHS will use in determining the applicability of the CEs, and the consultation between the agencies on the use of the CEs, including application of extraordinary circumstances.

DATES: The adoption is effective March 27, 2026.

FOR FURTHER INFORMATION CONTACT: Jennifer DeHart Hass, Director, Environmental Planning Branch, by email at jennifer.hass@hq.dhs.gov or by telephone at (202) 834-4346.

SUPPLEMENTARY INFORMATION:

I. Background

National Environmental Policy Act and Categorical Exclusions

The National Environmental Policy Act, 42 U.S.C. 4321-4347, as amended (NEPA), requires, with respect to major federal actions significantly affecting the quality of the human environment, all Federal agencies to assess the environmental impacts of their proposed actions before deciding whether and how to proceed. Congress enacted NEPA to encourage productive and enjoyable harmony between humans and the environment, recognizing the profound impact of human activity and the critical importance of restoring and maintaining environmental quality to the overall welfare of humankind. 42 U.S.C. 4321, 4331. NEPA's aims are to ensure that agencies consider the potential environmental effects of their proposed

actions in their decision-making processes and inform and involve the public in that process. 42 U.S.C. 4332. To comply with NEPA, agencies determine the appropriate level of review for a proposed action. 42 U.S.C. 4336. Where required, these levels of review may be documented in an environmental impact statement (EIS), an environmental assessment (EA), or categorical exclusion. 42 U.S.C. 4336. If a proposed action is likely to have significant environmental effects, the agency must prepare an EIS and document its decision in a record of decision. 42 U.S.C. 4336(b)(1). If the proposed action is not likely to have significant environmental effects or where the level of significance is unknown, the agency may instead prepare an EA, which involves preparing a concise public document that may reach a finding of no significant impact. 42 U.S.C. 4336(b)(2). If, following preparation of an EA, the agency finds that the proposed action may have significant effects, then an EIS is required.

Under NEPA, a Federal agency may establish categorical exclusions—categories of actions that the agency has determined normally do not significantly affect the quality of the human environment—in its agency NEPA procedures. 42 U.S.C. 4336e (1). If an agency determines that a categorical exclusion covers a proposed action, the agency will then evaluate the proposed action for any extraordinary circumstances in which a normally excluded action may have a significant effect. If no extraordinary circumstances are present or if further analysis determines that the extraordinary circumstances do not involve the potential for significant environmental impacts, the agency may rely on the categorical exclusion to approve the proposed action without preparing an EA or EIS. 42 U.S.C. 4336(a)(2). If the extraordinary circumstances have the potential to result in significant effects, the agency is required to prepare an EA or EIS.

Section 109 of NEPA, 42 U.S.C. 4336c, enacted as part of the Fiscal Responsibility Act of 2023, allows a Federal agency to “adopt a categorical exclusion listed in another agency’s NEPA procedures for a category of proposed agency actions for which the categorical exclusion was established.” 42 U.S.C. 4336c. To adopt another agency’s categorical exclusion under section 109, the adopting agency must: (1) identify the relevant categorical exclusion listed in another agency’s (“establishing agency”) NEPA procedures “that covers a category of

proposed actions or related actions”; (2) consult with the establishing agency “to ensure that the proposed adoption of the categorical exclusion to a category of actions is appropriate”; (3) “identify to the public the categorical exclusion that the [adopting] agency plans to use for its proposed actions”; and (4) document adoption of the categorical exclusion. 42 U.S.C. 4336c.

This notice documents the Department’s adoption of five CEs for DHS use and notifies the public of these adoptions. One CE for adoption was established by the Department of the Interior (DOI), Bureau of Reclamations (BOR) at DOI NEPA Handbook Appendix 2 paragraph 14.5.D(17). One CE for adoption was established by DOI, Fish and Wildlife Services (USFWS) at DOI NEPA Handbook Appendix 2 B(4). One CE for adoption was established by the Department of Agriculture (USDA), Farm Service Agency (FSA) at 7 CFR Subtitle A 1b.4(d)(1). Two CEs for adoption were established by the National Aeronautics and Space Administration (NASA) at 14 CFR part 1216.304(d)(2)(ix) and 14 CFR part 1216.304(d)(5)(i).

The DHS NEPA procedures are contained within Department of Homeland Security Directive 023-01 Rev 01 and the Instruction Manual 023-01-001-01 Rev 01, *Implementing the National Environmental Policy Act* (DHS NEPA Instruction Manual). The Department maintains a list of categorical exclusions available to all DHS Components in the DHS NEPA Instruction Manual.

II. Identification of the Categorical Exclusions

DHS has identified the following five CEs for adoption.

BOR Categorical Exclusion for Adoption

DHS has identified 516 DOI NEPA Handbook Appendix 2 paragraph 14.5.D(17) “*Minor safety of dam construction activities where the work is confined to the dam, abutment areas, or appurtenant features, and where no major change in reservoir or downstream operation is anticipated as a result of construction activities.*”

DHS intends to use this CE to cover rehabilitation activities for dams, abutment areas, and appurtenances funded by the Federal Emergency Management Agency (FEMA) High Hazard Potential Dam Program.

USFWS Categorical Exclusions for Adoption

DHS has identified DOI NEPA Handbook Appendix 2 paragraph B(4). “*The use of prescribed burning for*

habitat improvement purposes, when conducted in accordance with local and State ordinances and laws.”

DHS intends to use this CE to cover actions described in the CE. Per consultation with USFWS, this CE should be applied for actions with the purpose of habitat restoration or enhancement. FEMA would use this CE to support limited fire prevention activities under the Hazard Mitigation Assistance program, where the purpose of the project is also habitat restoration or enhancement.

FSA Categorical Exclusions for Adoption

DHS has identified 7 CFR Subtitle A 1b.4(d)(1) “Construction or ground disturbance actions.

- (i) Bridges;
- (ii) Chiseling and subsoiling in areas not previously tilled;
- (iii) Construction of a new farm storage facility;
- (iv) Dams;
- (v) Dikes and levees;
- (vi) Diversions;
- (vii) Drop spillways;
- (viii) Dugouts;
- (ix) Excavation;
- (x) Grade stabilization structures;
- (xi) Grading, leveling, shaping and filling in areas or to depths not previously disturbed;
- (xii) Installation of structures designed to regulate water flow such as pipes, flashboard risers, gates, chutes, and outlets;
- (xiii) Irrigation systems;
- (xiv) Land smoothing;
- (xv) Line waterways or outlets;
- (xvi) Lining;
- (xvii) Livestock crossing facilities;
- (xviii) Pesticide containment facility;
- (xix) Pipe drop;
- (xx) Pipeline for watering facility;
- (xxi) Ponds, including sealing and lining;
- (xxii) Precision land farming with ground disturbance;
- (xxiii) Riparian buffer establishment;
- (xxiv) Roads, including access roads;
- (xxv) Rock barriers;
- (xxvi) Rock filled infiltration trenches;
- (xxvii) Sediment basin;
- (xxviii) Sediment structures;
- (xxix) Site preparation for planting or seeding in areas not previously tilled;
- (xxx) Soil and water conservation structures;
- (xxxi) Stream bank and shoreline protection;
- (xxxii) Structures for water control;
- (xxxiii) Subsurface drains;
- (xxxiv) Surface roughening;
- (xxxv) Terracing;
- (xxxvi) Underground outlets;
- (xxxvii) Watering tank or trough installation, if in areas not previously disturbed;

(xxxviii) Wells; and
(xxxix) Wetland restoration.”

DHS intends to use this CE to cover a broad range of ground disturbance activities with potential for extraordinary circumstances requiring review, including bridges, dams, excavation, and more. DHS and Components would use this CE to cover routine and maintenance projects with small footprints or limited areas of disturbance (e.g., small bridges authorized by United States Coast Guard) that would not require an EA or EIS. Areas with larger footprints or areas of disturbance that may result in potentially adverse effects may require additional environmental review and consultation.

NASA Categorical Exclusions for Adoption

DHS has identified 14 CFR part 1216.304(d)(2)(ix) for adoption “Routine maintenance, repair, and operation of vessels (including unmanned autonomous surface vessels), aircraft (including unmanned aircraft systems), overland/surface transportation vehicles, and other transportation systems as applicable. Examples include but are not limited to transportation or relocation of NASA equipment and hardware by barge, aircraft, or surface transportation system (e.g., tractor trailer or railroad); retrieval of spent solid rocket boosters by vessel; repair or overhaul of vessel, aircraft, or surface transportation systems that do not result in a change in the environmental impacts of their normal operation.”

DHS intends to use this CE to cover routine maintenance, repair, and operation of transportation platforms (such as unmanned aircraft systems) completed by DHS Components. Per consultation with NASA, NASA administrative records limit this CE to small unmanned aircraft systems within Category 1 or Category 2. DHS will document each application of NASA CEs and their consistency with NASA limitations in the DHS Environmental Planning and Historic Preservation Decision Support System. DHS will only apply this CE for routine maintenance, repair, and operation of Category 1 or Category 2 aircraft systems.

DHS has identified 14 CFR part 1216.304(d)(5)(i) for adoption “Periodic aircraft (including unmanned aircraft systems) flight activities, including training and research and development, which are routine and comply with applicable Federal, state, Tribal, or local laws or requirements, and Executive Orders.”

DHS intends to use this CE to cover flight activities (such as those completed by unmanned aircraft systems) completed by DHS Components.

III. Consideration of Extraordinary Circumstances

When applying these categorical exclusions, DHS will evaluate the proposed actions for whether there are any extraordinary circumstances. The Department’s extraordinary circumstances are listed within the DHS Instruction Manual and include, in part, consideration of impacts on public health and safety; listed species and migratory birds; historic or cultural resources; Indian sacred sites; environmentally sensitive areas, such as historic properties prime or unique agricultural lands, coastal zones, designated wilderness or wilderness study areas, wild and scenic rivers, 100-year floodplains, wetlands, sole source aquifers, Marine Sanctuaries, National Wildlife Refuges, National Parks, National Monuments, essential fish habitat; violations of a Federal, State, or local law or requirement imposed to protect the environment; certain levels of controversy in terms of scientific validity; precedent for future decision-making; context of scope and size of the particular action; and degradation of already existing poor environmental conditions.

DHS’s list of extraordinary circumstances is comparable to those of DOI, found at 43 CFR 46.215; However, one DOI extraordinary circumstance 43 CFR 46.215(i), which considers the introduction of noxious weeds or non-native invasive species, is not explicitly covered under in DHS extraordinary circumstances.

To ensure DHS application of DOI CEs is consistent with DOI extraordinary circumstances, DHS will evaluate whether the action will result in the introduction of noxious weeds or non-native invasive species as described in 43 CFR 46.215(i). Consistent with the DHS NEPA Instruction Manual, DHS will document each application of DOI CEs and their consistency with DOI extraordinary circumstances in the DHS Environmental Planning and Historic Preservation Decision Support System. If DHS determines that a CE is not appropriate to support a decision on a particular proposed action due to extraordinary circumstances, DHS would prepare an EA or EIS.

DHS’s list of extraordinary circumstances is comparable to those of USDA, found at 7 CFR Subtitle A Part 1b.3(f), and NASA, found at 14 CFR part 1216.304(c).

Therefore, only the DHS NEPA Instruction Manual and the extraordinary circumstances contained therein would be reviewed as to whether the proposed action has the potential to result in significant effects for actions DHS is intending to apply a USDA or a NASA CE. If DHS determines that a CE is not appropriate to support a decision on a particular proposed action due to extraordinary circumstances, DHS would prepare an EA or EIS. Consistent with the DHS NEPA Instruction Manual, DHS will document each application of these CEs in the DHS Environmental Planning and Historic Preservation Decision Support System.

IV. Consultation With Agencies and Determination of Appropriateness

In July, August, and December of 2025 and January of 2026, DHS consulted with BOR, FSA, USFWS, and NASA about the appropriateness of the Department's adoption of their respective categorical exclusions. Those consultations each included a review of each agency's or bureau's experience in establishing and applying the categorical exclusions, as well as DHS's intended uses for the categorical exclusions. Based on those consultations and reviews, DHS has determined that the types of activities DHS proposes to authorize are substantially similar to the activities for which BOR, USFWS, FSA, and NASA have applied their respective categorical exclusions. Accordingly, the impacts of the DHS actions would be substantially similar to the impacts of each establishing agency's actions, which are not significant, absent the existence of extraordinary circumstances. Therefore, DHS has determined that DHS's proposed use of the CEs, as described within this notice is appropriate.

V. Notice to the Public and Documentation of Adoption

This notice serves to identify to the public and document DHS's adoption of BOR, USFWS, FSA, and NASA categorical exclusions and identifies the types of actions to which DHS contemplates applying the actions at this time. Upon issuance of this notice, the adopted BOR, USFWS, FSA, and NASA categorical exclusions will be available to DHS and accessible on [DHS.gov](https://www.dhs.gov/ocrso/eed/epb/nepa) at <https://www.dhs.gov/ocrso/eed/epb/nepa>.

Tracey L. Watkins,
Chief Readiness Support Officer, Department of Homeland Security.

[FR Doc. 2026-05952 Filed 3-26-26; 8:45 am]

BILLING CODE 9112-FF-P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[CIS No. 2824-25; DHS Docket No. USCIS-2025-0009]

Notice of Approval of New Credentialing Organization for Health Care Workers for Certain Immigration Purposes

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: Notice.

SUMMARY: The Department of Homeland Security (DHS or the Department), U.S. Citizenship and Immigration Services (USCIS) is issuing this document to inform the public of the approval of a new credentialing organization, The Evaluation Company, for certain health care workers for immigration purposes. **DATES:** USCIS approved the application from The Evaluation Company on March 27, 2026.

FOR FURTHER INFORMATION CONTACT: Business and Foreign Workers Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security, 5900 Capital Gateway Drive, Camp Springs, MD 20746; or by phone at 240-721-3000.

SUPPLEMENTARY INFORMATION: Sections 212(a)(5)(C) and 212(r) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1182(a)(5)(C) and (r), as well as the DHS regulations at 8 CFR 214.1(i) and (j) and 212.15(a) and (n)(3), require that an alien who seeks admission to the United States as a nonimmigrant or immigrant, or who is the beneficiary of a change of status request, or who is applying for adjustment of status, for the purpose of performing labor in certain health care occupations is inadmissible unless he or she presents a certificate from an authorized credentialing organization. DHS regulations at 8 CFR 212.15(e)(1) through (3) expressly authorize the Commission on Graduates of Foreign Nursing Schools (CGFNS),¹ the National Board for Certification in Occupational Therapy (NBCOT), and the Foreign Credentialing Commission on Physical Therapy (FCCPT) to issue such certificates. In addition, DHS regulations list CGFNS as authorized to issue alternative certified statements

under INA section 212(r), 8 U.S.C. 1182(r). See 8 CFR 212.15(h).

DHS regulations also establish detailed standards for the approval of additional credentialing organizations after consultation with the Secretary of Health and Human Services, and USCIS has created an adjudicatory framework for the filing and adjudication of those applications using Form I-905, *Application for Authorization to Issue Certification for Health Care Workers*. 8 CFR 212.15(j) and (k). The regulations also provide for periodic review and, if necessary, termination of credentialing organizations. 8 CFR 212.15(l) and (m). Finally, the regulations direct DHS to notify the public of the approval of additional credentialing organizations by publishing notices in the **Federal Register**. 8 CFR 212.15(e) and (h).

USCIS maintains a complete list of organizations authorized to issue health care certifications and certified statements on its website along with guidance on certificates for health care workers at <https://www.uscis.gov/working-in-the-united-states/temporary-workers/health-care-worker-certification>.

In accordance with 8 CFR 212.15(e) and (h), USCIS is providing notice that on March 27, 2026, following its review of the Form I-905, *Application for Authorization to Issue Certification for Health Care Workers*, submitted by The Evaluation Company and consultation with the Secretary of Health and Human Services, it has approved the application from The Evaluation Company as an organization authorized to issue certificates and certified statements under sections 212(a)(5)(C) and 212(r) of the Act, 8 U.S.C. 1182(a)(5)(C) and (r), for aliens seeking to enter the United States for the primary purpose of working as registered nurses, licensed practical nurses, and licensed vocational nurses. Pursuant to 8 CFR 212.15(k), the authorization is valid for 5 years starting on March 27, 2026, and ending on Thursday, March 27, 2031.

Joseph B. Edlow,

Director, U.S. Citizenship and Immigration Services, U.S. Department of Homeland Security.

[FR Doc. 2026-05942 Filed 3-26-26; 8:45 am]

BILLING CODE 9111-97-P

¹ On December 18, 2024, CGFNS International, Inc. filed Articles of Amendment with the Pennsylvania Department of State to change its name to TruMerit.

DEPARTMENT OF THE INTERIOR**Bureau of Land Management**

[A2407–014–004–065516, #O2509–014–004–125222; LLAk980200 L14100000.HM0000 234]

Agency Information Collection Activities; Alaska Native Vietnam-Era Veterans Allotments

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) proposes extending an information collection.

DATES: Interested persons are invited to submit comments on or before May 26, 2026.

ADDRESSES: Send your written comments on this information collection request (ICR) by mail to Darrin King, Information Collection Clearance Officer, U.S. Department of the Interior, Bureau of Land Management, Attention PRA Office, 440 W 200 S #500, Salt Lake City, UT 84101; or by email to BLM_HQ_PRA_Comments@blm.gov. Please reference Office of Management and Budget (OMB) Control Number 1004–0216 in the subject line of your comments. Please note that the electronic submission of comments is recommended.

FOR FURTHER INFORMATION CONTACT: To request additional information about this Information Collection Request (ICR), contact Michael Everett, by email at meverett@blm.gov, or by telephone at (907) 271–3786. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States. You may also view the ICR at <http://www.reginfo.gov/public/do/PRAMain>.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995 (PRA, 44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), all information collections require approval under the PRA. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are especially interested in public comments addressing the following:

(1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How the agency might minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personally identifiable information in your comment, you should be aware that your entire comment—including your personally identifiable information—may be made publicly available at any time. While you can ask us in your comment to withhold your personally identifiable information from public review, we cannot guarantee that we will be able to do so.

Abstract: Under this OMB Control Number BLM collects information related to Native veteran land allotment applications. The authority for this Program is section 1119 of the John D. Dingell, Jr. Conservation, Management, and Recreation Act of March 12, 2019, Public Law 116–9, codified at 43 U.S.C. 1629g–1. This OMB Control Number is currently scheduled to expire on July 31, 2026. The BLM plans to request that OMB renew this OMB Control Number for an additional three (3) years.

Title of Collection: Alaska Native Vietnam-Era Veterans Allotments (43 CFR 2569).

OMB Control Number: 1004–0216.

Form Numbers: Alaska Native Vietnam-Era Veterans Allotments Application, AK 2569–10.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Individuals and State/Local/Tribal governments.

Total Estimated Number of Annual Respondents: 1,265.

Total Estimated Number of Annual Responses: 1,265.

Estimated Completion Time per Response: Varies from 4.5 hours to 30 minutes per response.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Total Estimated Number of Annual Hours: 3,828.

Total Estimated Annual Non-hour Burden Cost: \$55,000.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Darrin A. King,

Information Collection Clearance Officer.

[FR Doc. 2026–06005 Filed 3–26–26; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR**National Park Service**

[N6957; NPS–WASO–NAGPRA–NPS0042473; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intended Repatriation: The University of Maine, Orono, ME

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the University of Maine, Orono, intends to repatriate certain cultural items that meet the definition of unassociated funerary objects and that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural items in this notice may occur on or after April 27, 2026.

ADDRESSES: Send additional, written requests for repatriation of the cultural items in this notice to Dr. Bonnie Newsom, Anthropology Department, University of Maine, 5773 South Stevens Hall, Orono, ME 04469, email bonnie.newsom@maine.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative

responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the University of Maine, Orono, and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of 184 cultural items has been requested for repatriation. These items include artifacts, soil and other samples, and casts of funerary objects that were donated to the University of Maine over its history by collectors such as Walter B. Smith and materials left from Dr. Brian Robinson's research into funerary practices in Maine and New England prior to European Contact.

A total of 26 unassociated funerary items could not be associated with a known archaeological site but are reasonably assumed to be from sites located in Maine based on regional typologies and research interests of Northeastern archaeology faculty. The 26 unassociated funerary objects include two ocher-stained gouges, an ocher-stained celt, an atlatl weight, an ocher-stained ground stone preform, 16 bifaces, a rounded pebble, a slate point fragment, and three abraders.

A total of 113 items are from the Godfrey Cemetery site, dated to approximately 3800 BP, and located in Old Town, Penobscot County, Maine. The 113 unassociated funerary objects include a small lithic flake from a stone tool, a limonite sample with insect pupae from a fire-starting kit, two sediment samples, one charcoal sample, 19 plaster artifact casts, and 89 wax flakes scraped from funerary objects after making casts of the objects.

A total of 45 plaster casts created directly from funerary objects are from the Overlock Cemetery site located in Warren, Knox County, Maine. The site dates to approximately 3800–3600 BP.

Determinations

The University of Maine, Orono, has determined that:

- The 184 unassociated funerary objects described in this notice are reasonably believed to have been placed intentionally with or near human remains, and are connected, either at the time of death or later as part of the death rite or ceremony of a Native American culture according to the Native American traditional knowledge of a lineal descendant, Indian Tribe, or Native Hawaiian organization. The unassociated funerary objects have been identified by a preponderance of the

evidence as related to human remains, specific individuals, or families, or removed from a specific burial site or burial area of an individual or individuals with cultural affiliation to an Indian Tribe or Native Hawaiian organization.

- There is a connection between the cultural items described in this notice and the Houlton Band of Maliseet Indians; Mi'kmaq Nation (previously listed as Aroostook Band of Micmacs); Passamaquoddy Tribe; and the Penobscot Nation.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after April 27, 2026. If competing requests for repatriation are received, the University of Maine, Orono, must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The University of Maine, Orono, is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: March 20, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026–05962 Filed 3–26–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7018; NPS–WASO–NAGPRA–NPS0042476; PPWOCRADNO–PCU00RP14.R50000]

Notice of Intended Repatriation: Los Angeles County Museum of Natural History, Los Angeles, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Los Angeles County Museum of Natural History (LACMNH) intends to repatriate a certain cultural item that meets the definition of an object of cultural patrimony and that has a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural item in this notice may occur on or after April 27, 2026.

ADDRESSES: Send additional, written requests for repatriation of the cultural item in this notice to Amy E. Gusick, NAGPRA Officer, Los Angeles County Museum of Natural History, 900 Exposition Boulevard, Los Angeles, CA 90007, email agusick@nhm.org.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the LACMNH, and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of one cultural item has been requested for repatriation. The one object of cultural patrimony is a twined water bottle woven with *juncus textilis* and coated with asphaltum (A.2562.58–143). The basket was collected by Douglas S. Adams during the 1900s and donated to LACMNH in 1958 as part of a larger donation of baskets originating from the western part of North America. Based on Indigenous knowledge learned during Tribal consultation, museum documentation, and anthropological and archaeological knowledge, LACMNH determined that the basket is of Chumash origin.

Determinations

The LACMNH has determined that:

- The one object of cultural patrimony described in this notice has ongoing historical, traditional, or cultural importance central to the Native American group, including any constituent sub-group (such as a band, clan, lineage, ceremonial society, or other subdivision), according to the Native American traditional knowledge of an Indian Tribe or Native Hawaiian organization.

- There is a connection between the cultural item described in this notice

and the Santa Ynez Band of Chumash Mission Indians of the Santa Ynez Reservation, California.

Requests for Repatriation

Additional, written requests for repatriation of the cultural item in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural item in this notice to a requestor may occur on or after April 27, 2026. If competing requests for repatriation are received, the LACMNH must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural item are considered a single request and not competing requests. The LACMNH is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: March 20, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026-05963 Filed 3-26-26; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7020; NPS-WASO-NAGPRA-NPS0042478; PPWOCRADN0-PCU00RP14.R50000]

Notice of Intended Repatriation: Center for Natural Lands Management, Temecula, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Center for Natural Lands Management intends to repatriate certain cultural items that meet the definition of unassociated funerary objects, sacred objects, and/or objects of cultural patrimony and that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural items in this notice may occur on or after April 27, 2026.

ADDRESSES: Send additional, written requests for repatriation of the cultural items in this notice to Deborah Rogers, Center for Natural Lands Management, 27258 Via Industria, Suite B, Temecula, CA 92590, email drogers@cnlm.org.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Center for Natural Lands Management, and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of approximately 55 cultural items have been requested for repatriation. The 54 lots of unassociated funerary objects are ceramics, lithics, bone, groundstone, beads, and shells. The one sacred object is the contents of a Shaman's pipe. The objects were likely found in Riverside County, California, in the vicinity of Thousand Palms Oasis. When the Center for Natural Lands Management acquired the Thousand Palms Oasis Preserve, the objects were found to have been collected in boxes in the Palm House. There is no evidence of hazardous substances being used to treat any of the items.

Determinations

The Center for Natural Lands Management has determined that:

- The 54 unassociated funerary objects described in this notice are reasonably believed to have been placed intentionally with or near human remains, and are connected, either at the time of death or later as part of the death rite or ceremony of a Native American culture according to the Native American traditional knowledge of a lineal descendant, Indian Tribe, or Native Hawaiian organization. The unassociated funerary objects have been identified by a preponderance of the evidence as related to human remains, specific individuals, or families, or removed from a specific burial site or burial area of an individual or individuals with cultural affiliation to an Indian Tribe or Native Hawaiian organization.

- The one sacred object described in this notice are specific ceremonial objects needed by a traditional Native

American religious leader for present-day adherents to practice traditional Native American religion, according to the Native American traditional knowledge of a lineal descendant, Indian Tribe, or Native Hawaiian organization.

- There is a connection between the cultural items described in this notice and the Agua Caliente Band of Cahuilla Indians of the Agua Caliente Indian Reservation, California.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after April 27, 2026. If competing requests for repatriation are received, the Center for Natural Lands Management must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The Center for Natural Lands Management is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: March 20, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026-05967 Filed 3-26-26; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7027; NPS-WASO-NAGPRA-NPS0042485; PPWOCRADN0-PCU00RP14.R50000]

Notice of Inventory Completion: Illinois State Museum, Springfield, IL

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Illinois State Museum has completed an inventory of human remains and has determined that there is a cultural affiliation between the human remains and Indian Tribes in this notice.

DATES: Repatriation of the human remains in this notice may occur on or after April 27, 2026.

ADDRESSES: Send written requests for repatriation of the human remains in this notice to Dr. Brooke M. Morgan, Illinois State Museum Research & Collections Center, 1011 East Ash Street, Springfield, IL 62703, email brooke.morgan@illinois.gov.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Illinois State Museum, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing, at minimum, 16 individuals have been identified. No associated funerary objects are present. The human remains were removed from the Fisher Site (11WI5), Will County, IL, by George Langford and by the University of Chicago on an unknown date prior to 1941. They were part of the University of Chicago teaching collection until 1948. They were then in private hands until 2007, when they were donated to the Illinois State Museum. They were not recognized as being from the Fisher site until a collections review in 2026. The human remains date to the Upper Mississippian period of site occupation. No hazardous substances are known to have been used to treat any of the human remains.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is clearly identified by the information available about the human remains described in this notice.

Determinations

The Illinois State Museum has determined that:

- The human remains described in this notice represent the physical remains of at least 16 individuals of Native American ancestry.

- There is a connection between the human remains described in this notice and the Absentee Shawnee Tribe of Oklahoma; Citizen Potawatomi Nation, Oklahoma; Eastern Shawnee Tribe of Oklahoma; Forest County Potawatomi Community, Wisconsin; Hannahville Indian Community, Michigan; Ho-Chunk Nation of Wisconsin; Iowa Tribe of Kansas and Nebraska; Iowa Tribe of Oklahoma; Kickapoo Traditional Tribe of Texas; Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas; Kickapoo Tribe of Oklahoma; Match-E-Be-Nash-She-Wish Band of Pottawatomi (previously listed as Match-E-Be-Nash-She-Wish Band of Pottawatomi Indians of Michigan); Miami Tribe of Oklahoma; Minnesota Chippewa Tribe, Minnesota (Fond du Lac Band; Mille Lacs Band); Nottawaseppi Huron Band of the Potawatomi, Michigan; Omaha Tribe of Nebraska; Otoe-Missouria Tribe of Indians, Oklahoma; Peoria Tribe of Indians of Oklahoma; Pokagon Band of the Potawatomi Indians, Michigan and Indiana; Prairie Band Potawatomi Nation; Sac & Fox Nation of Missouri in Kansas and Nebraska; Sac & Fox Nation, Oklahoma; Sac & Fox Tribe of the Mississippi in Iowa; Shawnee Tribe; and the Winnebago Tribe of Nebraska.

Requests for Repatriation

Written requests for repatriation of the human remains in this notice must be sent to the authorized representative identified in this notice under

ADDRESSES. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes identified in this notice.
2. Any lineal descendant or Indian Tribe not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe with cultural affiliation.

Repatriation of the human remains described in this notice to a requestor may occur on or after April 27, 2026. If competing requests for repatriation are received, the Illinois State Museum must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains are considered a single request and not competing requests. The Illinois State Museum is responsible for sending a copy of this notice to the Indian Tribes identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: March 20, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026-05968 Filed 3-26-26; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7023; NPS-WASO-NAGPRA-NPS0042481; PPWOCRADNO-PCU00RP14.R50000]

Notice of Inventory Completion: San Bernardino County Museum, Redlands, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), San Bernardino County Museum has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after April 27, 2026.

ADDRESSES: Send written requests for repatriation of the human remains and associated funerary objects in this notice to Gabrielle Carpentier, San Bernardino County Museum, 2024 Orange Tree Lane, Redlands, CA 92374, email gabrielle.carpentier@sbc.sbcounty.gov.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of San Bernardino County Museum, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing, at least, one individual have been identified. The one associated funerary object is a stirrup. The ancestral remains were removed in 1951 by Benjamin McCown. The stirrup found with the collection contains a note that appears to read, "Lettean Canyon 1951." SBCM staff believe this note is referring to Letteau Canyon, from a privately owned ranch named Lannan Ranch. Based on

archaeological context and information learned from consultations, this individual is Native American. Archaeologists have asserted that Serrano and Tataviam peoples have continuously occupied the San Gabriel Mountains and the surrounding areas for up to 5,000–6,000 years BP. Linguistic sources demonstrate a strong continuous shared group identity between those people using Agua Dulce roughly 3000 years ago and modern Native Americans of Serrano and Tataviam descent. Ethnographic evidence and Traditional Knowledge document the Agua Dulce region as home to Serrano and Tataviam peoples since time immemorial.

Human remains representing, at least, one individual have been identified. The eight associated funerary objects are ground stone, faunal bone, shell, shell beads, a pipe stem fragment, ceramic sherds, lithics, and quartz. This collection, CA–SBR–00183 (SBCM–72), is from Bryman Rd in Helendale, CA. Records from 1940 state: “This was probably the rancharia of Topiabit that was mentioned by Rr. Joaquin Pasqual Nuez. Kroeber places it in the Serrano dialect, and the surface indications resemble those of the other camp sites on up the Mojave River.”

Human remains representing, at least, eight individuals have been identified. The one associated funerary object is shell. This collection was previously unprovenanced. With the assistance of forensic anthropologist Dr. Alexis Gray, the ancestral remains were determined to be Native American. Dr. Gray also determined the ancestral remains to be likely from San Bernardino County, particularly around the Newberry Springs area, based on visual examination of the soil type present in the collection.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location or acquisition history of the human remains and associated funerary objects described in this notice.

Determinations

San Bernardino County Museum has determined that:

- The human remains described in this notice represent the physical remains of 10 individuals of Native American ancestry.
- The 10 objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of

death or later as part of the death rite or ceremony.

- There is a connection between the human remains and associated funerary objects described in this notice and the Morongo Band of Mission Indians, California and the Yuhaaviatam of San Manuel Nation (previously listed as San Manuel Band of Mission Indians, California).

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after April 27, 2026. If competing requests for repatriation are received, San Bernardino County Museum must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. San Bernardino County Museum is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: March 20, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026–05971 Filed 3–26–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N6975; NPS–WASO–NAGPRA–NPS0042296; PPWOCRADNO–PCU00RP14.R50000]

Notice of Proposed Transfer or Reinterment: New York State Office of Parks, Recreation & Historic Preservation, Waterford, NY

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the New York State Office of Parks, Recreation & Historic Preservation (NYOPRHP) proposes to transfer human remains listed in notices of inventory completion published in the **Federal Register** on June 27, 2024 and December 18, 2025.

DATES: Repatriation, transfer, or reinterment of the human remains in this notice may occur on or after April 27, 2026.

ADDRESSES: Send written request for repatriation of the human remains to Jessica Vavrsek, New York State Office of Parks, Recreation & Historic Preservation, Peebles Island State Park, P.O. Box 189, Waterford, NY 12188–0189, email Jessica.Vavrsek@parks.ny.gov.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the NYOPRHP and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

This notice follows publication of two notices of inventory completion in the **Federal Register** (89 FR 53636, June 27, 2024 and 90 FR 59177, December 18, 2025). Human remains representing, at least, three individuals have been identified. A suspected Native American scalp was discovered during periodic cleaning of 80+ year old exhibit dedicated to Dan Beard located within Bear Mountain State Park as well as a necklace containing suspected Native American hand and foot bones with blue glass trade beads in-between the remains. The scalp was discovered within a riker box inside of a cardboard box with “Indian Scalp” written on the

outside in pencil. The necklace was discovered hung on a replica mantle display. No information is available as to where, when, or how they were acquired.

Consultation

Invitations to consult were sent to the Delaware Nation, Oklahoma; Delaware Tribe of Indians; and the Stockbridge Munsee Community, Wisconsin. The Delaware Nation, Oklahoma; Delaware Tribe of Indians, and the Stockbridge Munsee Community, Wisconsin all responded yes to NYOPRHP's request for consultation on this matter with all three Nations agreeing that the Stockbridge Munsee Community, Wisconsin would take the lead during this consultation.

Cultural Affiliation

The following types of information about the cultural affiliation of the human remains in this notice are available: geographical and historical. The information, including the results of consultation, identified:

1. No earlier group connected to the human remains.
2. No Indian Tribe or Native Hawaiian organization connected to the human remains.
3. No relationship of shared group identity between the earlier group and the Indian Tribe or Native Hawaiian organization that can be reasonably traced through time.

Determinations

The NYOPRHP has determined that:

- The human remains described in this notice represent the physical remains of three individuals of Native American ancestry.
- No known lineal descendant who can trace ancestry to the human remains in this notice has been identified.
- No Indian Tribe or Native Hawaiian organization with cultural affiliation to the human remains in this notice has been clearly or reasonably identified.
- The Stockbridge Munsee Community, Wisconsin have requested transfer of the human remains described in this notice.

Requests for Repatriation

Written requests for repatriation of the human remains in this notice must be sent to the authorized representative identified in this notice under

ADDRESSES. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation, transfer, or reinterment of the human remains described in this notice may occur on or after April 27, 2026. If requests for repatriation are received, the NYOPRHP must evaluate the requests and respond in writing to the requestors. The NYOPRHP is responsible for sending a copy of this notice to the Indian Tribes or Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: March 11, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026-05974 Filed 3-26-26; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7024; NPS-WASO-NAGPRA-NPS0042482; PPWOCRADNO-PCU00RP14.R50000]

Notice of Inventory Completion: S'edav Va'aki Museum, City of Phoenix, Phoenix, AZ

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the S'edav Va'aki Museum (formerly Pueblo Grande Museum), City of Phoenix has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after April 27, 2026.

ADDRESSES: Send written requests for repatriation of the human remains and associated funerary objects in this notice to Lindsey Vogel-Teeter, S'edav Va'aki Museum, 4619 East Washington Street, Phoenix, AZ 85034, email lindsey.vogel-teeter@phoenix.gov.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the S'edav Va'aki Museum, City of Phoenix, and additional information on the determinations in this notice, including

the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing, at least, four individuals and seven associated funerary objects have been identified in the collections of S'edav Va'aki Museum (SVM). The human remains and associated funerary objects were removed from multiple archaeological sites in Maricopa County, AZ during three archaeological excavations. These archaeological sites are associated with the Hohokam archaeological culture (A.D. 450 to 1450).

In May 1976, at least two individuals and six associated funerary objects were removed from site AZ T:12:1(ASM), during a salvage archaeological project conducted by employees of the City of Phoenix. The cultural items were identified in collections at SVM in 1998. The six associated funerary objects include two lots ceramic sherds, two lots lithics, one faunal bone, and one shell bracelet fragment. The human remains were identified in 2023 during a review of the faunal collection.

In 2004, at least one individual was removed from AZ T:12:215(ASM) also known as AZ T:12:1(ASM) during archaeological data recovery which took place prior to a construction project. No associated funerary objects are present. No human remains were identified during the archaeological project. The human remains were transferred with the collection to SVM in 2005, but they were not identified until 2022 when they were located during a review of the faunal collection.

In 2004, at least one individual and one associated funerary object were removed from site AZ T:12:50(ASM) during archaeological data recovery prior to the sale of land. No human remains were identified during the archaeological project. The human remains and associated funerary object were transferred to SVM with the collection in 2015, but they were not identified until 2022 when they were located during a review of the faunal collection. The one associated funerary object is a lot of faunal bone.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is clearly identified by the information available about the human remains and associated funerary objects described in this notice.

Determinations

The SVM has determined that:

- The human remains described in this notice represent the physical remains of four individuals of Native American ancestry.
- The seven objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a connection between the human remains and associated funerary objects described in this notice and the Ak-Chin Indian Community; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; and the Zuni Tribe of the Zuni Reservation, New Mexico.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after April 27, 2026. If competing requests for repatriation are received, the SVM must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The SVM is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: March 20, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026-05972 Filed 3-26-26; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7017; NPS-WASO-NAGPRA-NPS0042475; PPWOCRADNO-PCU00RP14.R50000]

Notice of Intended Repatriation: Denver Art Museum, Denver, CO

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Denver Art Museum intends to repatriate certain cultural items that meet the definition of sacred objects and that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural items in this notice may occur on or after April 27, 2026.

ADDRESSES: Send additional, written requests for repatriation of the cultural items in this notice to Jennifer (Jennie) Trujillo, Denver Art Museum, 100 W 14th Avenue Parkway, Denver, CO 80204, email jtrujillo@denverartmuseum.org.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Denver Art Museum and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of 18 cultural items have been requested for repatriation. The 18 sacred objects are two 'umeke lā'au (wood bowls), 10 kapa, one pahu (drum), two stone tools, one lei hulu (feather lei), one Lei niho palaoa (pendant necklace) and one moena (mat).

One wood bowl was acquired about 1899 from Mrs. A.C. Cass of Colorado, who then gifted it to the museum. The second bowl was purchased by the museum in 1948 from Altman Antiques in Los Angeles, California. Museum records have no additional information for either bowl. Five of the kapa came to the Denver Art Museum via an exchange with the British Museum in 1949. Oceanic works exchanged in 1949 with British Museum were taken from pool designated "duplicates collection" used for exchanges and was an

unregistered group with no catalogue records or detailed listings. Documentation provided has minimal provenance information. Consultation has confirmed their cultural affiliation with Hawaii. One kapa and the moena mat were gifts to the museum in 1942 from Mrs. Helen Stanford Canfield of Estes Park, Colorado. The kapa and moena mat were given to Mrs. Canfield's mother, Mrs. Josiah W. Stanford in Hawaii in 1898 by Mrs. Irene'i Holloway, a friend of Queen Lili'uokalani.

Two other kapa, the pahu, and the lei hulu were purchased by the museum from art dealer Julius Carlebach in 1949. There is no additional information about the kapa. The pahu is from the Fred Harvey collection that was exhibited at the San Francisco Fair in 1915. The lei hulu is said to have been acquired by an unnamed whaling family around 1800 and was brought to New Bedford Massachusetts in 1860. The lei hulu has tested positive for lead. One kapa was a gift from Mrs. Garetta Stoeve of La Jolla, California. It was collected by Mrs. Stoeve's father-in-law, Dr. Henry von H. Stoeve, in Hawaii in the 1890's. The final kapa was acquired by exchange in 1959 from the University of Pennsylvania Museum of Archaeology and Anthropology. There is no further provenance information in the DAM's records. The stone tools, a ko'i (adze) and a pōhaku ku'i 'ai (pounder) were gifted to the museum by Frederic H. Douglas, of Denver, Colorado. This collection of Hawaiian stone implements was acquired by Douglas from Altman Antiques of Los Angeles. Altman received them from an auctioneer who had sold the contents of a house owned by a man who once lived in Hawaii. No further history was provided. Finally, the Lei niho palaoa was gifted to the museum in 1954 by Theodore B. Pittman of Massachusetts. It is uncertain if this was a gift of Theodore Pittman Sr. or T. Pittman Jr. Theodore "Ted" Baldwin "Hoolulu" Pitman Jr. (1917-1997) of Swampscott, born in Hawaii and great-grandson of the High Chieftess Kinoole-o-Liliha Pitman of Hilo, Hawaii.

Determinations

The Denver Art Museum has determined that:

- The 18 sacred objects described in this notice are specific ceremonial objects needed by a traditional Native American religious leader for present-day adherents to practice traditional Native American religion, according to the Native American traditional knowledge of a lineal descendant,

Indian Tribe, or Native Hawaiian organization.

- There is a connection between the cultural items described in this notice and the Hui Iwi Kuamo'o.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after April 27, 2026. If competing requests for repatriation are received, the Denver Art Museum must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The Denver Art Museum is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: March 20, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026-05970 Filed 3-26-26; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7026; NPS-WASO-NAGPRA-NPS0042484; PPWOCRADN0-PCU00RP14.R50000]

Notice of Intended Repatriation: Missouri Department of Natural Resources, Jefferson City, MO

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Missouri Department of Natural Resources (MoDNR) intends to repatriate certain cultural items that meet the definition of sacred objects/objects of cultural patrimony and that have a cultural affiliation with the

Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural items in this notice may occur on or after April 27, 2026.

ADDRESSES: Send additional, written requests for repatriation of the cultural items in this notice to Caroline Crecelius, Repatriation Coordinator for the Missouri Department of Natural Resources, 1659 E Elm St., Jefferson City, MO 65101, email caroline.crecelius@dnr.mo.gov.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Missouri Department of Natural Resources and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of 235 cultural items have been requested for repatriation. The 235 sacred objects/objects of cultural patrimony include projectile points to blankets, bags, tools, photographs, jewelry, clothing and regalia, many of which are intricately beaded and/or woven. This collection was gifted by Ms. Owen to the museum in 1929. Through research of her published work, "Folklore of the Musquakie Indians of North America, And Catalogue of Musquakie Beadwork and Other Objects in the Collection of the Folklore Society (1904)," along with review of her unpublished field notes, it has been determined that the most likely origin of these belongings is the Sac & Fox Tribe of the Mississippi in Iowa in Tama, IA.

Determinations

The Missouri Department of Natural Resources has determined that:

- The 235 sacred objects/objects of cultural patrimony described in this notice are, according to the Native American traditional knowledge of an Indian Tribe or Native Hawaiian organization, specific ceremonial objects needed by a traditional Native American religious leader for present-day adherents to practice traditional Native American religion, and have ongoing historical, traditional, or cultural importance central to the Native American group, including any constituent sub-group (such as a band, clan, lineage, ceremonial society, or other subdivision).

- There is a connection between the cultural items described in this notice and the Sac & Fox Tribe of the Mississippi in Iowa.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after April 27, 2026. If competing requests for repatriation are received, the Missouri Department of Natural Resources must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The Missouri Department of Natural Resources is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: March 20, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026-05966 Filed 3-26-26; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7016; NPS-WASO-NAGPRA-NPS0042474; PPWOCRADN0-PCU00RP14.R50000]

Notice To Rescind a Notice of Inventory Completion: Oregon Health & Sciences University, Portland, OR

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: Oregon Health & Sciences University (OHSU) is rescinding a Notice of Inventory Completion published in the **Federal Register** on January 3, 2024.

ADDRESSES: Send written requests for repatriation of the human remains in this notice to Alice Cuprill Comas,

Oregon Health & Science University, 3181 SW Sam Jackson Park Road, Portland, OR 97239, email legal@ohsu.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under the Native American Graves Protection and Repatriation Act (NAGPRA). The determinations in this notice are the sole responsibility of OHSU, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

OHSU is rescinding a Notice of Inventory Completion published in the **Federal Register** (89 FR 389–390, January 3, 2024), and all paragraphs are deleted in their entirety. The human remains were removed from unknown locations in Oregon or Washington. Transfer of control of the human remains in this notice has not occurred.

OHSU is responsible for notifying the Big Pine Paiute Tribe of the Owens Valley; Bishop Paiute Tribe; Bridgeport Indian Colony; Burns Paiute Tribe; Cedarville Rancheria, California; Chemehuevi Indian Tribe of the Chemehuevi Reservation, California; Coeur D'Alene Tribe; Confederated Tribes and Bands of the Yakama Nation; Confederated Tribes of Siletz Indians of Oregon; Confederated Tribes of the Chehalis Reservation; Confederated Tribes of the Colville Reservation; Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians; Confederated Tribes of the Grand Ronde Community of Oregon; Confederated Tribes of the Umatilla Indian Reservation; Confederated Tribes of the Warm Springs Reservation of Oregon; Coquille Indian Tribe; Cow Creek Band of Umpqua Tribe of Indians; Cowlitz Indian Tribe; Duckwater Shoshone Tribe (previously listed as Duckwater Shoshone Tribe of the Duckwater Reservation, Nevada); Eastern Shoshone Tribe of the Wind River Reservation, Wyoming; Ely Shoshone Tribe of Nevada; Fort Bidwell Indian Community of the Fort Bidwell Reservation of California; Fort Independence Indian Community of Paiute Indians of the Fort Independence Reservation, California; Fort McDermitt Paiute and Shoshone Tribes of the Fort McDermitt Indian Reservation, Nevada and Oregon; Hoh Indian Tribe; Jamestown S'Klallam Tribe; Kaibab Band of Paiute Indians of the Kaibab Indian Reservation, Arizona; Kalispel Indian Community of the Kalispel

Reservation; Klamath Tribes; Las Vegas Tribe of Paiute Indians of the Las Vegas Indian Colony, Nevada; Lone Pine Paiute-Shoshone Tribe; Lovelock Paiute Tribe of the Lovelock Indian Colony, Nevada; Lower Elwha Tribal Community; Lummi Tribe of the Lummi Reservation; Makah Indian Tribe of the Makah Indian Reservation; Moapa Band of Paiute Indians of the Moapa River Indian Reservation, Nevada; Modoc Nation; Muckleshoot Indian Tribe; Nez Perce Tribe; Nisqually Indian Tribe; Nooksack Indian Tribe; Northwestern Band of the Shoshone Nation; Paiute Indian Tribe of Utah (Cedar Band of Paiutes, Kanosh Band of Paiutes, Koosharem Band of Paiutes, Indian Peaks Band of Paiutes, and Shivwits Band of Paiutes); Paiute-Shoshone Tribe of the Fallon Reservation and Colony, Nevada; Port Gamble S'Klallam Tribe; Puyallup Tribe of the Puyallup Reservation; Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation, Nevada; Quartz Valley Indian Community of the Quartz Valley Reservation of California; Quileute Tribe of the Quileute Reservation; Quinault Indian Nation; Reno-Sparks Indian Colony, Nevada; Samish Indian Nation; San Juan Southern Paiute Tribe of Arizona; Sauk-Suiattle Indian Tribe; Shoalwater Bay Indian Tribe of the Shoalwater Bay Indian Reservation; Shoshone-Bannock Tribes of the Fort Hall Reservation; Shoshone-Paiute Tribes of the Duck Valley Reservation, Nevada; Skokomish Indian Tribe; Snoqualmie Indian Tribe; Spokane Tribe of the Spokane Reservation; Squaxin Island Tribe of the Squaxin Island Reservation; Stillaguamish Tribe of Indians of Washington; Summit Lake Paiute Tribe of Nevada; Suquamish Indian Tribe of the Port Madison Reservation; Susanville Indian Rancheria, California; Swinomish Indian Tribal Community; Te-Moak Tribe of Western Shoshone Indians of Nevada (Four constituent bands: Battle Mountain Band; Elko Band; South Fork Band; and Wells Band); Timbisha Shoshone Tribe; Tulalip Tribes of Washington; Twenty-Nine Palms Band of Mission Indians of California; Upper Skagit Indian Tribe; Utu Utu Gwaitu Paiute Tribe of the Benton Paiute Reservation, California; Walker River Paiute Tribe of the Walker River Reservation, Nevada; Winnemucca Indian Colony of Nevada; Yerington Paiute Tribe of the Yerington Colony & Campbell Ranch, Nevada; and the Yomba Shoshone Tribe of the Yomba Reservation, Nevada that this notice has been published.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: March 20, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026–05969 Filed 3–26–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7025; NPS–WASO–NAGPRA–NPS0042483; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: S'edav Va'aki Museum, City of Phoenix, Phoenix, AZ

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the S'edav Va'aki Museum (formerly Pueblo Grande Museum), City of Phoenix has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after April 27, 2026.

ADDRESSES: Send written requests for repatriation of the human remains and associated funerary objects in this notice to Lindsey Vogel-Teeter, S'edav Va'aki Museum, 4619 East Washington Street, Phoenix, AZ 85034, email lindsey.vogel-teeter@phoenix.gov.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the S'edav Va'aki Museum, City of Phoenix, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing, at least, six individuals and two associated funerary objects have been identified in the collections of S'edav Va'aki Museum (SVM). The human remains and

associated funerary objects have no collecting history and were either found in the collections of SVM or transferred to SVM from the Phoenix Museum of History (PMOH). PMOH closed in 2009 and no longer exists. The acquisition history of these individuals and associated funerary objects geographically locates the individuals and associated objects in Maricopa County, AZ.

Around 1960, at least one individual was documented in an exhibition at SVM. In 1995 this same individual was documented in collections at SVM. No associated funerary objects are present and there is no other acquisition information. Bioarchaeological documentation suggests that this individual is not consistent with the Hohokam archaeological culture but may be consistent with archaic and/or hunter/gatherer populations. These human remains are coated with Alvar, an acrylic resin that is not known to be toxic. The Alvar was likely applied by SVM staff between the 1930s and 1960s.

In 1970, at least one individual was documented in collections at SVM. No associated funerary objects are present and there is no other acquisition information. Bioarchaeological documentation suggests that this individual is not consistent with the Hohokam archaeological culture. These human remains are coated with Alvar, an acrylic resin that is not known to be toxic. The Alvar was likely applied by SVM staff between the 1930s and 1960s.

On December 10, 2005, at least one individual was documented at SVM. No associated funerary objects are present. The human remains were abandoned, overnight, by an unknown person and were found at the driveway entrance gate to SVM. A note with the human remains stated "This Native American skull [sic] was found by hunter in the 1960s, that is all that is known. Please take proper care of it Thx [sic]." There is no other information.

On August 24, 2006, at least one individual was documented in the estate of Donald Hiser and transferred to SVM. No associated funerary objects are present. Donald Hiser was the former City of Phoenix Archaeologist and worked at SVM from 1960 to 1983. Bioarchaeological documentation suggests that this individual is not consistent with the Hohokam archaeological culture. These human remains are coated with Alvar, an acrylic resin that is not known to be toxic. The Alvar was likely applied by Museum staff between the 1930s and 1960s. The human remains are also labeled with an unknown ink.

On January 16, 2002, at least one individual and one associated funerary object were identified in the collection of the PMOH. On September 10, 2009, the human remains and associated funerary object were transferred from the PMOH to the SVM. The human remains are cremated and bioarchaeological documentation suggests that the human remains are unusual in presentation and more consistent with the practice of 19th and 20th century cremation. The one associated funerary object is a Playas incised jar, a type of ceramic associated with the Jornada Mogollon archaeological culture. However, secondary cremations are not associated with the Jornada Mogollon archaeological culture therefore it is unlikely that the individual is associated with that archaeological culture. There is no other information.

On January 16, 2002, at least one individual and one associated funerary object were identified in the collection of the PMOH. On September 10, 2009, the human remains and associated funerary object were transferred from the PMOH to the SVM. The one associated funerary object is a faunal bone. There is no other information.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location or acquisition history of the human remains and associated funerary objects described in this notice.

Determinations

The SVM has determined that:

- The human remains described in this notice represent the physical remains of six individuals of Native American ancestry.
- The two objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a connection between the human remains and associated funerary objects described in this notice and the Ak-Chin Indian Community; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; and the Tohono O'odham Nation of Arizona.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in

this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after April 27, 2026. If competing requests for repatriation are received, the SVM must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The SVM is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: March 20, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026-05964 Filed 3-26-26; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7021; NPS-WASO-NAGPRA-NPS0042479; PPWOCRADNO-PCU00RP14.R50000]

Notice of Inventory Completion: Marshall University, Huntington, WV

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), Marshall University has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after April 27, 2026.

ADDRESSES: Send written requests for repatriation of the human remains and associated funerary objects in this notice to Dr. Marion Coe, Marshall University, One John Marshall Drive, Huntington, WV 25755, email coem@marshall.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of Marshall University, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing at least 21 individuals have been identified from the Clover Site (46-CB-40) in Cabell County, WV. The 21 items and lots of associated funerary objects are one lot burned faunal, one lot ceramics, one lot charcoal, one lot charred botanicals, one lot charred wood, one lot copper, one lot corn cob, one lot European ceramics, one lot faunal, one lot fire-cracked rock, one lot ground stone, one lot hematite, one lot iron ore, one lot lithics, one lot (red cedar or juniper), one lot modern ceramic, one lot possible ochre, one lot sandstone, one lot shell, one lot slate, and one lot soil samples. The Clover Site spans multiple archaeological phases of occupation with habitation documented in the early Archaic through the Late Prehistoric. It is best known in the archaeological community for its Fort Ancient component. This Late Prehistoric village site is located on a high flood terrace of the Ohio River, within the Green Bottom Wildlife Management Area. It is designated as a National Historic Landmark for the Fort Ancient Complex component. In 2018, Marshall University described six Ancestors and 53 funerary belongings in an Inventory and Notice of Inventory Completion. At that time this was thought to represent the extent of human remains and cultural items in the possession and control of Marshall University. In 2024, Marshall conducted a campus-wide survey and audit of all cultural collections. In July 2024, housing containing additional Ancestors and funerary belongings from Clover was identified.

Human remains representing at least one individual have been identified from near Point Pleasant in Mason County, WV. The three associated funerary objects are one lot ceramic

fragments, one lot faunal fragments, and one lot shell fragments. During a detailed collections assessment conducted in July 2024, human remains and associated funerary objects were identified in the Biological Sciences Department. A note in the housing dated the Ancestors to 1320 AD.

Human remains representing at least two individuals have been identified from Sycamore Creek near Hurricane, Putnam County, WV. The two associated funerary objects are one burnt pottery fragment and one strap handle sherd fragment. On an unknown date, these individuals and funerary objects were collected by F.M. Riddle.

Human remains representing at least one individual has been identified. No associated funerary objects are present. The individual is from an unknown location in West Virginia.

Human remains representing at least two individuals have been identified. No associated funerary objects are present. No location information is available for these individuals.

Marshall University has no knowledge or record of the presence of any potentially hazardous substances used to treat any of the human remains or associated funerary objects.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location and acquisition history of the human remains and associated funerary objects described in this notice.

Determinations

Marshall University has determined that:

- The human remains described in this notice represent the physical remains of 27 individuals of Native American ancestry.
- The 26 objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a connection between the human remains and associated funerary objects described in this notice and the Absentee-Shawnee Tribe of Indians of Oklahoma; Bay Mills Indian Community, Michigan; Catawba Indian Nation; Cayuga Nation; Cherokee Nation; Chickahominy Indian Tribe—Eastern Division; Chippewa Cree Indians of the Rocky Boy's Reservation, Montana; Delaware Tribe of Indians; Eastern Band of Cherokee Indians; Eastern Shawnee Tribe of Oklahoma; Grand Traverse Band of Ottawa and

Chippewa Indians, Michigan; Kaw Nation, Oklahoma; Keweenaw Bay Indian Community, Michigan; Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin; Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin; Little Shell Tribe of Chippewa Indians of Montana; Minnesota Chippewa Tribe, Minnesota (Component reservations: Bois Forte Band (Nett Lake); Fond du Lac Band; Grand Portage Band; Leech Lake Band; White Earth Band); Monacan Indian Nation; Nansemond Indian Nation; Omaha Tribe of Nebraska; Oneida Indian Nation; Oneida Nation; Onondaga Nation; Pamunkey Indian Tribe; Ponca Tribe of Indians of Oklahoma; Ponca Tribe of Nebraska; Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin; Red Lake Band of Chippewa Indians, Minnesota; Saginaw Chippewa Indian Tribe of Michigan; Saint Regis Mohawk Tribe; Sault Ste. Marie Tribe of Chippewa Indians, Michigan; Seneca Nation of Indians; Seneca-Cayuga Nation; Shawnee Tribe; St. Croix Chippewa Indians of Wisconsin; The Osage Nation; Tonawanda Band of Seneca; Tunica-Biloxi Indian Tribe; Turtle Mountain Band of Chippewa Indians of North Dakota; Tuscarora Nation; United Keetoowah Band of Cherokee Indians in Oklahoma; and the Wyandotte Nation.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after April 27, 2026. If competing requests for repatriation are received, Marshall University must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. Marshall University is responsible for sending a copy of this notice to the Indian Tribes and Native

Hawaiian organizations identified in this notice and any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: March 20, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026–05973 Filed 3–26–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7022; NPS–WASO–NAGPRA–NPS0042480; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Huntington Museum of Art, Huntington, WV

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Huntington Museum of Art (HMoA) has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after April 27, 2026.

ADDRESSES: Send written requests for repatriation of the human remains and associated funerary objects in this notice to Liz Simmons, Executive Director, HMoA, 2033 McCoy Road, Huntington, WV 25701, email lsimmons@hmoa.org or nagpra@hmoa.org.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the HMoA, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing, at least, two individuals have been identified. The 82 associated funerary objects are: one lot antler awls; one lot antler beads;

one antler handle; one lot antler pendants; one lot antler scraper; one lot antler, modified; one lot anvil stones; one lot bird stone; one lot bone (faunal); one lot bone (faunal) awls; one lot bone (faunal) beads; one lot bone (faunal) dowels; one lot bone (faunal) fishhooks; one lot bone (faunal) gorgets; one lot bone (faunal) pendants; one lot bone (faunal) pins; one lot bone (faunal) scrapers; one lot bone (faunal) tinkers; one lot; bone (faunal) whistles; one lot bone (faunal), modified; one lot cannel coal claws/teeth; one cannel coal discoidal; one lot cannel coal pendants; one clay discoidal; one lot clay effigies; one lot clay effigy rattles; one lot clay pipes; one lot copper effigy pendants; one lot copper fragments, modified; one copper gorget; one lot copper pendants; one lot copper tinkers; one lot copper tubes; one lot corn cobs; one flaked glass; one fossil bead; one lot fragmented elk teeth from necklace; one lot geodes; one glass bead; one lot hammerstones; one lot hematite blocks; one lot hematite sinkers; one lot incised (faunal) bones; one incised shell; one lot incised stones; one iron item, modified; one lot lithic flakes; one lot lithic points; one necklace of deer leg bones; one possible chunky stone; one lot pottery sherds; one raw potter's clay; one lot red stone pendants; one lot shaped clay items; one lot shell beads; one lot shell disks; one shell gorget incised with a rattlesnake; one lot shell gorgets; one lot shell hoes; one lot shell pendants; one shell, unmodified; one lot stone adzes; one stone atlatl weight; one lot stone axes; one lot stone beads; one lot stone celts; one lot stone chisels; one lot stone discoidals; one lot stone drills; one lot stone effigies; one stone fishhook; one lot stone gorgets; one lot stone harpoon/spear points; one stone pestle; one lot stone pipes; one lot stone plummets; one lot stone scrapers; one lot stones, modified; one lot teeth (faunal); one lot teeth (faunal) pendants; one lot turtle shells; and one lot whetstones. The human remains (Ancestors) and associated funerary objects (funerary belongings) were removed from the Clover Site (46CB40) in Cabell County, WV. John J. Adams was an avocational archaeologist and charter member of the West Virginia and Ohio Archaeological Societies. Beginning in the 1930s, Adams collected Native American cultural material, Ancestors, and funerary belongings from the Clover Site. Adams reportedly collected primarily from the surface and there is no known documentation of his collecting strategy. A minimum of one Ancestor was donated by Adams to the HMoA in

October 1980. In 1990, during a West Virginia Archaeology interview about the Adams Collection at the HMoA, Thomas Kuhn, Adam's friend and former archaeology faculty member at Marshall University, described a beamer made of human bone collected by Adams from the Clover Site. It is not clear whether the Ancestor mentioned by Kuhn was included in the Adams Collection donated to the HMoA. The Ancestor is considered missing in collection. Glues, polyvinyl acetate, and enamels were potentially used to display and reconstruct some associated funerary objects in the past. Apart from this, HMoA has no knowledge or record of the presence of any potentially hazardous substances used to treat the human remains or associated funerary objects.

Human remains representing, at least, two individuals have been identified. The 35 associated funerary objects are: one beaded article of leather clothing (missing); one beaded leather moccasin (missing); one boat stone; one lot bone (faunal) beads; one bone (faunal) spearhead; one canine (faunal); one clay effigy; one clay pipe shaft; one copper spearhead; one coral fossil; one drilled shell, possibly a mask; one effigy gorget incised with owl, turtles, and tipi; one four-legged clay bowl; one lot gorgets; one lot hammerstones; one lot lithic flakes; one lot lithic points; one oval nut stone; one lot plummet stones; one lot pottery sherds; one lot stone adzes; one stone axe with wood handle; one lot stone axes; one lot stone celts; one lot stone discoidals; one lot stone drills; one stone effigy; one lot stone pendants; one lot stone pestles; one lot stone pipes; one lot stone scrapers; one lot stones, modified; one wood bow (missing); one wooden handle; and one worked leather strap. On an unknown date, the human remains (Ancestors) and associated funerary objects (funerary belongings) were removed from the Ceredo region, Wayne County, West Virginia. In the late 1800's to early 1900's, the Hord and Stark families owned railway, timber, and mineral claims in the Ceredo region. It is thought the Ancestors and funerary belongings were collected by members of the Hord and Stark families during industry-led excavations in the Ceredo region. Mr. and Mrs. Pitt Stark donated the Ancestors and funerary belongings to the HMoA on May 28, 1970. An undamaged Hanes Excelsior Civil War Grenade was originally stored in the same box as one of the individuals. While the grenade is inactive and was moved to isolation, it may be a source of residue contamination. Additionally,

glues, polyvinyl acetate, and enamels were potentially used to display and reconstruct some associated funerary objects in the past. Apart from this, HMoA has no knowledge or record of any additional potentially hazardous substances being used to treat the human remains or associated funerary objects.

Human remains representing, at least, one individual have been identified. No associated funerary objects are present. On an unknown date, human remains (Ancestor) were removed from an unknown location. On an unknown date, the Ancestor was transferred to the HMoA by an unknown individual. On August 29, 1988, the HMoA filled out an American Association of Museums Collections Survey documenting the presence of the Ancestor. Based on the acquisition history of the HMoA Native American Collection, it is possible the Ancestor was removed from West Virginia. The Ancestor is missing in collection. HMoA has no knowledge or record of the presence of any potentially hazardous substances used to treat the human remains.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location and acquisition history of the human remains and associated funerary objects described in this notice.

Determinations

The HMoA has determined that:

- The human remains described in this notice represent the physical remains of five individuals of Native American ancestry.
- The 117 objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a connection between the human remains and associated funerary objects described in this notice and the Absentee-Shawnee Tribe of Indians of Oklahoma; Bay Mills Indian Community, Michigan; Catawba Indian Nation; Cayuga Nation; Cherokee Nation; Chickahominy Indian Tribe—Eastern Division; Chippewa Cree Indians of the Rocky Boy's Reservation, Montana; Delaware Tribe of Indians; Eastern Band of Cherokee Indians; Eastern Shawnee Tribe of Oklahoma; Grand Traverse Band of Ottawa and Chippewa Indians, Michigan; Kaw Nation, Oklahoma; Keweenaw Bay Indian Community, Michigan; Lac Courte Oreilles Band of Lake Superior

Chippewa Indians of Wisconsin; Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin; Little Shell Tribe of Chippewa Indians of Montana; Minnesota Chippewa Tribe, Minnesota (Component reservations: Bois Forte Band (Nett Lake); Fond du Lac Band; Grand Portage Band; Leech Lake Band; White Earth Band); Monacan Indian Nation; Nansemond Indian Nation; Omaha Tribe of Nebraska; Oneida Indian Nation; Oneida Nation; Onondaga Nation; Pamunkey Indian Tribe; Ponca Tribe of Indians of Oklahoma; Ponca Tribe of Nebraska; Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin; Red Lake Band of Chippewa Indians, Minnesota; Saginaw Chippewa Indian Tribe of Michigan; Saint Regis Mohawk Tribe; Sault Ste. Marie Tribe of Chippewa Indians, Michigan; Seneca Nation of Indians; Seneca-Cayuga Nation; Shawnee Tribe; St. Croix Chippewa Indians of Wisconsin; The Osage Nation; Tonawanda Band of Seneca; Tunica-Biloxi Indian Tribe; Turtle Mountain Band of Chippewa Indians of North Dakota; Tuscarora Nation; United Keetoowah Band of Cherokee Indians in Oklahoma; and the Wyandotte Nation.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after April 27, 2026. If competing requests for repatriation are received, the HMoA must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The HMoA is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: March 20, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026–05975 Filed 3–26–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7019; NPS–WASO–NAGPRA–NPS0042477; PPWOCRADNO–PCU00RP14.R50000]

Notice of Inventory Completion: California State University, Chico, Chico, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), California State University, Chico (Chico State) has completed an inventory of associated funerary objects and has determined that there is a cultural affiliation between the associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the associated funerary objects in this notice may occur on or after April 27, 2026.

ADDRESSES: Send written requests for repatriation of the associated funerary objects in this notice to Michelle Hansen, Chico State, 400 West First Street, Chico, CA 95929, email mcampbell19@csuchico.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of Chico State, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

The two associated funerary objects are one lot of modified obsidian pieces and one lot of shells. The associated funerary objects originate from Siskiyou County. The associated funerary objects were located with human remains also originating from Siskiyou County who were previously determined to be of the Karuk Tribe and currently being repatriated.

The University is unaware of any treatment of the associated funerary objects listed above with pesticides, preservatives, or other substances that represent a potential hazard to the objects or to persons handling the objects.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location or acquisition history of the associated funerary objects described in this notice.

Determinations

Chico State has determined that:

- The two lots of objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a connection between the associated funerary objects described in this notice and the Karuk Tribe.

Requests for Repatriation

Written requests for repatriation of the associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the associated funerary objects described in this notice to a requestor may occur on or after April 27, 2026. If competing requests for repatriation are received, Chico State must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the associated funerary objects are considered a single request and not competing requests. Chico State is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: March 20, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026-05965 Filed 3-26-26; 8:45 am]

BILLING CODE 4312-52-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-563; Investigation No. 337-TA-763; Investigation No. 337-TA-975; Investigation No. 337-TA-977; Investigation No. 337-TA-1256]

Certain Portable Power Stations and Packaging Therefor; Certain Radio Control Hobby Transmitters and Receivers and Products Containing Same; Certain Computer Cables, Chargers, Adapters, Peripheral Devices and Packaging Containing the Same; Certain Arrowheads with Deploying Blades and Components Thereof; Certain Portable Battery Jump Starters and Components Thereof; Notice of Request for Written Submissions on Whether Certain Commission Exclusion Orders Should Be Modified or Rescinded, in Whole or in Part, Based on Changed Conditions of Fact or Law or the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission ("Commission") is requesting submissions on whether the exclusion orders issued in the above-captioned Commission investigations should be modified or rescinded, in whole or in part, based on changed conditions of fact or law, or the public interest.

FOR FURTHER INFORMATION CONTACT:

Edward S. Jou, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205-3316. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission issued exclusion orders in each of the following investigations based on complaints alleging violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 ("section 337"), by reason of trademark infringement, as well as patent infringement and/or copyright infringement in certain investigations:

Certain Portable Power Stations and Packaging Therefor, Inv. No. 337-TA-563, Limited Exclusion Order (Trademark, Copyright, and Patent) (Nov. 6, 2006); *Certain Radio Control Hobby Transmitters and Receivers and Products Containing Same*, Inv. No. 337-TA-763, Limited Exclusion Order (Trademark, Copyright, and Patent) (Sept. 27, 2011); *Certain Computer Cables, Chargers, Adapters, Peripheral Devices and Packaging Containing the Same*, Inv. No. 337-TA-975, Limited Exclusion Order (Trademark Only) (Oct. 13, 2016); *Certain Arrowheads with Deploying Blades and Components Thereof*, Inv. No. 337-TA-977, General Exclusion Order (Trademark and Patent) (Apr. 6, 2017); *Certain Portable Battery Jump Starters and Components Thereof*, Inv. No. 337-TA-1256, Limited Exclusion Order (Trademark Only) (Aug. 29, 2022). Each exclusion order requires that the complainant(s) in the investigation make annual filings with the Commission stating, *inter alia*, whether they continue to use the trademarks listed in the exclusion orders in commerce.

In each of these investigations, the complainants have recently failed to comply with the annual filing requirement, and the Commission has notified the respective complainants of their non-compliance but received no response from any complainant. In addition, in Inv. No. 337-TA-563 the asserted patent appears to have expired, and the asserted trademark has been canceled by the U.S. Patent and Trademark Office due to a failure to file a declaration of continued use. *See* U.S. Trademark Registration No. 2,594,538, Canceled/Expired (USPTO Trademark Status & Document Retrieval, Feb. 22, 2013).

The Commission is therefore requesting submissions from the public, including the current owners of the trademarks at issue, on whether these exclusion orders should be modified or rescinded under 19 U.S.C. 1337(k) and 19 CFR 210.76, in whole or in part, to account for any trademarks that have been abandoned, cancelled, or rendered invalid or unenforceable. The Commission notes that some of the exclusion orders also cover copyrights and patents. Accordingly, the Commission is also requesting submissions from the public, including the parties to the investigations, the current owners of the copyrights and patents named in the orders, or successors-in-interest, interested government agencies, and any other interested parties on whether these exclusion orders should be modified or rescinded, in whole or in part, based on

changed conditions of fact or law, or based on the public interest, pursuant to 19 U.S.C. 1337(k) and 19 CFR 210.76.

The public interest factors that will be considered by the Commission in determining whether to rescind the exclusion orders are the following: (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers.

Written Submissions: The parties to the investigations, the current trademark holders, copyright holders, and/or patent holders or successors-in-interest, interested government agencies, and any other interested parties are encouraged to file written submissions on whether the Commission should rescind the exclusion orders at issue, in whole or in part, based on changed conditions of fact or law or the public interest. The written submissions must be filed no later than close of business on May 26, 2026. Reply submissions must be filed no later than the close of business on June 26, 2026. No further submissions on any of these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above pursuant to 19 CFR 210.4(f). Submissions should refer to the relevant investigation number (Inv. No. 337-TA-563, 763, 975, 977, or 1256) in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf). Persons with questions regarding filing should contact the Secretary, (202) 205-2000.

Any person desiring to submit a document to the Commission in confidence must request confidential treatment by marking each document with a header indicating that the document contains confidential information. This marking will be deemed to satisfy the request procedure set forth in Rules 201.6(b) and 210.5(e)(2) (19 CFR 201.6(b) & 210.5(e)(2)). Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. Any non-party wishing to submit comments containing confidential information must serve those comments on the parties to the investigation pursuant to the applicable Administrative Protective Order. A redacted non-confidential version of the document must also be filed with the Commission and served on any parties to the investigation within two business

days of any confidential filing. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements. All nonconfidential written submissions will be available for public inspection on EDIS.

The Commission vote for this determination took place on March 24, 2026.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: March 24, 2026.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2026-05950 Filed 3-26-26; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731-TA-1229-1230 (Second Review)]

Monosodium Glutamate From China and Indonesia; Scheduling of Expedited Five-Year Reviews

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of expedited reviews pursuant to the Tariff Act of 1930 ("the Act") to determine whether revocation of the antidumping duty orders on monosodium glutamate from China and Indonesia would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.

DATES: February 23, 2026.

FOR FURTHER INFORMATION CONTACT: Rachel Devenney (202-205-3172), Office of Investigations, U.S.

International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<https://www.usitc.gov>). The public record for this proceeding may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Background.—On February 23, 2026, the Commission determined that the domestic interested party group response to its notice of institution (90 FR 47334, October 1, 2025) of the subject five-year reviews was adequate and that the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting full reviews.¹ Accordingly, the Commission determined that it would conduct expedited reviews pursuant to section 751(c)(3) of the Act (19 U.S.C. 1675(c)(3)).

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

Staff report.—A staff report containing information concerning the subject matter of the reviews has been placed in the nonpublic record, and will be made available to persons on the Administrative Protective Order service list for these reviews on April 1, 2026. A public version will be issued thereafter, pursuant to § 207.62(d)(4) of the Commission's rules.

Written submissions.—As provided in § 207.62(d) of the Commission's rules, interested parties that are parties to the reviews and that have provided individually adequate responses to the notice of institution,² and any party other than an interested party to the reviews may file written comments with

¹ A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's website.

² The Commission has found the response submitted on behalf of Ajinomoto Health & Nutrition North America, Inc. to be individually adequate. Comments from other interested parties will not be accepted (see 19 CFR 207.62(d)(2)).

the Secretary on what determination the Commission should reach in the reviews. Comments are due on or before 5:15 p.m. on April 8, 2026 and may not contain new factual information. Any person that is neither a party to the five-year reviews nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the reviews by April 8, 2026. However, should the Department of Commerce ("Commerce") extend the time limit for its completion of the final results of its reviews, the deadline for comments (which may not contain new factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures*, available on the Commission's website at https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf, elaborates upon the Commission's procedures with respect to filings.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Determination.—The Commission has determined these reviews are extraordinarily complicated and therefore has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B).

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.62 of the Commission's rules.

By order of the Commission.

Issued: March 24, 2026.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2026-05951 Filed 3-26-26; 8:45 am]

BILLING CODE 7020-02-P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request; Grantee Reporting Requirements for the Industry-University Cooperative Research Centers (IUCRC) Program

AGENCY: National Science Foundation.

ACTION: Notice.

SUMMARY: The National Science Foundation (NSF) is announcing plans to renew this collection. In accordance with the requirements of the Paperwork Reduction Act of 1995, we are providing opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting Office of Management and Budget (OMB) clearance of this collection for no longer than 3 years.

DATES: Written comments on this notice must be received by May 26, 2026 to be assured consideration. Comments received after that date will be considered to the extent practicable. Send comments to address below.

FOR FURTHER INFORMATION CONTACT: Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, Randolph Building, 401 Dulaney Street, Alexandria, Virginia 22314; telephone (703) 292-7556; or send email to splimpto@nsf.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including Federal holidays).

SUPPLEMENTARY INFORMATION:

Title of Collection: Grantee Reporting Requirements for the Industry-University Cooperative Research Centers (IUCRC) Program.

OMB Number: 3145-0088.

Expiration Date of Approval: June 30, 2026.

Type of Request: Revision to and extension of approval of an information collection.

Proposed Project

The IUCRC program provides a structure for academic researchers to conduct fundamental, pre-competitive research of shared interest to industry and government organizations. These organizations pay membership fees to a consortium so that they can collectively envision and fund research, with at least 90% of Member funds allocated to the direct costs of these shared research projects.

IUCRCs are formed around research areas of strategic interest to U.S. industry. Industry is defined very broadly to include companies (large and small), startups and non-profit organizations. Principal Investigators form a Center around emerging research topics of current research interest, in a pre-competitive space but with clear pathways to applied research and commercial development. Industry

partners join at inception, as an existing Center grows, or they inspire the creation of a new Center by recruiting university partners to leverage NSF support. Government agencies participate in IUCRCs as Members or by partnering directly with NSF at the strategic level.

Universities, academic researchers, and students benefit from IUCRC participation through the research funding, the establishment and growth of industry partnerships, and educational and career placement opportunities for students. Industry Members benefit by accessing knowledge, facilities, equipment, and intellectual property in a highly cost-efficient model; leveraging Center research outcomes in their future proprietary projects; interacting in an informal, collaborative way with other private sector and government entities with shared interests; and identifying and recruiting talent. NSF provides funding to support Center administrative costs and a governance framework to manage membership, operations, and evaluation.

Sites within Centers will be required to provide data to NSF and/or its authorized representatives (contractors and/or grantees) annually—after the award expires for their fiscal year of activity.

Information collected are both quantitative and descriptive; they will provide cognizant Program Directors a means to monitor the operational and financial states of the Centers and ensure that the award is in good standing. These data will also allow NSF to assess the Centers in terms of intellectual, broader, and commercial impacts that are core to NSF's review criteria. Finally, in compliance with the Evidence Act of 2019, information collected will be used in satisfying congressional requests, and supporting the agency's policymaking and reporting needs.

In addition to the agency's annual report requirement, Principal Investigators (IUCRC Center and Site Directors) of the awards are required to provide the following information:

Center-related Information:

- Center Data Reporting
 - A comprehensive annual survey collecting information on structure, funding, membership, personnel, and outcomes of the Center during a given reporting period. A Center must submit data for each fiscal year no later than September 30 of each year of operation, as well as after the award expires to describe its final year of activity.

- Certification of Membership

○ A list of members and membership fees collected by the Center and certified by the respective university's Sponsored Research Office (SRO), Total Program Income collected during the reporting period, In-kind Contributions during the reporting period, Allocation and Expenditures of each Site's research funds by project.

- Site Research Projects Summary
 - A list of all projects in which the Site participated, including each project's goals; research tasks; key milestones, metrics/deliverables; developing results or outcomes; project budgets; and personnel.
- Assessment Coordinator Report
 - An independent assessment of the annual Center activities (this report is done by an independent evaluator, and uploaded by the Principal Investigator as part of the NSF annual reporting requirement).

Logistical Information:

- IUCRC Directory
 - IUCRCs must provide accurate and current information for the online IUCRC directory. The IUCRC program helps awardees to get their information updated on the website.

Optional:

- IUCRC Impact Stories for Public Distribution

IUCRCs are highly encouraged to submit information on their emerging research highlights and significant breakthrough stories to NSF to showcase their impact to the public and industry (see <https://iucrc.nsf.gov/centers/achievements/>) including new products, technology creation and/or enhancements, intellectual property of significant commercial relevance, and major improvements in cost-savings, efficiency, sustainability, productivity, and job growth.

Not only do these data provide valuable information on program activities, products, outcomes, and impact, they also help to paint a detailed longitudinal view of the program, provide insights for benchmarking individual Center performance, advancing industry-university engagement approaches, strengthening future workforce, and contributing to the Nation's research and technology ecosystem.

Use of the Information: The information collected is for internal use by NSF, sharing with the U.S. public, responding to congressional requests, and for program evaluation and assessment. Survey data is collected and published at <https://iucrcstats.org>, made possible through NSF grant award 2410788.

Estimate Burden on the Public: Estimated at 16 hours per award for 230 sites for a total of 3,680 hours (per year).

Respondents: IUCRC Awardees (Academic Institutions).

Estimated Number of Respondents: One from each IUCRC site (estimated: 230 active sites).

Comments: Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Dated: March 25, 2026.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2026-06015 Filed 3-26-26; 8:45 am]

BILLING CODE 7555-01-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 70-7033; CEQ ID EISX-429-00-000-1754990851; NRC-2025-1007]

Global Laser Enrichment, LLC; Paducah Laser Enrichment Facility; Draft Environmental Impact Statement

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment a draft Environmental Impact Statement (EIS) regarding a license application from Global Laser Enrichment, LLC (GLE) to construct and operate the Paducah Laser Enrichment Facility (PLEF). The draft EIS evaluates the environmental impacts of the proposed action of issuing a license that would authorize GLE to construct and operate a uranium enrichment facility on a 322-acre site located in McCracken County, Kentucky, approximately 5 miles west of Paducah. The environmental impacts of the no-action alternative (*i.e.*, denying the license application) are also evaluated.

DATES: Members of the public are invited to submit comments by May 11, 2026. Comments received after that date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before that date.

ADDRESSES: You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the Federal rulemaking website:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2025-1007. Address questions about Docket IDs in *Regulations.gov* to Bridget Curran; telephone: 301-415-1003; email: Bridget.Curran@nrc.gov. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION**

CONTACT section of this document.

- *Email:* Comments may be submitted to the NRC electronically using the email address GLE-PLEF-EIS@nrc.gov.

- *Mail comments to:* Office of Administration, Mail Stop: TWFN-5-A85, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see "Obtaining Information and Submitting Comments" in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT:

Amy Minor, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 817-200-1454; email: Amy.Minor@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC-2025-1007 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this action using any of the following methods:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2025-1007.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin ADAMS Public Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR)

reference staff at 1-800-397-4209, at 301-415-4737, or by email to PDR.Resource@nrc.gov. The draft EIS is available in ADAMS under Accession No. ML26061A085.

- **NRC's PDR:** The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1-800-397-4209 or 301-415-4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

- **Public Library:** A copy of the draft EIS will be available for public review at the McCracken County Public Library, 555 Washington St., Paducah, KY 42003.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal Rulemaking website (<https://www.regulations.gov>). Please include Docket ID NRC-2025-1007 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <https://www.regulations.gov> as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Discussion

The NRC has prepared a draft EIS as part of its environmental review of GLE's application for a license to construct and operate a uranium enrichment facility on a 322-acre greenfield site in McCracken County, Kentucky. This draft EIS assesses the potential environmental impacts of the GLE license application and the associated proposal to construct, operate, and decommission the enrichment facility, as well as the no-action alternative to the proposed action (*i.e.*, denying the license application).

The proposed Federal action is the issuance of a license that would authorize GLE to receive title to, own, acquire, receive, possess, use, transfer, and/or deliver source material, special nuclear material, and byproduct material as specified in the license for the purposes of constructing, and then operating for up to 40 years, a facility that uses laser-based isotope separation technology to enrich uranium. The facility would be authorized to re-enrich depleted uranium hexafluoride (DUF₆) tails to natural levels and enrich natural-grade UF₆ up to 8 percent uranium-235 (U-235) by weight.

The draft EIS contains the NRC staff's preliminary analysis of the environmental impacts of the proposed action and the no-action alternative to the proposed action. The draft EIS also contains the NRC staff's preliminary recommendation on the proposed action, which is based on the following factors:

- The NRC staff's review of GLE's environmental report (included as part of the GLE license application) and associated responses from GLE to requests from the NRC staff for clarifying information;
- The NRC staff's review of comments received as part of the scoping process;
- The NRC staff's communications with Federal, State, and local agencies, as well as Tribal officials; and
- The NRC staff's independent environmental review.

The NRC staff's preliminary recommendation, unless safety issues mandate otherwise, is that the NRC issue the license to construct and operate the proposed enrichment facility to GLE.

Dated: March 24, 2026.

For the Nuclear Regulatory Commission.

Robert Sun,

Chief, Environmental Project Management Branch 2, Division of Rulemaking, Environmental, and Financial Support, Office of Nuclear Material Safety, and Safeguards.

[FR Doc. 2026-05955 Filed 3-26-26; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

[NRC-2026-0001]

Sunshine Act Meetings

TIME AND DATE: Week of March 23, 2026.

PLACE: Via Teleconference.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Week of March 23, 2026

Wednesday, March 25, 2026.

3:30 p.m. Affirmation Session (Public Meeting) (Tentative)

(a) **Final Rule:** Categorical Exclusions from Environmental Review (Tentative)

(b) **Final Rule:** Risk-Informed, Technology-Inclusive Regulatory Framework for Advanced Reactors (Tentative) (Contact: Wesley Held: 301-287-3591)

ADDITIONAL INFORMATION: By a vote of 5-0 on March 25, 2026, the Commission determined pursuant to 5 U.S.C. 552b(e)(1) and 10 CFR 9.107 that this item be affirmed with less than one week notice to the public. The item will be affirmed in the meeting being held on March 25, 2026. The public is invited to attend the Commission's meeting live; via teleconference. Details for joining the teleconference in listen only mode can be found at <https://www.nrc.gov/pmns/mtg>.

CONTACT PERSON FOR MORE INFORMATION:

For more information or to verify the status of meetings, contact Wesley Held at 301-287-3591 or via email at Wesley.Held@nrc.gov. The schedule for Commission meetings is subject to change on short notice.

The NRC Commission Meeting Schedule can be found on the internet at: <https://www.nrc.gov/public-involve/public-meetings/schedule.html>.

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.*, braille, large print), please contact the Reasonable Accommodations Resource by email at Reasonable_Accommodations.Resource@nrc.gov. Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555, at 301-415-1969, or by email at Betty.Thweatt@nrc.gov or Samantha.Miklaszewski@nrc.gov.

The NRC is holding the meetings under the authority of the Government in the Sunshine Act, 5 U.S.C. 552b.

Dated: March 25, 2026.

For the Nuclear Regulatory Commission.
Wesley W. Held,
Policy Coordinator, Office of the Secretary.
 [FR Doc. 2026-06003 Filed 3-25-26; 4:15 pm]
 BILLING CODE 7590-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105071; File No. SR-NYSEAMER-2026-22]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt a New Methodology for Assessment and Collection of the Options Regulatory Fee (ORF)

March 24, 2026.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the “Act”),² and Rule 19b-4 thereunder,³ notice is hereby given that on March 16, 2026, NYSE American LLC (“NYSE American” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) a proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE American Options Fee Schedule (“Fee Schedule”) regarding the Options Regulatory Fee (“ORF”). The proposed rule change is available on the Exchange’s website at www.nyse.com and at the principal office of the Exchange.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule⁴ to amend its methodology of assessment and collection of the ORF to assess ORF only for options transactions that occur on the Exchange and that are cleared in the Customer range at The Options Clearing Corporation (“OCC”), in alignment with new ORF methodology proposed by other options exchanges.⁵ Consistent with that methodology, the Exchange intends to collect ORF under its current methodology until at least June 30, 2026. The Exchange is prepared to implement the new ORF methodology, as proposed in this filing, effective July 1, 2026, provided that all U.S. options exchanges charging an ORF have filed to modify their current methodologies of assessing ORF to limit the fee to transactions occurring on their respective exchange by April 1, 2026.⁶ If all other options exchanges have not filed to adopt a similar methodology by such date, the Exchange will delay implementation commensurate with the additional time required for other options exchanges to adopt a similar method for collection and assessment of ORF (and will continue collecting ORF under its current methodology until such time that the new ORF methodology is implemented).⁷ In this

⁴ The Exchange previously filed to amend the Fee Schedule on March 2, 2026 (SR-NYSEAMER-2026-16) and withdrew such filing on March 16, 2026.

⁵ See, e.g., Securities Exchange Act Release No. 103558 (July 28, 2025), 90 FR 36080 (July 31, 2025) (SR-ISE-2025-20) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Methodology for Its Options Regulatory Fee (ORF) as of January 2, 2026); 104417 (December 17, 2025) (SR-CBOE-2025-086) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Adopt a New Methodology for Assessment and Collection of the Options Regulatory Fee (ORF)); 104707 (January 28, 2026), 90 FR 4754 (February 2, 2026) (SR-MIAX-2026-01) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt a New Methodology for Assessment and Collection of the Options Regulatory Fee (ORF)); 104745 (January 29, 2026), 90 FR 4985 (February 3, 2026) (SR-MEMX-2026-02) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Exchange’s Fee Schedule To Adopt a New Methodology for Assessment and Collection of the Options Regulatory Fee (ORF)).

⁶ The Exchange notes that, as of the date of this filing, all U.S. options exchanges have filed proposed rule changes to adopt similar new ORF methodology.

⁷ The Exchange may also delay implementation if certain currently unresolved operational issues remain so and impact the industry’s ability to transition to the new methodology on July 1, 2026, commensurate with any additional time required to resolve such issues (and will continue collecting

filing, the Exchange proposes only to amend the method by which it will assess and collect ORF as of July 1, 2026. The Exchange will file a separate rule filing with the ORF rate that would take effect on July 1, 2026, in advance of assessing and collecting ORF under the new methodology. As is the case today, the Exchange will provide at least 30 days’ notice of the applicable rate by Trader Update.

Background

As a general matter, the Exchange may only use regulatory funds such as the ORF “to fund the legal, regulatory, and surveillance operations” of the Exchange.⁸ More specifically, the ORF is designed to recover a material portion, but not all, of the Exchange’s costs for the supervision and regulation of ATP Holders’ Customer options business, including the Exchange’s regulatory program and legal expenses associated with Customer options regulation, such as the costs related to in-house staff, third-party service providers, and technology that facilitate regulatory functions such as surveillance, investigation, examinations, and enforcement (collectively, the “ORF Costs”). ORF Costs may also include indirect expenses such as human resources and other administrative costs related to the supervision and regulation of Customer activity. The Exchange monitors the amount of ORF collection to ensure that this amount, in combination with other regulatory fees and fines, does not exceed regulatory costs.

Today, the ORF is assessed on ATP Holders for options transactions that are cleared by the ATP Holder through the OCC in the Customer range regardless of the exchange on which the transaction occurs and is collected from ATP Holder clearing firms by the OCC on behalf of NYSE American.⁹ All options transactions must clear via a clearing firm, and such clearing firms can then

ORF under its current methodology until such time that the new ORF methodology is implemented).

⁸ The Exchange considers surveillance operations part of regulatory operations. The limitation on the use of regulatory funds also provides that they shall not be distributed. See Thirteenth Amended and Restated Operating Agreement of NYSE American LLC, Article IV, Section 4.05 and Securities Exchange Act Release No. 87993 (January 16, 2020), 85 FR 4050 (January 23, 2020) (SR-NYSEAMER-2020-04).

⁹ See Fee Schedule, Section VII.A., Options Regulatory Fee (“ORF”), available at: https://www.nyse.com/publicdocs/nyse/markets/american-options/NYSE_American_Options_Fee_Schedule.pdf. The Exchange uses reports from OCC when assessing and collecting the ORF. The ORF is not assessed on outbound linkage trades. An ATP Holder is not assessed the fee until it has satisfied applicable technological requirements necessary to commence operations on NYSE American. See *id.*

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

choose to pass through all, a portion, or none of the cost of the ORF to its Customers, *i.e.*, the entering firms. The Exchange notes that the costs relating to monitoring ATP Holders with respect to Customer trading activity are generally higher than the costs associated with monitoring ATP Holders that do not engage in Customer trading activity, which tends to be more automated and less labor-intensive. By contrast, regulating ATP Holders that engage in Customer trading activity is generally more labor-intensive and requires a greater expenditure of human and technical resources as the Exchange needs to review not only the trading activity on behalf of Customers, but also the ATP Holder's relationship with its Customers via more labor-intensive exam-based programs.¹⁰ As a result, the costs associated with administering the Customer component of the Exchange's overall regulatory program are materially higher than the costs associated with administering the non-Customer component (*e.g.*, ATP Holder proprietary transactions) of its regulatory program.

Because the ORF is based on options transactions volume, the amount of ORF collected is variable. For example, if options transactions reported to OCC in a given month increase, the ORF collected from ATP Holders will likely increase as well. Similarly, if options transactions reported to OCC in a given month decrease, the ORF collected from ATP Holders will likely decrease as well. Accordingly, the Exchange monitors the amount of ORF collected to ensure that it does not exceed a material portion of ORF Costs. If the Exchange determines the amount of ORF collected exceeds or may exceed a material portion of ORF Costs, the Exchange will, as appropriate, adjust the ORF by submitting a fee change filing to the Securities and Exchange Commission (the "Commission"). Exchange rules establish that market participants must be notified of any change in the ORF via Trader Update at

least 30 calendar days prior to the effective date of the change.¹¹

To illustrate how the ORF, which is currently set at \$0.0026 per contract,¹² is currently assessed and collected, the Exchange provides the following set of scenarios.

Scenario 1

Executing (or Give-Up) Firm is *not* an ATP Holder. The Executing Firm does not "give-up" or "CMTA" the transaction to another clearing firm.¹³

No ORF is assessed.

Scenario 2

Executing Firm is an ATP Holder. The Executing Firm "give-ups" or "CMTAs" the transaction to another clearing firm that is *not* an ATP Holder.

No ORF is assessed.

Scenario 3

The Executing (or Give-Up) Firm is an ATP Holder. The Executing Firm does not "give-up" or "CMTA" the transaction to another clearing firm.

ORF is assessed on the self-clearing Executing Firm.

Scenario 4

The Executing (or Give-Up) Firm is an ATP Holder. The Executing Firm "give-ups" or "CMTAs" the transaction to another clearing firm that is also an ATP Holder.

ORF is assessed on the CMTA (clearing) firm.

Scenario 5

The Executing (or Give-Up) Firm is *not* an ATP Holder. The Executing Firm "give-ups" or "CMTAs" the transaction to another clearing firm that is an ATP Holder.

ORF is assessed on the CMTA (clearing) firm.

As illustrated above, the Exchange does not assess the ORF on non-ATP Holders that self-clear transactions, even if the executing firm is an ATP Holder; the Exchange likewise does not impose the ORF if both the executing firm and

the firm that clears the transaction on its behalf are non-ATP Holders.¹⁴

Proposed Rule Change

The Exchange proposes to adopt a new methodology for assessing and collecting ORF that would align with the methodology proposed by other options exchanges, effective July 1, 2026.¹⁵ As noted above, this rule filing sets forth the proposed method by which it will assess and collect ORF as of July 1, 2026, and the Exchange will file a separate rule filing with the ORF rate that would take effect on July 1, 2026 at least 30 days prior to such date. The Exchange proposes to continue to assess ORF for options transactions cleared by OCC in the Customer range, but ORF would be assessed only for executions that occur on the Exchange. Specifically, the ORF would be collected by OCC on behalf of the Exchange from ATP Holders and non-ATP Holders for all Customer transactions executed on the Exchange. ORF would be assessed and collected on all ultimately cleared Customer contracts, taking into account adjustments for CMTA that were provided to the Exchange the same day as the trade.¹⁶ Further, the Exchange would bill ORF according to the clearing instructions provided on the execution. The Exchange proposes to assess ORF based on the clearing instruction provided on the execution on trade date and would not take into consideration CMTA changes or transfers that occur at OCC.¹⁷

To illustrate how the ORF would be assessed and collected under the proposed methodology, the Exchange provides the following set of scenarios.

¹⁴ Although the Exchange believes that its broad regulatory responsibilities would support applying the ORF to transactions that are executed (even if not ultimately cleared) by an ATP Holder, the Exchange only imposes the ORF on transactions ultimately cleared by ATP Holders at this time. The Exchange's regulatory responsibilities are the same regardless of whether an ATP Holder enters a transaction or clears a transaction. The Exchange regularly reviews all such activities, including monitoring surveillance for position limit violations, manipulation, front-running, contrary exercise advice violations and insider trading. These activities span across multiple exchanges.

¹⁵ See note 5, *supra*.

¹⁶ Adjustments to CMTA that occur at OCC would not be taken into account. CMTA transfers that occur at OCC do not necessarily contain reliable information regarding the exchange on which the original transaction occurred, and without specific information as to where such transaction occurred, the Exchange would not be able to accurately account for CMTA transfers that occur at OCC. Accordingly, the Exchange proposes to only account for CMTAs that occur on the Exchange and exclude CMTAs occurring at OCC, consistent with other options exchanges' proposals.

¹⁷ Adjustments that were made the same day as the trade on the Exchange will be taken into account.

¹⁰ The Exchange notes that many of the Exchange's market surveillance programs require the Exchange to look at and evaluate activity across all options markets, such as surveillance for position limit violations, manipulation, front-running, and contrary exercise advice violations/expiring exercise declarations. The Exchange and other options SROs are parties to a 17d-2 agreement allocating among the SROs regulatory responsibilities relating to compliance by the common members with rules for expiring exercise declarations, position limits, OCC trade adjustments, and Large Option Position Report reviews. See, *e.g.*, Securities Exchange Act Release No. 85097 (February 11, 2019), 84 FR 4871 (February 19, 2019).

¹¹ See Fee Schedule, note 9, *supra*.

¹² See Securities Exchange Act Release No. 104361 (December 11, 2025), 90 FR 58361 (December 16, 2025) (SR-NYSEAMER-2025-70) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Lower the Options Regulatory Fee (ORF)). The Exchange also proposes in this filing to delete language in the Fee Schedule describing an ORF waiver period that has elapsed, as well as now-extraneous language specifying that the current ORF rate took effect on January 1, 2026.

¹³ A CMTA or Clearing Member Trade Assignment is an agreement by which an investor may enter derivative trades with a limited number of different brokers and later consolidate these trades with one brokerage house for clearing.

Scenario 1

An ATP Holder executes a Customer transaction on the Exchange and is the clearing member on record on the transaction on the Exchange.

ORF will be assessed to the ATP Holder.

Scenario 2

An ATP Holder executes a Customer transaction on the Exchange and a different ATP Holder is the clearing member on record on the transaction on the Exchange.

ORF will be assessed to and collected from the ATP Holder that is the clearing member on record on the transaction and not the ATP Holder that executes the transaction.

Scenario 3

An ATP Holder executes a Customer transaction on the Exchange, and a non-ATP Holder is the clearing member on record on the transaction on the Exchange.

ORF will be assessed to the non-ATP Holder who is the clearing member on record on the transaction and not the ATP Holder who executes the transaction.

Scenario 4

An ATP Holder executes a Customer transaction on another exchange (*i.e.*, not NYSE American).

No ORF is assessed, regardless of how the transaction is cleared.

As is the case today, OCC will collect ORF from OCC clearing members on behalf of the Exchange based on the Exchange's instructions.

Consistent with current practice, the Exchange will continue to monitor the amount of ORF collected to ensure that it, in combination with other regulatory fees and fines, does not exceed a material portion of ORF Costs. If the Exchange determines the amount of ORF collected exceeds or may exceed a material portion of ORF Costs, the Exchange will, as appropriate, adjust the ORF by submitting a fee change filing to the Commission and, as is the case today, provide ATP Holders with 30 days' advance notice. The Exchange will notify ATP Holders of this proposed change by Trader Update at least 30 calendar days prior to the effective date.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)¹⁸ of the Act, in general, and Section 6(b)(4) and (5)¹⁹ of the Act, in particular, in that it

is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers, or dealers.

The Exchange believes the proposed new ORF methodology to be assessed effective July 1, 2026 is reasonable, equitable, and not unfairly discriminatory for various reasons. First, the Exchange believes that continuing to assess ORF only on Customer transactions is reasonable because Customer transactions account for a material portion of ORF Costs. A large portion of ORF Costs relate to Customer activity because obtaining Customer information may be more time-intensive. For example, non-Customer market participants are subject to various regulatory and reporting requirements which provides the Exchange certain data with respect to these market participants. In contrast, Customer information is known by ATP Holders of the Exchange, but is not readily available to the Exchange. Accordingly, the Exchange may have to take additional steps to understand the facts surrounding particular trades involving a Customer, which may require requesting such information from a broker-dealer. Further, Customers require more Exchange regulatory services based on the amount of options business they conduct. For example, there are costs associated with main office and branch office examinations (*e.g.*, staff expenses), as well as investigations into Customer complaints and the terminations of registered persons. As a result, ORF Costs associated with administering the Customer component of the Exchange's overall regulatory program are materially higher than those associated with administering the non-Customer component when coupled with the amount of volume attributed to such Customer transactions.

Under the Exchange's proposal, the amount of ORF Costs allocated to on-exchange Customer transactions is significant. Also, with respect to Customer transactions, options volume continues to surpass volume from other options participants. Additionally, the Exchange has rules that deal exclusively with Customer transactions, such as rules involving doing business with a Customer, which would not apply to Non-Customer transactions.²⁰

Although the Exchange acknowledges that there is a cost to regulate Market Makers, unlike other market participants, Market Makers are subject

to different Exchange fees (such as application fees, permit fees, and connectivity fees) and have various regulatory requirements with respect to quoting. Specifically, Market Makers have certain quoting requirements with respect to their assigned options series as provided in Rule 925.1NYP (Market Maker Quotations). In addition, unlike other market participants, Market Makers have obligations to compete with other Market Makers to improve the market in all series of options classes to which the Market Maker is appointed and to update market quotations in response to changed market conditions in all series of options classes to which the Market Maker is appointed.²¹

The Exchange similarly acknowledges that there is a cost to regulate Firm and Broker Dealer transactions, but notes that these market participants' transactions do not involve significant volume when compared to Customer transactions. The Exchange further notes that Firm and Broker Dealer market participants tend to be more sophisticated than Customers and do not require the same protections as Customer transactions do. Accordingly, the regulation of Firm and Broker Dealer transactions is less resource-intensive than the regulation of Customer transactions and accounts for a smaller percentage of ORF Costs.

Finally, the Exchange believes that assessing ORF on Customer executions that occur on the Exchange is reasonable, equitable, and not unfairly discriminatory because it will avoid overlapping ORFs that would otherwise be assessed by the Exchange and other options exchanges that also assess an ORF. With this proposal, Customer executions that occur on other exchanges would no longer be subject to an ORF assessed by the Exchange.

The Exchange believes that its proposal continues to ensure that ORF collection, in combination with other regulatory fees and fines, does not exceed ORF Costs. Fines collected by the Exchange in connection with a disciplinary matter will continue to offset ORF Cost. The Exchange will, under the new ORF methodology, continue to monitor and review ORF collection and, if the Exchange determines the amount of ORF collected exceeds or may exceed a material portion of ORF Costs, the Exchange will, as appropriate, adjust the ORF (via a rule change filed with the Commission).

¹⁸ 15 U.S.C. 78f(b).

¹⁹ 15 U.S.C. 78f(b)(4) and (5).

²⁰ See, *e.g.*, Section 7. Conduct of Accounts.

²¹ See Rule 923NY (Appointment of Market Makers).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange believes that the proposed change to adopt a new methodology for the assessment and collection of ORF does not impose an undue burden on intermarket competition because ORF is a regulatory fee that supports regulation in furtherance of the purposes of the Act. The Exchange notes, however, the proposed change is not designed to address any competitive issues. The Exchange is obligated to ensure that the amount of ORF collected, in combination with its other regulatory fees and fines, does not exceed ORF Costs. Continuing to assess ORF only on Customer executions that occur on the Exchange does not impose an undue burden on intramarket competition. Customer transactions account for a large portion of the Exchange's ORF Costs. With respect to Customer transactions, options volume continues to surpass volume from other options participants. Additionally, the Exchange has rules that deal exclusively with Customer transactions, such as rules involving doing business with a Customer, which would not apply to non-Customer transactions.²²

For these reasons, regulating Customer trading activity is more labor-intensive and therefore, more costly. Further, the Exchange believes that a large portion of the ORF Costs relate to Customer allocation because obtaining Customer information may be more time-intensive. For example, non-Customer market participants are subject to various regulatory and reporting requirements which provides the Exchange certain data with respect to these market participants. In contrast, Customer information is known by ATP Holders and is not readily available to the Exchange.²³ The Exchange may have to take additional steps to understand the facts surrounding particular trades involving a Customer which may require requesting such information from a broker-dealer. Further, Customers require more Exchange regulatory services based on the amount of options business they conduct. For example, there are ORF Costs associated with main office and branch office examinations (e.g., staff expenses), as well as investigations into Customer

complaints and the terminations of registered persons. As a result, the ORF Costs associated with administering the Customer component of the Exchange's overall regulatory program are materially higher than the ORF Costs associated with administering the non-Customer component when coupled with the amount of volume attributed to such Customer transactions. Not attributing significant ORF Costs to Customers for activity that may occur across options markets does not impose an undue burden on intra-market competition because the Exchange's Customer regulation occurs to a large extent on Exchange.

The Exchange believes that not assessing ORF on Market Makers does not impose an undue burden on intramarket competition because these liquidity providers are critical market participants required to provide liquidity to the Exchange and necessary for opening the market. Excluding Market Maker transactions from ORF does not impose an intramarket burden on competition, and instead allows these market participants to manage their costs and consequently their business model more effectively, thereby enabling them to better allocate resources to, for example, technologies that allow them to manage risk and capacity to ensure their continued ability to compete effectively on the Exchange to provide displayed liquidity. Unlike other market participants, Market Makers have various regulatory requirements with respect to quoting. Specifically, Market Makers have certain quoting requirements with respect to their assigned options series as provided in Rule 925.1NYP (Market Maker Quotations). Further, unlike other market participants, Market Makers have obligations to compete with other Market Makers to improve the market in all series of options classes to which the Market Maker is appointed and to update market quotations in response to changed market conditions in all series of options classes to which the Market Maker is appointed.²⁴

The Exchange believes that not assessing ORF on Firm and Broker Dealer market participants does not impose an undue burden on intramarket competition because the regulation of Firm and Broker Dealer transactions is less resource-intensive than the regulation of Customer transactions. The volume generated from Firm and Broker Dealer transactions is not significant when compared to Customer

transactions. Therefore, excluding Firm and Broker Dealer transactions from ORF does not impose an undue burden on intramarket competition, as Customer transactions account for a material portion of the Exchange's ORF Costs.²⁵ The Exchange's proposal to assess ORF only on Customer executions that occur on the Exchange does not impose an intramarket burden on competition because the amount of activity surveilled across exchanges is small when compared to the overall number of Exchange rules that are surveilled by the Exchange for on-Exchange activity. Limiting the amount of ORF assessed to activity that occurs on the Exchange avoids overlapping ORFs that would otherwise be assessed by the Exchange and other options exchanges that also assess an ORF.

Further, the proposed ORF does not impose an intra-market burden on competition as this collection accounts for the collection only on Customer executions. The Exchange will monitor and review ORF collection and amend the ORF if it finds that ORF collection exceeds its projections.²⁶

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act²⁷ and paragraph (f) of Rule 19b-4²⁸ thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such

²⁵ The Exchange notes that the regulatory costs relating to monitoring ATP Holders with respect to Customer trading activity are generally higher than the regulatory costs associated with ATP Holders that do not engage in Customer trading activity, which tends to be more automated and less labor-intensive. By contrast, regulating ATP Holders that engage in Customer trading activity is generally more labor-intensive and requires a greater expenditure of human and technical resources because the Exchange needs to review not only the trading activity on behalf of Customers, but also the ATP Holders' relationship with its Customers via more labor-intensive exam-based programs. As a result, the costs associated with administering the Customer component of the Exchange's overall regulatory program are materially higher than the costs associated with administering the non-Customer component of the regulatory program.

²⁶ The Exchange would submit a rule change to the Commission to amend ORF rates.

²⁷ 15 U.S.C. 78s(b)(3)(A).

²⁸ 17 CFR 240.19b-4(f).

²² See, e.g., Section 7. Conduct of Accounts.

²³ Know Your Customer or "KYC" provision is the obligation of the broker-dealer.

²⁴ See Rule 923NY (Appointment of Market Makers).

action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-NYSEAMER-2026-22 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-NYSEAMER-2026-22. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-NYSEAMER-2026-22 and should be submitted on or before April 17, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁹

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026-05947 Filed 3-26-26; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105070; File No. SR-NYSEARCA-2026-30]

Self-Regulatory Organizations; NYSEArca, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt a New Methodology for Assessment and Collection of the Options Regulatory Fee (ORF)

March 24, 2026.

Pursuant to Section 19(b)(1) ¹ of the Securities Exchange Act of 1934 (the "Act"),² and Rule 19b-4 thereunder,³ notice is hereby given that on March 16, 2026, NYSE Arca, Inc. ("NYSE Arca" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") a proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Arca Options Fee Schedule ("Fee Schedule") regarding the Options Regulatory Fee ("ORF"). The proposed rule change is available on the Exchange's website at www.nyse.com and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule ⁴ to amend its methodology of assessment and collection of the ORF to assess ORF only for options transactions that occur on the Exchange and that are cleared in the Customer range at The Options Clearing Corporation ("OCC"), in alignment with new ORF methodology proposed by other options exchanges.⁵ Consistent with that methodology, the Exchange intends to collect ORF under its current methodology until at least June 30, 2026. The Exchange is prepared to implement the new ORF methodology, as proposed in this filing, effective July 1, 2026, provided that all U.S. options exchanges charging an ORF have filed to modify their current methodologies of assessing ORF to limit the fee to transactions occurring on their respective exchange by April 1, 2026.⁶ If all other options exchanges have not filed to adopt a similar methodology by such date, the Exchange will delay implementation commensurate with the additional time required for other options exchanges to adopt a similar method for collection and assessment of ORF (and will continue collecting ORF under its current methodology until such time that the new ORF methodology is implemented).⁷ In this

⁴ The Exchange previously filed to amend the Fee Schedule on March 2, 2026 (SR-NYSEARCA-2026-24) and withdrew such filing on March 16, 2026.

⁵ See, e.g., Securities Exchange Act Release No. 103558 (July 28, 2025), 90 FR 36080 (July 31, 2025) (SR-ISE-2025-20) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Methodology for Its Options Regulatory Fee (ORF) as of January 2, 2026); 104417 (December 17, 2025) (SR-CBOE-2025-086) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt a New Methodology for Assessment and Collection of the Options Regulatory Fee (ORF)); 104707 (January 28, 2026), 90 FR 4754 (February 2, 2026) (SR-MIAX-2026-01) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt a New Methodology for Assessment and Collection of the Options Regulatory Fee (ORF)); 104745 (January 29, 2026), 90 FR 4985 (February 3, 2026) (SR-MEMX-2026-02) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Exchange's Fee Schedule To Adopt a New Methodology for Assessment and Collection of the Options Regulatory Fee (ORF)).

⁶ The Exchange notes that, as of the date of this filing, all U.S. options exchanges have filed proposed rule changes to adopt similar new ORF methodology.

⁷ The Exchange may also delay implementation if certain currently unresolved operational issues remain so and impact the industry's ability to transition to the new methodology on July 1, 2026, commensurate with any additional time required to resolve such issues (and will continue collecting ORF under its current methodology until such time that the new ORF methodology is implemented).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

²⁹ 17 CFR 200.30-3(a)(12).

filing, the Exchange proposes only to amend the method by which it will assess and collect ORF as of July 1, 2026. The Exchange will file a separate rule filing with the ORF rate that would take effect on July 1, 2026, in advance of assessing and collecting ORF under the new methodology. As is the case today, the Exchange will provide at least 30 days' notice of the applicable rate by Trader Update.

Background

As a general matter, the Exchange may only use regulatory funds such as the ORF “to fund the legal, regulatory, and surveillance operations” of the Exchange.⁸ More specifically, the ORF is designed to recover a material portion, but not all, of the Exchange's costs for the supervision and regulation of OTP Holders' and OTP Firms' (collectively, “OTP Holders”) Customer options business, including the Exchange's regulatory program and legal expenses associated with Customer options regulation, such as the costs related to in-house staff, third-party service providers, and technology that facilitate regulatory functions such as surveillance, investigation, examinations, and enforcement (collectively, the “ORF Costs”). ORF Costs may also include indirect expenses such as human resources and other administrative costs related to the supervision and regulation of Customer activity. The Exchange monitors the amount of ORF collection to ensure that this amount, in combination with other regulatory fees and fines, does not exceed regulatory costs.

Today, the ORF is assessed on OTP Holders for options transactions that are cleared by the OTP Holder through the OCC in the Customer range regardless of the exchange on which the transaction occurs and is collected from OTP Holder clearing firms by the OCC on behalf of NYSE Arca.⁹ All options transactions must clear via a clearing firm, and such clearing firms can then choose to pass through all, a portion, or none of the cost of the ORF to its

Customers, *i.e.*, the entering firms. The Exchange notes that the costs relating to monitoring OTP Holders with respect to Customer trading activity are generally higher than the costs associated with monitoring OTP Holders that do not engage in Customer trading activity, which tends to be more automated and less labor-intensive. By contrast, regulating OTP Holders that engage in Customer trading activity is generally more labor-intensive and requires a greater expenditure of human and technical resources as the Exchange needs to review not only the trading activity on behalf of Customers, but also the OTP Holder's relationship with its Customers via more labor-intensive exam-based programs.¹⁰ As a result, the costs associated with administering the Customer component of the Exchange's overall regulatory program are materially higher than the costs associated with administering the non-Customer component (*e.g.*, OTP Holder proprietary transactions) of its regulatory program.

Because the ORF is based on options transactions volume, the amount of ORF collected is variable. For example, if options transactions reported to OCC in a given month increase, the ORF collected from OTP Holders will likely increase as well. Similarly, if options transactions reported to OCC in a given month decrease, the ORF collected from OTP Holders will likely decrease as well. Accordingly, the Exchange monitors the amount of ORF collected to ensure that it does not exceed a material portion of ORF Costs. If the Exchange determines the amount of ORF collected exceeds or may exceed a material portion of ORF Costs, the Exchange will, as appropriate, adjust the ORF by submitting a fee change filing to the Securities and Exchange Commission (the “Commission”). Exchange rules establish that market participants must be notified of any change in the ORF via Trader Update at least 30 calendar days prior to the effective date of the change.¹¹

To illustrate how the ORF, which is currently set at \$0.0026 per contract,¹² is currently assessed and collected, the Exchange provides the following set of scenarios.

Scenario 1

Executing (or Give-Up) Firm is *not* an OTP Holder. The Executing Firm does not “give-up” or “CMTA” the transaction to another clearing firm.¹³ No ORF is assessed.

Scenario 2

Executing Firm is an OTP Holder. The Executing Firm “give-ups” or “CMTAs” the transaction to another clearing firm that is *not* an OTP Holder. No ORF is assessed.

Scenario 3

The Executing (or Give-Up) Firm is an OTP Holder. The Executing Firm does not “give-up” or “CMTA” the transaction to another clearing firm. ORF is assessed on the self-clearing Executing Firm.

Scenario 4

The Executing (or Give-Up) Firm is an OTP Holder. The Executing Firm “give-ups” or “CMTAs” the transaction to another clearing firm that is also an OTP Holder.

ORF is assessed on the CMTA (clearing) firm.

Scenario 5

The Executing (or Give-Up) Firm is *not* an OTP Holder. The Executing Firm “give-ups” or “CMTAs” the transaction to another clearing firm that is an OTP Holder.

ORF is assessed on the CMTA (clearing) firm.

As illustrated above, the Exchange does not assess the ORF on non-OTP Holders that self-clear transactions, even if the executing firm is an OTP Holder; the Exchange likewise does not impose the ORF if both the executing firm and the firm that clears the transaction on its behalf are non-OTP Holders.¹⁴

⁸ The Exchange considers surveillance operations part of regulatory operations. The limitation on the use of regulatory funds also provides that they shall not be distributed. See Bylaws of NYSE Arca, Inc., Art. II, Sec. 2.03.

⁹ See Fee Schedule, NYSE Arca GENERAL OPTIONS and TRADING PERMIT (OTP) FEES, Regulatory Fees, Options Regulatory Fee (“ORF”), available here, https://www.nyse.com/publicdocs/nyse/markets/arca-options/NYSE_Arca_Options_Fee_Schedule.pdf. The Exchange uses reports from OCC when assessing and collecting the ORF. The ORF is not assessed on outbound linkage trades. An OTP Holder is not assessed the fee until it has satisfied applicable technological requirements necessary to commence operations on NYSE Arca. See *id.*

¹⁰ The Exchange notes that many of the Exchange's market surveillance programs require the Exchange to look at and evaluate activity across all options markets, such as surveillance for position limit violations, manipulation, front-running, and contrary exercise advice violations/ expiring exercise declarations. The Exchange and other options SROs are parties to a 17d-2 agreement allocating among the SROs regulatory responsibilities relating to compliance by the common members with rules for expiring exercise declarations, position limits, OCC trade adjustments, and Large Option Position Report reviews. See, *e.g.*, Securities Exchange Act Release No. 85097 (February 11, 2019), 84 FR 4871 (February 19, 2019).

¹¹ See Fee Schedule, note 9, *supra*.

¹² See Securities Exchange Act Release No. 104362 (December 11, 2025), 90 FR 58336 (December 16, 2025) (SR-NYSEARCA-2025-82) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Lower the Options Regulatory Fee (ORF)). The Exchange also proposes in this filing to delete language in the Fee Schedule describing an ORF waiver period that has elapsed, as well as now-extraneous language specifying that the current ORF rate took effect on January 1, 2026.

¹³ A CMTA or Clearing Member Trade Assignment is an agreement by which an investor may enter derivative trades with a limited number of different brokers and later consolidate these trades with one brokerage house for clearing.

¹⁴ Although the Exchange believes that its broad regulatory responsibilities would support applying

Proposed Rule Change

The Exchange proposes to adopt a new methodology for assessing and collecting ORF that would align with the methodology proposed by other options exchanges, effective July 1, 2026.¹⁵ As noted above, this rule filing sets forth the proposed method by which it will assess and collect ORF as of July 1, 2026, and the Exchange will file a separate rule filing with the ORF rate that would take effect on July 1, 2026 at least 30 days prior to such date. The Exchange proposes to continue to assess ORF for options transactions cleared by OCC in the Customer range, but ORF would be assessed only for executions that occur on the Exchange. Specifically, the ORF would be collected by OCC on behalf of the Exchange from OTP Holders and non-OTP Holders for all Customer transactions executed on the Exchange. ORF would be assessed and collected on all ultimately cleared Customer contracts, taking into account adjustments for CMTA that were provided to the Exchange the same day as the trade.¹⁶ Further, the Exchange would bill ORF according to the clearing instructions provided on the execution. The Exchange proposes to assess ORF based on the clearing instruction provided on the execution on trade date and would not take into consideration CMTA changes or transfers that occur at OCC.¹⁷

To illustrate how the ORF would be assessed and collected under the proposed methodology, the Exchange provides the following set of scenarios.

Scenario 1

An OTP Holder executes a Customer transaction on the Exchange and is the

the ORF to transactions that are executed (even if not ultimately cleared) by an OTP Holder, the Exchange only imposes the ORF on transactions ultimately cleared by OTP Holders at this time. The Exchange's regulatory responsibilities are the same regardless of whether an OTP Holder enters a transaction or clears a transaction. The Exchange regularly reviews all such activities, including monitoring surveillance for position limit violations, manipulation, front-running, contrary exercise advice violations and insider trading. These activities span across multiple exchanges.

¹⁵ See note 5, *supra*.

¹⁶ Adjustments to CMTA that occur at OCC would not be taken into account. CMTA transfers that occur at OCC do not necessarily contain reliable information regarding the exchange on which the original transaction occurred, and without specific information as to where such transaction occurred, the Exchange would not be able to accurately account for CMTA transfers that occur at OCC. Accordingly, the Exchange proposes to only account for CMTAs that occur on the Exchange and exclude CMTAs occurring at OCC, consistent with other options exchanges' proposals.

¹⁷ Adjustments that were made the same day as the trade on the Exchange will be taken into account.

clearing member on record on the transaction on the Exchange.

ORF will be assessed to the OTP Holder.

Scenario 2

An OTP Holder executes a Customer transaction on the Exchange and a different OTP Holder is the clearing member on record on the transaction on the Exchange.

ORF will be assessed to and collected from the OTP Holder that is the clearing member on record on the transaction and not the OTP Holder that executes the transaction.

Scenario 3

An OTP Holder executes a Customer transaction on the Exchange, and a non-OTP Holder is the clearing member on record on the transaction on the Exchange.

ORF will be assessed to the non-OTP Holder who is the clearing member on record on the transaction and not the OTP Holder who executes the transaction.

Scenario 4

An OTP Holder executes a Customer transaction on another exchange (*i.e.*, not NYSE Arca).

No ORF is assessed, regardless of how the transaction is cleared.

As is the case today, OCC will collect ORF from OCC clearing members on behalf of the Exchange based on the Exchange's instructions.

Consistent with current practice, the Exchange will continue to monitor the amount of ORF collected to ensure that it, in combination with other regulatory fees and fines, does not exceed a material portion of ORF Costs. If the Exchange determines the amount of ORF collected exceeds or may exceed a material portion of ORF Costs, the Exchange will, as appropriate, adjust the ORF by submitting a fee change filing to the Commission and, as is the case today, provide OTP Holders with 30 days' advance notice. The Exchange will notify OTP Holders of this proposed change by Trader Update at least 30 calendar days prior to the effective date.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)¹⁸ of the Act, in general, and Section 6(b)(4) and (5)¹⁹ of the Act, in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and

¹⁸ 15 U.S.C. 78f(b).

¹⁹ 15 U.S.C. 78f(b)(4) and (5).

other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers, or dealers.

The Exchange believes the proposed new ORF methodology to be assessed effective July 1, 2026 is reasonable, equitable, and not unfairly discriminatory for various reasons. First, the Exchange believes that continuing to assess ORF only on Customer transactions is reasonable because Customer transactions account for a material portion of ORF Costs. A large portion of ORF Costs relate to Customer activity because obtaining Customer information may be more time-intensive. For example, non-Customer market participants are subject to various regulatory and reporting requirements which provides the Exchange certain data with respect to these market participants. In contrast, Customer information is known by OTP Holders of the Exchange, but is not readily available to the Exchange. Accordingly, the Exchange may have to take additional steps to understand the facts surrounding particular trades involving a Customer, which may require requesting such information from a broker-dealer. Further, Customers require more Exchange regulatory services based on the amount of options business they conduct. For example, there are costs associated with main office and branch office examinations (*e.g.*, staff expenses), as well as investigations into Customer complaints and the terminations of registered persons. As a result, ORF Costs associated with administering the Customer component of the Exchange's overall regulatory program are materially higher than those associated with administering the non-Customer component when coupled with the amount of volume attributed to such Customer transactions.

Under the Exchange's proposal, the amount of ORF Costs allocated to on-exchange Customer transactions is significant. Also, with respect to Customer transactions, options volume continues to surpass volume from other options participants. Additionally, the Exchange has rules that deal exclusively with Customer transactions, such as rules involving doing business with a Customer, which would not apply to Non-Customer transactions.²⁰

Although the Exchange acknowledges that there is a cost to regulate Market Makers, unlike other market participants, Market Makers are subject to different Exchange fees (such as application fees, permit fees, and connectivity fees) and have various

²⁰ See, *e.g.*, Section 7. Conduct of Accounts.

regulatory requirements with respect to quoting. Specifically, Market Makers have certain quoting requirements with respect to their assigned options series as provided in Rule 6.37AP–O (Market Maker Quotations). In addition, unlike other market participants, Market Makers have obligations to compete with other Market Makers to improve the market in all series of options classes to which the Market Maker is appointed and to update market quotations in response to changed market conditions in all series of options classes to which the Market Maker is appointed.²¹

The Exchange similarly acknowledges that there is a cost to regulate Firm and Broker Dealer transactions, but notes that these market participants' transactions do not involve significant volume when compared to Customer transactions. The Exchange further notes that Firm and Broker Dealer market participants tend to be more sophisticated than Customers and do not require the same protections as Customer transactions do. Accordingly, the regulation of Firm and Broker Dealer transactions is less resource-intensive than the regulation of Customer transactions and accounts for a smaller percentage of ORF Costs.

Finally, the Exchange believes that assessing ORF on Customer executions that occur on the Exchange is reasonable, equitable, and not unfairly discriminatory because it will avoid overlapping ORFs that would otherwise be assessed by the Exchange and other options exchanges that also assess an ORF. With this proposal, Customer executions that occur on other exchanges would no longer be subject to an ORF assessed by the Exchange.

The Exchange believes that its proposal continues to ensure that ORF collection, in combination with other regulatory fees and fines, does not exceed ORF Costs. Fines collected by the Exchange in connection with a disciplinary matter will continue to offset ORF Cost. The Exchange will, under the new ORF methodology, continue to monitor and review ORF collection and, if the Exchange determines the amount of ORF collected exceeds or may exceed a material portion of ORF Costs, the Exchange will, as appropriate, adjust the ORF (via a rule change filed with the Commission).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose

any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange believes that the proposed change to adopt a new methodology for the assessment and collection of ORF does not impose an undue burden on intermarket competition because ORF is a regulatory fee that supports regulation in furtherance of the purposes of the Act. The Exchange notes, however, the proposed change is not designed to address any competitive issues. The Exchange is obligated to ensure that the amount of ORF collected, in combination with its other regulatory fees and fines, does not exceed ORF Costs. Continuing to assess ORF only on Customer executions that occur on the Exchange does not impose an undue burden on intramarket competition. Customer transactions account for a large portion of the Exchange's ORF Costs. With respect to Customer transactions, options volume continues to surpass volume from other options participants. Additionally, the Exchange has rules that deal exclusively with Customer transactions, such as rules involving doing business with a Customer, which would not apply to non-Customer transactions.²²

For these reasons, regulating Customer trading activity is more labor-intensive and therefore, more costly. Further, the Exchange believes that a large portion of the ORF Costs relate to Customer allocation because obtaining Customer information may be more time-intensive. For example, non-Customer market participants are subject to various regulatory and reporting requirements which provides the Exchange certain data with respect to these market participants. In contrast, Customer information is known by OTP Holders and is not readily available to the Exchange.²³ The Exchange may have to take additional steps to understand the facts surrounding particular trades involving a Customer which may require requesting such information from a broker-dealer. Further, Customers require more Exchange regulatory services based on the amount of options business they conduct. For example, there are ORF Costs associated with main office and branch office examinations (*e.g.*, staff expenses), as well as investigations into Customer complaints and the terminations of registered persons. As a result, the ORF Costs associated with administering the Customer component of the Exchange's

overall regulatory program are materially higher than the ORF Costs associated with administering the non-Customer component when coupled with the amount of volume attributed to such Customer transactions. Not attributing significant ORF Costs to Customers for activity that may occur across options markets does not impose an undue burden on intra-market competition because the Exchange's Customer regulation occurs to a large extent on Exchange.

The Exchange believes that not assessing ORF on Market Makers does not impose an undue burden on intramarket competition because these liquidity providers are critical market participants required to provide liquidity to the Exchange and necessary for opening the market. Excluding Market Maker transactions from ORF does not impose an intramarket burden on competition, and instead allows these market participants to manage their costs and consequently their business model more effectively, thereby enabling them to better allocate resources to, for example, technologies that allow them to manage risk and capacity to ensure their continued ability to compete effectively on the Exchange to provide displayed liquidity. Unlike other market participants, Market Makers have various regulatory requirements with respect to quoting. Specifically, Market Makers have certain quoting requirements with respect to their assigned options series as provided in Rule 6.37AP–O (Market Maker Quotations). Further, unlike other market participants, Market Makers have obligations to compete with other Market Makers to improve the market in all series of options classes to which the Market Maker is appointed and to update market quotations in response to changed market conditions in all series of options classes to which the Market Maker is appointed.²⁴

The Exchange believes that not assessing ORF on Firm and Broker Dealer market participants does not impose an undue burden on intramarket competition because the regulation of Firm and Broker Dealer transactions is less resource-intensive than the regulation of Customer transactions. The volume generated from Firm and Broker Dealer transactions is not significant when compared to Customer transactions. Therefore, excluding Firm and Broker Dealer transactions from ORF does not impose an undue burden on intramarket competition, as

²¹ See Rule 6.35–O (Appointment of Market Makers).

²² See, *e.g.*, Section 7. Conduct of Accounts.

²³ Know Your Customer or "KYC" provision is the obligation of the broker-dealer.

²⁴ See Rule 6.35–O (Appointment of Market Makers).

Customer transactions account for a material portion of the Exchange's ORF Costs.²⁵ The Exchange's proposal to assess ORF only on Customer executions that occur on the Exchange does not impose an intramarket burden on competition because the amount of activity surveilled across exchanges is small when compared to the overall number of Exchange rules that are surveilled by the Exchange for on-Exchange activity. Limiting the amount of ORF assessed to activity that occurs on the Exchange avoids overlapping ORFs that would otherwise be assessed by the Exchange and other options exchanges that also assess an ORF.

Further, the proposed ORF does not impose an intra-market burden on competition as this collection accounts for the collection only on Customer executions. The Exchange will monitor and review ORF collection and amend the ORF if it finds that ORF collection exceeds its projections.²⁶

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act²⁷ and paragraph (f) of Rule 19b-4²⁸ thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the

²⁵ The Exchange notes that the regulatory costs relating to monitoring OTP Holders with respect to Customer trading activity are generally higher than the regulatory costs associated with OTP Holders that do not engage in Customer trading activity, which tends to be more automated and less labor-intensive. By contrast, regulating OTP Holders that engage in Customer trading activity is generally more labor-intensive and requires a greater expenditure of human and technical resources because the Exchange needs to review not only the trading activity on behalf of Customers, but also the OTP Holders' relationship with its Customers via more labor-intensive exam-based programs. As a result, the costs associated with administering the Customer component of the Exchange's overall regulatory program are materially higher than the costs associated with administering the non-Customer component of the regulatory program.

²⁶ The Exchange would submit a rule change to the Commission to amend ORF rates.

²⁷ 15 U.S.C. 78s(b)(3)(A).

²⁸ 17 CFR 240.19b-4(f).

Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-NYSEARCA-2026-30 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-NYSEARCA-2026-30. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-NYSEARCA-2026-30 and should be submitted on or before April 17, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁹

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026-05946 Filed 3-26-26; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105069; File No. SR-IEX-2026-08]

Self-Regulatory Organizations; Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend IEX Rules To Reflect the Name Change of Nasdaq BX to Nasdaq Texas

March 24, 2026.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the "Act")² and Rule 19b-4 thereunder,³ notice is hereby given that, on March 16, 2026, the Investors Exchange LLC ("IEX" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Pursuant to the provisions of Section 19(b)(1) under the Act,⁴ and Rule 19b-4 thereunder,⁵ the Exchange is filing with the Commission a proposed rule to amend IEX Rules 2.220(a)(7) and 11.410(a) to make conforming changes reflecting the name change of Nasdaq BX, Inc. ("Nasdaq BX") to Nasdaq Texas, LLC ("Nasdaq Texas"), replace obsolete references to "NASDAQ" with the current name "Nasdaq," and make a conforming change in Rule 2.220(a)(7). The Exchange has designated this rule change as "non-controversial" under Section 19(b)(3)(A) of the Act⁶ and provided the Commission with the notice required by Rule 19b-4(f)(6) thereunder.⁷

The text of the proposed rule change is available at the Exchange's website at <https://www.iexexchange.io/resources/regulation/rule-filings> and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

⁴ 15 U.S.C. 78s(b)(1).

⁵ 17 CFR 240.19b-4.

⁶ 15 U.S.C. 78s(b)(3)(A).

⁷ 17 CFR 240.19b-4.

²⁹ 17 CFR 200.30-3(a)(12).

statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Nasdaq BX, Inc. recently converted from a corporation organized under the laws of the state of Delaware to a limited liability company organized under the laws of the state of Texas and changed its legal name to "Nasdaq Texas, LLC."⁸ The Exchange proposes conforming changes to its rules to reflect this name change by amending Rules 2.220(a)(7) and 11.410(a) to reflect the name change of "NASDAQ BX" to "Nasdaq Texas." Rule 2.220(a)(7) lists the away trading centers that IEX Services LLC ("IEX Services") routes to as outbound router for the Exchange and Rule 11.410(a) specifies the market data sources for each away trading center that the Exchange uses for necessary price reference points.

Specifically, the Exchange proposes to amend Rule 2.220(a)(7) by replacing the reference to "NASDAQ BX" with "Nasdaq Texas"⁹ in the list of away trading centers to which IEX Services routes orders. The Exchange also proposes to amend Rule 11.410(a) by replacing the reference to "NASDAQ BX" with "Nasdaq Texas" in the table of market data sources the Exchange uses to determine its Top of Book quotation, NBBO, and for certain reporting, regulatory, and compliance systems within IEX. The Exchange will continue to utilize the proprietary market data feed for Nasdaq Texas, as it did for Nasdaq BX, as set forth in Rule 11.410(a)(2).

The Exchange is also proposing to replace obsolete references to "NASDAQ" in Rules 2.220(a)(7) and 11.410(a) with the current name, "Nasdaq,"¹⁰ as follows:

- Rules 2.220(a)(7) and 11.410(a): references to "NASDAQ PSX" will be changed to "Nasdaq PSX";
 - Rule 11.410(a): references to "NASDAQ Stock Market" will be changed to "The Nasdaq Stock Market"; and
 - Rule 2.220(a)(7): references to "NASDAQ Stock Exchange" will be changed to "The Nasdaq Stock Market."
- The Exchange is not proposing any other changes to IEX Rules 2.220(a)(7) and 11.410(a). The proposed changes do not alter the manner in which orders are handled or routed by the Exchange.

2. Statutory Basis

IEX believes that the proposed rule changes are consistent with the provisions of Section 6(b)¹¹ of the Act in general, and further the objectives of Section 6(b)(5) of the Act¹² in particular, in that they are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

For the reasons discussed in the Purpose section, the Exchange believes that the proposed rule changes remove impediments to and perfect the mechanism of a free and open market and protect investors and the public interest because changing references to "NASDAQ BX" to "Nasdaq Texas," "NASDAQ PSX" to "Nasdaq PSX," and "NASDAQ Stock Market" to "The Nasdaq Stock Market" in the table in Rule 11.410(a) designating those exchanges' proprietary data feeds as the primary source of market data the Exchange will use to determine away trading center Top of Book quotes, the NBBO, and for certain regulatory, reporting and compliance systems within IEX, will facilitate the Exchange's compliance with the applicable requirements of Regulation NMS.

Additionally, changing references to "NASDAQ BX" to "Nasdaq Texas," "NASDAQ PSX" to "Nasdaq PSX," and "NASDAQ Stock Exchange" (Rule 2.220(a)(7)) and "NASDAQ Stock Market" (Rule 11.410(a)) to "The Nasdaq Stock Market" in the list of away trading centers to which IEX

routes and in the table designating those exchanges' proprietary data feeds as the primary source of market data the Exchange will use to determine away trading center Top of Book quotes, the NBBO, and for certain regulatory, reporting and compliance systems within IEX, provides transparency and avoids confusion with respect to the away trading centers to which IEX Services may route orders and the source of market data the Exchange will use to determine those exchanges' Top of Book quotes. As noted in the Purpose section, the proposed changes are nonsubstantive and do not alter the manner in which orders are handled or routed by the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

IEX does not believe that the proposed rule changes will result in any burden on competition that are not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed updates do not impact competition in any respect since the purpose is to enhance transparency with respect to the operation of the Exchange and its use of market data feeds, and to update an away market name referenced in IEX Rules.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Pursuant to Section 19(b)(3)(A) of the Act¹³ and Rule 19b-4(f)(6)¹⁴ thereunder, the Exchange has designated this proposal as one that effects a change that: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.

A proposed rule change filed under Rule 19b-4(f)(6)¹⁵ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹⁶ the

⁸ See Securities Exchange Act Release No. 104736 (January 29, 2026), 91 FR 4980 (February 3, 2026) (SR-BX-2026-005).

⁹ In 2017, NASDAQ BX amended its rules and certain corporate documents to change its name from "NASDAQ BX" to "Nasdaq BX." Securities Exchange Act Release No. 81948 (October 25, 2017), 82 FR 50468 (October 31, 2017) (SR-BX-2017-046).

¹⁰ In 2017, the Nasdaq Stock Market and Nasdaq PHIX amended their rules and certain corporate documents to replace "NASDAQ" with "Nasdaq"

in their exchange names. See Securities Exchange Act Release No. 81917 (October 27, 2017), 82 FR 49879 (October 23, 2017) (SR-NASDAQ-2017-111) (changing "The NASDAQ Stock Market LLC" to "The Nasdaq Stock Market LLC"); Securities Exchange Act Release No. 81938 (October 24, 2017), 82 FR 50185 (October 30, 2017) (SR-PHLX-2017-83) (changing "NASDAQ PSX" to "Nasdaq PSX").

¹¹ 15 U.S.C. 78f.

¹² 15 U.S.C. 78f(b)(5).

¹³ 15 U.S.C. 78s(b)(3)(A).

¹⁴ 17 CFR 240.19b-4(f)(6).

¹⁵ 17 CFR 240.19b-4(f)(6).

¹⁶ 17 CFR 240.19b-4(f)(6)(iii).

Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule changes may become operative upon filing. In the filing, the Exchange stated it is proposing non-substantive, conforming changes to reflect the name change of Nasdaq BX to Nasdaq Texas, replace obsolete references to "NASDAQ" to Nasdaq, and make a conforming change in Rule 2.220(a)(7). These non-substantive conforming changes do not impose any significant burden on competition because they apply evenly to all Equity Members. The proposed rule changes do not raise any novel issues as the Nasdaq name changes have already occurred, and waiver of the operative delay allows for the immediate clarification of the Exchange's rules to reflect these changes, and therefore, waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposal operative upon filing.¹⁷

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)¹⁸ of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-IEX-2026-08 on the subject line.

¹⁷ For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹⁸ 15 U.S.C. 78s(b)(2)(B).

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-IEX-2026-08. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-IEX-2026-08 and should be submitted on or before April 17, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁹

Sherry R. Haywood,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105072; File No. SR-IEX-2025-30]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Order Approving a Proposed Rule Change, as Modified by Amendment Nos. 1 and 2, Regarding the Adoption of Listing Criteria for Options on Commodity-Based Trusts That Hold Multiple Crypto Assets

March 24, 2026.

I. Introduction

On September 26, 2025, Nasdaq ISE, LLC ("ISE" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act" or "Exchange Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to adopt listing criteria for options on Commodity-Based Trusts that hold multiple crypto assets. The proposed

rule change was published for comment in the **Federal Register** on October 1, 2025.³ On November 3, 2025, pursuant to Section 19(b)(2) of the Exchange Act,⁴ the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.⁵ On December 17, 2025, the Exchange filed Amendment No. 1 to the proposed rule change ("Amendment No. 1"), which supersedes the original filing in its entirety.⁶ On December 23, 2025, the Commission issued notice of filing of Amendment No. 1 to the proposed rule change and instituted proceedings pursuant to Section 19(b)(2)(B) of the Act⁷ to determine whether to approve or disapprove the proposed rule change, as modified by Amendment No. 1.⁸ The Commission received no comments regarding the proposed rule change. On December 23, 2025, the Exchange filed Amendment No. 2 to the proposed rule change ("Amendment No. 2").⁹ This order approves the proposed rule change, as modified by Amendment Nos. 1 and 2.

II. Description of the Proposed Rule Change, as Modified by Amendment Nos. 1 and 2

Currently, ISE Options 4, Section 3(h)(vi) allows the Exchange to list options on shares that represent interests in a Commodity-Based Trust that meets the generic criteria of The

³ See Securities Exchange Act Release No. 104107 (Sept. 26, 2025), 90 FR 47456.

⁴ 15 U.S.C. 78s(b)(2).

⁵ See Securities Exchange Act Release No. 104173, 90 FR 51424 (Nov. 17, 2025). The Commission designated December 30, 2025, as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change.

⁶ Amendment No. 1 revises the proposal to: delete proposed ISE Options 4, Section 3(h)(vii) and incorporate the proposed change to provide for the listing of options on Commodity-Based Trusts that hold multiple crypto assets into existing ISE Options 4, Section 3(h)(vi); amend Options 4, Section 3(h)(3) to apply the requirements in Options 4, Section 3(h)(3) to each crypto asset that a Commodity-Based Trust holds; correct an erroneous cross-reference in Options 4, Section 4(g); add new Options 4, Section 4(g)(3) to establish a continued listing requirement for options listed pursuant to Options 4, Section 3(h)(vi); and renumber the remaining subparagraphs in Options 4, Section 4(g).

⁷ 15 U.S.C. 78s(b)(2)(B).

⁸ See Securities Exchange Act Release No. 104505, 90 FR 61483 (Dec. 31, 2025) ("Order Instituting Proceedings").

⁹ Amendment No. 2 revises the proposal to correct erroneous cross-references in proposed Options 4, Section 4(g)(3). Because Amendment No. 2 is technical in nature, it is not subject to notice and comment. Amendment No. 2 is available at: <https://www.sec.gov/rules-regulations/public-comments/sr-ise-2025-30>.

¹⁹ 17 CFR 200.30-3(a)(12), (59).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

Nasdaq Stock Market LLC (“Nasdaq”) Rule 5711(d), except that the Commodity-Based Trust holds a single crypto asset, as defined in ISE Options 4, Section 3(h)(3), and provided that (A) the global supply of the crypto asset held by the Commodity-Based Trust has an average daily market value of at least \$700 million over the last 12 months; and (B) the crypto asset held by the Commodity-Based Trust underlies a derivatives contract that trades on a market with which the Exchange has a comprehensive surveillance sharing agreement, whether directly or through common membership in the Intermarket Surveillance Group (“ISG”).¹⁰ As described more fully in the Order Instituting Proceedings,¹¹ the Exchange proposes to amend ISE Options 4, Section 3(h) to allow the Exchange to list and trade options on a Commodity-Based Trust that holds multiple crypto assets.¹² The proposal would allow the Exchange to list and trade these options without additional approval from the Commission.¹³ Under the proposal, each crypto asset that the Commodity-Based Trust holds must meet the criteria in ISE Options 4, Section 3(h)(3).¹⁴ Accordingly, each of the Commodity-Based Trust’s crypto assets must: (A) have an average daily market value of at least \$700 million over the last 12 months; and (B) underlie a derivatives contract that trades on a market with which the Exchange has a comprehensive surveillance sharing agreement, whether directly or through common membership in ISG.¹⁵ The proposed Commodity-Based Trust share options also must satisfy the Exchange’s initial and continued listing standards applicable to all options on exchange-traded funds (“ETFs”).¹⁶ ISE Options 4,

Section 3(h) requires the shares of an ETF underlying listed options to trade on a national securities exchange and to be an “NMS stock,” as defined in Rule 600 of Regulation NMS under the Exchange Act. In addition, ISE Options 4, Section 3(h)(1) requires the shares of an ETF to meet the listing criteria in ISE Options 4, Sections 3(a) and (b)¹⁷ or ISE Options 4, Section 3(h)(1)(ii).¹⁸

The continued listing criteria in proposed ISE Options 4, Section 4(g)(3)

“exchange-traded fund” to refer to several types of investment products, including Commodity-Based Trusts. See ISE Options 4, Section 3(h).

¹⁷ See Order Instituting Proceedings, 90 FR at 61484. ISE Options 4, Section 3(a) states that underlying securities with respect to which put or call options contracts are approved for listing and trading on the Exchange must meet the following criteria: (1) the security must be registered and be an “NMS stock” as defined in Rule 600 of Regulation NMS under the Exchange Act; and (2) the security shall be characterized by a substantial number of outstanding shares that are widely held and actively traded. ISE Options 4, Section 3(b) states, among other things, that, absent exceptional circumstances, an underlying security will not be selected for Exchange options transactions unless: (1) there are a minimum of seven (7) million shares of the underlying security which are owned by persons other than those required to report their stock holdings under Section 16(a) of the Exchange Act; (2) there are a minimum of 2,000 holders of the underlying security; (3) the issuer is in compliance with any applicable requirements of the Exchange Act; (4) trading volume (in all markets in which the underlying security is traded) has been at least 2,400,000 shares in the preceding twelve (12) months; and (5) either: (i) if the underlying security is a “covered security” as defined under Section 18(b)(1)(A) of the Securities Act of 1933: (A) the market price per share of the underlying security has been at least \$3.00 for the previous three consecutive business days preceding the date on which the Exchange submits a certificate to the Clearing Corporation for listing and trading, as measured by the closing price reported in the primary market in which the underlying security is traded; however, (B) the requirements set forth in (5)(i)(A) will be waived during the three days following its initial public offering day for an underlying security having a market capitalization of at least \$3 billion based upon the offering price of its initial public offering, and may be listed and traded starting on or after the second business day following the initial public offering day; or (ii) if the underlying security is not a “covered security,” the market price per share of the underlying security has been at least \$7.50 for the majority of business days during the three calendar months preceding the date of selection, as measured by the lowest closing price reported in any market in which the underlying security traded on each of the subject days.

¹⁸ ISE Options 4, Section 3(h)(ii) states that the shares of an ETF are available for creation or redemption each business day from or through the issuing trust, investment company, commodity pool or other entity in cash or in kind at a price related to net asset value, and the issuer is obligated to issue ETF shares in a specified aggregate number even if some or all of the investment assets and/or cash required to be deposited have not been received by the issuer, subject to the condition that the person obligated to deposit the investment assets has undertaken to deliver them as soon as possible and such undertaking is secured by the delivery and maintenance of collateral consisting of cash or cash equivalents satisfactory to the issuer of the ETF shares, all as described in the ETF shares’ prospectus.

will allow the Exchange to suspend opening transactions in options on Commodity-Based Trust shares if any crypto asset held by the Commodity-Based Trust (A) no longer has an average daily market value of at least \$700 million over the last 12 months, as determined by the Exchange on a monthly basis; or (B) no longer underlies a derivatives contract that trades on a market with which the Exchange has a comprehensive surveillance sharing agreement, whether directly or through common membership in ISG. The Exchange states that requiring the average daily market value criterion to be met on a monthly basis is reasonable given that the Exchange believes that it is unlikely that a crypto asset with an average daily market value of at least \$700 million over the previous twelve months would fail to meet that standard as a result of trading over a relatively short period of time.¹⁹

Options on Commodity-Based Trust shares also will be subject to the continued listing standards in ISE Options 4, Sections 4(g).²⁰ Under ISE Options 4, Section 4(g), shares of an ETF approved for options trading pursuant to ISE Options 4, Section 3(h) would not meet the requirements for continued approval if the shares were delisted from trading as provided in ISE Options 4, Section 4(b)(4) because the underlying security was no longer an NMS stock, as defined in Rule 600 of Regulation NMS under the Exchange Act, or if the shares were halted or suspended from trading on their primary market.²¹ Further, ISE Options 4, Section 4(g)(4) (renumbered as ISE Options 4, Section 4(g)(5)) would allow the Exchange to consider suspending opening transactions in options on Commodity-Based Trust shares if the Exchange believes that further dealing in the options on the Exchange is inadvisable.²²

The Exchange states that the proposed options on Commodity-Based Trust shares would trade in the same manner as other ETF options on the Exchange and will be subject to Exchange rules that currently apply to the listing and trading of ETF options, including

¹⁹ See Order Instituting Proceedings, 90 FR at 61484. For example, the Exchange states that a crypto asset with market capitalization of \$500 million for 15 days in a 20-day trading month could lose up to 88% of its value and continue to meet the criteria. See *id.*

²⁰ See *id.*

²¹ See ISE Options 4, Section 4(g). See also Order Instituting Proceedings, 90 FR at 61484. The Exchange also proposes to correct an erroneous cross-reference in Options 4, Section 4(g).

²² See Order Instituting Proceedings, 90 FR at 61485.

¹⁰ See ISE Options 4, Section 3(h)(3). ISE Options 4, Section 3(h)(3) defines the term “crypto asset” to mean “an asset that is generated, issued and/or transferred using a blockchain or similar distributive ledger technology network, including but not limited to, assets known as ‘tokens,’ ‘digital assets,’ ‘virtual currencies,’ and ‘coins’ and that relies on cryptographic protocols.” See *id.*

¹¹ See *supra* note 8.

¹² The proposal also corrects a grammatical error in ISE Options 4, Section 3(h)(3).

¹³ See Order Instituting Proceedings, 90 FR at 61486.

¹⁴ See proposed ISE Options 4, Section 3(h)(3).

¹⁵ See proposed ISE Options 4, Section 3(h)(3). The Exchange states that the market value for each crypto asset that a Commodity-Based Trust holds will be calculated by taking the total global supply of the crypto asset multiplied by the token price of that asset. The Exchange states that the total supply of a crypto asset includes all crypto assets currently issued and does not include unissued crypto assets. See Order Instituting Proceedings, 90 FR at 61484.

¹⁶ See Order Instituting Proceedings, 90 FR at 61486–7. In its proposal, the Exchange refers to Commodity-Based Trust Shares as ETFs. See *id.* at 61485, 61487. The Exchange’s rules use the term

Exchange rules governing, for example, expirations, exercise prices, minimum increments, position and exercise limits, margin requirements, customer accounts, and trading halt procedures.²³ The Exchange states that position and exercise limits for options on Commodity-Based Trust shares will be determined pursuant to Options 9, Sections 13 and 15.²⁴

The Exchange represents that the same surveillance procedures applicable to all ETF options currently listed and traded on the Exchange will apply to the trading of options on Commodity-Based Trust shares that are approved subject to ISE Options 4, Section 3(h)(vi).²⁵ The Exchange states that its existing surveillance and reporting safeguards are designed to deter and detect possible manipulative behavior which might potentially arise from listing and trading options on Commodity-Based Trust shares that are approved subject to Options 4, Section 3(h)(vi).²⁶ The Exchange states that it may obtain information from designated contract markets that are members of the ISG related to a financial instrument that is based, in whole or in part, upon an interest in or performance of a crypto asset, as applicable.²⁷ In addition, the Exchange states that it currently lists options that would qualify for listing under proposed ISE Options 4, Section 3(h)(vi), and that it has not identified any issues with the listing and trading of these options.²⁸

The Exchange states that both the Exchange and the Options Price Reporting Authority (“OPRA”) have the necessary systems capacity to handle the additional traffic associated with the listing of the proposed options on the Commodity-Based Trust shares.²⁹

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment Nos. 1 and 2, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.³⁰ Specifically, the

Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,³¹ which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to remove impediments to and perfect the mechanism of a free and open market, and, in general, to protect investors and the public interest.

The Exchange proposes to amend ISE Options 4, Section 3(h)(vi) to permit the Exchange to list options on shares of a Commodity-Based Trust that holds multiple crypto assets, provided that the Commodity-Based Trust meets certain requirements, as described above. The proposal will allow ISE to list options on shares of these Commodity-Based Trusts without further approval from the Commission, thereby permitting the Exchange to list these options soon after Nasdaq lists the underlying Commodity-Based Trust shares. Permitting the listing and trading of these options on the Exchange will provide investors with an additional vehicle for gaining and hedging exposure to the underlying Commodity-Based Trust shares.

Options on shares of Commodity-Based Trusts that hold multiple crypto assets will be subject to the same initial and continued listing requirements for options on Commodity-Based Trusts that hold a single crypto asset except that each crypto asset that a Commodity-Based Trust holds must (A) have an average daily market value of at least \$700 million over the last 12 months; and (B) underlie a derivatives contract that trades on a market with which the Exchange has a comprehensive surveillance sharing agreement, whether directly or through common membership in ISG. The requirements in proposed Options 4, Section 3(h)(3)(A) are designed to help ensure that each of the crypto assets that a Commodity-Based Trust holds is sufficiently liquid that the creation and redemption process for shares of the Commodity-Based Trust will operate without disruption and that Commodity-Based Trust shares will be available to options market makers and other market participants that may use Commodity-Based Trust shares to hedge their positions. The Exchange will consider suspending opening transactions in Commodity-Based Trust share options if the requirements in proposed ISE Options 4, Section 3(h)(3) are no longer satisfied.³²

impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

³¹ 15 U.S.C. 78f(b)(5).

³² See proposed ISE Options 4, Section 4(g)(3).

The Exchange represents that the same surveillance procedures applicable to ETF options currently listed and traded on the Exchange will apply to the trading of options on Commodity-Based Trust shares.³³ The Exchange states that its existing surveillance and reporting safeguards are designed to deter and detect possible manipulative behavior that might arise from listing and trading options on ETFs, including the listing of options on Commodity-Based Trust shares.³⁴ As discussed above, each crypto asset held by a Commodity-Based Trust must underlie a derivatives contract that trades on a market with which the Exchange has a comprehensive surveillance sharing agreement, whether directly or through common membership in ISG.³⁵ This requirement, in addition to the Exchange’s existing surveillance procedures, should assist the Exchange in investigating suspected manipulations or other trading abuses in Commodity-Based Trust share options.

Finally, the proposed changes to correct a grammatical error in ISE Options 3, Section 3(h)(vi) and to revise the erroneous cross-reference in ISE Options 4, Section 4(g) will help to ensure the accuracy of the Exchange’s rules.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,³⁶ that the proposed rule change (SR-ISE-2025-30), as modified by Amendment Nos. 1 and 2, is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁷

Sherry R. Haywood,

Assistant Secretary.

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BILLING CODE 8011-01-P

²³ See *id.*

²⁴ See *id.*

²⁵ See *id.*

²⁶ See *id.*

²⁷ See *id.*

²⁸ See *id.* The Exchange states that it currently lists options on shares of the following funds: the iShares Bitcoin Trust, the Fidelity Wise Origin Bitcoin Fund, the ARK21Shares Bitcoin ETF, the Grayscale Bitcoin Trust (“BTC”), the Grayscale Bitcoin Mini Trust BTC, and the Bitwise Bitcoin ETF. See *id.* at footnote 28.

²⁹ See *id.* at 61486.

³⁰ In approving this proposed rule change, the Commission has considered the proposed rule’s

³³ See Order Instituting Proceedings, 90 FR at 61485.

³⁴ See *id.*

³⁵ See proposed ISE Options 4, Section 3(h)(3)(B).

³⁶ 15 U.S.C. 78s(b)(2).

³⁷ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105073; File No. SR–24X–2026–08]

Self-Regulatory Organizations; 24X National Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 11.6 to Clarify the Handling of Certain Orders and Update References to Regulation NMS

March 24, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b–4 thereunder,² notice is hereby given that, on March 16, 2026, 24X National Exchange LLC (“24X” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b–4(f)(6) thereunder.⁴ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend 24X Rule 11.6 to update references to Regulation NMS and to clarify the handling of orders that contain both a Post Only order handling instruction and either (i) no additional instruction or (ii) an additional Display-Price Sliding or Cancel Back instruction to facilitate compliance with Rule 610(e) of Regulation NMS. The proposed rule change is available on the Exchange’s website at <https://equities.24exchange.com/regulation> and at the principal office of the Exchange.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below.

The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend 24X Rule 11.6 to update references to Regulation NMS and to clarify the handling of orders that contain both a Post Only order handling instruction and either (i) no additional instruction or (ii) an additional Display-Price Sliding or Cancel Back instruction to facilitate compliance with Rule 610(e) of Regulation NMS.

As background, the current rules state that an order entered with a Post Only instruction does not remove liquidity, except when the order is an order to buy or sell a security priced below \$1.00, or when executing as the taker of liquidity would be economically beneficial to the firm entering the order—i.e., if the value of such execution when removing liquidity equals or exceeds the value of such execution if the order instead posted to the 24X Book and subsequently provided liquidity, including the applicable fees charged or rebates provided.⁵ Today, the Exchange’s rules state that this handling applies to Post Only orders entered with a Display-Price Sliding⁶ instruction, which is a re-pricing instruction used for compliance with Regulation NMS. Thus, an executable order entered with a Post Only instruction is eligible to remove liquidity in the circumstances described in Rule 11.6(l)(2) instead of having its ranked price or display price adjusted pursuant to those order handling instruction.

However, the Exchange also offers a Cancel Back instruction that is not covered by 24X Rule 11.6(l)(2). An order entered with a Cancel Back instruction is immediately cancelled instead of re-priced when displaying the order at its

limit price would create a violation of Regulation NMS, or if the order could not otherwise be executed or posted at its limit price.⁷ Even if Users select the Cancel Back instruction, however, orders entered with a Post Only instruction are handled in the same manner regardless of whether the Display-Price Sliding or Cancel Back instruction is selected.⁸ The Exchange therefore proposes to amend 24X Rule 11.6(l)(2) to eliminate the reference to Display-Price Sliding, given that such an instruction is not required for a Post Only instruction to remove liquidity under the noted circumstances.⁹

The Exchange believes that removing the reference to this instruction in the rule would reduce potential confusion as the order handling described in the rule today applies to all orders entered with a Post Only instruction, and not a specific subset of those orders. No changes to the Exchange’s trading or other systems are contemplated by the proposed rule change, which is instead designed to increase transparency around the Exchange’s process. This proposed change is based on the rules of MEMX LLC (“MEMX”).¹⁰

In addition, the Exchange proposes to amend the references to Rule 610(d) of Regulation NMS that appear in 24X Rule 11.6(a), (b), (e), and (j) to reflect the fact that on September 18, 2024, the Commission adopted several amendments to Regulation NMS.¹¹

⁷ “Cancel Back” is an instruction the User may attach to an order instructing the System to immediately cancel the order when, if displayed by the System on the 24X Book at the time of entry, or upon return to the System after being routed away, would create a violation of Rule 610(e) of Regulation NMS or Rule 201 of Regulation SHO, or the order cannot otherwise be executed or posted by the System to the 24X Book at its limit price. See 24X Rule 11.6(a).

⁸ Rule 11.6(j)(1)(A)(iv) states that any display-eligible order with a Post Only instruction that would be a Locking Quotation or Crossing Quotation of the Exchange upon entry will be cancelled. In the event the NBBO changes such that an order with a Post Only instruction subject to Display-Price Sliding instruction would be ranked at a price at which it could remove displayed liquidity from the 24X Book, the order will be cancelled.

⁹ MEMX and Cboe EDGX Exchange, Inc. similarly filed to remove the reference to Display Price Sliding from their rule text, and allow all Post Only orders to remove liquidity if economically beneficial to the firm entering the order. See Securities Exchange Act Release No. 103968 (September 15, 2025), 90 FR 45069 (September 18, 2025) (SR–MEMX–2025–29); Securities Exchange Release No. 88515 (April 4, 2019), 84 FR 14427 (April 10, 2019) (SR–CboeEDGX–2019–014).

¹⁰ The proposed rule text is substantially similar to MEMX Rule 11.6(l)(2).

¹¹ See Securities Exchange Act Release No. 101070 (Sept. 18, 2024), 89 FR 81620 (Oct. 8, 2024) (File No. S7–30–22) (Regulation NMS: Minimum Pricing Increments, Access Fees, and Transparency

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b–4.

⁵ See 24X Rule 11.6(l)(2). To determine at the time of a potential execution whether the value of such execution when removing liquidity equals or exceeds the value of such execution if the order instead posted to the 24X book and subsequently provided liquidity, the Exchange uses the highest possible rebate paid and the highest possible fee charged for such executions on the Exchange.

⁶ “Display-Price Sliding” is an order instruction requiring that where an order would be a Locking Quotation or Crossing Quotation of an external market if displayed by the System on the 24X Book at the time of entry, will be ranked at the Locking Price in the 24X Book and displayed by the System at one Minimum Price Variation lower (higher) than the Locking Price for orders to buy (sell). See 24X Rule 11.6(j)(1)(A).

which became effective on February 2, 2026.¹² These amendments resulted in the renumbering of former Rule 610(d) (“Locking or crossing quotations”) as Rule 610(e). The Exchange proposes to correspondingly amend its rules so that all references to former Rule 610(d) now correctly refer to Rule 610(e).

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of Section 6(b) of the Act,¹³ in general, and Section 6(b)(5) of the Act,¹⁴ in particular, in that it is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

Specifically, the Exchange believes that the proposed rule change is consistent with the public interest and the protection of investors as it would avoid potential confusion about how an order is handled if entered with both a Post Only and Cancel Back instruction or no additional instruction at all. Today, the Exchange’s rules provide that an order entered into the 24X Book with a Post Only instruction would remove liquidity in certain circumstances, such as when economically beneficial for the firm entering the order. In addition, the rules specify that this handling applies to orders entered with a Post Only and a Display-Price Sliding instruction. The rules, however, are silent as to the handling applied if an order with a Post Only instruction contains a Cancel Back instruction or no additional instruction at all. The Exchange’s order handling is, in fact, the same regardless of which of these instructions are chosen by the member. As such, the Exchange believes that it is appropriate to amend 24X Rule 11.6(l)(2) to eliminate the reference to the Display-Price Sliding instruction, thereby making clear that this handling applies to all orders entered with a Post Only instruction and not only those that also contain a Display-Price Sliding instruction.

The Exchange believes that this order handling is appropriate regardless of whether an order entered with a Post

Only instruction also contains a Display-Price Sliding, Cancel Back, or no additional instruction. Specifically, the Exchange believes that it is consistent with just and equitable principles of trade to permit an order entered with a Post Only instruction to remove liquidity when the order is an order to buy or sell a security priced below \$1.00, or when executing as the taker of liquidity would be economically beneficial to the firm entering the order. This handling is designed to ensure that orders entered with a Post Only instruction are eligible to trade in certain circumstances where the entering firm may have an interest in securing an execution on entry—*i.e.*, as the taker of liquidity—notwithstanding the member’s use of the Post Only instruction. Although the Exchange’s rules currently mention order handling for the Display-Price Sliding instruction specifically, this functionality should be applied equally to any order entered with a Post Only instruction. Thus, amending the rule as proposed would provide additional transparency into a feature offered by the Exchange that is potentially beneficial to members that utilize the Post Only instruction.

The Exchange also believes that the proposed change to update references to Rule 610(e) of Regulation NMS is consistent with the Act because it will update references that are currently out of date and reduce confusion surrounding such references, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization’s Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, the proposed rule change would remove ambiguity and outdated references in the 24X rules. No change to the Exchange’s order handling is contemplated by this proposed rule change. The Exchange therefore believes that the proposed rule change would increase transparency around the operation of the Exchange to the benefit of members and investors without imposing any significant burden on competition.

C. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act¹⁵ and Rule 19b-4(f)(6)¹⁶ thereunder. Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁷ and Rule 19b-4(f)(6)¹⁸ thereunder.

A proposed rule change filed under Rule 19b-4(f)(6)¹⁹ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),²⁰ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requested that the Commission waive the 30-day operative delay so that the proposed rule change may become operative immediately upon filing. The Exchange states that waiver of the operative delay is consistent with the protection of investors and the public interest because it would allow the Exchange to immediately amend its rules to avoid potential confusion around the operation of the Post Only instruction. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because the proposal will clarify the current handling of orders entered with a Post Only instruction and does not raise any novel regulatory

of Better Priced Orders.” (“Rule 610(d) Adopting Release”).

¹² See Securities Exchange Act No. 104172 (Oct. 31, 2025), 90 FR 51418 (Nov. 17, 2025) (Order Granting Temporary Exemptive Relief, Pursuant to Section 36(a)(1) of the Securities Exchange Act of 1934 and Rules 610(f) and 612(d) of Regulation NMS, From Compliance With Rule 600(b)(89)(i)(F), Rule 610(c), Rule 610(d) and Rule 612 of Regulation NMS, as Amended).

¹³ 15 U.S.C. 78f(b).

¹⁴ 15 U.S.C. 78f(b)(5).

¹⁵ 15 U.S.C. 78s(b)(3)(A).

¹⁶ 17 CFR 240.19b-4(f)(6).

¹⁷ 15 U.S.C. 78s(b)(3)(A).

¹⁸ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

¹⁹ 17 CFR 240.19b-4(f)(6).

²⁰ 17 CFR 240.19b-4(f)(6)(iii).

issues and will allow the Exchange to immediately update outdated references. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change to be operative upon filing.²¹

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-24X-2026-08 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.
- All submissions should refer to file number SR-24X-2026-08. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection.

²¹ For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

All submissions should refer to file number SR-24X-2026-08 and should be submitted on or before April 17, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²²

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026-05945 Filed 3-26-26; 8:45 am]

BILLING CODE 8011-01-P

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments

AGENCY: U.S. Small Business Administration.

ACTION: 30-Day notice; request for comments.

SUMMARY: The Small Business Administration (SBA) will submit the information collection described below to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, as amended, on or after the date of publication of this notice. SBA is publishing this notice to allow all interested members of the public an additional 30 days to provide comments on the collection of information.

DATES: Submit comments on or before April 27, 2026.

ADDRESSES: Written comments and recommendations for this information collection request should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection request by selecting "Small Business Administration"; "Currently Under Review," then select the "Only Show ICR for Public Comment" checkbox. This information collection can be identified by title and/or OMB Control Number, which are provided below.

FOR FURTHER INFORMATION CONTACT: You may obtain information including a copy of the forms and supporting documents from the Interim Agency Clearance Officer, Shauniece Carter, at (202) 205-6536, or shauniece.carter@sba.gov, or from www.reginfo.gov/public/do/PRAMain.

SUPPLEMENTARY INFORMATION: The Office of Investment and Innovation of the SBA is required to examine small business investment companies (SBICs) pursuant to section 310(c) of the Small Business Investment Act of 1958, as

amended, 15 U.S.C. 687b(c), and the implementing regulations 13 CFR 107.690 to 107.692. The purpose of the examination as stated in the statute is to determine, in part, whether or not the SBIC has engaged "solely in lawful activities and those [activities] contemplated" by title III of the Small Business Investment Act. SBA collects information on Forms 856 and 856A as part of its effort to meet this statutory requirement.

Summary of Information Collection

OMB Control Number: 3245-0118.

Title: Disclosure Statement Leveraged Licensees; Disclosure Statement Non-Leveraged Licensees.

Description of Respondents: Small Business Investment Company (SBIC).

Form Number: Form 856 and Form 856a.

Estimated Annual Respondents: 323.

Estimated Annual Hour Burden: 307.

Solicitation of Public Comments

SBA invites the public to submit comments, including specific and detailed suggestions on ways to improve the collection and reduce the burden on respondents. Commenters should also address (i) whether the information collection is necessary for the proper performance of SBA's functions, including whether it has any practical utility; (ii) the accuracy of the estimated burdens; (iii) ways to enhance the quality, utility, and clarity of the information to be collected; and (iv) the use of automated collection techniques or other forms of information technology to minimize the information collection burden on those who are required to respond.

Shauniece Carter,

Interim Agency Clearance Officer.

[FR Doc. 2026-05936 Filed 3-26-26; 8:45 am]

BILLING CODE 8026-09-P

SMALL BUSINESS ADMINISTRATION

[License No. 40002379]

First In Ventures Fund 3 SBIC Critical Technologies LP; Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that First In Ventures Fund 3 SBIC Critical Technologies LP, 11450 SE Dixie Hwy, Suite 201, Hobe Sound, FL 33455, Federal Licensee under the Small Business Investment Act of 1958, as amended ("the Act"), in connection with financings of a small business, has sought an exemption under Section 312

²² 17 CFR 200.30-3(a)(12) and (59).

of the Act and 13 CFR 107.730, *Financings which Constitute Conflicts of Interest* of the Code of Federal Regulations. First In Ventures Fund 3 SBIC Critical Technologies LP proposes to provide financing to SCATR Corporation, 26391 Curtiss Wright Parkway Suite 108, Cleveland, OH 44143 to support the company's growth.

The financing is brought within the purview of 13 CFR 107.730(a) of the regulations because First In Ventures Fund II LP and First in SCATR 2024 LLC, Associates of First In Ventures Fund 3 SBIC Critical Technologies LP, own more than ten percent of SCATR Corporation. First in Ventures Fund II LP and First in SCATR 2024 LLC are Associates by virtue of Common Control, as those terms are defined in 13 CFR 107.50. Therefore, this transaction is considered a financing which constitutes a conflict of interest.

Notice is hereby given that any interested person may submit written comments on the transaction, within fifteen days of the date of this publication, to the Associate Administrator for Investment, U.S. Small Business Administration, 409 Third Street SW, Washington, DC 20416.

Paul Salgado,

*Director, Investment Portfolio Management,
Office of Investment and Innovation.*

[FR Doc. 2026-05996 Filed 3-26-26; 8:45 am]

BILLING CODE P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA-2025-0034]

Privacy Act of 1974; Matching Program

AGENCY: Social Security Administration (SSA).

ACTION: Notice of a new matching program.

SUMMARY: In accordance with the provisions of the Privacy Act, as amended, this notice announces a re-establishment of a matching program with the Department of Veterans Affairs (VA), Veterans Benefits Administration (VBA). Under this matching program, VA will provide SSA with compensation and pension payment data necessary to administer Supplemental Security Income (SSI) and Special Veterans Benefits (SVB) and to fulfill SSA's obligations for the Medicare Savings Program (MSP) and Medicare Prescription Drug (Medicare Part D) subsidy (Extra Help).

DATES: The deadline to submit comments on the proposed matching program is April 27, 2026.

The matching program will be applicable on May 11, 2026, or once a minimum of 30 days after publication of this notice has elapsed, whichever is later. The matching program will be in effect for a period of 18 months.

ADDRESSES: You may submit comments by any one of three methods—internet, fax, or mail. Do not submit the same comments multiple times or by more than one method. Regardless of which method you choose, please state that your comments refer to Docket No. SSA-2025-0034 so that we may associate your comments with the correct regulation. **CAUTION:** You should be careful to include in your comments only information that you wish to make publicly available. We strongly urge you not to include in your comments any personal information, such as Social Security numbers or medical information.

1. *Internet:* We strongly recommend that you submit your comments via the internet. Please visit the Federal eRulemaking portal at <https://www.regulations.gov>. Use the *Search* function to find docket number SSA-2025-0034 and then submit your comments. The system will issue you a tracking number to confirm your submission. You will not be able to view your comment immediately because we must post each submission manually. It may take up to a week for your comments to be viewable.

2. *Fax:* Fax comments to (833) 410-1631.

3. *Mail:* Matthew Ramsey, Head of Privacy and Disclosure Policy, Law and Policy, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235-6401, or emailing Matthew.Ramsey@ssa.gov. Comments are also available for public viewing on the Federal eRulemaking portal at <https://www.regulations.gov> or in person, during regular business hours, by arranging with the contact person identified below.

FOR FURTHER INFORMATION CONTACT:

Interested parties may submit general questions about the matching program to Andrea Huseth, Division Director, Privacy and Disclosure Policy, Law and Policy, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235-6401, at telephone: (410) 608-9675, or send an email to Andrea.Huseth@ssa.gov.

SUPPLEMENTARY INFORMATION: This notice announces the re-establishment of a matching program that is set to expire between SSA and VA, which supports SSA's efficient administration of its SSI and SVB programs and to

fulfill SSA's obligations for the MSP and Extra Help.

Matthew Ramsey,

Head, Privacy and Disclosure Policy, Law and Policy.

Participating Agencies: SSA and VA/VBA.

Authority for Conducting the Matching Program: The legal authorities for SSA to conduct the matching program are sections 806(b), 1144, 1631(e)(1)(B) and (f), and 1860D-14(a)(3) of the Social Security Act (Act) (42 U.S.C. 1006(b), 1320b-14, 1383(e)(1)(B) and (f), and 1395w-114(a)(3)).

The legal authority for VA to disclose information under the matching program is section 1631(f) of the Act (42 U.S.C. 1383(f)), which requires Federal agencies to provide such information as the Commissioner of Social Security needs for purposes of determining eligibility for or amount of benefits, or verifying other information with respect thereto.

Section 1144(a)(1) and (b)(1) of the Act (42 U.S.C. 1320b-14(a)(1) and (b)(1)) requires SSA to take actions to notify individuals about the availability of Medicare cost-sharing and subsidies for low-income individuals under Title XVIII of the Act (Medicare), including MSP and Extra Help.

Section 1860D-14(a)(3) of the Act (42 U.S.C. 1395w-114(a)(3)) sets forth the eligibility determination requirements for Extra Help.

Purpose(s): Under this matching program, VA will provide SSA with compensation and pension payment data necessary to administer SSI and SVB and to fulfill SSA's obligations for the MSP and Extra Help. SSA will use VA compensation and pension payment data to verify eligibility, or amount of payments, for SSI and SVB recipients. SSA will also use the VA compensation and pension payment data to verify an individual's self-certification of eligibility for Extra Help. Additionally, SSA will use the VA compensation and pension payment data to identify individuals who may qualify for Medicare cost-sharing assistance through the MSP or Extra Help to contact these individuals about the availability of these programs.

Categories of Individuals: The individuals whose information is involved in this matching program are those individuals who are receiving VA compensation or pension benefits and are matched with data in SSA's SSI Record and SVB system of records (SOR) or SSA's Medicare database SOR.

Categories of Records: VA will provide SSA with electronic files

containing compensation and pension payment data. SSA will match the VA data with its SSI/SVB payment information and Medicare database information. SSA will conduct the match using the Social Security number, name, date of birth, and VA claim number on the VA file, the SSI Record and SVB SOR, and the Medicare database SOR.

System(s) of Records: VA will provide SSA with electronic files containing compensation and pension payment data from its SOR entitled the “Compensation, Pension, Education, and Veteran Readiness and Employment Records-VA” (58VA21/22/28), republished with updated name at 74 FR 14865 (April 1, 2009), and amended at 86 FR 61858 (November 8, 2021) and 90 FR 44464 (September 15, 2025).

SSA will match the VA compensation and pension payment data with SSI/SVB payment information maintained in its SOR entitled “Supplemental Security Income Record and Special Veterans Benefits,” 60–0103, last fully published at 71 FR 1830 (January 11, 2006), and amended at 72 FR 69723 (December 10, 2007), 83 FR 31250–31251 (July 3, 2018), 83 FR 54969 (November 1, 2018), 89 FR 825 (January 5, 2024), 89 FR 14554 (February 27, 2024) and 90 FR 53413–53415 (November 25, 2025).

SSA will also match the VA information with its Medicare Database (MDB) File, 60–0321, last fully published at 71 FR 42159 (July 25, 2006), and amended at 72 FR 69723 (December 10, 2007), 83 FR 54969 (November 1, 2018), and 90 FR 53413–53415 (November 25, 2025).

[FR Doc. 2026–06011 Filed 3–26–26; 8:45 am]

BILLING CODE 4191–02–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36906]

Connecticut Southern Railroad, Inc.— Change of Operators Exemption— Central New England Railroad, Inc.

Connecticut Southern Railroad, Inc. (CSO), a Class III carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to lease from the State of Connecticut Department of Transportation (CT DOT) and operate approximately 8.64 miles of rail line extending between milepost 0.0 at Hartford, Conn. and milepost 8.64 at Griffins, Conn., known as the Griffins Industrial Track (the Line). Central New England Railroad, Inc. (CNZR), currently operates the Line. *See Cent. New England R.R.—Operation*

Exemption—Line Owned by State of Conn. Dep’t of Transp., FD 33680 (STB served Jan. 28, 1999).¹

CSO states that the agreement between CNZR and CT DOT is ending and that CSO will become the new operator of the Line. According to CSO, CNZR has authorized CSO to represent that CNZR does not object to the verified notice, which will result in CSO obtaining authority to operate the Line as a common carrier and releasing CNZR from its common carrier obligation to operate the Line.

CSO certifies that its lease with CT DOT does not impose or include an interchange commitment. CSO also certifies that its projected annual revenues as a result of this transaction will not result in the creation of a Class II or Class I rail carrier and will exceed \$5 million. Under 49 CFR 1150.42(b), a change in operators exemption requires that notice be given to shippers. CSO states there are no shippers on the Line.

The transaction may be consummated on or after April 21, 2026, the effective date of the exemption (60 days after CSO certified its compliance with the labor notice requirements of 49 CFR 1150.42(e)).

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed by April 14, 2026 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36906, must be filed with the Surface Transportation Board either via e-filing on the Board’s website or in writing addressed to 395 E Street SW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on CSO’s representative, Justin J. Marks, Clark Hill PLC, 1001 Pennsylvania Avenue NW, Suite 1300 South, Washington, DC 20004.

According to CSO, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b).

¹ CSO submitted a letter on March 18, 2026, noting that the notice of exemption in Docket No. FD 33680 describes the Line as extending to milepost 8.7 at Griffins. CSO states that its understanding is that the reference to milepost 8.7 in that case “is a historical error because anything beyond milepost 8.64 was apparently abandoned in 1938 and there is no evidence to suggest that any rail operations have taken place beyond milepost 8.64 in the last twenty-seven years.” (CSO Letter 1, Mar. 18, 2026.)

Board decisions and notices are available at www.stb.gov.

Decided: March 24, 2026.

By the Board, Anika S. Cooper, Chief Counsel, Office of Chief Counsel.

Jeffrey Herzig,
Clearance Clerk.

[FR Doc. 2026–05999 Filed 3–26–26; 8:45 am]

BILLING CODE 4915–01–P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 1266 (Sub-No. 2X); Docket No. AB 1349X]

Canonie Atlantic Co.—Abandonment Exemption—in the City of Virginia Beach and the City of Norfolk, Va.; Buckingham Branch Railroad Company—Discontinuance Exemption—in the City of Virginia Beach and the City of Norfolk, Va.

On March 9, 2026, Canonie Atlantic Co. (CAC), a Class III rail carrier, and Buckingham Branch Railroad Company (Buckingham Branch), a Class III rail carrier (collectively, Petitioners), jointly filed a petition under 49 U.S.C. 10502 for exemption from the prior approval requirements of 49 U.S.C. 10903 for CAC to abandon and for Buckingham Branch to discontinue service over approximately 2.3 miles of rail line in the City of Virginia Beach and the City of Norfolk, Va. (the Line). The Line extends between approximately milepost 95.0 at Little Creek, Va. (City of Virginia Beach), and milepost 97.6 at Camden Heights, Va. (City of Norfolk).¹ Two stations exist on the Line: Camden Heights at milepost SN 5.2 and Little Creek at milepost SN 7.2. The Line traverses U.S. Postal Service Zip Codes 23455 and 23502.

According to Petitioners, CAC has owned the Line since 1985,² but it has never operated the Line, although it acknowledges that it holds a residual common carrier obligation. (Pet. 2.) Petitioners state that CAC has leased the Line to various carriers to provide service, and Buckingham Branch has been the lessee-operator of the Line since 2018.³ (Pet. 2.) Petitioners further state that Buckingham Branch’s lease of the Line includes various Section 10906-yard tracks and facilities (the

¹ Petitioners state that the milepost designations reflect the historical mileposts assigned to the Line, and that the length of the Line as currently measured is slightly shorter than the historical milepost designations would suggest. (Pet. 1 n.1.)

² *See Canonie Atl. Co.—Exemption from 49 U.S.C. 10901, 11301, & 11343*, FD 30709 (ICC served Sept. 11, 1985).

³ *See Buckingham Branch R.R.—Change in Operators Exemption—Cassatt Mgmt., LLC*, FD 36202 (STB served July 18, 2018).

Little Creek Yard) located at the northern end of the Line. (*Id.*) According to Petitioners, the Little Creek Yard provides Buckingham Branch with track and land that can be used for rail-to-truck transloading services and serves as the base of Buckingham Branch's local operations, serving as its only locomotive staging and servicing point in the Tidewater area and affording it with immediately adjacent office facilities to support administrative functions and local crew reporting. (*Id.*)

Petitioners state that the Line is stub-ended and handles no overhead traffic, and its local traffic derives from two shippers that have used the Line in the last two years: USRL Virginia Beach VA, LLC, and Greenbridge. (*Id.* at 2–3.) Petitioners represent that Buckingham Branch operates the Line as the higher-traffic volume part of its Norfolk Division, together with a 4.2-mile connecting line that Buckingham Branch leases from Norfolk Southern Railway Company.⁴ (Pet. 3.)

According to Petitioners, in the spring of 2025, the U.S. Navy (Navy) approached CAC regarding its need and desire to acquire a portion of the Line and the Little Creek Yard, identified as Parcel 4B in the petition, for national security purposes and to extend the Navy's control of the waterfront. (*Id.* at 4.) According to Petitioners, Buckingham Branch determined that without Parcel 4B it would become operationally and economically impracticable to operate the remainder of the Line. (*Id.*) Petitioners state that CAC does not have the resources to operate the Line itself and does not believe it could find another carrier willing and able to operate the remainder of the Line. (*Id.*) As a result, Petitioners agreed to terminate the lease for the entirety of the Line and further agreed that Buckingham Branch would seek discontinuance authority and CAC would seek abandonment authority for the Line. (*Id.*)

According to Petitioners, based on information in their possession, the Line does not contain federally granted rights-of-way. (*Id.* at 5.) Petitioners state that any documentation in their possession related to the issue of federally granted rights-of-way will be made available to those requesting it. (*Id.*)

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line Railroad*—

Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979).

By issuing this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued no later than June 26, 2026.⁵

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 120 days after the filing of the petition for exemption, or 10 days after service of a decision granting the petition for exemption, whichever occurs sooner. Persons interested in submitting an OFA must first file a formal expression of intent to file an offer by April 6, 2026, indicating the type of financial assistance they wish to provide (*i.e.*, subsidy or purchase) and demonstrating that they are preliminarily financially responsible. See 49 CFR 1152.27(c)(1)(i).

The Line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for interim trail use/railbanking under 49 CFR 1152.29 will be due no later than April 16, 2026.⁶

All pleadings, referring to Docket Nos. AB 1266 (Sub-No. 2X) and AB 1349X, must be filed with the Surface Transportation Board either via e-filing on the Board's website or in writing addressed to 395 E Street SW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on CAC's representative, Justin J. Marks, Clark Hill PLC, 1001 Pennsylvania Ave. NW, Suite 1300 South, Washington, DC 20004, and on Buckingham Branch's representative, Robert A. Wimbish, Fletcher & Sippel LLC, 29 N Wacker Drive, Suite 800, Chicago, IL 60606. Replies to the petition are due on or before April 16, 2026.

Persons seeking further information concerning abandonment and discontinuance procedures may contact the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245–0238 or refer to the full abandonment and discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Office of Environmental Analysis (OEA) at (202) 245–0294. If you require an accommodation under the Americans

with Disabilities Act, please call (202) 245–0245.

OEA will prepare an environmental assessment (EA) (or environmental impact statement (EIS), if necessary), which will be served upon all parties of record and upon any other agencies or persons who comment during its preparation. Other interested persons may contact OEA to obtain a copy of the EA (or EIS). EAs in abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA generally will be within 30 days of its service.

Board decisions and notices are available at www.stb.gov.

Decided: March 24, 2026.

By the Board, Anika S. Cooper, Chief Counsel, Office of Chief Counsel.

Regena Smith-Bernard,
Clearance Clerk.

[FR Doc. 2026–05940 Filed 3–26–26; 8:45 am]

BILLING CODE 4915–01–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36914]

Cando Holdings (U.S.) Inc. and Alberta Investment Management Corporation, et al.—Control Exemption—Savage Bingham & Garfield Railroad LLC and Savage Tooele Railroad LLC

Cando Holdings (U.S.) Inc. (Cando) and Alberta Investment Management

Corporation and various of its intermediate holding companies (collectively, AIMCo),¹ each noncarriers, filed a verified notice of exemption under 49 CFR 1180.2(d)(2) to obtain control of Savage Bingham & Garfield Railroad LLC (SBG)² and Savage Tooele Railroad LLC (STR),³ both Class III carriers, from their current owner Savage Infrastructure LLC (Savage), a noncarrier.

The verified notice states that, pursuant to an Equity and Asset

¹ According to the verified notice, Cando is an indirect subsidiary of Alberta Investment Management Corporation. There are a total of 12 intermediate holding companies between Alberta Investment Management Corporation and Cando: PIP7PX Holdings Ltd.; AIMCo Global Infrastructure Partnership; PIP7 Rowboat Trust 2; PIP7 Rowboat Trust 1; PIP7 Rowboat Ltd.; Paddle LP; Cando Holdings Ltd.; Cando Midco C Ltd.; Cando Midco B Ltd.; Cando Midco A Ltd.; Cando Rail & Terminals Ltd. (Cando RTL); and Cando Rail & Terminals (U.S.) ULC.

² SBG operates approximately 21 miles of trackage in the vicinity of Salt Lake City, Utah.

³ STR received authority to construct and operate an approximately 11-mile rail line in Tooele County, Utah. See *Savage Tooele R.R.—Constr. & Operation Exemption—Line of R.R. in Tooele Cnty., Utah*, FD 36616 (STB served Apr. 1 2024).

⁴ Concurrent with the joint petition in this proceeding, Buckingham Branch filed a petition, in Docket No. AB 1349 (Sub-No. 1X), seeking an exemption to discontinue service over this connecting line.

⁵ Petitioners state that the Navy has “has expressed urgency to acquire Parcel 4B,” and accordingly request that the Board consider the joint petition on an expedited basis. (Pet. 11.)

⁶ Filing fees for OFAs and trail use requests can be found at 49 CFR 1002.2(f)(25) and (27), respectively.

Purchase Agreement (EAPA),⁴ Cando will acquire from Savage all of the issued and outstanding equity interests in SBG and STR, and certain other entities owned directly or indirectly by Savage. Currently, Cando and AIMCo control one rail carrier, Cando Rail & Terminals Inc. (Cando RT), which holds authority to operate as a rail carrier in Arkansas.⁵ Pursuant to the EAPA, Cando would assume direct control, and AIMCo would assume indirect control, of SBG and STR.

Cando states that: (1) the rail lines of SBG and STR do not connect with each other or with the trackage over which Cando RT has operating rights; (2) the proposed transaction is not part of a series of anticipated transactions that would result in such a connection; and (3) the transaction does not involve a Class I rail carrier. Therefore, the proposed transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(2).

The earliest this transaction may be consummated is April 10, 2026, the effective date of the exemption (30 days after the verified notice was filed).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. However, 49 U.S.C. 11326(c) does not provide for labor protection for transactions under 49 U.S.C. 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed by April 3, 2026 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36914, should be filed with the Surface Transportation Board via e-filing on the Board's website or in writing addressed to 395 E Street SW, Washington, DC 20423-0001. In

addition, a copy of each pleading must be served on Cando and AIMCo's representative, Thomas J. Litwiler, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606-3208.

According to Cando and AIMCo this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at www.stb.gov.

Decided: March 24, 2026.

By the Board, Anika S. Cooper, Chief Counsel, Office of Chief Counsel.

Brendetta Jones,

Clearance Clerk.

[FR Doc. 2026-05933 Filed 3-26-26; 8:45 am]

BILLING CODE 4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 1349 (Sub-No. 1X)]

Buckingham Branch Railroad Company—Discontinuance Exemption—in the City of Virginia Beach and the City of Norfolk, Va.

On March 9, 2026, Buckingham Branch Railroad Company (Buckingham Branch), a Class III rail carrier, filed a petition under 49 U.S.C. 10502 for exemption from the prior approval requirements of 49 U.S.C. 10903 to discontinue service over approximately 4.2 miles of rail line in the City of Virginia Beach and the City of Norfolk, Va. (the Line). The Line extends between milepost SN 6.7 at Diamond Springs (Virginia Beach), Va., to milepost SN 2.5 at Coleman Place (Norfolk), Va. Two stations exist on the Line: Coleman Place (milepost SN 2.4) and Diamond Springs (milepost SN 5.2). The Line traverses U.S. Postal Service Zip Codes 23455 and 23502.

According to Buckingham Branch, the Line is owned by Norfolk Southern Railway Company (NSR), and it has operated the Line under a lease with NSR since 2018.¹ (Pet. 1–2.) Buckingham Branch states that the Line is stub-ended but handles overhead traffic originating or terminating on a connecting line segment (CAC Line), which Buckingham Branch leases from the Canonic Atlantic Co. (CAC). (*Id.* at 2.) Buckingham Branch further states that the Line's local traffic derives from a single shipper, Gordon Paper. (*Id.*)

According to Buckingham Branch, it operates the Line as part of its Norfolk

Division, together with the CAC Line, and the vast majority of Norfolk Division traffic derives from shippers on the CAC Line. (*Id.* at 2–3.) According to Buckingham Branch, the U.S. Navy (Navy) desires to acquire a portion of the CAC Line and related yard property (Parcel 4B) for national security purposes and to extend the Navy's control of the waterfront.² (Pet. 3.) Buckingham Branch contends that once the abandonment and discontinuance authority sought in Docket No. AB 1266 (Sub-No. 2X) et al. is authorized and Parcel 4B is sold to the Navy, its continued operation of the Line will not be operationally or economically feasible. (*Id.* at 3–4.)

Buckingham Branch states that, based on the information in its possession, it does not believe that the Line contains federally granted rights-of-way. (*Id.* at 2.) Buckingham Branch further states that any documentation in its possession related to federally granted rights-of-way will be made available to those requesting it. (*Id.*)

As a condition to this exemption, any employee adversely affected by the discontinuance in service will be protected by the conditions set forth in *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho*, 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued no later than June 26, 2026.³

Because this is a discontinuance proceeding and not an abandonment, interim trail use/railbanking and public use conditions are not appropriate. Because there will be an environmental review during any subsequent abandonment, this discontinuance does not require an environmental review. *See* 49 CFR 1105.6(c)(5), 1105.8(b).

Any offer of financial assistance (OFA) for subsidy under 49 CFR 1152.27(b)(2) will be due no later than 120 days after the filing of the petition for exemption, or 10 days after service of a decision granting the petition for

² Concurrent with the petition in this proceeding, CAC and Buckingham Branch filed a joint petition, in Docket No. AB 1266 (Sub-No. 2X) et al., for CAC to abandon and for Buckingham Branch to discontinue service over the CAC Line.

³ Buckingham Branch states that it will consummate the discontinuance of service on the Line and on the CAC Line simultaneously. (Pet. 10.) In light of the Navy's "expressed urgency to acquire Parcel 4B," and CAC and Buckingham Branch's request for expedited consideration of the joint petition in Docket No. AB 1266 (Sub-No. 2X) et al., Buckingham Branch requests prompt consideration of its petition. (*Id.*)

⁴ A highly confidential, unredacted version of the EAPA was submitted under seal concurrently with a motion for protective order. In its motion Cando and AIMCo request a waiver of the requirement to submit a redacted, public version of the EAPA with the verified notice. The motion for protective order and request for waiver will be addressed in a separate decision.

⁵ *See* Cando Rail Servs.—Operation Exemption—Georgia-Pacific Consumer Operations, LLC, FD 36313 (STB served Aug. 2, 2019).

¹ *See* Buckingham Branch R.R.—Change in Operators Exemption—Cassatt Mgmt., LLC, FD 36202 (STB served July 18, 2018).

exemption, whichever occurs sooner.⁴ Persons interested in submitting an OFA must first file a formal expression of intent to file an offer by April 6, 2026, indicating the intent to file an OFA for subsidy and demonstrating that they are preliminarily financially responsible. See 49 CFR 1152.27(c)(1)(i).

All pleadings, referring to Docket No. AB 1349 (Sub-No. 1X), must be filed with the Surface Transportation Board either via e-filing on the Board's website or in writing addressed to 395 E Street SW, Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Buckingham Branch's representative, Robert A. Wimbish, Fletcher & Sippel LLC, 29 N Wacker Drive, Suite 800, Chicago, IL 60606. Replies to the petition are due on or before April 16, 2026.

Persons seeking further information concerning discontinuance procedures may contact the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245-0238 or refer to the full abandonment and discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Office of Environmental Analysis at (202) 245-0294. If you require an accommodation under the Americans with Disabilities Act, please call (202) 245-0245.

Board decisions and notices are available at www.stb.gov.

By the Board, Anika S. Cooper, Chief Counsel, Office of Chief Counsel.

Decided: March 24, 2026.

Regena Smith-Bernard,
Clearance Clerk.

[FR Doc. 2026-05941 Filed 3-26-26; 8:45 am]

BILLING CODE 4915-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA-2026-3367]

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Application for Employment With the Federal Aviation Administration; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice; correction.

SUMMARY: The FAA published a document in the **Federal Register** of March 23, 2026, concerning "Collection

Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Application for Employment with the Federal Aviation Administration". This document did not contain a docket number.

FOR FURTHER INFORMATION CONTACT: Erik Chuba, 814-244-7461.

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of March 23, 2026, in FR Doc. 2026-05656, on page 13927, column 3, the third line of the document heading, correct the docket number "[Docket No. XXXX-XXXX]" to read "[Docket No. FAA-2026-3367]".

Dated: March 23, 2026.

Erik L. Chuba,

PMP, IT Project Manager/AVIATOR System Owner and PM, FAA Office of Information and Technology (AIT), Mission Partnership Service (APS), APS-120, Partnerships and Project Management, Branch B.

[FR Doc. 2026-05956 Filed 3-26-26; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. DOT-OST-2026-1222]

Agency Information Collection Activities: DOT Technical Assistance PRA

AGENCY: Office of the Secretary (OST), Department of Transportation (DOT).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Office of the Secretary (OST) to request the Office of Management and Budget's (OMB) approval to renew a currently approved information collection titled "DOT Technical Assistance PRA", with OMB control number 2105-0584.

DATES: Comments must be submitted on or before May 29, 2026.

ADDRESSES: You may send comments within 60 days of publication of this notice to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503, Attention DOT Desk Officer. All comments received are part of the public record. Comments will generally be posted without change. All comments should include the Docket number DOT-OST-2022-0120.

FOR FURTHER INFORMATION CONTACT: Please email victor.austin@dot.gov or contact Victor Austin at (771) 216-1242.

Office hours are from 8 a.m. to 5 p.m. ET, Monday through Friday, except for Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: DOT Technical Assistance PRA.

OMB Control Number: 2105-0584.

Type of Request: Renewal of information collection.

Background: The Infrastructure Investment and Jobs Act (IIJA, Public Law 117-58) created several programs at the U.S. Department of Transportation (DOT) that allow local governments, non-profit organizations, tribal governments, and other political subdivisions of state or local governments to apply directly for DOT discretionary grant funding.

For the Asset Concession and Innovative Finance Assistance Program (also known as the Innovative Finance and Asset Concession Program), project sponsors will make an application in response to a Notice of Funding Opportunity (NOFO). Successful applicants will receive reimbursable grants to hire staff or procure technical assistance to develop projects. Preparation of each NOFO response is estimated to require 30 hours of staff time. Successful applicants must also prepare progress reports as a condition of funding. Progress reporting is estimated to require four hours per year. Each grant has a three-year period of performance.

For the Rural and Tribal Assistance Pilot Program, project sponsors will make an application in response to a NOFO. The application process is streamlined for this program and is estimated to require 19 hours to complete. Successful applicants must also prepare progress reports as a condition of funding. Progress reporting is estimated to require four hours per year. Each grant has a three-year or two-year period of performance.

Asset Concession and Innovative Finance Grant Program

Estimated Number of Respondents to NOFO: 100.

Estimated Burden Hours per NOFO Respondent: 30.

Estimated Total Annual Burden Hours for NOFO respondents: 3,000.

Estimated Successful Applicants: 50.

Estimated Hours for Progress Reporting, per Award per Year: 4.

Estimated Annual Burden Hours for Progress Reporting: 200.

Estimated Total Annual Cost: \$409,600.

Rural and Tribal Assistance Grants

Estimated Number of Respondents to NOFO: 700.

Estimated Burden Hours per NOFO Respondent: 19.

⁴ The filing fee for OFAs can be found at 49 CFR 1002.2(f)(25).

Estimated Total Annual Burden Hours for NOFO Respondents: 13,300.
Estimated Successful Applicants: 50.
Estimated Hours for Progress Reporting, per Award per Year: 4.
Estimated Annual Burden Hours for Progress Reporting: 200.
Estimated Total Annual Cost: \$1,728,000.

Total for All Technical Assistance Programs

Estimated Total Hours: 16,700.
Estimated Total Cost: \$2,137,600.
Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for DOT's performance; (2) the accuracy of the estimated burdens; (3) ways for DOT to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.
Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended; 23 U.S.C. 134 and 135; and 23 CFR chapter 1, subchapter E, part 450.

Duane Callender,

Director, Build America Bureau, Office of the Secretary, U.S. Department of Transportation.
[FR Doc. 2026-06009 Filed 3-26-26; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

[Docket No. VA-2026-VACO-0001]

Notice of Exception to Date of Receipt Rule

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Beginning November 15, 2024, a strike led by the Canadian Union of Postal Workers (CUPW) resulted in a delay of mail delivery from Canada Post. In response, the Veterans Benefits Administration (VBA) is establishing a temporary exception to the date of receipt provisions to ensure that veterans or claimants residing within the Canada Post mailing jurisdiction do not have an adverse effect to benefits. VBA recognizes the potential impact in the claim process resulting from the inability to send or receive mail. The strike ran from November 15, 2024, through December 17, 2024. On January 6, 2025, Canada

Post returned to full-service levels, and the United States Postal Service (USPS) resumed acceptance of mail and packages to and from Canada.

FOR FURTHER INFORMATION CONTACT: Jadine Piper, Acting Assistant Director, Policy, Compensation Service, Veterans Benefits Administration, (202) 461-9700.

SUPPLEMENTARY INFORMATION: On November 15, 2024, CUPW initiated a national strike affecting Canada's postal system, causing stoppages and significant delays in the processing and delivery of mail. On November 29, 2024, USPS announced an immediate suspension, temporarily halting mail acceptance to and from Canada, affecting the processing or delivery of mail services to millions of Canadian customers. On January 6, 2025, Canada Post reinstated full-service levels for domestic mail and accelerated processing for international mail. In conjunction, on January 6, 2025, USPS resumed the acceptance of mail and packages to and from Canada.

Although Canada Post has resumed regular mail processing and delivery services, VBA understands the negative impact these disruptions may have caused certain veterans or claimants residing within the Canadian postal jurisdiction during the time of the strike. Potential impact includes preventing the timely filing of VBA claims submissions and claim-related evidence or receiving claim-related or other pertinent VBA benefit information. Therefore, VBA is instituting a temporary exception for determining acceptable dates of receipt for correspondence sent through postal or other mail processing services for veterans or claimants residing within the jurisdiction of Canada.

Ordinarily, "date of receipt" means the date on which a Department of Veterans Affairs (VA) office receives a claim, information, or evidence. Under 38 CFR 3.1(r), the Under Secretary for Benefits may establish exceptions to VA's rule on the date of receipt of claims, information, or evidence by publishing a notice in the **Federal Register**. Section 3.1(r) states that an exception may be established when a natural or man-made interference with the normal channels through which VBA ordinarily receives correspondence has resulted in one or more VBA regional offices experiencing extended delays in the receipt of claims, information, or evidence to an extent that, if not addressed, would adversely affect veterans and claimants through no fault of their own.

The CUPW national strike significantly disrupted mail services for millions of Canada Post customers. VBA acknowledges that veterans or claimants residing within a Canadian postal jurisdiction may have experienced unusual hardships in submitting correspondence containing a claim, evidence, or other information throughout the course of the strike. VBA further acknowledges that letters sent in the days before the strike may also have been impacted. Therefore, VA has established exceptions to the standard date of receipt rule for correspondence from veterans or claimants affected by the CUPW strike. VA recognizes a disruption in mail services from November 11, 2024, the first business day of the week in which mail service disruptions commenced, through March 10, 2025, 60 calendar days from the date following full reinstatement of Canadian mail services.

Exceptions to Date of Receipt Rule for Claimants Affected by the Canadian Postal Strike

Under 38 CFR 3.109(b), if there is good cause, VA may provide claimants or beneficiaries an extension of time when submitting information applicable to the processing of a claim or a decision. This applies to veterans, claimants, or beneficiaries residing in a Canadian postal jurisdiction during the strike. The disruption in mail services provides good cause to support the need for extending time limits based on mail delays. VBA grants a time limit extension by establishing this exception.

VBA gives notice that, for purposes of determining entitlement to benefits, any correspondence received by VBA, during the period of November 11, 2024, through March 10, 2025, from a veteran or claimant residing within a Canadian postal jurisdiction that contains an impacted claim, information, or evidence, will be considered received on the postmark date or November 15, 2024, whichever is earlier.

In accordance with 38 CFR 3.110, computation of the extended timeframe for receipt of correspondence or other pertinent evidence excludes the first day of the affected period. This means VBA will make exceptions to the date of receipt rule beginning November 15, 2024, extending through March 10, 2025, the next succeeding workday following the 60-day period after full resumption of Canadian mail services.

If VBA solicited submission of information or evidence from a veteran or claimant residing within a Canadian postal jurisdiction any time on or after November 11, 2024, and the date for submission of such information or

evidence expired between November 15, 2024, and March 10, 2025, receipt of such information or evidence will be considered as timely if it is postmarked by March 10, 2025. In the event there is no mail postmark or date stamp by the USPS, VBA will consider any such solicited evidence or information as received no later than March 10, 2025, or the latest date on which a timely response to VBA's request for information could be received. For any decision notification letter sent during the impacted period of November 11, 2024, to March 10, 2025, VA will consider March 10, 2025, as the date of the decision notice for a subsequently submitted decision review option.

Signing Authority

Douglas A. Collins, Secretary of Veterans Affairs, approved this document on March 11, 2026, and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

Gabriela DeCuir,

*Alternate Federal Register Liaison Officer,
Department of Veterans Affairs.*

[FR Doc. 2026-06004 Filed 3-26-26; 8:45 am]

BILLING CODE 8320-01-P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-NEW]

Agency Information Collection Activity Under OMB Review: Application for High-Technology Veterans Education, Training and Skills (VET TEC 2.0) Program

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration

(VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden, and it includes the actual data collection instrument.

DATES: Comments and recommendations for the proposed information collection should be sent by April 27, 2026.

ADDRESSES: To submit comments and recommendations for the proposed information collection, please type the following link into your browser: www.reginfo.gov/public/do/PRAMain, select "Currently under Review—Open for Public Comments", then search the list for the information collection by Title or "OMB Control No. 2900-XXXX."

FOR FURTHER INFORMATION CONTACT: VA PRA information: Dorothy Glasgow, 202-461-1084, VAPRA@va.gov

SUPPLEMENTARY INFORMATION:

Title: Application for Veteran Employment Through Technology Education Courses (VET TEC 2.0) High Technology Program, VA Form 22-10297.

OMB Control Number: 2900-NEW, <https://www.reginfo.gov/public/do/PRAsearch>.

Type of Review: New Collection.

Abstract: On January 2, 2025, the Elizabeth Dole Field and Community Based Services for Veterans and Caregivers Act (Pub. L. 118-210) was signed into law. The legislation can be identified as the DOLE Act. This legislation established a new Veteran Technology program titled "High-Technology Veterans Education, Training and Skills (VET TEC 2.0) Program". VET TEC 2.0 allows Veterans to enroll in courses outside the traditional definition of higher education to obtain skillsets highly desired by employers. The DOLE Act authorizes VA to provide educational

assistance for these high technology programs of education that begin prior to September 30, 2027. The eligibility requirements to qualify for the program apply to an individual who is a Veteran under age 62 who has served at least 3 years (36 months) on Active Duty; or a Service member who is within 180 days of discharge who has or will serve 3 years (36 months) by their discharge date; and who has received a discharge under conditions other than dishonorable. The DOLE Act requires VA to develop mechanisms for Veteran application for VET TEC 2.0, to include selection of a specific training provider and program and a Participation Agreement for Training Providers who wish to seek approval for their programs under VET TEC 2.0. It also requires VA to develop enrollment processing mechanisms and the ability to track the number of enrollees in real time due to annual participation limits. Lastly, VA must submit a report to Congress no later than January 2, 2026, and each year thereafter on the operation of the program.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 90 FR 58373, December 16, 2025.

Affected Public: Individuals and households.

Estimated Annual Burden: 4,412 hours.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: Once.

Estimated Number of Respondents: 4,412.

Authority: 44 U.S.C. 3501 *et seq.*

Shunda Willis,

Alternate, VA PRA Clearance Officer, Office of Information Technology, Data Governance Analytics, Department of Veterans Affairs.

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Regulatory Capital Rule (Regulation Q): Risk-Based Capital Surcharges for Global Systemically Important Bank Holding Companies; Systemic Risk Report (FR Y-15); Proposed Rule

FEDERAL RESERVE SYSTEM**12 CFR Part 217****[Docket No. 1889]****RIN 7100-AH22****Regulatory Capital Rule (Regulation Q): Risk-Based Capital Surcharges for Global Systemically Important Bank Holding Companies; Systemic Risk Report (FR Y-15)****AGENCY:** Board of Governors of the Federal Reserve System.**ACTION:** Notice of proposed rulemaking.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is inviting public comment on a notice of proposed rulemaking to amend the Board's rule that identifies and establishes risk-based capital surcharges for U.S. global systemically important bank holding companies (GSIBs). The proposal would also amend the Systemic Risk Report (FR Y-15), which is the source of inputs to the implementation of the GSIB framework under the capital rule. The proposal would make several changes to better align surcharges with risk. First, it would modify certain coefficients used to calculate GSIB surcharges under method 2 of the GSIB surcharge framework to reflect changes in the financial system and the economy and provide for annual adjustments for real economic growth and inflation going forward. Second, the proposal would modify the measurement and weighting of the weighted short-term wholesale funding systemic indicator. Third, for certain systemic indicators currently measured as of a single date each year, the proposal would require measurement based on average values to reduce the effects of temporary changes to indicator values around measurement dates. Fourth, the proposal would reduce cliff effects and enhance the sensitivity of the surcharge to changes in a GSIB's systemic risk profile. Fifth, to improve risk capture, the proposal would also make improvements to the measurement of some systemic indicators used in the GSIB surcharge framework and the framework for determining prudential standards for large banking organizations. In addition to these changes, the proposal would make several amendments to the FR Y-15 to improve the consistency of data reporting and streamline the reporting process.

DATES: Comments must be received on or before June 18, 2026.**ADDRESSES:** You may submit comments, identified by Docket No. 1889 and RIN

7100-AH22, by any of the following methods:

- *Agency Website:* <https://www.federalreserve.gov/apps/proposals/>. Follow the instructions for submitting comments, including attachments. *Preferred Method.*
- *Mail:* Benjamin W. McDonough, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.
- *Hand Delivery/Courier:* Same as mailing address.
- *Other Means:* publiccomments@frb.gov. You must include the docket number in the subject line of the message.

Comments received are subject to public disclosure. In general, all public comments will be made available on the Board's website at <https://www.federalreserve.gov/apps/proposals/> without change and will not be modified to remove personal or business information including confidential, contact, or other identifying information. Public comments may also be viewed electronically or in person in Room M-4365A, 2001 C St. NW, Washington, DC 20551, between 9:00 a.m. and 5:00 p.m. during Federal business weekdays.

FOR FURTHER INFORMATION CONTACT:

Anna Lee Hewko, Associate Director, (202) 250-1577, Brian Chernoff, Manager, (202) 731-8914, Akos Horvath, Principal Economist, (202) 452-3048, Jennifer McClean, Senior Financial Institution Policy Analyst II, (202) 579-4087, Sarah Dunning, Financial Institution Policy Analyst III, (202) 961-6418, Division of Supervision and Regulation; or Jay Schwarz, Deputy Associate General Counsel, (202) 452-2970, Mark Buresh, Senior Special Counsel, (202) 452-5270, Jonah Kind, Senior Counsel, (202) 309-5287, Isabel Echarte, Senior Attorney, (202) 945-2412, Legal Division, Board of Governors of the Federal Reserve System, 20th and C Streets NW, Washington, DC 20551. For users of TDD-TYY, (202) 263-4869 or dial 711 from any telephone anywhere in the United States.

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I. Introduction

The Board of Governors of the Federal Reserve System (Board) is proposing modifications to the methodology used to calculate risk-based capital surcharges for U.S. global systemically important bank holding companies (GSIBs) and the measurement and reporting of certain systemic indicators used in this calculation and in the determination of regulatory tailoring categories. The proposed changes seek to improve the framework's measurement of systemic risk and better align surcharges with GSIBs' systemic risk profiles.

A. Background on the GSIB Surcharge Framework

Section 165 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) directs the Board to establish enhanced prudential standards for large bank holding companies and for nonbank financial companies that the Financial Stability Oversight Council has designated for supervision by the Board (nonbank financial companies supervised by the Board).¹ These standards must include risk-based capital requirements as well as other enumerated standards.² The standards must be more stringent than those applicable to other bank holding companies and to nonbank financial companies that do not present similar risks to U.S. financial stability.³ The standards must also increase in stringency based on several factors, including the size and risk characteristics of a company subject to the rule, and the Board must take into account the differences among bank holding companies and nonbank

financial companies.⁴ Furthermore, various statutory authorities provide the Board with broad authority to set capital requirements and standards for depository institution holding companies.⁵

The Board adopted a final rule in 2015 that established a methodology for identifying GSIBs and assigning them a risk-based capital surcharge.⁶ The GSIB surcharge framework requires a GSIB to maintain additional capital in order to avoid restrictions on certain distributions and discretionary bonus payments. This capital buffer strengthens a firm's resiliency, reducing the probability of its failure and the risks that the firm's failure or distress could pose to the U.S. financial system.

The methodology to identify a GSIB (method 1) uses five equally weighted categories that are correlated with systemic importance: (1) size, (2) interconnectedness, (3) substitutability, (4) complexity, and (5) cross-jurisdictional activity. The methodology subdivides certain categories into systemic indicators. Generally, a bank holding company subject to Category I, II, or III capital standards must calculate its method 1 score annually.⁷ A bank

holding company calculates each systemic indicator by dividing its own measure of the indicator by an aggregate global measure for that indicator.⁸ The resulting value for each systemic indicator is then multiplied by the prescribed weighting in the capital rule and by 10,000 to reflect the result in basis points. A bank holding company then sums the weighted values for the twelve systemic indicators to determine its method 1 score.⁹ A bank holding company is identified as a GSIB if its method 1 score equals or exceeds 130 basis points.¹⁰

If a bank holding company is identified as a GSIB, it must also calculate its method 2 score.¹¹ Method 2 measures a bank holding company's systemic risk profile using the same systemic indicators as method 1, except that the substitutability category is replaced with a measurement of reliance on short-term wholesale funding.¹² Method 2 also uses fixed coefficient values to scale the systemic indicators for size, interconnectedness, complexity, and cross-jurisdictional activity, rather than multiplying indicators by a measure that changes each year based on the aggregate global measure for that indicator.¹³ A GSIB multiplies its indicator values for size, interconnectedness, complexity, and cross-jurisdictional activity by the respective fixed coefficients to calculate an indicator score. The firm then aggregates these indicator scores with the GSIB's short-term wholesale funding score to compute its total method 2 score. A GSIB's short-term wholesale funding score is calculated by dividing the firm's average weighted short-term wholesale funding amount by the firm's average risk-weighted assets and

⁴ See 12 U.S.C. 5365(a)(1)(B). Under section 165(a)(1)(B) of the Dodd-Frank Act, the enhanced prudential standards must increase in stringency based on the considerations listed in section 165(b)(3).

⁵ See, e.g., 12 U.S.C. 1467a(g)(1) (savings and loan holding companies); 12 U.S.C. 1844(b) (bank holding companies); 12 U.S.C. 3902(1)–(2), 3907(a), 3909(a), (c)(1)–(2) (depository institutions; affiliates of depository institutions, including holding companies; and certain U.S. operations of foreign banking organizations); 12 U.S.C. 5371 (insured depository institutions, depository institution holding companies, and nonbank financial companies supervised by the Board).

⁶ Regulatory Capital Rules: Implementation of Risk-Based Capital Surcharges for Global Systemically Important Bank Holding Companies, 80 FR 49082 (Aug. 14, 2015). See 12 CFR part 217, subpart H.

⁷ 12 CFR 217.400 and 217.402. In 2019, the Board, with the Office of the Comptroller of the Currency (OCC) and the Federal Deposit Insurance Corporation (FDIC), adopted rules establishing four categories of capital standards for U.S. banking organizations with \$100 billion or more in total assets and foreign banking organizations with \$100 billion or more in combined U.S. assets. Under this framework, Category I capital standards apply to U.S. GSIBs and their depository institution subsidiaries. Category II standards apply to banking organizations with at least \$700 billion in total consolidated assets or at least \$75 billion in cross-jurisdictional activity and their depository institution subsidiaries. Category III standards apply to banking organizations with total consolidated assets of at least \$250 billion or at least \$75 billion in weighted short-term wholesale funding, nonbank assets, or off-balance sheet exposure and their depository institution subsidiaries. Category IV standards apply to banking organizations with total consolidated assets of at least \$100 billion that do not meet the thresholds for a higher category and their depository institution subsidiaries. See 12 CFR

252.5 and 238.10; see also “Prudential Standards for Large Bank Holding Companies, Savings and Loan Holding Companies, and Foreign Banking Organizations,” 84 FR 59032 (November 1, 2019); and “Changes to Applicability Thresholds for Regulatory Capital and Liquidity Requirements,” 84 FR 59230 (Nov. 1, 2019).

⁸ 12 CFR 217.404. The Board annually publishes the aggregate global measures.

⁹ 12 CFR 217.404. Scores are rounded to the nearest basis point according to standard rounding rules for the purposes of assigning levels. That is, fractional amounts between zero and one-half are rounded down to zero, while fractional amounts at or above one-half are rounded to one. A bank holding company's substitutability category score is capped at 100 basis points. See also 80 FR at 49088 (Aug. 14, 2015).

¹⁰ 12 CFR 217.402.

¹¹ 12 CFR 217.403.

¹² 12 CFR 217.405 and 406.

¹³ 12 CFR 217.405; see also 80 FR at 49087–88 (Aug. 14, 2015).

¹ See 12 U.S.C. 5365. Originally, section 165 applied to bank holding companies with \$50 billion or more in total consolidated assets. The Economic Growth, Regulatory Relief, and Consumer Protection Act revised this threshold to \$250 billion and granted the ability to apply enhanced prudential standards under section 165 to bank holding companies with \$100 billion or more in total consolidated assets under certain circumstances. See Public Law 115–174, Sec. 401.

² See 12 U.S.C. 5365(b).

³ See 12 U.S.C. 5365(a)(1)(A).

multiplying the result by a fixed factor of 350.¹⁴

A GSIB's applicable surcharge is the larger of the surcharges that apply based on its method 1 score and method 2 score. A GSIB is subject to a minimum surcharge of 1.0 percent, and surcharges increase with GSIB scores under both method 1 and method 2. Method 1 surcharges increase in increments of 0.5 percentage points for each 100-basis point method 1 score band, up to a method 1 surcharge of 2.5 percent, which is associated with a method 1 score ranging from 430 to 529 basis points. If a GSIB's method 1 score exceeds 529, the GSIB's method 1 surcharge equals 3.5 percent, plus 1.0 percentage point for every further 100-basis point increase in score. Like the method 1 surcharge, the method 2 surcharge uses score band ranges of 100 basis points, with the lowest score band ranging from 130 to 229 basis points. The method 2 surcharge increases in increments of 0.5 percentage points per score band.¹⁵

B. Systemic Risk Report (FR Y-15)

The Systemic Risk Report form (FR Y-15) collects systemic risk data from U.S. bank holding companies and covered savings and loan holding companies¹⁶ with total consolidated assets of \$100 billion or more, any U.S.-based bank holding company designated as a GSIB that does not meet that consolidated assets threshold, and foreign banking organizations with combined U.S. assets of \$100 billion or more.¹⁷ The FR Y-15 collects data on a firm's structure, activities, and funding that is consistent and comparable among firms and often unavailable from other sources. Respondents must submit the FR Y-15 quarterly.

Under the GSIB surcharge framework, any U.S.-based top-tier bank holding

company that qualifies as a Category I, II, or III Board-regulated institution must annually compute its method 1 score using the values for the systemic indicators (in each of the size, interconnectedness, substitutability, complexity, and cross-jurisdictional activity categories) that it reported on its FR Y-15 as of December 31 of the prior year.¹⁸ A GSIB must also determine its method 2 score and its GSIB surcharge based on the data reported on its FR Y-15 as of the same date.

Data reported on the FR Y-15 are also used to determine the applicable category of prudential standards for U.S. banking organizations with total consolidated assets of \$100 billion or more and foreign banking organizations with combined U.S. assets of \$100 billion or more, under the framework adopted by the Board in 2019.¹⁹ Specifically, the measures for cross-jurisdictional activity, weighted short-term wholesale funding, and off-balance sheet exposure, which are used to determine whether a banking organization is subject to Category II or III standards, use or include data reported on the FR Y-15.²⁰

In addition, the data collected on the FR Y-15 are used to identify other firms that may present significant systemic risk and to analyze the systemic risk implications of proposed mergers and acquisitions.

C. Overview of the Proposal

The proposal includes revisions to the GSIB framework that would improve the framework's measurement of systemic risk and better align GSIB surcharges with firms' systemic risk profiles.²¹ First, the proposal would adjust the fixed coefficients in the method 2 GSIB surcharge framework to account for changes in the financial system and the economy. Additionally, going forward,

the proposal would apply an annual adjustment to the coefficients based on real economic growth and inflation.

Second, to mitigate unintended effects of the current calculation, the proposal would modify the short-term wholesale funding systemic indicator by measuring it as an absolute amount rather than as a ratio scaled to a firm's average risk-weighted assets. The proposal would also set a new coefficient for this indicator that approximates 20 percent of the weighted basis points of total method 2 scores for banking organizations identified as GSIBs, consistent with the intended weighting of the category.

Third, to better reflect the risk profile of a firm and reduce incentives for a firm to reduce its GSIB surcharge by making temporary adjustments to reported indicators of systemic risk at year end, the proposal would require firms to calculate certain systemic indicators as an annual average of their daily or monthly values. Firms currently calculate these indicators on a point-in-time basis at year end.

Fourth, to reduce cliff effects and increase the sensitivity of the GSIB surcharge to changes in a firm's systemic risk profile, the proposal would introduce narrower method 2 score band ranges.

Finally, the proposal would improve the measurement of certain systemic indicators and would amend the FR Y-15 to improve the clarity of instructions and consistency of data reporting and systemic indicator measurement.²²

II. Description of the Proposal

A. Method 2 Coefficients

Method 2 in the Board's GSIB surcharge framework uses a fixed approach for measuring systemic indicator scores instead of measuring relative to annually updated aggregate

¹⁴ The short-term wholesale funding score uses a different methodology from the other systemic indicators because inclusion of short-term wholesale funding for GSIB surcharge purposes is specific to the United States, and the Basel Committee on Banking Supervision (Basel Committee)'s framework does not include a corresponding measure for short-term wholesale funding. As a result, there is no equivalent global aggregate indicator measure for short-term wholesale funding.

¹⁵ 12 CFR 217.403.

¹⁶ Covered savings and loan holding companies are those that are not substantially engaged in insurance or commercial activities. For more information, see the definition of "covered savings and loan holding company" provided in 12 CFR 238.2.

¹⁷ The mandatory FR Y-15 is authorized by sections 163 and 165 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) (12 U.S.C. 5463 and 5365), the International Banking Act (12 U.S.C. 3106 and 3108), the Bank Holding Company Act (12 U.S.C. 1844), and the Home Owners' Loan Act (HOLA) (12 U.S.C. 1467a).

¹⁸ There are certain circumstances under which a depository institution that is not required to report the FR Y-15 would be subject to standards based on calculation methodologies contained in the FR Y-15. See, e.g., 12 CFR 217.2, "Category III Board-regulated institution."

¹⁹ See 12 CFR part 252, subpart A, and 12 CFR 238.10.

²⁰ See *id.*

²¹ The proposal would also be responsive to comments received in response to the Economic Growth and Regulatory Paperwork Reduction Act (EGRPRA) public notices. Public Law 104-208, Div. A, Title II, section 2222, 110 Stat. 3009-414, (1996) (codified at 12 U.S.C. 3311). See also Regulatory Publication and Review Under the Economic Growth and Regulatory Paperwork Reduction Act of 1996, 90 FR 35241 (Jul. 25, 2025). In 2023, the Board published a proposal to revise the GSIB framework. 88 FR 60385 (Sept. 1, 2023). The Board is rescinding the 2023 proposal. Members of the public that seek to submit comments on the current proposal must submit comments in line with the procedures described in this proposal.

²² As discussed in section I.B of this SUPPLEMENTARY INFORMATION, certain indicators that the proposal would modify are also used to determine prudential standards for large banking organizations. The proposed changes include revisions consistent with the framework used by the Basel Committee to identify GSIBs and assess their systemic importance. The Basel Committee is a committee comprised of central banks and banking supervisory authorities, which was established by the central bank governors of the G-10 countries in 1975. Among other roles, the Basel Committee provides a forum for coordination on banking regulation and supervision across jurisdictions. The Basel Committee developed a methodology, available at <https://www.bis.org/bcbis/gsib/>, that uses an indicator-based measurement approach for assessing the systemic importance of global systemically important banks. In July 2018, the Basel Committee made revisions to its methodology, which are available at <https://www.bis.org/bcbis/publ/d445.htm>.

global indicators as under method 1.²³ This fixed approach uses coefficients that are based on the average of the aggregate global indicator amounts for each indicator other than short-term wholesale funding for year-end 2012 and year-end 2013 and exchange rate data for 2011–2013.²⁴ Method 2 also takes into account a measure of a banking organization's reliance on short-term wholesale funding relative to the banking organization's risk-weighted assets, rather than to a global aggregate measure.²⁵

The 2015 final rule adopted the fixed coefficients approach for method 2 to help provide more certainty regarding the actions that a U.S. GSIB could take to reduce its GSIB surcharge, so that a firm's method 2 score would be affected only by its own systemic indicators rather than by both its own systemic indicators and the aggregate level of systemic indicators of a set of global firms. The fixed coefficients thus seek to improve the predictability of method 2 scores and facilitate capital planning by GSIBs.²⁶

However, fixed coefficients do not account for changes in the economy or financial system that can affect a firm's systemic risk profile. Therefore, as the 2015 final rule observed, scores calculated under the fixed approach could be influenced over time by factors that do not represent changes in a firm's systemic risk.²⁷ For example, GSIBs may report higher method 2 scores over time that are not commensurate with their systemic risk due to factors such as inflation, real economic growth, or other macroeconomic changes. These effects can compound and increase over time. The Board stated in the 2015 final

rule that it would periodically reevaluate the GSIB surcharge framework to ensure that factors unrelated to systemic risk do not have unintended effects on a bank holding company's method 2 scores and that it would make adjustments as appropriate.²⁸

To help ensure that method 2 scores better reflect systemic risk, the proposal would adjust the fixed method 2 coefficients for changes in the financial system and the economy and automatically index the coefficients going forward on an annual basis. First, the proposal would update the fixed method 2 coefficients for the size, interconnectedness, complexity, and cross-jurisdictional activity categories based on a one-time downward adjustment of the method 2 coefficients by a factor of 1.2. Second, the proposal would implement a mechanism to annually adjust the method 2 coefficients, including the proposed new coefficient for short-term wholesale funding described in section II.B of this SUPPLEMENTARY INFORMATION, based on nominal U.S. gross domestic product going forward. Overall, as a result of these proposed changes to the method 2 coefficients, method 2 scores would better account for changes in the U.S. economy and financial system.

i. One-Time Adjustment to Fixed Method 2 Coefficients

The proposal would update the fixed method 2 coefficients for the size, interconnectedness, complexity, and cross-jurisdictional activity categories by a one-time downward adjustment by a factor of 1.2 to reflect changes in the financial system and economy since the introduction of the framework.

The Board periodically reviews its regulatory capital framework to ensure requirements are appropriate and the

framework is functioning as intended. The Board considered several elements of the GSIB surcharge framework. These included updating components of the framework to reflect changes in the financial system and the broader economy since the framework's implementation, the relationship between regulatory measures of systemic risk profiles, and other enhancements to improve the effectiveness and efficiency of the framework.

Starting in 2020, there was a notable change in GSIBs' balance sheets. These changes occurred concurrently with the onset of the global COVID-19 pandemic and the subsequent monetary and fiscal policy actions in response to the pandemic and its economic effects.²⁹ Figure 1 shows that the size of GSIBs has expanded substantially since 2020, with the growth of these banking organizations exceeding its historical trend.³⁰

Figure 1: Evolution of GSIBs' Total Assets Over Time (in Trillion Dollars)

This figure shows how the aggregate total assets of the eight current GSIBs changed from 2009 to 2024. The dotted line is a linear trendline fitted to the time series over the period from the fourth quarter of 2009 ("Q4 2009") to the fourth quarter of 2019 ("Q4 2019").

²⁹ See, e.g., Richard H. Clarida, Burcu Duygan-Bump, and Chiara Scotti, *The COVID-19 Crisis and the Federal Reserve's Policy Response*, Finance and Economics Discussion Series 2021-035 (June 3, 2021). For an overview of the U.S. fiscal policy response to the pandemic, see Daniel J. Wilson, *The COVID-19 Fiscal Multiplier: Lessons from the Great Recession*, Federal Reserve of San Francisco Economic Letters 2020-13 (May 26, 2020).

³⁰ See, e.g., the empirical evidence on the balance sheet expansion of U.S. banks during the COVID-19 pandemic in the study of Andrew Castro, Michele Cavallo, and Rebecca Zarutskie, *Understanding Bank Deposit Growth During the COVID-19 Pandemic*, *FEDS Notes*, Board of Governors of the Federal Reserve System (June 6, 2022).

²³ 12 CFR 217.403. See also 80 FR 49082, at 49085–49088 (Aug. 14, 2015).

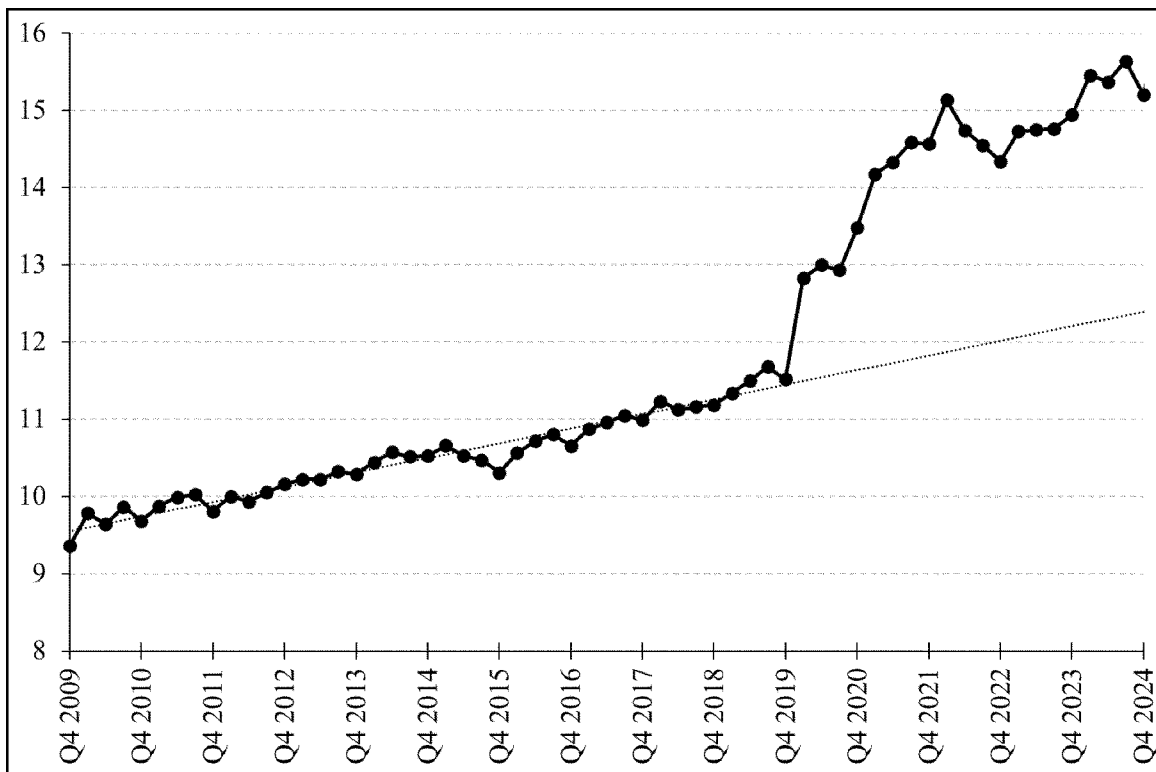
²⁴ See 80 FR 49082, at 49087–49088.

²⁵ See *id.* at 49097–49101.

²⁶ See *id.* at 49085–49086.

²⁷ See *id.* at 49085.

²⁸ See *id.* at 49088.



Related to this rapid expansion of GSIBs' balance sheets, method 2 scores have meaningfully increased relative to method 1 scores since the end of 2019.

As Figure 2 shows, whereas method 1 and method 2 scores evolved largely in parallel between the fourth quarter of 2016 and the fourth quarter of 2019, the two scores have diverged since then. Indeed, from the fourth quarter of 2019 to the fourth quarter of 2024, the method 2 scores of the eight GSIBs increased by 18 percent, in aggregate,

which is equivalent to a 3.4 percent annual increase. By contrast, over the same period, the method 1 scores of the eight GSIBs have been relatively stable, decreasing by 3 percent, in aggregate, which is equivalent to a 0.6 percent annual decrease. As a result of the divergent trends in method 1 and method 2 scores, the cumulative growth of method 2 scores has exceeded the cumulative growth of method 1 scores

by about 20 percentage points, on average, since the end of 2019.³¹

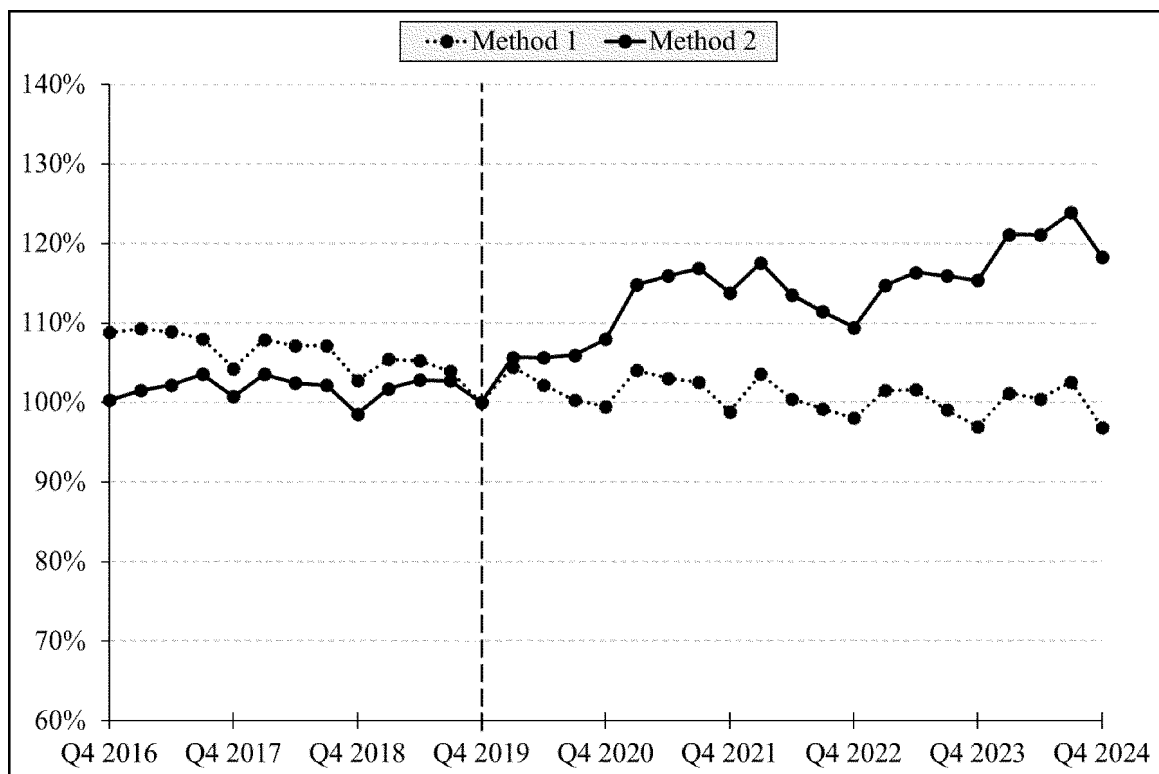
Figure 2: Evolution of Method 1 and Method 2 Scores Over Time

This figure shows how the aggregate method 1 and method 2 scores of the eight current GSIBs changed from 2016 to 2024. Both aggregate method 1 and method 2 scores are expressed as a percentage of their corresponding values as of the fourth quarter of 2019 ("Q4 2019").

³¹ Because method 1 and method 2 scores evolved largely in parallel until 2019, the difference in their

cumulative growth is also about 20 percentage points over a longer period, such as the period from

the fourth quarter of 2014 to the fourth quarter of 2024.



The divergence of method 1 and method 2 scores is primarily due to their different calculation methodologies. The aggregate method 1 scores of the eight GSIBs have been relatively stable over time because the method 1 score calculation uses systemic indicator coefficients that are based on aggregate global systemic indicator amounts, which historically increased at about the same rate as the systemic indicator amounts of U.S. GSIBs. By contrast, the method 2 score calculation uses systemic indicator coefficients that have been constant since the implementation of the GSIB surcharge framework in 2015, which creates a direct link between the dollar amounts of systemic indicators and method 2 scores.

This direct link could pose a challenge for using method 2 scores to measure changes in systemic risk profiles because it implies that method 2 scores signal an increase in GSIBs' systemic risk as their systemic indicators increase, regardless of how the banking system, financial markets, or the economy may concurrently change. This dynamic, solely driven by changes in the dollar amounts of systemic indicators, could lead to the mismeasurement of systemic risk, which is inherently a relative concept. For example, the current method 2 score calculation does not take into account that the U.S. economy tends to expand

over time, through both real economic growth and inflation. Such potential economic expansion could render GSIBs relatively smaller and therefore less systemic, even if their method 2 scores increase, which could result in GSIB surcharges that are not commensurate with the systemic risk posed by GSIBs.

Considering the broad economic changes affecting the banking system since 2020, the observed divergence between method 1 and method 2 scores suggests that some of the recent increase in GSIBs' method 2 scores is attributable to the method 2 score calculation's lack of adjustment for such changes, rather than increases in GSIBs' systemic risk profiles. Therefore, consistent with the Board's longstanding objective to ensure that method 2 scores do not capture the effects of factors unrelated to systemic risk, the proposal would apply a one-time downward adjustment of the method 2 coefficients by a factor of 1.2. The proposed adjustment factor would equal the observed 20-percentage-point difference between the cumulative growth of aggregate method 2 and method 1 scores since the fourth quarter of 2019.

ii. Annual Indexing of Method 2 Coefficients by Nominal GDP Growth

As discussed above, under the current GSIB surcharge framework, a U.S. GSIB's method 2 score can increase over time when the scale of the firm's activities increases, even if the firm's

systemic indicator values grow more slowly than the overall economy. However, economic expansion can make GSIBs' systemic profiles smaller on a relative basis even if their method 2 scores increase. This dynamic can result in GSIB surcharges that are not commensurate with the systemic risk profile of the GSIBs. To address this effect and limit the need for future adjustments through rulemaking, the proposal would adopt a mechanism to automatically adjust the method 2 coefficients going forward.

Specifically, the proposal would annually adjust the method 2 coefficients to reflect real economic growth and inflation.³² The annual adjustment would be based on a three-year moving average of annual nominal U.S. gross domestic product (GDP) growth.³³ Thereby, under the proposed approach, a firm's method 2 scores would remain unchanged if the firm's systemic risk indicators grow at the same rate as average nominal U.S. GDP growth, because the proposed indexing would adjust the method 2 coefficients at the rate of average annual nominal

³² The proposed annual indexing would also apply to the proposed new coefficient for short-term wholesale funding, described in section II.B of this SUPPLEMENTARY INFORMATION.

³³ The proposed annual indexing to the annual nominal U.S. GDP growth is equivalent to adjusting method 2 coefficients for the annual real U.S. GDP growth plus annual changes in the cumulative U.S. GDP implicit price deflator.

U.S. GDP growth. Indexing under this approach would help ensure that changes in method 2 scores reflect changes in a U.S. GSIB's systemic risk profile relative to the size of the U.S. economy. Such an approach would provide a simple way to account for changes in the economy and financial system that could affect the measurement of a GSIB's systemic risk profile.

In the 2015 final rule, the Board observed that an unintended consequence of automatically adjusting the method 2 coefficients based on economic growth could be that in the event of an economic contraction, U.S. GSIB scores would increase in a procyclical way, potentially raising surcharges in a manner that could further exacerbate the economic downturn. In order to avoid that scenario, the proposed mechanism would not adjust the coefficients if the three-year moving average of nominal U.S. GDP growth is negative. This approach would reduce the potential for procyclicality in capital requirements during a prolonged period of economic contraction. To further mitigate the potential procyclical effect over short timeframes, the annual mechanism would use a three-year moving average of annual nominal U.S. GDP growth, which would reduce volatility and improve the predictability of adjustments.³⁴

To ensure an accurate and predictable measure, the Board would generally use the most current estimate of nominal U.S. GDP for a given calendar year published by the Bureau of Economic Analysis on or before September 30 of the year of the publication of the scalar.³⁵ The Board would calculate the value for the GDP growth adjustment scalar as a ratio of the average nominal U.S. GDP estimates for the three calendar years directly preceding the year in which the scalar is published, divided by the average nominal U.S. GDP for the three most recent calendar years preceding the effective date of any final rule for which estimates are available. For example, if the Board were to adopt a final rule with an effective date of 2027 for the updated

method 2 coefficients described in section II.A.i. of this **SUPPLEMENTARY INFORMATION**, the Board would calculate the GDP growth adjustment scalar in 2028 by dividing the average nominal U.S. GDP in calendar years 2025, 2026, and 2027 by the average nominal U.S. GDP in calendar years 2024, 2025, and 2026.³⁶

The Board would calculate and publish a GDP growth adjustment scalar, along with updated method 2 coefficients, each year.³⁷ Each calendar year, a GSIB would calculate its method 2 score using the updated coefficients published by the Board and the firm's systemic indicator data reported as of the end of the previous calendar year. For example, in 2028, when a GSIB calculates its method 2 score using systemic indicator data reported as of December 31, 2027, the GSIB would use the most recent adjusted method 2 coefficients published by the Board in the fourth quarter of 2028.

iii. Alternative Approach To Adjust Method 2 Coefficients

The Board requests comment on all aspects of the proposed approach for adjusting the method 2 coefficients, as well as alternative approaches. For example, as an alternative to the one-time update and annual adjustments to the method 2 coefficients to reflect economic growth described above, the Board seeks comment on an approach that would adjust the method 2 coefficients based on inflation since 2015 and annually going forward.

To account for the effects of inflation, the method 2 coefficients could be updated using the non-seasonally adjusted Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W), which is a measure of prices paid by urban wage earners and clerical workers.³⁸ This index measures the price level of goods and services purchased by urban households, reflecting price changes from a consumer's perspective. A consumer price index (CPI) is widely used to account for changes in the U.S. dollar

over time. The U.S. Bureau of Labor Statistics publishes different versions of CPI, which capture price changes in different economic segments. The Board, with the OCC and FDIC (together, the agencies), is simultaneously issuing two risk-based capital proposals (the expanded risk-based proposal and standardized approach proposal, together, the capital proposals) which, among other things, would index certain thresholds in the capital rule using CPI-W. Using CPI-W to adjust the method 2 coefficients would promote simplicity and consistency by providing a single indexing mechanism within the capital rule.³⁹

Indexing the method 2 coefficients by CPI-W would account for changes in the price level, which over time has tended to be lower than the rate of economic expansion in the United States. It would not, however, automatically account for other changes in the financial system and economy that could affect a GSIB's systemic risk profile. Using CPI-W to index the method 2 coefficients, therefore, could result in a GSIB experiencing higher method 2 scores if its systemic indicators grew in line with economic growth.

Under an approach to adjust the coefficients by inflation, the Board could calculate the cumulative percent change of the non-seasonally adjusted CPI-W to create an index for inflation that increases based on the cumulative change in the price index.⁴⁰ Going forward, this alternative approach could index the method 2 coefficients using CPI-W on an annual basis. To avoid increasing capital requirements during a time of economic contraction, annual adjustments under this alternative approach could reflect only positive net cumulative changes in CPI-W, and the approach would not automatically adjust coefficients upward in the event of a negative year-over-year change in the index.⁴¹ To ensure an accurate and

³⁴ Because this approach would be based on cumulative change in average nominal U.S. GDP following the effective date of a final rule, it would still account for periods of negative growth. Downward adjustments to the coefficients would only occur when there is a positive net cumulative change.

³⁵ See Bureau of Economic Analysis, Gross Domestic Product, <https://www.bea.gov/data/gdp/gross-domestic-product>. The Board may elect to use a comparable value in instances such as where a nominal U.S. GDP growth estimate from the Bureau of Economic Analysis is unavailable.

³⁶ The proposal includes a definition of the GDP growth adjustment, which sets forth the way in which the adjustment would be calculated each year.

³⁷ The Board expects that it would publish the adjustment and the updated coefficients annually on the Board's public website and in the **Federal Register** concurrent with the release of the annual method 1 aggregate global indicator amounts.

³⁸ See Bureau of Labor Statistics, Consumer Price Index, <https://www.bls.gov/cpi/data.htm> and Social Security Administration, Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W), <https://www.ssa.gov/oact/STATS/cpiw.html>. The Board may elect to use a comparable value in instances such as where CPI-W data are unavailable.

³⁹ In addition, CPI-W is used for inflation adjustments in other banking regulations, such as Regulation CC, Regulation M, Regulation Z, and the Community Reinvestment Act regulations, as well as for regulations and programs such as the Social Security Administration's annual cost of living adjustments. See, e.g., 12 CFR 229.11(a) (Regulation CC), 12 CFR 213.2(e)(1) (Regulation M), 12 CFR 226.3(b)(1)(ii) (Regulation Z), 12 CFR Appendix-G-to-Part-228(u)(2) (Community Reinvestment), 20 CFR 404.272(a)(1) (Social Security Administration).

⁴⁰ To calculate the inflation index, the non-seasonally adjusted CPI-W index for December 2024 would be divided by the non-seasonally adjusted CPI-W index for December 2015.

⁴¹ Because this approach would be based on cumulative change in CPI-W, it would still account for periods of deflation. Downward adjustments to

predictable measure, in the fourth quarter of a calendar year, this alternative approach could use the most current non-seasonally adjusted CPI-W data published by the Bureau of Labor Statistics for December of the preceding calendar year to calculate and publish the cumulative percent change.⁴²

Question 1: What are the advantages and disadvantages of applying a one-time downward adjustment by a factor of 1.2 to the method 2 coefficients under the proposal? What alternative approaches should the Board consider, and why? Please provide any alternative approaches the Board should consider to adjust the coefficients, noting in particular how changes to the financial system and economy since the adoption of the GSIB framework would be accounted for in any potential adjustment, and the advantages and disadvantages of such an approach.

Question 2: What would be the advantages and disadvantages of updating the method 2 coefficients based on the most recent available aggregate global indicator amounts for the systemic indicators in the size, interconnectedness, complexity, and cross-jurisdictional activity categories?

Question 3: What are the advantages and disadvantages of using nominal U.S. GDP as the basis to annually adjust the method 2 coefficients? What are the advantages or disadvantages of using a three-year moving average of nominal U.S. GDP as the measurement of real economic growth and inflation to adjust the method 2 coefficients? What alternative measures of real economic growth and inflation should the Board consider, and why?

Question 4: What are the advantages and disadvantages of using the data published by the Bureau of Economic Analysis as proposed? What alternatives or other data sources should the Board consider, and why?

Question 5: What would be the advantages and disadvantages of an alternative approach that would adjust the method 2 coefficients based on inflation using CPI-W? What other measurements of inflation should the Board consider and why?

Question 6: What are the advantages and disadvantages of the proposed approach to annually adjust the method 2 coefficients so that they do not change to reflect a period of negative average U.S. nominal GDP growth? Under what circumstances, if any, should the

adjustment methodology increase the method 2 coefficients to reflect negative average U.S. nominal GDP growth, and why?

Question 7: What are the advantages and disadvantages of publishing the updated method 2 coefficients together with the aggregate global indicator amounts in the fourth quarter of each calendar year? What alternatives should the Board consider with respect to publication of the adjustment data, and why?

Question 8: The capital proposals would utilize an indexing methodology that would adjust certain dollar-based thresholds using CPI-W. Specifically, the dollar thresholds would be adjusted at the end of every consecutive two-year period, which is meant to capture changes in price levels over time while reducing the frequency with which thresholds are adjusted. What would be the advantages or disadvantages of aligning the frequency and timing of the adjustments to the method 2 coefficients with the frequency of adjustments in the capital proposals?

Question 9: What, if any, operational challenges are associated with the proposed approach? What adjustments could the Board make to the proposed approach to address such challenges?

B. Changes to the Short-Term Wholesale Funding Measure

The method 2 framework includes a measure of a firm's reliance on short-term wholesale funding as an indicator of systemic risk. The 2007–09 financial crisis highlighted how banking organizations' reliance on short-term wholesale funding can create vulnerabilities during periods of stress that undermine financial stability.⁴³ Banking organizations that face funding stress are often forced to sell assets under duress at fire-sale prices, resulting in losses or collateral calls for other market participants. This dynamic can create an adverse cycle of mark-to-market losses, margin calls, forced deleveraging, and additional losses, amplifying stress throughout the financial system. When these dynamics occur at large, interconnected banking organizations, they can impose negative externalities on counterparties, other market participants, and the financial

system more broadly, particularly in periods of market turmoil.

The short-term wholesale funding indicator measures a banking organization's reliance on wholesale funding sources that are generally less stable than longer-term funding or retail deposits during periods of stress. Short-term wholesale funding includes funding sources such as wholesale deposits, brokered and sweep deposits, securities sold under agreements to repurchase, certain short positions, and other short-term borrowings.⁴⁴ Under the method 2 framework, the short-term wholesale funding score calculation uses the ratio of a banking organization's average weighted short-term wholesale funding amount⁴⁵ to its average risk-weighted assets over the preceding four quarters. This approach measures a banking organization's dependence on short-term wholesale funding relative to the risk-adjusted size of its balance sheet.

i. Modification of the Short-Term Wholesale Funding Score To Remove the Risk-Weighted Assets Denominator

The proposal would remove the average risk-weighted assets denominator from the calculation of a firm's short-term wholesale funding score. Under the proposal, a banking organization's short-term wholesale funding score would be equal to its average weighted short-term wholesale funding amount multiplied by a coefficient. This approach would simplify the calculation of the indicator and use the same calculation method used for the other method 2 systemic indicators. It would also address an effect of the current calculation, which can produce results not aligned with risk as described below. The proposed approach would be consistent with the goal of the GSIB framework to measure the expected impact of a banking organization's failure and would align with the calculation methodology for the weighted short-term wholesale funding risk-based indicator in the regulatory tailoring framework.⁴⁶

⁴⁴ Components of a GSIB's short-term wholesale funding amount generally align with the definitions of the liquidity coverage ratio framework and with items that are reported on the Board's Complex Institution Liquidity Monitoring Report on Form FR 2052a.

⁴⁵ A firm's weighted short-term wholesale funding amount is determined by calculating its short-term wholesale funding amount for each business day over the prior calendar year, applying the appropriate weighting by short-term wholesale funding source and remaining maturity, and averaging this amount over the prior calendar year.

⁴⁶ The weighted short-term wholesale funding indicator in the regulatory tailoring framework uses a banking organization's weighted short-term

the coefficients would only occur when there was a positive net cumulative change in the index.

⁴² The Board may use a comparable value in instances such as where CPI-W from the Bureau of Labor Statistics is unavailable.

⁴³ See Adrian, Tobias, and Hyun Song Shin. "The Changing Nature of Financial Intermediation and the Financial Crisis of 2007–2009." Federal Reserve Bank of New York Staff Report No. 439 (March 2010). Huang, Rocco, and Lev Ratnovski. "The Dark Side of Bank Wholesale Funding." International Monetary Fund Working Paper No. WP/10/170 (July 2010). Damar, H. Evren, Césaire A. Meh, and Yaz Terajima. "Leverage, Balance Sheet Size and Wholesale Funding." Bank for International Settlements Conference Paper (March 2013).

Using a banking organization's weighted short-term wholesale funding amount would improve the measurement of a banking organization's systemic risk profile relative to the current approach of using average risk-weighted assets in the denominator. Measuring the total amount of a banking organization's weighted short-term wholesale funding would provide a direct measurement of the potential transmission effect of fire-sales described above that would result from a GSIB's failure.⁴⁷

The use of risk-weighted assets in the denominator of the current approach can result in outcomes that may not align with measuring systemic risk. Under the current approach, a banking organization with higher risk-weighted assets than a firm with lower risk-weighted assets and a similar amount of short-term wholesale funding is assigned a lower short-term wholesale funding indicator score. This outcome may not appropriately reflect the size and systemic importance of the two firms' respective funding profiles.

Further, if a banking organization's risk-weighted assets increase, its short-term wholesale funding score can correspondingly decrease, even though its volume of short-term wholesale funding remains unchanged. Conversely, if a banking organization's risk-weighted assets decrease, its short-term wholesale funding score can increase. The proposed approach would prevent these outcomes in the method 2 framework going forward.

As discussed in section II.A.ii of this **SUPPLEMENTARY INFORMATION**, the proposal would index method 2 systemic indicator coefficients, including the proposed short-term wholesale funding indicator coefficient, to changes in nominal U.S. GDP. By incorporating a coefficient calibrated to the amount of a banking organization's weighted short-term wholesale funding amount, the proposal's annual

wholesale funding amount reported on the FR Y–15, without dividing by average risk-weighted assets. See 12 CFR 252.2 “Weighted short-term wholesale funding.”

⁴⁷ See Begalle, Brian, Antoine Martin, James McAndrews, and Sarah McLaughlin. “The Risk of Fire Sales in the Tri-Party Repo Market.” *Contemporary Economic Policy*, 34 (July 2016), <https://onlinelibrary.wiley.com/doi/10.1111/coep.12126>. Raddatz, Claudio. “Liquidity and the Use of Wholesale Funds in the Transmission of the U.S. Subprime Crisis.” The World Bank Development Research Group (February 2010), <https://www.bis.org/events/ccaconf2012/raddatz.pdf>. Duarte, Fernando and Thomas M. Eisenbach. “Fire Sales in a Model of Systemic Risk.” Federal Reserve Bank of New York Staff Report (2013), https://www.newyorkfed.org/media/library/media/research/conference/2013/fire_sales/Paper_Duarte_Eisenbach.pdf.

adjustment to reflect nominal U.S. GDP would apply to all ten method 2 indicators coefficients, including the short-term wholesale funding systemic indicator. The proposed approach would not increase a banking organization's reporting burden because it would continue to use the same reporting requirements for weighted short-term wholesale funding currently used in the FR Y–15.

Question 10: What are the advantages and disadvantages of using an absolute level of weighted short-term wholesale funding as opposed to the current approach, which divides a firm's amount of weighted short-term wholesale funding by its average risk-weighted assets? What other approaches to measure a banking organization's weighted short-term wholesale funding should the Board consider, and why? For example, what would be the advantages and disadvantages of retaining a ratio-based approach but replacing risk-weighted assets with average total consolidated assets or total leverage exposure? Please provide any relevant data and rationale, particularly of why maintaining a ratio-based approach would be more appropriate than the proposed approach.

ii. Weight the Short-Term Wholesale Funding Score To Represent Approximately 20 Percent of Total Method 2 GSIB Scores

Under the proposal, a banking organization's short-term wholesale funding score would equal the average of its weighted short-term wholesale funding amount over the prior year multiplied by the coefficient for this category. The coefficient for the short-term wholesale funding category would be initially set at 23.003. The proposal would use this coefficient in order to calibrate the weighted short-term wholesale funding category at approximately twenty percent of aggregate total method 2 scores for U.S. GSIBs based on reported FR Y–15 data as of December 31, 2024.⁴⁸ The use of this value would align with the as-of date for the adjustments to the other method 2 coefficients described in section II.A of this **SUPPLEMENTARY INFORMATION**.

This proposed coefficient and calibration of the short-term wholesale funding systemic indicator would be consistent with the approach described

⁴⁸ The updated coefficient reflects the changes in GSIBs' method 2 scores from the coefficient adjustments and amendments to the systemic indicators described in section F of this **SUPPLEMENTARY INFORMATION**. See Section III.C for more information on the methodology used to recalibrate the other method 2 coefficients.

in the 2015 final rule.⁴⁹ Specifically, the 2015 final rule included a conversion factor for the short-term wholesale funding indicator that was intended to result in the indicator comprising 20 percent of method 2 scores for banking organizations identified as GSIBs, consistent with the weighting of the other systemic indicators.⁵⁰ However, due to factors such as limited data availability when the conversion factor was calibrated,⁵¹ the short-term wholesale funding score has constituted approximately 30 percent of aggregate method 2 scores across U.S. GSIBs since the adoption of the GSIB framework.⁵² The proposed coefficient value would address the current overweighting of the short-term wholesale funding category by using a calibration consistent with the initial 20 percent objective.

Question 11: What are the advantages and disadvantages of calibrating the coefficient for the short-term wholesale funding indicator to target a 20 percent share of method 2 scores as of December 2024? What alternative weighting or calibration methodologies should the Board consider, and why?

Question 12: What would be the advantages and disadvantages of calibrating the coefficient value for the short-term wholesale funding indicator based on a different as-of date than December 2024 or a different period than calendar 2024? Please provide any rationale or data that may be helpful to inform the Board's consideration.

⁴⁹ See 80 FR 49082, at 49088 (Aug. 14, 2015). “The conversion factor was intended to weight the short-term wholesale funding amount such that the short-term wholesale funding score receives an equal weight as the other systemic indicators within method 2 (i.e., 20 percent), and is based upon estimates of short-term wholesale funding levels at the eight bank holding companies currently identified as GSIBs.”

⁵⁰ See *id.* at 49101. Unlike the other systemic risk indicators that incorporated data from the Basel Committee's global denominators for each indicator in setting the coefficient, the short-term wholesale funding indicator did not have a corresponding Basel Committee global denominator.

⁵¹ Prior to the full implementation of the Board's GSIB surcharge rule, banking organizations did not report certain systemic indicators, including the short-term wholesale funding amount. Because firms were still establishing internal controls, measurement methodologies, and reporting infrastructure for these indicators, the initial data collection period was characterized by varying levels of data quality.

⁵² As of year-end 2016, the short-term wholesale funding category represented 30.7 percent of firms' estimated method 2 GSIB surcharge scores on a size-weighted basis. As of year-end 2024, the short-term wholesale funding category's share had decreased to 28.9 percent of firms' method 2 GSIB scores. Under the method 1 surcharge framework, each of the five categories of systemic importance receive an equal weight of 20 percent. Under the method 2 framework, the relative contribution of each indicator or category can be different over time than the weight used at the inception of the framework.

C. Data Averaging of Certain Systemic Indicators

Under the current GSIB surcharge framework, FR Y-15 filers report many of the data values used to calculate a firm's method 1 or method 2 score on a point-in-time basis, reflecting the firm's amount for the indicators as of the end of the reporting quarter. Indicators currently calculated on a point-in-time basis include intra-financial system assets, intra-financial system liabilities, securities outstanding, assets under custody, notional amount of over-the-counter (OTC) derivatives, trading and available-for-sales securities, Level 3 assets, cross-jurisdictional claims, and cross-jurisdictional liabilities. A firm's method 1 and 2 score calculations use as inputs the value of these indicators

as of December 31 of the previous calendar year.⁵³

Point-in-time indicator values, whether year-end or quarter-end, may not accurately reflect a firm's systemic risk profile because such values can be meaningfully different from values on other dates throughout the year, for example due to seasonality. Furthermore, measuring indicators only as of a single date each year creates incentives for a firm to manage the values of its systemic indicators on December 31 to reduce the amount of its GSIB surcharge in a manner that may not be commensurate with the firm's systemic risk profile on other days of the year.

⁵³ Generally, a bank holding company subject to Category I, II, or III prudential standards must calculate its method 1 score annually. A bank holding company is identified as a GSIB if its method 1 score equals or exceeds 130 basis points. If a bank holding company is identified as a GSIB, it must also calculate its method 2 score.

To address this issue, the proposal would require U.S. GSIBs to report certain indicators as averages of daily or monthly values rather than point-in-time measurements.⁵⁴ In addition, it would require the calculation of method 1 and method 2 scores using average values over a calendar year, rather than values only as of December 31. Table 1 displays the systemic indicator by categories and the proposed reporting requirements for GSIBs relative to the current requirements. Reporting these indicators as an average of daily or monthly values over the previous year would result in GSIB scores and associated surcharges that are more commensurate with each firm's level of systemic risk.

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⁵⁴ Unless otherwise noted, references to averaging of "daily" values in this **SUPPLEMENTARY INFORMATION** section refer to averaging of values for each business day.

Table 1: Measurement of GSIB Surcharge Inputs for GSIBs

Category	Systemic Indicator	Current U.S. Reporting	Proposal
Size	Total exposures	For on-balance sheet items, average of daily values over the fourth quarter.	No changes in reporting
		For off-balance sheet items, average of the three month-end balances over the fourth quarter.	No changes in reporting.
Interconnectedness	Intra-financial system assets	For on-balance sheet items, as of December 31	For on-balance sheet items, average of daily values over the reporting quarter.
		For off-balance sheet items, as of December 31	For off-balance sheet items, average of month-end values over the reporting quarter.
	Intra-financial system liabilities	For on-balance sheet items, as of December 31	For on-balance sheet items, average of daily values over the reporting quarter.
		For off-balance sheet items, as of December 31	For off-balance sheet items, average of month-end values over the reporting quarter.
	Securities outstanding	As of December 31	Average of month-end values over the reporting quarter.
Substitutability (Method 1 Only)	Payments activity	Total gross value of all cash payments sent via large-value payment systems over the last year.	No changes in reporting.
	Assets under custody	As of December 31	Average of month-end values over the reporting quarter.
	Underwritten transactions in debt and equity markets	Total underwriting over the last year.	No changes in reporting.
Short-Term Wholesale Funding (Method 2 Only)	Short-term wholesale funding metric	Average of daily values for weighted short-term wholesale funding over the preceding four quarters in the numerator. Four-quarter average of total risk-weighted assets in the denominator.	Averages of daily values for weighted short-term wholesale funding over the preceding quarter in the numerator. (Denominator would no longer be applicable.)

Table 1: Measurement of GSIB Surcharge Inputs for GSIBs

Category	Systemic Indicator	Current U.S. Reporting	Proposal
Complexity	Notional amount of over-the-counter (OTC) derivatives	As of December 31	Average of daily values over the reporting quarter.
	Trading and available-for-sale securities	As of December 31	Average of daily values over the reporting quarter.
	Level 3 assets	As of December 31	Average of month-end values over the reporting quarter.
Cross-Jurisdictional Activity	Cross-jurisdictional claims	As of December 31	Average of month-end values over the reporting quarter.
	Cross-jurisdictional liabilities	As of December 31	Average of month-end values over the reporting quarter.

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Historical empirical evidence indicates that some U.S. and foreign GSIBs have reported lower indicator amounts at year end than at other times during the year.⁵⁵ In particular, one analysis shows that U.S. GSIBs, on average, reduce their notional amounts of OTC derivatives at year end more than non-GSIB firms.⁵⁶ Overall, the findings in these empirical studies suggest that, in certain circumstances, applicable GSIB surcharges can be based on systemic indicator values that do not accurately reflect GSIBs' systemic risk profiles throughout the year. In addition, these end-of-year patterns in GSIBs' activities can also lead to liquidity disruptions in certain financial markets.⁵⁷

⁵⁵ See, e.g., Luis Garcia, Ulf Lewrick, and Taja Sečnik, *Is Window Dressing by Banks Systemically Important*, *BIS Working Papers*, 960 (August 2021); Markus Behn, Giacomo Mangiante, Laura Parisi, and Michael Wedow, *Behind the Scenes of the Beauty Contest: Window Dressing and the G-SIB Framework*, *International Journal of Central Banking*, 76 (December 2022).

⁵⁶ See, e.g., Jared Berry, Akber Khan, and Marcelo Rezende, *How Do U.S. Global Systemically Important Banks Lower Their Capital Surcharges*, *FEDS Notes*, Board of Governors of the Federal Reserve System (January 31, 2020).

⁵⁷ See, e.g., Erik Bostrom, David Bowman, Amy Rose, and Andy Xia, *What Happens on Quarter-Ends in the Repo Market*, *FEDS Notes*, Board of Governors of the Federal Reserve System (June 6, 2025); Matthew Naylor, Renzo Corrias, and Peter Wells, *Banks' Window-Dressing of the G-SIB*

Taken together, the existing empirical analyses and the economic analysis described in section III.E.i of this **SUPPLEMENTARY INFORMATION** suggest that the proposed data averaging requirement would result in indicator values that are more consistent with GSIBs' systemic risk profiles. Using averages of daily or monthly values rather than point-in-time measurements of systemic indicators to calculate GSIB scores would likely result in GSIB scores and capital surcharges that are better aligned with GSIBs' systemic risk profiles. For each systemic indicator, the proposed frequency of data to be averaged seeks to balance the risks of indicator values that are not representative of a GSIB's systemic risk profile, as described above, against the operational burden for firms to calculate and report averaged values.

As noted in Table 1, the proposal would require a GSIB to report the intra-financial system assets, intra-financial system liabilities, notional amount of OTC derivatives, and trading and available-for-sale securities indicators on the FR Y-15 as the average of daily values of the indicator over the reporting quarter, instead of quarter-end

Framework: Causal Evidence from a Quantitative Impact Study, Working Paper 42, Basel Committee on Banking Supervision (March 7, 2024).

point-in-time values.⁵⁸ Generally, these are data items the value of which a firm could more easily manage as of a quarterly reporting date; for example, many of the positions in these data items are relatively highly liquid and easily tradeable.⁵⁹ The Board expects that these indicators would also generally present less operational complexity and cost for GSIBs to report using averages of more frequent data (for example, averages of daily rather than averages of monthly values). For instance, U.S. GSIBs currently must report or maintain daily data for OTC derivatives and trading and available-for-sale securities for other purposes, including regulatory reporting requirements and risk management.⁶⁰ Similarly, for the intra-financial system assets and intra-financial system liabilities indicators, GSIBs currently must maintain much of this information for accounting purposes or regulatory

⁵⁸ For certain off-balance sheet items, a U.S. GSIB would report the average of month-end values over the reporting quarter, rather than an average of daily values (see Table 1).

⁵⁹ For example, trading and available-for-sale securities are generally bought and sold with a relatively high degree of certainty of settlement.

⁶⁰ Trading and available-for-sale securities are also reported on the Complex Institution Liquidity Monitoring Report (FR 2052a). Additionally, firms report trading assets as an average of either daily or weekly values on the Consolidated Financial Statements for Holding Companies (FR-Y9C), Schedule HC-K, item 4(a).

purposes, which reduces the operational complexity of reporting these indicators based on a higher frequency of data.⁶¹ For example, GSIBs currently must track exposures to individual counterparties on a daily basis in order to calculate compliance with the Board's single counterparty credit limits rule; many of these exposures are also captured in the intra-financial system assets indicator.⁶²

For some indicators, the benefits of more precise measurement may not warrant the added operational costs for GSIBs to report averages of daily data. For instance, cross-jurisdictional claims can be complex for firms to report if they manually account for multiple different types of risk transfers, such as the identity and location of guarantors or collateral, for purposes of the reporting form. Furthermore, in some cases, averages of daily values may not meaningfully improve systemic risk measurement relative to averages of monthly values. For example, Level 3 assets are by definition illiquid and difficult to value, relying on unobservable inputs. Similarly, firms are likely to have a limited ability to manage values of the securities outstanding indicator as of a given date because a significant portion of that indicator value is based on a firm's market capitalization (which can be affected by exogenous factors).

Accordingly, as noted in Table 1, the proposal would require a GSIB to report the securities outstanding, assets under custody, Level 3 assets, cross-jurisdictional claims, and cross-jurisdictional liabilities indicators on the FR Y-15 as the average of monthly values of the indicator over the reporting quarter.⁶³ Requiring averages of monthly, rather than daily, values for these indicators seeks to balance the benefits of improved measurement of systemic risk and reduced incentives for firms to adjust year-end indicator amounts with the operational

complexity and cost of reporting average values based on higher-frequency data.

The proposal would not change the current reporting methodology for items that measure flows (payments activity and underwritten transactions in debt and equity markets) and short-term wholesale funding.⁶⁴

The proposed changes to require reporting of average data would apply only to GSIBs identified under the Board's GSIB framework.⁶⁵ The proposal would not change the regulatory reporting methodology for firms that are subject to Category II, III, or IV standards. It would require a bank holding company subject to Category II or III standards to calculate its method 1 GSIB score by using the average of its four quarterly reported values for each systemic indicator for the year. The scope of the proposed data averaging requirements seeks to balance the risks of indicator values that are not representative of a GSIB's systemic risk profile, as described above, against the operational complexity for firms to calculate and report averaged data. GSIBs have the greatest incentives to manage the values of their systemic indicators on measurement dates because these values directly affect the firm's capital requirements. Additionally, GSIBs have, and are expected to maintain, greater operational capabilities to report averages of more frequent data. For non-GSIBs, both the incentives to manage point-in-time systemic indicator values and the operational capabilities to report averaged data are generally more limited. Accordingly, for non-GSIBs, the benefits of averaged data are less likely to outweigh these operational costs.

Question 13: How would the proposed averaging requirement of daily values and monthly values for indicators affect the ability to of the GSIB framework to identify and measure the systemic risk profile of banking organizations? What other measurement approaches for the systemic indicators should the Board consider to improve the measurement of a large banking organization's level of systemic risk?

⁶⁴ For these indicators, where firms currently report items as 12-month sums or averages, the proposal would require reporting of values for the reporting quarter only, with a separate line item to include the 12-month sum or averages, to align with the proposed reporting of other indicators and improve clarity. As discussed in section II.B. of this SUPPLEMENTARY INFORMATION, the proposal would make other changes to the short-term wholesale funding indicator.

⁶⁵ See 12 CFR 217.402. A firm that newly becomes a GSIB would be required to begin reporting averages of daily or monthly values as of the first quarter following its identification as a GSIB.

Question 14: For each systemic indicator, what alternative frequency of data to be averaged should the Board consider, and why? For example, what would be the advantages and disadvantages of using averages of daily, weekly, or monthly values instead of the proposed data frequencies?

Question 15: For each systemic indicator, what additional operational burdens would be required to report according to the proposed averaging frequency, relative to what banking organizations already do to track this information? To what extent would the operational burdens of reporting averages of daily, weekly, monthly, or quarterly values differ for the different indicators? What other changes, if any, could reduce the additional costs of reporting average values for a particular indicator? Please provide relevant data or analysis, including specific information regarding the operational burden of different frequencies for any indicator.

Question 16: What modifications, if any, should the Board consider to the proposed data averaging framework to account for material changes in systemic indicator values that occur over the course of a calendar year, for example, due to a corporate transaction such as a merger, acquisition, or material sale?

Question 17: The Basel Committee issued a consultative document in March 2024 that included potential approaches to increase the frequency of data averaging in the international GSIB framework. What are the advantages and disadvantages of alignment with international standards in this area? If the Board were to consider aligning to the international standard, what considerations should the Board take into account? Please provide any relevant data or analysis.

i. Currency Conversion of Aggregate Global Indicator Amounts

Each year, the Board publishes aggregate global indicator amounts used in the calculation of method 1 scores, which are based on data collected by the Basel Committee.⁶⁶ The Basel Committee amounts are determined based on the sum of the systemic indicator amounts reported by the 75 largest U.S. and foreign banking organizations as measured by the Basel

⁶⁶ See, e.g., 2025 Aggregate Global Indicators Amount, <https://www.federalregister.gov/documents/2025/12/16/2025-22964/regulation-q-regulatory-capital-rule-risk-based-capital-surcharges-for-global-systemically-important>. The Board also maintains this information at its website, <https://www.federalreserve.gov/supervisionreg/basel/denominators.htm>.

⁶¹ For example, GSIBs are currently required to report certain intra-financial system liabilities on a daily basis on the FR 2052a.

⁶² 12 CFR 252.78(a)(1).

⁶³ For exposures reported on the FR Y-15 based on their U.S. GAAP carrying value, the proposal would not change the frequency of valuation required by U.S. GAAP for the exposure. Rather, the proposal in certain cases would modify the frequency at which these exposures must be identified for purposes of calculating average values based on the U.S. GAAP carrying value at the time of measurement. The proposed averaging frequencies for the purposes of reporting on the FR Y-15 are not intended to affect firms' internal valuation frequencies for exposures. For example, firms would not be expected to revalue Level 3 assets on a monthly basis as a regulatory reporting requirement.

Committee, and any other banking organization the Basel Committee includes in its sample total for that year. The Basel Committee publicly releases these amounts, denominated in euros, each year.⁶⁷

As discussed in the 2015 final rule, the Board uses a conversion rate provided by the Basel Committee to convert aggregate global indicators published by the Basel Committee in euros to the U.S. dollar-denominated aggregate global indicator amounts used in the method 1 GSIB score calculation.⁶⁸ The conversion rate is the prevailing exchange rate, as calculated by the Basel Committee, between euros and U.S. dollars on December 31 of an applicable year. As discussed above, under the proposal, most systemic indicators would use an average of values over a calendar year as opposed to year-end point-in-time values. To better align with the use of average values for systemic indicators, the Board is proposing to update its internal methodology to use annual average exchange rates to convert aggregate global indicator amounts from euros to

U.S. dollars. Under this approach, the Board would rely on the annual average exchange rate published by the Basel Committee rather than the year-end exchange rate published by the Basel Committee.⁶⁹

Question 18: What are the advantages or disadvantages of using annual average exchange rates to convert aggregate global indicator amounts from euros to U.S. dollars, rather than year-end spot exchange rates? What alternative approaches, if any, should the Board consider, and why?

D. Reducing Cliff Effects in the Calculation of Method 2 GSIB Surcharges

As described in the 2015 final rule, the Board chose to assign GSIB surcharges using 100-basis point score band sizes so that modest changes in a firm's systemic indicators would generally not cause a change in its surcharge and surcharges would be reasonably sensitive to changes in a firm's systemic risk profile.⁷⁰ In practice, the Board has observed that firms' method 2 scores tend to cluster

close to the upper limit of a score band range, especially at year-end.

In order to increase the sensitivity of a firm's surcharge to its systemic risk profile and reduce cliff effects around changing score bands, the Board is proposing to make the method 2 score band ranges narrower.⁷¹ Instead of 100-basis point score band ranges corresponding to 0.5-percentage point increments in the surcharge (1.0%, 1.5%, 2.0%, etc.), the proposal would modify the ranges in method 2 to 20-basis point ranges that would correspond to 0.1-percentage point increments (1.0%, 1.1%, 1.2%, etc.).

Under this approach, the lowest score band range would be method 2 scores of 189 basis points or less, corresponding to a 1.0 percent surcharge, the lowest applicable surcharge for a GSIB. If the method 2 score of a GSIB equaled or exceeded 190 basis points, the method 2 surcharge would equal the sum of 1.1 percent and an additional 0.1 percent for each additional 20 basis points by which the GSIB's method 2 score exceeded 190 basis points. Expressed mathematically, this is equivalent to:

$$= \begin{cases} 1\% + 0.1\% * \text{ceiling} \left(\frac{\text{method 2 GSIB score} - 189}{20} \right), & \text{if method 2 score} \geq 190 \\ 1\%, & \text{if method 2 score} \leq 189 \end{cases}$$

Where *ceiling* means to round the fraction to the nearest integer above or equal to it.⁷² Table 2 illustrates the

application of this formula up to a score of 1129.

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⁶⁷ The values published by the Basel Committee are available at <https://www.bis.org/bcbs/gsib/denominators.htm>.

⁶⁸ See 80 FR 49085.

⁶⁹ The Basel Committee publishes the prevailing year-end and average annual exchange rates on its public website. See https://www.bis.org/bcbs/gsib/reporting_instructions.htm.

⁷⁰ See 80 FR 49082, at 49091 (Aug. 14, 2015).

⁷¹ The proposal would not amend the score band ranges for method 1, as discussed further below.

⁷² For example, 2.1 rounds up to 3; 4.7 rounds up to 5; 6 does not require rounding.

Table 2: Proposed revised method 2 surcharge score band ranges

Method 2 Score Range	Method 2 Surcharge		Method 2 Score Range	Method 2 Surcharge	
	Current	Proposed		Current	Proposed
Less than 189	1.0%	1.0%	630 - 649	3.5%	3.3%
190 - 209		1.1%	650 - 669		3.4%
210 - 229		1.2%	670 - 689		3.5%
230 - 249	1.5%	1.3%	690 - 709		3.6%
250 - 269		1.4%	710 - 729		3.7%
270 - 289		1.5%	730 - 749	4.0%	3.8%
290 - 309		1.6%	750 - 769		3.9%
310 -329	1.7%	770 - 789	4.0%		
330 - 349	2.0%	1.8%	790 - 809	4.5%	4.1%
350 - 369		1.9%	810 - 829		4.2%
370 - 389		2.0%	830 - 849		4.3%
390 - 409		2.1%	850 - 869		4.4%
410 - 429	2.5%	2.2%	870 - 889		5.0%
430 - 449		2.3%	890 - 909	4.6%	
450 - 469		2.4%	910 - 929	4.7%	
470 - 489		2.5%	930 - 949	4.8%	
490 - 509		2.6%	950 - 969	4.9%	
510 - 529	3.0%	2.7%	970 - 989	5.5%	5.0%
530 - 549		2.8%	990 - 1009		5.1%
550 - 569		2.9%	1010 - 1029		5.2%
570 - 589		3.0%	1030 - 1049		5.3%
590 - 609		3.1%	1050 - 1069		5.4%
610 - 629		3.2%	1070 - 1089		5.5%
			1090 - 1109		5.6%
			1110 - 1129	5.7%	

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The proposed method 2 score band range structure would result in a surcharge equivalent to that under the current method 2 surcharge score band range structure when a method 2 score is in the middle quintile of the current score band range, as displayed in Table 2. For example, a method 2 score of 280 basis points is near the center of the current 2.5 percent surcharge score band range and would likewise receive a 2.5 percent surcharge under the proposal. Under the proposal, method 2 scores at the lower end of a current method 2 score band range would receive a modest GSIB surcharge reduction. Method 2 scores at the higher end of a current method 2 score band range

would receive a modest GSIB surcharge increase under the proposal.

The proposed revision is not meant to alter the overall calibration of the method 2 surcharge, as reflected by the fact that the surcharge for a proposed score band range that is at the center of a current score band range would remain unchanged. Rather, the proposal would apply a more continuous approach to determining a firm's GSIB surcharge that would reduce cliff-effects in the framework and increase its risk sensitivity.

The proposal would not amend the score band ranges for method 1. Because method 1 is structured to be generally consistent with the methodology used

by other major jurisdictions to calculate GSIB surcharges and with the GSIB surcharge standard published by the Basel Committee, the proposal would keep the existing score band ranges for method 1 to promote international consistency.

Question 19: What are the advantages and disadvantages of the proposed approach to method 2 surcharges, including for firms' capital planning? What alternative approaches, if any, should the Board consider for reducing cliff effects and better reflecting a firm's systemic risk profile in its GSIB surcharge?

E. Amendments to Systemic Indicators

The Board is proposing to revise various aspects of the systemic indicators, as implemented in certain

cases through the data collected on the FR Y–15. This section discusses these revisions, grouped by systemic indicator category. Unless otherwise noted, each proposed modification in this section

would apply to all filers of the FR Y–15. Table 3 summarizes the proposed modifications to the GSIB framework and the FR Y–15 reporting.⁷³

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Table 3: Proposed Amendments to Systemic Indicators

Proposed Amendments	Affected Systemic Indicators
Revise definition of “financial institutions” for interconnectedness category and treatment of holdings of securities issued by an exchange-traded fund	Intra-financial system assets; intra-financial system liabilities
Incorporate the standardized approach for counterparty credit risk (SA-CCR) to measure derivative exposures ⁷⁴	Intra-financial system assets; intra-financial system liabilities
Update treatment of non-cash collateral in over-the-counter (OTC) derivatives transactions	Intra-financial system assets; intra-financial system liabilities
Update treatment of certificates of deposit	Securities outstanding
Clarify scope for reporting of preferred shares	Securities outstanding
Introduce two trading volume indicators	Trading volume
Update list of currencies	Payments activity
Add derivative exposures	Cross-jurisdictional claims; cross-jurisdictional liabilities
Streamline reporting of the cross-jurisdictional liabilities systemic indicator	Cross-jurisdictional liabilities
Update the FR Y-15 instructions for reporting the weighted short-term wholesale funding amount	Short-term wholesale funding

⁷³ In addition to the proposed amendments listed in Table 3, the proposal would modify the FR Y–15 instructions related to the total exposures systemic indicator to remove unintended differences from the calculation of total leverage

exposure under the Board’s capital rule. *See* 12 CFR 217.10(c)(2).

⁷⁴ The capital rule currently requires banking organizations subject to Category I and II standards to use SA–CCR to calculate standardized total risk-weighted assets and total leverage exposure and to

use SA–CCR or the internal models methodology to calculate their advanced approach total risk-weighted assets. Firms subject to Category III or IV standards may, but are not required to, use SA–CCR. *See* 12 CFR 217.34(a) (applicability of SA–CCR); 12 CFR 217.132(c) (SA–CCR).

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i. Interconnectedness

a. Definition of “Financial Institution” and Treatment of Exchange-Traded Funds

Banking organizations often enter into transactions with other financial sector entities, giving rise to a range of obligations. These transactions can serve many purposes and can also serve as transmission channels for stress. Financial distress at a banking organization can materially raise the likelihood of distress at other financial institutions given the network of obligations throughout the financial system.⁷⁵ Accordingly, the GSIB framework includes as a measure of a banking organization’s systemic risk profile indicators of its interconnectedness with other financial institutions and the financial sector as a whole.

The GSIB surcharge framework measures interconnectedness using three systemic indicators: intra-financial system assets, intra-financial system liabilities, and securities outstanding. For purposes of the intra-financial system assets and intra-financial system liabilities indicators, the FR Y–15 instructions currently define “financial institutions” as depository institutions, bank holding companies, securities brokers, securities dealers, insurance companies, mutual funds, hedge funds, pension funds, investment banks, and central counterparties. The definition excludes central banks and other public sector bodies, such as multilateral development banks and the Federal Home Loan Banks but includes state-owned commercial banks. The definition also excludes stock exchanges, though stock exchanges may have subsidiaries that are included, such as securities dealers or central counterparties.

The proposal would modify the definition of “financial institution” to provide clearer and more consistent treatment of positions with financial sector counterparties. Specifically, the proposal would amend the definition of “financial institution” to include savings and loan holding companies, private equity funds, asset management companies, exchange-traded funds, and other asset management entities that

engage in similar activities to those listed in the definition.

The proposed inclusion of savings and loan holding companies would clarify that a reporting banking organization should include positions with these financial institutions in the same manner as other depository institution holding companies, since a banking organization’s positions with these financial institutions can act as a similar channel for transmission of distress that can undermine financial stability.

The proposed inclusion of private equity funds in the intra-financial system assets and intra-financial system liabilities indicators would be consistent with the purpose of the interconnectedness category to holistically assess a banking organization’s exposures to and from other financial sector entities.⁷⁶ Private equity funds are engaged in asset management activities, which are a financial activity, and they typically have transactions or relationships with a broad set of other financial market participants and generally hold financial assets. Like with other asset management entities, perceptions of distress at a private equity fund could affect market perceptions of the soundness of other financial market participants. Private equity funds can present a similar channel for transmission of distress and financial instability as other asset management entities and other types of entities included in the definition of “financial institution.”

The proposed change regarding asset management companies would similarly reflect that positions with asset management companies, in addition to positions with the underlying funds managed by the companies, represent sources of financial sector interconnectedness.

To improve clarity, the proposal would modify the FR Y–15 instructions to specify that exchange-traded funds are included in the definition of “financial institution,” and would include in the line items for holdings of securities issued by other financial institutions (within the intra-financial system assets indicator) holdings of securities of an exchange-traded fund. Currently, the instructions for this line item state not to include bond exchange-traded funds. Although the redemption structures for shares of exchange-traded funds generally differ from the structure

of an open-ended mutual fund, asset management entities can have a variety of redemption structures and still act as a source of financial sector interconnectedness. In addition, mutual funds, which are currently included in the FR Y–15 instruction’s definition of “financial institution,” and exchange-traded funds are generally covered by the Investment Company Act of 1940 and subject to similar regulatory requirements. Given that there is no material distinction between exchange-traded funds and other asset management entity types in terms of their legal structure and the fact that exchange-traded funds engage in similar activities as mutual funds, the inclusion of exchange-traded funds would ensure consistent treatment across different types of asset management entities for the purposes of the interconnectedness indicators. This change would improve the clarity of reporting instructions and the consistency of treatment of asset management entities and provide a more complete measure of a banking organization’s interconnectedness.

Finally, the current definition of “financial institution” in the FR Y–15 relies on descriptions of certain asset management entity types (for example, mutual funds and hedge funds) using general, rather than specific, terminology, which may result in inconsistencies in the identification and inclusion of financial sector counterparties across banking organizations (for example, regarding the treatment of foreign equivalents or other asset management entities that engage in similar activities). To promote consistent treatment based on substance, the proposal would clarify that asset management entities that engage in similar activities to those listed are also included in the definition.

The proposal would implement these changes through revisions to the instructions of the FR Y–15 that would apply to all filers.

Question 20: What other types of entities beyond those mentioned should be included in the definition of “financial institution,” and why?

Question 21: What are the advantages and disadvantages of the proposed clarification regarding asset management entities similar to those listed in the definition of “financial institution”? What entities, if any, would be scoped in by this approach that would not be consistent with the purposes of the intra-financial system assets and intra-financial systems liabilities indicators? What additional compliance burden would result from such an approach, and how could such

⁷⁵ See Rochet, J.-C., & Tirole, J. (1996). Interbank Lending and Systemic Risk. *Journal of Money, Credit and Banking*, 28(4), 733–762. <https://doi.org/10.2307/2077918>. Li, M., Milne, F., & Qui, J. (2016). Uncertainty in an Interconnected Financial System, Contagion, and Market Freezes. *Journal of Money, Credit and Banking*, 48(6), 1135–1168. <http://www.jstor.org/stable/43862647>.

⁷⁶ The proposed change would not include the portfolio companies of a private equity fund unless a portfolio company itself meets the definition of “financial institution.”

burden be reduced? What alternative terms should the Board consider to clarify the identification and inclusion of different asset management or investment entities that ensures consistent treatment of similar counterparties across banking organizations?

Question 22: What other changes should the Board consider to improve the identification and inclusion of financial sector counterparties for purposes of the intra-financial system assets and intra-financial system liabilities indicators? For example, what would be the advantages and disadvantages of aligning the definition of “financial institution” in the FR Y–15 with the definition used in the capital rule (12 CFR 217.2)? Under such an approach, the Board could add to the definition used in the FR Y–15 a functional prong similar to parts (4)(ii) and (6) of the capital rule’s definition of “financial institution,” which would scope in companies that are predominantly engaged in certain financial activities. Alternatively, the FR Y–15 could use the capital rule’s definition of “financial institution,” replacing the exclusions in part (7) of the capital rule’s definition with the list of excluded entity types in the current FR Y–15 definition. What would be the advantages and disadvantages of such an approach? What other alternatives should the Board consider to capture the types of financial counterparties that reflect a firm’s interconnectedness, and why? For example, what would be the advantages or disadvantages of aligning with criteria or defined terms used in other parts of the Board’s regulatory framework? Please provide examples of financial sector counterparties that would be included under any alternative approaches that are not included by the current definition in the FR Y–15, and the appropriateness of including or not including these counterparty types. In addition, please provide information on the reporting burden of potential approaches relative to the current reporting requirements.

Question 23: What other changes should the Board consider to the definition of “financial institution” and other instructions for the interconnectedness indicators to clarify instructions, improve measurement, and promote more consistent reporting?

b. Derivatives

The proposal would update the reporting of derivative positions in the intra-financial system assets and intra-financial system liabilities indicators in the interconnectedness category to align

with amendments to the capital rule in 2019 that adopted the standardized approach for counterparty credit risk (SA–CCR).⁷⁷ The indicators for intra-financial system assets and intra-financial system liabilities include the net fair value and potential future exposure of OTC derivatives with other financial institutions, as calculated under the capital rule. The current instructions specify that firms should use the current exposure method to calculate the potential future exposure of these positions.⁷⁸ The proposal would update the instructions for the relevant line items in the intra-financial system assets and intra-financial system liabilities indicators to provide instead for calculation using SA–CCR for a banking organization that uses SA–CCR to calculate its risk-weighted assets under the capital rule. Specifically, the proposal would state that a banking organization should report the exposure amount of derivatives in accordance with the capital rule, 12 CFR 217.34(a). This change would align the measurement of derivatives in the interconnectedness category with that used in the size category, as well as in the calculation of risk-weighted assets and total leverage exposure in the capital rule.

The proposal would allow a banking organization to recognize, for purposes of the intra-financial system assets and intra-financial system liabilities indicators, the value of non-cash collateral to offset the net fair value of derivatives if such collateral is financial collateral (as defined in the capital rule, 12 CFR 217.2) and if adjusted for the applicable haircuts under SA–CCR or the current exposure method, depending on which methodology the banking organization uses, in accordance with the capital rule, 12 CFR 217.34(a). Specifically, the proposal would revise relevant line items in the interconnectedness category of the FR Y–15. This change would provide recognition of risk mitigants that reduce the impact to other financial institutions of a banking organization’s failure.

Question 24: Currently, firms are unable to recognize netting of exposures across derivatives and securities financing transactions contained within the same legal netting set for the purposes of certain systemic indicators in their GSIB surcharge score calculations. The capital proposals include changes to the ability of firms subject to SA–CCR to recognize under the capital rule offsetting of certain exposures across different product types

(for example, certain derivatives and repo-style transactions). What changes, if any, should the Board make to the FR Y–15 to permit recognition of such offsetting in the interconnectedness and size indicators or any other systemic indicators? What would be the advantages and disadvantages of such changes?

c. Securities Outstanding

The proposal would revise the scope of certain exposures measured under the securities outstanding systemic indicator in the interconnectedness category. First, the proposal would revise the FR Y–15 instructions to indicate that banking organizations should not report a certificate of deposit in the securities outstanding indicator if the certificate of deposit is not due to or held by a financial institution and is non-transferable. This modification would exclude such certificates of deposit from the interconnectedness category because they are not, and cannot become, exposures due to or held by a financial institution.

Consistent with the purpose of the interconnectedness indicators to measure a banking organization’s intra-financial system transactions and contractual relationships, banking organizations would continue to include in the securities outstanding indicator a certificate of deposit that is issued to a financial institution and a certificate of deposit that is transferable.

The proposal would also modify the instructions for other items included in the securities outstanding systemic indicator to provide greater clarity to banking organizations. Specifically, the proposal would require banking organizations to include preferred shares that have a determinable fair value in the securities outstanding systemic indicator, even if the preferred shares are not registered with the Securities and Exchange Commission or listed on a securities exchange. The current FR Y–15 instructions for this line item require banking organizations to report publicly traded instruments. The proposed change would include instruments for which banking organizations can easily determine a fair value, which can be done for securities for which there is an active market. This change would be consistent with the intent of the securities outstanding indicator to accurately measure issued and outstanding debt and equity instruments of a banking organization and would align with the instructions for this line item under the Basel Committee’s GSIB surcharge framework.

Question 25: What further modifications or clarifications to the

⁷⁷ See 85 FR 4362 (Jan. 24, 2020).

⁷⁸ See 12 CFR 217.34.

securities outstanding systemic indicator should the Board consider, and why?

Question 26: What other changes to the interconnectedness category indicators should the Board consider, and why?

ii. Substitutability

a. Trading Volume

The substitutability category used in method 1 measures the extent to which a banking organization provides critical financial services and infrastructure to third parties and the broader financial system that would be difficult to substitute in a period of financial stress or failure. Currently, there are three indicators in the substitutability category: (1) payments activity; (2) assets under custody; and (3) underwritten transactions in debt and equity markets.

The proposal would revise the substitutability category to introduce two new systemic indicators, “trading volume—fixed income” and “trading volume—equity and other,” as a complement to the existing indicator for underwritten transactions in debt and equity markets.

The proposed inclusion of trading volume in the substitutability category in addition to underwritten transactions in debt and equity markets would provide a broader measure of the extent to which a banking organization’s activities contribute to liquidity in the primary market (underwriting) and secondary market (trading). The permitted trading activity of banking organizations, such as market making, can promote market liquidity, thereby enhancing price discovery and permitting market participants to manage financial risk more holistically. The provision of market-making services can require substantial investments in information technology and infrastructure, making it difficult to substitute in a period of financial stress or firm default. The proposal would include separate indicators for trading volume in fixed income and in equities and other securities to avoid disproportionate impact due to differences in overall trading volumes in the two markets.

The FR Y–15 sections for the substitutability indicators (Schedules C and J) currently include these measures as memorandum line items. The proposal would move these line items into the main section of Schedule C to reflect their inclusion as new systemic indicators.⁷⁹ The indicator for trading

volume in fixed income securities includes money market instruments, certificates of deposit, bills, bonds, and other fixed income securities, such as commercial paper, corporate bonds, syndicated corporate loans, covered bonds, convertible debt, and securitized products.⁸⁰ This indicator includes securities issued by public sector entities (as defined in 12 CFR 217.2) as well as securities issued or guaranteed by government-sponsored agencies, multilateral development banks, and state and local governments, but does not include securities issued by a sovereign, as defined in 12 CFR 217.2. The indicator for trading volume of equities and other securities includes all publicly traded equities (as defined in 12 CFR 217.2), including American depositary receipts (ADRs) and global depositary receipts (GDRs), unlisted equity securities, preferred stock, trust preferred securities, and securities issued by investment funds, as defined in 12 CFR 217.2.⁸¹

The proposal would modify the weighting of the indicators for the substitutability category in a firm’s method 1 GSIB score calculation to reflect the addition of the two new indicators. Currently, the indicator for underwritten transactions in debt and equity markets receives a 6.67 percent weight. The proposal would reallocate a portion of this weighting to the two new indicators: the indicator for underwritten transactions in debt and equity markets would receive a 3.33 percent weight, and the trading volume—fixed income and trading volume—equity and other systemic indicators would each receive a 1.67 percent weight. The remaining indicators in the substitutability category would retain their current weight of 6.67 percent each. The inclusion of the proposed indicators for trading volume would not affect a GSIB’s method 2 score calculation, as method 2 does not include the substitutability category of indicators.

Question 27: What are the advantages and disadvantages of the proposed trading volume systemic indicators as measures of a banking organization’s substitutability, based on its contributions to efficient market functioning? What alternative indicators, if any, should the Board consider?

Question 28: What, if any, other trading instruments and exposures

proposal would remove Schedule J to streamline reporting by foreign banking organizations.

⁸⁰ See FR Y–15 Instructions, Schedule C, line items M5, M5(a), M5(b), and M6.

⁸¹ See FR Y–15 Instructions, Schedule C, line items M5, M5(c), M5(d), and M7.

besides those mentioned above should the proposed systemic indicators for trading volume include, and why?

b. Currencies Included in the Payments Activity Systemic Indicator and Associated Memoranda Items

The payments activity indicator includes the value of all cash payments sent via large-value payment systems, along with the value of all cash payments sent through an agent (for example, using a correspondent or nostro account), over the calendar year in major global currencies. To determine which currencies to include in this indicator, the payments activity indicator uses factors such as the extent to which a currency represents a material share of global foreign exchange market turnover, among other factors.⁸² In identifying major currencies, the payment activity indicator takes into account the list of major currencies announced by the Basel Committee for purposes of the international GSIB surcharge standard, including updates typically announced by the Basel Committee every three years.⁸³ The FR Y–15 also collects payments activity for certain other currencies (memorandum item currencies) that are not used at sufficient volumes to be included in the payments activity metric, to help inform the selection of major currencies in the future and monitor activity more consistently over time in currencies that may become major currencies in the future.

The proposal would update the list of currencies included in the payments activity systemic indicator to reflect changes in the materiality of certain currencies’ share of global foreign exchange market turnover. The proposal would also update the list of currencies collected as memorandum item currencies that are not included in the payments activity systemic indicator.

The proposal would revise the payments activity systemic indicator to include the Singapore dollar, based on its use in global foreign exchange markets, and to remove the Brazilian real, the Mexican peso, and the Swedish krona from the systemic indicator, based on their reduced relative use in global foreign exchange markets. Based on the 2025 Triennial Central Bank Survey published by the Bank for International Settlements (BIS), the Singapore dollar accounted for over 2 percent of foreign

⁸² For example, a currency may also be considered a major currency if it represents a material share of global nominal GDP.

⁸³ See Basel Committee, G–SIB Assessment Reporting Instructions, https://www.bis.org/bcbis/gsib/reporting_instructions.htm.

⁷⁹ As discussed in section II.G of this SUPPLEMENTARY INFORMATION section below, the

exchange market turnover.⁸⁴ The Mexican peso and the Swedish krona, which the FR Y–15 currently includes in the payments systemic indicator, respectively accounted for slightly less than 2 percent of foreign exchange market turnover. The Brazilian real, which the FR Y–15 also currently includes in the payments systemic indicator, accounted for significantly less than 2 percent of foreign exchange market turnover.

Under the proposal, the FR Y–15 would continue to collect data on payments in the Mexican peso and the Swedish krona as memoranda item currencies, based their share of foreign exchange market turnover. The proposal would also add payments activity in South Korean won as a memorandum item currency on the FR Y–15. This currency accounted for slightly less than 2 percent of foreign exchange market turnover, based on the Triennial Central Bank Survey. Like other memoranda item currencies, the South Korean won would not be included in the payments activity systemic indicator under the proposal.

The proposal would amend the FR Y–15 to no longer collect data on payments activity in Russian rubles and the Brazilian real, as the foreign exchange market turnover for these currencies is significantly less than the other currencies for which the FR Y–15 collects information.

Question 29: Which, if any, other currencies should the Board add or remove in the payments activity systemic indicator or as memorandum item currencies, and why?

c. Clarifications for the Payments Activity Indicator

The proposal would make additional changes to the FR Y–15 instructions for the payments activity indicator to improve clarity for filers. First, the proposal would modify the instructions for payments made in the last four quarters to more clearly state the current requirement that filers should include in their reported values the quarter including the as-of date of the report. This clarification would make no

substantive change to the current instructions. Additionally, the proposal would update a footnote in the instructions for line item 1, which cites a report published by the Bank for International Settlements' Committee on Payment and Settlement Systems, to reflect a change in the name of this body to the Committee on Payments and Market Infrastructures and to provide an updated hyperlink. The proposal would also provide additional information on how a firm may convert payments activity into U.S. dollars using average exchange rates.

Question 30: What other changes should the Board consider to improve the quality and efficiency of the data collected in the payments activity indicator? For example, what would be the advantages and disadvantages of permitting firms to collect the daily flow data for each reporting currency included in the payments activity indicator and converting the data for each currency using daily exchange rate quotations?

iii. Cross-Jurisdictional Activity

a. Cross-Jurisdictional Derivatives Activity

Banking organizations with large cross-border activities and exposures may be more difficult and costly to resolve than domestically focused banking organizations in the event of a failure. The greater a banking organization's exposures are across borders and to non-domestic counterparties, the more difficult it can be to coordinate its resolution were it to fail. In addition, cross-jurisdictional activity can add complexity and present channels for transmission of distress with parties in different jurisdictions. The two systemic indicators included in this category—cross-jurisdictional claims and cross-jurisdictional liabilities—measure a banking organization's global profile by considering its activity and exposures outside of the United States.

Under the current FR Y–15 instructions, neither of these indicators for cross-jurisdictional activity include derivative exposures. Omission of derivatives from the systemic indicators for cross-jurisdictional activity can materially understate this measure for a banking organization, and also present opportunities for a banking organization to use derivatives to structure its exposures in a manner that reduces the value of its systemic indicators without reducing the risks the indicator is intended to measure. In the context of cross-jurisdictional activity, derivative exposures increase a firm's cross-

jurisdictional claims and liabilities and can increase or transmit distress in the same manner as—or even to a greater extent than—other cross-jurisdictional assets and liabilities by amplifying the effect of a banking organization's failure.⁸⁵

Accordingly, the proposal would revise the systemic indicators for cross-jurisdictional claims and cross-jurisdictional liabilities to include derivative exposures. As a result of this change, these indicators would provide a more accurate and comprehensive measure of a banking organization's cross-jurisdictional activity and the associated risks intended to be captured. In addition to its usage in the GSIB surcharge framework, cross-jurisdictional activity as reported on the FR Y–15 also serves as a risk-based indicator in the Board's framework for determining the applicable category of prudential standards for large banking organizations. Specifically, a banking organization that has cross-jurisdictional activity of \$75 billion or more is subject to Category II standards.⁸⁶ The proposed change would also have the effect of improving the measurement of cross-jurisdictional activity for the purposes of determining the application of prudential standards for large banking organizations.

The proposal would implement the modification to include derivative exposures in the cross-jurisdictional activity category systemic indicators through revisions to the FR Y–15, which currently collects information regarding cross-jurisdictional derivative exposures as memoranda items. Under the proposal, a banking organization would generally recognize collateral associated with derivative exposures consistently with the methodology for reporting other cross-jurisdictional claims and liabilities on the FR Y–15. Specifically, a banking organization would report cross-jurisdictional derivative claims and liabilities gross of collateral, given that a banking organization may be engaged in significant cross-jurisdictional derivatives business even if its cross-jurisdictional claims and

⁸⁴ The BIS Triennial Central Bank Survey is a comprehensive source of information on the size and structure of global over-the-counter markets in foreign exchange and interest rate derivatives. The BIS coordinates the Triennial Survey every three years. The foreign exchange turnover part of the 2025 Triennial Survey took place in April 2025 and involved central banks and other authorities in 52 jurisdictions. These authorities collected data from more than 1,100 banks and other dealers and reported national aggregates to the BIS for inclusion in global aggregates. See *Triennial Central Bank Survey*, September 2025, https://www.bis.org/statistics/rpfx25_fx.htm.

⁸⁵ The failure of Lehman Brothers during the 2007–09 financial crisis is an example of how cross-border derivatives can increase the effect of a banking organization's failure. See Summe, K. (2012). "An Examination of Lehman Brothers' Derivatives Portfolio Post-Bankruptcy." In K. Scott & J. Taylor (Eds.), *Bankruptcy Not Bailout: A Special Chapter 14* (pp. 97–125). Hoover Institution Press, Wiggins and Metrick (2014). *The Lehman Brothers Bankruptcy G: The Special Case of Derivatives*. Yale Program on Financial Stability.

⁸⁶ See 12 CFR 252.2. Cross jurisdictional activity is measured as the sum of a banking organization's cross-jurisdictional claims and cross-jurisdictional liabilities.

liabilities are relatively small net of collateral. This approach would better measure the underlying scale of a banking organization's cross-jurisdictional derivatives activity.⁸⁷

Foreign banking organizations would report cross-jurisdictional derivative claims and liabilities with affiliates outside the reporting group in a consistent manner with other cross-jurisdictional claims and liabilities, to reflect the structural differences between foreign banking organizations' U.S. operations and domestic holding companies.⁸⁸

Question 31: What are the advantages and disadvantages of modifying the scope of the cross-jurisdictional claims and cross-jurisdictional liabilities indicators to include derivative exposures?

Question 32: What are the advantages and disadvantages of modifying the scope of the cross-jurisdictional activity risk-based indicator in the Board's framework for determining the applicable category of prudential standards for large banking organizations to include derivative exposures? What adjustments, if any, should the Board consider to the reporting of a firm's cross-jurisdictional derivative exposures, including by type of firm, and why would such adjustments more appropriately capture cross-jurisdictional activity? Please provide data or relevant information.

Question 33: What other modifications, if any, would improve measurement of the cross-jurisdictional activity indicators?

b. Other Changes to Measurement of Cross-Jurisdictional Activity Indicators

Currently, the FR Y-15 instructions direct filers to measure cross-jurisdictional liabilities by referencing instructions for the Treasury

International Capital reports and the Country Exposure Report (FFIEC 009). To streamline the reporting instructions for cross-jurisdictional liabilities, the proposal would remove references to the Treasury International Capital reports, consolidate line items related to cross-jurisdictional liabilities, and apply definitions consistent with the FFIEC 009 for the measurement of cross-jurisdictional liabilities. This approach would result in a consistent methodology for measuring the consolidated cross-jurisdictional liabilities of firms while simplifying the reporting instructions.

As part of this change, the proposal would revise the scope of the cross-jurisdictional liabilities indicator to include total liabilities booked at foreign offices regardless of whether payment is guaranteed at locations outside the country of the office. Foreign office liabilities may present complexity or increase the difficulty and cost of resolving a banking organization in the event of a failure regardless of whether payments are guaranteed at locations outside the country of the office. Therefore, this revision would better reflect a banking organization's cross-jurisdictional activities and exposures.

iv. Short-Term Wholesale Funding

In addition to the proposed changes outlined in II.B of this **SUPPLEMENTARY INFORMATION**, the proposal would make additional amendments to the short-term wholesale funding indicator and its associated FR Y-15 instructions to improve the consistency of data measurement and reporting, reduce operational burden, and improve the clarity of reporting instructions.

a. Alignment With Other Requirements

To improve consistency of data measurement and reporting and reduce operational burden for filers, the proposal would align the maturity categories used to calculate a firm's short-term wholesale funding score under the GSIB surcharge framework and reported on the FR Y-15 with the maturity categories used for liquidity data reporting on the Complex Institution Liquidity Monitoring Report (FR 2052a) and for purposes of the net stable funding ratio (NSFR) rule,⁸⁹ by moving the start and end dates for certain categories by one day.

The Board in 2021 amended the FR 2052a to align the report with the NSFR rule. As a result of those changes, there is currently a one-day difference

between the start and end dates for certain maturity categories for reporting data items on the FR Y-15 and the FR 2052a. Specifically, one of the maturity categories in the FR 2052a and under the NSFR rule includes a lower bound of 180 days. The short-term wholesale funding indicator under the GSIB surcharge framework and the FR Y-15 reporting form, however, include a category for remaining maturity of 181 to 365 days.

The proposal would modify the maturity category of 91 to 180 days under the GSIB surcharge framework and FR Y-15 to a remaining maturity of 91 to 179 days, and the maturity category of 181 to 365 days to a maturity of 180 to 364 days, to align with the FR 2052a. This change would improve consistency and reduce operational burden, for example, by allowing banking organizations to use data from the FR 2052a to complete FR Y-15 reporting.

b. Instructions Update to the Calculation of the Weighted Short-Term Wholesale Funding Amount

The proposal would revise the General Instructions and certain line items in Schedule G in addition to updating and adding definitions in the Glossary of the FR Y-15 to simplify the instructions for calculating the short-term wholesale funding indicator score. Currently, under the method 2 framework, a firm reports its short-term wholesale funding amount on the FR Y-15 and also calculates its short-term wholesale funding amount for the purposes of its method 2 score for the indicator based on the regulatory text in 12 CFR 217.406.

The proposal would remove the current regulatory text section 12 CFR 217.406, as well as certain definitions associated with the short-term wholesale funding indicator from 12 CFR 217.401.⁹⁰ Under the proposal, the coefficient for the short-term wholesale funding indicator would be in 12 CFR 217.405 and updated annually consistent with the proposed indexing process outlined in section II.A.ii of this **SUPPLEMENTARY INFORMATION**. The FR Y-15 instructions for Schedule G would maintain the current line items in the reporting form and include additional information on how to report these items. The separate regulatory text would not be necessary for the weighted short-term wholesale funding indicator in light of the proposed changes

⁸⁷ Consistent with the current FR Y-15 and the FFIEC 009 instructions, the positive fair value of derivative contracts can be offset against the negative fair value of derivative contracts if the transactions are executed under a legally enforceable master netting agreement and the offsetting is in accordance with ASC Subtopics 815-10 and 210-20.

⁸⁸ Under the Board's tailoring framework, a foreign banking organization may exclude from the cross-jurisdictional claims indicator claims on an affiliate outside the reporting group (U.S. intermediate holding company or combined U.S. operations, as applicable) to the extent that these claims are secured by financial collateral, in accordance with the methodology for collateralized transactions under the capital rule (see instructions for line item 1(a) of Schedule L of the FR Y-15). A foreign banking organization may exclude cross-jurisdictional liabilities for which the counterparty is an affiliate outside the reporting group (see instructions for line item 2(a) of Schedule L of FR Y-15). For more information, see also SR Letter 20-2, Attachment B, <https://www.federalreserve.gov/supervisionreg/srletters/sr2002.htm>.

⁸⁹ See 12 CFR part 249; see also Net Stable Funding Ratio: Liquidity Risk Measurement Standards and Disclosure Requirements, 86 FR 9120 (Feb. 11, 2021).

⁹⁰ All proposed removals of current definitions from 12 CFR 217.401 would be added as definitions in the Glossary of the FR Y-15 to ensure consistency in the scope of reporting the short-term wholesale funding indicator.

described in section II.B.i-ii of this **SUPPLEMENTARY INFORMATION.**

Question 34: In addition to the proposed changes, what additional changes, if any, should the Board consider making to the FR Y-15, and why—for example, to improve the measurement of indicators and systemic risk or to reduce operational burden?

F. Clarification for Reduction in GSIB Surcharge Calculated During the Year Between Calculation and Effective Date of a GSIB Surcharge Increase

Under the current rule, if a GSIB's systemic risk profile changes from one year to the next such that it would be subject to a higher GSIB surcharge, the higher surcharge is not applicable for a full year (that is, two years from the systemic indicators measurement year). Alternatively, if a GSIB's systemic risk profile changes from one year to the next such that it would be subject to a lower GSIB surcharge, the lower surcharge is applicable beginning on January 1 of the next calendar year (that is, one year from the systemic indicators measurement year). Providing an additional year before a GSIB surcharge increase takes effect helps to facilitate firms' capital planning and allows for more gradual increases in capital requirements, whereas immediately applying surcharge decreases recognizes firms' reductions in actual systemic risk profile. In addition, the one-year difference in application between an increase and a decrease provides firms the opportunity to reduce their systemic risk profile in order to not be subject to an increased capital buffer requirement.

The proposal would amend section 217.403 of the capital rule to clarify these mechanics, without changing the substance. The amendatory text would specify that a firm's GSIB surcharge in effect for a calendar year is the surcharge calculated in the immediately prior calendar year, unless the surcharge calculated in the calendar year two years prior was lower, in which case the GSIB surcharge calculated in the calendar year two years prior shall be in effect.

For example, consider a GSIB that in 2026 has an effective GSIB surcharge of 2.0 percent. Based on data reported as of the fourth quarter of 2026, if the firm calculates a GSIB score that would result in a GSIB surcharge of 2.2 percent, the higher GSIB surcharge would take effect on January 1, 2029. If, based on data reported as of the fourth quarter of 2027, that GSIB calculates a GSIB score that would result in a GSIB surcharge of 2.1 percent (or lower), the GSIB's effective surcharge on January 1, 2029, would be the 2.1 percent

calculated as of the fourth quarter of 2027, instead of the 2.2 percent calculated as of the fourth quarter of 2026.

G. Foreign Banking Organization Reporting Requirements

In 2019, in connection with the final rule establishing categories and thresholds for determining prudential standards for large banking organizations, the Board added new Schedules H through N to the FR Y-15, which apply solely to foreign banking organizations and their U.S. intermediate holding companies. The new schedules were intended to simplify reporting for foreign banking organizations and their intermediate holding companies. However, to reduce technical challenges and operational burden and improve administration and consistency of reporting the Board is proposing to consolidate FR Y-15 reporting for U.S. and foreign banking organizations on a single set of schedules.

To simplify and streamline the reporting form and its instructions, the proposal would remove Schedules H through N and make adjustments to accommodate reporting by foreign banking organizations using the same schedules as domestic firms, Schedules A through G. Under the proposal, a foreign banking organization would file Schedules A through G for its combined U.S. operations and separately for any U.S. intermediate holding company required to be formed pursuant to the Board's Regulation YY. This change would only reorganize the way that foreign banking organizations report the FR Y-15 and would not change the actual information collected. The proposal would make corresponding updates to the FR Y-15 instructions to reflect this change.

Question 35: The Board invites comment on the removal of Schedules H through N from the FR Y-15 reporting form, including the operational and administrative costs for foreign banking organizations to report the form. How would the removal of these schedules affect regulatory reporting processes, including resource allocation, system requirements, and compliance costs?

Question 36: What other changes to the FR Y-15 should the Board consider making to remove unnecessary reporting burden and why?

H. Implementation and Timing

The proposal's amendments to the capital rule, FR Y-15 reporting form, and FR Y-15 instructions would take effect two calendar quarters after the date of adoption of a final rule. This

effective date timing would give firms a minimum of two quarters to make the required changes to their systems and processes. During the initial three quarters following the effective date, items that require a four-quarter average or sum would include data from quarters for which the underlying reporting instructions differ. Banking organizations would not be required to adjust data reported in previous quarters when calculating these four-quarter averages or sums. A banking organization that does not have data for an indicator for a previous quarter would be required to use a pro-rata approach.⁹¹

Question 37: What alternative implementation timing should the Board consider and why?

I. Interaction With Other Proposals

The Board, with the OCC and FDIC, is separately issuing the capital proposals, which would substantially revise the capital requirements applicable to banking organizations operating in the United States. The revisions set forth in the capital proposals would improve the calculation of risk-based capital requirements to better reflect the risks of banking organizations' exposures, reduce the complexity of the framework, enhance the consistency of requirements across these banking organizations, and facilitate more effective supervisory and market assessments of capital adequacy.

Among other things, the capital proposals would modify the conversion factors applicable to equity and credit commitments. The capital proposals would introduce a 40 percent conversion factor for all equity and credit commitments regardless of maturity that are not unconditionally cancellable, which would be applicable to all FR Y-15 filers. This would replace the current capital rule's 20 percent and 50 percent equity and credit conversion factors for equity and credit commitments that are not unconditionally cancellable.

Given that the GSIB surcharge framework's size indicator generally aligns with the total leverage exposure

⁹¹ A reporting organization that does not have 12 months of data to report would use an annualized pro-rata approach to calculate line items that are a four-quarter sum or average. For each line item that is an average, the approach would consist of using the average value over the period during the prior 12 months for which the banking organization has reported data. For example, if a firm only has two quarters of data for Level 3 Assets (Schedule D, line item 14), its average amount for the year would be equal to the average of values for the two quarters for which the firm has reported data on the FR Y-15.

calculation, in connection with the capital proposals, the Board plans to propose revisions to the FR Y–15 Schedule A (Size Category) to align with these proposed changes to the credit conversion factors by adding a line item for off-balance sheet exposures subject to a conversion factor of 40 percent and removing the line items for conversion factors of 20 and 50 percent.

Question 38: What other modifications, if any, should the Board consider to this proposal due to the capital proposals?

III. Economic Analysis

A. Introduction

The proposal's primary objective is to improve the measurement of systemic risk profiles in the GSIB surcharge framework. Specifically, as discussed in section I of this **SUPPLEMENTARY INFORMATION**, the proposal would make multiple adjustments to the calculation of method 1 and method 2 scores so that these scores, and the related GSIB surcharges, more accurately reflect the systemic risk profiles of GSIBs.

The accurate measurement of systemic risk profiles is crucial for the functioning of the GSIB surcharge framework. In particular, accurate systemic risk measurement helps achieve the framework's objective that GSIBs that pose higher systemic risk are subject to higher capital buffer requirements, which reduces their probability of distress in order to moderate and equalize across GSIBs the expected systemic losses from such potential distress. Additionally, accurate systemic risk measurement makes GSIBs better internalize such potential systemic losses, which creates incentives for them to better manage their systemic risk.

The economic analysis is structured as follows. Section III.B describes the baseline for the analysis, which is the current GSIB surcharge framework, and the data used. Sections III.C and III.D present the proposed policy change and three reasonable alternatives. Section III.E estimates the changes in systemic indicators, method 1 and method 2 scores, and GSIB surcharges under the proposal and the alternatives relative to the baseline. Sections III.F and III.G evaluate the economic benefits and costs of the proposal and the policy alternatives. Section III.H assesses potential interactions between the proposal and other rules, such as the total loss-absorbing capacity framework and the regulatory tailoring framework. Section III.I concludes the analysis, and section III.J is an appendix that

describes the quantitative impact estimation methodology in detail.

B. Baseline and Data

The economic analysis uses the current regulatory framework as baseline, including the current U.S. GSIB surcharge framework, described in section I.A of this **SUPPLEMENTARY INFORMATION**. The baseline represents the current state of GSIBs in the absence of any policy change. Accordingly, throughout the analysis, the Board assesses the economic impact of the proposal and the policy alternatives considered, described in sections III.C and III.D of this **SUPPLEMENTARY INFORMATION**, by comparing outcomes estimated under the proposal and the alternatives to the outcome estimated under the baseline.

The economic analysis does not reflect the effects of the expanded risk-based proposal, which would interact with the impact of this proposal, for example, by changing risk-weighted asset amounts. The economic analysis in the expanded risk-based proposal assesses potential interactions between the two proposals as well as the combined impact of the two proposals.

The economic analysis uses the most recent year-end financial information available on the eight U.S. bank holding companies that are GSIBs as of 2025 ("current GSIBs") to estimate the method 1 and method 2 scores, as well as the GSIB surcharges of these holding companies under the baseline, the proposal, and the policy alternatives considered.⁹² The analysis focuses on method 1 and method 2 scores calculated using data from the fourth quarter of 2024 and investigates how these scores would change under the proposal and the alternatives relative to the baseline. Additionally, the analysis estimates the impact of the proposal and the alternatives on GSIB surcharges applicable in 2026, which also requires the calculation of method 1 and method 2 scores using data from the fourth quarter of 2023.⁹³ The remainder of this subsection describes the data used in these calculations and then presents

⁹² Section J of this **SUPPLEMENTARY INFORMATION** describes the impact estimation methodology used in different subsections of the economic analysis and the data used in the subsection assessing the proposal's potential interaction with the total loss-absorbing capacity framework.

⁹³ Under the baseline, estimating GSIB surcharges applicable in any given year requires the estimation of method 1 and method 2 scores in the two preceding years because increases in GSIB surcharges are applicable only with a one-year delay, whereas decreases are applicable without a delay. See 12 CFR 217.403(d). The proposal and the alternatives would maintain this lag in the applicability of surcharge increases.

summary statistics across the eight GSIBs under the baseline.

The analysis uses multiple data sources to calculate method 1 and method 2 scores under the baseline, the proposal, and the policy alternatives considered. The analysis primarily relies on publicly available data on systemic indicator line items and memorandum items reported in FR Y–15 filings as of the fourth quarters of 2023 and 2024.⁹⁴ Additionally, the analysis uses quarterly systemic indicator data from the first quarter of 2017 through the fourth quarter of 2024 to estimate the effect of the proposed data averaging of certain systemic indicators. The analysis estimates the impact of the proposed changes to certain systemic indicators by using confidential supervisory information from the Board's special data collection as of the second quarter of 2023.⁹⁵ The calculation of method 1 scores uses the aggregate global indicator amounts published by the Federal Reserve.⁹⁶ Furthermore, the analysis estimates the impact of one policy alternative using the aggregate global indicator amounts published by the Bank for International Settlements.⁹⁷ The analysis converts these euro-denominated global indicator amounts to U.S. dollars by using exchange rate data published by the European Central Bank.⁹⁸ The analysis estimates the impact of the proposed changes on the dollar amount of GSIB surcharges by using publicly available data on total risk-weighted assets reported in FR Y–9C filings as of the fourth quarter of 2024.⁹⁹

Finally, the analysis uses publicly available macroeconomic data to calculate adjustments to method 2 systemic indicator coefficients under

⁹⁴ The specific line items used from FR Y–15 filings are RISK Y832, M362, M359, M370, M367, M376, M374, M390, M378, Y835, M405, M408, MV93, MV95, M411, N255, G506, M422, KW54, M426, KY50, Y894, and Y896.

⁹⁵ See <https://www.federalreserve.gov/newsevents/pressreleases/bcreg20231020b.htm>. The specific line items used from the Board's special data collection are Items 1 and 7–11. Additionally, for the estimation of the proposal's impact on the payments activity indicator, the analysis uses confidential supervisory information on payments activity in Singapore dollars as of the fourth quarter of 2024, reported on a voluntary basis in Item 6.k of the Basel Committee on Banking Supervision's annual GSIB assessment exercise, for which the reporting templates and filing instructions are available at https://www.bis.org/bcbbs/gsib/reporting_instructions.htm.

⁹⁶ See <https://www.federalreserve.gov/supervisionreg/basel/denominators.htm>.

⁹⁷ See <https://www.bis.org/bcbbs/gsib/denominators.htm>.

⁹⁸ See https://www.ecb.europa.eu/stats/policy_and_exchange_rates/euro_reference_exchange_rates/html/eurofxref-graph-usd.en.html.

⁹⁹ The specific line items used from FR Y–9C filings are BHCA A223 and BHCW A223.

the proposal and one of the policy alternatives considered. Specifically, in these calculations, the analysis uses the annual, seasonally-adjusted U.S. Gross Domestic Product (GDP) published by the U.S. Bureau of Economic Analysis and the Consumer Price Index for All Urban Wage Earners and Clerical

Workers (CPI-W) published by the U.S. Bureau of Labor Statistics.¹⁰⁰

Table 4 presents summary statistics under the baseline, indicating a high dispersion of both method 1 and method 2 scores across the eight GSIBs, which creates a high cross-sectional dispersion of applicable GSIB surcharges. Notably, method 2 surcharges are, on average, about twice

as high as their method 1 counterparts. Related to the discussion in section II.B of this **SUPPLEMENTARY INFORMATION**, the relative share of the short-term wholesale funding score in method 2 scores is, in aggregate, about 30 percent, which is meaningfully higher than the 20 percent weight targeted in the proposal.¹⁰¹

Table 4: Method 1 Scores, Method 2 Scores, and GSIB Surcharges Under the Baseline

This table shows summary statistics for method 1 and method 2 scores, method 1 and method 2 surcharges, as well as GSIB surcharges across the eight current GSIBs under the current GSIB surcharge framework, which serves as a baseline throughout the economic analysis. The table also presents summary statistics on the percentage share of the short-term wholesale funding (“SWTF”) score within method 2 scores across GSIBs. Scores and surcharges are calculated applying the methodology described in 12 CFR Part 217 Subpart H. All scores and surcharges are calculated using data from the fourth quarter of 2024, except the GSIB surcharges applicable in 2026 (shown in the last row), which are based on method 1 and method 2 scores calculated using data from the fourth quarters of 2023 and 2024.

	Lowest	Average	Highest
Method 1 scores (as of the fourth quarter of 2024)	143	249	461
Method 2 scores (as of the fourth quarter of 2024)	222	557	985
<i>Percentage share of the STWF score in method 2 scores</i>	13%	34%	59%
Method 1 surcharges (as of the fourth quarter of 2024)	1.0%	1.5%	2.5%
Method 2 surcharges (as of the fourth quarter of 2024)	1.0%	2.8%	5.0%
GSIB surcharges (applicable in 2026)	1.0%	2.7%	4.5%

C. Proposed Policy Change

The proposal would revise multiple elements of the GSIB surcharge framework. First, as described in section II.F of this **SUPPLEMENTARY INFORMATION**, the proposal would make amendments to the systemic indicators by revising the reporting instructions for the measurement of certain existing systemic indicators and introducing two additional systemic indicators in the substitutability category of the method 1 score. Second, as Table 1 shows, under the proposal, certain systemic indicators that are currently calculated on a point-

in-time basis at year end would be calculated as annual averages of their daily or monthly values (“data averaging”).¹⁰² Third, the proposal would make a one-time downward adjustment to method 2 systemic indicator coefficients by a factor of 1.2 and subsequently make annual adjustments to the coefficients based on the cumulative growth in U.S. nominal GDP. Fourth, the proposal would change the calculation of the short-term wholesale funding score by removing the risk-weighted asset scaling factor and instead taking the product of the

weighted short-term wholesale funding dollar amount and a revised coefficient. Specifically, the proposal would calibrate this coefficient so as to make the aggregate share of short-term wholesale funding scores within the method 2 scores of current GSIBs equal to 20 percent as of the fourth quarter of 2024, after all other proposed changes to method 2 scores. Finally, as Table 2 shows, the proposal would reduce method 2 surcharge increments from 50 basis points to 10 basis points by using 20-point “narrow” score bands in the

¹⁰⁰ See https://apps.bea.gov/national/Release/XLS/Survey/Section1All_xls.xlsx (GDP) and [https://download.bls.gov/pub/time.series/cw/cw.data.0.Current\(CPI-W\)](https://download.bls.gov/pub/time.series/cw/cw.data.0.Current(CPI-W)).

¹⁰¹ The aggregate share of the short-term wholesale funding score has been consistently around 30 percent since the 2015 implementation of the GSIB surcharge framework.

¹⁰² Additionally, for the size indicator, the proposal would use the average value taken over the entire year, rather than the average value taken over the fourth quarter of the year, as measured under the baseline.

method 2 surcharge schedule, which would replace the 100-point score bands used under the baseline.¹⁰³

D. Reasonable Alternatives

The analysis considers three alternatives to the proposed policy change, assessing the expected benefits and costs of these alternatives relative to the baseline and comparing them to the expected benefits and costs of the proposal.

Alternative 1 (“inflation indexing” approach) would change systemic indicators and the short-term wholesale funding score the same way as the proposal, but it would not make the proposal’s one-time adjustment to method 2 systemic indicator coefficients, described earlier, and instead adjust the coefficients based on the cumulative growth in the CPI–W index since December 2015. Consistently, going forward, this alternative would make annual adjustments to method 2 systemic indicator coefficients using the CPI–W index, rather than U.S. nominal GDP, which would be used under the proposal.

Alternative 2 (“global denominators” approach) would change systemic indicators and the short-term wholesale funding score the same way as the proposal, but it would adjust method 2 systemic indicator coefficients by using the calibration methodology applied in the 2015 GSIB surcharge final rule.¹⁰⁴ Specifically, this alternative would use the aggregate global indicator amounts from the latest two years to revise method 2 systemic indicator coefficients.

Alternative 3 (“reference bank” approach) would change systemic indicators and the short-term wholesale funding score the same way as the proposal, but it would reduce all method 2 systemic indicator coefficients by 40 percent, which is the cumulative growth rate differential between the method 2 scores and the method 1 scores of the “reference bank” used in the original calibration of the GSIB

surcharge framework, estimated from the fourth quarter of 2015 to the fourth quarter of 2024.¹⁰⁵ This reduction in method 2 coefficients is algebraically equivalent to increasing the reference bank score, which serves as a baseline for measuring the systemic risk profiles of GSIBs and the determination of their GSIB surcharges.

All of the policy alternatives considered would redefine and recalibrate the short-term wholesale funding score using the same methodology as the proposal, setting the weight of the short-term wholesale funding score to 20 percent.¹⁰⁶

Question 39: The economic analysis does not specify how Alternatives 2 and 3 would adjust the method 2 coefficients going forward. If these alternatives were combined with the proposal’s approach of adjusting the method 2 coefficients in the future based on nominal U.S. GDP growth or a different approach, to what extent would that change the analysis?

E. Estimated Changes in GSIB Scores and Surcharges

i. Estimated Impact of Changes to Systemic Indicators

This subsection of the analysis estimates how the proposal would affect method 1 and method 2 scores through data averaging and the amendments to systemic indicators, detailed in sections II.C and II.E of this **SUPPLEMENTARY INFORMATION**, respectively. Because the effects of the various changes may interact with one another, the analysis assesses the effects of data averaging and the amendments both separately and combined.¹⁰⁷ Furthermore, the analysis creates a detailed breakdown of the estimated percentage changes in

both individual systemic indicator scores and GSIB scores relative to the baseline.¹⁰⁸ Notably, the estimates are the same under the proposal and the policy alternatives considered because the alternatives would make the same changes to the systemic indicators.

The estimates in Table 5 indicate that, relative to the baseline, the proposed data averaging would increase method 1 scores by 2 to 3 percent, and the amendments to systemic indicators would increase method 1 scores by about 4 percent, for a combined increase of about 6 percent, on average across GSIBs. Data averaging would mostly affect systemic indicators in the complexity category, including and especially the “notional amount of OTC derivatives” indicator. This estimate is consistent with the empirical evidence in the literature cited in section II.C of this **SUPPLEMENTARY INFORMATION**, which shows that the nominal amount of the OTC derivatives indicator is prone to end-of-year reductions. The systemic indicator amendments would mostly affect indicators in the substitutability and cross-jurisdictional activity categories, with the scores of cross-jurisdictional liabilities increasing somewhat more than the scores of cross-jurisdictional claims, on average across GSIBs.¹⁰⁹

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¹⁰⁸ For the assessment of increases in the intra-financial system assets and intra-financial system liabilities systemic indicator amounts that would be due to the expanded definition of financial institutions under the proposal, described in section II.E.i of this **SUPPLEMENTARY INFORMATION**, the analysis estimates increases in the indicator amounts that would be due to the proposed addition of saving and loan holding companies, private equity funds, asset management companies, and exchange-traded funds to the definition of financial institutions, as reflected by the Board’s special data collection. As such, the estimates do not reflect potential increases in these systemic indicator amounts that would result from capturing further intra-financial assets and liabilities under the expanded definition of financial institutions.

¹⁰⁹ The impact of the proposed amendments to substitutability indicators would not be fully expressed in method 1 scores due to the cap on the combined score of substitutability indicators applied in the method 1 score calculation. Specifically, the cap is at one hundred points, and it would be binding for five out of the eight current GSIBs under the proposal.

¹⁰³ Under the proposal, the lowest method 2 score band would be from 130 to 189 points, corresponding to a one percent method 2 surcharge.

¹⁰⁴ See 80 FR 49082.

¹⁰⁵ The Board estimated the 40 percent growth rate differential for the reference bank by using the same methodology and the same three non-GSIB bank holding companies as the Board’s 2015 white paper, <https://www.federalreserve.gov/aboutthefed/boardmeetings/gsib-methodology-paper-20150720.pdf>.

¹⁰⁶ Because these alternatives would adjust method 2 systemic indicator coefficients differently than the proposal, they would also result in different method 2 coefficients for the weighted short-term wholesale funding amount.

¹⁰⁷ Sections III.J.i and III.J.ii of this **SUPPLEMENTARY INFORMATION** describe the estimation of these “partial” and combined effects of the proposed changes to systemic indicators.

Table 5: Estimated Impact on Method 1 Scores Due to the Systemic Indicator Changes

This table shows the impact of the proposed data averaging and systemic indicator amendments on the method 1 scores of the eight current GSIBs, estimated as of the fourth quarter of 2024. The table also presents estimates for the major indicator-level effects of the proposed changes, also aggregating these effects to the indicator category level. The bottom two rows summarize the estimated method 1 score changes both on average and in aggregate across the eight GSIBs. The impact estimates are calculated using the data described in section III.B, and the estimation methodology is described in sections III.J.i and III.J.ii of this **SUPPLEMENTARY INFORMATION**.

Systemic Indicator Categories	Averaging	Amendments	Combined
Size	−0.2%		−0.2%
Interconnectedness	0.0%	−0.3%	−0.3%
<i>Intra-Financial System Assets</i>	0.2%	0.2%	0.4%
<i>Intra-Financial System Liabilities</i>	0.1%	0.2%	0.2%
<i>Securities Outstanding</i>	−0.3%	−0.6%	−0.9%
Substitutability	−0.1%	2.2%	2.1%
Complexity	2.2%		2.2%
<i>Notional Amount of OTC Derivatives</i>	1.2%		1.2%
<i>Trading and Available-for-Sale Securities</i>	0.8%		0.8%
<i>Level 3 Assets</i>	0.2%		0.2%
Cross-jurisdictional activity	0.7%	1.7%	2.5%
<i>Cross-Jurisdictional Claims</i>	0.4%	0.6%	1.0%
<i>Cross-Jurisdictional Liabilities</i>	0.3%	1.1%	1.5%
Aggregate Change in Method 1 Scores	2.6%	3.7%	6.4%
Average Change in Method 1 Scores	1.9%	4.1%	6.0%

The estimates in Table 6 indicate that, relative to the baseline, the proposed data averaging and amendments to systemic indicators would increase method 2 scores by about 2 percent and about 1 percent, respectively, for a combined increase of about 3 to 4 percent, on average across GSIBs. Similar to the estimates for method 1

scores, data averaging would mostly affect systemic indicators in the complexity category, whereas the proposed amendments would mostly affect the indicators for cross-jurisdictional activity. Despite this similarity, the estimated combined impact on method 2 scores is lower than the estimated combined impact on

method 1 scores. This difference is mainly because method 2 scores do not include systemic indicators in the substitutability category, which would increase by more than 2 percent under the proposed amendments, on average across GSIBs.

Table 6: Estimated Impact on Method 2 Scores Due to the Systemic Indicator Changes

This table shows the impact of the proposed data averaging and systemic indicator amendments on the method 2 scores of the eight current GSIBs, estimated as of the fourth quarter of 2024. The table also presents estimates for the major indicator-level effects of the proposed changes, also aggregating these effects to the indicator category level. The bottom two rows summarize the estimated method 2 score changes both in aggregate and on average across the eight GSIBs. The impact estimates are calculated using the data described in section III.B, and the estimation methodology is described in sections III.J.i and III.J.ii of this **SUPPLEMENTARY INFORMATION**.

Systemic Indicator Categories	Averaging	Amendments	Combined
Size	−0.2%		−0.2%
Interconnectedness	−0.1%	−0.5%	−0.5%
<i>Intra-Financial System Assets</i>	0.2%	0.2%	0.4%
<i>Intra-Financial System Liabilities</i>	0.1%	0.1%	0.2%
<i>Securities Outstanding</i>	−0.3%	−0.8%	−1.1%
Complexity	1.8%		1.8%
<i>Notional Amount of OTC Derivatives</i>	0.9%		0.9%
<i>Trading and Available-for-Sale Securities</i>	0.7%		0.7%
<i>Level 3 Assets</i>	0.2%		0.2%
Cross-jurisdictional activity	0.8%	1.8%	2.7%
<i>Cross-Jurisdictional Claims</i>	0.4%	0.7%	1.2%
<i>Cross-Jurisdictional Liabilities</i>	0.3%	1.1%	1.5%
Aggregate Change in Method 2 Scores	2.2%	1.3%	3.8%
Average Change in Method 2 Scores	1.6%	1.2%	2.9%

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Question 40: The analysis uses the Board's special data collection to estimate the increase in the intra-financial system assets and intra-financial system liabilities systemic indicator amounts due to the proposed addition of savings and loan holding companies, private equity funds, asset management companies, and exchange-traded funds to the definition of financial institutions. What further increases in these systemic indicator amounts, if any, should the analysis consider to assess the impact of expanding the definition of financial institutions under the proposal?

ii. Estimated Impact of Changes to the Method 2 Score Calculation

This subsection of the analysis estimates how the proposal and the policy alternatives considered would affect method 2 scores through (i) the changes to systemic indicators, assessed in the previous subsection; (ii) the adjustments to method 2 systemic indicator coefficients;¹¹⁰ and (iii) the changes to the short-term wholesale funding score.¹¹¹ Because the effects of these changes may interact with one another, the analysis assesses the effects both sequentially and combined.¹¹² As section III.D of this **SUPPLEMENTARY INFORMATION** describes, the alternatives would change systemic indicators and the short-term wholesale funding score

the same way as the proposal and only differ from the proposal in how they would adjust method 2 systemic indicator coefficients.

The estimates in Table 7 indicate that, after the small increases in method 2 scores due to the proposed changes to systemic indicators, assessed in detail in section III.E.i of this **SUPPLEMENTARY INFORMATION**, method 2 scores would decrease meaningfully through the other two adjustments under the proposal. The estimated reduction in method 2 scores is 22 percent, in aggregate, and 29 percent, on average across GSIBs, to which the proposed method 2 systemic indicator coefficient adjustments and short-term wholesale funding changes would contribute about equally.

¹¹⁰ Section III.J.iii of this **SUPPLEMENTARY INFORMATION** describes the estimation of the method 2 score impact of these coefficient changes under the proposal and the alternatives.

¹¹¹ Section III.J.iv of this **SUPPLEMENTARY INFORMATION** describes the estimation of the method 2 score impact of the proposed changes to the short-term wholesale funding score.

¹¹² Section III.J.v of this **SUPPLEMENTARY INFORMATION** describes the estimation of the combined method 2 score impact of all changes under the proposal and the alternatives.

Table 7: Estimated Impact on Method 2 Scores Due to the Different Changes

This table summarizes the aggregate method 2 score impact of the different changes to the calculation of method 2 scores under the proposal and the policy alternatives considered, estimated across the eight current GSIBs as of the fourth quarter of 2024. The impact estimates are broken down into the incremental effect of each proposed change on aggregate method 2 scores. The last two rows summarize the estimated method 2 score changes both in aggregate and on average across GSIBs. The impact estimates are calculated using the data described in section III.B, and the estimation methodology corresponding to each change is described in sections III.J.iii, III.J.iv, and III.J.v of this **SUPPLEMENTARY INFORMATION**.

	Proposal	Policy Alternatives		
		#1	#2	#3
Systemic Indicator Changes	3.8%	3.8%	3.8%	3.8%
Method 2 Coefficient Adjustments	–12.0%	–18.2%	–8.5%	–20.6%
Short-Term Wholesale Funding Changes	–14.6%	–17.6%	–13.0%	–18.9%
Aggregate Change in Method 2 Scores	–22.0%	–30.1%	–17.4%	–33.2%
Average Change in Method 2 Scores	–28.6%	–36.0%	–24.5%	–38.9%

In addition to these aggregate effects, the proposed removal of the risk-weighted asset denominator from the calculation of the short-term wholesale funding score calculation would have a meaningful distributional effect across GSIBs. In particular, GSIBs with relatively small dollar amounts of risk-weighted assets would see a substantial decrease in their short-term wholesale funding scores under the proposal, whereas the opposite effect would manifest for GSIBs with relatively large dollar amounts of risk-weighted assets.

Alternative 1 (“inflation indexing”) would lead to a somewhat larger (about 30 percent in aggregate and 36 percent on average) reduction in method 2 scores than the proposal because this alternative would adjust method 2 systemic indicator coefficients based on the 34 percent cumulative increase in the CPI-W index since December 2015, which is greater than the 20 percent downward adjustment to these coefficients under the proposal. Alternative 2 (“global denominators”) would lead to a smaller (about 17 percent in aggregate and 25 percent on average) reduction in method 2 scores than the proposal because this alternative would adjust method 2 systemic indicator coefficients by the cumulative growth of the global denominators, which is smaller, on average, than the 20 percent downward adjustment under the proposal. Alternative 3 (“reference bank”) would lead to a larger (about 33 percent in aggregate and 39 percent on average) reduction in method 2 scores than the proposal because this alternative would

apply a 40 percent downward adjustment to method 2 systemic indicator coefficients, rather than the 20 percent downward adjustment under the proposal.

The impact estimates in Table 7 also demonstrate the interaction between the proposed changes in that the estimated effect of the method 2 systemic indicator coefficient adjustments (shown in the second row of the table) amplifies the estimated effect of the changes to the short-term wholesale funding calculation (shown in the third row of the table). This interaction effect manifests because if the method 2 systemic indicator coefficient adjustments reduce the affected systemic indicator scores more, then the percentage share of the short-term wholesale funding score within the method 2 score becomes higher. In turn, however, a higher share of the short-term wholesale funding score necessitates a larger reduction to this score component to set its aggregate share to 20 percent in aggregate, as targeted by both the proposal and the alternatives.

iii. Estimated Changes in GSIB Surcharges

This subsection of the analysis assesses how the proposal and the policy alternatives considered would affect GSIB surcharges applicable in 2026.¹¹³ In particular, the surcharge

¹¹³ As described in section III.B of this **SUPPLEMENTARY INFORMATION**, the analysis estimates method 1 and method 2 scores as of the fourth quarters of 2023 and 2024 under the baseline, the proposal, and the policy alternatives considered to

estimates reflect the effects of all changes to method 1 and method 2 scores discussed in the previous subsections, as well as the effect of the narrow score bands, which both the proposal and the alternatives would implement.¹¹⁴ Notably, any changes in GSIB surcharges would solely be driven by changes in method 2 surcharges because the estimated changes to method 1 scores would not lead to a change in method 1 surcharges.¹¹⁵

When expressed in percentage points, the estimated GSIB surcharges would not be affected by the concurrent expanded risk-based proposal because both the proposal and the alternatives would change the calculation of the short-term wholesale funding score such that it would not use the ratio of the weighted short-term wholesale funding amount and the risk-weighted asset amount, as it does under the baseline. However, when expressed in dollar terms, the GSIB surcharge estimates

estimate the impact on GSIB surcharges applicable in 2026.

¹¹⁴ Section III.J.vi of this **SUPPLEMENTARY INFORMATION** describes the estimation of the combined GSIB surcharge impact of all changes under the proposal and the alternatives.

¹¹⁵ Relatedly, because the proposal and the policy alternatives considered would not change method 1 surcharges, they also would not have an effect on the eSLR buffer requirements for GSIBs and their subsidiary depository institutions, which depend on method 1 surcharges under the recent eSLR final rule. See Regulatory Capital Rule: Modifications to the Enhanced Supplementary Leverage Ratio Standards for U.S. Global Systemically Important Bank Holding Companies and Their Subsidiary Depository Institutions; Total Loss-Absorbing Capacity and Long-Term Debt Requirements for U.S. Global Systemically Important Bank Holding Companies, 90 FR 55248 (December 1, 2025).

could be affected by potential changes to risk-weighted asset amounts under the expanded risk-based proposal because GSIB surcharge requirements are the products of percentage-point GSIB surcharges and risk-weighted asset amounts. The economic analysis in the expanded risk-based proposal assesses the combined impact of the two

concurrent proposals, including this interaction effect.

The estimates in Table 8 indicate that the proposal would reduce GSIB surcharges by 40 basis points, on average, relative to the baseline. This effect corresponds to a \$23 billion (10 percent) reduction in the aggregate dollar amount of GSIB surcharges, calculated using risk-weighted asset amounts as of the fourth quarter of 2024.

Furthermore, as the proposal would reduce method 2 surcharges, method 1 surcharges would become binding for two of the eight GSIBs, whereas method 2 surcharges are binding for all eight GSIBs under the baseline. The proposed narrow score bands would lead to slight changes in surcharges for some GSIBs, with an average estimated effect of zero.¹¹⁶

Table 8: Estimated GSIB Surcharges Applicable in 2026

This table shows summary statistics for the GSIB surcharges applicable in 2026, estimated for the eight current GSIBs under the baseline, the proposal, and the policy alternatives considered. Specifically, from left to right, the table shows the lowest, the average, and the highest estimated GSIB surcharge across the eight GSIBs; the number of GSIBs for which the method 1 surcharge would be higher than the method 2 surcharge; the aggregate dollar amount of the estimated GSIB surcharges; and the percentage change in the aggregate surcharge amount relative to the baseline. The estimated GSIB surcharges are calculated using the data described in section III.B, and the estimation methodology is described in sections III.J.vi of this **SUPPLEMENTARY INFORMATION**.

	GSIB Surcharge (percent of risk-weighted assets)			Number of GSIBs Bound by Method 1	Aggregate GSIB Surcharge	
	Lowest	Average	Highest		billion dollars	percent change
Baseline	1.0%	2.7%	4.5%	0	235	
Proposal	1.0%	2.3%	4.3%	2	212	−10.0%
Alternative 1	1.0%	2.1%	3.9%	2	193	−17.8%
Alternative 2	1.0%	2.4%	4.7%	2	230	−2.4%
Alternative 3	1.0%	2.0%	3.7%	2	183	−22.3%

Under the policy alternatives considered, the GSIB surcharge impact estimates are consistent with the method 2 score impact estimates presented in Table 7 above. Under Alternative 1 (“inflation indexing”), the estimated reduction in GSIB surcharges would be somewhat larger (60 basis points, on average, and about 18 percent, in aggregate) than under the proposal. Under Alternative 2 (“global denominators”), the estimated reduction in GSIB surcharges would be smaller (30 basis points, on average, and 2.4 percent, in aggregate) than under the proposal. Partly because of the proposed narrow score bands, the surcharge for one GSIB would slightly increase under this alternative relative to the baseline. Under Alternative 3 (“reference bank”)

the estimated reduction in GSIB surcharges would be larger (70 basis points, on average, and about 22 percent, in aggregate) than under the proposal. Similar to the proposal, under the alternatives, method 1 surcharges would become binding for two GSIBs.

F. Benefits

The Board anticipates that the proposal would have several economic benefits. First, the proposal would enhance systemic risk measurement in the GSIB surcharge framework and thus improve the accuracy of GSIB surcharges, which could in turn improve the framework’s efficiency at mitigating the systemic risk of GSIBs. Second, by bringing the level of method 2 scores, and thus GSIB surcharges,

closer to their initial calibration, the proposal could enable some GSIBs to increase their economic activities and supply of financial services. Third, the proposed data averaging would reduce incentives for some GSIBs to temporarily reduce the end-of-year values of certain systemic indicators, which could reduce the economic costs of such indicator adjustments. Fourth, the proposed narrow score bands would reduce “cliff effects” around the boundaries of surcharge buckets and create smoother transitions in GSIB surcharges over time. Fifth, the proposed amendments to systemic indicators would improve the U.S. GSIB surcharge framework’s consistency with the international standard published by the Basel Committee. The rest of this

¹¹⁶ The point-in-time impact of the proposed narrow score bands on a GSIB’s surcharge would depend on the GSIB’s point-in-time location relative to the score band boundaries used in the applicable GSIB surcharge schedule. On average, at

any given point in time, this effect would be close to zero because it would slightly increase or decrease GSIB surcharges across GSIBs, relative to the baseline. Similarly, for any GSIB over time, this effect would be close to zero because it would

slightly increase or decrease the surcharge relative to the baseline, depending on the GSIB’s time-varying location along the GSIB surcharge schedule in the future.

section discusses these benefits in detail, also assessing how they could potentially be different under the policy alternatives considered.

The proposal would enhance the measurement of GSIBs' systemic risk profiles and thereby improve the accuracy of GSIB surcharges through multiple changes.¹¹⁷ The proposed data averaging and amendments to systemic indicators would better align the systemic indicator scores of large U.S. holding companies with the systemic implications of their potential distress. In particular, data averaging would reduce measurement errors in systemic indicator scores due to year-end patterns by ensuring that the indicators reflect systemic exposures throughout the calendar year. Additionally, through the annual indexing of systemic indicator coefficients to U.S. nominal GDP growth, the proposal would render systemic risk measurement in the GSIB surcharge framework robust to U.S. economic growth, consistent with the discussion in section II.A of this **SUPPLEMENTARY INFORMATION**. Moreover, as discussed in section II.B of this **SUPPLEMENTARY INFORMATION**, by redefining the short-term wholesale funding score and setting its aggregate weight to 20 percent in the method 2 score calculation, the proposal would improve the measurement of systemic exposures captured by this method 2 score component. Finally, the proposed narrow score bands would improve the alignment of GSIBs' surcharges with their systemic risk profiles, as measured by GSIB scores, by reducing score differences across GSIBs that fall in the same band.

Through the enhanced measurement of systemic risk profiles and more accurate GSIB surcharges, the proposal would improve the efficiency of the GSIB surcharge framework. Because the

framework requires that GSIBs have capital buffers commensurate with their systemic risk, the mismeasurement of their systemic risk profiles could create economic deadweight losses and inefficiencies. Specifically, underestimating the systemic risk posed by certain economic activities and financial services could create incentives for GSIBs to excessively engage in such activities and oversupply such services, whereas overestimating systemic risk could discourage GSIBs from engaging in such activities and lead to the under-provision of such services. Relatedly, through more accurate GSIB surcharges, the proposal would set the probability of GSIBs' potential distress closer to an optimum, in line with the discussion in the 2015 white paper on the calibration of the GSIB surcharge framework.¹¹⁸

As a further expected benefit, the proposal would bring the level of method 2 scores closer to the initial calibration of the GSIB surcharge framework and reduce GSIB surcharges, which could enable GSIBs to increase their economic activities and supply of financial services. In specific, as estimated in section III.E of this **SUPPLEMENTARY INFORMATION**, primarily through method 2 coefficient adjustments and short-term wholesale funding score changes, the proposal would reduce method 2 scores by about 29 percent and GSIB surcharges by about 40 basis points, on average across GSIBs. This reduction in risk-based capital buffer requirements would likely reduce GSIBs' marginal funding costs, which could enable some GSIBs to increase their economic activities and supply of financial services, which could in turn increase aggregate economic surplus.¹¹⁹

Moreover, the proposal would reduce incentives for some GSIBs to temporarily reduce the end-of-year values of certain systemic indicators, as discussed in section II.C of this **SUPPLEMENTARY INFORMATION**. This incentive effect would manifest because the proposed data averaging would reduce GSIBs' ability to lower their risk-

based capital buffer requirements by engaging in such end-of-year indicator management. Therefore, there would likely to be a decrease in the fluctuations historically observed in some indicators at year end, which could reduce potential deadweight losses from such fluctuations. Hence, by reducing incentives for end-of-year indicator management, the proposal could lead to a more stable supply of financial services by GSIBs, which could improve the liquidity and contribute to the smooth functioning of financial markets at year end.¹²⁰

Additionally, by implementing narrow score bands, the proposal would reduce "cliff effects" around the boundaries of GSIB surcharge buckets. In particular, narrow score bands would create a more continuous correspondence between GSIB scores and surcharges, which would result in smoother surcharge transitions between score bands. These smoother transitions would ensure that firms with similar systemic risk are assigned similar capital surcharges and could also enable GSIBs to do better capital planning by reducing the size of GSIB surcharge changes as firms cross score band boundaries.

Finally, the proposal would improve the consistency of the calculation of systemic indicators used in the U.S. GSIB surcharge framework with the international standard published by the Basel Committee, which could reduce potential undesired economic effects due to differences across jurisdictions.

Turning to the policy alternatives considered, the Board anticipates that some of the proposal's economic benefits would also manifest under the alternatives because of their common elements with the proposal. Specifically, through data averaging, the alternatives would also reduce incentives for some GSIBs to temporarily lower the end-of-year values of certain systemic indicators; through narrow score bands, the alternatives would also reduce "cliff effects;" and, through the amendments to certain systemic indicators, the alternatives would also enhance

¹¹⁷ The academic literature recognizes both the importance and challenges of accurately measuring the systemic risk of large banking organizations. In particular, the Global Financial Crisis of 2007–09 highlighted the importance of measuring systemic risk along dimensions other than the size indicator. See, e.g., Andrew W. Lo, *The Feasibility of Systemic Risk Measurement*, U.S. Congress: Committee on Financial Services (October 19, 2009); Viral V. Acharya, Markus K. Brunnermeier, and Diane Pierret, *Systemic Risk Measures: From the Panic of 1907 to the Banking Stress of 2023*, *Annual Review of Financial Economics*, 17 (August 11, 2025). For example, expected shortfall metrics estimate an organization's capital loss under a period of stress, whereas the conditional value-at-risk metric estimates the systemic spillover effects of an organization's potential distress. See Viral V. Acharya, Lasse H. Pedersen, Thomas Philippon, and Matthew Richardson, *Measuring Systemic Risk*, *The Review of Financial Studies*, 30(1) (October 19, 2016); Viral V. Acharya, Lasse H. Pedersen, Thomas Tobias Adrian, and Markus K. Brunnermeier, *CoVaR*, *The American Economic Review*, 106(7) (July 2016).

¹¹⁸ See Board of Governors of the Federal Reserve System, *Calibrating the GSIB Surcharge* (July 20, 2015), <https://www.federalreserve.gov/aboutthefed/boardmeetings/gsib-methodology-paper-20150720.pdf>.

¹¹⁹ For example, lower GSIB surcharges could lead to an increase in GSIBs' loan supply, as suggested by the empirical study of Giovanni Favara, Ivan Ivanov, and Marcelo Rezende, *GSIB Surcharges and Bank Lending: Evidence from U.S. Corporate Loan Data*, *Journal of Financial Economics*, 142(3) (December 2021), which estimates a negative effect of GSIB surcharges on the commercial and industrial loan supply of GSIBs.

¹²⁰ For example, GSIBs play an important role as liquidity providers and "lenders of second-to-last resort" in the U.S. Treasury repurchase agreement and foreign exchange swap markets, as discussed in Ricardo Correa, Wenxin Du, and Gordon Y. Liao, *U.S. Banks and Global Liquidity*, *National Bureau of Economic Research Working Paper*, 27491 (July 2020). Relatedly, the study by Claudio Bassi, Claudio, Markus Behn, Michael Grill, and Martin Waibel, *Window Dressing of Regulatory Metrics: Evidence from Repo Markets*, *Journal of Financial Intermediation*, 58 (April 2024) finds that GSIB surcharges drive GSIBs to significantly contract their repo books at year ends, which can in turn affect repo market volumes and price dynamics.

international consistency. However, the alternatives would differ from the proposal in their economic benefits resulting from the enhanced measurement of systemic risk profiles and lower GSIB surcharges.

In particular, the alternatives would make different adjustments to method 2 systemic indicator coefficients than the proposal in order to make the measurement of systemic risk more consistent between method 1 and method 2 scores, related to the discussion in section II.A.i of this **SUPPLEMENTARY INFORMATION**.

Alternative 1 (“inflation indexing”) would make annual adjustments to method 2 coefficients such that method 2 scores would not reflect the effect of U.S. inflation, as measured by the CPI–W index. This alternative would reduce GSIB surcharges more than the proposal in the short run, but it would likely lead to smaller annual adjustments to method 2 indicator coefficients than the proposal in the long run. The short-run effect of Alternative 1 would be larger than that of the proposal because the alternative would adjust method 2 indicator coefficients based on the 34 percent cumulative increase in the CPI–W index since December 2015, which is greater than the 20 percent one-time downward adjustment to these coefficients under the proposal. In the long run, the annual adjustments to method 2 coefficients under Alternative 1 would likely be smaller than under the proposal because the alternative would make the adjustments based on the CPI–W index, which tends to grow more slowly than U.S. nominal GDP.¹²¹ Therefore, in the short run, consistent with the relatively larger estimated reduction in GSIB surcharges under Alternative 1, presented in Table 8 above, the alternative would enable GSIBs to expand their economic activities and supply of financial services more than the proposal. However, in the long run, these benefits would become larger under the proposal because of the faster annual downward adjustment based on U.S. nominal GDP growth.

Alternative 2 (“global denominators”) would adjust method 2 coefficients such that method 2 scores would measure changes in GSIBs’ systemic risk relative to the growth of the global banking

system. As estimated in Table 8 above, this alternative would reduce GSIB surcharges less than the proposal, which implies that the potential increase in GSIBs’ activities and services would be smaller under this alternative than under the proposal. Alternative 3 (“reference bank”) would adjust method 2 coefficients such that method 2 scores would measure changes in GSIBs’ systemic risk relative to the change in the systemic risk of the reference bank. As estimated in Table 8, this alternative would reduce GSIB surcharges substantially more than the proposal, and therefore the potential increase in GSIBs’ activities and services would be larger under this alternative than under the proposal.

Compared to the proposal, which focuses on U.S. GSIBs and would apply a simple methodology to adjust the method 2 score calculation for changes in the U.S. economy and financial system, the systemic risk measurement benefits of the alternatives would be limited. Alternative 1 would only take into account U.S. inflation and disregard the potentially distortive effects of U.S. real economic growth on method 2 scores. Alternative 2 would adjust the method 2 score calculation based on the historical change in each aggregate global systemic indicator amount. This alternative would be more complex than the proposal, which would adjust the method 2 score calculation for the divergence of method 2 and method 1 scores shown in Figure 2 in order to more directly take into account the effect of recent economic changes on the systemic risk measurement of GSIBs by method 2. Alternative 3 would adjust the method 2 score calculation using imprecise estimates for the reference bank’s score, relying on the proxy measures for the short-term wholesale funding amount used in the initial calibration of the GSIB surcharge framework in 2014. Hence, the methodology applied under this alternative could result in method 2 scores that provide an inaccurate measure for systemic risk profiles.

G. Costs

The Board anticipates that the proposal could have the following economic costs. First, by reducing risk-based capital buffer requirements for GSIBs, the proposal could potentially lead to a decrease in the resilience of both individual GSIBs and the U.S. financial system. Relatedly, the proposal could increase the unintended “too-big-to-fail” effect and its economic implications, discussed in more detail below. Finally, the proposed data averaging could modestly increase the

cost of compliance for GSIBs. The rest of this section discusses these costs in detail, also assessing how they could potentially be different under the policy alternatives considered.

The proposal could potentially lead to a decrease in firm resilience and systemic stability by reducing risk-based capital buffer requirements for GSIBs.

As section III.E.iii of this **SUPPLEMENTARY INFORMATION** estimates, the proposal would reduce GSIB surcharges by 40 basis points, on average, and 10 percent, in aggregate. This reduction in risk-based capital buffer requirements would enable most GSIBs to increase their risk-weighted asset amounts or reduce their equity capital, which could in turn decrease their resilience against economic shocks.¹²² Because GSIBs are systemically important banking organizations, such potential decrease in their resilience could decrease the stability of the U.S. financial system and thus increase the probability and severity of financial crises.

Through both this potential decrease in the resilience of GSIBs and by enabling GSIBs to increase their economic activities and supply of financial services, discussed earlier in the benefit section, the proposal could also increase the unintended “too-big-to-fail” effect related to these large banking organizations.¹²³ Specifically, if GSIBs become less resilient or expand their business in response to the reduction in their capital surcharges under the proposal, that could increase the probability and magnitude of potential government interventions in the event GSIBs face financial distress.

Finally, the proposed data averaging could modestly increase the cost of compliance for GSIBs by increasing their administrative burden. In particular, reporting the affected systemic indicators and related line items on an average basis, as shown in Table 1, would require the collection and processing of the underlying financial information at higher (daily or monthly) frequencies than under the baseline. Although some GSIBs may

¹²² For GSIBs, changing risk-based capital requirements is relevant and could affect their risk-taking and capital structure decisions because risk-based capital requirements are the highest (that is, binding) capital requirements for most of these holding companies under the baseline.

¹²³ See, e.g., Maureen O’Hara and Wayne Shaw, Deposit Insurance and Wealth Effects: The Value of Being “Too Big to Fail,” *The Journal of Finance*, 45(5) (December 1990); Priyank Gandhi and Hanno Lustig, Size Anomalies in U.S. Bank Stock Returns, *The Journal of Finance*, 70(2) (December 5, 2015); João AC Santos, Evidence From the Bond Market on Banks’ “Too-Big-To-Fail Subsidy”, *Economic Policy Review* 20(2) (April 4, 2014).

¹²¹ Over time, the CPI–W index tends to grow more slowly than U.S. nominal GDP because the CPI–W only reflects price inflation, whereas U.S. nominal GDP reflects both real economic growth and inflation. Accordingly, over the past decade, the annual growth rate of U.S. GDP exceeded the CPI–W index’s annual growth rate by about 2 percentage points. Between 1950 and 2025, this annual growth rate differential was about 3 percentage points.

already collect and process sufficient data to report some of the affected indicators at these higher frequencies under the baseline, some GSIBs could incur additional one-time and recurring costs under the proposal. For example, some GSIBs may face one-time expenses as they make additional investments in their human resources and information technology infrastructure to comply with the proposed data averaging requirement. Furthermore, some GSIBs may face additional recurring costs as they maintain the resources and infrastructure needed for compliance. Overall, considering the large scale of GSIBs, and because the proposal would tailor the data averaging requirement to the specifics of each systemic indicator, the Board anticipates that a potential increase in GSIBs' compliance costs would be modest.

Turning to the policy alternatives considered, the Board anticipates that the potential economic costs described above would also manifest under these alternatives, but the strength of these effects would vary across the alternatives. As discussed earlier in the benefit section, Alternative 1 ("inflation indexing") would reduce GSIB surcharges more than the proposal in the short run, but this difference would likely revert in the long run. Hence, the potential reduction in firm resilience and systemic stability would be larger in the short run and smaller in the long run under this alternative than under the proposal. The estimated reduction in GSIB surcharges under Alternative 2 ("global denominators") is smaller than under the proposal, which implies that this alternative would affect firm resilience and systemic stability less than the proposal. The estimated reduction in GSIB surcharges is larger under Alternative 3 ("reference bank") than under the proposal, and therefore this alternative could reduce firm resilience and systemic stability more than the proposal. Finally, because all of the policy alternatives considered would implement the proposed data averaging, they could modestly increase compliance costs for GSIBs similarly to the proposal.

H. Interactions With Other Rules and Proposed Rulemakings

This section of the analysis assesses potential interactions between the proposal and other existing rules or proposed rulemakings. As section III.B of this **SUPPLEMENTARY INFORMATION** discusses, the proposal (in this section, referred to as the "GSIB surcharge proposal") would interact with the expanded risk-based proposal, which assesses the combined economic impact

of the two proposals. The following subsections assess interactions between the two proposals and the existing total-loss absorbing capacity (TLAC) framework for GSIBs;¹²⁴ and between the GSIB surcharge proposal and the existing regulatory tailoring framework.¹²⁵

i. Interaction With TLAC and Long-Term Debt Requirements

The analysis assesses how the GSIB surcharge proposal and the expanded risk-based proposal would interact with the existing TLAC framework for GSIBs.¹²⁶ Specifically, the analysis estimates baseline TLAC and long-term debt requirements as of the second quarter of 2025, also reflecting recent changes to these requirements under the eSLR final rule.¹²⁷ Both the TLAC and long-term debt requirements consist of a risk-based and a leverage-based minimum requirement. Beyond TLAC minimum requirements, GSIBs also have risk-based and leverage-based TLAC buffer requirements.¹²⁸ Unless noted otherwise, in the following discussion, the term "TLAC requirement" refers to the sum of these TLAC minimum and corresponding TLAC buffer requirements.

Under the baseline, the estimated aggregate TLAC requirement for GSIBs is about \$1.79 trillion. For five out of the eight current GSIBs, the risk-based TLAC requirement is higher than the leverage-based requirement. Under the baseline, the estimated aggregate long-term debt requirement for GSIBs is \$717 billion. For six out of the eight current GSIBs, the risk-based long-term debt requirement is higher than the leverage-based requirement.

The analysis assesses the combined impact of the GSIB surcharge proposal and the expanded risk-based proposal on TLAC and long-term debt requirements for GSIBs. Relative to the baseline, the aggregate TLAC requirement for GSIBs would decrease by about \$46 billion, or 2.6 percent, with the TLAC requirement decreasing

for five GSIBs and increasing for one GSIB. The number of GSIBs bound by the risk-based TLAC requirement would increase from five to six. These changes would be driven entirely by the expanded risk-based proposal's adjustments to risk-weighted assets, which would affect the required quantity of TLAC because risk-based TLAC requirements are specified as a percentage of risk-based assets.¹²⁹ Relative to the baseline, the analysis estimates that the two proposals would reduce the long-term debt requirement for GSIBs by about \$17 billion, or 2.3 percent, in aggregate, by lowering the requirement for five GSIBs and increasing it for one GSIB. The proposals would change the binding long-term debt requirement from risk-based to leverage-based for three GSIBs. These changes would be driven by both the expanded risk-based proposal's adjustments to risk-weighted assets and the GSIB surcharge proposal's changes to method 2 GSIB surcharges.¹³⁰

Furthermore, the analysis examines the partial impact of the two proposals on TLAC and long-term debt requirements. As discussed above, the GSIB surcharge proposal would not have an impact on TLAC requirements, and therefore the expanded risk-based proposal's impact drives the combined impact of the two proposals on TLAC requirements. Relative to the baseline, the analysis estimates that the GSIB surcharge proposal by itself would reduce the long-term debt requirement for GSIBs by about \$13 billion, or 1.7 percent, in aggregate, by lowering the requirement for four GSIBs. Relative to the baseline, the analysis estimates that the expanded risk-based proposal by itself would reduce the long-term debt requirement for GSIBs by about \$2 billion, or 0.2 percent, in aggregate.

The analysis now turns to assessing the potential economic effects of the proposals.¹³¹ If some GSIBs reduce their loss-absorbing capacity in response to

¹²⁴ See 12 CFR part 252, subpart G.

¹²⁵ See 84 FR 59032 (November 1, 2019); 84 FR 59230 (November 1, 2019).

¹²⁶ Section III.J.vii of this **SUPPLEMENTARY INFORMATION** describes the data and methodology used to estimate these interaction effects in detail.

¹²⁷ The analysis needs to estimate baseline TLAC and long-term debt requirements because the baseline also includes the eSLR final rule, which was adopted on November 25, 2025, and goes into effect on April 1, 2026, whereas the reporting data as of the second quarter of 2025 do not reflect the effect of the eSLR final rule. For a detailed analysis of this effect, see section IV.1 of the supplementary information to the eSLR final rule. See 90 FR 55248 (December 1, 2025).

¹²⁸ In the current regulatory framework, there are no long-term debt buffer requirements.

¹²⁹ Even though the GSIB surcharge proposal could potentially affect TLAC requirements, which depend on method 1 surcharges, this effect would not manifest because method 1 surcharges would not change under the proposal. Specifically, although the proposal would increase method 1 scores by about 6 percent, on average across GSIBs, as discussed in section III.E.i of this **SUPPLEMENTARY INFORMATION**, this change would not lead to an increase method 1 surcharges because of the score bands used in the GSIB surcharge framework.

¹³⁰ Risk-based long-term debt requirements depend in part on method 2 surcharges, which would change under the GSIB surcharge proposal.

¹³¹ Much of the rationale behind this discussion of the combined effect extends to the individual proposals in isolation. The costs and benefits of the two proposals by themselves are expected to be broadly proportional in size to their estimated marginal impact on requirements.

the reduction in their TLAC requirements, the proposals could decrease the funding costs of these firms. On the one hand, the academic and policy literature finds that this potential reduction in funding costs could increase lending and support economic activity.¹³² On the other hand, many of these same studies indicate that the potential reduction in loss-absorbing capacity may increase risks to safety and soundness and financial stability, as well as associated social costs. Nevertheless, because the estimated decrease in aggregate TLAC requirements under the two proposals is relatively small, the related economic effects would likely be modest.

Additionally, the reduction in their long-term debt requirements would provide GSIBs more flexibility over their TLAC composition. Given the modest overall change in long-term debt requirements, the economic effects of such changes would likely be small. Moreover, the additional flexibility could enhance GSIBs' resilience because, holding TLAC requirements unchanged, any reduction in long-term debt used to meet TLAC requirements would need to be replaced with tier 1 capital, which has greater loss absorbency.

ii. Interaction With the Regulatory Tailoring Framework

The proposal would also interact with the existing regulatory tailoring framework for large banking organizations by amending the definitions of the cross-jurisdictional claims and liabilities systemic indicator amounts, which determine the cross-jurisdictional activity risk-based indicator amount used in the framework.¹³³ Specifically, the proposal could change the tailoring categories of some banking organizations if it results in their cross-jurisdictional activity risk-based indicators crossing above or below the \$75 billion threshold for Category II prudential standards. The

analysis assesses this potential effect on the cross-jurisdictional activity risk-based indicators of banking organizations subject to Category II to IV prudential standards as of the second quarter of 2025.¹³⁴

The estimates indicate that the proposal would increase the cross-jurisdictional activity risk-based indicators of banking organizations subject to Category II to IV prudential standards by about 3 percent, on average. The estimated increase would not change the tailoring category of any domestic banking organization or U.S. intermediate holding company of a foreign banking organization. The estimated increase could result in the combined U.S. operations of one foreign banking organization currently subject to Category III prudential standards becoming subject to Category II prudential standards because its cross-jurisdictional activity indicator could exceed the \$75 billion threshold. However, such potential change in tailoring category would not result in a change in regulatory requirements for this banking organization.

I. Conclusion

The proposal would adjust the calculation of method 1 and method 2 scores, and the related GSIB surcharges, in order to improve the measurement of systemic risk profiles in the GSIB surcharge framework, both across individual firms and over time. Thereby, the proposal would improve the framework's efficiency at mitigating the systemic risk of GSIBs, while also enabling them to increase economic activities and supply of financial services. Additionally, the proposed data averaging would reduce incentives for some GSIBs to temporarily reduce the end-of-year values of certain systemic indicators, and the proposed narrow score bands would reduce unintended "cliff effects." Furthermore, the proposed amendments to systemic indicators would improve the consistency of the U.S. GSIB surcharge framework with the international standard published by the Basel Committee.

The proposal's costs are mainly driven by the estimated decrease in GSIB surcharges, which could potentially lead to a decrease in the resilience of both individual GSIBs and the U.S. financial system, as well as a related increase in the "too-big-to-fail" effect. Additionally, the proposed data

averaging could modestly increase the cost of compliance for GSIBs by increasing their administrative burden.

Overall, the Board assesses that the benefits of the proposal justify its costs.

Regarding the reasonable policy alternatives considered, the economic analysis suggests that the proposal best balances the trade-offs inherent to the GSIB surcharge framework. The analysis shows that Alternative 1 ("inflation indexing") would have a larger short-run and a smaller long-run economic impact, on both the benefit and the cost side, than the proposal. As discussed in section III.F of this **SUPPLEMENTARY INFORMATION**, the alternative's short-run effect would be larger than that of the proposal because it would reduce GSIB surcharges more than the proposal. However, in the long run, the effect of Alternative 1 would likely become smaller than the proposal's effect because this alternative would make annual adjustments to method 2 indicator coefficients base on the CPI-W index, whereas the proposal would adjust the coefficients based on U.S. nominal GDP growth, which tends to exceed inflation. Alternative 2 ("global denominators") would have a smaller impact than the proposal because this alternative would reduce GSIB surcharges less than the proposal and thus have smaller economic benefits. Conversely, Alternative 3 ("reference bank") would have a larger impact than the proposal because this alternative would reduce GSIB surcharges more than the proposal and thus reduce firm resilience potentially more. Finally, because only the proposal would make a targeted downward adjustment to method 2 scores, none of the policy alternatives considered would exactly offset the observed cumulative growth differential between method 1 and method 2 scores discussed in section II.A.i of this **SUPPLEMENTARY INFORMATION**.

J. Appendix: Estimation Methodology

This section describes the methodology applied to calculate the quantitative impact estimates used in sections III.E and III.H of this **SUPPLEMENTARY INFORMATION**. The analysis estimates the impact of the proposal and the policy alternatives considered relative to the baseline at a single point in time, using the most recent data available.¹³⁵ Specifically, as section III.B of this **SUPPLEMENTARY INFORMATION** describes, the analysis

¹³² See, e.g., Simon Firestone, Amy Lorenc, and Ben Ranish, *An Empirical Economic Assessment of the Costs and Benefits of Bank Capital in the United States*, 101 Federal Reserve Bank of St. Louis Rev. 203, 203–30 (2018); Martin Brooke, Oliver Bush, Robert Edwards, Jas Ellis, Bill Francis, Rashmi Harimohan, Katharine Neiss & Caspar Siebert, *Measuring the Macroeconomic Costs and Benefits of Higher UK Bank Capital Requirements*, Bank of England, Financial Stability Paper No. 35, (Dec. 2015); David Miles, Jing Yand, & Gilberto Marcheggiano, *Optimal Bank Capital*, 123 Econ. J. 1, 29 & Table 10 (Mar. 2013); Financial Stability Board, *Assessing the Economic Costs and Benefits of TLAC Implementation* (Nov. 2015) ("FSB (2015)").

¹³³ See 12 CFR 252.5(c) for how a Category II banking organization is defined based on the cross-jurisdictional activity risk-based indicator.

¹³⁴ Section III.J.viii of this **SUPPLEMENTARY INFORMATION** describes the data and methodology used for the estimation of this interaction effect in detail.

¹³⁵ The analysis uses the current regulatory framework as baseline, which includes the current U.S. GSIB surcharge framework described in section I.A of this **SUPPLEMENTARY INFORMATION**.

primarily relies on data from the fourth quarters of 2023 and 2024 to estimate potential changes in method 1 and method 2 scores, which determine corresponding changes in method 1 and method 2 surcharges, which in turn yield estimates for GSIB surcharges applicable in 2026. The analysis uses data from the second quarter 2025 to estimate the interaction effects assessed in section III.H of this **SUPPLEMENTARY INFORMATION**. The following subsections provide a detailed description of each step of the analysis, presented in order of application.

i. Partial Effects of Changes to Systemic Indicators

As a first step, this part of the analysis estimates the standalone (“partial”) effects of the proposed data averaging and each of the amendments to each systemic indicator, described in sections II.C and II.E of this **SUPPLEMENTARY INFORMATION**, respectively. These partial effects measure the percent changes in each systemic indicator amount relative to the baseline, presented in Tables 5 and 6 in section III.E.i of this **SUPPLEMENTARY INFORMATION**.

The analysis estimates the partial effect of the proposed data averaging on each systemic indicator for each GSIB based on the historical differences between each GSIB’s reported indicator amounts as of the fourth quarter and other quarters of each year from 2017 to 2024.¹³⁶ Specifically, the analysis estimates the proposed data averaging’s effect by calculating the percent difference between the average of the indicator amounts pooled across the first to the third quarters of all sample years and the average of the indicator amounts pooled across the fourth quarters of all sample years for each GSIB.¹³⁷ However, if this former difference is negative, then the analysis estimates the proposed data averaging’s effect by calculating the percent difference between the average of the indicator amounts pooled across the first to the fourth quarters of all sample years and the average of the indicator amounts pooled across the fourth quarters of all sample years.

This approach used to estimate the effect of the proposed data averaging has multiple advantages. First it is simple and non-parametric. Second, by taking

into account whether the data are indicative of end-of-year indicator management, the estimation approach flexibly allows for the possibility that only some GSIBs manage only some indicators at year end. Specifically, if an indicator’s average value in the fourth quarter is lower than in other quarters, the analysis interprets the downward bias as suggestive evidence for end-of-year management. Accordingly, assuming that such end-of-year patterns would cease as a result of the proposed data averaging, the analysis excludes the fourth quarter and uses the indicator’s average value from the first to the third quarters to estimate its level under the proposal.¹³⁸ However, if the indicator’s average value in the fourth quarter is higher than in other quarters, the analysis assumes that there is no downward bias due to end-of-year indicator management in its fourth-quarter values and uses the indicator’s average value over the entire year to estimate its level under the proposal. Third, the estimated effect of the proposed data averaging is robust to the potential presence of linear trends in systemic indicator amounts because the estimation approach quantifies the deviation between the indicator’s actual fourth-quarter values and its counterfactual fourth-quarter values, implicitly estimated through linear interpolation using the actual indicator values from the other quarters of the year. Finally, the estimated effect of the proposed data averaging is robust to idiosyncratic year-fixed effects because the estimation approach uses averages taken over a multiyear sample period, which reduces the influence of potential outlier years on the estimates.

The analysis estimates the partial effect of each proposed amendment to each systemic indicator by calculating the percent difference between the indicator’s reported amount under the baseline and its estimated amount under a revised definition that incorporates the effect of only the given amendment.¹³⁹ These partial effect

estimates facilitate a granular assessment of the proposal’s impact because some indicators would be affected by multiple amendments.¹⁴⁰

Finally, the proposal would introduce two new trading volume systemic indicators and reduce the weight of the underwriting activity systemic indicator in the substitutability category of the method 1 score calculation. This first step of the analysis does not create estimates for the partial effects of these indicator changes because they would not affect existing indicator amounts; rather, the analysis incorporates the effect of these changes in the updated method 1 score calculation described in section III.J.v of this **SUPPLEMENTARY INFORMATION**.

ii. Combined Effects of Changes to Systemic Indicators

This step of the analysis estimates the combined effect of all proposed changes to each systemic indicator, summarized in Tables 5 and 6 in section III.E.i and Table 7 in section III.E.ii of this **SUPPLEMENTARY INFORMATION**. To this end, the analysis first combines the partial effects estimated in the previous step to estimate updated systemic indicator amounts under the proposal. For each affected indicator, the analysis estimates the indicator’s updated amount by multiplying the indicator’s baseline amount and the product of one plus the estimated partial effect of each proposed change to the indicator, including the proposed data averaging and the amendments to systemic

and the Basel Committee on Banking Supervision’s GSIB assessment exercise, described in section III.B of this **SUPPLEMENTARY INFORMATION**. For some indicators, the revised amount as of the fourth quarter of 2023 (or 2024) is reported, or calculated from data reported, in FR Y–15 filings and the GSIB assessment exercise. For other indicators, the analysis estimates the revised amount as of the fourth quarter of 2023 (or 2024) using data reported on the Board’s special data collection as of the second quarter of 2023 by applying the following methodology. First, the analysis calculates the percent difference between a given indicator’s baseline and revised amount as of the second quarter of 2023, reported in FR Y–15 filings and the Board’s special data collection, respectively. If a proposed amendment only affects a subcomponent of an indicator, then the analysis calculates this percent difference for that particular component; otherwise, the analysis calculates the percent difference for the entire indicator. Second, the analysis estimates the indicator’s revised amount as of the fourth quarter of 2023 (or 2024) by multiplying the indicator’s, or its subcomponent’s, baseline amount as of the fourth quarter of 2023 (or 2024) by one plus the percent change calculated in the first step.

¹⁴⁰ As section II.F of this **SUPPLEMENTARY INFORMATION** describes in detail, the proposal would make multiple changes to the intra-financial system assets and intra-financial system liabilities systemic indicators.

¹³⁶ The analysis uses a panel of full calendar years so that quarter-fixed and year-fixed effects are represented equally in the estimation sample.

¹³⁷ In this context, “pooling” means that the analysis uses all quarterly observations of a specific systemic indicator across all sample years to calculate the overall average value for the indicator, assigning an equal weight to each quarterly observation.

¹³⁸ By assuming that potential end-of-year indicator patterns would cease under the proposed data averaging, the analysis produces high-end estimates for the effect of data averaging because some of the end-of-year patterns may not be due to the lack of data averaging under the baseline GSIB surcharge framework. Rather, some of these end-of-year patterns may persist even under the proposed data averaging, in which case the difference between the indicator’s average value in the first quarter and other quarters would overestimate the proposal’s impact.

¹³⁹ The analysis obtains the baseline amount of each indicator from FR Y–15 filings as of the fourth quarters of 2023 (or 2024). By contrast, depending on the specific proposed amendment, the analysis obtains the revised amount of each indicator from FR Y–15 filings, the Board’s special data collection,

indicators as applicable.¹⁴¹ The analysis then estimates the combined effect of all proposed changes to each systemic indicator by calculating the percent difference between the indicator's updated and baseline amounts.

iii. Incremental Effect of Adjusting Method 2 Coefficients

This step of the analysis estimates the incremental effect of adjusting method 2 systemic indicator coefficients under the proposal and the policy alternatives considered, summarized in Table 7 in section III.E.ii of this **SUPPLEMENTARY INFORMATION**.

$$\text{Coefficient}_i^* = 20,000 \times \frac{\text{Indicator Weight}_i}{\text{Avg Aggregate Global Indicator Amount}_i^{2023-2024} \times \text{Avg EUR/USD Rate}_{2022-2024}}$$

Where *Coefficient*^{*}_{*i*} is the updated coefficient for systemic indicator, *Indicator Weight*_{*i*} is the weight of the indicator, *Avg Aggregate Global Indicator Amount*_{*i*}^{2023–2024} is the average of the corresponding euro-denominated aggregate global indicator amounts as of the end of 2023 and 2024, and *Avg EUR/USD Rate*_{2022–2024} is the average of daily euro-dollar exchange rates from 2022 to 2024. Note that this currency conversion methodology is different from the one used to calculate the U.S. dollar-denominated global systemic indicator amounts published annually by the Federal Reserve, which uses year-end exchange rates instead. Under Alternative 3, the analysis calculates the updated coefficients by dividing the baseline coefficients by a factor of 1.4, consistent with the description of this alternative in section III.D of this **SUPPLEMENTARY INFORMATION**.

For each GSIB, the analysis estimates the incremental effect of the coefficient adjustment on method 2 scores, under both the proposal and the alternatives, as the percent change from the baseline method 2 score to the updated method 2 score, calculated by adding the baseline short-term wholesale funding score to the sum of the products of the updated method 2 systemic indicator amounts estimated in section III.J.iii of this **SUPPLEMENTARY INFORMATION** and the corresponding updated method 2

To this end, the analysis first calculates, under both the proposal and the alternatives, the updated coefficients for each of the nine indicators used in the method 2 score calculation.¹⁴² Under the proposal, the analysis calculates the updated coefficients by dividing the corresponding baseline coefficients by the 1.2 factor described in section II.D.i of this **SUPPLEMENTARY INFORMATION**.¹⁴³ Under Alternative 1, the analysis calculates the updated coefficients by multiplying the corresponding baseline coefficients by the ratio of the CPI–W index's value as

of December 31, 2015, to the CPI–W index's value as of December 31, 2024. Under Alternative 2, the analysis calculates the updated coefficients by multiplying the indicator's weight by 20,000 and dividing the result by the product of the average of the corresponding euro-denominated aggregate global indicator amounts as of the end of 2023 and 2024 published by the Bank for International Settlements and the average of daily euro-U.S. dollar exchange rates from 2022 to 2024. The analysis used the following formula:¹⁴⁴

systemic indicator coefficients estimated in this subsection.¹⁴⁵

iv. Incremental Effect of Changing the Short-Term Wholesale Funding Score

This step of the analysis estimates, for each GSIB, the incremental effect of changing the short-term wholesale funding score under the proposal and the policy alternatives considered, summarized in Table 7 in section III.E.ii of this **SUPPLEMENTARY INFORMATION**. Under the proposal and the alternatives, the analysis calculates the updated short-term wholesale funding score for each GSIB by multiplying the updated coefficient for the short-term wholesale funding component by the average of its weighted short-term wholesale funding amount. As discussed in section II.B.ii of this **SUPPLEMENTARY INFORMATION**, this updated coefficient is 23.003 under the proposal, calculated using the following methodology. Under each alternative, the analysis applies the same methodology to calculate the updated coefficient.

Under both the proposal and the alternatives, the updated coefficient for the short-term wholesale funding component results from the following calculation. First, the analysis calculates each GSIB's updated method 2 scores excluding the short-term wholesale funding component by multiplying each updated method 2 systemic indicator

amount estimated in section III.J.ii in this **SUPPLEMENTARY INFORMATION** by the corresponding updated method 2 systemic indicator coefficient calibrated in section III.J.iii of this **SUPPLEMENTARY INFORMATION** and then summing the resulting products. Second, the analysis calculates the aggregate updated method 2 score excluding the short-term wholesale funding component and the aggregate average weighted short-term wholesale funding amount across the eight current GSIBs.¹⁴⁶ Finally, the analysis calculates the updated short-term wholesale funding coefficient by multiplying 25 percent by the aggregate updated method 2 score excluding the short-term wholesale funding component and dividing the result by the aggregate average weighted short-term wholesale funding amount.¹⁴⁷

For each GSIB, the analysis estimates the incremental effect of changing the short-term wholesale funding score on method 2 scores, under both the proposal and the alternatives, as the percent change from the baseline method 2 score to the updated method 2 score. The analysis calculates the updated method 2 score by adding the updated short-term wholesale funding score, estimated in this subsection, to the sum of the products of the updated method 2 systemic indicator amounts and the corresponding updated method 2 systemic indicator coefficients,

¹⁴¹ The analysis applies the formula: $\text{Indicator}_i^* = \text{Indicator}_i \times \Pi_j (1 + \text{Partial Impact}_j)$, where Indicator_i^* is the estimate for indicator *i*'s revised amount, Indicator_i is indicator *i*'s baseline amount, and Partial Impact_j is the estimated partial impact, expressed as a decimal number, of the *j*th proposed change to indicator *i*. This estimation methodology assumes that there would be a multiplicative interaction across the effects of the proposed indicator changes.

¹⁴² Total exposures, intra-financial system assets, intra-financial system liabilities, securities

outstanding, notional amount of over-the-counter derivatives, trading and available-for-sale securities, level 3 assets, cross-jurisdictional claims, and cross-jurisdictional liabilities.

¹⁴³ See 12 CFR 217.405(b)(2) for the baseline method 2 coefficients.

¹⁴⁴ Method 2 coefficient calibration methodology in the 2015 GSIB surcharge final rule (see 80 FR 49082).

¹⁴⁵ See 12 CFR 217.406(a) for the baseline definition of the short-term wholesale funding score.

¹⁴⁶ See 12 CFR 217.406(a)(1) for the definition of the short weighted short-term wholesale funding amount, which would remain unchanged under the proposal and the alternatives.

¹⁴⁷ Algebraically, this ensures that the updated short-term wholesale funding coefficient is such that the aggregate percentage share of updated short-term wholesale funding scores within the updated method 2 scores of the current eight GSIBs equals 20 percent.

respectively estimated in sections III.J.ii and III.J.iii of this **SUPPLEMENTARY INFORMATION**.

v. Combined Impact on Method 1 and Method 2 Scores

This step of the analysis estimates the combined effect of all changes to method 1 and method 2 scores under the proposal and the policy alternatives considered as the percent change from the respective baseline method 1 and method 2 scores to the respective updated method 1 and method 2 scores for each GSIB. The last rows of Tables 5 and 7 in section III.E.ii of this **SUPPLEMENTARY INFORMATION** summarize the estimated combined effects on method 1 and method 2 scores, respectively.

The analysis calculates the updated method 1 score as follows. For method 1 systemic indicators that would be affected by the proposed data averaging and indicator amendments, the analysis calculates updated indicator scores by dividing the updated indicator amounts, estimated in section III.J.ii of this **SUPPLEMENTARY INFORMATION**, by the corresponding aggregate global indicator amounts published by the Federal Reserve, multiplying the resulting values by the corresponding systemic indicator weights, and then multiplying the resulting values by 10,000. Next, the analysis calculates the updated score for the underwriting activity indicator by dividing the indicator's baseline amount by the corresponding aggregate global indicator amount, multiplying the resulting value by the corresponding updated (reduced) indicator weight, and then multiplying the resulting value by 10,000. Then, the analysis calculates the scores for the two new trading volume indicators under the proposal by dividing the indicator amounts by the corresponding aggregate global indicator amounts, multiplying the resulting values by the corresponding proposed indicator weights described in section II.E.ii.a of this **SUPPLEMENTARY INFORMATION**, and then multiplying the resulting value by 10,000.¹⁴⁸ Finally, the analysis calculates the updated method 1 score by taking the sum of (i) the updated scores for indicators that would be affected by the proposed data averaging and indicator amendments; (ii) the updated score for the

underwriting activity indicator; and (iii) the scores of the two new trading volume indicators, while applying the cap on the total score of indicators in the substitutability category, which includes the underwriting activity and the two new trading volume indicators.

The analysis calculates the updated method 2 scores by adding the updated short-term wholesale funding score, estimated in section III.J.iv of this **SUPPLEMENTARY INFORMATION**, to the sum of the products of the updated method 2 systemic indicator amounts and the corresponding updated method 2 systemic indicator coefficients, respectively estimated in sections III.J.iii and III.J.iv of this **SUPPLEMENTARY INFORMATION**.

vi. GSIB Surcharges Under the Proposal and the Alternatives

The analysis estimates GSIB surcharges applicable in 2026 under both the proposal and the policy alternatives considered for each GSIB, summarized in Table 8 in section III.E.iii of this **SUPPLEMENTARY INFORMATION**. To this end, the analysis first calculates updated method 1 and method 2 surcharges by applying the baseline method 1 surcharge schedule and the proposed method 2 surcharge schedule, which is shown in Table 2 in Section II.D of this **SUPPLEMENTARY INFORMATION**, to the respective updated method 1 and method 2 scores, which are estimated in Section III.J.v of this **SUPPLEMENTARY INFORMATION**. The analysis then calculates the updated method 1 and method 2 surcharges as of the fourth quarters of 2023 and 2024, which determine GSIB surcharges applicable in 2026 because of the lagged application of surcharge increases.¹⁴⁹ Specifically, for each GSIB, the updated GSIB surcharge applicable in 2026 is the minimum of (i) the higher of the

updated method 1 and method 2 surcharges as of the fourth quarter of 2023 and (ii) the higher of the updated method 1 and method 2 surcharges as of the fourth quarter of 2024.

vii. Interaction With the TLAC Framework

As discussed in section III.H.i of this **SUPPLEMENTARY INFORMATION**, the analysis assesses potential interaction effects between the existing TLAC framework for GSIBs, the GSIB surcharge proposal, and the expanded risk-based proposal. As discussed in section III.H.i of this **SUPPLEMENTARY INFORMATION**, the analysis assesses potential interaction effects between the existing TLAC framework for GSIBs, the GSIB surcharge proposal, and the expanded risk-based proposal. The analysis estimates these interaction effects by calculating TLAC and long-term debt requirements for GSIBs under the baseline and comparing these baseline requirements to the respective requirements estimated under both the individual proposals and the combination of the two proposals as of the second quarter of 2025. Although the proposals would not change the baseline calculations of TLAC and long-term debt requirements for GSIBs, the proposals would affect some of the inputs to the calculations. Accordingly, this subsection describes the calculations of these requirements and then explains how the calculation inputs would differ under the baseline and the proposals.

Under both the baseline and the proposals, the analysis calculates the TLAC requirement for each GSIB by taking the greater of its (i) risk-based TLAC requirement and (ii) leverage-based TLAC requirement. The risk-based TLAC requirement for the GSIB is the sum of 18 percent and its risk-based TLAC buffer requirement, both expressed as a percentage of total risk-weighted assets.¹⁵⁰ The risk-based TLAC buffer requirement for the GSIB is the sum of 2.5 percent, the firm's method 1 surcharge, and the countercyclical capital buffer requirement, which is zero as of 2025. The leverage-based TLAC requirement for the GSIB is the sum of 7.5 percent and its leverage-based buffer requirement, both expressed as a percentage of total leverage exposures. The leverage-based TLAC buffer requirement for the GSIB is equal to

¹⁴⁸ The two new trading volume systemic indicator amounts are reported in FR Y-15 filings under line items RISK MV93 and RISK MV95. Additionally, the calculation uses the euro-denominated global indicator amounts published by the Bank for International Settlements for the two trading volume indicators, converted to U.S. dollars using year-end exchange rate data published by the European Central Bank.

¹⁴⁹ To estimate method 1 and method 2 surcharges as of the fourth quarter of 2023, the analysis respectively calculates method 1 and method 2 scores as of the fourth quarter of 2023, applying the methodology described in sections III.J.i to III.J.v of this **SUPPLEMENTARY INFORMATION** with the following modifications. Under Alternative 1, the analysis calculates updated method 2 systemic indicator coefficients by using the ratio of the CPI-W index as of December 31, 2015, and December 31, 2023 (instead of December 31, 2024). Under Alternative 2, the analysis calculates updated method 2 indicator coefficients by using the average of the euro-denominated aggregate global indicator amounts as of the end of 2022 and 2023 (instead of 2023 and 2024) and the average of daily euro-dollar exchange rates from 2021 to 2023 (instead of 2022 to 2024). The analysis uses the updated coefficient for the short-term wholesale funding component calculated as of the fourth quarter of 2024 because the aggregate weight of this component would be calibrated to 20 percent as of this date under both the proposal and the alternatives.

¹⁵⁰ See 12 CFR 252.63.

one-half of the firm's method 1 surcharge.¹⁵¹

The analysis applies this methodology to calculate baseline TLAC requirements for GSIBs using their total risk-weighted assets and total leverage exposures reported in FR Y-9C filings, and baseline method 1 surcharges, calculated under the current GSIB surcharge framework, described in section I.A of this **SUPPLEMENTARY INFORMATION**.¹⁵² Under the GSIB surcharge proposal, the analysis calculates TLAC requirements using the same methodology and inputs as under the baseline, except using the method 1 surcharges estimated in section III.J.vi of this **SUPPLEMENTARY INFORMATION**. The analysis in this **SUPPLEMENTARY INFORMATION** calculates TLAC requirements under the expanded risk-based proposal using the same methodology and inputs as under the baseline, except using the risk-weighted asset amounts estimated in the **SUPPLEMENTARY INFORMATION** of the expanded risk-based proposal.

Under both the baseline and the proposals, the analysis calculates the long-term debt requirement for each GSIB by taking the greater of the firm's (i) risk-based long-term debt requirement and (ii) leverage-based long-term debt requirement. The risk-based long-term debt requirement for the GSIB is the sum of 6 percent and the firm's GSIB surcharge, both expressed as a percentage of total risk-weighted assets.¹⁵³ The leverage-based long-term debt requirement for the GSIB is the sum of 2.5 percent and one-half of the firm's method 1 surcharge, both expressed as a percentage of total leverage exposures.¹⁵⁴

The analysis applies this methodology to calculate baseline long-term debt requirements for GSIBs using their total risk-weighted assets and total leverage exposures reported in FR Y-9C filings, and baseline method 1 surcharges and GSIB surcharges, calculated under the current GSIB surcharge framework, described in section I.A of this

SUPPLEMENTARY INFORMATION.¹⁵⁵ Under the GSIB surcharge proposal, the analysis calculates long-term debt requirements using the same methodology and inputs as under the baseline, except using the method 1 surcharges and GSIB surcharges estimated in section III.J.vi of this **SUPPLEMENTARY INFORMATION**. The analysis in this **SUPPLEMENTARY INFORMATION** calculates TLAC requirements under the expanded risk-based proposal using the same methodology and inputs as under the baseline, except using the risk-weighted asset amounts estimated in the supplementary information of the expanded risk-based proposal.

viii. Interaction With the Regulatory Tailoring Framework

As discussed in section III.H.ii of this **SUPPLEMENTARY INFORMATION**, for the assessment of potential interaction effects between the proposal and the existing regulatory tailoring framework for large banking organizations, the analysis estimates the "updated" cross-jurisdictional activity risk-based indicator amounts for each banking organization subject to Category II to IV prudential standards as of the second quarter of 2025 that reflects the effect of the proposed amendments to the cross-jurisdictional claims and cross-jurisdictional liabilities systemic indicators.¹⁵⁶ In addition to the data sources described in section III.B of this **SUPPLEMENTARY INFORMATION**, the interaction analysis uses further publicly available data reported in FR Y-15 filings as of the second quarter of 2023 and the fourth quarter of 2024.¹⁵⁷ Furthermore, the analysis uses additional confidential line items reported in the Board's special data collection, described earlier, as of the second quarter of 2023.¹⁵⁸

For each banking organization, the analysis estimates the updated cross-jurisdictional activity risk-based indicator amount as follows. First, the analysis estimates the updated cross-jurisdictional claims and liabilities systemic indicator amounts as of the

second quarter of 2023 by using data from FR Y-15 filings and the Board's special data collection.¹⁵⁹ Next, the analysis calculates the updated cross-jurisdictional activity risk-based indicator amount as of the second quarter of 2023 as the sum of the updated cross-jurisdictional claims and liabilities systemic indicator amounts. Then, the analysis estimates the proposal's impact on the cross-jurisdictional activity risk-based indicator as the percent change from its baseline amount to its updated amount as of the second quarter of 2023.¹⁶⁰ Finally, the analysis estimates the updated cross-jurisdictional activity risk-based indicator amount as of the second quarter of 2025 by multiplying the indicator's baseline amount as of the second quarter of 2025 by one plus the proposal's effect on the indicator, estimated using the methodology described in section III.J.ii of this **SUPPLEMENTARY INFORMATION**.¹⁶¹ The updated cross-jurisdictional activity risk-based indicator is the same under the proposal and the alternatives because the proposal and the alternatives would implement the same amendments to the cross-jurisdictional claims and liabilities systemic indicators.

IV. Administrative Law Matters

A. Paperwork Reduction Act

Certain provisions of the proposed rule contain "collections of information" within the meaning of the Paperwork Reduction Act of 1995

¹⁵⁹ If there are not sufficient data in the Board's special data collection to estimate the updated cross-jurisdictional claims and liabilities systemic indicator amounts for a banking organization, the analysis imputes these indicator amounts using (i) baseline data in the firm's FR Y-15 filings; (ii) for certain proposed indicator amendments, the partial effects of the amendments, estimated using data in the firm's FR Y-15 filings; and (iii) for the rest of the indicator amendments, the median value of the estimated partial effects of the amendments on banking organizations for which there are sufficient data in the Board's special data collection to estimate these effects. Furthermore, if a banking organization reported a positive amount for cross-jurisdictional non-derivative liabilities in its FR Y-15 filings but zero in the Board's special data collection, the analysis assumes that the cross-jurisdictional non-derivative liabilities amount under the proposal would be equal to its baseline amount. This assumption is conservative because it increases the proposal's estimated impact on this specific line item.

¹⁶⁰ The baseline amounts of the cross-jurisdictional activity risk-based indicator are reported in FR Y-15 filings under line items RISK KY49, RISK KY49, and RISO KY49 by domestic holding companies, as well as the U.S. intermediate holding companies and combined U.S. operations of foreign banking organizations, respectively.

¹⁶¹ The analysis estimates the proposal's effect on the cross-jurisdictional activity indicator as of the second quarter of 2023 because that is the date of the Board's special data collection.

¹⁵¹ This calculation of the TLAC leverage-based buffer requirement reflects the effect of the eSLR final rule, adopted on November 25, 2025. See 90 FR 55248. Before the eSLR final rule's effective date of April 1, 2026, the buffer requirement is 2 percent of a GSIB's total leverage exposures.

¹⁵² The specific FR Y-9C line items for risk-weighted assets and total leverage exposure are BHCA A223, BHCW A223, and BHCA LE88.

¹⁵³ See 12 CFR 252.62.

¹⁵⁴ This calculation of the leverage-based long-term debt requirement reflects the effect of the eSLR final rule, adopted on November 25, 2025. See 90 FR 55248. Before the eSLR final rule's effective date of April 1, 2026, the requirement is 4.5 percent of a GSIB's total leverage exposure.

¹⁵⁵ The specific FR Y-9C line items for risk-weighted assets and total leverage exposure are BHCA A223, BHCW A223, and BHCA LE88.

¹⁵⁶ Under the regulatory tailoring framework, cross-jurisdictional activity is the sum of cross-jurisdictional claims and liabilities, calculated in accordance with the instructions to the FR Y-15 reporting form. See 84 FR 59032 (November 1, 2019); 84 FR 59230 (November 1, 2019).

¹⁵⁷ The line items used from FR Y-15 filings are RISK M422, KW54, M426, KW57, and KW56; RISK M423, M424, LA95, KW54, M426, KW57, KW56; and RISO LA95, KW54, M423, M424, M426, KW57, and KW56.

¹⁵⁸ The specific line items used from the special data collection are Items 1, 1.a, 2, and 3.

(PRA).¹⁶² The Board may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The Board reviewed the proposed rule under the authority delegated to the Board by OMB.

The proposed rule contains reporting requirements subject to the PRA. To implement these requirements, the Board proposes to revise the Systemic Risk Report (FR Y-15; OMB No. 7100-0352).

Comments are invited on the following:

(a) Whether the proposed collections of information are necessary for the proper performance of the Board's functions, including whether the information has practical utility;

(b) The accuracy of the estimates of the burden of the proposed information collections, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the information collections on respondents, including using automated collection techniques or other forms of information technology; and

(e) Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

Comments on aspects of this proposed rule that may affect reporting or recordkeeping requirements and burden estimates should be sent to the addresses listed in the **ADDRESSES** section of the **SUPPLEMENTARY INFORMATION**. A copy of the comments may also be submitted to the OMB desk officer for the Agencies: By mail to U.S. Office of Management and Budget, 725 17th Street NW, #10235, Washington, DC 20503 or by facsimile to (202) 395-5806, Attention, Federal Banking Agency Desk Officer.

Proposed Revision, With Extension, of the Following Information Collection

Collection title: Systemic Risk Report.

Collection identifier: FR Y-15.

OMB control number: 7100-0352.

General description of report: The FR Y-15 quarterly report collects systemic risk data from U.S. bank holding companies and covered savings and loan holding companies with \$100 billion or more in total consolidated assets, foreign banking organizations with \$100 billion or more in combined U.S. assets, and any U.S.-based bank

holding company designated as a GSIB that otherwise does not meet the consolidated assets threshold for bank holding companies.¹⁶³ The primary purpose of the FR Y-15 is to facilitate the implementation of the GSIB surcharge. The FR Y-15 also collects data on a firm's structure, activities, and funding that is consistent and comparable among firms. In addition, the data collected on the FR Y-15 are used to identify firms that may present significant systemic risk, to analyze the systemic risk implications of proposed mergers and acquisitions, and to determine the application of prudential standards to large banking organizations.

Proposed effective date: Two full quarters after the adoption of the final rule.

Frequency: Quarterly.

Respondents: Top-tier U.S. bank holding companies and covered savings and loan holding companies with \$100 billion or more in total consolidated assets, any U.S.-based bank holding company designated as a GSIB that does not meet that consolidated assets threshold, and foreign banking organizations with combined U.S. assets of \$100 billion or more.

Estimated number of respondents: 52.

Estimated average hours per response: Reporting—23 hours for GSIBs, 15 hours for domestic Category II and Category III firms, 17 hours for domestic Category IV firms, 20 hours for foreign banking organizations, and around 17 hours for U.S. intermediate holding companies of foreign banking organizations. Recordkeeping—0.25 hours.

Estimated annual burden hours:

Reporting—3,851 hours;¹⁶⁴

Recordkeeping—52 hours.

Estimated change in total burden: 81 hours.

Legal authorization and confidentiality:

The FR Y-15 report is authorized pursuant to sections 5(b) and (c) of the Bank Holding Company Act (BHC Act),¹⁶⁵ sections 102(a)(1) and 165 of the Dodd-Frank Act, as amended by the Economic Growth, Regulatory Relief, and Consumer Protection Act,¹⁶⁶ section 8(a) of the International Banking Act (IBA),¹⁶⁷ and section 10 of the Home Owners' and Loan Act (HOLA).¹⁶⁸

¹⁶³ See 12 CFR 217.402.

¹⁶⁴ This estimated total annual burden reflects adjustments that have been made to the Board's burden methodology for the FR Y-15 that provide a more consistent estimate of respondent burden across different regulatory reports.

¹⁶⁵ 12 U.S.C. 1844(b) & (c).

¹⁶⁶ 12 U.S.C. 5311(a)(1) & 5365.

¹⁶⁷ 12 U.S.C. 3106(a).

¹⁶⁸ 12 U.S.C. 1467a(b)(2).

The Board is authorized to require bank holding companies to file the FR Y-15 reports pursuant to sections 5(b) and 5(c) of the BHC Act and section 165 of the Dodd-Frank Act. Section 5(b) of the BHC Act authorizes the Board to issue regulations and orders relating to capital requirements for bank holding companies.¹⁶⁹ Section 5(c) of the BHC Act authorizes the Board to require a bank holding company and any subsidiary of such company to submit reports to keep the Board informed of the bank holding company's financial condition, systems for controlling financial and operating risks, transactions with depository institution subsidiaries of the bank holding company, and compliance with law.¹⁷⁰ The Board is further authorized by the Dodd-Frank Act to consider risk to U.S. financial stability in regulating and examining bank holding companies and foreign banking organizations with \$100 billion or more in consolidated assets and nonbank financial companies supervised by the Board,¹⁷¹ and to impose prudential standards for such entities and to differentiate among companies on an individual basis or by category, taking into consideration their capital structure, riskiness, complexity, financial activities, size, and any other risk-related factors that the Board deems appropriate.¹⁷² Sections 165(b)(1)(B) and 165(f) of the Dodd-Frank Act authorize the Board to establish enhanced public disclosures for companies subject to prudential standards under section 165 of the Dodd-Frank Act.¹⁷³

Section 8(a) of the IBA allows the Board to apply the requirements of section 5(b) of the BHC Act to foreign banking organizations.¹⁷⁴ Similarly,

¹⁶⁹ 12 U.S.C. 1844(b).

¹⁷⁰ 12 U.S.C. 1844(c).

¹⁷¹ 12 U.S.C. 5363 & 5365. The Board may, by order or rule, apply any enhanced prudential standard established under section 165 of the Dodd-Frank Act to any bank holding company with total consolidated assets equal to or greater than \$100 billion. 12 U.S.C. 5365(a)(2)(C).

¹⁷² 12 U.S.C. 5365(a)(2)(C). The Board is required to establish prudential standards for bank holding companies with assets equal to or greater than \$250 billion and nonbank financial companies supervised by the Board that (1) are more stringent than the standards and requirements applicable to nonbank financial companies and bank holding companies that do not present similar risks to the financial stability of the United States; and (2) increase in stringency based on the considerations enumerated in section 165(b)(3) of the Dodd-Frank Act, as amended. 12 U.S.C. 5365(a)(1).

¹⁷³ 12 U.S.C. 5365(b)(1)(B) and (f).

¹⁷⁴ 12 U.S.C. 3106(a). This provision specifies that (1) any foreign bank that maintains a branch or agency in a state, (2) any foreign bank or foreign company controlling a foreign bank that controls a commercial lending company organized under the

Continued

¹⁶² 44 U.S.C. 3501-3521.

section 102(a)(1) of the Dodd-Frank Act allows the Board to apply the requirements of section 165 to U.S. intermediate holding companies that are treated as bank holding companies under section 8(a) of the IBA.¹⁷⁵

The Board has authority to require savings and loan holding companies to file the FR Y-15 reports pursuant to section 10(b) of HOLA, as amended by the Dodd-Frank Act. Section 10(b) of HOLA authorizes the Board to require savings and loan holding companies to file “such reports as may be required by the Board” containing “such information concerning the operations of such [savings and loan holding company] . . . as the Board may require.”¹⁷⁶

The FR Y-15 report is mandatory.

Information collected on the FR Y-15 is generally made available to the public. A reporting banking organization may request confidential treatment for items on the FR Y-15 or on the form from which the data are obtained that fall, in whole or in part, within the scope of one or more of the exemptions from disclosure under the Freedom of Information Act (FOIA),¹⁷⁷ pursuant to the Board’s Rules Regarding Availability of Information.¹⁷⁸ The exempt categories include (but are not limited to) “trade secrets and commercial or financial information obtained from a person and privileged and confidential” (exemption 4), and information that, if disclosed, “would constitute unwarranted invasion of personal privacy” (exemption 6).¹⁷⁹ A request for line-item confidentiality must be submitted in writing prior to, or concurrently with, the electronic submission of the report. The request must discuss in writing the justification for which confidentiality is requested and must demonstrate the specific

nature of the harm that would result from public release of the information.

Current Actions: The Board is proposing to amend the FR Y-15 form and instructions to align with the proposed rulemaking which would amend the Board’s GSIB surcharge requirement under the Board’s capital rule. See section II of the proposal for a description of the changes to the FR Y-15.

B. Regulatory Flexibility Act

The Board is providing an initial regulatory flexibility analysis with respect to this proposed rule. The Regulatory Flexibility Act (RFA)¹⁸⁰ requires an agency to consider whether the rule it proposes will have a significant economic impact on a substantial number of small entities.¹⁸¹ In connection with a proposed rule, the RFA requires an agency to prepare and invite public comment on an initial regulatory flexibility analysis describing the impact of the rule on small entities, unless the agency certifies that the proposed rule, if promulgated, would not have a significant economic impact on a substantial number of small entities. An initial regulatory flexibility analysis must contain (1) a description of the reasons why action by the agency is being considered; (2) a succinct statement of the objectives of, and legal basis for, the proposed rule; (3) a description of, and, where feasible, an estimate of the number of small entities to which the proposed rule will apply; (4) a description of the projected reporting, recordkeeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities that will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; (5) an identification, to the extent practicable, of all relevant Federal rules which may duplicate, overlap with, or conflict with the proposed rule; and (6) a description of any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and minimize any

significant economic impact of the proposed rule on small entities.¹⁸²

The Board has considered the potential impact of the proposed rule on small entities in accordance with the RFA. Based on its analysis and for the reasons stated below, the Board believes that this proposed rule will not have a significant economic impact on a substantial number of small entities. Nevertheless, the Board is publishing and inviting comment on this initial regulatory flexibility analysis.

As discussed in detail above, the proposed rule would amend the Board’s rule that identifies and establishes risk-based capital surcharges for GSIBs, as well as related regulatory reports. The proposed rule would improve the precision of the GSIB surcharge and better measure systemic risk under the GSIB framework, including by adjusting the method 2 coefficients to account for changes in the economy and financial system and apply annual adjustments going forward, modifying the short-term wholesale funding systemic indicator to better align with risk, changing the reporting of certain values from point-in-time indicators to longer-term averages, making additional improvements to certain systemic risk indicators, and reducing cliff effects by implementing narrower score band ranges. The proposal would also make corresponding changes to the Board’s reporting forms.

Section 165 of the Dodd-Frank Act directs the Board to establish enhanced prudential standards for large bank holding companies and for nonbank financial companies that the Financial Stability Oversight Council has designated for supervision by the Board (nonbank financial companies supervised by the Board).¹⁸³ These standards must include risk-based capital requirements as well as other enumerated standards.¹⁸⁴ The standards must be more stringent than those applicable to other bank holding companies and to nonbank financial companies that do not present similar risks to U.S. financial stability.¹⁸⁵ The standards must also increase in stringency based on several factors, including the size and risk

law of a state, and (3) any company of which a company falling under category (1) or (2) is a subsidiary, shall be subject to the provisions of the BHC Act. *Id.*

¹⁷⁵ 12 U.S.C. 5311(a)(1).

¹⁷⁶ 12 U.S.C. 1467a(b)(2)(A).

¹⁷⁷ 5 U.S.C. 552.

¹⁷⁸ 12 CFR 261.17. Several data items in the FR Y-15 are retrieved from the FR Y-9C, and other items may be retrieved from the FFIEC 101. Confidential treatment will also extend to any automatically calculated items on the FR Y-15 that have been derived from confidential data items and that, if released, would reveal the underlying confidential data.

¹⁷⁹ 5 U.S.C. 552(b)(4) & (b)(6). Information provided in items 1 through 4 of Schedule G previously was automatically treated as confidential prior to the first reporting date after the implementation of the final liquidity coverage ratio disclosure standard. There are currently no reporting entities whose information provided in items 1 through 4 of Schedule G is kept confidential.

¹⁸⁰ 5 U.S.C. 601 *et seq.*

¹⁸¹ Under regulations issued by the U.S. Small Business Administration (SBA), a small entity includes a bank holding company with total assets of \$850 million or less. See 13 CFR 121.201. Consistent with the SBA’s General Principles of Affiliation, the Board includes the assets of all domestic and foreign affiliates toward the size threshold when determining whether to classify a particular entity as a small entity. See 13 CFR 121.103. As of the second quarter of 2025, there were approximately 2,796 small bank holding companies and approximately 157 small savings and loan holding companies, and approximately 443 small state member banks.

¹⁸² 5 U.S.C. 603(b)–(c).

¹⁸³ See 12 U.S.C. 5365. Originally, section 165 applied to bank holding companies with \$50 billion or more in total consolidated assets. The Economic Growth, Regulatory Relief, and Consumer Protection Act revised this threshold to \$250 billion and granted the ability to apply enhanced prudential standards under section 165 to bank holding companies with \$100 billion or more in total consolidated assets under certain circumstances. See Public Law 115–174, Sec. 401.

¹⁸⁴ See 12 U.S.C. 5365(b).

¹⁸⁵ See 12 U.S.C. 5365(a)(1)(A).

characteristics of a company subject to the rule, and the Board must take into account the differences among bank holding companies and nonbank financial companies.¹⁸⁶ Furthermore, various statutory authorities provide the Board with broad authority to set capital requirements and standards for depository institution holding companies.¹⁸⁷

As discussed in this **SUPPLEMENTARY INFORMATION**, the Board is proposing to revise its GSIB surcharge framework under its capital rule and related regulatory reports. The only companies subject to these rules and reports, and thus potentially impacted by the proposal, are GSIBs; holding companies subject to Category II, III, and IV standards; and foreign banking organizations with combined U.S. assets of \$100 billion or more. Companies that would be impacted by the proposal therefore substantially exceed the \$850 million asset threshold at which a banking entity is considered a “small entity” under SBA regulations.¹⁸⁸ The proposed rule therefore would not impose mandatory requirements on any small entities.

As discussed previously in the Paperwork Reduction Act section, the proposed rule includes proposed changes to the Systemic Risk Report (FR Y-15). The Board is aware of no other Federal rules that duplicate, overlap, or conflict with the proposed rule. Because the proposed rule generally would not apply to any small entities supervised by the Board, the Board believes that the proposed rule would not have a significant economic impact on small entities supervised by the Board. Therefore, the Board believes that there are no significant alternatives to the proposed rule that would reduce the economic impact on small entities supervised by the Board.

The Board welcomes comment on all aspects of its analysis. In particular, the Board requests that commenters describe the nature of any impact on small entities and provide empirical data to illustrate and support the extent of the impact.

¹⁸⁶ See 12 U.S.C. 5365(a)(1)(B). Under section 165(a)(1)(B) of the Dodd-Frank Act, the enhanced prudential standards must increase in stringency based on the considerations listed in section 165(b)(3).

¹⁸⁷ See, e.g., 12 U.S.C. 1467a(g)(1) (savings and loan holding companies); 12 U.S.C. 1844(b) (bank holding companies); 12 U.S.C. 3902(1)–(2), 3907(a), 3909(a), (c)(1)–(2) (depository institutions; affiliates of depository institutions, including holding companies; and certain U.S. operations of foreign banking organizations); 12 U.S.C. 5371 (insured depository institutions, depository institution holding companies, and nonbank financial companies supervised by the Board).

¹⁸⁸ 13 CFR 121.201.

C. Plain Language

Section 722 of the Gramm-Leach-Bliley Act (Pub. L. 106–102, 113 Stat. 1338, 1471, 12 U.S.C. 4809) requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The Board has sought to present the proposed rule in a simple and straightforward manner and invites comment on the use of plain language. For example:

- *Is the material organized to suit your needs? If not, how could the Board present the proposed rule more clearly?*
- *Are the requirements in the proposed rule clearly stated? If not, how could the proposed rule be more clearly stated?*
- *Does the proposal contain technical language or jargon that is not clear? If so, which language requires clarification?*
- *Would a different format (grouping and order of sections, use of headings, paragraphing) make the proposed rule easier to understand? If so, what changes would achieve that?*
- *Is this section format adequate? If not, which of the sections should be changed and how?*
- *What other changes can the Board incorporate to make the proposed rule easier to understand?*

D. Providing Accountability Through Transparency Act of 2023

The Providing Accountability Through Transparency Act of 2023 (12 U.S.C. 553(b)(4)) requires that a notice of proposed rulemaking include the internet address of a summary of not more than 100 words in length of the proposed rule, in plain language, that shall be posted on the internet website under section 206(d) of the E-Government Act of 2002 (44 U.S.C. 3501 note).

In summary, in the proposal the Federal Reserve Board requests comment on a proposal that would make certain adjustments to the calculation of the capital surcharge for the largest and most complex banks. The changes would better align the surcharge to each bank’s systemic risk profile, including by measuring a bank’s systemic importance averaged over the entire year, instead of only at the year-end value.

The proposal and such a summary can be found at <https://www.regulations.gov> and <https://www.federalreserve.gov/supervisionreg/reglisting.htm>.

List of Subjects in 12 CFR Part 217

Administrative practice and procedure, Banks, Banking, Capital,

Federal Reserve System, Holding companies.

Authority and Issuance

For the reasons set forth in the preamble, the Board of Governors of the Federal Reserve System proposes to amend part 217 of title 12 of the Code of Federal Regulations as follows:

PART 217—CAPITAL ADEQUACY OF BANK HOLDING COMPANIES, SAVINGS AND LOAN HOLDING COMPANIES, AND STATE MEMBER BANKS (REGULATION Q)

- 1. The authority citation for Part 217 is revised to read as follows:

Authority: 12 U.S.C. 248(a), 321–338a, 481–486, 1462a, 1467a, 1818, 1828, 1831n, 1831o, 1831p–l, 1831w, 1835, 1844(b), 1851, 3904, 3906–3909, 4808, 5365, 5368, 5371, 5371 note, and sec. 4012, Pub. L. 116–136, 134 Stat. 281.

Subpart H—Risk-Based Capital Surcharge for Global Systemically Important Bank Holding Companies

- 2. Remove the authority citation for part 217, subpart H.
 ■ 3. Revise § 217.401 to read as follows:

§ 217.401 Definitions.

Aggregate global indicator amount means, for each systemic indicator, the aggregate measure of that indicator, which is equal to the most recent annual dollar figure published by the Board that represents the sum of systemic indicator values of:

- (1) The 75 largest global banking organizations, as measured by the Basel Committee on Banking Supervision; and
- (2) Any other banking organization that the Basel Committee on Banking Supervision includes in its sample total for that year.

Assets under custody means the value reported as “Assets under custody—systemic indicator amount” on Schedule C of the FR Y-15.

Consolidated subsidiary has the meaning set forth in 12 CFR 249.3.

Cross-jurisdictional claims means the value reported as “Total cross-jurisdictional claims—systemic indicator amount” on Schedule E of the FR Y-15.

Cross-jurisdictional liabilities means the value reported as “Total cross-jurisdictional liabilities—systemic indicator amount” on Schedule E of the FR Y-15.

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

GDP growth adjustment means the most recent annual scalar published by the Board equal to the greater of:

(1) The ratio of:

(i) The average of nominal United States gross domestic product in the three calendar years prior to publication of the scalar, as reflected by the most current estimates published by the Bureau of Economic Analysis on or before September 30th of the year of the publication of the scalar, or a comparable value; to

(ii) The average of nominal United States gross domestic product in the three calendar years prior to [the effective date of a final rule], as reflected by the most current estimates published by the Bureau of Economic Analysis; or

(2) The GDP growth adjustment published by the Board the prior calendar year.

Intra-financial system assets means the value reported as “Total intra-financial system assets—systemic indicator amount” on Schedule B of the FR Y–15.

Intra-financial system liabilities means the value reported as “Total intra-financial system liabilities—systemic indicator amount” on Schedule B of the FR Y–15.

Level 3 assets means the value reported as “Total Level 3 assets—systemic indicator amount” on Schedule D of the FR Y–15.

Notional amount of over-the-counter (OTC) derivatives means the value reported as “Total notional amount of over-the-counter (OTC) derivative contracts—systemic indicator amount” on Schedule D of the FR Y–15.

Payments activity means the value reported as “Payments activity—systemic indicator amount” on Schedule C of the FR Y–15.

Securities outstanding means the value reported as “Total securities outstanding—systemic indicator amount” on Schedule B of the FR Y–15.

Systemic indicator includes the following indicators included on the FR Y–15:

- (1) Total exposures;
- (2) Intra-financial system assets;
- (3) Intra-financial system liabilities;
- (4) Securities outstanding;
- (5) Payments activity;
- (6) Assets under custody;
- (7) Underwritten transactions in debt and equity markets;
- (8) Trading volume—equity and other;
- (9) Trading volume—fixed income;
- (10) Notional amount of over-the-counter (OTC) derivatives;
- (11) Trading and available-for-sale (AFS) securities;
- (12) Level 3 assets;
- (13) Cross-jurisdictional claims;
- (14) Cross-jurisdictional liabilities; or
- (15) Weighted short-term wholesale funding amount.

Total exposures means the value reported as “Total exposures—systemic indicator amount” on Schedule A of the FR Y–15.

Trading and AFS securities means the value reported as “Total trading and available-for-sale (AFS) securities—systemic indicator amount” on Schedule D of the FR Y–15.

Trading volume—equity and other means the value reported as “Trading volume—equities and other securities—systemic indicator amount” on Schedule C of the FR Y–15.

Trading volume—fixed income means the value reported as “Trading volume—fixed income—systemic indicator amount” on Schedule C of the FR Y–15.

Underwritten transactions in debt and equity markets means the value reported as “Underwriting activity—systemic indicator amount” on Schedule C of the FR Y–15.

Weighted short-term wholesale funding amount means the value

reported as “Total weighted short-term wholesale funding amount—systemic indicator amount” on Schedule G of the FR Y–15.

■ 4. In § 217.403:

■ a. Remove Table 2 to § 217.403; and

■ b. Revise paragraphs (c) and (d).

The revisions read as follows:

§ 217.403 GSIB Surcharge.

* * * * *

(c) *Method 2 surcharge*—(1) *General*. The method 2 surcharge of a global systemically important BHC is 1.0 percent if the method 2 score of the global systemically important BHC is 189 basis points or less.

(2) *Higher method 2 surcharges*. To the extent that the method 2 score of a global systemically important BHC equals or exceeds 190 basis points, the method 2 surcharge equals the sum of:

(i) 1.1 percent; and

(ii) An additional 0.1 percent for each 20 basis points that the global systemically important BHC’s score exceeds 190 basis points.

(d) *Effective date of an adjusted GSIB surcharge*. As of January 1 of a calendar year, the GSIB surcharge in effect (*i.e.*, incorporated into the maximum payout ratio under § 217.11) for a global systemically important BHC for that year is the GSIB surcharge calculated by the global systemically important BHC in the immediately prior calendar year, unless the GSIB surcharge calculated by the global systemically important BHC in the calendar year two years prior was lower, in which case the GSIB surcharge calculated in the calendar year two years prior shall be in effect.

■ 5. In § 217.404, revise table 1 to § 217.404 to read as follows:

§ 217.404 Method 1 Score.

* * * * *

TABLE 1 TO § 217.404: SYSTEMIC INDICATOR WEIGHTS

Category	Systemic indicator	Indicator weight (%)
Size	Total exposures	20
Interconnectedness	Intra-financial system assets	6.67
	Intra-financial system liabilities	6.67
	Securities outstanding	6.67
	Payments activity	6.67
	Assets under custody	6.67
Substitutability	Underwritten transactions in debt and equity markets	3.33
	Trading volume—fixed income	1.67
	Trading volume—equity and other	1.67
	Notional amount of over-the-counter (OTC) derivatives	6.67
Complexity	Trading and available-for-sale (AFS) securities	6.67
	Level 3 assets	6.67
Cross-jurisdictional activity	Cross-jurisdictional claims	10
	Cross-jurisdictional liabilities	10

* * * * *

■ 6. Section 217.405 is revised to read as follows:

§ 217.405 Method 2 score.

(a) *General.* A global systemically important BHC's method 2 score is equal to the sum of the global systemically important BHC's systemic indicator scores for the ten systemic indicators set forth in Table 1 of this section, as determined under Table 1 of this section.

(b) *Systemic indicator score.* A global systemically important BHC's score for a systemic indicator is equal to:

- (1) The amount of the systemic indicator, as reported by the bank holding company as of December 31 of the previous calendar year, expressed in billions of dollars;
- (2) Multiplied by the coefficient corresponding to the systemic indicator set forth in paragraph (c) of this section.

(c) *Coefficients for systemic indicators.* In a given calendar year, the coefficient corresponding to a given systemic indicator is equal to:

- (1) The coefficient value for that systemic indicator set forth in Table 1 of this section;
- (2) Divided by the GDP growth adjustment published by the Board in that year.

TABLE 1 TO § 217.405—COEFFICIENTS FOR SYSTEMIC INDICATORS AS OF DECEMBER 31, 202[X]

Category	Systemic indicator	Coefficient value (%)
Size	Total exposures	3.686
Interconnectedness	Intra-financial system assets	10.006
	Intra-financial system liabilities	10.408
Complexity	Securities outstanding	7.547
	Notional amount of over-the-counter (OTC) derivatives	0.129
	Trading and available-for-sale (AFS) securities	25.141
	Level 3 assets	134.314
Cross-jurisdictional activity	Cross-jurisdictional claims	7.731
	Cross-jurisdictional liabilities	8.272
Short-term Wholesale Funding	Weighted short-term wholesale funding amount	23.003

§ 217.406 [Removed]

■ 7. Remove § 217.406.

By order of the Board of Governors of the Federal Reserve System.

Benjamin W. McDonough,
Secretary of the Board.

[FR Doc. 2026–05961 Filed 3–26–26; 8:45 am]

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Department of the Treasury

Office of the Comptroller of the Currency

12 CFR Parts 3, 6, and 32

Federal Reserve System

12 CFR Parts 208, 217, et al.

Federal Deposit Insurance Corporation

12 CFR Part 324

Regulatory Capital Rule: Category I and II Banking Organizations, Banking Organizations With Significant Trading Activity, and Optional Adoption for Other Banking Organizations; Proposed Rule

DEPARTMENT OF THE TREASURY**Office of the Comptroller of the Currency****12 CFR Parts 3, 6, and 32**

[Docket ID OCC–2026–0265]

RIN 1557–AF52

FEDERAL RESERVE SYSTEM**12 CFR Parts 208, 217, 225, 238, and 252**

[Docket No. 1887]

RIN 7100–AH20

FEDERAL DEPOSIT INSURANCE CORPORATION**12 CFR Part 324**

RIN 3064–AF29

Regulatory Capital Rule: Category I and II Banking Organizations, Banking Organizations With Significant Trading Activity, and Optional Adoption for Other Banking Organizations

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury; the Board of Governors of the Federal Reserve System (Board); and the Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation are proposing to modernize the capital requirements applicable to Category I and II depository institution holding companies and depository institutions, as well as revise the market risk capital framework for banking organizations with significant trading activity (the proposal). The proposal would improve the regulatory capital framework for covered banking organizations by enhancing its risk sensitivity and consistency and by simplifying core components of its design. The agencies expect the proposal would support the safety and soundness of covered banking organizations and U.S. financial stability while promoting lending and other financial intermediation activities in the banking system over a range of economic conditions.

DATES: Comments must be received by June 18, 2026.

ADDRESSES: Comments should be directed to:

• *OCC:* Commenters are encouraged to submit comments through the Federal eRulemaking Portal, if possible. Please

use the title “Regulatory Capital Rule: Category I and II Banking Organizations, Banking Organizations With Significant Trading Activity, and Optional Adoption for Other Banking Organizations” to facilitate the organization and distribution of the comments and identify the number of the specific question(s) to which you are responding. You may submit comments by any of the following methods:

Federal eRulemaking Portal—Regulations.gov:

Go to <https://regulations.gov/>. Enter Docket ID “OCC–2026–0265” in the Search Box and click “Search.” Public comments can be submitted via the “Comment” box below the displayed document information or by clicking on the document title and then clicking the “Comment” box on the top-left side of the screen. For help with submitting effective comments, please click on “Commenter’s Checklist.” For assistance with the *Regulations.gov* site, please call 1–866–498–2945 (toll free) Monday–Friday, 9 a.m.–5 p.m. EST, or email regulationshelpdesk@gsa.gov.

• *Mail:* Chief Counsel’s Office, Attention: Comment Processing, Office of the Comptroller of the Currency, 400 7th Street, SW, Suite 3E–218, Washington, DC 20219.

• *Hand Delivery/Courier:* 400 7th Street SW, Suite 3E–218, Washington, DC 20219.

Instructions: You must include “OCC” as the agency name and Docket ID “OCC–2026–0265” in your comment. In general, the OCC will enter all comments received into the docket and publish the comments on the *Regulations.gov* website without change, including any business or personal information provided such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

You may review comments and other related materials that pertain to this action by the following method:

Viewing Comments Electronically—Regulations.gov:

Go to <https://regulations.gov/>. Enter Docket ID “OCC–2026–0265” in the Search Box and click “Search.” Click on the “Dockets” tab and then the document’s title. After clicking the document’s title, click the “Browse All Comments” tab. Comments can be viewed and filtered by clicking on the “Sort By” drop-down on the right side

of the screen or the “Refine Comments Results” options on the left side of the screen. Supporting materials can be viewed by clicking on the “Browse Documents” tab. Click on the “Sort By” drop-down on the right side of the screen or the “Refine Results” options on the left side of the screen checking the “Supporting & Related Material” checkbox. For assistance with the *Regulations.gov* site, please call 1–866–498–2945 (toll free) Monday–Friday, 9 a.m.–5 p.m. EST, or email regulationshelpdesk@gsa.gov.

The docket may be viewed after the close of the comment period in the same manner as during the comment period.

Board: You may submit comments, identified by Docket No. R–1887, and RIN 7100–AH20 by any of the following methods:

• *Agency website:* <https://www.federalreserve.gov/apps/proposals/>. Follow the instructions for submitting comments, including attachments. Preferred Method.

• *Mail:* Benjamin W. McDonough, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

• *Hand Delivery/Courier:* Same as mailing address.

• *Other Means:* publiccomments@frb.gov. You must include the docket number in the subject line of the message.

Comments received are subject to public disclosure. In general, comments received will be made available on the Board’s website at <https://www.federalreserve.gov/apps/proposals/> without change and will not be modified to remove personal or business information including confidential, contact, or other identifying information. Comments should not include any information such as confidential information that would be not appropriate for public disclosure. Comments should identify the number for the specific question(s) to which they respond. Public comments may also be viewed electronically or in person in Room M–4365A, 2001 C St. NW, Washington, DC 20551, between 9 a.m. and 5 p.m. during Federal business weekdays.

FDIC: You may submit comments to the FDIC, identified by RIN 3064–AF29 and identify the number for the specific question(s) to which you are responding, by any of the following methods:

Agency website: <https://www.fdic.gov/resources/regulations/federal-register-publications>. Follow instructions for submitting comments on the FDIC’s website.

Mail: Jennifer M. Jones, Deputy Executive Secretary, Attention: Comments/Legal OES (RIN 3064–AF29), Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

Hand Delivered/Courier: Comments may be hand-delivered to the guard station at the rear of the 550 17th Street NW, building (located on F Street NW) on business days between 7 a.m. and 5 p.m.

Email: comments@FDIC.gov. Include the RIN 3064–AF29 on the subject line of the message.

Public Inspection: Comments received, including any personal information provided, may be posted without change to <https://www.fdic.gov/resources/regulations/federal-register-publications>. Commenters should submit only information that the commenter wishes to make available publicly. The FDIC may review, redact, or refrain from posting all or any portion of any comment that it may deem to be inappropriate for publication, such as irrelevant or obscene material. The FDIC may post only a single representative example of identical or substantially identical comments, and in such cases will generally identify the number of identical or substantially identical comments represented by the posted example. All comments that have been redacted, as well as those that have not been posted, that contain comments on the merits of this document will be retained in the public comment file and will be considered as required under all applicable laws. All comments may be accessible under the Freedom of Information Act.

FOR FURTHER INFORMATION CONTACT:

OCC: Venus Fan, Risk Expert, Benjamin Pegg, Technical Expert, or Diana Wei, Risk Expert, Capital Policy, (202) 649–6370; Carl Kaminski, Assistant Director, Ron Shimabukuro, Senior Counsel, Kevin Korzeniewski, Counsel, Daniel Perez, Counsel, Christopher Rafferty, Counsel, or Joanne Phillips, Counsel, Chief Counsel's Office, (202) 649–5490, Office of the Comptroller of the Currency, 400 7th Street SW, Washington, DC 20219. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

Board: Anna Lee Hewko, Associate Director, (202) 530–6260; Andrew Willis, Manager, (202) 430–1667; Missaka Nuwan Warusawitharana, Manager, (202) 452–3461; Cecily Boggs, Lead Financial Institution Policy Analyst, (202) 530–6209; Marco Migueis, Principal Economist, (202)

452–6447; Diana Iercosan, Principal Economist, (202) 912–4648; Nadya Zeltser, Lead Financial Institution Policy Analyst, (202) 452–3164; Division of Supervision and Regulation; or Jay Schwarz, Deputy Associate General Counsel, (202) 452–2970; Mark Buresh, Senior Special Counsel, (202) 452–5270; Gillian Burgess, Senior Counsel, (202) 736–5564; Jonah Kind, Senior Counsel, (202) 452–2045, Legal Division, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551. For users of TTY–TRS, please call 711 from any telephone, anywhere in the United States.

FDIC: Benedetto Bosco, Chief Capital Policy Section; Bob Charurat, Corporate Expert; Irina Leonova, Corporate Expert; Andrew Carayiannis, Chief, Policy and Risk Analytics Section; Michael Maloney, Senior Policy Analyst; Iris Li, Senior Policy Analyst; Olga Lionakis, Senior Policy Analyst; Richard Smith, Capital Markets Policy Analyst; Ernest Barkett, Financial Analyst; Kyle McCormick, Senior Policy Analyst; Keith Bergstresser, Senior Policy Analyst; Lauren Brown, Senior Risk and Policy Analyst; Rachel Romm-Nisson, Risk Analytics Specialist; Jim Yu, Senior Policy Analyst, Peter Yen, Senior Policy Analyst; Huiyang Zhou, Senior Quantitative Risk Specialist; Soo Jeong Kim, Capital Markets Policy Analyst; Capital Markets and Accounting Policy Branch, Division of Risk Management Supervision; Catherine Wood, Counsel; Merritt Pardini, Counsel; Kevin Zhao, Senior Attorney; Nicholas Soyer, Attorney, Michael Overmyer, Special Counsel, Legal Division; regulatorycapital@fdic.gov, (202) 898–6888; Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

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I. Introduction

The Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (Board), and the Federal Deposit Insurance Corporation (FDIC) (collectively, the agencies) are proposing to modernize the capital requirements applicable to Category I and II depository institution holding companies and depository institutions (henceforth Category I and II banking organizations) and the market risk capital framework applicable to banking organizations with significant trading activity.¹ The proposal would improve the regulatory capital framework for covered banking organizations by enhancing its risk sensitivity and consistency, as well as by simplifying core components of its design.² Improving the risk sensitivity of the regulatory capital framework would mean that a banking organization's capital requirements

¹ In 2019, the agencies adopted rules establishing four categories of capital standards for U.S. banking organizations with \$100 billion or more in total consolidated assets and foreign banking organizations with \$100 billion or more in combined U.S. assets. Under this framework, Category I standards apply to U.S.-domiciled bank holding companies identified as global systemically important BHCs and their depository institution subsidiaries. Category II standards apply to banking organizations with at least \$700 billion in total consolidated assets or at least \$75 billion in cross-jurisdictional activity and their depository institution subsidiaries. Category III standards apply to banking organizations with total consolidated assets of at least \$250 billion or at least \$75 billion in weighted short-term wholesale funding, nonbank assets, or off-balance sheet exposures and their depository institution subsidiaries. Category IV standards apply to banking organizations with total consolidated assets of at least \$100 billion that do not meet the thresholds for a higher category and their depository institution subsidiaries. See 12 CFR 3.2 (OCC); 12 CFR 217.400, 238.10, 252.5, (Board); 12 CFR 324.2 (FDIC); “Prudential Standards for Large Bank Holding Companies, Savings and Loan Holding Companies, and Foreign Banking Organizations,” 84 FR 59032 (Nov. 1, 2019); “Changes to Applicability Thresholds for Regulatory Capital and Liquidity Requirements,” 84 FR 59230 (Nov. 1, 2019).

² The term covered banking organizations refers to Category I and II banking organizations, banking organizations with significant trading activity, and banking organizations that elect to use the expanded risk-based approach (as discussed further below).

more readily increase or decrease due to changes in the risk of its business activities. Improving the consistency of the regulatory capital framework would mean that the regulatory capital framework would apply similar capital requirements to exposures with similar risks across different banking organizations.

Elements of the proposal would address comments received from the Economic Growth and Regulatory Paperwork Reduction Act (EGRPA) public notices.³ Consistent with other recent efforts to modify the regulatory capital framework, the agencies expect the proposal would support the safety and soundness of covered banking organizations and U.S. financial stability while promoting lending and other financial intermediation activities by covered banking organizations over a range of economic conditions.⁴

Requirements under the proposal would generally be consistent with international capital standards issued by the Basel Committee on Banking Supervision (Basel Committee).⁵ Where appropriate, however, the proposal may differ from the standards published by the Basel Committee (Basel standards) to reflect specific characteristics of U.S. markets, requirements under U.S. generally accepted accounting

³ The agencies, together with the Federal Financial Institutions Examination Council, commenced a review under the Economic Growth and Regulatory Paperwork Reduction Act of 1996 in 2024 to identify outdated or otherwise unnecessary regulatory requirements. The agencies will continue reviewing and considering these comments as part of any final rulemaking. Public Law 104–208, Div. A, Title II, section 2222, 110 Stat. 3009–414, (1996) (codified at 12 U.S.C. 3311). See also Regulatory Publication and Review Under the Economic Growth and Regulatory Paperwork Reduction Act of 1996, 90 FR 35241 (Jul. 25, 2025).

⁴ Other recent initiatives to modernize the capital framework include the finalized changes to the enhanced supplementary leverage ratio standards, which would reinforce the role of leverage requirements as a backstop to risk-based capital requirements and address unintended incentive effects (see 90 FR 55248 (Dec. 1, 2025)); the community bank leverage ratio proposal, which would reduce regulatory burden while continuing to ensure the safety and soundness of community banks (see 90 FR 55048 (Dec. 1, 2025)); and recent proposals to revise the Board's stress testing framework, which would improve its transparency and reduce excess volatility in the stress capital buffer requirement (see 90 FR 16843 (Apr. 22, 2025) and 90 FR 51856 (Nov. 18, 2025)).

⁵ The Basel Committee is a committee composed of central banks and banking supervisory authorities, which was established by the central bank governors of the G–10 countries in 1975. The consolidated Basel framework is available at https://www.bis.org/basel_framework/. For additional discussion of the revisions to the Basel framework with which this proposal would align, see also <https://www.bis.org/bcb/publ/d424.htm>, <https://www.bis.org/bcb/publ/d457.htm>, and <https://www.bis.org/bcb/publ/d507.htm>.

principles (GAAP),⁶ practices of U.S. banking organizations, and U.S. statutory mandates and policy objectives. For example, the proposal would remove the current requirement to deduct mortgage servicing assets (MSAs) from regulatory capital and instead subject all MSAs to a 250 percent risk weight. This aspect of the proposal is intended to remove a regulatory disincentive for residential mortgage servicing and origination, reducing impacts on broader policy objectives regarding the U.S. housing market.

The agencies expect that the proposal would increase the common equity tier 1 capital requirements of Category I and II holding companies by about 1.2 percent, while decreasing corresponding requirements for Category I and II subsidiary depository institutions by 5.1 percent.⁷ Together with the GSIB surcharge proposal and the stress testing changes proposed in October 2025,⁸ the Board expects that the common equity tier 1 capital requirements for Category I and II holding companies would decline by 5.0 percent (see section VII for additional discussion of capital impact).⁹ The agencies performed extensive economic analysis to assess the potential effects of the proposal, including together with related proposals (see section VIII). The improvements in risk sensitivity, simplicity, transparency and consistency of risk-based capital requirements expected to result from the proposal justify its expected costs.

The agencies seek comment on all aspects of the proposal.¹⁰

A. Statutory Authority

Congress has authorized the agencies to establish risk-based capital requirements and standards for banking

organizations subject to this proposal. Section 165 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act),¹¹ as amended by section 401 of the Economic Growth, Regulatory Relief, and Consumer Protection Act,¹² requires the Board to establish enhanced prudential standards that include risk-based capital requirements for bank holding companies with \$250 billion or more in total consolidated assets.¹³ The prompt corrective action framework in section 38 of the Federal Deposit Insurance Act (FDI Act) requires the agencies to prescribe capital standards for insured depository institutions that include a risk-based capital requirement and provides that the agencies may establish any additional relevant capital measures to carry out the purpose of that section.¹⁴ Various other statutory authorities provide the agencies with broad discretionary authority to set capital requirements and standards for banking organizations supervised by the agencies, including national banking associations, state-chartered banks, savings associations, and depository institution holding companies.¹⁵

¹¹ Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376 (2010).

¹² Economic Growth, Regulatory Relief, and Consumer Protection Act, Public Law 115–174, 132 Stat. 1296 (2018).

¹³ See 12 U.S.C. 5365(a)(1), (b)(1)(A)(i). Section 165 of the Dodd-Frank Act also provides that the Board may apply any prudential standard established under section 165 to any bank holding company with \$100 billion or more in total consolidated assets to which the prudential standard does not otherwise apply, under certain circumstances. 12 U.S.C. 5365(a)(2)(C). Section 165, in relevant part, also applies to foreign banks or companies that are treated as a bank holding company for purposes of the Bank Holding Company Act. See 12 U.S.C. 3106(a), 5311(a)(1). See also section 401(g) of the Economic Growth, Regulatory Relief, and Consumer Protection Act (regarding the Board's authority to establish enhanced prudential standards for foreign banking organizations with total consolidated assets of \$100 billion or more). 12 U.S.C. 5365 note.

¹⁴ See 12 U.S.C. 1831o(c)(1)(A), (c)(1)(B)(i).

¹⁵ See 12 U.S.C. 93a (national banking associations); 12 U.S.C. 248(i), 324, 327, 329 (state member banks); 12 U.S.C. 1463 (savings associations); 12 U.S.C. 1467a(g)(1) (savings and loan holding companies); 12 U.S.C. 1844(b) (bank holding companies); 12 U.S.C. 3106 (certain U.S. operations of foreign banking organizations); 12 U.S.C. 3902(1)–(2), 3907(a), 3909(a), (c)(1)–(2) (depository institutions; affiliates of depository institutions, including holding companies; and certain U.S. operations of foreign banking organizations); 12 U.S.C. 5371 (insured depository institutions, depository institution holding companies, and nonbank financial companies supervised by the Board). Additional statutory authorities relevant to the agencies' capital rule can be found in the authority citations in the capital rule. See 12 CFR part 3 (OCC); 12 CFR part 217 (Board); 12 CFR part 324 (FDIC).

B. Objectives of the Proposal

The proposal aims to improve the capital framework for covered banking organizations by enhancing its risk sensitivity, reducing complexity, and improving transparency and consistency.

Risk sensitivity is a core feature of risk-based capital requirements. The proposed framework aims to improve the alignment of regulatory capital requirements with the risks presented by banking organizations' exposures. Such alignment could help promote safe and sound banking organizations that can lend through a range of economic conditions.

To further improve the capital framework, the proposal seeks to reduce complexity by simplifying its overall design. Redundant or unnecessarily complex requirements, such as multiple risk-based capital frameworks applying to the same banking organization, add costs that outweigh any incremental benefits presented by such an approach, whereas a simpler framework reduces compliance burden and strengthens transparency. Clear and transparent requirements support safety and soundness by making it easier for supervisors, investors, and other stakeholders to assess the financial condition of banking organizations. A central element of the proposal's effort to reduce redundancy is better integration with the Board's stress testing framework, which is achieved by considering jointly the calibrations of this proposal and the proposed stress test model changes that would inform stress capital buffer requirements.

The proposal would also promote consistency. Consistent capital requirements hold banking organizations with similar risk profiles to similar standards, thereby reducing unwarranted divergence. Consistency is also valuable internationally. The proposal is generally aligned with the Basel standards, with some differences as discussed in section II.F of this Supplementary Information. Broadly consistent regulatory frameworks should reduce complexity and compliance costs for banking organizations with cross-border operations, including both U.S. banking organizations operating abroad and foreign banking organizations operating in the United States.

By improving risk-based capital requirements, the proposal would bolster the role of large U.S. banking organizations in supporting the broader economy. The reforms that followed the 2007–09 financial crisis substantially increased the resilience of the U.S.

⁶ GAAP often serve as a foundational measurement component for U.S. capital requirements. See also 12 U.S.C. 1831n (generally requiring that financial reports required by the agencies from banking organizations use U.S. GAAP).

⁷ The revisions introduced by the proposal to the calculation of risk-weighted assets would also modify Category I bank holding companies' total loss-absorbing capacity (TLAC) requirements and long-term debt requirements.

⁸ See 90 FR 51856 (Nov. 18, 2025).

⁹ A banking organization for which the Board is the primary Federal supervisor must maintain capital ratios above the sum of its minimum requirements and buffer requirements to avoid restrictions on capital distributions and discretionary bonus payments.

¹⁰ In 2023, the agencies published a proposal to revise the capital rule based on the Basel Committee framework. 88 FR 64028 (Sept. 18, 2023). The agencies are rescinding the 2023 proposal. Members of the public that seek to submit comments on the current proposal must submit comments in line with the procedures described in this proposal.

banking system. However, in some cases, these post-crisis reforms have imposed burdens that contributed to the migration of some activities, such as mortgage origination and servicing, outside of the regulated banking sector.¹⁶ Revising the regulatory capital framework to better align requirements with risks—and in so doing easing requirements on some lower-risk, traditional banking activities—would contribute to U.S. banking organizations becoming better positioned to support the economy.

C. Overview of the Proposal

The proposal would streamline the risk-based capital requirements applicable to Category I and II banking organizations. Currently, these banking organizations are subject to two sets of risk-based capital ratio requirements: one based on the standardized approach (which also generally applies to other banking organizations) and the other based on an internal models framework, the advanced approaches.¹⁷ Under the proposal, Category I and II banking organizations would be subject to a single set of risk-based capital ratio requirements based on the “expanded risk-based approach”—which would include requirements for credit risk, equity risk, and operational risk—and the revised market risk framework.¹⁸ The standardized approach would no longer apply to these banking organizations, and the advanced approaches would be removed from the regulatory capital framework. As discussed further below, other banking organizations could choose to adopt the expanded risk-based approach that would be required for Category I and II banking organizations.

The expanded risk-based approach is a standardized framework that would promote the simplicity, risk sensitivity, transparency, and consistency objectives of the proposal. This approach would improve risk sensitivity

relative to the current standardized approach by varying capital requirements according to several new risk factors, such as loan-to-value ratios for real estate exposures, repayment history for retail exposures, and assessed creditworthiness for corporate exposures. Unlike the current standardized approach, the expanded risk-based approach would include a specific operational risk capital requirement. This difference, in part, supports the different calibration of credit risk weights under the expanded risk-based approach relative to the risk weights under the standardized approach.

The proposal would also revise the market risk framework, which would be applicable to Category I and II depository institution holding companies and to other banking organizations with significant trading activity. Significant trading activity would be defined to mean (1) more than \$5 billion in trading activity or (2) trading activity equal to or higher than 10 percent of the banking organization’s total assets. The new framework would improve risk sensitivity and consistency by revising the models-based approach for market risk and introducing a standardized approach for market risk. To reduce burden without a meaningful loss in resilience, the proposal would raise the threshold for applicability of the market risk framework from having trading activity of at least \$1 billion to having trading activity of at least \$5 billion.

As part of the revised market risk framework, the proposal would include a risk-sensitive and consistent framework for capturing the risks associated with credit valuation adjustment risk for derivative exposures.¹⁹ This framework would apply to (1) Category I and II depository institution holding companies, (2) depository institutions that are subsidiaries of Category I or II depository institution holding companies and have significant trading activity, and (3) other banking organizations with significant trading activity that also have at least \$1 trillion in notional derivative exposure.

The proposal would retain banking organizations’ ability to use internal models, with supervisory approval, to calculate market risk capital requirements. Market risk is more effectively modeled than credit and operational risk because relevant data is

observed at a much higher frequency and depth, providing the basis for both model calibration and empirical verification of model appropriateness.

The agencies consider the proposed requirements under the expanded risk-based approach to be appropriate for Category I and II banking organizations given their risk profiles, complexity, risk management resources, and international activities. The agencies recognize that the risk-sensitive requirements under the expanded risk-based approach may appeal to other banking organizations with certain business models and risk management systems. Therefore, the proposal would allow other banking organizations to elect to use the expanded risk-based approach. Banking organizations that choose this option would also be subject to the definition of capital that applies to Category I and II banking organizations.²⁰

In addition to the changes to the calculation of risk-weighted assets, the proposal would change the definition of regulatory capital applicable to Category I and II banking organizations by removing the threshold-based deduction for mortgage servicing assets. Thus, all mortgage servicing assets would receive a 250 percent risk weight under the proposal, consistent with the risk weight in the current capital rule for MSAs that do not exceed the deduction thresholds. This proposed revision would eliminate a strong disincentive for mortgage origination and mortgage servicing by banking organizations.

The proposal would also amend certain dollar-based regulatory thresholds, where appropriate, to reflect inflation and ensure that such thresholds preserve their intended application in real terms over time.²¹ Consistent with this proposal, the agencies are reviewing other thresholds throughout out the regulatory framework.

Finally, the proposal would revise disclosure requirements to facilitate market participants’ understanding of the financial condition and risk management practices of banking organizations subject to the expanded risk-based approach.²² In addition, to align with these revisions, the agencies anticipate proposing revisions to the

¹⁶ According to the 2024 Financial Stability Oversight Council report on nonbank mortgage servicing, nonbank mortgage companies originated approximately two-thirds of mortgages in the United States and owned the servicing rights on 54 percent of mortgage balances in 2022. In 2008, nonbank mortgage companies only accounted for 39 percent of mortgage originations and owned the servicing rights on 4 percent of mortgage balances. See page 3 FSOCC Report on Nonbank Mortgage Servicing 2024 at <https://home.treasury.gov/system/files/261/FSOC-2024-Nonbank-Mortgage-Servicing-Report.pdf>.

¹⁷ See 12 CFR part 3, subparts D and E (OCC); 12 CFR part 217, subparts D and E (Board); 12 CFR part 324, subparts D and E (FDIC).

¹⁸ For purposes of this discussion, unless otherwise noted, the revised market risk framework is inclusive of requirements for credit valuation adjustment risk, as applicable.

¹⁹ Credit valuation adjustment risk is the exposure to changes in the valuation of derivative contracts driven by changes in counterparty credit risk.

²⁰ This definition of capital would include the requirement to reflect accumulated other comprehensive income in regulatory capital and to use the deductions framework that applies to Category I and II banking organizations.

²¹ Certain thresholds in FDIC regulations are also indexed to reflect inflation. See 90 FR 55789 (Dec. 1, 2025).

²² The disclosure requirements would only apply to the top tier of a consolidated banking organization.

reporting forms of the Federal Financial Institutions Examination Council (FFIEC) that would apply to covered banking organizations.

In a separate rulemaking, the agencies are proposing modifications to the standardized approach risk-based capital requirements (standardized approach proposal), which would apply to banking organizations that do not use the expanded risk-based approach. Also, the Board is separately issuing a notice of proposed rulemaking that would revise the U.S. global systemically important banking holding company (GSIB) surcharge calculation applicable to Category I bank holding companies and the systemic risk report applicable to large holding companies (GSIB surcharge proposal).

Question 1: The agencies invite comment on the interaction of the revisions in the proposal with other existing rules and with other notices of proposed rulemaking.

Question 2: What would be an appropriate amount of time between the publication of any final rule and its effective date, and why?

II. Scope, Design, and Other Overarching Issues

A. Scope of Application

The proposal would require Category I and II banking organizations to use the expanded risk-based approach. These banking organizations present substantial systemic risks due to their size, complexity, interconnectedness, and cross-jurisdictional activity. Application of the expanded risk-based approach to them would provide granular, risk-sensitive, and standardized requirements that align with international standards.

While the expanded risk-based approach was designed for application to banking organizations that operate globally across multiple business lines, such as Category I and II banking organizations, the agencies are aware that the more differentiated treatments for traditional banking exposures such as mortgage, corporate, and retail exposures may appeal to certain smaller banking organizations. Therefore, the proposal would provide all banking organizations subject to the capital rule with the option of adopting the expanded risk-based approach in its entirety.

Under the proposal, a banking organization that chooses to adopt the expanded risk-based approach would become subject to the same definition of capital as Category I and II banking organizations and, therefore, be required to reflect most elements of accumulated

other comprehensive income in regulatory capital even if it subsequently changes to the standardized approach. This is consistent with the one-time election to recognize accumulated other comprehensive income in regulatory capital in the current standardized approach and avoids changes in accumulated other comprehensive income recognition based on interest rate cycles. For a banking organization that chooses to adopt the proposed expanded risk-based approach, the inclusion of most elements of other accumulated other comprehensive income in regulatory capital would be subject to a transition period of five years from the effective date of any final rule.²³

To align with a banking organization's annual capital planning processes, any change in election between the expanded risk-based approach and the standardized approach would take effect 12 months after the date on which the banking organization provides written notice of the change in election to its primary Federal supervisor. This requirement would help ensure that any change in election reflects structural balance sheet considerations and not short-term capital reductions.

Banking organizations with significant trading activities face an elevated level of market risk and, therefore, would continue to be subject to the market risk framework. The proposal would increase the current dollar-based threshold for the application of market risk capital requirements from \$1 billion to \$5 billion or more of trading assets and trading liabilities. The proposal would also revise the calculation of the dollar-based threshold amount to be based on four-quarter averages of trading assets and trading liabilities instead of point-in-time amounts. Banking organizations would continue to be subject to market risk capital requirements if their trading assets and trading liabilities represent 10 percent or more of total assets. Banking organizations that do not meet the thresholds for being subject to market risk capital requirements would calculate risk-weighted assets for trading exposures under the standardized approach or the expanded risk-based approach, as applicable. Additionally, under the proposal, Category I and II depository institution holding companies would be subject to

market risk capital requirements regardless of the amount of their trading activities.

The proposal would apply capital requirements for credit valuation adjustment risk to all Category I and II depository institution holding companies, as well as to their subsidiary depository institutions that are subject to the market risk framework. In addition, capital requirements for credit valuation adjustment risk would apply to other banking organizations subject to the market risk framework that have over-the-counter derivative notional amounts of \$1 trillion or more. Due to their substantial derivative portfolios, these banking organizations have meaningful exposure to losses resulting from changes to their credit valuation adjustment accounting reserve. This threshold aims to balance coverage of credit valuation adjustment risk and burden. According to data reported in the FR Y-9C form, depository institution holding companies above this threshold accounted for over 98 percent of the over-the-counter derivative exposures of depository institution holding companies as of 2025Q2.

Question 3: What are the advantages and disadvantages of the proposed scope of application of the expanded risk-based approach?

Question 4: What are the advantages and disadvantages of allowing all banking organizations to adopt the expanded risk-based approach? What are the challenges associated with adopting the expanded risk-based approach for Category III, IV, and smaller banking organizations? To what extent would this optionality limit the transparency and consistency of the risk-based capital requirements? What limitations or restrictions on how frequently a banking organization could switch from the expanded risk-based approach to the standardized approach and vice versa should the agencies include and why?

B. Single Set of Risk-Based Requirements

Under the proposal, banking organizations would be subject to a single set of risk-based capital ratio requirements.²⁴ This contrasts with the current framework, which requires Category I and II banking organizations to calculate two sets of risk-based capital ratios: one using the standardized approach and the other

²³ This transition period would mirror the transition period under the standardized approach proposal provided to Category III and IV banking organizations that do not currently recognize accumulated other comprehensive income in regulatory capital.

²⁴ This revision would be consistent with comments received under EGRPRA as commenters requested that banking organizations be required to calculate risk-weighted assets under a single approach.

using the internal models-based advanced approaches. By employing risk-sensitive, simplified, consistent, and transparent requirements, aligned with international standards, the expanded risk-based approach would result in an appropriate stand-alone requirement.

The capital conservation buffer requirement would apply to the risk-based capital ratios of Category I and II banking organizations in the same manner as it currently applies to the standardized approach ratios. For Category I depository institution holding companies, the capital conservation buffer requirement would continue to consist of the stress capital buffer requirement, the countercyclical capital buffer (if activated), and the GSIB surcharge. For Category II depository institution holding companies, the capital conservation buffer would continue to consist of the stress capital buffer requirement plus the countercyclical capital buffer (if activated). For the subsidiary depository institutions of Category I or II depository institution holding companies, the capital conservation buffer requirement would continue to equal 2.5 percent plus the countercyclical capital buffer requirement (if activated).

C. Removal of Internal Models for Credit and Operational Risk

The proposal would eliminate the advanced approaches framework and introduce in its place the expanded risk-based approach to improve the consistency and transparency of the risk-based capital requirements applicable to Category I and II banking organizations. This approach would help address many of the challenges associated with the use of internal models to calculate risk-based capital requirements for credit risk and operational risk.

In 2007, the agencies jointly issued a final rule requiring large, internationally active banking organizations to calculate risk-based capital requirements for credit risk and operational risk under the advanced approaches.²⁵ In seeking to ensure that these banking organizations are adequately capitalized, the advanced approaches require banking organizations to estimate their exposure to severe

unexpected losses.²⁶ However, available information since adoption of this rule suggests that the advanced approaches do not always result in consistent minimum requirements across U.S. banking organizations with similar risk profiles.²⁷ While internal models to calculate risk-based capital requirements for credit risk and operational risk do provide valuable information and may be more accurate in some cases than standardized approaches, as discussed below the severity of the outcomes the advanced approaches rule requires banking organizations to model coupled with data limitations and the subjectivity embedded in modeling assumptions has presented substantial challenges.

Financial risk models designed to capture severe loss events can suffer from substantial uncertainty.²⁸ Such uncertainty can result in substantial and unwarranted differences in capital requirements across similar exposures that are unrelated to differences in risk.

The advanced approaches require banking organizations to estimate loss given default conditional on an economic downturn. Ensuring that banking organizations' loss given default estimates are consistent with the risk of their exposures has proven challenging for several reasons, including (1) limited data on loss given default and its drivers under downturn conditions; (2) inconsistencies in constructing the loss given default variables, arising from factors such as methodological differences and difficulties in capturing all cash inflows and outflows after default;²⁹ and (3) difficulty in verifying certain modeling assumptions, such as the time window used to calculate loss given default in an economic downturn. To a lesser degree, verifying the appropriateness of banking organizations' probability of default models is challenging in some cases due

to limited data for certain low default portfolios and varying practices in identifying defaults across banking organizations.^{30 31}

For operational risk, banking organizations subject to the advanced approaches are required to estimate the 99.9th percentile of the distribution of the aggregated annual operational losses under the advanced measurement approaches (AMA). This requirement has presented substantial challenges for banking organizations and supervisors as a considerable amount of relevant data would be needed to empirically verify model performance. Given the severe outcome that the requirement is designed to estimate, model and parameter uncertainty can result in substantial divergence in model outcomes and, consequently, substantial divergence in capital requirements.³² In addition, infrequent large operational loss events tend to have substantial influence on model outcomes and can result in substantial volatility.³³ Together, these factors result in substantial uncertainty in internally modeled operational risk capital requirements and likely inconsistent requirements across banking organizations with similar operational risk profiles.

Taken together, the severe outcomes that the advanced approaches rule expects banking organizations to model, the limitations of available data, and the subjectivity of modeling assumptions

³⁰ For example, banking organizations have followed different practices regarding whether to count technical defaults (which are situations where the borrower failed to uphold an aspect of the loan agreement but has not failed to make regularly scheduled payments) as defaults for purposes of modeling probability of default.

³¹ Various analyses conducted by the Basel Committee, to which the agencies contributed, demonstrated significant divergence across banking organizations in credit risk-weighted assets calculated under the internal models-based approaches that could not be explained by differences in the riskiness of banking organizations' portfolios. See <https://www.bis.org/publ/bcbst56.pdf> and <https://www.bis.org/bcbst/publ/d363.pdf>.

³² See G. Mignola, and R. Ugoccioni, "Sources of Uncertainty in Modeling Operational Risk Losses," *Journal of Operational Risk* 1(2): 33–50 (2006); J. Nešlehová, P. Embrechts, and V. Chavez-Demoulin, "Infinite Mean Models and the LDA for Operational Risk," *Journal of Operational Risk* 1(1): 3–25 (2006); and E. Cope, G. Mignola, G. Antonini, and R. Ugoccioni, "Challenges and Pitfalls in Measuring Operational Risk from Loss Data," *Journal of Operational Risk* 4(4): 3–27 (2009).

³³ See E. Cope, G. Mignola, G. Antonini, and R. Ugoccioni, "Challenges and Pitfalls in Measuring Operational Risk from Loss Data" *Journal of Operational Risk* 4(4): 3–27 (2009); and J. Opdyke, and A. Cavallo, "Estimating Operational Risk Capital: The Challenges of Truncation, the Hazards of Maximum Likelihood Estimation, and the Promise of Robust Statistics," *Journal of Operational Risk* 7(3): 3–90 (2012).

²⁵ See Risk-Based Capital Standards: Advanced Capital Adequacy Framework—Basel II, 72 FR 69288 (Dec. 7, 2007). The agencies subsequently revised certain aspects of the advanced approaches framework in the rulemakings that established the current capital rule. See 78 FR 62018 (Oct. 11, 2013).

²⁶ For both credit risk and operational risk, the advanced approaches capital requirements aimed to cover the risk of loss over a one-year window at the 99.9th percentile level. See 72 FR 69288 (Dec. 7, 2007); 12 CFR part 3 (OCC); part 217 (Board); part 324 (FDIC).

²⁷ See, e.g., Tobias Berg, and Philipp Koziol "An analysis of the consistency of banks' internal ratings," *Journal of Banking and Finance* 78, 27–41 (2017), <https://dx.doi.org/10.1016/j.jbankfin.2017.01.013>; and Barbora Stepankova, and Petr Teply, "Consistency of Banks' Internal Probability of Default Estimates: Empirical Evidence from the COVID-19 crisis," *Journal of Banking and Finance* 154, 106969 (2023), <https://doi.org/10.1016/j.jbankfin.2023.106969>.

²⁸ See Jon Danielsson, "Blame the Models," *Journal of Financial Stability*, 321–28 (2008), <https://doi.org/10.1016/j.jfs.2008.09.003>.

²⁹ For example, horizontal supervisory reviews have found material deviations in loss rates at different banking organizations with respect to the same defaulted exposure.

contribute to concerns about the reliability of internal model outputs and unwarranted divergences in risk-based capital requirements for credit and operational risk across banking organizations.

The application of the stress capital buffer requirement to Category I and II bank holding companies also reduces the usefulness of retaining the advanced approaches for these banking organizations. Under the proposal, the stress capital buffer requirement would apply to the single set of risk-based capital ratios to which these bank holding companies would be subject, providing risk-sensitive capital requirements that reflect a granular, forward-looking assessment of risks. In this context, removing the advanced approaches simplifies the framework without reducing the resilience of Category I and II bank holding companies.

Under the current capital rule, banking organizations are required to maintain capital commensurate with the level and nature of all risks to which they are exposed³⁴ and to have a process for assessing their overall capital adequacy in relation to their risk profile and a comprehensive strategy for maintaining an appropriate level of capital.³⁵ In addition, certain large banking organizations are required to develop and maintain a capital plan³⁶ and conduct internal stress tests.³⁷ The proposal would not change these requirements. As discussed above, the advanced approaches have limitations as a means to set consistent minimum risk-based capital requirements. However, internal models can provide valuable information to a banking organization's internal risk management, stress testing, and planning functions and can be used to complement minimum capital requirements in assessing a banking organization's capital adequacy. Category I and II banking organizations, as well as other banking organizations, should continue to employ internal modeling capabilities for sound risk management as appropriate for the complexity of their activities.

The proposal would continue to allow the use of internal models to calculate market risk capital requirements, but only for trading desks where modeling can be demonstrated to be appropriate.

Market risk is more easily and effectively modeled than credit and operational risk because data on trading positions are observed at a much higher frequency and depth, in particular for commonly traded instruments. Trading creates price observations, which in turn provide daily feedback on model calibration and performance to support empirical verification through techniques such as back-testing. For these reasons, the benefits of retaining models are larger for market risk than for other exposure types.

Question 5: What are the advantages and disadvantages of removing internal models for credit risk and operational risk? Are there alternatives that the agencies should consider and if so, why?

Question 6: The Basel standards include a floor to risk-weighted assets, the "output floor," which corresponds to 72.5 percent of risk-weighted assets calculated only using standardized approaches. The proposal would not include this output floor because proposed requirements would be almost completely standardized and, therefore, the output floor would be unlikely to bind in most situations. What would be the advantages and disadvantages of including a floor to risk-weighted assets corresponding to 72.5 percent of the risk-weighted assets calculated using only the standardized approaches in the proposal.

D. Overlaps With the Stress Capital Buffer Requirement

In proposing these revised risk-based capital requirements for Category I and II banking organizations, the Board is mindful of the overlaps between the capital and stress testing frameworks. Together, this proposal and a recent proposal to enhance the transparency and public accountability of the Board's stress test,³⁸ which requested public comment on certain revisions to the Board's stress test models, aim to improve risk sensitivity of requirements in a way that considers the cumulative effect of the entire capital framework.

The stress capital buffer requirement represents an explicitly forward-looking element in the risk-based capital requirements of large bank holding companies. Informed by the Board's stress testing framework, the stress capital buffer requirement aims to capture exposures comprehensively and

granularly under conditions of severe stress.

Under the current rule, a bank holding company's stress capital buffer requirement is applied to its risk-based capital ratios calculated under the standardized approach, which do not include a specific requirement for operational risk, and is not applied to the bank holding company's requirements under the advanced approaches. This historical choice was motivated, in part, by the goal of limiting redundancy between the stress capital buffer requirement, based on the Board's forward-looking assessment of stress risks, and the bank holding company's modeling of tail risks under the advanced approaches.³⁹

Consistent with international standards, the proposed expanded risk-based approach would include a specific measure of operational risk in risk-weighted assets. Also, the proposed changes to the market risk framework would improve the measurement of tail risks in ways that are expected to raise minimum market risk capital requirements for the most complex banking organizations.

The outstanding Board stress testing proposal would introduce meaningful revisions to stress test models and scenarios, including the models for operational risk and trading positions. Operational risk modeling would be enhanced by focusing on the more robust historical simulation model. Similarly, the stress test proposal would improve the modeling of trading positions under the global market shock component of the severely adverse scenario by better measuring their liquidity horizons. Both proposed revisions, on their own and independent of other factors, are projected to somewhat reduce aggregate projected stress capital buffer requirements.⁴⁰

³⁹ "In addition, both the supervisory stress test and the advanced approaches are calibrated to reflect tail risks; thus it could be duplicative to require a firm to meet the requirements of the advanced approaches on a post-stress basis." 83 FR 18160 (Apr. 25, 2018).

⁴⁰ As the Board noted in October 2025, in aggregate, the proposed stress test model and scenario changes inform the Board's determination of a firm's stress capital buffer requirement and are not expected materially change capital requirements for firms subject to the supervisory stress test, across various stress test scenarios and jump-off conditions at the start of the test. That proposal included illustrative analysis that considered the potential effects of the proposed stress test model changes, independent of other factors and components that inform the Board's stress capital buffer determinations for specific firms, within the 2024 and 2025 supervisory stress tests. In that analysis, implementing the proposed model changes and proposed revisions to the global

Continued

³⁴ See 12 CFR 3.10(e)(1) (OCC); 12 CFR 217.10(e)(1) (Board); 12 CFR 324.10(e)(1) (FDIC).

³⁵ See 12 CFR 3.10(e)(2) (OCC); 12 CFR 217.10(e)(2) (Board); 12 CFR 324.10(e)(2) (FDIC).

³⁶ See 12 CFR 225.8; 12 CFR 238.170.

³⁷ See 12 CFR part 46 (OCC); 12 CFR part 238, subparts P and R, and 12 CFR part 252, subparts B and F (Board); 12 CFR part 325 (FDIC).

³⁸ See Enhanced Transparency and Public Accountability of the Supervisory Stress Test Models and Scenarios; Modifications to the Capital Planning and Stress Capital Buffer Requirement Rule, Enhanced Prudential Standards Rule, and Regulation LL, 90 FR 51856 (Nov. 18, 2025).

In summary, this proposal is projected to increase the minimum requirements for operational risk and market risk, while the stress test proposal's analysis of the proposed model changes estimated a decrease in related requirements for these risks, as they inform the stress capital buffer requirement. The Board expects both sets of revisions to improve risk sensitivity and coherence of the capital framework, while the revisions in this proposal would contribute to international consistency. The capital impact of these revisions would largely offset each other, and the Board considers that the combined calibration of these risks would be appropriate (see section VII for additional analysis of the cumulative calibration of requirements by risk type).

Question 7: The current Board stress testing methodology reflects a constant balance sheet assumption and assumes that a banking organization's risk-weighted assets generally remain unchanged over the nine-quarter projection horizon. What would be the advantages and disadvantages of adjusting the stress testing methodology to project changes in risk-weighted assets for banking organizations subject to the expanded risk-based approach and banking organizations subject to the market risk framework? For example, what would be the advantages and disadvantages of projecting changes in the risk-weighted assets applicable to credit exposures to better reflect deteriorations in obligors' credit quality during a stress period (such as migrating corporate exposures in the investment grade 65 percent risk weight category into the general corporate category or from the general corporate category into the past due category)? What would be the advantages and disadvantages of adjusting risk-weighted assets for operational risk by

market shock component of the severely adverse scenario in the 2024 and 2025 stress tests would have, independent of other factors, increased the aggregate projected common equity tier 1 (CET1) stress ratio, on average, by 29 basis points, which would have corresponded to a reduction in stress capital buffer requirements of approximately 23 basis points or approximately 2.2 percent of current required capital. See 90 *Federal Register* 51856, 51874–51877 (Nov. 18, 2025). The analysis estimates that the proposed model changes would reduce stress capital buffer requirements by approximately 13 basis points and that the proposed revisions to the global market shock scenario component would reduce stress capital buffer requirements by approximately 10 basis points. For U.S. GSIBs, the analysis estimates a decline of 25 basis points in stress capital buffer requirements. See also Federal Reserve Board—Federal Reserve Board requests comment on proposals to enhance the transparency and public accountability of its annual stress test; Dodd-Frank Act Stress Tests 2026 (Dec. 1, 2025).

projecting lower income amounts during a stress period? What, if any, changes should the Board consider to better project risk-weighted assets for trading positions and derivatives during a stress period in light of the proposed market risk framework, including the proposed credit valuation adjustment risk requirement (these may include revisions to reflect changes in modelability of risk factors and volatility)?

E. Indexing of Thresholds

The proposal uses certain thresholds to differentiate requirements based on a banking organization's size, risk profile, and complexity as well as on the characteristics of the exposures. However, static dollar-based thresholds can lead to unintended consequences if threshold levels are not periodically updated or indexed to inflation. For example, banking organizations can become subject to additional requirements and burden over time for reasons unrelated to changes in their risk profile. Under the proposal, certain dollar-based thresholds would be adjusted in the future to reflect inflation, pursuant to a pre-determined indexing methodology.⁴¹ Indexing dollar-based thresholds would preserve threshold levels in real terms, which would efficiently and transparently preserve the thresholds' intended application and align with intended policy objectives over time.

The proposed indexing methodology would adjust thresholds based on the consumer price index for urban wage earners and clerical workers (CPI-W) published by the U.S. Bureau of Labor Statistics. The use of CPI-W to index thresholds is consistent with other bank regulations, such as those relating to the Community Reinvestment Act and the Board's Regulation CC.⁴² Further, the indexing methodology included under the proposal would generally align with the methodology used to adjust certain thresholds within FDIC regulations.⁴³

⁴¹ This revision would also be consistent with comments received under EGRPA as commenters requested indexing of thresholds going forward to reflect inflation.

⁴² The agencies' regulations that implement the Community Reinvestment Act define small and intermediate-small banks by reference to asset-size criteria expressed in dollar amounts, which are adjusted annually based on the year-to-year change in inflation through a *Federal Register* notice. Specifically, this adjustment corresponds to the average of the Consumer Price Index for Urban Wage Earners and Clerical Workers, not seasonally adjusted, for each 12-month period ending in November, with rounding to the nearest million. See, e.g., Community Reinvestment Act Regulations Asset-Size Thresholds, 89 FR 106480, 106481 (Dec. 30, 2024). See also 12 CFR 229.11.

⁴³ See Adjusting and Indexing Certain Regulatory Thresholds, 90 FR 55789 (Dec. 1, 2025).

Specifically, certain dollar thresholds would be adjusted at the end of every consecutive two-year period based on the cumulative percent change of the non-seasonally adjusted CPI-W since the effective date of any final rule. This two-year period is intended to provide an appropriate cadence for capturing meaningful changes in inflation on a timely basis while minimizing the burden of adjustment. To address the possibility of periods of unusual inflation, the indexing methodology would also allow for discretionary adjustment to thresholds by the agencies during an off year. The proposal would also not lower thresholds in the event of deflation.⁴⁴ Additionally, thresholds adjusted under the proposed indexing methodology would be rounded based on the size of the threshold (e.g., billions, millions, thousands), generally, to the nearest two significant digits, as appropriate.⁴⁵

The proposal would index the following thresholds: (1) the \$1 million threshold for a retail exposure to qualify as regulatory retail; (2) the \$50 million annual revenue threshold for a borrower to qualify as a small or medium-sized entity; (3) the \$10 million threshold used to determine whether a company in which a covered banking organization owns equity instruments meets the definition of financial institution; (4) the \$1 billion and the \$30 billion business indicator thresholds that determine the marginal coefficients applicable for the calculation of the business indicator component in the operational risk capital requirement; (5) the \$20,000 threshold for mandatory collection of operational loss events; (6) the \$5 billion trading activity threshold for application of the market risk framework; (7) the \$1 trillion derivatives exposure threshold for application of the credit valuation adjustment risk requirement; (8) the \$20 million threshold above which net short positions must be included in the market risk framework; and (9) the \$2 billion threshold for an equity issuer to be classified as having large market capitalization in the market risk standardized approach.

To effectuate threshold changes under the proposal, the agencies would announce threshold adjustments pursuant to the indexing methodology by publishing the updated thresholds.

⁴⁴ Any periods of deflation would be reflected in future threshold increases, as threshold adjustments in the future would be based on the positive net cumulative change in CPI-W.

⁴⁵ For example, a threshold that would otherwise be calculated as \$5.964 million would be rounded to \$6.0 million, or the nearest \$0.1 million.

Threshold adjustments would be calculated based on cumulative CPI-W data through August of the year in which the adjustment is made, relative to the same initial baseline.⁴⁶

Question 8: What are the advantages and disadvantages of the proposed approach for indexing thresholds? What alternatives should the agencies consider and why? What are the advantages and disadvantages of using a different index for adjusting thresholds, such as nominal GDP or the GDP deflator, instead of CPI-W?

Question 9: Are there specific thresholds within the proposal that can result in an increase in operational burden when indexed? If so, which are they and why?

Question 10: What are the advantages and disadvantages of discretionary off-year adjustments for periods of unusual inflation? Should the agencies consider a framework for adjustment in off years, such as based on inflation or other threshold and, if so, why?

F. The Role of International Standards in Developing U.S. Capital Requirements

The agencies participate in international fora, including the Basel Committee, that support broadly aligned prudential financial regulation across major economies, consistent with the agencies' mandates and various statutory authorizations.⁴⁷ Standards issued by these international fora are not binding under U.S. law. The agencies routinely consider the potential benefits of such standards as part of a reasoned decision-making process when developing domestic rulemakings to implement prudential requirements.

Where appropriate and consistent with the agencies' statutory authorities and policy objectives, maintaining consistency between domestic financial regulatory policy and international standards can generate significant benefits, particularly regarding large, internationally active banking organizations. Large, internationally active banks and the U.S. financial system more broadly are highly interconnected with the global financial system. Promoting the application of suitable and robust prudential standards across jurisdictions can enhance the resilience of the U.S. financial system by reducing the likelihood of distress or

other problems that arise in a foreign jurisdiction having negative effects in the United States.⁴⁸

Comparability of standards across jurisdictions can also reduce complexity and compliance costs for banking organizations with significant cross-border operations or activities.⁴⁹ In particular, similar prudential standards enable the agencies and foreign supervisors to look to home country capital regimes when such requirements are generally consistent with international standards.⁵⁰ For example, similar prudential standards help to facilitate the Board's assessment of the capital adequacy of foreign banking organizations in connection with applications to establish operations within the United States.⁵¹ In addition, consistent standards help ensure that foreign banking organizations with U.S. operations are subject to standards at the consolidated level that promote safety and soundness and competitive equity with U.S. banking organizations. The adoption of similar prudential standards across many jurisdictions means that, consistent with section 165 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act),⁵² the Board's enhanced prudential standards for large foreign banking organizations may rely on the home country capital and stress testing regimes applicable to a foreign banking organization, avoiding unnecessary duplication of requirements.⁵³

⁴⁶ The Basel Committee was originally formed after the failure of Herstatt Bank in Germany in 1974, which contributed to serious disruptions to foreign currency and banking markets within and beyond Germany, demonstrating the need for better coordination among bank regulators in different jurisdictions. See <https://www.bis.org/bcbshistory.htm>.

⁴⁹ See GAO Report "Bank Capital Requirements—Potential Effects of New Changes on Foreign Holding Companies and U.S. Banks Abroad" (Jan. 2012), <https://www.gao.gov/assets/gao-12-235.pdf>; see also GAO Report "International Banking—International Coordination of Bank Supervision: The Record to Date" (Feb. 1986), <https://www.gao.gov/assets/nsiad-86-40.pdf>.

⁵⁰ See, e.g., Board of Governors of the Federal Reserve System and U.S. Department of the Treasury, "Capital Equivalency Report" (June 1992), <https://fraser.stlouisfed.org/title/capital-equivalency-report-9009>; 12 U.S.C. 3105(j).

⁵¹ See, e.g., 12 CFR 211.24, 225.2(r)(3).

⁵² Public Law 111–203, 124 Stat. 1376 (2010). In applying section 165 to a foreign-based bank holding company, the Dodd-Frank Act directs the Board to give due regard to the principle of national treatment and equality of competitive opportunity, and to take into account the extent to which the foreign banking organization is subject, on a consolidated basis, to home country standards that are comparable to those applied to financial companies in the United States. See 12 U.S.C. 5365(b)(2).

⁵³ See, e.g., 12 CFR 252.143(a). Absent home-country standards consistent with the Basel Capital Framework, a foreign banking organization would

Additionally, comparability of standards across jurisdictions helps home country and host country supervisors, along with banking organization management and public markets, understand and monitor positions and risks across jurisdictions by providing all parties with a set of shared principles, concepts, and measuring tools.⁵⁴

Notwithstanding these benefits, the agencies have, at various times, concluded that departures from international standards are appropriate and desirable in light of domestic requirements or considerations, or where U.S. regulators simply believe different standards are more appropriate. Consistent with previous rulemakings that implemented aspects of the Basel standards in the United States,⁵⁵ the proposal may differ from the Basel standards in certain areas to reflect factors such as specific characteristics of U.S. markets, requirements under GAAP,⁵⁶ practices of U.S. banking organizations, and U.S. legal requirements and policy objectives.⁵⁷

G. Treatments Retained From the Current Standardized Approach

Taking the current standardized approach as a starting point, the proposal would generally adopt treatments consistent with the Basel standards when they would improve the risk sensitivity and consistency of the requirements applicable to covered banking organizations, do not conflict with existing U.S. law, and are appropriate for U.S. banking organizations. Many elements of the expanded risk-based approach would be consistent with the Basel standards and different in some respects from the treatment under the current standardized approach. In some cases, the current standardized approach is

be required to demonstrate to the Board's satisfaction that it would meet Basel Capital Framework standards at the consolidated level were those standards to apply. See 79 FR 17240 (Mar. 27, 2014).

⁵⁴ See GAO Report "International Banking—International Coordination of Bank Supervision: The Record to Date" (Feb. 1986), <https://www.gao.gov/assets/nsiad-86-40.pdf>.

⁵⁵ For example, the GSIB surcharge framework adopted by the Board includes a second method for calculating GSIB surcharges that is different from the Basel GSIB surcharge methodology. See 80 FR 49082 (Aug. 14, 2015). Additionally, alignment with the Basel standards can be achieved without using all methods specified in them and, in the past, the agencies have chosen not to adopt some methods included within the Basel standards. See, e.g., 61 FR 47358 (Sept. 6, 1996), 72 FR 69288 (Dec. 7, 2007), and 78 FR 62018 (Oct. 11, 2013).

⁵⁶ See 12 U.S.C. 1831n.

⁵⁷ See, e.g., 12 U.S.C. 1831bb and 5371; 15 U.S.C. 78o–7 note.

⁴⁶ The U.S. Bureau of Labor Statistics publishes the CPI-W on a monthly basis.

⁴⁷ See, e.g., 12 U.S.C. 1828 note, 3901, 3907, 3911, and 5373; see also 22 U.S.C. 9522 note; Federal Deposit Insurance Corporation Improvement Act of 1991 § 305(b)(2), Public Law 102–242, 105 Stat. 2236, 2355.

appropriately risk sensitive for application to Category I and II banking organizations and, therefore, the agencies are retaining those treatments with minimal or no change.⁵⁸

III. Definition of Capital

Under the proposal, all banking organizations required to apply the expanded risk-based approach, or that choose to adopt the expanded risk-based approach, would be subject to the same definition of capital. The proposal would broadly maintain the definition of capital for Category I and II banking organizations in the current capital rule, with one modification to eliminate the requirement to deduct MSAs⁵⁹ above a threshold from common equity tier 1 capital.⁶⁰ Banking organizations that choose to adopt the expanded risk-based approach would, therefore, be required to include most components of accumulated other comprehensive income in regulatory capital.

Under the current capital rule, Category I and II banking organizations must deduct from common equity tier 1 capital amounts of MSAs, temporary difference DTAs that the banking organization could not realize through net operating loss carrybacks, and significant investments in the capital of unconsolidated financial institutions in the form of common stock (collectively, threshold items) that individually exceed 10 percent of the banking organization's common equity tier 1 capital minus certain deductions and adjustments. In addition, these banking organizations must deduct from common equity tier 1 capital the aggregate amount of the threshold items that exceeds 15 percent of common equity tier 1 capital.

Under the proposal, Category I and II banking organizations would no longer be required to deduct any amount of MSAs from common equity tier 1 capital and would not consider MSAs when calculating the aggregate deduction amount for temporary difference DTAs and significant

investments in the capital of unconsolidated financial institutions in the form of common stock. Instead, MSAs would be subject to a 250 percent risk weight, consistent with the treatment in the current capital rule for MSAs that do not exceed the deduction thresholds.⁶¹ MSAs can be a useful tool for banking organizations to manage interest rate risk. The value of MSAs generally increases when interest rates rise, which extends the expected duration of related servicing fees. As a result, they may provide a hedge against losses on other assets that decline in value in the same interest rate environment.

Moreover, MSAs are important for banking organizations to maintain their relationship with borrowers by retaining customer-facing relationships even after transferring the underlying loans, allowing cross-selling of products. Banking organizations can also improve efficiency by increasing scale. A deduction approach for MSAs can discourage banking organizations from creating economies of scale, which can hinder their ability to compete in mortgage underwriting or servicing businesses and to manage risks.

At the same time, MSAs have long been subject to elevated capital requirements because of the high level of uncertainty regarding the ability of banking organizations to realize value from these assets, especially under adverse financial conditions. MSAs may face significant valuation risk, which mainly stems from prepayment risk, default risk, and liquidity risk. For example, increased refinancing of mortgage loans due to lower interest rates can quickly erode the value of MSA portfolios, as can increased incidents of mortgage defaults. MSAs can also be difficult to value, as banking organization portfolios of MSAs can be heterogeneous and MSA valuations rely on assessments of future economic variables. Maintaining the 250 percent risk weight for MSAs would promote regulatory capital requirements that are commensurate with the risk of these assets.⁶²

Question 11: What are the advantages and disadvantages of the proposed treatment of MSAs? What are the implications of the proposed treatment of MSAs for banking organizations' mortgage origination business? To what extent does the 250 percent risk weight appropriately reflect the risk of these assets throughout the economic cycle? Given the potential volatility of MSAs under certain circumstances, what are the advantages and disadvantages of the agencies imposing a higher limit on MSA as a percentage of common equity tier 1 capital (for example, 100 percent) and why? What are the advantages and disadvantages of differentiating the treatment of MSAs based on the size of the banking organization (for example, banking organizations with assets under \$10 billion or over \$100 billion) or applicable capital framework (for example, banking organizations that elect the community bank leverage ratio framework)?

IV. Calculation of Risk-Weighted Assets Under the Expanded Risk-Based Approach

A. Credit Risk

Credit risk arises from the possibility that an obligor, including a borrower or counterparty, will fail to perform on an obligation. While loans are a significant source of credit risk, other products, activities, and services also expose banking organizations to credit risk, including investments in debt securities and other credit instruments, credit derivatives, and cash management services. Off-balance sheet activities, such as letters of credit, unfunded loan commitments, and the undrawn portion of lines of credit, also expose banking organizations to credit risk. Certain transactions give rise to counterparty credit risk, which generally refers to the risk that a counterparty to a transaction will default before the final settlement of the transaction and will fail to make all the payments required by the transaction. Transactions that give rise to counterparty credit risk include repo-style transactions, eligible margin loans, and derivatives transactions. Counterparty credit exposure is determined by the market value of the transaction, which fluctuates with market conditions. Thus, the current exposure to a counterparty's default continuously changes and the future exposure is uncertain.

Under the proposal, a banking organization subject to the expanded

⁵⁸ For example, the expanded risk-based approach would treat sovereign exposures, certain exposures to government-sponsored entities, and exposures to public sector entities the same as the current standardized approach.

⁵⁹ An MSA arises when a banking organization sells a loan to a third party but retains the obligation to service the loan in exchange for a fee. Banking organizations may also purchase, sell, or transfer MSAs separately from the underlying mortgage loans.

⁶⁰ In addition, the proposal would require a banking organization to deduct from common equity tier 1 capital any portion of a credit-enhancing interest only strip that does not constitute an after-tax-gain-on sale, as discussed in section IV.B.5.f. of this **SUPPLEMENTARY INFORMATION**.

⁶¹ The agencies' standardized approach proposal would make the same modification to the definition of regulatory capital for all other banking organizations.

⁶² In the 2013 capital rule (78 FR 62069, Oct 11, 2013), in connection with section 475 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 1828 note), the agencies made a finding that the treatment under the capital rule of readily marketable purchased MSAs would not have an adverse effect on the Deposit Insurance Fund or the safety and soundness of insured depository institutions. The proposal would continue to apply a 250 percent risk weight to all MSAs, while removing the threshold deduction,

and the agencies continue to consider the proposed treatment to not have an adverse effect on the Deposit Insurance Fund or the safety and soundness of insured depository institutions.

risk-based approach would follow similar mechanics to those in the current standardized approach to determine its risk-weighted assets for credit risk. Such a banking organization would first determine the exposure amount of each on-balance sheet exposure, derivative contract, and off-balance sheet commitment, trade and transaction-related contingency, guarantee, repo-style transaction, financial standby letter of credit, forward agreement, or other similar transaction (excluding certain transaction types or exposures as specified in the proposed rule). In certain cases, exposure amount is measured at the netting-set level. The banking organization would then multiply the exposure amount by the risk weight appropriate to the exposure based on the exposure type or counterparty. In addition, the proposal would allow for the recognition of certain credit risk mitigants through adjustments to the risk-weighted asset amount for protected exposures.

Section IV.A.1. of this **SUPPLEMENTARY INFORMATION** describes in general terms the approaches for determining exposure amount under the proposal; section IV.A.2. of this **SUPPLEMENTARY INFORMATION** describes the risk-weight treatment for credit exposures under the proposal; section IV.A.3. of this **SUPPLEMENTARY INFORMATION** describes the proposed exposure measurement of off-balance sheet exposures; section IV.A.4. of this **SUPPLEMENTARY INFORMATION** describes the proposed exposure measurement for counterparty credit risk-related exposures; and section IV.A.5. of this **SUPPLEMENTARY INFORMATION** describes the available approaches for recognizing the benefits of credit risk mitigants including certain guarantees, certain credit derivatives, financial collateral, and prepaid credit protection arrangements.

1. Exposure Amounts

a. On-Balance Sheet Exposure Amount

Under the proposal, as under the current standardized approach, the exposure amount of an on-balance sheet exposure would generally be the banking organization's carrying value ⁶³

⁶³ Carrying value under § _____. 2 of the current capital rule means, with respect to an asset, the value of the asset on the balance sheet of the banking organization as determined in accordance with GAAP. For all assets other than available-for-sale debt securities or purchased credit deteriorated assets, the carrying value is not reduced by any associated credit loss allowance that is determined in accordance with GAAP. See 12 CFR 3.2 (OCC); 12 CFR 217.2 (Board); 12 CFR 324.2 (FDIC). The exposure amount arising from an OTC derivative contract; a repo-style transaction or an eligible margin loan; a cleared transaction; a default fund

of the exposure, consistent with the value of the asset on the balance sheet as determined in accordance with GAAP. Continuing to use the carrying value of an asset under GAAP to determine a banking organization's exposure amount would minimize burden and provide a consistent framework that can be easily applied across all banking organizations because, in most cases, GAAP serves as the basis for the information presented in financial statements and regulatory reports.⁶⁴

b. Off-Balance Sheet Exposure Amount

In addition to on-balance sheet exposures, banking organizations are exposed to credit risk associated with off-balance sheet exposures. Banking organizations often enter into contractual arrangements with obligors or counterparties to provide credit or other support. Such arrangements may not be recorded on-balance sheet under GAAP until the arrangement is drawn upon. These off-balance sheet exposures often include commitments, contingent items, guarantees, certain repo-style transactions, financial standby letters of credit, and forward agreements. Under the proposal, consistent with the current standardized approach, in most cases a banking organization determines the exposure amount for an off-balance sheet component of an exposure by multiplying the notional amount of the off-balance sheet component by the appropriate credit conversion factor specified in the rule. The proposed credit conversion factors would range from 10 percent to 100 percent to reflect the likelihood that a given off-balance sheet item would become an on-balance sheet credit exposure, taking into account the contractual features of the off-balance sheet item. For example, a 100 percent credit conversion factor would apply to a guarantee provided by a banking organization because the banking organization is effectively assuming the risk of the guaranteed exposure and thus such an off-balance

contribution; or a securitization exposure would be calculated in accordance with §§ _____. 113, 121, or 131 of the proposal, respectively, as described in sections IV.A.4., IV.A.5.b., and IV.B. of this Supplementary Information. The standardized approach proposal also includes a technical amendment that would modify the term adjusted allowance for credit losses (AACL) and carrying value to exclude allowance for credit losses (ACLs) on purchased seasoned loans (PSLs) in addition to those on purchased credit deteriorated (PCD) assets and available-for-sale (AFS) debt securities. The standardized approach proposal also amends the definition of AACL and carrying value to provide the same treatment as PCD assets to other assets that may in the future become subject to the gross approach following a change to GAAP by FASB.

⁶⁴ See 12 U.S.C. 1831n.

sheet item should be converted at the full amount. In contrast, with respect to commitments, often an obligor does not draw down on the commitment or only draws down a portion of the available credit, so such off-balance sheet items would be converted at less than 100 percent. Thus, the proposal would vary the credit conversion factors according to the likelihood that different types of off-balance sheet items may become on-balance sheet credit exposures.

c. Approaches for Determining Exposure Amount for Counterparty Credit Risk-Related Transactions

The current capital rule includes several approaches that a banking organization may use to calculate the exposure amount for repo-style transactions, eligible margin loans, derivative transactions, and netting sets of such transactions. These approaches take into account the offsetting of positions and financial collateral that meets the criteria in the rule within a netting set and incorporate both current and potential future exposure. For purposes of the expanded risk-based approach, the proposal would continue to include the collateral haircut approach for eligible margin loans and repo-style transactions, and netting sets of such transactions, and the standardized approach for counterparty credit risk (SA-CCR) for derivative contracts, netting sets of such transactions, and would expand SA-CCR to qualifying cross-product netting sets of derivative transactions and certain repo-style transactions, with modifications further described below in section IV.A.4. of this **SUPPLEMENTARY INFORMATION**.

To determine the exposure amount for eligible margin loans, repo-style transactions, or the netting sets of such transactions, the proposed expanded risk-based approach would include the collateral haircut approach with two proposed modifications to increase risk sensitivity: (1) adjustments to the market price volatility haircuts; and (2) a modified formula that reflects netting and diversification benefits, each further described below in section IV.A.4.a. of this **SUPPLEMENTARY INFORMATION**. A banking organization would have the option of applying SA-CCR to certain repo-style transactions that are subject to a qualifying cross-product master netting agreement that includes derivative transactions.

To determine the exposure amount for derivative contracts, the proposed expanded risk-based approach would require banking organizations to apply SA-CCR, with certain modifications to better reflect evolving market dynamics

and the potential for increased central clearing. The agencies are proposing to revise SA-CCR to permit the netting of collateralized-to-market and settled-to-market client-facing derivative transactions and incorporate non-cleared repo-style transactions. Specifically, the agencies are proposing to permit a banking organization to elect to treat as a derivative contract any non-cleared repo-style transaction subject to a qualifying cross-product master netting agreement that also contains a derivative contract. These proposed amendments and other proposed technical revisions to SA-CCR are described below in section IV.A.4.b. of this **SUPPLEMENTARY INFORMATION**.

As stated earlier, the proposal would increase simplicity, transparency, consistency, and comparability of capital requirements by reducing banking organization's use of models. Therefore, the proposal does not include the internal models methodology (IMM) or the simple value-at-risk (VaR) methodology for measuring counterparty credit risk or the use of a banking organization's own estimates of haircuts for purposes of the collateral haircut approach.

2. Proposed Risk Weights for Credit Risk

The proposed expanded risk-based approach would introduce credit risk weights that generally align with the Basel standards and use many of the same definitions in § _____.2 of the current capital rule. Some elements of the proposed expanded risk-based approach for credit risk would apply the same risk weights provided in the current standardized approach, including exposures to sovereigns, specified supranational entities⁶⁵ and multilateral development banks,⁶⁶

⁶⁵ Under the proposal, specified supranational entities would include the Bank for International Settlements, the European Central Bank, the European Commission, the International Monetary Fund, the European Stability Mechanism, and the European Financial Stability Facility. Consistent with the current capital rule, exposures to such entities would continue to be subject to a zero percent risk weight for the purposes of the expanded risk-based approach.

⁶⁶ Under the proposal, multilateral development bank would include 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 multilateral lending institution or regional development bank in which the U.S. government is a shareholder or contributing member or which the primary Federal supervisor determines poses comparable credit risk. Consistent with the current

government sponsored entities (GSEs) in the form of senior debt and guaranteed exposures, Federal Home Loan Bank (FHLB) and Federal Agricultural Mortgage Corporation (Farmer Mac) equity exposures,⁶⁷ public sector entities (PSEs), exposures that are 90 days or more past due or in nonaccrual,⁶⁸ and certain insurance assets. Consistent with statutory mandates, the proposal would also maintain the same risk-weight treatment provided in the current standardized approach to pre-sold construction loans, statutory multifamily mortgages, and high-volatility commercial real estate (HVCRE) exposures.

Relative to the advanced approaches under the current capital rule, the proposed expanded risk-based approach would result in more consistent and transparent capital requirements for credit risk exposures across banking organizations. The proposal would also facilitate comparisons of capital adequacy across banking organizations by reducing excessive, unwarranted divergence in risk-weighted assets for similar exposures. Relative to the current standardized approach, the proposal would incorporate more granular risk factors to allow for a broader range of risk weights.

Specifically, the expanded risk-based approach would introduce new risk weights for exposures to depository institutions, foreign banks, and credit unions; subordinated exposures, including those to GSEs; and real estate, retail, and corporate exposures. The proposed risk weights for each of these categories are described in the following sections of this **SUPPLEMENTARY INFORMATION**.

Question 12: What are the pros and cons of continuing the risk-weights in the current standardized approach for sovereigns, specified supranational entities and multilateral development banks, GSEs in the form of senior debt and guaranteed exposures, FHLB and Farmer Mac equity exposures, PSEs, exposures that are 90 days or more past due or in nonaccrual, insurance assets, and other exposures?

Question 13: To enhance the risk sensitivity of the rule, what alternatives to "exposures that are 90 days or more

capital rule, exposures to these entities would continue to be subject to a zero percent risk weight for the purposes of the expanded risk-based approach

⁶⁷ For treatment of other exposures to GSEs, see discussion related to equity exposures in section IV.C. and subordinated exposures in section IV.A.2.f. of this **SUPPLEMENTARY INFORMATION**.

⁶⁸ Certain residential mortgage exposures that are 90 days past due or in nonaccrual would receive a higher risk weight under the proposal. See section IV.A.2.c.v of this **SUPPLEMENTARY INFORMATION**.

past due or in nonaccrual" should the agencies consider to identify exposures in or near default? What are the advantages and disadvantages of using an approach similar to the definition of defaulted exposures in the advanced approaches, that would include exposures where (a) the banking organization has taken a partial charge-off, write-down of principal, or negative fair value adjustment on the exposure for credit-related reasons, until the banking organization has reasonable assurance of repayment and performance for all contractual principal and interest payments on the exposure; or (b) a distressed restructuring of the exposure was agreed to by the banking organization, until the banking organization has reasonable assurance of repayment and performance for all contractual principal and interest payments on the exposure as demonstrated by a sustained period of repayment performance, provided that a distressed restructuring includes the following made for credit-related reasons: forgiveness or postponement of principal, interest, or fees, or an interest rate reduction?

a. Exposures to Government-Sponsored Enterprises

The proposal would assign a 20 percent risk weight to most GSE⁶⁹ exposures, consistent with the current standardized approach. GSE exposures that are subordinated exposures or equity exposures, however, would receive higher risk weights. As discussed later in sections IV.C. and IV.A.2.f. of this **SUPPLEMENTARY INFORMATION**, equity exposures and subordinated exposures would generally be subject to an increased risk weight to reflect their heightened risk relative to senior credit exposures. As an exception to this general rule, the proposal would apply a 20 percent risk weight to all exposures to FHLB or Farmer Mac, including equity exposures and exposures to subordinated debt instruments, which is consistent with the treatment under the current standardized approach.

b. Exposures to Depository Institutions, Foreign Banks, and Credit Unions

The proposal would define the scope of exposures to depository institutions,

⁶⁹ Government-sponsored enterprise (GSE) under § _____. 2 of the current capital rule means an entity established or chartered by the U.S. government to serve public purposes specified by the U.S. Congress but whose debt obligations are not explicitly guaranteed by the full faith and credit of the U.S. government. See 12 CFR 3.2 (OCC); 12 CFR 217.2 (Board); 12 CFR 324.2 (FDIC).

foreign banks, and credit unions in a manner that is consistent with the definitions and scope of exposures covered under the current capital rule. Under the proposal, a bank exposure would mean an exposure (such as a receivable, guarantee, letter of credit, loan, OTC derivative contract, or senior debt instrument) to a depository institution, foreign bank, or credit union.^{70 71}

The proposed treatment for bank exposures supports the simplicity, transparency, and consistency objectives of the proposal in a manner that is appropriately risk sensitive. The proposal would provide three categories for bank exposures that are ranked from the highest to the lowest in terms of creditworthiness: Grade A, Grade B, and Grade C. The assignment of a bank exposure to a category would be based on the indicators of creditworthiness of the obligor depository institution, foreign bank, or credit union. As outlined below, the proposal would rely on the current capital rule's definition of investment grade and the proposed definition of speculative grade for differentiating the credit risk of bank exposures. In addition, the proposal would incorporate publicly disclosed capital levels to differentiate the financial strength of a depository institution, foreign bank, or credit union in a manner that is both objective and transparent to supervisors and the public.

More specifically, a Grade A bank exposure would mean a bank exposure for which the obligor depository institution, foreign bank, or credit union (1) is investment grade, and (2) whose most recent publicly disclosed capital ratios meet or exceed the higher of: (a) the minimum capital requirements and any additional amounts necessary to not be subject to limitations on distributions and discretionary bonus payments under the capital rules established by

the prudential supervisor of the depository institution, foreign bank, or credit union, and (b) if applicable, the capital ratio requirements for the well-capitalized category under the agencies' prompt corrective action framework,⁷² or under similar rules of the National Credit Union Administration.⁷³ For a bank exposure to be considered investment grade, a banking organization would have to determine that the obligor has adequate capacity to meet financial commitments, consistent with the current rule.⁷⁴ Further, a bank exposure to a depository institution that had opted into the community bank leverage ratio (CBLR) framework and is investment grade would be considered to be a Grade A bank exposure, including if the obligor depository institution were in the grace period under the CBLR framework.⁷⁵ As a result, under the proposal, a depository institution that uses the CBLR framework would not be required to calculate or disclose risk-based capital ratios for purposes of qualifying as a Grade A bank exposure. Additionally, as described further in the next paragraph, a Grade A exposure to depository institutions that have opted into the CBLR framework would receive a reduced risk weight relative to other Grade A exposures.

Certain Grade A exposures to depository institutions, foreign banks, and credit unions would be subject to a 30 percent risk weight, whereas the others would be assigned a 40 percent risk weight. Specifically, a banking organization could assign a 30 percent risk weight to Grade A exposures to: (1) Category I, II, or III depository institutions with a common equity tier 1 capital ratio of 14 percent or higher and a supplementary leverage ratio (SLR) of five percent or higher; (2) depository institutions that have opted into the CBLR framework; and (3) depository institutions not subject to the SLR or CBLR framework with a common

equity tier 1 capital ratio of 14 percent or higher and a tier 1 leverage ratio of five percent or higher.⁷⁶ To qualify for the 30 percent risk weight, a foreign bank obligor would have to meet the same requirements of having a 14 percent or higher common equity tier 1 capital ratio and a five percent or higher leverage ratio as determined by the applicable capital standards of the foreign bank's home country jurisdiction.⁷⁷ Under this proposed criteria, 68.3 percent of U.S. depository institutions would meet the criteria for a highly capitalized bank exposure and be assigned a 30 percent risk weight, based on Call Report data as of June 30, 2025. Grade A exposures to credit unions would be subject to the 30 percent risk weight if the obligor credit union has a net worth ratio of 9 percent or higher.⁷⁸ These requirements would be broadly consistent with those in the Basel standards and provide a preferential risk weight for institutions presenting a materially lower credit risk than other Grade A bank exposures. The 30 percent risk weight for exposures to banks with materially higher capital levels would increase risk sensitivity while maintaining competitive equity across various sizes of obligor institutions.

A Grade B bank exposure would mean a bank exposure that is not a Grade A bank exposure and for which the obligor depository institution, foreign bank, or credit union (1) is speculative grade or investment grade, and (2) whose most recent publicly disclosed capital ratios meet or exceed the higher of: (a) the applicable minimum capital requirements under capital rules established by the prudential supervisor of the depository institution, foreign bank, or credit union, and (b) if applicable, the capital ratio requirements for the adequately-

⁷⁰ Under § _____.2 of the current capital rule, a depository institution means a depository institution as defined in section 3 of the Federal Deposit Insurance Act, a foreign bank means a foreign bank as defined in section 211.2 of the Federal Reserve Board's Regulation K (12 CFR 211.2) (other than a depository institution), and a credit union means an insured credit union as defined under the Federal Credit Union Act (12 U.S.C. 1751 *et seq.*). See 12 CFR 3.2 (OCC); 12 CFR 217.2 (Board); 12 CFR 324.2 (FDIC). Exposures to other financial institutions, such as bank holding companies, savings and loans holding companies, and securities firms, generally would be considered corporate exposures. See 78 FR 62087 (Oct. 11, 2013).

⁷¹ The proposal would require banking organizations to apply a 150 percent risk weight to bank exposures that are either subordinated exposures, as described in section IV.A.2.f. of this SUPPLEMENTARY INFORMATION, or covered debt instruments that are not deducted.

⁷² The capital ratios used for this determination are the ratios on the depository institution's most recent quarterly Consolidated Report of Condition and Income (Call Report).

⁷³ See 12 CFR part 702 (National Credit Union Administration).

⁷⁴ Under § _____.2 of the current capital rule, "investment grade" means that the entity to which the banking organization is exposed through a loan or security, or the reference entity with respect to a credit derivative, has adequate capacity to meet financial commitments for the projected life of the asset or exposure. Such an entity or reference entity has adequate capacity to meet financial commitments if the risk of its default is low and the full and timely repayment of principal and interest is expected.

⁷⁵ See 12 CFR 3.12(a)(1) (OCC); 12 CFR 217.12(a)(1) (Board); 12 CFR 324.12(a)(1) (FDIC). See also 90 FR 55048 (Dec. 1, 2025).

⁷⁶ An exposure to a depository institution that has not opted into the CBLR framework and is not required to calculate a common equity tier 1 ratio and a SLR or tier 1 leverage ratio, as applicable, under the agencies' capital rule would not qualify for the 30 percent risk weight.

⁷⁷ The Grade A foreign bank would have to meet the five percent Basel leverage ratio level for the 30 percent risk weight, as implemented by the foreign bank's home country. The Basel leverage ratio is substantially similar to the supplementary leverage ratio under the agencies' capital rule.

⁷⁸ For comparison, a well-capitalized credit union must have a net worth ratio (NWR) of 7 percent or greater. A NWR of 9 percent was selected given that is the level used in their Complex Credit Union Leverage Ratio (CCULR) framework. The average NWR of Risk-Based Capital reporters was 9.83 percent as of 2025 Q2. See Quarterly Credit Union Data Summary 2025 Q2 (Page 20) and Risk-Based Capital Frequently Asked Questions | NCUA.

capitalized category⁷⁹ under the agencies’ prompt corrective action framework, or under similar rules of the National Credit Union Administration.

For a foreign bank to qualify as a Grade A or Grade B bank exposure, the proposal would require the applicable capital standards imposed by the home country supervisor to be broadly consistent with international capital standards issued by the Basel Committee. This requirement aims to maintain competitive equity and recognize creditworthiness of institutions subject to capital standards that are broadly consistent—the capital standards issued by the Basel Committee are comparable to U.S. capital rules.

Under the proposal, an exposure to a foreign bank that is a Grade A or Grade B bank exposure and is a self-liquidating, trade-related contingent item that arises from the movement of goods and that has a maturity of three months or less may be assigned a risk weight that is lower than the risk weight applicable to other exposures to the same foreign bank. The proposed approach to providing a preferential risk weight for short-term self-liquidating,

trade-related contingent items would be consistent with the current standardized approach.

In addition, an exposure would not qualify as a Grade A or Grade B bank exposure if: (1) the obligor depository institution, foreign bank, or credit union does not have capital ratios that are publicly disclosed within the last six months; or (2) the external auditor of the depository institution, foreign bank, or credit union has issued an adverse audit opinion or has expressed substantial doubt about the ability of the depository institution, foreign bank, or credit union to continue as a going concern within the previous 12 months.

A Grade C bank exposure would mean a bank exposure that does not qualify as a Grade A or Grade B bank exposure.

The proposal would address the risk that capital and foreign exchange controls imposed by a sovereign entity in which a foreign bank is located could prevent or materially impede the ability of the foreign bank to convert its currency to meet its obligations or transfer funds. The proposal would, therefore, provide a risk weight floor for foreign bank exposures based on the risk weight applicable to a sovereign

exposure for the jurisdiction where the foreign bank is incorporated when (1) the exposure is not in the local currency of the jurisdiction where the foreign bank is incorporated; or (2) for an exposure to a branch of a foreign bank in a foreign jurisdiction that is not the home country of the foreign bank, the exposure is in the local currency of the jurisdiction in which the foreign branch operates.⁸⁰ The risk weight floor would not apply to short-term self-liquidating, trade-related contingent items that arise from the movement of goods.

As provided in Table 1, the proposed risk weights for bank exposures generally would range from 20 percent to 150 percent. The proposal provides more granular and higher risk weights for bank exposures compared to the standardized approach to better reflect the range of credit risks presented by these exposures. In addition, the proposal better accounts for financial system interconnectedness inherent in exposures to depository institutions, foreign banks, and credit unions, which can pose systemic risk to the financial system.

Table 1 — Proposed Risk Weights for Bank Exposures

	Grade A Bank Exposure Meeting Additional Criteria	Grade A Bank Exposure	Grade B Bank Exposure	Grade C Bank Exposure
Base risk weight	30%	40%	75%	150%
Risk weight for a foreign bank exposure that is a self-liquidating, trade-related contingent item that arises from the movement of goods and that has a maturity of three months or less	20%	20%	50%	150%

The proposed risk weights in Table 1 for exposures to depository institutions, credit unions and foreign banks, especially those that are Grade A, reflect that those institutions present reduced credit risk relative to exposures to other types of financial institutions or companies. U.S. depository institutions

and credit unions are subject to strong capital requirements, are subject to robust federal supervision, and have limitations in the types of riskier financial transactions in which they can engage. Foreign banks that qualify as Grade A would have broadly consistent capital standards as U.S. depository

institutions and also would be subject to regulatory and supervisory frameworks broadly equivalent with those in the Basel standards. Additionally, the proposed risk weights for bank exposures under the expanded risk-based approach would be more risk sensitive than the current standardized

⁷⁹ See 12 CFR 6.4(b)(2) (OCC); 12 CFR 208.43(b)(2) (Board); 12 CFR 324.403(b)(2) (FDIC).

⁸⁰ See Table 1 in § _____.111 for the proposed sovereign risk-weight table, which is identical to Table 1 to § _____.32 in the current capital rule.

approach as the expanded risk-based approach incorporates more credit-risk indicators and characteristics of the obligor depository institution, foreign bank, or credit union.

Question 14: What would be the advantages and disadvantages of the agencies treating an exposure to a nonbank financial institution such as foreign holding companies or broker dealer subsidiary institutions that are located in a foreign jurisdiction as a foreign bank exposure, when that foreign jurisdiction has determined that the given type of financial institution is regulated and supervised in that jurisdiction in a manner equivalent to banks?

Question 15: What are the advantages and disadvantages of assigning a 30 percent risk weight to Grade A bank exposures meeting the additional criteria discussed above? To what extent would the lower 30 percent risk weight contribute to the pro-cyclicality of bank capital requirements? To what extent might the risk weight contribute to credit contraction during economic downturns and credit acceleration during economic expansions?

Question 16: The agencies seek comment on the appropriateness of the additional requirements that must be met to for Grade A bank exposures to qualify for a 30 percent risk weight. What alternative calibration of common equity tier 1 capital ratio and supplementary leverage ratio levels would be appropriate for Category I, II, and III Grade A depository institutions to receive a 30 percent risk weight? What alternative calibration of common equity tier 1 capital ratio and tier 1 leverage ratio levels would be appropriate for depository institutions not subject to the CBLR framework or SLR to receive a 30 percent risk weight? Please provide analytical support.

Question 17: The agencies seek comment on whether the proposed treatment for exposures to depository institutions, foreign banks, and credit unions is appropriate for uninsured trust banks that do not have capital ratios that were publicly disclosed within the last six months, including such entities that issue payment stablecoins. What alternative calibrations or approaches should the agencies consider to differentiate the financial strength of uninsured trust banks that would be appropriately risk-sensitive and consistent with the objective of establishing simple, transparent, and consistent requirements?

Question 18: What would be the advantages and disadvantages of the agencies requiring broadly consistent

capital standards in the foreign jurisdiction, as well as robust regulatory and supervisory frameworks that are consistent with international capital standards issued by the Basel Committee for certain foreign banks to qualify as Grade A and Grade B? What are appropriate alternative indicators that could be used to determine whether a foreign bank qualifies for a Grade A classification? What are the advantages and disadvantages of looking to the applicable capital requirements in foreign jurisdictions for determining if a Grade A foreign bank meets the thresholds described above to be eligible to apply a 30 percent risk weight? What alternatives should the agencies consider to determine whether a foreign bank has sufficient capital to warrant applying a 30 percent risk weight to a Grade A foreign bank exposure?

c. Real Estate Exposures

The proposal would define a real estate exposure as an exposure that is neither a sovereign exposure nor an exposure to a PSE and that is (1) a residential mortgage exposure, (2) primarily secured by collateral in the form of real estate,⁸¹ (3) a pre-sold construction loan,⁸² (4) a statutory multifamily mortgage,⁸³ (5) a high volatility commercial real estate (HVCRE) exposure,⁸⁴ or (6) an acquisition, development, or construction (ADC) exposure. A pre-sold construction loan, a statutory multifamily mortgage, and an HVCRE exposure are collectively referred to as statutory real estate exposures for purposes of this **SUPPLEMENTARY INFORMATION**. Under the proposal, the

⁸¹ For purposes of the proposal, “primarily secured by collateral in the form of real estate” should be interpreted in a manner that is consistent with the current definition for “a loan secured by real estate” in the Call Report and Consolidated Financial Statements for Holding Companies (FR Y-9C) instructions.

⁸² The Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 (RTCRI Act) mandates that each agency provide in its capital regulations (i) a 50 percent risk weight for certain one-to-four-family residential pre-sold construction loans that meet specific statutory criteria in the RTCRI Act and any other underwriting criteria imposed by the agencies, and (ii) a 100 percent risk weight for one-to-four-family residential pre-sold construction loans for residences for which the purchase contract is cancelled. See 12 U.S.C. 1831n note.

⁸³ The RTCRI Act mandates that each agency provide in its capital regulations a 50 percent risk weight for certain multifamily residential loans that meet specific statutory criteria in the RTCRI Act and any other underwriting criteria imposed by the agencies. See 12 U.S.C. 1831n note.

⁸⁴ Section 214 of the Economic Growth, Regulatory Relief, and Consumer Protection Act imposes certain requirements on high volatility commercial real estate acquisition, development, or construction loans. Section 214 of Public Law 115–174, 132 Stat. 1296 (2018). See 12 U.S.C. 1831bb.

risk weight treatment for statutory real estate exposures would be unchanged from the current standardized approach.

Risks related to exposures secured by real estate depend on what type of real estate secures the exposure. Residential real estate loans generally have lower historical charge off rates than commercial real estate exposures.⁸⁵ Residential real estate exposures are generally amortizing, often have stricter underwriting standards for leverage than commercial real estate, and often are easier to value. In addition, residential and commercial real estate exposures that are deemed prudently underwritten reflect reduced credit risk relative to those real estate exposures that are not prudently underwritten.⁸⁶ The proposal would therefore differentiate the credit risk of real estate exposures that are not statutory real estate exposures by introducing the following categories: regulatory residential real estate exposures, regulatory commercial real estate exposures, ADC exposures, and other real estate exposures. The applicable risk weight for these real estate exposures would depend on (1) whether the real estate exposure meets the definitions of regulatory residential real estate exposure, regulatory commercial real estate exposure, ADC exposure, or other real estate exposure, described below; (2) whether the repayment of such exposures is dependent on the cash flows generated by the underlying real estate (such as rental properties, leased properties, and hotels); and (3) in the case of regulatory residential or regulatory commercial real estate exposures, the loan-to-value (LTV) ratio of the exposure.

The proposed criteria for differentiating the credit risk of real estate exposures would be based on information already collected and maintained by a banking organization as part of its mortgage lending activities and underwriting practices. Under the proposal, regulatory residential and regulatory commercial real estate exposures would be required to meet prudential criteria that are intended to reduce the likelihood of default relative to other real estate exposures. These criteria include a requirement that loans are made in accordance with prudent underwriting standards as described in

⁸⁵ See “Charge Off Rates for Loans and Leases at Commercial Banks,” <https://www.federalreserve.gov/releases/chargeoff/delallsa.htm>.

⁸⁶ See sections IV.A.2.c.i. and ii of this **SUPPLEMENTARY INFORMATION** for more information about the prudential criteria differentiating regulatory residential and regulatory commercial real estate exposures.

the existing Interagency Guidelines for Real Estate Lending Policies (real estate lending guidelines).⁸⁷ Loans that are prudently underwritten are less likely to lead to credit losses. Thus, the risk weights proposed for these exposures are lower than for other real estate exposures.

Moreover, real estate loans for which repayment is dependent on the cash flows generated by the real estate can expose a banking organization to elevated credit risk relative to real estate exposures where repayment is not dependent on cash flows generated by the property,⁸⁸ as the obligor may be unable to meet its financial commitments when cash flows from the property decrease, such as when tenants default or properties are unexpectedly vacant.⁸⁹ Exposures that are dependent on the cash flows generated by real estate to repay the loan can also be affected by local market conditions and, thus, present elevated credit risk relative to exposures that are serviceable by the income, cash, or other assets of the obligor. For example, an increase in the supply of competitive rental property can lower demand and suppress cash flows needed to support repayment of a loan.

In addition, LTV ratios are a meaningful risk indicator for the credit quality of a real estate exposure because the amount of an obligor's equity in a real estate property is negatively correlated with default risk and provides banking organizations with a degree of protection against losses.⁹⁰ LTV ratios are also one of several key factors that market participants,

including banking organizations, consider for differentiating credit risk.⁹¹ Therefore, under the proposal, exposures with lower LTV ratios generally would receive a lower risk weight than comparable real estate exposures with higher LTV ratios.

The proposed scope, risk drivers, and risk weights described below are generally consistent with those in the Basel standards.

i. Regulatory Residential Real Estate Exposures

Under the proposal, a regulatory residential real estate exposure would be defined as a first-lien residential mortgage exposure (as defined in § _____.2 of the current capital rule) that is not an ADC exposure, a pre-sold construction loan, a statutory multifamily mortgage, or an HVCRE exposure, provided the exposure meets certain prudential criteria.⁹² First, the loan would be required to be secured by a residential property that is either owner-occupied or rented. Second, the exposure would be required to be made in accordance with prudent underwriting standards, including standards relating to the supervisory LTVs as described in the interagency real estate lending guidelines.⁹³ Third, during the underwriting process, the banking organization would be required to apply underwriting policies that account for the ability of the obligor to repay based on clear and measurable underwriting standards that enable the banking organization to evaluate these credit factors. The agencies expect these underwriting standards to be consistent with the agencies' safety and soundness and real estate lending guidelines.⁹⁴ Fourth, the property must be valued in accordance with the proposed requirements included in the proposed LTV ratio calculation, as discussed below in section IV.A.2.c.iv. of this

SUPPLEMENTARY INFORMATION. Finally, the loan must not have been modified or restructured.⁹⁵

As discussed, residential real estate exposures that meet these criteria present relatively lower credit risk than other residential real estate exposures. Loans on property that are owner-occupied or rented have both a consistent expected flow of payments on the loan, as well as an occupant of the property that is present. Evaluating the ability of the obligor to repay using consistent and transparent metrics allows banking organizations and supervisors to more easily compare the obligor's ability to repay with other borrowers in the banking organization's loan portfolio. Modified or restructured loans reflect that there might be deterioration in the ability of the borrower to repay and, though not necessarily indications of likely default, merit higher applicable risk weights than those that have no such indications of potential deterioration in credit quality.

ii. Regulatory Commercial Real Estate Exposures

The proposal would define a regulatory commercial real estate exposure as a real estate exposure that is not a regulatory residential real estate exposure, an ADC exposure, a pre-sold construction loan, a statutory multifamily mortgage, or an HVCRE exposure, provided the exposure meets several prudential criteria. First, the exposure would be required to be primarily secured by fully completed real estate.⁹⁶ Second, the banking organization would be required to hold a first priority security interest in the property that is legally enforceable in all relevant jurisdictions.⁹⁷ Third, the exposure would be required to be made in accordance with prudent underwriting standards, including standards relating to supervisory LTVs. Fourth, during the underwriting process, the banking organization would be required to apply underwriting policies that account for the ability of the obligor to repay in a timely manner

⁸⁷ See 12 CFR part 34, appendix A to subpart D (OCC); 12 CFR part 208, appendix C (Board); 12 CFR part 365, appendix A (FDIC).

⁸⁸ Loans secured by real estate where the repayment of the loan does not depend on cash flows generated by the real estate include owner-occupied properties, where repayment of the loan is generally based on the income or revenue of the borrower. See additional discussion of dependent on the cash flows generated by the real estate in section IV.A.2.c.iii. of this **SUPPLEMENTARY INFORMATION.**

⁸⁹ See Board of Governors of the Federal Reserve System, Financial Stability Report (November 2020), <https://www.federalreserve.gov/publications/files/financial-stability-report-20201109.pdf>.

⁹⁰ Id., at 30. For evidence on the correlation between LTV and loss rates in mortgage loans, see Laurie Goodman and Jun Zhu, "Bank Capital Notice of Proposed Rulemaking—A Look at the Provisions Affecting Mortgage Loans in Bank Portfolios," Urban Institute (2023), <https://www.urban.org/sites/default/files/2023-09/BankCapitalNoticeofProposedRulemaking.pdf>; and Sewin Chan, Andrew Haughwout, Andrew Hayashi, and Wilbert van der Klaauw, "Determinants of Mortgage Default and Consumer Credit Use: The Effects of Foreclosure Laws and Foreclosure Delays," Federal Reserve Bank of New York, Staff Report No. 732 (2015), https://www.newyorkfed.org/medialibrary/media/research/staff_reports/sr732.pdf.

⁹¹ See Avery et al, "Credit Risk, Credit Scoring, and the Performance of Home Mortgages," Federal Reserve Board of Governors, Federal Reserve Bulletin (1996), <https://www.federalreserve.gov/pubs/bulletin/1996/796lead.pdf>. See also 12 CFR part 1240.

⁹² Consistent with the standardized approach in the capital rule, under the proposal, when a banking organization holds the first-lien and junior-lien(s) residential mortgage exposures and no other party holds an intervening lien, the banking organization must combine the exposures and treat them as a single first-lien regulatory residential real estate exposure, if the first-lien meets all of the criteria for a regulatory residential real estate exposure.

⁹³ For more information on determining the value of the property, see section IV.A.2.c.iv. of this **SUPPLEMENTARY INFORMATION.**

⁹⁴ See 12 CFR part 30, appendix C and 12 CFR part 34, appendix A to subpart D (OCC); 12 CFR part 208, appendix C (Board); 12 CFR parts 364 and 365 (FDIC).

⁹⁵ Consistent with the current standardized approach, a residential real estate loan that is modified or restructured solely pursuant to the U.S. Treasury's Home Affordable Mortgage Program is not modified or restructured under this criterion for regulatory residential real estate exposures.

⁹⁶ Commercial properties where the construction is complete and the property is ready for its intended use.

⁹⁷ When the banking organization also holds a junior security interest in the same property and no other party holds an intervening security interest, the banking organization must treat the exposures as a single first-lien regulatory commercial real estate exposure, if the first lien meets all the criteria for a regulatory commercial real estate exposure.

based on clear and measurable underwriting standards that enable the banking organization to evaluate these credit factors. The agencies expect that these underwriting standards would be consistent with the agencies' safety and soundness and real estate lending guidelines. The property would be required to be valued in accordance with the requirements included in the proposed LTV ratio calculation, as discussed below. Finally, the loan must not have been modified or restructured.

As previously discussed, commercial real estate exposures that meet these criteria would present relatively lower credit risk than other commercial real estate exposures. Loans on property that is still under construction are reliant on the completion of the property for repayment of the loan, which can be delayed or interrupted by many factors such as changes in market condition or financial difficulty of the obligor.⁹⁸ A perfected, first priority security interest would provide the banking organization with priority for repayment in the case of bankruptcy of the obligor.⁹⁹ Evaluating the ability of the obligor to repay using consistent and transparent metrics allows banking organizations and supervisors to more easily compare the obligor's ability to repay with other borrowers in the banking organization's loan portfolio. As with residential exposures, permanent commercial real estate loans that have been modified or restructured indicate there might be a deterioration in the ability of the borrower to repay, meriting higher applicable risk weights than those that have no such indications.

Question 19: What are the pros and cons of the proposed requirements for real estate exposures to qualify as regulatory commercial real estate exposures? How would the requirement for the banking organization to hold a first-priority security interest in the property that is legally enforceable in all relevant jurisdictions impact loans to different types of commercial borrowers? For those commercial real estate exposures where banking organizations do not hold a first priority security interest in the underlying property, what, if any, alternatives should the agencies consider that would result in the same priority for repayment in the case of bankruptcy of the obligor?

⁹⁸ See, e.g., <https://www.occ.gov/publications-and-resources/publications/comptrollers-handbook/files/commercial-real-estate-lending/pub-ch-commercial-real-estate.pdf>.

⁹⁹ See, e.g., <https://www.occ.treas.gov/static/ots/exam-handbook/ots-exam-handbook-214aa.pdf>.

iii. Exposures That Are Dependent on the Cash Flows Generated by the Real Estate

As noted above, the proposal would differentiate the risk weight of regulatory residential, regulatory commercial, and other real estate exposures based on whether the obligor's ability to service the loan is dependent on cash flows generated by the real estate.

If the underwriting process at origination of the real estate exposure considers any cash flows generated by the real estate securing the loan, such as from lease or rental payments or from the sale of the real estate, as a source of repayment, then the exposure would meet the proposal's definition of dependent on the cash flows generated by the real estate. Evaluating the dependence on cash flows generated from the real estate is a conservative and straightforward measure of credit risk. Reliance on cash flows from the property for repayment of a loan indicates increased risk of nonpayment relative to when the borrower has sufficient funds from other sources, such as income or business profits, for full repayment of the loan. Given their increased credit risk, the proposal would assign higher risk weights to exposures that are dependent on proceeds or cash flows generated from the real estate itself to service the loan.

Under the proposal, additional loan characteristics can affect whether an exposure would be considered dependent on cash flows generated by the real estate. The proposal's definition of dependent on the cash flows generated by the real estate would exclude any residential mortgage exposure that is secured by the obligor's principal residence, as such mortgage exposures present reduced credit risk relative to real estate exposures that are secured by the obligor's non-principal residence.¹⁰⁰ For residential properties that are not the obligor's principal residence, including vacation homes and other second homes, such properties would be considered dependent on the cash flows generated by the real estate unless the banking organization has relied solely on the

¹⁰⁰ See Breck Robinson, Federal Reserve Bank of Richmond, and Richard M. Todd, Federal Reserve Bank of Minneapolis, "The Role of Non-Owner-Occupied Homes in the Current Housing and Foreclosure Cycle," Pg. 6, which cites multiple studies that loans on non-owner occupied properties have higher loss rates on mortgages to non-occupant owners than on mortgages to owner-occupants, at least after controlling for credit scores and other standard underwriting criteria. https://www.richmondfed.org/~media/richmondfedorg/publications/research/working_papers/2010/pdf/wp10-11.pdf.

obligor's personal income and resources, rather than rental income (or resale or refinance of the property), to ascertain the obligor's capacity to repay the loan.¹⁰¹

For regulatory commercial real estate exposures, the applicable risk weights similarly would be determined based on whether repayment is dependent on the cash flows generated by the real estate. For example, the agencies would expect that rental office buildings, hotels, and shopping centers leased to tenants are often dependent on the cash flows generated by the real estate for repayment of the loan. In the case of a loan to an obligor to purchase or refinance real estate where the obligor will operate a business, such as a retail store or factory, and rely solely on the revenues from the business or resources of the obligor other than rental, resale, or other income from the real estate for repayment, the exposure would not be considered dependent on the cash flows generated by the real estate under the proposal. Similarly, a loan to the owner-operator of a farm would not be considered dependent on the cash flows generated by the real estate under the proposal if the obligor will rely solely on the sale of products from the farm or other resources of the obligor other than rental, resale, or other income from the real estate for repayment.

Question 20: What are the pros and cons of the agencies establishing a "materially" dependent on cash flows test that would consider the source of repayment to be partly from the borrower's own resources and partly from the cash flows/income generated by the real estate? What, if any, quantitative threshold should the agencies consider in determining whether a real estate exposure is dependent on cash flows generated by the real estate (for example, the cash flows generated from real estate reflect between 5 and 50 percent of amount needed for repayment of the loan)? Further, if the agencies decide to adopt a quantitative threshold, either for regulatory residential or regulatory commercial real estate exposures, what should the agencies consider when calibrating such a threshold for regulatory residential, and separately for regulatory commercial real estate

¹⁰¹ For example, if (1) a borrower purchases a two-unit property with the intention of making one unit their principal residence, (2) the borrower intends to rent out the second unit to a third party, and (3) the banking organization considered the cash flows from the rental unit as a source of repayment, the exposure would not meet the proposal's definition of dependent on the cash flows generated by the real estate because the property securing the exposure is the borrower's principal residence.

exposures, and what would be the appropriate calibration levels for each? Provide specific examples, including calculations and supporting data. Relatedly, please provide views on how to define cash flows and what expenses, if any, the agencies should consider.

iv. Calculating the Loan-to-Value Ratio

The proposal would require a banking organization to use LTV ratios to assign a risk weight to a regulatory residential or regulatory commercial real estate exposure. The proposed calculation of the LTV ratio would be generally consistent with the real estate lending guidelines except with respect to the recognition of private mortgage insurance, as described below.

Under the proposal, an LTV ratio would be calculated as the extension of credit divided by the value of the property. The extension of credit would mean the total outstanding amount of the loan including the notional total of any undrawn committed amount of the loan. The total outstanding amount of the loan would reflect the current amortized balance as the loan pays down, which would allow a banking organization to assign a lower risk weight to a loan over time as the principal is repaid. Similarly, if an extension of credit increases, a banking organization would reflect that increase in the LTV ratio.

For purposes of the LTV ratios in Tables 2, 3, 4, 5 below, a banking organization would calculate the loan amount without making any adjustments for credit loss provisions or private mortgage insurance. Not recognizing private mortgage insurance for these purposes would be consistent with the current capital rule's definition of eligible guarantor, which does not recognize an insurance company engaged predominately in the business of providing credit protection (such as a monoline bond insurer or re-insurer).¹⁰² During the 2007–2009 housing market stress, the performance of private mortgage insurance deteriorated at the same time as the underlying exposures.¹⁰³ Under the proposal and consistent with the current capital rule, private mortgage insurance is considered when banking

organizations identify if a residential mortgage exposure is made in accordance with prudent underwriting standards. As discussed earlier, under the proposal a residential mortgage exposure must be made in accordance with prudent underwriting standards and must meet other requirements to be considered regulatory residential real estate exposures and therefore eligible to be risk weighted according to the LTV table described below.¹⁰⁴

The value of the property would mean the value at the time of origination of all real estate properties securing the extension of credit, including the increased estimated value of the property if the property is being improved by an extension of credit. The value of the property would also include the fair value of any readily marketable collateral and other acceptable collateral, as defined in the real estate lending guidelines, that secures the extension of credit.

For exposures subject to the Real Estate Lending, Appraisal Standards, and Minimum Requirements for Appraisal Management Companies or Appraisal Standards for Federally Related Transactions (collectively, the appraisal rule),¹⁰⁵ the market value of real estate would be a valuation that meets all requirements of that rule. For exposures not subject to the appraisal rule, the proposal would require that (1) the market value of real estate be obtained from an independent valuation of the property using prudently conservative valuation criteria; and (2) the valuation be done independently from the banking organization's origination and underwriting process. Most real estate exposures held by insured depository institutions are subject to the agencies' appraisal rule, which also provides for evaluations in some cases, and provides for certain exceptions, such as where a lien on real estate is taken out of an abundance of caution. To help ensure that the value of the real estate is determined in a prudently conservative manner, the proposal would also provide that, for exposures not subject to the appraisal rule, the valuations of the real estate properties would need to exclude expectations of price increases and be

adjusted downward to take into account the potential for the current market prices to be significantly above the values that would be sustainable over the life of the loan.

In addition, when the real estate exposure finances the purchase of the property, the value would be the lower of (1) the actual acquisition cost of the property and (2) the market value obtained from either (i) the valuation requirements under the appraisal rule (if applicable) or (ii) as described above, an independent valuation of the property using prudently conservative valuation criteria and that is separate from the banking organization's origination and underwriting process.

Using the value of a property at origination when calculating the LTV ratio protects against volatility risk or short-term market price inflation. For purposes of the LTV ratio calculation, the proposal would require banking organizations to use the value of the property at the time of origination, except under the following circumstances: (1) the banking organization's primary Federal supervisor requires the banking organization to revise the property value downward; (2) an extraordinary event occurs resulting in a permanent reduction of the property value (for example, a natural disaster); or (3) modifications are made to the property that increase its market value and are supported by a new appraisal or independent evaluation using prudently conservative criteria. These proposed exceptions are intended to constrain the use of values other than the value of the property at loan origination only to exceptional circumstances that are sufficiently material to warrant use of a revised valuation.

For purposes of determining the value of the property, the proposal would use the definition of readily marketable collateral and other acceptable collateral from the real estate lending guidelines. Therefore, readily marketable collateral would mean insured deposits, financial instruments, and bullion in which the banking organization has a perfected security interest. Financial instruments and bullion would need to be salable under ordinary circumstances with reasonable promptness at a fair market value determined by quotations based on actual transactions, by an auction, or by a similarly available daily bid and ask price market. Other acceptable collateral would mean any collateral in which the banking organization has a perfected security interest that has a quantifiable value and is accepted by the banking organization in accordance with safe and sound lending practices.

¹⁰² A guarantor is not an eligible guarantor under the current capital rule if the guarantor's creditworthiness is positively correlated with the credit risk of the exposures for which it has provided guarantees. 78 FR 62141 (Oct. 11, 2013).

¹⁰³ See Laurie Goodman and Karan Kuhl, "Sixty Years of Private Mortgage Insurance in the United States," The Urban Institute Housing Finance Policy Center, August 2017. Pg. 7, https://www.urban.org/sites/default/files/publication/92676/2017_08_18_sixty_years_of_pmi_finalizedv3_3.pdf.

¹⁰⁴ As described in section IV.A.2.c.i. of this **SUPPLEMENTARY INFORMATION**, regulatory residential mortgage exposures must be made in accordance with prudent underwriting standards, including standards relating to supervisory LTVs, which allow for the consideration of private mortgage insurance for permanent mortgage or home equity loans on owner-occupied, 1- to 4-family residential properties.

¹⁰⁵ See 12 CFR part 34, subpart C or subpart G (OCC); 12 CFR part 208, subpart E or 12 CFR part 225, subpart G (Board); 12 CFR part 323 (FDIC).

Under the proposal, other acceptable collateral would include, among other items, unconditional irrevocable standby letters of credit for the benefit of the banking organization. Readily marketable collateral and other acceptable collateral must be appropriately discounted by the banking organization consistent with the banking organization's usual practices for making loans secured by such collateral. The reasonableness of a banking organization's underwriting criteria would continue to be reviewed through the supervisory process to help ensure its real estate lending policies are consistent with safe and sound banking practices.

Question 21: What other approaches should the agencies consider to recognize private mortgage insurance in the determination of the risk weight of residential mortgage exposures? What would be the pros and cons of providing

explicit recognition of private mortgage insurance in the calculation of LTV ratio for purposes of determining the risk weights for regulatory real estate exposures? What, if any, increases in procyclicality and incentives for increased risk-taking by banking organizations might such recognition create? What conditions could the agencies impose on such recognition to mitigate concerns about the wrong-way risk of monoline credit insurance? In recognition that private mortgage insurance may not provide protection under all relevant stress events, what are the advantages and disadvantages of recognizing a portion (such as 50 percent) of the value of the private mortgage insurance in determining the total outstanding amount of the loan in the calculation of the LTV ratio? Please provide any data and analysis supporting alternative approaches.

v. Risk Weights for Regulatory Residential Real Estate Exposures

Under the proposal, a banking organization would assign a risk weight to a regulatory residential real estate exposure based on the exposure's LTV ratio without PMI and whether the exposure is dependent on the cash flows generated by the real estate, in accordance with Tables 2 and 3 below.¹⁰⁶ LTV ratios and dependence on cash flows generated by the real estate would factor into the risk-weight treatment for real estate exposures under the proposal because these risk factors are meaningful determinants of credit risk for real estate exposures. The proposed risk weights in each LTV ratio category are intended to reflect differences in the credit risk of these exposures.¹⁰⁷

Table 2. Proposed Risk Weights for Regulatory Residential Real Estate Exposures That Are Not Dependent on the Cash Flows of the Real Estate

	LTV Ratio ≤ 50%	50% < LTV Ratio ≤ 60%	60% < LTV Ratio ≤ 80%	80% < LTV Ratio ≤ 90%	90% < LTV Ratio ≤ 100%	LTV Ratio > 100%
Risk Weight	20%	25%	30%	40%	50%	70%

Table 3. Proposed Risk Weights for Regulatory Residential Real Estate Exposures That Are Dependent on the Cash Flows of the Real Estate

	LTV Ratio ≤ 50%	50% < LTV Ratio ≤ 60%	60% < LTV Ratio ≤ 80%	80% < LTV Ratio ≤ 90%	90% < LTV Ratio ≤ 100%	LTV Ratio > 100%
Risk Weight	30%	35%	45%	60%	75%	105%

The proposed risk weights in Tables 2 and 3 would appropriately balance the benefits of risk sensitivity, transparency, and consistency in the risk weight for real estate exposures across banking organizations subject to the expanded risk-based approach. Applying lower risk weights to loans with lower LTVs aligns the credit risk of the loan with the applicable risk weight, and relying on

cash flows from the property for repayment has historically indicated increased credit risk that merits higher risk weights.

The proposal would also recognize the reduction in credit risk of regulatory residential real estate exposures due to amortization, as the obligor pays down principal and builds equity.¹⁰⁸ The risk weights for such exposures could

decrease throughout the life of the respective loans as obligors make payments. For example, analysis by the agencies indicates that residential mortgage loans issued in the 90 percent to 100 percent LTV ratio category would have a lifetime average risk weight approximately five percentage points

¹⁰⁶ Residential real estate exposures that are 90 days past due or in nonaccrual would be assigned a 150 percent risk weight, unless the exposure is a residential mortgage exposure that is not dependent on the cash flows generated by the real estate, which would be assigned a 100 percent risk weight.

¹⁰⁷ The risk weight assigned to loans does not impact the appropriate treatment of loans under the

agencies' other regulations and guidance, such as the supervisory LTV limits under the real estate lending guidelines.

¹⁰⁸ For purposes of the LTV ratio calculation, the proposal would require banking organizations to use the value of the property at the time of origination, except under limited circumstances. See also Luis Otero González, Pablo Durán

Santomil, Milagros Vivel Búa and Rubén Lado Sestayo, "The Impact of Loan-to-Value on The Default Rate of Residential MBS" Journal of Credit Risk (July 2016), <https://www.risk.net/journal-of-credit-risk/2465626/the-impact-of-loan-to-value-on-the-default-rate-of-residential-mortgage-backed-securities>.

lower than the applicable risk weight at origination.¹⁰⁹

The agencies recognize that some home buyers, especially low- and moderate-income home buyers or those in historically underserved markets, are more likely to be obligors of loans with higher LTV ratios and thus higher risk weights under the approach described above. As a result, borrowing costs for some low- and moderate-income home buyers could be higher relative to obligors with lower LTV ratios. However, many low-to-moderate income borrowers obtain mortgages through loan programs administered by the Federal Housing Administration (FHA) or Department of Veterans Affairs (VA). Consistent with the current capital rule, banking organizations generally would apply a 20 percent risk weight to real estate exposures guaranteed by the U.S. government through the FHA or VA under the proposal. In addition, the proposed risk weights applicable to regulatory residential real estate exposures that have high LTV ratios would be generally consistent with the applicable risk weights under the current standardized approach for residential real estate exposures. The agencies estimate that the proposed risk-

based capital requirements for regulatory residential real estate exposures that are not dependent on the cash flows of the real estate—reflecting both credit risk weights and estimated operational risk requirements—would be lower than the applicable risk-based capital requirements for residential real estate mortgages exposures under the current standardized approach for exposures with LTV ratios at or below 90 percent and very similar for such exposures with LTV ratios between 90 and 99 percent.¹¹⁰

Question 22: Given the proposed treatment of residential real estate exposures, how, if at all, would the proposed risk weights impact home affordability and home ownership opportunities, particularly for low-to-moderate income obligors or customers in other historically underserved markets? Please provide supporting data.

Question 23: What alternative approaches for determining applicable risk weights to residential real estate exposures should the agencies consider and why? Please provide data supporting alternative approaches, including factors that were the basis for underwriting the loans and the

historical repayment performance of the loans.

vi. Risk Weights for Regulatory Commercial Real Estate Exposures

Similar to the proposed approach to regulatory residential real estate exposure, the proposal would require a banking organization to assign a risk weight to a regulatory commercial real estate exposure based on the exposure's LTV ratio and whether the exposure is dependent on the cash flows generated by the real estate, in accordance with Tables 4 and 5 below. Further, in the case of a regulatory commercial real estate exposure that is not dependent on cash flows generated by the real estate for repayment, a banking organization would be required to assign the risk weight applicable to the obligor, as reflected in Table 4. If the LTV ratio of such an exposure is greater than 60 percent, and the banking organization does not have sufficient information about the exposure to determine what the risk weight applicable to the obligor would be, the banking organization would be required to assign a 100 percent risk weight to the exposure unless the exposures is 90 days more past due or in nonaccrual.¹¹¹

Table 4: Proposed Risk Weights for Regulatory Commercial Real Estate Exposures That Are Not Dependent on the Cash Flows of the Real Estate

Risk weight	LTV ratio ≤ 60%	LTV ratio > 60%
	Lesser of 60% risk weight or the risk weight applicable to the obligor	Risk weight applicable to the obligor

Table 5: Proposed Risk Weights for Regulatory Commercial Real Estate Exposures That Are Dependent on the Cash Flows of the Real Estate

Risk weight	LTV ratio ≤ 60%	60% < LTV ratio ≤ 80%	LTV ratio > 80%
	70%	90%	110%

Regulatory commercial real estate exposures not dependent on cash flows generated by the real estate often involve situations where the borrowing

¹⁰⁹ See section VII of this **SUPPLEMENTARY INFORMATION** for more information explaining the analysis of the estimated “effective” risk weights applicable to residential mortgage exposures under the proposal.

¹¹⁰ According to agency analysis, effective risk weights, which reflect both credit risk weights and

entity occupies the property or the obligor has significant other cash flows to repay the loan that the banking organization considered when

estimated add-ons to reflect operational risk, are relatively constant or falling for almost all types of mortgage obligors relative to the applicable 50 percent risk weight for prudently underwritten residential mortgage exposures in the current standardized framework. For instance, for low-to-moderate income obligors, the total equivalent risk weight under the proposal is estimated to be 46

underwriting the loan. While these exposures generally present lower credit risk relative to exposures to commercial real estate dependent on cash flows

percent (42 percent from credit risk and 4 percent from operational risk). See the economic analysis presented in section VIII.D.2 of this **SUPPLEMENTARY INFORMATION**.

¹¹¹ Commercial real estate exposures that are 90 days past due or in nonaccrual would be assigned a 150 percent risk weight.

generated by the real estate, or other types of corporate exposures where real estate collateral is not present, the risk profile of the obligor impacts the applicable risk weight to appropriately reflect the credit quality of the obligor in addition to the real estate collateral. Therefore, the applicable risk weights in Table 4 for regulatory commercial real estate exposures not dependent on cash flows generated by the real estate reflect both the LTV ratio and the risk profile of the obligor. In contrast, because the risks of commercial real estate exposures dependent on cash flows generated by the real estate are more dependent on the property, the risk weights in Table 5 reflect only the LTV ratio as a risk driver and generally are higher relative to Table 4.

vii. ADC Exposures That Are Not HVCRE Exposures

Under the proposal, the agencies would define an ADC exposure as an exposure secured by real estate for the purpose of acquiring, developing, or constructing residential or commercial real estate properties, as well as all land development loans, and all other land loans. Some ADC exposures meet the definition of HVCRE exposure in § _____.2 of the capital rule and would be assigned a 150 percent risk weight.¹¹² Real estate exposures that meet the definition of ADC exposure but do not meet the definition of HVCRE exposure and are not 90 days past due or in nonaccrual would be assigned a 100 percent risk weight under the proposal. The proposed regulatory treatment for ADC exposures would not take into consideration cash flow dependency or the LTV ratio. ADC exposures are mostly short-term or bridge loans to cover construction or development, or lease up or sales phases of a real estate project, rather than amortizing permanent loans for completed residential or commercial real estate. ADC exposures have heightened risk compared to permanent commercial real estate exposures, reflecting uncertainty for unforeseen issues with construction or market conditions, compared to the expected cash flow on a fully leased and constructed commercial property. The proposal would be consistent with the current standardized approach, as ADC exposures are generally subject to a risk

weight of 100 percent or more under the current standardized approach.¹¹³

viii. Other Real Estate Exposures

The proposal would define other real estate exposures as real estate exposures that are not regulatory commercial real estate exposures, regulatory residential real estate exposures, ADC exposures, or any of the statutory real estate exposures.

An exposure meeting the proposed definition of other real estate exposure poses heightened credit risk as a result of not meeting the definitions of regulatory residential and regulatory commercial real estate, respectively, and accordingly would be assigned a higher risk weight. Specifically, the proposal would require a banking organization to assign a 150 percent risk weight to an other real estate exposure, unless the exposure is a residential mortgage exposure that is not dependent on the cash flows generated by the real estate, which would be assigned a 100 percent risk weight.

For example, a banking organization would assign a 150 percent risk weight to real estate exposures that are dependent on the cash flows generated by the underlying real estate, such as a rental property, and that do not meet the regulatory residential or regulatory commercial real estate exposure definitions. Loans for the purpose of acquiring real estate and reselling it at higher value that do not qualify as ADC loans and do not meet the definition of regulatory residential real estate exposures would be assigned a 150 percent risk weight as other real estate exposures. The proposed 150 percent risk weight also would provide a regulatory capital incentive for banking organizations to originate real estate exposures in accordance with the prudent qualification requirements for regulatory residential and commercial real estate exposures, respectively.

The 100 percent risk weight would apply to other real estate exposures that are a residential mortgage exposure that is not dependent on the cash flows generated by the real estate, which could include junior lien home equity lines of credit (where the banking organization does not also hold the first lien) and other second mortgages, as these exposures reflect heightened credit risk compared to first-lien exposures because the banking organization would receive repayment

only after more senior creditors in the instance of the obligor defaulting. In addition, if a banking organization does not adequately evaluate the creditworthiness of an obligor for an owner-occupied residential mortgage exposure, or if the obligor has inadequate creditworthiness or capacity to repay the loan, the exposure would not be considered prudently underwritten and would be assigned a 100 percent risk weight instead of the lower risk weights included in Table 2 for regulatory residential mortgage exposures not dependent on the cash flows generated by the real estate.

d. Retail Exposures

The proposal would increase the credit risk sensitivity of the capital requirements applicable to retail exposures by assigning risk weights that would vary depending on product type and the degree of portfolio diversification. The proposal would introduce a new definition of retail exposure, which would be defined as an exposure that is not a real estate exposure, and is an exposure to a natural person or persons or an exposure to a small or medium-sized entity (SME)¹¹⁴ that meets the proposed definition of a regulatory retail exposure described below. Including an exposure to an SME in the definition of a retail exposure recognizes that many small companies have characteristics more similar to those of a natural person than of a larger corporation with respect to financial resources and the time horizon under which it operates. The proposed definition of a retail exposure would be narrower in scope than the current capital rule's existing definition of a retail exposure under the advanced approaches, which includes a broader range of exposures, including residential real estate-related exposures. Because the proposal would include separate risk-weight treatments for real estate exposures that account for the underlying collateral, the proposed definition of a retail exposure would not include real estate exposures.

The proposal would differentiate the risk-weight treatment for retail exposures based on whether the exposure (1) qualifies as a regulatory

¹¹² Section 214 of the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA) imposes certain requirements on high volatility commercial real estate acquisition, development, or construction loans. Section 214 of Public Law 115–174, 132 Stat. 1296 (2018); 12 U.S.C. 1831bb.

¹¹³ OCC Commercial Real Estate Lending Handbook 2.0, <https://www.occ.gov/publications-and-resources/publications/comptrollers-handbook/files/commercial-real-estate-lending/pub-ch-commercial-real-estate.pdf>.

¹¹⁴ Under the proposal, an SME would mean an entity in which the reported annual revenues or sales for the consolidated group of which the entity is a part are less than or equal to \$50 million for the most recent fiscal year. This scope is generally consistent with the definition of an SME under the Basel standards and also corresponds with the maximum receipts-based size standard for small businesses set by the Small Business Administration, which varies by industry and does not exceed \$47 million per year. See 13 CFR part 121.

retail exposure, (2) further qualifies as a transactor exposure; or (3) does not qualify for either of the previous categories and therefore is treated as an other retail exposure. The proposed risk weights assigned to retail exposures consider characteristics such as payment history and exposure size the latter of which is individually generally small in dollar-per-loan volume for exposures captured within the scope of the proposal's retail exposure definition. The proposed definitions of a regulatory retail exposure and a transactor exposure outlined below include key criteria for broadly categorizing the relative credit risk of retail exposures.

To qualify as a regulatory retail exposure, the proposal would require an exposure to be in the form of any of the following credit products: a revolving credit or line of credit (such as a credit card, charge card, or overdraft) or a term loan or lease (such as an installment loan, auto loan or lease, or student or educational loan). In addition, under the proposal, the amount of retail exposures to a single obligor and its affiliates that a banking organization could treat as regulatory retail exposures would be limited. Specifically, the regulatory retail exposure category would exclude any retail exposure to a single obligor and its affiliates that, in the aggregate with any other retail exposures to that obligor or its affiliates, including both on- and off-balance sheet exposures, exceeds a combined total of \$1 million (aggregate limit).¹¹⁵ Limiting the types of products and the dollar amount of exposures to a single obligor that would qualify as regulatory retail exposures under the proposal would help ensure that the regulatory retail treatment applies only to a set of small exposures to a diversified group of obligors. A banking organization would include all outstanding and committed but unfunded regulatory retail exposures in determining the aggregated total to a single obligor and its affiliates.

Under the proposal, if an exposure to an SME does not meet the eligible product criterion and the aggregate limit criterion described above, then none of the exposures to that SME would qualify as retail exposures and all the exposures to that SME would be treated as corporate exposures.

¹¹⁵ The \$1 million threshold for a retail exposure to qualify as regulatory retail would be indexed using CPI-W. See section II.E. of this

SUPPLEMENTARY INFORMATION. For an off-balance sheet exposure, the full notional amount of the exposure would apply towards the \$1 million threshold. If a retail exposure to a single obligor and its affiliates does exceed the \$1 million threshold, then none of the exposures to that obligor would qualify as regulatory retail exposures.

The proposal would define a transactor exposure as a regulatory retail exposure that is a credit facility where the balance has been repaid in full at each scheduled repayment date for the previous twelve months or an overdraft facility where there has been no drawdown over the previous twelve months. If a single obligor had both a credit facility and an overdraft facility from the same banking organization, the banking organization would separately evaluate each facility to determine whether it meets the definition of a transactor exposure. An exposure would not be a transactor exposure if the credit facility has a balance or the facility includes installment payments, even if the obligor was not required to make a payment, including when the credit facility had a promotional offer such as a zero percent interest.

Under the proposal, a banking organization would assign a risk weight of 45 percent to a regulatory retail exposure that is a transactor exposure and a 75 percent risk to a regulatory retail exposure that is not a transactor exposure. All other retail exposures would be assigned a 100 percent risk weight. The proposed relatively low 45 percent risk weight for a transactor exposure is appropriate because such obligors have a demonstrated history of full and timely repayment. A regulatory retail exposure that is not a transactor exposure warrants the proposed 75 percent risk weight, which would be lower than the proposed 100 percent risk weight for all other retail exposures, due to mitigating factors related to size or concentration risk. Any retail exposure that would not qualify as a regulatory retail or a transactor exposure warrants a risk weight of 100 percent. The proposed retail categories, risk weights, and risk indicators are largely consistent with the Basel standards.

Question 24: What, if any, additional criteria or alternatives should the agencies consider to help ensure that the regulatory retail treatment is limited to a group of diversified retail obligors? What alternative thresholds or calibrations should the agencies consider for purposes of retail exposures? Please provide supporting data in your response.

Question 25: What, if any, changes to the methodology for the aggregate limit calculation should the agencies consider? What are the pros and cons of treating the amount of retail exposures to a single obligor, when aggregated, below \$1 million as regulatory retail exposures, while the amount of exposures above \$1 million to the same obligor in aggregate would be treated as other retail exposures? The agencies

seek comment on whether there is a differentiation of risk to the same obligor for exposures above and below the aggregate limit.

e. Corporate Exposures

A corporate exposure under the proposal would be an exposure to a company that does not fall under any other exposure category under the proposal. This scope would be consistent with the definition found in § _____.2 of the current capital rule. For example, an exposure to a company that also meets the proposed definition of a real estate exposure would be a real estate exposure rather than a corporate exposure for purposes of the proposal.

As described in more detail below, the proposal would differentiate the risk weights of corporate exposures based on credit risk by considering such factors as the general creditworthiness of the obligor; each exposure's level of subordination and the expected source of repayment.¹¹⁶ First, a banking organization would be permitted to assign a 65 percent risk weight to a corporate exposure that is an exposure to a company that is investment grade based on the banking organization's internal ratings system, subject to the criteria outlined further below. Second, consistent with the current standardized approach, a banking organization would assign risk weights of 2 percent or 4 percent to certain exposures to a qualifying central counterparty.¹¹⁷ Third, a banking organization would assign a 100 percent risk weight to a project finance exposure that is in the operational phase; otherwise, such an exposure would receive a 130 percent risk weight.

Fourth, a banking organization would assign a 100 percent risk weight to a corporate exposure that is for the purpose of acquiring or financing equipment or physical commodities where repayment of the exposure is dependent on the physical assets being financed or acquired. This would include exposures that finance income-producing assets or projects that engage in non-real estate activities where the

¹¹⁶ The proposal would require banking organizations to apply a 150 percent risk weight to corporate exposures that are either subordinated exposures, as described in section IV.A.2.f. of this **SUPPLEMENTARY INFORMATION**, or covered debt instruments that are not deducted. See the Federal Reserve Board's rule on "Total Loss-Absorbing Capacity, Long-Term Debt, and Clean Holding Company Requirements for Systemically Important U.S. Bank Holding Companies and Intermediate Holding Companies of Systemically Important Foreign Banking Organizations" 12 CFR part 252.

¹¹⁷ See 12 CFR 3.32(f)(2) and (3) (OCC); 12 CFR 217.32(f)(2) and (3) (Board); 12 CFR 324.32(f)(2) and (3) (FDIC).

obligor entity itself has no independent capacity to repay the loan.

Finally, a banking organization would assign a 100 percent risk weight to all other corporate exposures. Assigning a 100 percent risk weight to all other corporate exposures broadly reflects the relative risk of such corporate exposures, as exposures not deemed investment grade generally pose greater credit risk than that of investment grade corporate exposures.

i. Investment Grade Companies

Under the proposal, a banking organization would be permitted to assign a 65 percent risk weight to a corporate exposure that is not a subordinated exposure and is an exposure to a company that the banking organization, using one or more internal credit risk rating systems that meet certain requirements, determines is investment grade, as that term is defined in § _____.2 of the capital rule. The definition of investment grade, which would remain unchanged under the proposal, requires that the entity has adequate capacity to meet its financial commitments for the projected life of the asset or exposure.¹¹⁸ The rule further provides that an entity has adequate capacity to meet financial commitments if the risk of its default is low and the full and timely repayment of principal and interest is expected. Thus, the investment grade classification is intended to apply to companies of high credit quality.¹¹⁹

Corporate exposures typically exhibit significant differences in default probabilities, loss severities, and correlation with broader economic conditions based on many factors

including the financial strength and stability of the obligor. An investment grade designation would provide a mechanism to increase risk sensitivity in the capital framework by subdividing corporate exposures by credit risk. Further, assigning separate risk weights for corporate exposures to investment grade companies and non-investment grade companies would align capital requirements more closely with actual risk.

To help promote the consistency and reliability of a banking organization's investment grade determinations for purposes of assigning a 65 percent risk weight to a corporate exposure and to promote comparability in such determinations across banking organizations, the proposal would set forth requirements for any internal credit risk rating system used by banking organizations for such purposes. Additionally, a banking organization would have to meet proposed requirements when validating such systems.

The proposal would require that the internal credit risk rating system that a banking organization would rely upon to make investment grade determinations also be used to inform material business or risk management decisions, such as those related to accounting, regulatory reporting, risk management and measurement, loan loss reserve estimation, capital planning, loan pricing, or supporting board of directors' decision making. Using existing systems would allow banking organizations to leverage existing data on obligors that are used for other purposes to support their investment grade determinations under the proposal, thus reducing regulatory burden. In addition, given their importance in fundamental business processes, such systems are subject to internal controls, oversight, and validation processes that help ensure their reliability.

The banking organization would be required to define which obligor rating grades within its internal credit risk rating system(s) are considered to be investment grade, as that term is defined in § _____.2 of the capital rule. Because the rating assessment and the corresponding determination of investment grade would occur at the obligor level, such determinations would not include exposure level loss given default factors, such as credit enhancements, transaction structure, and collateral.¹²⁰ The proposal would

require the internal credit risk rating system to assign a rating grade for each obligor in an accurate and timely manner, no less frequently than annually and whenever the banking organization receives new material information regarding the creditworthiness of the obligor. The proposal would also require the internal credit risk rating system to incorporate both quantitative and qualitative factors relating to the historical and projected patterns of payment behaviors, the financial situation and performance of each obligor, and any relevant developments that affect the investment grade determination. Examples of quantitative risk factors fitting these characteristics include, but are not limited to, metrics relating to cash flow available to cover debt obligations, levels of equity relative to debt, and quantities of liquid assets relative to liabilities. Qualitative risk factors could include the business model and economic sector of the obligor, the obligor's willingness to repay, and market conditions. A banking organization would not be permitted to rely solely on third-party assessments of credit risk in its rating of obligors for purposes of determining investment grade status. The proposal would require a banking organization, at least annually, to validate the robustness, consistency, and reliability of its internal credit risk rating system, using data from at least one full credit cycle and taking care to ensure that benign and stressful periods are appropriately represented.

As part of the validation of the internal credit rating system, the proposal would require a banking organization to evaluate whether the performance of the obligors identified by the internal credit risk rating system as investment grade is consistent with the definition of investment grade in § _____.2 of the capital rule, including by benchmarking the investment grade ratings resulting from the internal credit risk rating system with external information relating to the creditworthiness of obligors. Such benchmarking may include comparisons to external credit ratings of obligors produced by third parties. Using external information as part of validating the internal credit risk rating system could identify areas for improvement in the system and may enhance consistency in investment

¹¹⁸ See 12 CFR 3.2 (definition of investment grade) (OCC); 12 CFR 217.2 (definition of investment grade) (Board); 12 CFR 324.2 (definition of investment grade) (FDIC).

¹¹⁹ The use of the investment grade definition in the current capital rule was expanded in 2013 as part of a set of alternatives to external credit ratings for calculating risk-weighted assets for certain exposures, to implement section 939A of the Dodd Frank Act. These alternative creditworthiness standards were designed to be consistent with safety and soundness while also exhibiting risk sensitivity similar to external credit rating categories. See 15 U.S.C. 78o–7 note. Prior to the 2013 capital rule, investment grade was used in several areas of the capital rule, including in the market risk framework, the treatment of securitization and equity exposures, and in the requirements for recognizing certain guarantees and collateral in the calculation of risk-weighted assets. See Risk-Based Capital Guidelines: Market Risk, 77 FR 53060 (Aug. 30, 2012) (when the concept was initially introduced). In the now-superseded capital rule that contained such references, a long-term credit rating of BBB- or better and a short-term credit rating of A3 or better were provided as examples of credit ratings considered to be investment grade. See Risk-Based Capital Standards: Advanced Capital Adequacy Framework—Basel II, 72 FR 69288, (Dec. 7, 2007).

¹²⁰ Under the proposal, credit risk mitigation techniques could not be used to support investment grade determinations. See section IV.A.5. of this

SUPPLEMENTARY INFORMATION for a description of how credit risk mitigants, such as guarantees and collateral, can reduce the risk-weighted asset amount for certain exposures.

grade determinations across banking organizations.

Also, as part of the validation, the proposal would require a banking organization to assess the reliability, accuracy, completeness, timeliness, and appropriateness of the data sources used as part of the investment grade determinations. The proposal would require a banking organization to incorporate available information that is reasonably expected to support a robust evaluation of the internal credit rating system, including information regarding the performance of companies that have ceased operations or that have been sold to a third party to address potential survivorship bias. Properly accounting for obligors that are sold to a third party or that cease operations would reduce the likelihood of rating grades being skewed.

The proposal also would require a banking organization to ensure that the validation process is independent of the internal credit risk system's development, implementation, and operation, or subject the validation process to an independent review of its adequacy and effectiveness. These requirements around independence would help ensure the objectivity, reliability, and integrity of the validation process.

Consistent with requirements under the current advanced approaches, the proposal would require the validation process to incorporate default data covering a period of at least five years and include a period of stress. If the banking organization has relevant data that extends beyond the five-year period, it would be required to incorporate that data into the validation process. The banking organization also would not be permitted to place undue weight on data from periods of favorable or benign economic conditions relative to economic downturn conditions. Appropriately reflecting and balancing all relevant data over at least five years would help support an accurate credit assessment.

Question 26: The agencies seek comment on the proposed treatment of corporate exposures to companies that the banking organization determines are investment grade. What, if any, operational challenges might the proposed approach pose for banking organizations? How should the agencies consider addressing such challenges?

Question 27: The agencies seek comment on the pros and cons of an alternative approach to determining eligibility for the 65 percent risk weight that would include requirements that banking organizations demonstrate that the obligors meet certain quantitative

thresholds using commonly defined metrics such as probability of default in order to demonstrate if the obligor merits an investment grade rating. What, if any, operational challenges or limitations might numerical threshold requirements pose for banking organizations in meeting the proposed ratings criteria?

Question 28: What would be the pros and cons of requiring a banking organization to receive prior approval of its internal credit risk rating system from its primary Federal supervisor before applying the preferential 65 percent risk weight compared to evaluation of its compliance with the capital rule requirements by its primary Federal supervisor during routine supervisory review processes? The agencies are seeking feedback on the benefits that a preapproval process may provide versus the operational burden imposed by such a process.

ii. Project Finance Exposures

The proposal would define a project finance exposure as a corporate exposure for which the banking organization relies on the revenues generated by a single project (typically a large and complex installation, such as a power plant, manufacturing plant, transportation infrastructure, telecommunications installation, or other similar installation), both as the source of repayment and as security for the exposure. A project finance exposure could take the form of financing the construction of a new installation or a refinancing of an existing installation, with or without improvements. In addition, a project finance exposure also must: (1) be to an obligor entity that was created specifically to finance the project, operate the physical assets of the project, or do both, and (2) the borrowing entity must only have an immaterial amount of assets, activities, or sources of income, apart from revenues from the activities of the project being financed. The primary determinant of credit risk for a project finance exposure is the variability of the cash flows expected to be generated by the project being financed rather than the general creditworthiness of the borrowing entity or the market value or sale of the project or the real estate on which the project sits.¹²¹

Under the proposal, a project finance exposure would receive a 130 percent risk weight during the pre-operational

phase and a 100 percent risk weight during the operational phase of the project. The proposal would define a project finance operational phase exposure as a project finance exposure for which the project has a positive net cash flow that is sufficient to support the debt service and expenses of the project and any other remaining contractual obligations, in accordance with the banking organization's applicable loan underwriting criteria for permanent financings, and for which the outstanding long-term debt of the project is declining. Prior to the operational phase classification, the proposal would require a banking organization to treat a project finance exposure as being in the pre-operational phase and assign a 130 percent risk weight to the exposure. The pre-operational phase would be the period between the origination of the loan and the time at which the banking organization determines that the project has entered the operational phase. Relative to the operational phase, the pre-operational phase presents increased uncertainty that the project will be completed in a timely and cost-effective manner, and produce expected revenue, which warrants the application of a higher risk weight. For example, market conditions could change significantly between commencement and completion of the project. In addition, unanticipated supply shortages or other challenges could disrupt timely completion of the project and the expected timing of the transition to the operational phase. These unanticipated changes could impact the ability of the project to generate cash flows as projected and to repay creditors.

Under the proposal, an exposure that is considered to be secured by collateral in the form of real estate¹²² where the banking organization relies on real estate collateral to grant credit, would not be considered a project finance exposure and would be assigned a risk weight as described in section IV.A.2.c. of this **SUPPLEMENTARY INFORMATION**.

¹²² Although it is common for the banking organization to take a mortgage over the real property and a lien against other assets of the project for security and lender control purposes, a project finance exposure would not be considered a real estate exposure because the banking organization does not rely on real estate collateral to grant credit. As noted in section IV.A.2.c of this Supplementary Information, for purposes of the proposal, "secured by collateral in the form of real estate" in the context of the proposed real estate exposure definition should be interpreted in a manner that is consistent with the current definition for "a loan secured by real estate" in the Call Report and FR Y-9C instructions.

¹²¹ Exposures that are guaranteed by the government or considered a general obligation or revenue obligation exposure to a PSE would not qualify as a project finance exposure.

f. Subordinated Exposures

The proposal would introduce a definition and risk weight treatment for subordinated exposures. Subordinated exposures present a greater risk of loss to an investing banking organization relative to more senior exposures to the same issuer or borrower because subordinated exposures have a lower priority of repayment in the event of default. The proposed definition of a subordinated exposure would capture exposures that are financial instruments, such as debt securities and loans, and present heightened credit risk but are not equity exposures, as outlined in section IV.C. of this **SUPPLEMENTARY INFORMATION**. The proposal would define a subordinated exposure as a corporate exposure, a bank exposure, or an exposure to a GSE, that is subordinated by its terms or separate intercreditor agreement to the general creditors of the obligor, or an exposure to preferred stock that is not an equity exposure. A subordinated exposure would not include a retail exposure or a debt security issued by a sovereign, public sector entity, multilateral development bank, or supranational entity, or an exposure that would be captured under the securitization framework.

For these purposes, an exposure would be subordinated if the documentation creating or evidencing such indebtedness (or a separate intercreditor agreement) provides for the issuer's or obligor's general creditors to rank senior to the payment of such indebtedness in the event the issuer or obligor becomes the subject of a bankruptcy or other insolvency proceeding. The scope of the definition of a subordinated exposure is meant to capture the types of entities that issue subordinated instruments and for which the level of subordination is a meaningful determinant of the credit risk of the instrument. The definition also captures instances where a banking organization makes or purchases a loan that is subordinated to the general creditors of the obligor. Limiting the scope of subordinated exposures to those junior to general creditors, as proposed, would apply a heightened risk weight to only those exposures for which subordination results in a heightened credit risk relative to general creditors.

The proposal would apply a 150 percent risk weight to exposures that meet the definition of a subordinated exposure, consistent with the Basel standards. Relative to the current standardized approach, the proposal provides more risk-sensitive approaches

for several exposure categories, including bank exposures, corporate exposures, and exposures to GSEs, as described above in sections IV.A.2.a.–c. of this **SUPPLEMENTARY INFORMATION**. The relative risk associated with those exposures and the applicable risk weights for those exposures are based on those exposures being in a senior loss position. Therefore, the applicable risk weights for a subordinated exposure should reflect the heightened credit risk of such exposures.

Question 29: The agencies seek comment on the scope of the proposed definition of a subordinated exposure. What, if any, operational challenges might the proposed definition pose for banking organizations, and how should the agencies consider addressing such challenges? The agencies seek comment on what, if any, exposures the proposed definition would capture that commenters believe would not reflect heightened credit risk that merits a heightened risk weight? The agencies also seek comment on what, if any, subordinated exposures the agencies have excluded from the proposed definition that merit a heightened risk weight?

3. Off-Balance Sheet Exposures

The proposal would better capture the risk of certain off-balance sheet exposures relative to the current standardized approach by revising the definition of commitment to clarify the off-balance sheet exposures that would be subject to risk-based capital requirements, modifying the credit conversion factors applicable to commitments, and introducing an exposure methodology for commitments without pre-set limits.

a. Definition of Commitment

The current capital rule defines a commitment as any legally binding arrangement that obligates a banking organization to extend credit or to purchase assets.¹²³ Such an arrangement is treated as a commitment even when the banking organization has the unilateral right to cancel the arrangement at any time. The agencies have received questions from banking organizations regarding whether certain types of arrangements, such as advised credit lines and uncommitted lines, would be commitments even if they are unconditionally cancelable. In addition, the agencies have observed an inconsistent application of the current definition of commitment. The proposal would revise the definition of

commitment to clarify that any contractual arrangement under which a banking organization and an obligor agree to the terms applicable to one or more future extensions of credit, purchases of assets, or issuances of credit substitutes by the banking organization is a commitment, whether or not the arrangement is unconditionally cancelable. Consistent with the current capital rule, an unconditionally cancelable commitment would include a commitment that permits a banking organization to, at any time, with or without cause, refuse to extend credit, purchase assets, or issue credit substitutes under the arrangement (to the extent permitted under applicable law). Similarly, the proposal clarifies that a contractual arrangement to extend credit, purchase assets, or issue credit substitutes, but which does not obligate the banking organization to do so, is also considered a commitment that is unconditionally cancelable.¹²⁴ This approach would promote comparable treatment across banking organizations subject to the capital rule.

Commitments represent an arrangement where the banking organization could expect to purchase assets or to extend credit to an obligor, in which case the credit becomes an on-balance sheet asset. The scope of the definition is, therefore, not intended to be limited to those situations in which the banking organization is obligated to provide some amount of credit to an obligor. The agencies do not, however, intend for the definition of commitment to include arrangements where a banking organization has merely offered potential terms to a potential obligor or that continue to be subject to negotiation between the parties. For the purpose of the regulatory capital rule, a commitment does not and would not include pre-approval letters for residential mortgage loans, credit card offers, or other offers that have not yet been agreed upon by both parties to the transaction.

Examples of arrangements that would generally be considered commitments under the proposal include fronting commitments, where a banking organization agrees to fund the obligations of other members of a syndicate of lenders, and commitment letters, where a banking organization agrees to provide financing in connection with an acquisition or other transaction to be entered into by the

¹²³ See 12 CFR 3.2 (OCC); 12 CFR 217.2 (Board); 12 CFR 324.2 (FDIC).

¹²⁴ The proposal would remove the definition of "unconditionally cancelable," and revise the definition of "commitment" to indicate which commitments are considered unconditionally cancelable.

obligor. The proposal would also include other off-balance sheet activities such as advised lines or “uncommitted” facilities as commitments (even if they are unconditionally cancelable or provide that the banking organization is not obligated to perform). For example, an arrangement under which a banking organization retains full discretion as to whether to extend credit to a potential borrower, but under which the banking organization and the potential borrower have agreed to the material terms on which such lending would take place if the banking organization chose to extend credit, is an unconditionally cancelable commitment under the proposal. An unconditionally cancelable commitment also includes an arrangement where a banking organization provides an initial line of credit with an additional amount that the banking organization may extend in the future subject to prior approval by the banking organization, with the agreed upon terms of the future unconditionally cancelable line.

Exposures without pre-set limits on the amount of credit that can be extended would also be unconditionally cancelable commitments under the proposal. With some retail products, such as with charge cards, the banking organization does not disclose a pre-set credit limit to its obligors. For charge cards, or similar types of off-balance sheet exposures, each attempt to borrow by an obligor is individually underwritten at the time of purchase and requires the approval of the banking organization. Nevertheless, because the banking organization and the borrower have agreed to the material terms on which such lending would take place, such arrangements meet the definition of commitment and, therefore, should be treated as unconditionally cancelable commitments for regulatory capital purposes.¹²⁵

Question 30: The agencies seek comment on the proposed definition of commitment. Does the proposal appropriately capture as off-balance sheet exposures arrangements where the banking organization is not legally obligated to extend credit, purchase assets, or issue credit substitutes but which nonetheless arise out of a contractual arrangement to extend credit or purchase assets? To what extent would the proposed definition affect a banking organization’s business practices regarding commitments and similar arrangements, including how

banking organizations treat such arrangements for regulatory capital and reporting purposes? Please provide any rationale or data that may be helpful for the agencies to consider.

b. Credit Conversion Factors

Consistent with the current rule, under the proposed rule a banking organization would calculate the exposure amount of an off-balance sheet exposure by multiplying the off-balance sheet component, which is usually the contractual amount, by the applicable credit conversion factor. The resulting exposure amount would then be assigned to the relevant risk-weight category for the exposure. The proposed expanded risk-based approach would incorporate the same credit conversion factors from the current capital rule, except with respect to commitments.¹²⁶

Relative to the current standardized approach and consistent with the Basel standards, the proposal would simplify the credit conversion factors applicable to the unused portion of a commitment that is not unconditionally cancelable relative to the current standardized approach. For these commitments, the proposal would no longer differentiate credit conversion factors by original maturity of one year or less and greater than one year.¹²⁷ Under the proposal, a commitment that is not unconditionally cancelable would be subject to a credit conversion factor of 40 percent regardless of the maturity of the facility.¹²⁸ This would remove the one-year mark as a dividing line between substantially different treatments, which

¹²⁶ Note issuance facilities and revolving underwriting facilities are forms of revolving credit. Notes issued under note issuance facilities and revolving underwriting facilities are short-term instruments issued under a legally binding medium-term contractual arrangement. Under a revolving underwriting facility, the underwriting banking organization agrees to provide loans should the issue fail, but under a note issuance facility the banking organization could either lend to the issuer or purchase the outstanding notes. Consistent with the current rule and with the Basel standards, the proposal would require banking organizations to apply a 50 percent credit conversion factor to the off-balance sheet amount of note issuance facilities and revolving underwriting facilities, regardless of whether a lower credit conversion factor would otherwise apply.

¹²⁷ Currently, commitments that are not unconditionally cancelable with an original maturity of one year or less receive a 20 percent credit conversion factor and those with an original maturity of more than one year receive a 50 percent credit conversion factor. 12 CFR 3.33(b)(2) (OCC); 12 CFR 217.33(b)(2) (Board); 12 CFR 324.33(b)(2) (FDIC).

¹²⁸ Under the proposal, a 40 percent CCF would also apply to commitments that are not unconditionally cancelable commitments for purposes of calculating the total leverage exposure for the supplementary leverage ratio framework and for the calculation of the Size Category of the FR Y-15 Systemic Risk Report form.

would remove any regulatory incentive to structure transactions around that line. The 40 percent credit conversion factor would align with international standards and reflect that most outstanding commitments that are not unconditionally cancelable have a maturity greater than one year.¹²⁹

For the unused portion of a commitment that is unconditionally cancelable¹³⁰ by the banking organization, the proposal would require a banking organization to apply a credit conversion factor of 10 percent. Under the current capital rule, unconditionally cancelable commitments receive a credit conversion factor of zero percent. Although unconditionally cancelable commitments allow banking organizations to cancel such commitments at any time without prior notice, subject to compliance with consumer protection laws, in practice, risk management practices of the banking organization may constrain the organization’s willingness to cancel such commitments.¹³¹ In addition, banking organizations may extend credit or provide funding to support the viability of obligors to which the banking organization has significant ongoing exposure, even when obligors are under economic stress. For example, banking organizations may have incentives to preserve substantial or core customer relationships when there is a deterioration in creditworthiness that may otherwise, such as for less substantial customer relationships, cause the banking organization to cancel a commitment. For these reasons, the agencies are proposing nonzero credit conversion factors for unconditionally cancelable commitments.

Under the proposal, certain retail credit card exposures would be subject to reduced risk-weights relative to the current standardized approach, as

¹²⁹ The FR Y-9C indicates (see HC-R Part II items 18.a and b) that prior to application of the credit conversion factor, as of Q2 2025, 84 percent of the exposure and 85 percent of the standardized risk-weighted assets of Category I and II bank holding companies have original maturity exceeding one year.

¹³⁰ As discussed in section IV.A.3.a. of this **SUPPLEMENTARY INFORMATION**, the proposal would provide that a commitment is unconditionally cancelable if by its terms, it either: (a) provides that a banking organization is not obligated to extend credit, purchase assets, or issue credit substitutes; or (b) permits a banking organization to, at any time, with or without cause, refuse to extend credit, purchase assets, or issue credit substitutes under the arrangement (to the extent permitted under applicable law).

¹³¹ See, e.g., 12 CFR 1002.9 (adverse action notices), 12 CFR 1026.9(c) (subsequent disclosure requirements for open-end credit), and 12 CFR 1026.40(f) (limitations on changes to home equity lines of credit).

¹²⁵ See section IV.A.3.c. of this **SUPPLEMENTARY INFORMATION** for the proposed methodology to determine the exposure amount for retail exposures with no pre-set limit.

discussed in section IV.A.2.d. of this **SUPPLEMENTARY INFORMATION**. However, the overall risk-weighted asset amount associated with such exposures may be higher relative to the current standardized approach due to the increase in the credit conversion factors described above.¹³²

Question 31: What additional factors, if any, should the agencies consider for determining the applicable credit conversion factors for commitments?

Question 32: What other approaches to setting a credit conversion factor for unconditionally cancelable commitments should the agencies consider and why? To what extent and under what circumstances should an obligor's historical usage patterns for unconditionally cancelable commitments that are transactor exposures affect the credit conversion factor for such exposures? What average utilization rate (for example, 10 percent) over what time period (for example, 24 months) would support a credit conversion factor lower than 10 percent? Please include any relevant data.

Question 33: What are the advantages and disadvantages relative to the proposal of using the current treatment for commitments, that are not unconditionally cancelable which differentiates credit conversion factors based on maturity, and would apply a 20 percent credit conversion factor to those commitments with an original maturity of one year or less, and a 50 percent credit conversion factor to those with an original maturity of more than one year?

Question 34: What are the advantages and disadvantages of applying the proposed 40 percent credit conversion factor for commitments regardless of maturity that are not unconditionally cancelable to the supplementary leverage ratio framework and to the Size Category of the FR Y-15?

c. Commitments With No Pre-Set Limit

Most off-balance sheet exposures, such as credit card lines, allow obligors to borrow up to a specified amount. However, some off-balance sheet exposures such as charge cards do not have an explicit contractual pre-set credit limit. For commitments that are retail exposures that do not have an express contractual maximum amount or pre-set limit, the proposal would include an approach to calculate a proxy for the committed but undrawn

amount of the commitment (undrawn exposure amount).

For commitments that are retail exposures, the undrawn exposure amount would be calculated by using the exposure's highest drawn amount over the previous 24 months as an indicator of the amount of credit a banking organization is likely to extend to an obligor in the future. Specifically, under the proposal, a banking organization would first identify the largest drawn amount by a retail obligor over the prior 24 months or, if the banking organization has offered the product to the obligor for fewer than 24 months, the largest drawn amount since the commitment was first issued. The off-balance sheet exposure amount would be calculated by first subtracting the current drawn amount from the largest drawn amount and then multiplying this difference by the applicable credit conversion factor.¹³³ The risk-weighted asset amount would be the off-balance sheet exposure amount multiplied by the applicable risk weight for the obligor.

A substantial share of uncapped commitments are in the form of retail charge cards, and these exposures have characteristics that suggest the highest drawn balance method described above is a reasonable proxy to estimate the undrawn exposure amount. A charge card does not have a pre-set credit limit, its balance is generally required to be paid in full at the end of each statement period, and charge card transactions are generally underwritten separately and reviewed by the issuing banking organization for approval or denial. Therefore, a charge card obligor's spending pattern, which reflects a banking organization's approval of the charge card obligor's usage, is indicative of the off-balance sheet exposure amount for a retail charge card.

As an example of the proposed treatment, assume a retail obligor's charge card had a maximum drawn amount of \$4,000 during the period of the prior 24 months and a current drawn amount of \$3,000.¹³⁴ To determine the off-balance sheet exposure amount of the charge card, a banking organization would (1) identify the maximum drawn amount over the prior 24 months (\$4,000), (2) subtract

the applicable drawn amount of \$3,000 from \$4,000 (\$1,000), and (3) multiply \$1,000 by the applicable credit conversion factor (assuming a credit conversion factor of 10 percent, \$100). For this example, assume the obligor's charge card would qualify as a regulatory retail exposure that is a transactor exposure. Applying the proposed 45 percent risk weight for transactor exposures to the off-balance sheet exposure amount of \$100 would result in a risk-weighted asset amount of \$45, which would apply in addition to the risk-weighted asset amount of \$1,350 for the on-balance sheet exposure (the drawn amount of \$3,000).

Question 35: What are the advantages and disadvantages of the proposed treatment for commitments to retail obligors with no express contractual maximum amount or pre-set limit? What other time period or approach should the agencies consider for calculating the highest drawn amount (for example, using month-end balance or statement balances), and why?

Question 36: What would be the advantages and disadvantages of applying a multiplier to the highest drawn amount to calculate the off-balance sheet exposure amount (for example, multiplying the highest drawn balance by a figure between 1.5 and 3) to calculate the off-balance sheet exposure amount?¹³⁵ If applied, how should such multiplier be calibrated? What data should the agencies use to calibrate such a multiplier?

Question 37: The agencies seek feedback on commitments that contain no express contractual maximum amount but also contain features such as a "pay over time" limit, which allows a borrower to carry a balance with interest on certain charges. What would be the advantages and disadvantages of incorporating the "pay over time" limit as a floor when calculating the highest drawn amount under the proposal? For example, assume the maximum drawn amount over the prior 24 months is \$4,000 and the "pay over time" limit is \$5,000. Under this alternative, the applicable drawn amount would be subtracted from \$5,000 instead of \$4,000.

Question 38: The proposal would apply the specific treatment described above to commitments to retail obligors with no contractual maximum or pre-set

¹³² For additional considerations of the proposed approach, data on credit conversion factors, and on the impact of the proposal on credit cards, see the economic analysis presented in section VIII.E.1. of this **SUPPLEMENTARY INFORMATION**.

¹³³ Under the proposal, the methodology for calculating the undrawn exposures amount for retail commitments with no explicit contractual pre-set limit would also apply for purposes of calculating total leverage exposure for the supplementary leverage ratio.

¹³⁴ The maximum balance would reflect the highest drawn amount on any date during the previous 24 months for the retail account with no pre-set limit over the period.

¹³⁵ If a multiplier of two were applied to the maximum drawn amount over the prior 24 months, under the example presented above, the off-balance sheet exposure amount would equal \$5,000, which corresponds to \$4,000 times two minus \$3,000. The other steps of the process would remain unchanged and would result in a risk-weight asset amount of \$225 for the off-balance sheet exposure.

limit. The agencies seek comment on the appropriate treatment for commitments to non-retail obligors with no contractual maximum amount or pre-set limit. The agencies request comment on the product types, structures, risks, materiality, and loss history of commitments to non-retail obligors with no contractual maximum amount or pre-set limit. Please provide specific product examples and relevant data. What would be the advantages and disadvantages of applying the proposed treatment for commitments to retail obligors with no pre-set limit to such commitments to non-retail obligors? What would be the advantages and disadvantages of using the average total drawn amount over the period since the commitment to a non-retail obligor was created or the prior 24 months, whichever period is shorter, for the committed but undrawn amount? What would be the advantages and disadvantages of applying a multiplier to the highest drawn amount (for example, multiplying the highest drawn balance by a figure between 1.5 and 3) to calculate the off-balance sheet exposure amount? If applied, how should such multiplier be calibrated? What other alternative treatments should the agencies consider, and why? Please provide any rationale or data that may be helpful for the agencies to consider.

4. Counterparty Credit Risk-Related Exposures

Under the current capital rule, a covered banking organization is required to use the standardized approach to counterparty credit risk (SA-CCR) to calculate the exposure

amount of derivative contracts. The proposal would retain this treatment, with the following modification. For noncleared repo-style transactions that are included in a qualifying cross-product netting set that includes derivatives, a banking organization may elect to use SA-CCR to calculate the exposure amount of the netting set. Where a banking organization does not make such an election, it would use the collateral haircut approach to calculate the exposure amount for a repo-style transaction. Consistent with the current capital rule, the proposal would continue to allow banking organizations to use either the collateral haircut approach or the simple approach to calculate the exposure amount for eligible margin loans and repo-style transactions, provided that the banking organization uses the same approach for similar exposures or transactions.

a. Collateral Haircut Approach

Under the proposal, as under the current capital rule, a banking organization would be permitted to recognize the credit risk-mitigation benefits of collateral supporting repo-style transactions, eligible margin loans, and netting sets of such transactions by adjusting its exposure amount to its counterparty to recognize financial collateral received and any collateral posted to the counterparty. The expanded risk-based approach would incorporate the collateral haircut approach in the current standardized approach with some modifications that are generally consistent with the Basel standards. The collateral haircut approach would continue to require a banking organization to adjust the fair

value of the collateral received and posted to account for any potential market price volatility in the value of the collateral during the margin period of risk, as well as to address any currency mismatch. To increase the risk-sensitivity of the collateral haircut approach, the proposal would modify certain of the standard market price volatility haircuts. At the same time, to reduce unwarranted divergence in risk-weighted assets, the proposal would no longer allow a banking organization to use its own internal estimates for calculating haircuts.

i. Formula for Determining Exposure Amount

The proposal would introduce a new formula for calculating the exposure amount of eligible margin loans, repo-style transactions, or netting sets thereof. The proposed exposure amount equation is revised from the current formula to improve the recognition of the risk-mitigating benefits of netting and portfolio diversification. The proposed formula would revert to the current collateral haircut approach formula in cases where there are no variables to populate the second and the third components as described below. The modification would increase the risk sensitivity of the capital requirement for such transactions relative to the current collateral haircut approach. Under the proposal, the exposure amount (E^*) of a netting set of eligible margin loans or repo-style transactions or an individual transaction that is not part of a netting set would be determined according to the following formula:

$$E^* = \max \left\{ 0; \left(\sum_i E_i - \sum_i C_i \right) + (0.4 \times net_{exposure}) + \left(0.6 \times \frac{gross_{exposure}}{\sqrt{N}} \right) + \left(\sum_{fx} (E_{fx} \times H_{fx}) \right) \right\}$$

Where:

- E^* is the exposure amount of the eligible margin loan, repo-style transaction, or netting set after credit risk mitigation.
- E_i is the current fair value of the instrument, cash, or gold the banking organization has lent, sold subject to repurchase, or posted as collateral to the counterparty.
- C_i is the current fair value of the instrument, cash, or gold the banking organization has borrowed, purchased

subject to resale, or taken as collateral from the counterparty.

- $net_{exposure} = |\sum_s E_s H_s|$
- $gross_{exposure} = \sum_s E_s |H_s|$
- E_s is the absolute value of the net position in a given instrument or in gold (where the net position in a given instrument or gold equals the sum of the current fair values of the instrument or gold the banking organization has lent, sold subject to repurchase, or posted as collateral to the counterparty, minus the sum of the current fair values of that

same instrument or gold the banking organization has borrowed, purchased subject to resale, or taken as collateral from the counterparty).

- H_s is the haircut appropriate to E_s as described in Table 1 to § _____.115, as applicable. H_s has a positive sign if the instrument or gold is net lent, sold subject to repurchase, or posted as collateral to the counterparty; H_s has a negative sign if the instrument or gold is net borrowed, purchased subject to

resale, or taken as collateral from the counterparty.

- N is the number of instruments with a unique Committee on Uniform Securities Identification Procedures (CUSIP) designation or foreign equivalent, with certain exceptions. N includes any instrument with a unique CUSIP that the banking organization lends, sells subject to repurchase, or posts as collateral, as well as any instrument with a unique CUSIP that the banking organization borrows, purchases subject to resale, or takes as collateral. However, N would not include collateral instruments that the banking organization is not permitted to include within the credit risk mitigation framework (such as nonfinancial collateral that is not part of a repo-style transaction included in the banking organization's market risk weighted assets) or elects not to include within the credit risk mitigation framework. The number of instruments for N would also not include any instrument (or gold) for which the value E_s is less than one-tenth of the value of the largest E_s in the netting set. Any amount of gold would be given a value of one.
- E_{fx} is the absolute value of the net position in each currency f_x different from the settlement currency.
- H_{fx} is the haircut appropriate for currency mismatch of currency f_x .

The first component in the above formula ($\sum_i E_i - \sum_i C_i$) would capture the baseline exposure of eligible margin loans, repo-style transactions, or netting

sets thereof, after accounting for the value of any collateral received. The second ($0.4 \times \text{net}_{\text{exposure}}$) and third ($0.6 \times (\text{gross}_{\text{exposure}}/N)$) components in the above formula would allow for the partial recognition of the netting and diversification benefit of instruments exchanged between a banking organization and a given counterparty within a netting set. The net exposure component partially recognizes the offsetting of gross exposures between a given instrument that is both lent and received as collateral within a netting set. Additionally, because the contribution from the gross exposure component to the exposure amount would decrease proportionally with an increase in the number of unique instruments by CUSIP designations or foreign equivalent, the gross exposure component would capture the impact of diversification in the types of instruments lent or received. The fourth component ($\sum_{fx} (E_{fx} \times H_{fx})$) would capture any adjustment to reflect currency mismatch, if applicable.

When determining the market price volatility and currency mismatch haircuts, the banking organization would use the market price volatility haircuts described in the following section and a standard 8 percent currency mismatch haircut, subject to certain adjustments.

Question 39: What are the pros and cons of basing N for purposes of the collateral haircut approach on the number of unique CUSIPs in a netting set? What alternatives should the agencies consider and how would such alternatives align with the goal of identifying the number of instruments for purposes of measuring diversification in the pool?

ii. Market Price Volatility Haircuts

Under the proposal, a banking organization would apply the market price volatility haircut appropriate for the type of collateral, as provided in Table 1 to § _____.115 below, when calculating the exposure amount for repo-style transactions, eligible margin loans, and netting sets thereof using the collateral haircut approach and in the calculation of the net independent collateral amount and the variation margin amount for collateralized derivative transactions using SA-CCR. Consistent with the current capital rule, the proposal would require banking organizations to apply an 8 percent supervisory haircut, subject to adjustments, to the absolute value of the net position in each currency that is different from the settlement currency.

Proposed Table 1 to § _____.115

¹³⁶ Includes a foreign PSE that receives a zero percent risk weight.

¹³⁷ Includes senior securitization exposures with a risk weight greater than or equal to 100 percent and sovereign exposures with a risk weight greater than 100 percent.

Market Price Volatility Haircuts

(Haircuts in percent)

Residual Maturity		Securities issued by a sovereign or an issuer described in § __.111(b) ¹³⁶ (percent)			Other investment-grade securities (percent)		
		Issuer risk weight of zero	Issuer risk weight of 20 or 50	Issuer risk weight of 100	GSE exposures	Exposures other than GSE or securitization exposures	Senior securitization exposures with risk weight <100
Debt Securities	Less than or equal to 1 year	0.5	1.0	15.0	1.0	2.0	4.0
	Greater than 1 year and less than or equal to 3 years	2.0	3.0	15.0	4.0	4.0	12.0
	Greater than 3 years and less than or equal to 5 years					6.0	
	Greater than 5 years and less than or equal to 10 years	4.0	6.0	15.0	8.0	12.0	24.0
	Greater than 10 years					20.0	
Main index equities (including convertible bonds) and gold					20.0		
Other publicly traded equities and convertible bonds					30.0		
Mutual funds and exchange traded funds					Highest haircut applicable to any security in which the fund can invest, unless the banking organization can apply the full look-through approach for equity exposures to investment funds in § __.142(b), in which case the banking organization may use a weighted average of haircuts applicable to the securities held by the fund.		
Cash on deposit					0.0		
Other exposure types ¹³⁷					30.0		

The proposed haircuts would strike a balance between simplicity and risk sensitivity relative to the supervisory haircuts in the current capital rule by

introducing additional granularity with respect to residual maturity, which is a meaningful driver for distinguishing between the market price volatility of

different instruments, and by streamlining other aspects of the collateral haircut approach where the exposure's risk weight figures less

prominently in the instrument's market price volatility, as described below.

The proposal would apply haircuts primarily based on residual maturity, rather than a combination of residual maturity and underlying risk weight as under the current capital rule, for non-sovereign investment grade debt securities. These haircuts are derived from observed stress volatilities during 10-business day periods during the 2008 financial crisis. Debt securities with longer maturities are subject to higher price volatility from changes in both interest rates and the creditworthiness of the issuer.

Because securitization exposures tend to be more volatile than corporate debt, the proposal would provide a distinct category of market price volatility haircuts for certain securitization exposures consistent with the current capital rule. The proposal would distinguish between non-senior and senior securitization exposures to enhance risk sensitivity. Because senior securitization exposures absorb losses only after more junior securitization exposures, these exposures have an added layer of security and distinct market price volatility. Therefore, the proposal would only specify term-based haircuts for investment grade senior securitization exposures that receive a risk weight of less than 100 percent under the securitization framework. Other securitization exposures would receive the 30 percent market price volatility haircut applicable to "other" exposure types.

The proposal would require a banking organization to apply market price volatility haircuts of 20 percent for main index equities (including convertible bonds) and gold, 30 percent for other publicly traded equities and convertible bonds, and 30 percent for other exposure types. Equities in a main index typically are more liquid than those that are not included in a main index, in part because investors may seek to replicate the index by purchasing the referenced equities or engaging in derivative transactions involving the index or equities within the index. The lower haircuts for equities included in a main index under the proposal would reflect the higher liquidity of those securities compared to other publicly traded equities or exposure types, which would generally help to reduce losses to banking organizations when liquidating those securities during stress conditions.

For collateral in the form of mutual fund shares, the proposal would be consistent with the current collateral haircut approach in which a banking organization would apply the highest

haircut applicable to any security in which the fund can invest. Under the proposal, a banking organization could treat exchange traded fund (ETF) shares in the same manner as mutual fund shares and apply haircuts based on the underlying instruments in the fund. Given that ETFs (like mutual funds) benefit from diversification and tend to have lower levels of price volatility compared to non-pooled investment vehicles, a look-through approach is more risk sensitive than applying the publicly traded equities haircut for ETF shares. The proposal also would include an alternative method available to a banking organization if the mutual fund or ETF qualifies for the full look-through approach described in section IV.C. of this **SUPPLEMENTARY INFORMATION**. This alternative method would provide a more risk-sensitive calculation of the haircut on fund shares collateral by using the weighted average of haircuts applicable to the instruments held by the fund.¹³⁸

In addition, consistent with the Basel standards, the proposal would require a banking organization to apply a market price volatility haircut of 30 percent to address the potential market price volatility for any instruments that the banking organization has lent, sold subject to repurchase, or posted as collateral that is not of a type otherwise specified in Table 1 to § _____.¹¹⁵

b. Standardized Approach to Counterparty Credit Risk

The agencies incorporated SA-CCR for calculating the exposure amount of derivative contracts into the capital rule in 2020.¹³⁹ This change required advanced approaches banking organizations to use SA-CCR instead of the current exposure methodology when calculating standardized total risk-weighted assets and total leverage exposure. Similarly, the proposal would require a covered banking organization to use SA-CCR to determine the exposure amount for derivatives under the expanded risk-based approach and the supplementary leverage ratio.¹⁴⁰ The proposal would also revise SA-CCR in

certain ways to better reflect risks associated with evolving market practices. Specifically, for risk-based capital purposes, the proposal would revise SA-CCR to recognize qualifying cross-product master netting agreements for non-cleared transactions and incorporate certain non-cleared (such as client-facing) repo-style transactions. Additionally, the proposal would revise SA-CCR to permit the netting of collateralized-to-market and settled-to-market client-facing derivative transactions. The agencies are also proposing technical revisions to assist banking organizations in implementing SA-CCR in a consistent manner and more appropriately reflect the counterparty credit risk posed by derivative transactions.

Question 40: Consistent with the current rule, the proposal would require a banking organization to multiply the sum of the replacement cost of a netting set, calculated as stipulated by the SA-CCR framework, and the potential future exposure of a netting set by a factor of 1.4 if the relevant counterparty is not a commercial end-user, versus a factor of 1.0 if the counterparty is a commercial end-user. Currently, the SA-CCR framework of the capital rule requires banking organizations to identify whether counterparties are commercial end-users. What would be the advantages or disadvantages of allowing banking organizations to apply the higher factor of 1.4 for all derivative transactions, rather than having to distinguish based on whether the counterparty qualifies as a commercial end-user? Please provide any rationale or data that may be helpful for the agencies to consider.

Question 41: For purposes of the supplementary leverage ratio, the proposal would not modify SA-CCR to recognize qualifying cross-product master netting agreements for non-cleared transactions or to incorporate certain non-cleared (including client-facing) repo-style transactions, given that it is meant to serve as a non-risk-based measure. What are the advantages and disadvantages of modifying the supplementary leverage ratio to recognize such cross-product netting? If the agencies were to consider such recognition, what if any adjustments to the measure should be considered to align with the supplementary leverage ratio's non-risk-based nature and why?

¹³⁸ If the mutual fund qualifies for the full look-through approach under the proposed equity framework, as described in section IV.C. of this **SUPPLEMENTARY INFORMATION**, but would be treated as a market risk covered position as described in section V.A.4. of this **SUPPLEMENTARY INFORMATION** if the banking organization held the mutual fund directly, the banking organization is permitted to apply the alternative method to calculate the haircut.

¹³⁹ 85 FR 4362 (Jan. 24, 2020).

¹⁴⁰ 12 CFR 3.10(c)(2)(ii)–(iii), 12 CFR 3.34(a) (OCC); 12 CFR 217.10(c)(2)(ii)–(iii), 12 CFR 217.34(a) (Board); 12 CFR 324.10(c)(2)(ii)–(iii), 12 CFR 324.34(a)(a) (FDIC).

i. Amend SA-CCR To Recognize the Netting of Non-Cleared Repo-Style Transactions and Derivative Transactions

A netting set refers to a group of transactions between a banking organization and a single counterparty governed by a qualifying master netting agreement. Qualifying master netting agreements create a single net legal obligation for all individual transactions covered by the agreement and allow for close-out netting upon the event of default. By treating all transactions under the agreement as one combined obligation, these agreements recognize risk-offsets between transactions.

Cross-product netting is a risk management technique that involves the inclusion of multiple types of financial products in one netting set. Generally, cross-product netting reduces risk exposure by allowing banking organizations to recognize offsets between positive and negative exposures across different financial product types and to calculate a single net exposure amount for collateral and default management. Cross-product netting sets allow the benefits of qualifying master netting agreements (such as close-out netting) to apply for a broader set of transactions than those included in a single-product netting set.¹⁴¹ For example, if a banking organization has a \$5 million positive exposure to a counterparty under one swap transaction and a \$2 million negative exposure to the same counterparty under a repo-style transaction, cross-product netting would allow for a net exposure of only \$3 million to be recognized, rather than two separate exposures of \$5 million and \$2 million. Recognizing the risk-mitigating benefits of cross-product netting better aligns capital requirements with risk because it allows offsetting risks between products to be recognized and capitalized jointly rather than separately.

Consolidating exposures across products into a single netting set can also simplify risk management processes for banking organizations and reduce operational burden. The quantity of netting sets would generally be reduced, as banking organizations would be able to net transactions with multiple products together. Thus, a banking organization's net exposure to a single counterparty typically would be lower, reducing counterparty credit risk. Additionally, cross-product netting allows banking organizations to improve

collateral management and expand liquidity efficiency across different product types. Instead of calculating collateral requirements and posting collateral for transactions of each product type (such as derivative and repo-style transactions) separately, cross-product netting allows for collateral requirements to be determined on a net basis for all transaction types in the same netting set.

The capital rule currently recognizes cross-product netting in the advanced approaches, under which banking organizations can measure counterparty credit exposure of a cross-product netting set using the internal models methodology (IMM). Since the agencies' are proposing to remove the IMM from the capital rule, the proposed revisions to SA-CCR to recognize qualifying cross-product master netting agreements and incorporate certain repo-style transactions for risk-based capital purposes would provide an avenue for banking organizations to recognize the benefits of cross-product netting in a standardized, transparent manner rather than through a banking organization's internal model. The proposed modifications to the exposure amount calculation in SA-CCR would recognize the risk-mitigating benefits of cross-product netting for banking organizations helping to facilitate market liquidity.

Recognizing the benefits of cross-product netting in SA-CCR would also allow banking organizations to better serve in their role as clearing members. Many clients of clearing members do not meet the requirements to become a clearing member of a central counterparty. As a result, without a clearing member stepping in to act as an intermediary, money market funds, pension funds, insurance funds, hedge funds, and other clients may not have access to central counterparty services and market access more broadly. The proposed revision to permit the netting of derivatives and non-cleared repo-style transactions would include clearing members' intermediation-related transactions, which are typically considered client-facing transactions under the capital rule.¹⁴² Permitting cross-product netting for derivative transactions and repo-style transactions in SA-CCR promotes smooth market functioning and liquidity and better aligns the risk-based capital treatment of

intermediation-related transactions with their economics.

To incorporate non-cleared repo-style transactions subject to a qualifying cross-product master netting agreement in SA-CCR, the proposal would treat them as forward derivative transactions with the security underlying the repo-style transaction determining the SA-CCR asset class.¹⁴³

The agencies are proposing to include a restriction on the amount of offsetting for recognized between derivatives and repo-style transactions within SA-CCR to capture the mismatch between maturities of repo-style transactions and those of derivative contracts.¹⁴⁴ In addition, for an entire cross-product netting set, banking organizations would have to calculate the exposure amount for the subset of the cross-product netting set that includes only derivative contracts and the exposure amount for the subset of the cross-product netting set that includes only repo-style transactions. The exposure amount for the entire cross-product netting set

¹⁴³ Under the current capital rule, a qualifying cross-product master netting agreement is generally defined, as a qualifying master netting agreement that provides for termination and close-out netting rights across multiple types of financial transactions. As a type of qualifying master netting agreement, a qualifying cross-product master netting agreement would be required, among other provisions, to create, upon an event of default, a single legal obligation for all individual transactions covered by the agreement and to provide the banking organization with the right to liquidate or set-off any collateral provided in respect of any of the transactions covered by the agreement against the net amount owed across all the individual transactions. Accordingly, if a banking organization's rights upon an event of default to net certain transaction types (e.g., derivatives) against other transaction types (e.g., repo-style transactions), or to apply collateral provided in respect of one type of transaction against amounts owed on other types of transactions, were restricted or limited under the relevant contractual agreements or applicable law, a banking organization would not be permitted recognize cross-product netting.

¹⁴⁴ The SA-CCR framework allows for offsetting positions to net for purposes of measuring exposure. In general, such netting can occur at a particular moment in time, so no short-term transaction can have any impact on exposure at long time horizons. Because of this, time averaging for the purposes of exposure calculation should be performed after exposure contributions of individual transactions are aggregated to the netting set exposure for each future time point. However, to simplify calculations, SA-CCR performs time averaging for each transaction in the netting set prior to the aggregation. This leads to a possibility of short-term transactions materially offsetting the risk of long-term transactions. This is not a major concern for netting sets of derivatives, which often have medium and long-term durations. However, because repo-style transactions are primarily short-term (often overnight), applying SA-CCR to a cross-product netting set would likely overstate the impact of repo-style transactions on the netting set exposure. The proposed maturity mismatch restriction on cross-product netting would mitigate this overstatement.

¹⁴¹ Under the proposal, cross-product netting sets would be governed by qualifying cross-product master netting agreements as described below.

¹⁴² Client-facing transactions are not considered cleared transactions under the capital rule. See 12 CFR 3.2 cleared transaction, (2) (OCC); 12 CFR 217.2 cleared transaction, (2) (Board); 12 CFR 324.2 cleared transaction, (2) (FDIC).

would be a weighted average of two exposure numbers. One exposure amount would be the combined exposure for repo-style transactions and derivatives in the cross-product netting set using SA-CCR, weighted by a maturity ratio (MR). The other exposure amount would be the sum of the exposure amounts of the repo-style transactions in the netting set using the collateral haircut approach and the exposure amounts of derivatives transactions in the netting set using SA-CCR, weighted by $(1-MR)$. MR would be the maturity ratio factor determined by the ratio of the notional average weighted maturity of the repo-style transactions to the notional average weighted maturity of the derivatives contracts or repo-style transactions within the cross-product netting set, whichever is longer. The maturities calculated this way would be floored by 10 business days and capped by 1 year. The MR would be capped at 1.

Permitting the netting of repo-style transactions and derivative transactions subject to qualifying cross-product master netting agreements in SA-CCR and the proposed limitation on offsetting transactions promotes responsible counterparty credit risk mitigation and ensures the capital requirement better reflects such transactions' risk profile and economic relationship. Recognizing cross-product netting in SA-CCR would create capital efficiency for banking organizations, align with banking organizations' risk management practices for counterparty credit risk, and promote smooth market functioning and liquidity.

The agencies have proposed to permit the netting of repo-style transactions and derivative transactions subject to qualifying master netting agreements in SA-CCR, and not to recognize cross product netting of eligible margin loans. Although eligible margin loans have similarities to repo-style transactions, such as both being collateralized by liquid and readily marketable securities, they differ from repo-style and derivative transactions in that eligible margin loans are not typically included in qualifying master netting arrangements. The agencies are seeking input on whether and how cross-product netting should be recognized for eligible margin loans. The proposal also would not permit cross-product netting for cleared transactions, as cleared transactions are typically not included in netting sets with non-cleared transactions. The agencies are seeking feedback on the scope of the proposed recognition of cross-product netting, including whether the scope of cross-product netting should be

expanded to include cleared transactions.

Question 42: The agencies seek comment on what, if any, challenges banking organizations may face in using SA-CCR to determine exposure amounts for counterparty credit risk (e.g., whether SA-CCR could underestimate or overstate the exposure amount for some portfolios). What are the advantages and disadvantages of retaining the IMM for counterparty credit risk? If the IMM were retained, what corresponding modifications should the agencies make to the current version of the IMM to maintain appropriate alignment between SA-CCR and IMM?

Question 43: What, if any, additional changes should be made to the scope of cross-product netting recognition under SA-CCR? For example, if the scope of cross-product netting recognition in SA-CCR were expanded to eligible margin loans, what would be the advantages and disadvantages of this expanded scope? What are the advantages and disadvantages of extending cross-product netting recognition in SA-CCR to cleared transactions?

Question 44: Are there any modifications to the operational requirements for qualifying cross-product master netting agreements that the agencies should consider in connection with the recognition of netting of certain repo-style transactions in SA-CCR?

ii. Netting of Collateralized-to-Market (CTM) and Settled-to-Market (STM) Client-Facing Derivative Transactions

Under SA-CCR in the current capital rule, the exposure amount of a derivative netting set is calculated as the sum of replacement cost and potential future exposure (PFE) multiplied by an alpha factor. While the capital rule allows netting of all derivative contracts within a netting set in the replacement cost calculations, netting across margined and unmargined derivative contracts in the same netting set is limited to cleared transactions for purposes of the PFE calculations.

Settled-to-market derivative contracts are those in which daily payments are made to settle the mark-to-market exposure. These payments are made on a periodic basis to reflect changes in exposure that arise from marking a derivative contract to fair value, and they are similar to traditional exchanges of variation margin, except that, in a settled-to-market contract, the payment to the receiving party extinguishes the amount owed to the receiving party arising from the change in fair value and thus effectively settles the outstanding

amount due on the contract. In contrast, a collateralized-to-market derivative contract is a form of derivative transaction for which exchanges of variation margin that occur on a periodic (often daily) basis collateralize any outstanding payment obligation of a counterparty. The counterparties in a collateralized-to-market contract secure, but do not settle, mark-to-market exposures as they arise. Settled-to-market derivative contracts and collateralized-to-market derivative contracts are functionally and economically similar from a counterparty credit risk perspective. SA-CCR therefore allows a clearing member banking organization to elect, at the netting set level, to treat all cleared settled-to-market derivative contracts within the netting set as subject to a variation margin agreement and receive the benefits of netting with cleared collateralized-to-market derivative contracts for the purposes of PFE calculations, provided that both sets of contracts share the same margin period of risk.¹⁴⁵

The exposure of a clearing member to its client when facilitating a client's cleared transaction (a client-facing derivative transaction) is treated as a non-cleared transaction under the capital rule because the clearing member's exposure is to the client, not the central counterparty. Because some clearing members enter into client-facing derivative transactions in the form of settled-to-market and collateralized-to-market transactions, there can be situations where both types of derivatives are a part of the same netting set. Because client-facing derivative transactions are not cleared transactions, banking organizations currently do not have the option to treat client-facing derivative transactions that are settled-to-market contracts as if subject to a variation margin agreement, and clearing member banking organizations therefore cannot net client-facing settled-to-market derivative contracts and collateralized-to-market derivative contracts for purposes of SA-CCR.

The proposal would amend SA-CCR to allow clearing member banking organizations the option to treat client-facing settled-to-market derivative contracts as collateralized-to-market (i.e., margined) derivative contracts, thus permitting netting between client-facing settled-to-market and

¹⁴⁵ 12 CFR 3.132(c)(5)(v) (OCC); 12 CFR 217.132(c)(5)(v) (Board); 12 CFR 324.132(c)(5)(v) (FDIC). This would also be consistent with comments received under EGRPRA as commenters requested allowance of netting of settled-to-market and collateralized-to-market.

collateralized-to-market contracts for the purposes of PFE calculations. This proposed approach would align the netting treatment of cleared derivative exposures with the netting treatment of their related client-facing derivative exposures, as well as facilitate efficient hedging. This proposed revision is also important for cross-product netting, as certain derivative transactions are settled-to-market, whereas repo-style transactions are often collateralized-to-market.

Question 45: What are the advantages and disadvantages of permitting banking organizations to treat bilateral settled-to-market derivative transactions as collateralized-to-market derivative transactions for purposes of SA-CCR?

iii. Potential Change to the Hypothetical Capital Requirement for QCCP Default Fund Contribution Calculation

Financial market participants are increasingly exploring cross-margining arrangements, which facilitate the aggregation of positions across multiple central counterparties and allow for initial margin to be determined on a net basis, with recognition of risk-offsets that exist among different positions.¹⁴⁶ Cross-margining agreements generally allow a clearing member to post initial margin to multiple central counterparties on a net basis, taking into account offsetting positions the clearing member holds with each central counterparty. As a result, cross-margining agreements may more accurately reflect the economic risk of the transactions associated with each central counterparty subject to the relevant cross-margining agreement. Although cross-margining has historical precedent, in recent years there have been significant developments, refinements, and increased adoption of cross-margining practices across the financial industry. Cross-margining arrangements may involve netting sets that contain multiple products, as central counterparties in the United States generally specialize in clearing a single specific product type such as repo-style transactions or derivatives.¹⁴⁷ For example, under a cross-margining agreement, a clearing member with an agreement to sell a U.S. Treasury security at one QCCP could recognize risk-offsets that exist with an interest rate future at a different QCCP in determining the margin it posts at each QCCP. Cross-margining agreements also

generally include policies and procedures for QCCPs participating in such agreements to manage the default of a clearing member.

Central counterparties use default funds, to which clearing members contribute, to cover potential losses that may arise if a clearing member defaults. Clearing members are generally required to contribute to the default funds in proportion to each clearing member's share of the central counterparty's transactions, whether in the form of bilateral transactions or clearing member client transactions guaranteed by the clearing member. The capital rule defines such default fund contributions as the funds contributed to, or commitments made by a clearing member, to a central counterparty's mutualized loss sharing arrangement. Banking organizations that are clearing members are required to include in risk-weighted assets an amount representing the risk of their default fund contributions. For contributions to qualifying central counterparties (QCCPs), the risk-weighted asset amount is derived using the hypothetical capital requirement of a qualifying central counterparty, Kccp, representing its counterparty credit risk exposures to all its clearing members and their clients. Kccp incorporates an exposure amount for each transaction cleared by the QCCP, reduced by initial margin, variation margin, and funded default fund contributions.

Under the current capital rule, clearing member banking organizations are not able to reflect the risk-offsets recognized by cross-margining programs in their Kccp calculations. Together with lower margin requirements resulting from cross-margining programs, this may result in banking organizations being required to hold additional capital when engaging in offsetting activities. As cross-margining arrangements are increasingly adopted, this potential misalignment could become increasingly consequential.

Without revisions to the default fund contribution framework's Kccp formula, clearing member banking organizations would not be able to reflect potential risk-reductions recognized by cross-margining arrangements in their hypothetical capital requirement calculation. A consequence could be that banking organizations may be less likely to intermediate transactions as clearing members, which could be problematic for money market funds, pension funds, insurance funds, hedge funds, and other clients that may not have direct access to central counterparty services and market access more broadly.

The agencies are therefore seeking comment on potential modifications to the capital rule's requirements related to default fund contributions to recognize cross-margining arrangements among QCCPs that meet certain criteria. QCCPs are either regulated and supervised as designated financial market utilities, or, if the QCCP is located outside of the United States, in a manner equivalent to a designated financial market utility. Such supervision and regulations can include evaluation of margining practices. Accordingly, the agencies are seeking feedback on proposed revisions to the Kccp formula described below, if a QCCP's cross-margining arrangements are subject to appropriate oversight by the QCCP's primary regulators.

More specifically, the agencies are requesting comment on the below potential approach for calculating the exposure amount for derivatives and repo-style transactions that are subject to a valid cross-margining agreement for purposes of Kccp. The formula used in this approach would allow for the recognition of the risk-mitigating benefits of cross-margining programs and portfolio diversification relative to the current Kccp formula.

$$K_{CCP_i} = \sum_j exposure_{QCCP_{i,j}} * 1.6\% \\ exposure_{QCCP_{i,j}} = exposure_{Non-XM_{i,j}} + Allocation Factor_{i,j} * exposure_{XM_{i,j}}$$

Where:

$exposure_{QCCP_{i,j}}$ represents the exposure amount of QCCPi to each of its clearing members j,

$exposure_{Non-XM_{i,j}}$ represents the exposure amount for positions not subject to a cross-margining agreement at QCCPi for clearing member j,

$exposure_{XM_{i,j}}$ represents the exposure amount for positions subject to a cross-margining agreement at QCCPi for clearing member j.

$Allocation Factor_{i,j}$ is the allocation factor for clearing member j at QCCPi which is assigned based on the ratio of gross notional positions held at QCCPi divided by the sum of all gross notional positions held across all QCCPs subject to the cross-margining agreement. This allocation factor must be between 0 and 1.

Question 46: What are the advantages and disadvantages of recognizing the benefits of cross-margining arrangements, for Kccp purposes, under the capital rule?

Question 47: If the agencies were to permit recognition of offsetting positions that are facilitated by cross-margining agreements among QCCPs that satisfy certain criteria, what criteria and operational requirements should the agencies establish for a qualifying cross-margining agreement? For example, should the agencies require that a qualifying cross-margining agreement be

¹⁴⁶ See <https://www.dtcc.com/news/2025/december/15/dtcc-files-to-expand-cme-group-cross-margining-arrangement>.

¹⁴⁷ See <https://investor.cmegroup.com/news-releases/news-release-details/cme-group-and-dtcc-launch-enhanced-treasury-cross-margining>.

approved by the QCCPs' primary regulator or regulators? Alternatively, should the agencies require that banking organizations receive a legal opinion verifying the validity and enforceability of the agreement under applicable law of the relevant jurisdictions, or that banking organizations conduct sufficient legal review, including ongoing due diligence, to have a well-founded basis for concluding the agreement would be enforceable under applicable law?

Question 48: What revisions, if any, should the agencies make to the cleared transactions framework in consideration of cross-margining agreements? What are the advantages and disadvantages of extending recognition of cross-margining agreements for default fund contribution capital requirements to cleared transaction capital requirements?

Question 49: What alternatives to the allocation factor described in the proposed formula for the hypothetical capital requirement for cross-margined portfolios should the agencies consider and why?

iv. Proposed Technical Revisions

I. Treatment of Collateral Held by a Qualifying Central Counterparty (QCCP)

Under the current capital rule, a clearing member banking organization using SA-CCR must determine its capital requirement for a default fund contribution to a QCCP based on the hypothetical capital requirement for the QCCP (K_{CCP}) using SA-CCR.¹⁴⁸ The calculation of K_{CCP} requires calculating the exposure amount of the QCCP to each of its clearing members. In the calculation of the exposure amount, the capital rule allows the exposure amount of the QCCP to each clearing member to be reduced by all collateral held by the QCCP posted by the clearing member

and by the amount of prefunded default fund contributions provided by the clearing member to the QCCP. However, this treatment is inconsistent with the calculation of the exposure amount for a netting set, because collateral is a component of the calculations of both the replacement cost and PFE. It does not make sense to reduce that exposure amount further by subtracting collateral held by the QCCP.

The proposal would therefore change how collateral posted to a QCCP by clearing members and the amount of clearing members' prefunded default fund contributions factor into the calculation of K_{CCP} . This treatment would allow for the appropriate recognition of collateral in calculating the exposure amount of a QCCP to its clearing members and would be consistent with the calculation of the exposure amount for a netting set. Specifically, for the purpose of calculating the exposure amount of a QCCP to a clearing member, the net independent collateral amount that appears in the replacement cost and PFE calculations would be replaced by the sum of:

(1) the fair value amount of the independent collateral posted to a QCCP by a clearing member;

(2) the fair value amount of the independent collateral posted to a QCCP by a clearing member on behalf of a client, in connection with derivative contracts for which the clearing member has provided a guarantee to the QCCP; and

(3) the amount of the prefunded default fund contribution of the clearing member to the QCCP.

Both the amount of independent collateral and the prefunded default fund contribution would be adjusted by the standard market price volatility haircuts under Table 1 to § _____.¹¹⁵ of the proposal, as applicable.

II. Treatment of Collateral Held in a Bankruptcy-Remote Manner

Both the standardized approach and the advanced approaches under the current capital rule require a banking organization to determine the trade exposure amount for cleared derivative transactions.

When calculating its trade exposure amount for a cleared transaction, a banking organization under the current capital rule may exclude collateral posted to the CCP that is held in a bankruptcy-remote manner by the CCP or a custodian. In the SA-CCR framework of the capital rule, the agencies inadvertently imposed heightened requirements for the exclusion of collateral from the trade exposure amount posted by a clearing member banking organizations to a CCP under the advanced approaches.¹⁴⁹ The expanded risk-based approach would not include these heightened requirements and would align the requirements for the exclusion of collateral from the trade exposure amount of banking organizations under the expanded risk-based approach with the standardized approach.

III. Supervisory Delta for Collateralized Debt Obligation (CDO) Tranches

Under the capital rule, a banking organization must apply a supervisory delta adjustment to account for the sensitivity of a derivative contract (scaled to unit size) to the underlying primary risk factor, including the correct sign (positive or negative) to account for the direction of the derivative contract amount relative to the primary risk factor.¹⁵⁰

For a derivative contract that is a CDO tranche, the supervisory delta adjustment is calculated using the formula below:

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$$\text{Supervisory delta adjustment} = \frac{15}{(1+14*A) * (1+14*D)}$$

where A is the attachment point and D is the detachment point.

The capital rule applies a positive sign to the resulting amount if the banking organization purchased the CDO tranche and applies a negative sign

if the banking organization sold the CDO tranche. However, the appropriate sign to account for the purchase or sale of CDO tranches can be ambiguous: purchasing a CDO tranche can be interpreted as selling credit protection,

while selling a CDO tranche can be interpreted as purchasing credit protection. In order to ensure the correct sign of the supervisory delta adjustment for CDO tranches the proposal would revise the sign specification for the

¹⁴⁸ See 12 CFR 3.133(d) (OCC); 12 CFR 217.133(d) (Board); 12 CFR 324.133(d) (FDIC).

¹⁴⁹ 12 CFR 3.133(c)(4)(i) (OCC); 12 CFR 217.133(c)(4)(i) (Board); 12 CFR 324.133(c)(4)(i) (FDIC).

¹⁵⁰ For the supervisory delta adjustment, a banking organization applies a positive sign to the derivative contract amount if the derivative contract is long the risk factor and a negative sign if the derivative contract is short the risk factor. A derivative contract is long the primary risk factor

if the fair value of the instrument increases when the value of the primary risk factor increases. A derivative contract is short the primary risk factor if the fair value of the instrument decreases when the value of the primary risk factor increases.

supervisory delta adjustment for CDO tranches as follows: positive if the CDO tranches were used by the banking organization to purchase credit protection and negative if the CDO tranches were used by the banking organization to sell credit protection.

IV. Supervisory Delta for Options Contracts

The supervisory delta adjustment for option contracts in SA-CCR is calculated based on the Black-Scholes formulas for delta sensitivity of European call and put option contracts. The original Black-Scholes formula for a European option contract's delta sensitivity assumes a lognormal probability distribution for the value of the instrument or risk factor underlying the option contract, thus precluding negative values for both the current value of the underlying instrument or risk factor and the strike price of the option contract. SA-CCR uses modified Black-Scholes formulas that are based on a shifted lognormal probability distribution, which allows negative values of the underlying instrument or risk factor with the magnitude not exceeding the value of a shift parameter λ (lambda). The capital rule sets λ to zero (thus precluding negative values) for all asset classes except the interest rate asset class, which has exhibited negative values in some currencies in recent years. For the interest rate asset class, a banking organization must set the value of λ for a given currency equal to the greater of (i) the negative of the lowest value of the strike prices and the current values of the interest rate underlying all interest rate options in a given currency that the banking organization has with all counterparties plus 0.1 percent; and (ii) zero.

Negative values of the instrument or risk factor underlying an option contract can occur in other asset classes as well. For example, whenever an option contract references the difference between the values of two instruments or risk factors, the underlying spread of this option contract can be negative. Such option contracts include option contracts on the spread between two commodity prices and on the difference in performance across two equity indices. Under the current capital rule, banking organizations cannot calculate the supervisory delta adjustment for any option contract other than an interest rate derivative contract if the strike price or the current value of the underlying instrument or risk factor is negative because the capital rule only allows a non-zero value for λ for interest rate derivative contracts.

To ensure that a banking organization is able to calculate the supervisory delta adjustment for option contracts when the underlying instrument or risk factor has a negative value, the proposal would extend the use of the shift parameter λ to all asset classes. More specifically, for non-interest-rate asset classes, the proposal would require a banking organization to use the same value of λ for all option contracts that reference the same underlying instrument or risk factor. If the value of the underlying instrument or risk factor cannot be negative, the value of λ would be set to zero. Otherwise, to determine the value of λ for a given risk factor or instrument, the proposal would require a banking organization to find the lowest value L of the strike price and the current value of the underlying instrument or risk factor of all option contracts that reference this instrument or risk factor with all counterparties. The proposal would require a banking organization to set λ for this instrument or risk factor according to the formula $\lambda = \max\{-1.1 \cdot L, 0\}$. The purpose of multiplying negative L by 1.1 (thus, resulting in $-1.1 \cdot L$) is the same as that for adding 0.1 percent in the case of interest rate derivative contracts under the capital rule: to set the lowest possible value of the underlying instrument or risk factor slightly below the lowest observed value. Because non-interest-rate instruments and risk factors can have vastly different magnitudes and, moreover, be expressed in different units (e.g., different currencies), it is challenging to determine a universal additive offset value for all values of non-interest-rate instruments and risk factors. Because of this, the offset would be performed via multiplication for asset classes other than the interest rate asset class.

The proposal would also permit a banking organization, with the prior approval of its primary Federal supervisor, to specify a different value for λ for purposes of the supervisory delta adjustment for option contracts other than interest rate option contracts, if a different value for λ would be more appropriate, considering the range of values for the instrument or risk factor underlying option contracts. A banking organization that specifies a different value for λ would be required to assign the same value for λ to all option contracts with the same underlying instrument or risk factor, as applicable, with all counterparties. This proposed provision is intended to permit a banking organization, with approval from its primary Federal supervisor, to account for unanticipated outcomes in

the supervisory delta adjustment of certain asset classes while avoiding arbitrage between assets in that class.

Question 50: What other approaches should the agencies consider to calibrate the lambda parameter for non-interest-rate asset classes, such as a formula that is different from the proposed formula of $\lambda = \max\{-1.1 \cdot L, 0\}$, and why? What values besides 1.1, if any, should the agencies consider for the value of the multiplier in the proposed formula? Why?

V. Decomposition of Credit, Equity, and Commodity Indices

Under SA-CCR, banking organizations are permitted to decompose indices within credit, equity, and commodity asset classes, such that a banking organization would treat each component of the index as a separate single-name derivative contract.¹⁵¹ The capital rule requires that if a banking organization elects to decompose indices within the credit, equity, and commodity asset classes, the banking organization must perform all calculations in determining the exposure amount based on the underlying instrument rather than the index. While this is possible for linear indices, for non-linear index contracts (for example, those with optionality and CDS index tranches) it is not mathematically possible to calculate the supervisory delta for an underlying component, as the delta associated with the non-linear index applies at the instrument level. In recognition of this fact, the agencies are clarifying that the option to decompose a non-linear index is not available under SA-CCR. Additionally, the agencies are clarifying that if electing to decompose a linear index, banking organizations must apply the weights used by the index when determining the exposure amounts for the underlying instrument.

5. Credit Risk Mitigation

The current capital rule permits banking organizations to recognize certain types of credit risk mitigants, such as guarantees, credit derivatives, and collateral, for risk-based capital purposes provided the credit risk mitigants satisfy the qualification standards under the rule.¹⁵² Credit derivatives and guarantees can reduce

¹⁵¹ See 12 CFR 3.132(c)(5)(vi) (OCC); 12 CFR 217.132(c)(5)(vi) (Board); 12 CFR 324.132(c)(5)(vi) (FDIC).

¹⁵² Consistent with the current capital rule, the proposal would not require banking organizations to recognize a credit risk mitigant that it has obtained. Credit derivatives that a banking organization cannot or chooses not to recognize as a credit risk mitigant would be subject to a separate counterparty credit risk capital requirement.

the credit risk of an exposure by placing a legal obligation on a third-party protection provider to compensate the banking organization for losses associated with a credit event of the original obligor.¹⁵³ Similarly, the use of collateral often can reduce the credit risk of an exposure by creating the right of a banking organization to take ownership of and liquidate the collateral in the event of a default by the counterparty. Prudent use of such mitigants can help a banking organization reduce the credit risk of an exposure and in some circumstances reduce the risk-based capital requirement associated with that exposure.

Credit risk mitigants recognized for risk-based capital purposes must be of sufficiently high quality to effectively reduce credit risk. For guarantees and credit derivatives, the current capital rule primarily looks to the creditworthiness of the guarantor and the features of the underlying contract to determine whether these forms of credit risk mitigation may be recognized for risk-based capital purposes (eligible guarantee or eligible credit derivative). With respect to collateralized transactions, the current capital rule primarily looks to the liquidity profile and quality of the collateral received (such as the creditworthiness of the issuer of the collateral) and the nature of the banking organization's security interest to determine whether the collateral qualifies as financial collateral that may be recognized for purposes of risk-based capital.¹⁵⁴

The proposal would largely incorporate the treatments for collateralized transactions, guarantees, and credit derivatives from the current capital rule's standardized approach with enhancements to increase risk sensitivity. For eligible guarantees and eligible credit derivatives, the proposal would generally retain the substitution approach from the standardized approach of the current capital rule with two modifications. Specifically, the proposal would modify the treatment for eligible credit derivatives that do not include restructuring as a credit event and no longer permit the recognition of credit protection from nth-to-default credit derivatives.¹⁵⁵

For collateralized transactions where financial collateral secures exposures

that are not derivative contracts or netting sets of derivative contracts, the proposal would generally retain the simple approach from the current capital rule's standardized approach with the following two modifications.¹⁵⁶ First, the proposal would replace the requirement that financial collateral be subject to a collateral agreement with conditions including the requirement that the banking organization have the right to liquidate or take legal possession of the collateral upon an event of default. Second, the proposal would permit banking organizations to recognize, under the simple approach, the credit risk mitigation benefits of financial collateral with a maturity or currency mismatch, after applying certain adjustments.

The proposal would also introduce eligible prepaid credit protection arrangements as a credit risk mitigant available to all exposure types, including securitizations, and permit banking organizations to recognize the credit risk mitigation benefits of the protection amount of the prepaid credit protection arrangement, discounted to reflect any applicable maturity and currency mismatch adjustments.

a. Guarantees and Credit Derivatives

i. Substitution Approach

Consistent with the standardized approach in the current capital rule, the proposal would permit a banking organization to recognize the credit-risk-mitigation benefits of eligible guarantees and eligible credit derivatives by substituting the risk weight applicable to the eligible guarantor or counterparty to the eligible credit derivative (protection provider) for the risk weight applicable to the hedged exposure. To recognize the risk mitigating benefits of a guarantee or credit derivative for risk-based capital purposes, the proposal would continue to require the issuer of or counterparty to the eligible guarantee or eligible credit derivative, respectively, to be an eligible guarantor.¹⁵⁷ The proposal would rely on the definition of eligible guarantor in

§ _____.2 of the capital rule, which, among other criteria, requires an entity to have issued and outstanding an unsecured debt security without credit enhancement that is investment grade at the time the guarantee is issued or anytime thereafter.¹⁵⁸

Question 51: The agencies seek comment on the requirement that the entity has issued and outstanding an unsecured debt security without credit enhancement that is investment grade to meet the definition of an eligible guarantor. What, if any, alternatives to this requirement should the agencies consider to help to ensure that eligible guarantors can be expected to perform on guarantees and what would the pros and cons of those alternatives be?

ii. Adjustment for Credit Derivatives Without Restructuring as a Credit Event

Credit derivative contracts in certain jurisdictions include debt restructuring as a credit event that triggers a payment obligation by the protection provider to the protection purchaser. Such restructurings of the hedged exposure may involve forgiveness or postponement of principal, interest, or fees that results in a loss to investors. Consistent with the current capital rule, the proposal would generally require a banking organization that seeks to recognize the credit risk-mitigation benefits of an eligible credit derivative that does not include a restructuring of the reference exposure as a credit event to reduce the effective notional amount of the credit derivative by 40 percent to account for any unmitigated losses that could occur as a result of a restructuring of the hedged exposure.

Under the proposal, however, the 40 percent adjustment would not apply to eligible credit derivatives without restructuring as a credit event if both of the following requirements are satisfied: (1) the terms of the hedged exposure (and the reference exposure, if different from the hedged exposure) allow the maturity, principal, coupon, currency, or seniority status to be amended outside of receivership, insolvency, liquidation, or similar proceeding only by unanimous consent of all parties; and (2) the banking organization has conducted sufficient legal review to conclude with a well-founded basis

¹⁵³ Credit events are defined in the documents governing the credit risk mitigant and often include events such as failure to pay principal and interest and entry into insolvency or similar proceedings.

¹⁵⁴ See 12 CFR 3.2, 217.2, and 324.2 for the definition of financial collateral.

¹⁵⁵ See section IV.B.5.b. of this Supplementary Information.

¹⁵⁶ The collateral haircut approach also would be available to banking organizations to recognize the benefits of collateral for eligible margin loans and for repo-style transactions. For netting sets containing certain repo-style transactions and derivative contracts that are subject to a qualifying cross product master netting agreement, a banking organization also would be able to determine its exposure amount using SA-CCR as described in section IV.A.4.b. of this **SUPPLEMENTARY INFORMATION**.

¹⁵⁷ Under the advanced approaches framework in the current capital rule, an eligible guarantee need not be issued by an eligible guarantor unless the exposure is a securitization exposure. Under the proposal, an eligible guarantee would need to be issued by an eligible guarantor.

¹⁵⁸ A banking organization would not have to apply the proposed internal credit risk rating system criteria, as described in section IV.A.2.e. of this **SUPPLEMENTARY INFORMATION**, in order to determine whether an entity satisfies the investment grade requirement included in the definition of eligible guarantor. The proposed internal credit risk rating system criteria would be required in order for the 65 percent risk weight to be available for purposes of the substitution approach.

(and maintains sufficient written documentation of that legal review) that the hedged exposure is subject to the U.S. Bankruptcy Code or a domestic or foreign insolvency regime with similar features that allows for a company to reorganize or restructure and provides for an orderly settlement of creditor claims.

The unanimous consent requirement would mean that, for restructurings occurring outside of an insolvency proceeding, all holders of the hedged exposure (and the reference exposure, if different from the hedged exposure) must agree to any restructuring for the restructuring to occur, and no holder can vote against the restructuring or abstain. This unanimous consent requirement would reduce the risk that a banking organization would suffer a credit loss on the hedged exposure that would not be offset by a payment under the eligible credit derivative. Banking organizations generally would only be incentivized to vote for a restructuring if the terms of the restructuring provide a more beneficial outcome to the banking organization relative to insolvency proceedings that would trigger payment under the eligible credit derivative. Additionally, the unanimous consent requirement for the reference exposure, if different from the hedged exposure, would provide an additional layer of security by significantly reducing the probability of reaching a restructuring agreement that results in a loss of principal or interest for creditors without triggering payment under the eligible credit derivative. The unanimous consent requirement would need to be satisfied through the terms of the hedged exposure (and the reference exposure, if different from the hedged exposure), which could be accomplished through a contractual provision of the exposure or the operation of the applicable law.

The requirement that the hedged exposure be subject to the U.S. Bankruptcy Code or a similar domestic or foreign insolvency regime would help to ensure that any restructuring is done in an orderly, predictable, and regulated process. In the event that the obligor of the hedged exposure defaults and the default is not cured, the obligor would either be required to enter insolvency proceedings, which would trigger payment under the credit derivative, or the obligor would be required to pursue restructuring outside of insolvency, which could not occur without the banking organization's consent. Together, the proposed conditions are intended to ensure that credit derivatives that do not include restructuring as a credit event but

provide similarly effective protection as those that do contain such provisions would be afforded similar recognition under the capital framework.

Question 52: The agencies seek comment on allowing banking organizations to recognize in full the effective notional amount of credit derivatives that do not include restructuring as a credit event, if certain conditions are met. What are the cost and benefits of this approach? What, if any, less restrictive conditions for receiving full recognition should the agencies consider that would more appropriately capture credit derivatives that provide similar protection as those that include restructuring as a credit event receive and why? For example, what would be the advantages and disadvantages of requiring the consent of all parties directly and adversely affected by a restructuring, rather than the unanimous consent of all parties? What would be the advantages and disadvantages of requiring the consent of all parties affected by any change in lien position or priority in the hedged or referenced exposure?

Question 53: To what extent is the proposed treatment of eligible credit derivatives that do not include restructuring of the reference exposure as a credit event relevant outside of the United States and how should this be considered for purposes of the proposal?

Question 54: In order for a banking organization to recognize the credit risk mitigation benefits of an eligible credit derivative, the current capital rule requires that legally-enforceable cross-default or cross-acceleration clauses be in place and that the reference exposure and the hedged exposure be to the same legal entity. What would be the advantages and disadvantages of allowing recognition of credit derivatives where (1) the reference exposure is to a different legal entity than the hedged exposure, (2) the reference exposure's legal entity is guaranteed by its parent company, and (3) the parent company is subject to a binding cross-default or cross-acceleration provision related to the hedged exposure's debt.

b. Collateralized Transactions

Consistent with the current capital rule, a banking organization would be permitted to recognize the risk-mitigating benefits of financial collateral using the simple approach by substituting the risk weight applicable to an exposure with the risk weight applicable to the financial collateral

securing the exposure, generally subject to a 20 percent floor.¹⁵⁹

Under the current capital rule, a requirement for recognizing the credit risk mitigation benefit of financial collateral under the simple approach is that the collateral must be subject to a collateral agreement for at least the life of the exposure. The proposal would not include this requirement under the simple approach because the requirement is overly broad and not relevant for certain transaction types. For example, while the right to close out a transaction would be relevant with respect to a repurchase agreement, it may not be relevant with respect to a loan. Instead, the proposal would require that the legal mechanism by which the financial collateral is pledged or transferred be enforceable and provide the banking organization with an ability to exercise its applicable legal rights with respect to the collateral in a timely manner upon an event of default. Depending on the characteristics of the type of exposure and the financial collateral in question, those rights may include the right to liquidate or take legal possession of the financial collateral, to set off amounts owed by the banking organization against amounts owed by the obligor, and to close out the underlying transaction. However, not all of these rights may be applicable with respect to all types of exposures and financial collateral, and a banking organization would only be required to have those rights that are applicable for the type of exposure and financial collateral in question. This requirement, in combination with the definition of financial collateral—which, in part, requires a banking organization to have a perfected, first-priority security interest (or the legal equivalent thereof) in the collateral—and the other requirements of § _____.121(b)(1) would provide a sufficient basis for recognizing the collateral under the simple approach.

The requirement under the current capital rule that financial collateral be subject to a collateral agreement often prevents a banking organization from recognizing financial collateral as a credit risk mitigant under the simple

¹⁵⁹ A banking organization would not have to apply the proposed internal credit risk rating system criteria in order to determine whether the issuer of long-term or short-term debt securities that are not securitization exposures is investment grade and are eligible to be considered financial collateral under the capital rule. However, the proposed internal credit risk rating system criteria would be required in order for the 65 percent risk weight to be available for purposes of risk weight substitution. See definition of financial collateral in § _____.2 of the capital rule. 12 CFR 3.2 (OCC); 12 CFR 217.2 (Board); 12 CFR 324.2 (FDIC).

approach if the banking organization's exercise of its rights may be stayed in a bankruptcy of the obligor. This has generally meant that a banking organization could not use the simple approach to recognize financial collateral in respect of collateralized loans because the exercise of a banking organization's collateral rights with respect to a loan would often be subject to a stay in the bankruptcy or insolvency of a borrower under the applicable law. Under the proposal, the fact that a banking organization's rights may be subject to a stay in the event of an obligor's bankruptcy would not preclude the banking organization from recognizing the credit risk mitigation benefits of financial collateral, provided the banking organization has a well-founded basis for concluding that it will be able to exercise its rights in a timely manner. The proposed change would permit banking organizations to recognize the credit risk mitigation benefits of financial collateral that protects exposures arising from many types of loans and traditional credit products. Other elements of the simple approach, such as the 20 percent risk-weight floor, help to address the risk of declines in the value of collateral.

Typically, financial collateral in respect of a collateralized transaction is pledged by the obligor of that exposure. In some cases, collateral may be pledged or transferred by a party other than the obligor. A third-party pledgor may be the parent or an affiliate of an obligor or an unrelated party that is providing credit risk protection to the banking organization. While collateral provided by a third party may be an effective credit risk mitigant, it may also pose unique risks. In particular, depending on the laws of the applicable jurisdictions and the terms of the relevant legal agreements, the bankruptcy or insolvency of a pledgor prior to an event of default of the obligor may terminate or impair the banking organization's rights to the collateral. In these circumstances, financial collateral does not provide an effective credit risk mitigant. Consequently, the proposal would require that the bankruptcy or insolvency of a third-party pledgor not result in the termination or impairment of the banking organization's rights in respect of the financial collateral.

There may be situations where obligors have the ability to remove collateral that they are contractually obligated to maintain when a banking organization is experiencing stress. This risk is most apparent when financial collateral takes the form of cash on deposit at a banking organization, where a banking organization's deposit

systems may not reflect the obligor's contractual obligation to maintain the deposit at the banking organization. It may also arise, in respect of other types of financial collateral, depending on the custody arrangement and associated controls in respect of the collateral. Financial collateral is not an effective credit risk mitigant if a banking organization cannot appropriately safeguard its rights in respect of such financial collateral. Consequently, the proposal would also require a banking organization to be able to reasonably demonstrate the ability to protect and enforce its rights in respect of any financial collateral.

Other safeguards relating to the simple approach are intended to sufficiently calibrate the benefits of the proposal's recognition of financial collateral for a broader scope of products. For example, the maturity mismatch adjustment, which is described in greater detail below, reduces the benefit of financial collateral based on the difference between the residual maturity of the legal mechanism by which financial collateral is pledged and that of the secured exposure. Additionally, for a situation with a maturity mismatch, the proposal would only allow for recognition of the credit risk mitigant where the original maturity of the legal mechanism is greater than or equal to one year and the residual maturity of the legal mechanism is greater than three months. These requirements, taken together with the other requirements in section _____.121 of the proposal, would incentivize banking organizations to utilize credit risk mitigants that provide effective credit risk transfer.

Question 55: Under the simple approach, the current capital rule requires that collateral be revalued at least every six months. The agencies recognize that, in practice, most collateral agreements for liquid collateral provide for more frequent valuation. The proposal would remove the requirement for collateral agreements. Given that financial collateral is generally liquid, what would be the advantages and disadvantages of requiring a more frequent minimum revaluation interval—such as quarterly—under the simple approach? Please provide rationale supporting or opposing a more frequent revaluation requirement.

Question 56: The proposal would maintain the current capital rule's definition of financial collateral and allow banking organizations to recognize the risk-mitigating benefits of cash on deposit, including cash held by

a third-party custodian or trustee. The agencies invite comment on whether the definition of financial collateral is sufficiently clear with respect to cash collateral held for a banking organization by a third-party custodian or trustee. What would be the advantages or disadvantages of revising the "cash on deposit" prong of the definition of financial collateral to explicitly recognize cash on deposit at any third-party depository institution, regardless of whether it is a custodian or trustee? In addition, what would be the appropriate risk weight for the collateralized exposure where the financial collateral is, directly or indirectly, in the form of a deposit claim on a third-party depository institution and why? What would be the advantages and disadvantages of subjecting the collateralized exposure to the 20 percent risk weight floor? What, if any, other alternative approaches should the agencies consider and why?

Question 57: The agencies seek comment on the appropriateness of the calibration of the market price volatility haircuts. Commenters are encouraged to submit data with their response.

c. Prepaid Credit Protection

The proposal would introduce eligible prepaid credit protection arrangements as an additional type of credit risk mitigant. The proposal would define a prepaid credit protection arrangement as a contractual agreement in which a protection purchaser receives an initial amount in cash from a protection provider that the protection purchaser is required to repay, less any losses that the protection purchaser incurs due to a credit event on the protected exposures, such as borrower default on the protected exposures. In this type of arrangement, the amount paid by the protection provider is not collateral that secures a future obligation of the protection provider; rather, it is consideration for a right to future payments, contingent on the performance of the protected exposure(s), from the protection purchaser. This form of credit risk mitigant effectively transfers credit risk to the protection provider, as the banking organization's liability created by the prepaid credit protection arrangement generally would be reduced at the same time the banking organization incurs a loss on the protected exposure(s). A common example of a prepaid credit protection arrangement are fully funded credit-linked notes issued by a banking organization that transfer the credit risk of a reference exposure or portfolio of

reference exposures to third party investors.¹⁶⁰

Under the proposal, a prepaid credit protection arrangement would be required to meet specific requirements to be recognized for risk-based capital purposes as an eligible prepaid credit protection arrangement. Specifically, the proposal would define an eligible prepaid credit protection arrangement as a prepaid credit protection arrangement that:

- (1) Is written;
- (2) Is unconditional;
- (3) Covers all or a pro rata portion of all contractual payments due to be paid on the reference exposure or reference exposures;
- (4) Provides that the amount and timing of payments due from the protection purchaser to the protection provider are incorporated into the arrangement and the arrangement only allows these terms to change in the event of a breach of the arrangement by the protection purchaser;
- (5) Provides that entry of the protection provider into receivership, insolvency, liquidation, conservatorship, or similar proceeding does not change the amounts or timing of payments due by the protection purchaser under the arrangement;
- (6) Is legally valid and enforceable under applicable law of the relevant jurisdictions;
- (7) Upon a failure by the obligor on the one or more reference exposures to make a contractually required payment, or the occurrence of other credit events as described in the arrangement, allows the protection purchaser promptly to reduce the outstanding balance of the initial principal amount due to the protection provider by the loss of the protection purchaser on the reference exposures without input from the protection provider; and
- (8) Does not increase the protection purchaser's cost of credit protection in response to deterioration in the credit quality of any of the reference exposures.

The protection amount of an eligible prepaid credit protection arrangement would be the effective notional amount of the prepaid credit protection, reduced to reflect any currency mismatch or maturity mismatch. The effective notional amount for an eligible prepaid credit protection arrangement would be

the lesser of the contractual notional amount of the credit risk mitigant and the exposure amount of the reference exposure(s), multiplied by the percentage coverage of the credit risk mitigant.

Under the proposal, if the protection amount of the eligible prepaid credit protection arrangement is greater than or equal to the exposure amount of the reference exposure, a banking organization would be allowed to assign a zero percent risk weight to the exposure.

If the protection amount of the eligible prepaid credit protection arrangement is less than the exposure amount of the reference exposure(s) and any losses are shared on a pro rata basis between the banking organization and the protection provider,¹⁶¹ the proposal would require the banking organization to treat the reference exposure(s) as two separate exposures, protected and unprotected, in order to recognize the credit risk mitigation benefit of the eligible prepaid credit protection arrangement. In such cases, a banking organization would apply a zero percent risk weight to the protected exposure. The banking organization would calculate its risk-weighted asset amount for the unprotected exposure under the expanded risk-based approach using the risk weight assigned to the exposure and an exposure amount equal to the exposure amount of the original reference exposure minus the protection amount.

Question 58: Under the definition of eligible prepaid credit protection arrangement, the proposal would require that a protection purchaser be able to reduce the outstanding balance due to the protection provider promptly upon realizing or otherwise recognizing a loss on the reference exposure, in the event that the obligor on one or more reference exposures fails to make a contractually required payment, or the occurrence of other credit events as described in the arrangement. What, if any, are the exposure types in respect of which, or circumstances when, a protection purchaser may be exposed to losses before such losses are manifested in a way that would permit a reduction in the protection purchaser's repayment obligation? For example, what would be the instances where nonpayment or other loss on the reference exposure may not always result in an accounting write-down of the eligible prepaid credit protection arrangement at the same

time? What, if any, changes to the proposed definitions of prepaid credit protection arrangement and eligible prepaid credit protection arrangement should the agencies consider to further ensure that a protection purchaser would be able to reduce its repayment obligation on a prepaid credit protection arrangement as contemporaneously as possible with the manifestation of losses in respect of a reference exposure?

Question 59: The proposal would define the protection amount of an eligible prepaid credit protection arrangement to mean the effective notional amount of the prepaid credit protection. Certain credit-linked notes that may qualify as eligible prepaid credit protection under the proposal, are sometimes accounted for on a fair value basis. The fair value of such credit-linked notes may be affected by factors other than losses or credit events (for example, a change in interest rates) in respect of the reference exposure. As a result, at the time that credit losses in respect of the reference exposure are realized, the fair value of the credit-linked note, and the amount by which the banking organization may set off its losses in respect of the reference exposure, may be less than the notional amount of the note. What, if any, modifications to the proposal should the agencies consider to address the risk that a banking organization may not be able to set off losses on a reference exposure against the full notional amount of a prepaid credit protection instrument? What would be the advantages and disadvantages of defining the protection amount of an eligible prepaid credit protection instrument to be the instrument's carrying value (For example, the fair value if the banking organizations elects this accounting treatment)?

Question 60: The definition of prepaid credit protection requires that the protection purchaser is obligated to repay the initial principal amount to the protection provider on or before the maturity date of the transaction, less any losses that the protection purchaser realizes or otherwise recognizes due to nonpayment of all contractual payments due to be paid on the reference exposure by the obligors. The agencies seek comment as to whether the definition is sufficiently broad to capture the types of prepaid credit protection arrangements that banking organizations may enter into to transfer credit risk. For example, may prepaid credit protection arrangements be structured to allow for a reduction in the initial principal amount of the arrangement upon the recognition of losses on one or more reference

¹⁶⁰ See, e.g., Frequently Asked Questions, 12 CFR part 217, Q2 and Q3, <https://www.federalreserve.gov/supervisionreg/legalinterpretations/reg-q-frequently-asked-questions.htm>. This revision would also be consistent with comments received under EGRPRA as commenters requested recognition of the risk-mitigation benefits of credit-linked notes.

¹⁶¹ Exposures on which there is a tranching of credit risk (reflecting at least two different levels of seniority) generally are securitization exposures, as described in section IV.B. of this **SUPPLEMENTARY INFORMATION**.

exposures due to credit quality deterioration of the exposures, even in the absence of any nonpayment. If so, what if any changes to the definition of prepaid credit protection should the agencies consider?

d. Maturity and Currency Mismatch Adjustment

The simple approach in the current capital rule does not permit a banking organization to recognize credit risk mitigation benefits where the transaction is subject to a collateral agreement that has a shorter tenor than that of the secured exposure.¹⁶² To improve the risk-sensitivity of the simple approach, the proposal would permit banking organizations to recognize financial collateral and prepaid credit protection with a maturity mismatch after adjusting the fair value of the financial collateral or the effective notional amount of the eligible prepaid credit protection arrangement to reflect any maturity mismatch.¹⁶³

Under the proposal, the residual maturity of an eligible prepaid credit protection arrangement would be determined in the same manner as applies to eligible credit derivatives and eligible guarantees under the current capital rule. For financial collateral that is not cash on deposit at the banking organization, but including cash held for the banking organization by a third-party custodian or trustee, the residual maturity of any amount of such financial collateral would be the earliest date on which the banking organization's rights in respect of such amount of financial collateral may be terminated without the pledgor being

subject to a contemporaneous requirement to pledge additional financial collateral. For financial collateral that is cash on deposit at the banking organization, the residual maturity of any amount of such collateral would be the earliest date on which a depositor may withdraw such amount, notwithstanding any notice requirements or early withdrawal fees or penalties. For example, if an obligor is subject to a loan covenant requiring the obligor to maintain a certain deposit balance at the banking organization until the maturity of the loan, the residual maturity of the cash on deposit would be the remaining maturity of the loan. Any amount of a deposit balance that an obligor is contractually permitted to withdraw, however, would have a residual maturity of the earliest date on which the deposit may be withdrawn. If an obligor may withdraw a deposit at any time, including where an obligor may be subject to a notice period or an early withdrawal fee or penalty, the residual maturity would be zero, notwithstanding any stated maturity date of the deposit instrument.

Under the proposal, a banking organization would be required to apply the same adjustment to reduce the fair value of the financial collateral or the effective notional amount of the prepaid credit protection arrangement as currently applies to eligible credit derivatives and eligible guarantees under the substitution approach:

$$P_m = E \times [(t - 0.25) / (T - 0.25)]$$

Where:

- P_m = fair value of the financial collateral or effective notional amount of the eligible prepaid credit protection arrangement, adjusted for maturity mismatch;
- E = fair value of the financial collateral or effective notional amount of the eligible prepaid credit protection arrangement;
- t = the lesser of T or the residual maturity of the credit risk mitigant, expressed in years; and
- T = the lesser of five or the residual maturity of the secured exposure or reference exposure, as applicable, expressed in years.

Similarly, the proposal would eliminate the current capital rule's requirement that financial collateral be denominated in the same currency as the secured exposure for a banking organization to use the simple approach. The proposal would permit banking organizations to recognize the credit risk mitigation benefits of financial collateral and eligible prepaid credit protection arrangements when denominated in a different currency than the currency of the secured exposure, after adjusting the fair value or the effective notional

amount, as applicable, to reflect any currency mismatch. Under the proposal, a banking organization would use the following formula to adjust the fair value of the financial collateral or the effective notional amount of the eligible prepaid credit protection arrangement:

$$P_c = P_r \times (1 - H_{FX})$$

Where:

- P_c = fair value of the financial collateral or effective notional amount of the eligible prepaid credit protection arrangement, adjusted for currency mismatch (and maturity mismatch, if applicable).
- P_r = fair value of the financial collateral or effective notional amount of the eligible prepaid credit protection arrangement (adjusted for maturity mismatch, if applicable).
- H_{FX} = haircut appropriate for the currency mismatch between the financial collateral and the secured exposure or the eligible prepaid credit protection arrangement and the reference exposure.

Consistent with substitution approach for guarantees and credit derivatives in the current capital rule, the proposal would require banking organizations to use a standard supervisory haircut of 8 percent for HFX (based on a ten business-day holding period and daily marking-to-market and remargining). If a banking organization revalues the financial collateral or eligible prepaid credit protection arrangement less frequently than once every 10 business days, the proposal would require the banking organization to scale up the haircut using the following square root of time formula:

$$H_{FX} = 8\% \times \sqrt{\frac{T_M}{10}}$$

Where:

- T_M = the greater of 10 or the number of business days between revaluations.

Question 61: The agencies seek comment on the effectiveness of the credit risk mitigation of collateral and eligible prepaid credit protection arrangement when there is a maturity mismatch between the credit risk mitigant and the hedged reference portfolio, for example, longer-dated assets that are protected by a shorter-dated prepaid credit protection arrangement. The agencies seek comment on whether the banking organization has effectively mitigated credit risk if the losses on the assets are estimated to occur after the expiration of the prepaid credit protection arrangement. Does the proposed maturity mismatch adjustment sufficiently capitalize for the residual risks of hedging longer-dated assets with shorter-term prepaid credit protection

¹⁶² For determining maturity mismatch, the comparison is between the remaining maturity of the protected exposure against the remaining maturity of the legal mechanism by which financial collateral is pledged. For example, if the legal mechanism by which financial collateral is pledged to a 5-year loan has a 5-year term, even if the remaining maturity of the collateral is 2 years, there would be no maturity mismatch under the proposal as long as the security interest transfers without any breaks to the proceeds of the matured collateral or replacement collateral.

¹⁶³ The proposal would define residual maturity as the longest possible remaining time before the obligated party of the secured exposure is scheduled to fulfill its obligation on the reference exposure. If a contract has embedded options that may reduce its term, the proposal would require the banking organization to adjust the residual maturity of the contract. If a call is at the discretion of the protection provider, the residual maturity of the contract would be at the first call date. If the call is at the discretion of the banking organization, but the terms of the arrangement at origination of the contract contain a positive incentive for the banking organization to cancel the contract before contractual maturity, the remaining time to the first call date would be the residual maturity of the contract.

arrangement? Please provide supporting data and analysis.

B. Securitization Framework

The securitization framework is designed to produce capital requirements for exposures that involve tranching of the credit risk of one or more underlying financial exposures.¹⁶⁴ The risk and complexity posed by securitizations differ relative to direct exposures to the underlying financial exposures because the credit risk of those exposures is divided into different levels of risk using a wide range of structural mechanisms.¹⁶⁵ The performance of a securitization exposure depends not only on the structure of the securitization, but also on the performance of the underlying exposures¹⁶⁶ and certain parties to the securitization structure, including the asset servicer and any liquidity facility provider. Such structural features and the involvement of these parties makes securitization exposures susceptible to additional risks as compared to direct

¹⁶⁴ To segment the credit risk of the underlying financial exposures ("reference portfolio"), securitization exposures divide the reference portfolio into different slices (known as "tranches") such that any cash flows or losses are allocated to the various tranches based on a predetermined order of priority. This payment structure is sometimes referred to as the cash flow waterfall (or simply the "waterfall") and dictates the manner in which interest or principal payments from the reference portfolio must be allocated, creating different risk-return profiles for each tranche.

¹⁶⁵ For example, assume a banking organization extends a loan to a bankruptcy remote special purpose entity which holds financial exposures (including equity securities) and the fair value of the underlying financial assets exceeds that of the loan. Under this transaction, the underlying financial exposures are pledged as collateral to the lender. As the excess collateral would initially absorb any losses arising from non-payment on the loan (after which the banking organization would be exposed to any subsequent losses), the loan would generally be viewed as tranching and could qualify as a securitization exposure under the proposal, if the transaction satisfies all of the other applicable requirements. Consistent with the current capital rule, to the extent the fair value of the collateral declines such that it no longer exceeds the outstanding principal balance of the banking organization's exposure to the borrower, the transaction would no longer involve tranching of credit or equity risk—and thus would not qualify as a securitization exposure under the proposal. Rather, the banking organization would be required to calculate risk-based capital requirements for the exposure using the general credit risk framework as described in section IV.A. of this **SUPPLEMENTARY INFORMATION**.

¹⁶⁶ Consistent with the current capital rule, the proposal would define equity exposure to include exposures to equity instruments that do not have mandatory contractual payments, among other requirements. Accordingly, under the proposal, the performance of underlying equity exposures would refer to both changes in the fair value of the equity exposures and whether the issuer(s) of the equity exposures is subject to a bankruptcy or insolvency proceeding.

exposures to the underlying financial exposures.

The proposed securitization framework would incorporate the securitization framework in the current standardized approach with the following modifications: (1) a revised definition of and additional operational requirements for synthetic securitizations; (2) a modified treatment for resecuritizations that meet the operational requirements; (3) a modified definition of an eligible clean-up call; (4) a new securitization standardized approach (SEC-SA), as a replacement to the standardized supervisory formula approach (SSFA), which includes, relative to the SSFA, modified definitions of attachment point and detachment point, a modified definition of the W parameter, modifications to the definition of KG, a lower risk-weight floor for securitization exposures that are not resecuritization exposures, and a higher risk-weight floor for resecuritization exposures; (5) a revised treatment for purchased and sold nth-to-default credit derivatives that would prohibit banking organizations from recognizing any risk-mitigating benefit for such exposures; (6) a revised treatment for certain derivative contracts that are not credit derivatives and a new treatment for derivative contracts that do not provide credit enhancement; (7) new provisions to expand the scope of securitization exposures for which a banking organization may apply the overlapping exposure treatment; (8) a new treatment and eligibility criteria for certain senior securitization exposures (the "look-through approach"); (9) a modification to the treatment for credit-enhancing interest only strips; and (10) a new framework for non-performing loan securitizations. The proposal would also introduce certain minor technical edits to the definitions of traditional securitization and synthetic securitization to clarify the existing scope of exposures subject to the securitization framework under the current capital rule.

1. Definitions

The proposal would generally retain the existing definitions of traditional securitization and synthetic securitization under the current capital rule, except for (1) revising the definition of synthetic securitization to include prepaid credit protection arrangements, and (2) introducing technical modifications to the definitions of traditional securitization and synthetic securitization that are intended to clarify the existing scope of exposures subject to the securitization

framework under the current capital rule.

a. Synthetic Securitization

As discussed in section IV.A.5. of this **SUPPLEMENTARY INFORMATION**, the proposal would permit banking organizations to recognize risk mitigating benefits of eligible prepaid credit protection arrangements. Consistent with these provisions, the proposal would revise the definitional and operational criteria for synthetic securitizations to include prepaid credit protection arrangements as structures that can qualify as synthetic securitizations and to include eligible prepaid credit protection arrangements as an eligible credit risk mitigant within the securitization framework. Under the proposal, a transaction would meet the definitional and operational criteria of synthetic securitization if all or a portion of the credit risk of one or more underlying exposures is transferred to one or more third parties through prepaid credit protection arrangements, and the transaction satisfies all other requirements of the securitization framework under the proposal.

b. Technical Modifications

The proposal would modify paragraph (3) within the definitions of traditional securitization and synthetic securitization to clarify that the performance of the securitization exposure is expected to depend solely upon the performance of the underlying exposures, aside from the performance of common supporting transaction participants such as servicers and trustees. For example, a transaction would not satisfy this criterion if there is an expectation that any sources outside of the underlying exposures would fund the interest or principal payments due on the securitization exposures.

Consistent with the current capital rule, the proposed modification would continue to permit certain transactions where a party provides a specified amount of credit protection to qualify as a securitization exposure. As an example, consider a multi-seller ABCP conduit that funds itself entirely with a single class of commercial paper and purchases assets such as wholesale loan exposures from multiple sellers. As is typical in such multi-seller ABCP conduits, each seller provides first-loss protection by over-collateralizing its loans sold to the conduit. To ensure a high credit rating on the commercial paper issued by the ABCP conduit, a banking organization sponsor may provide either a pool-specific liquidity facility or a program-wide credit

enhancement such as a guarantee on a portion of the losses not protected by the seller over-collateralization. Consistent with the current capital rule, under the proposal, commercial paper issued by the ABCP conduit with a pool-specific liquidity facility generally would be a securitization exposure because the pool-specific liquidity facility represents a tranche of the credit risk of the underlying exposures (that is the repayment of the liquidity facility depends upon the underlying exposures) and losses are allocated through subordination. Conversely, if the sponsor provides a program-wide credit enhancement that covers all credit losses across multiple asset pools without reference to asset-level performance (not just those above the seller-provided credit enhancement) or seller-specific subordination, the commercial paper generally would not be a securitization exposure, as the commercial paper holders are primarily exposed to the default risk of the sponsor instead of the underlying exposures and the commercial paper does not represent a tranching risk position. The proposed modification is intended to clarify that a securitization exposure to such program-wide guarantees, including guarantees provided by an operating company to a special purpose entity it establishes, generally would not satisfy the definition of traditional or synthetic securitization.

Additionally, the proposal would modify paragraph (1) of the definition of traditional securitization to clarify that a transaction transferring equity risk could be subject to the securitization framework if all of the other definitional criteria are satisfied. The securitization framework generally applies to exposures to companies with material liabilities that are not operating companies,¹⁶⁷ and whose underlying exposures are primarily financial exposures (including when all or substantially all of the underlying assets are equity exposures). For exposures to companies with material liabilities that are not operating companies and whose underlying exposures are all or substantially all financial exposures, the risk-based capital treatment under the current capital rule reflects how the risk of exposures to such entities depends primarily on the degree of leverage employed by the company. Accordingly, the current capital rule generally requires banking organizations to apply the securitization framework to determine the risk-weighted asset amount for exposures to non-operating

companies with material liabilities, unless the primary Federal supervisor determines that the exposure is not a traditional securitization based on the transaction's leverage, risk profile or economic substance. The proposal would modify paragraph (1) of definition of traditional securitization to clarify that this treatment would also apply to exposures to such companies with material liabilities, where all or a portion of the credit or equity risk of one or more underlying exposures is transferred to one or more third parties (other than through the use of credit derivatives or guarantees or prepaid credit protection arrangements).¹⁶⁸ As a result, the proposed definition of traditional securitization would continue to include exposures to companies with material liabilities that are not operating companies, where all or substantially all of the underlying assets are financial exposures, and whose funding structure results in the risk associated with the underlying exposures being separated into at least two tranches with different levels of seniority.

Question 62: What additional clarifications, if any, should the agencies consider for the proposed modification to paragraph (3) of the definition of traditional and synthetic securitization and why?

Question 63: What additional clarifications, if any, should the agencies consider for the proposed modification to paragraph (1) of the definition of traditional securitization and why? What would be the advantages and disadvantages of making similar changes to paragraph (1) of the definition of synthetic securitization?

Question 64: The agencies seek comment on the appropriateness of requiring covered banking organizations to use the general risk-weight framework for certain overcollateralized exposures if the fair value of underlying equity exposures declines such that there is no longer overcollateralization? What would be the advantages and disadvantages of requiring covered banking organizations to use the general risk-weight framework (rather than the securitization framework) to determine the applicable risk weight for securitization exposures where the

underlying exposures are primarily equity exposures and the fair value of the underlying equity exposures has significantly declined? What criteria should the agencies consider to capture only those securitization exposures for which such an approach would more appropriately capture the risk and why?

2. Operational Requirements

The proposed operational requirements would be consistent with the operational requirements in the standardized approach of the current capital rule, with five exceptions as described below and directly above in section IV.A.1.a. of this **SUPPLEMENTARY INFORMATION**. In addition, for resecuritization exposures that meet the operational requirements, the proposal would eliminate the option for banking organizations to treat the exposures as if they had not been securitized.¹⁶⁹

a. Early Amortization Provisions

Early amortization provisions cause investors in securitization exposures to be repaid before the original stated maturity when certain conditions are triggered. For example, many securitizations of revolving credit facilities, most commonly credit-card receivable securitizations, contain provisions that require the securitization to be wound down and investors repaid on an accelerated basis if excess spread falls below a certain threshold. This decrease in excess spread would typically be caused by credit deterioration in the underlying exposures. Such provisions can expose the originating banking organization to increased credit and liquidity risk and potentially increased capital requirements after the early amortization is triggered as the banking organization could be obligated to fund the borrowers' future draws on the revolving lines of credit.¹⁷⁰ In such an instance, the originating banking organization may have to either find a new funding source, whether internal or external, to cover the new draws or

¹⁶⁹ In the case of non-performing loan securitizations, as described in section IV.B.5.g. of this **SUPPLEMENTARY INFORMATION**, the proposal would allow a banking organization that meets the operational requirements to choose to hold risk-based capital against the transferred exposures as if they had not been securitized and deduct from common equity tier 1 capital any after-tax gain-on-sale resulting from the transaction.

¹⁷⁰ Under the capital rule, an originating banking organization, with respect to a securitization, means a banking organization that: (1) directly or indirectly originated or securitized the underlying exposures included in the securitization; or (2) serves as an ABCP program sponsor to the securitization. See 12 CFR 3.2 (OCC); 12 CFR 217.2 (Board); 12 CFR 324.2 (FDIC).

¹⁶⁷ See 78 FR 62018, 62112 (Oct. 11, 2013).

¹⁶⁸ Consistent with the current capital rule, under the proposal, a banking organization would use the equity framework to calculate risk-based capital requirements for equity exposures to companies where all or substantially all of the underlying assets are financial assets and that have no material liabilities. See definition of investment fund in § _____.2 of the current capital rule and the treatment of equity exposures to investment funds in § _____.142 of the proposed rule.

reduce the borrowers' credit line availability.

The proposal would expand the applicability of the operational requirements regarding early amortization provisions to synthetic securitizations, similar to their application to traditional securitizations under the standardized approach of the current capital rule. The current capital rule defines an early amortization provision as a provision in the documentation governing a securitization that, when triggered, causes investors in the securitization exposures to be repaid before the original stated maturity of the securitization exposures, with certain exceptions.¹⁷¹ Under the proposal, if a synthetic securitization includes an early amortization provision and references one or more underlying exposures in which the borrower is permitted to vary the drawn amount within an agreed limit under a line of credit, the banking organization would be required to hold risk-based capital against the underlying exposures as if they had not been synthetically securitized. Aligning this treatment for both traditional and synthetic securitizations would provide greater consistency within the securitization framework and reduce the likelihood that a banking organization would provide implicit support for synthetic securitization exposures.

Question 65: What, if any, additional exceptions to the early amortization provision definition should the agencies consider and why, provided such exceptions would not incentivize a banking organization to provide implicit support to a securitization exposure? In particular, is the current rule's exception where early amortization "is triggered solely by events not directly related to the performance of the underlying exposures or the originating institution (such as material changes in tax laws or regulations)" sufficiently clear? What types of early termination events should qualify as events not directly related to either the performance of the underlying exposures or the originating banking organization? Should events not directly related to the performance of the

underlying exposures or the originating banking organization include customary provisions designed to protect against non-performance of various contractual obligations by one of the parties facilitating the securitization (including the originating banking organization, if it has such a transaction facilitating role, for example by acting as a servicer)? Commenters are also asked to describe under what circumstances could a provision in a revolving loan securitization that, when triggered, causes investors in the securitization exposures to be repaid before the original stated maturity of the securitization exposures, leaves investors "fully exposed to future draws by borrowers on the underlying exposures even after the provision is triggered", or otherwise should be deemed not to be an early amortization provision. What are the advantages and disadvantages of "fully exposed" encompassing only cash-funded exposures versus also including exposures in the form of contractual commitments to provide funding?

b. Synthetic Excess Spread

The proposal would prohibit an originating banking organization from recognizing the risk-mitigating benefits of a synthetic securitization that includes synthetic excess spread. Synthetic excess spread would be defined as any contractual provision in a synthetic securitization that is designed to absorb losses prior to any of the tranches of the securitization structure. Synthetic excess spread is a form of credit enhancement provided by the originating banking organization to the investors in the synthetic securitization; therefore, the originating banking organization should maintain capital against the credit exposure represented by the synthetic excess spread. However, a risk-based capital requirement for synthetic excess spread may not be determinable with sufficient precision to promote comparability across banking organizations because the amount of synthetic excess spread made available to investors in the synthetic securitization would depend upon the maturity of the underlying exposures, which itself depends on whether any of the underlying exposures have defaulted or prepaid. In particular, the total amount of synthetic excess spread made available at inception to investors over the life of the transaction may not be known *ex ante*, as the outstanding balance of the securitization in future years is unknown. Therefore, if a synthetic securitization structure includes synthetic excess spread, the proposal

would require the banking organization to maintain capital against all the underlying exposures as if they had not been synthetically securitized.

Question 66: What clarifications or modifications should the agencies consider for the above proposed definition of synthetic excess spread and why?

Question 67: What are the advantages and disadvantages of the proposed treatment of synthetic securitizations with synthetic excess spread? If the agencies were to permit originating banking organizations to recognize the credit risk-mitigation benefits of securitizations with synthetic excess spread, how should the exposure amount of the synthetic excess spread be calculated, and what would be the appropriate capital requirement for synthetic excess spread?

c. Minimum Payment Threshold

Under the proposal, the operational requirements for synthetic securitizations would include a new requirement that any applicable minimum payment threshold for the credit risk mitigant be consistent with standard market practice.¹⁷² A contractual minimum payment threshold refers to the delinquency condition that must exist before a credit event is deemed to have occurred under the terms of the credit protection. The proposed minimum payment threshold criterion is intended to prohibit an originating banking organization from recognizing any risk mitigating benefit for a synthetic securitization whose minimum payment threshold is so large that it allows for material losses to occur without triggering the credit protection acquired by the protection purchaser, as such provisions would interfere with an effective transfer of credit risk.

Question 68: What are the benefits and drawbacks of the proposed minimum payment threshold criterion? What, if any, additional criteria or clarifications should the agencies consider and why?

d. Resecuritization Exposures

For a resecuritization exposure arising from a traditional securitization, if the operational requirements have been met, an originating banking organization would be required to exclude the transferred exposures from the

¹⁷¹ Under the capital rule, the exceptions to the definition of early amortization provision are a provision that: (1) is triggered solely by events not directly related to the performance of the underlying exposures or the originating banking organization (such as material changes in tax laws or regulations); or (2) leaves investors fully exposed to future draws by borrowers on the underlying exposures even after the provision is triggered. See definition of early amortization provision in § _____.2 of the capital rule. 12 CFR 3.2 (OCC); 12 CFR 217.2 (Board); 12 CFR 324.2 (FDIC).

¹⁷² For example, for derivative contracts written under ISDA Master Agreement documentation, standard market practice for contractual minimum payment thresholds would generally be \$1 million (or the equivalent in other currencies), such as established in ISDA Credit Derivatives Definitions. See ISDA Credit Derivatives Definitions Section 4.5 "Failure to Pay" and Section 4.9(d) "Payment Requirement."

calculation of its risk-weighted assets and maintain risk-based capital against any credit risk it retains in connection with the securitization. Unlike in the case of a securitization exposure that is not a resecuritization exposure, the proposal would not provide the option for a banking organization to elect to treat a resecuritization exposure as if the underlying exposures had not been re-securitized. While a securitization of non-securitized assets can be used to diversify or transfer credit risk of those exposures, a resecuritization might not offer similar risk reduction or diversification benefits, particularly if the underlying exposures reflect similar high-risk tranches of other securitizations. Therefore, these resecuritization exposures warrant a higher regulatory capital requirement than that applicable to the underlying exposures.

Similarly, for a resecuritization that is a synthetic securitization, if the operational requirements have been met, an originating banking organization would be required to recognize for risk-based capital purposes the use of a credit risk mitigant to hedge the underlying exposures and must hold capital against any credit risk of the resecuritization exposures it retains in connection with the synthetic securitization. These proposed operational requirements for resecuritization exposures are consistent with the Basel standards.

e. Clean-Up Calls

The proposal would use the definition of a clean-up call in the current capital rule without change. The capital rule defines a clean-up call as a contractual provision that permits an originating banking organization or servicer to call securitization exposures before their stated maturity date or call date. For an originating banking organization to exclude the underlying exposures from its risk-based capital calculation, any clean-up call associated with a securitization must be an eligible clean-up call.

The proposal would expand the definition of an eligible clean-up call. Under the current capital rule, an eligible clean-up call is defined as a clean-up call that is exercisable solely at the discretion of the originator or servicer, is not structured to avoid allocating losses to securitization exposures held by investors or otherwise structured to provide credit

enhancement to the securitization, and is only exercisable when 10 percent or less of the principal amount of the initial pool of underlying or reference exposures is outstanding. The proposal would expand the definition of an eligible clean-up call to also include clean-up calls exercisable when certain regulatory and tax events occur, in addition to the existing criteria under the current capital rule. Specifically, the modification would permit the exercise of a clean-up call upon the occurrence of (1) a regulatory event that significantly changes the risk-weighted asset amount for the securitization exposure under applicable risk-weighted asset standards of the agencies, or (2) a tax event that significantly changes the tax treatment of the securitization exposure under applicable tax laws. The events must represent final actions, such as a final rule adopted by the agencies or taxing authority, or a law enacted by Congress. Proposed rules or legislative bills would not satisfy this requirement.

Question 69: What, if any, other modifications should the agencies consider for the definition of an eligible clean-up call and why?

3. Exposure Amount of a Securitization Exposure

The proposal would maintain the exposure calculation methodology in the current capital rule for both on-balance-sheet and off-balance-sheet securitization exposures. The exposure amount for an on-balance-sheet securitization exposure that is not a repo-style transaction, an eligible margin loan, or a derivative contract (other than a credit derivative) would equal the carrying value of the exposure. For off-balance-sheet securitization exposures that are not a repo-style transaction, eligible margin loan, or derivative contract (other than a credit derivative), the exposure amount would equal the notional amount of the exposure.¹⁷³ For a securitization exposure that is a repo-style transaction, eligible margin loan, or derivative contract (other than a credit derivative), the exposure amount would be calculated based on the proposed counterparty credit risk framework, described in section IV.A.4. of this

SUPPLEMENTARY INFORMATION.

Question 70: What, if any, clarifications should the agencies consider regarding the determination of the exposure amount for securitization

exposures where one or more of the underlying exposures are off-balance sheet exposures (such as unfunded commitments)? Specifically, what are the advantages and disadvantages of a modification that would clarify that banking organizations could apply the same credit conversion factors described in section IV.A.1.b. of this

SUPPLEMENTARY INFORMATION when calculating the components of the SEC-SA (G_G , W parameter, attachment point A and detachment point D) for a securitization exposure where one or more of the underlying exposures are off-balance sheet exposures? What would be the effect of such a clarification on the volatility of the capital requirements?

4. Securitization Standardized Approach (SEC-SA)

Under the proposal, a banking organization would determine the capital requirements for most securitization exposures under the SEC-SA, which is generally consistent with the Basel standards. The SEC-SA would be substantively similar to the SSFA in the current capital rule except for certain changes as discussed below. Under the SEC-SA, a banking organization would determine the risk weight for a securitization exposure based on the risk weight of the underlying exposures that are adjusted to reflect (1) delinquencies in such exposures, (2) the securitization exposure's subordination level in the allocation of losses, and (3) the heightened correlation and additional risks inherent in securitizations relative to direct exposures to the underlying financial exposures.

To calculate the risk weight for a securitization exposure using the SEC-SA, a banking organization would be required to have accurate information on the parameters used in the SEC-SA calculation. If the banking organization cannot, or chooses not to, apply the SEC-SA, the banking organization would be required to apply a 1,250 percent risk weight to the securitization exposure. For synthetic securitizations, the proposal would permit banking organizations to choose not to recognize the credit risk mitigant and hold risk-based capital against the underlying exposures as if they had not been synthetically securitized.

Under the proposed SEC-SA, the risk weight assigned to a securitization exposure, or portion of a securitization

through approach for senior securitization exposures) are intended to better reflect the risk of such exposures.

¹⁷³ The proposal would generally maintain the current capital rule's treatment for off-balance sheet securitization exposures to ABCP programs, with certain exceptions. The proposal would not include

the specific treatments provided for such exposures in ____42(c)(3)(ii)–(iii) and ____44 in the current capital rule. The other elements of the proposed securitization framework (for example, the look

exposure, would be determined according to the formula under

§ _____.133(a) of the proposed rule, expressed as:

$$RW_{SEC-SA} = \begin{cases} \max(RW_{FLOOR}, 1,250\% \cdot K_{SEC-SA}), & K_A \leq A \\ \max\left(RW_{FLOOR}, \left(\frac{K_A - A}{D - A}\right) \cdot 1,250\% + \left(\frac{D - K_A}{D - A}\right) \cdot 1,250\% \cdot K_{SEC-SA}\right), & A < K_A < D \\ 1,250\%, & D \leq K_A \end{cases}$$

Where:

- RW_{FLOOR} is equal to 100 percent for resecuritization exposures and 15 percent for all other securitization exposures.

- K_A represents the delinquency-adjusted, weighted-average capital requirement of the underlying exposures, as described in section IV.B.4.c. of this **SUPPLEMENTARY INFORMATION**.
- A represents the attachment point of the securitization exposure, as described in

section IV.B.4.a. of this **SUPPLEMENTARY INFORMATION**.

- D represents the detachment point of the securitization exposure, as described in section IV.B.4.a. of this **SUPPLEMENTARY INFORMATION**.

- $K_{SEC-SA} = \frac{e^{au} - e^{al}}{a \cdot (u-l)}$
- $a = -\frac{1}{p \cdot K_A}$, where p equals 1.5 for a resecuritization exposure and 0.5 for all

other securitization exposures.

- $u = D - K_A$
- $l = \max(A - K_A, 0)$
- e equals the base of the natural logarithm.

a. Definition of Attachment Point and Detachment Point

Under the current capital rule, the attachment point (parameter A) of a securitization exposure equals the ratio of (1) the current dollar amount of underlying exposures that are subordinated to the exposure of the banking organization to (2) the current dollar amount of underlying exposures. Any reserve account funded by the accumulated cash flows from the underlying exposures that is subordinated to the banking organization's securitization exposure may be included in the calculation of parameter A to the extent that cash is present in the account. The current capital rule generally requires a banking organization to recognize cash or securities that are included in a reserve account in the calculation of parameter A .¹⁷⁴

¹⁷⁴ Consistent with the current capital rule, the proposal would require banking organizations to treat any assets that are included in a reserve account as underlying exposures of the securitization exposure, which must be reflected in parameters A and D as well as KG and the W parameter.

The proposal would generally retain the existing definitions of attachment point and detachment point under the current capital rule, with one modification. Specifically, the proposal would not allow a banking organization to include interest rate derivative contracts and exchange rate derivative contracts, or the cash collateral accounts related to these instruments, in the calculation of parameters A and D . The agencies are proposing this treatment because assets held in a funded reserve account, whether cash or securities, can provide credit enhancement to a securitization exposure, whereas interest rate and foreign exchange derivatives (and any cash collateral held against these derivatives) do not.¹⁷⁵

b. Definition of W Parameter

Under the current capital rule, parameter W , which is expressed as a decimal value between zero and one, reflects the proportion of underlying

¹⁷⁵ For example, assume a securitization has assets denominated in U.S. dollars and liabilities denominated in euros, and that the securitization executes a USD-EUR foreign exchange swap with a banking organization. The transaction would serve to hedge the foreign exchange risk of the securitization's assets and liabilities, but would not provide credit enhancement to any of the tranches of the securitization.

exposures that are not performing or are delinquent, according to criteria outlined in the rule.¹⁷⁶ The proposal would retain the current capital rule's definition of parameter W , with two modifications. Specifically, the proposal would revise the definition of parameter W to (1) exclude any exposure that is directly and unconditionally guaranteed by the U.S. government, its central bank, or a U.S. government agency from the calculation of W , up to the amount of the guarantee; and (2) clarify that for resecuritization exposures, any underlying exposure that is a securitization exposure would only be included in the denominator of the ratio and would be excluded from the numerator of the ratio.

¹⁷⁶ Consistent with the current capital rule, the proposal would define equity exposure to include exposures to equity instruments that do not have mandatory contractual payments, among other requirements. Accordingly, under the proposal, for purposes of determining the W parameter for a securitization exposure, a banking organization would not treat an underlying equity exposure as being past due or in default on payments, but could treat an underlying equity exposure as subject to a bankruptcy or insolvency proceeding if the issuer of the equity exposure were subject to such a proceeding. See definition of equity exposure in § _____.2 of the capital rule. 12 CFR 3.2 (OCC); 12 CFR 217.2 (Board); 12 CFR 324.2 (FDIC).

Under the proposal, a banking organization would exclude from the calculation of parameter W any exposure that is directly and unconditionally guaranteed by the U.S. government, its central bank, or a U.S. government agency, up to the amount of the guarantee. By allowing banking organizations to reflect the risk mitigation effects of the U.S. government's guarantee, the proposed modification is intended to more appropriately align the capital requirement with the risk of such securitization exposures. For example, when a banking organization invests in a securitization exposure where all of the underlying exposures are unconditionally guaranteed by the U.S. government, the banking organization may set parameter W equal to zero.

For resecuritization exposures, parameter W would be the ratio of the sum of the current dollar amount of any underlying exposures of the resecuritization that meet any of the criteria in paragraphs _____.133(b)(1)(i) through (vi) of the proposal that are not securitization exposures to the current dollar amount of all underlying exposures. Underlying securitization exposures do not need to be included in the numerator of parameter W because the risk weight of the underlying securitization exposure as calculated by the SEC-SA would already reflect the impact of any delinquent or otherwise nonperforming loans within the underlying securitization exposure. For example, if a resecuritization with a notional amount of \$10 million includes underlying securitization exposures with a notional amount of \$5 million and underlying non-securitization exposures with a notional amount of \$5 million, and if \$500,000 of the non-securitization exposures are delinquent, the numerator for the W parameter would be \$500,000 while the denominator for the W parameter would be \$10 million. This reflects the fact that the risk associated with securitization exposures generally arises from the underlying assets failing to perform as expected, resulting in investors receiving less cashflow than expected from the securitization exposure, rather than from securitization exposure itself failing to make payments due to investors.

Question 71: The agencies seek comment on the appropriateness of requiring banking organizations to only include equity exposures when the issuer is subject to a bankruptcy or insolvency proceeding in the W parameter calculation. What, if any, alternative approaches (such as requiring banking organizations to

include equity exposures when the issuer has an obligation to the banking organization that is 90-days or more past due) should the agencies consider that would more appropriately capture the proportion of underlying exposures that are not performing or are delinquent and why? What, if any, operational concerns could such alternatives pose?

c. Delinquency-Adjusted (K_A) and Non-Adjusted (K_G) Weighted-Average Capital Requirement of the Underlying Exposures

Under the proposal, K_A would reflect the delinquency-adjusted, weighted-average capital requirement of the underlying exposures and would be a function of K_G and parameter W. Under this approach, in order to calculate parameter W, and thus K_A , the banking organization must know the delinquency status of all underlying exposures in the securitization. K_G would equal the weighted average total capital requirement of the underlying exposures (with the unpaid principal used as the weight for each exposure), calculated using the proposed risk weights in the expanded risk-based approach, as described in section IV.A.2. of this **SUPPLEMENTARY INFORMATION**.

The proposal would retain the current capital rule's definition of K_G , with two modifications. First, for interest rate derivative contracts and exchange rate derivative contracts, the proposal would require banking organizations to include in the numerator of K_G (and exclude from the denominator of K_G) the product of (1) the positive current exposure, (2) the risk weight of the counterparty, and (3) by 0.08, consistent with the Basel standards. This accounts for the issue where, if amounts related to interest rate and exchange rate derivative contracts were included in both the numerator and denominator of K_G , these contracts could reduce the capital requirement of securitization exposures even though interest rate and exchange rate derivative contracts do not provide any credit enhancement to a securitization.

Second, the proposal would clarify the existing requirement that banking organizations must determine the risk weight applicable to an underlying equity exposure under the simple risk-weight approach, as described in section IV.C.2. of this **SUPPLEMENTARY INFORMATION**, based on the characteristics of the underlying equity exposure. Consistent with the treatment under the current capital rule, banking organizations would not be able to consider the underlying equity

exposures as a non-significant equity exposure that receive a 100 percent risk weight when determining K_G . Unlike equity exposures to investment funds (as defined), traditional securitizations can include transactions with companies that have material liabilities and structures that allocate losses based on a predetermined order of priority (rather than on a pro-rata basis). Accordingly, unlike the look-through approaches applicable to underlying equity securities held by investment funds, the proposal would clarify that banking organizations may not calculate risk-based capital requirements for securitization exposures with underlying equity exposures as though the underlying equity exposures were on the banking organization's balance sheet. This clarification to the current capital rule promotes the risk sensitivity of the securitization framework by requiring banking organizations to reflect a risk weight based on the underlying exposure's risk characteristics and appropriately differentiates between the risk-based capital treatment applicable to investment funds and to securitization exposures.

Question 72: Recognizing that banking organizations may not always know the delinquency status of each underlying exposure, what would be the benefits and drawbacks of allowing a banking organization to use the SEC-SA if the banking organization knows the delinquency status for most, but not all, of the underlying exposures? For example, if the banking organization knew the delinquency status of 95 percent of the exposures, what would be the benefits and drawbacks of allowing the banking organization to (1) split the underlying exposures into two subpools, (2) calculate a weighted average of the K_A of the subpool comprising the underlying exposures for which the delinquency status is known, (3) assign a value of 1 for K_A of the other subpool comprising exposures for which the delinquency status is unknown, and (4) assign a K_A for the entire pool equal to the weighted average of the K_A for each subpool? What other approaches, if any, should the agencies consider and why?

Question 73: The agencies seek comment on the appropriateness of requiring banking organizations to reflect underlying past due exposures in both the K_G and the W parameter components when calculating K_A . To what extent could including past due exposures in both components result in overly punitive capital requirements for such exposures under SEC-SA? What, if any, alternatives (such as not applying the heightened 150 risk weight for past

due exposures for purposes of calculating K_G) should the agencies consider and why? Commenters are encouraged to provide specific examples, including calculations and supporting data.

d. Supervisory Risk-Weight Floors

Consistent with the SSFA in the current capital rule, the SEC-SA would require banking organizations to apply a risk-weight floor to all securitization exposures. The proposed risk-weight floor is intended to ensure that banking organizations maintain a minimum level of capital to account for risks that may not otherwise be captured by SEC-SA, such as modeling risks and correlation. The proposal would apply a risk-weight floor of 15 percent for securitization exposures that are not resecuritization exposures. The 15 percent risk-weight floor is most relevant for more senior securitization exposures. While junior tranches can absorb a significant amount of credit or equity risk, senior tranches are still exposed to some amount of credit or equity risk on the underlying exposures. Therefore, a minimum capital requirement continues to be appropriate for all securitization exposures.

For resecuritization exposures, the proposed SEC-SA approach would require banking organizations to apply a risk-weight floor of 100 percent. The proposed 100 percent supervisory risk-weight floor for resecuritization exposures is intended to capture the greater complexity of such exposures and heightened correlation risks inherent in the underlying securitization exposures.¹⁷⁷

Question 74: The agencies seek comment on the proposed 100 percent risk-weight floor for resecuritization exposures. What modifications, if any, should the agencies consider to the 100 percent risk-weight floor for resecuritization exposures and why? For example, what would be the pros and cons of excluding certain types of resecuritization exposures—such as resecuritizations of servicer cash

¹⁷⁷ In a typical securitization exposure that is not a resecuritization, each underlying exposure is subject to idiosyncratic default risks (for example, the employment status of each obligor) which may exhibit lower relative default correlation. In a resecuritization exposure, the underlying exposures, which are typically tranches of securitizations, usually have credit enhancement from more junior tranches that protects against many idiosyncratic risks. Systematic risks are more likely to generate defaults in the underlying exposures of resecuritizations than idiosyncratic risks, but systematic risks are also much more likely to be correlated due to their system-wide nature; therefore, resecuritizations can be expected to have higher default correlations than other types of securitizations.

advance receivables—from the 100 percent risk-weight floor and why? Commenters are encouraged to provide data (such as loss history) to support their recommendations.

5. Exceptions to the SEC-SA Risk-Based Capital Treatment for Securitization Exposures

Securitization exposures sometimes contain features that, if not accounted for, could produce inconsistent outcomes under the SEC-SA, or in some cases make the calculation of the risk weight inoperable. Therefore, the proposal would include additional approaches for certain types of securitization exposures to more appropriately align the capital requirement with the risk of such securitization exposures.

a. Purchased Credit Derivatives

As discussed previously in section IV.B.1.b. of this **SUPPLEMENTARY INFORMATION**, the proposal would modify paragraph (1) of the definition of traditional securitization to clarify that the securitization framework generally applies to exposures to companies with material liabilities that are not operating companies, and whose underlying exposures are primarily financial exposures. To further clarify the scope of exposures subject to the securitization framework under the current capital rule, the proposal would also remove the definition of securitization special purpose entity (SPE).

Under the current capital rule, if a banking organization purchases a credit derivative (other than an nth-to-default credit derivative) that is recognized as a credit risk mitigant (including via recognized collateral) under the securitization framework, the banking organization is not required to compute a separate counterparty credit risk capital requirement. For purchased credit derivatives that a banking organization cannot or chooses not to recognize as a credit risk mitigant under the securitization framework, the current capital rule requires the banking organization to calculate an exposure amount using SA-CCR and to determine the applicable risk weight based on whether or not the counterparty is a securitization SPE.¹⁷⁸ Specifically, if the

¹⁷⁸ Securitization SPE under § ____ . 2 of the current capital rule means a corporation, trust, or other entity organized for the specific purpose of holding underlying exposures of a securitization, the activities of which are limited to those appropriate to accomplish this purpose, and the structure of which is intended to isolate the underlying exposures held by the entity from the credit risk of the seller of the underlying exposures

counterparty is a securitization SPE, the banking organization must determine the risk weight based on the securitization framework; if the counterparty is not a securitization SPE, the banking organization must apply the risk weight applicable to the counterparty under the general credit risk framework.

Consistent with the proposed technical modification to the definition of traditional securitization,¹⁷⁹ the proposal would (1) remove the definition of securitization SPE, and (2) clarify that the risk weight applicable to purchased credit derivatives that a banking organization cannot or chooses not to recognize as a credit risk mitigant would be based on whether the counterparty is a securitization (that is, a non-operating company that holds the underlying exposures of a securitization transaction).

b. Nth-to-Default Credit Derivatives

Nth-to-default credit derivatives provide credit protection on a group of reference exposures only after a specific number (n) of the reference exposures default.¹⁸⁰ As nth-to-default credit derivatives tranche the credit risk of the reference exposures based on the order in which defaults occur within the group of reference exposures, such credit derivatives would generally qualify as securitization exposures under the proposal, consistent with the current capital rule. Under the current capital rule, banking organizations that have purchased credit protection in the form of an nth-to-default credit derivative may recognize the risk-mitigating benefit of that derivative under the credit risk mitigation framework applicable to securitization exposures if certain conditions are met. If a banking organization sells protection in the form of an nth-to-default credit derivative, the current capital rule requires the banking

to the entity. See 12 CFR 3.2 (OCC); 12 CFR 217.2 (Board); 12 CFR 324.2 (FDIC).

¹⁷⁹ The proposal would retain the existing definition of securitization exposure under the current capital rule. Under § ____ . 2 of the current capital rule, securitization exposure means (1) an on-balance sheet or off-balance sheet credit exposure (including credit-enhancing representations and warranties) that arises from a traditional securitization or synthetic securitization (including a resecuritization), or (2) an exposure that directly or indirectly references a securitization exposure described in paragraph (1) of this definition. See 12 CFR 3.2 (OCC); 12 CFR 217.2 (Board); 12 CFR 324.2 (FDIC).

¹⁸⁰ Consistent with the current capital rule, the proposal would define an nth-to-default credit derivative as a credit derivative that provides credit protection only for the nth-defaulting reference exposure in a group of reference exposures. See 12 CFR 3.2 (OCC); 12 CFR 217.2 (Board); 12 CFR 324.2 (FDIC).

organization to calculate risk-weighted assets as the product of (1) the exposure amount produced by SA-CCR, and (2) either the risk weight produced by the SSFA or a 1,250 percent risk weight.

Nth-to-default credit derivatives provide protection only for a limited number of default event(s) and, therefore, do not provide continuous or comprehensive coverage of credit risk for the entire basket of reference exposures. Furthermore, the current capital treatment of nth-to-default credit derivatives may not appropriately capture the default correlation among the reference exposures. For example, assume a banking organization with exposure to five corporate entities purchases an nth-to-default credit derivative that pays out upon the default of the second of the five corporate entities. In such a case, the banking organization would remain exposed to any losses incurred upon the first corporate entity default, as well as losses from any defaults beyond the second corporate entity default, if applicable. Conversely, a banking organization that sells an nth-to-default credit derivative that provides protection against the default of the second corporate entity could incur losses exceeding the premiums collected from the protection purchaser if the defaults of the underlying corporates are highly correlated. Furthermore, the risk weight produced by the SEC-SA may not appropriately capture the risk of sold nth-to-default credit derivatives, which are priced based on the expected default correlation among the reference exposures.¹⁸¹

Accordingly, consistent with the Basel standards, while nth-to-default credit derivatives would continue to be securitization exposures, the proposal would not permit banking organizations to recognize any risk-mitigating benefit for nth-to-default credit derivatives for which the banking organization is the protection purchaser under the proposed securitization framework. Rather, the proposal would require banking organizations to calculate risk-weighted assets for counterparty credit risk using the exposure amount produced by SA-CCR, as described in

section IV.A.4.b. of this **SUPPLEMENTARY INFORMATION** and the risk weight applicable to the protection provider under the general credit risk framework.

Similarly, consistent with the Basel standards, while nth-to-default credit derivatives in which the banking organization is the seller of protection would continue to be securitization exposures, the proposal would prohibit the banking organization from using the SEC-SA to determine the applicable risk weight. Rather, the proposal would generally require banking organizations to calculate the risk-weighted asset amount by multiplying the notional amount of the protection provided by the nth-to-default credit derivative by the sum of the risk weights applicable to each of the underlying reference exposures, up to a maximum of 1,250 percent. In aggregating the risk weights for second-or-later-to-default credit derivatives, the proposal would permit banking organizations to exclude the (n-1) assets with the lowest risk weights from the calculation.¹⁸² This approach would require a banking organization to maintain capital based on the risk characteristics of all the underlying reference exposures in the basket on which it is providing protection, while recognizing that the banking organization is not required to make a payment unless “n” names in the basket default.

c. Derivative Contracts That Do Not Provide Credit Enhancements

The proposal would revise the risk weight for securitization exposures that are derivative contracts (other than protection provided by a banking organization in the form of a credit derivative) that have a first priority claim on the cash flows from the underlying exposures, notwithstanding amounts due under interest rate or currency derivative contracts, fees, or other similar payments. The current capital rule permits banking organizations to assign a risk-weighted asset amount for such securitization exposures equal to the exposure amount

calculated under SA-CCR (corresponding to a 100 percent risk weight). The proposal would eliminate this option. Instead, a banking organization would determine the risk-weighted asset amount by multiplying (1) the exposure amount produced by the counterparty credit risk framework, as described in section IV.A.4. of this **SUPPLEMENTARY INFORMATION**, and (2) either the risk weight applicable to the exposure under the securitization framework or a 1,250 percent risk weight. The proposed treatment would be more risk sensitive and more accurately reflect the risks of such exposures than a flat 100 percent risk weight.

Additionally, the proposal would provide a new treatment for certain interest rate or foreign exchange derivative contracts that qualify as securitization exposures. Some securitizations either make payments to investors in a different currency from the underlying exposures or make fixed payments to investors when the cash flows received on the underlying exposures are linked to a floating interest rate. To neutralize these foreign exchange or interest rate risks, a securitization may enter into a derivative contract that mirrors the currency or interest rate mismatch between the exposures and the tranches. Cash flows required to be paid to the derivative counterparty tend to have a claim senior to the investors in the cash flow waterfall, and therefore tend not to provide credit enhancement.

The proposal would require a banking organization that acts as a counterparty to these types of interest rate and foreign exchange derivatives to set the risk weight on such derivatives equal to the risk weight calculated under the SEC-SA for a securitization exposure that is *pari passu* to the derivative contract or, if such an exposure does not exist, the risk weight of the next subordinated tranche of the securitization exposure. A banking organization may otherwise not be able to calculate a risk weight for these derivative contracts using the SEC-SA because the attachment and detachment points under the proposed formula could equal one another, rendering the formula inoperable. The proposed treatment, consistent with the Basel standards, is intended to appropriately reflect how the credit risk associated with these derivative contracts would be commensurate with or less than the credit risk associated with a *pari passu* tranche or the next subordinated tranche of a securitization exposure.

Question 75: The current capital rule provides banking organizations the

¹⁸¹ As a standardized approach, the SEC-SA calculation does not explicitly capture default correlation among the underlying exposures (such as the possibility that multiple underlying exposures will default simultaneously or that the default of one underlying exposure may affect the likelihood of another underlying exposure defaulting). Instead, default correlation effects are implicitly incorporated through the supervisory parameter (p) in the SEC-SA calculation, which serves as a proxy for the concentration and correlation of the underlying exposures.

¹⁸² For example, assume a banking organization sells a first-to-default credit derivative that provides protection on three underlying corporate entities, two of which would be subject to a 65 percent risk weight and one to a 100 percent risk weight under the proposal. The proposal would require the banking organization to multiply the sum of the three risk-weights (230 percent) by the notional amount of protection provided by the first-to-default credit derivative. If the banking organization sold a second-to-default credit derivative that provided protection on the same three corporate entities, the proposal would require the banking organization to multiply the sum of the two highest applicable risk-weights (165 percent) by the notional amount of protection provided by the second-to-default credit derivative.

option to assign a 100 percent risk weight to securitization exposures that are derivative contracts (other than protection provided by a banking organization in the form of a credit derivative) that have a first priority claim on the cash flows from the underlying exposures (notwithstanding amounts due under interest rate or currency derivative contracts, fees, or other similar payments). The agencies seek comment on the advantages and disadvantages of retaining this option. What, if any, operational burden would banking organizations face if this option were retained or eliminated? What, if any, clarifications should the agencies consider regarding the determination of the attachment point and detachment point for such securitization exposures, and why?

d. Overlapping Exposures

To enhance the risk sensitivity of the securitization framework, the proposal would introduce new provisions to address instances where one of the banking organization's securitization exposures would preclude the banking organization from incurring losses under all circumstances on one or more separate securitization exposures also held by the banking organization (overlapping exposures). The standardized approach of the current capital rule includes provisions to limit the double counting of risks in situations involving overlapping securitization exposures. If a banking organization has multiple securitization exposures that provide duplicative coverage to the underlying exposures of a securitization (such as when a banking organization provides a program-wide credit enhancement and multiple pool-specific liquidity facilities to an ABCP program), the banking organization is not required to hold duplicative risk-based capital against the overlapping position. Instead, the banking organization may apply to the overlapping position the applicable risk-based capital treatment under the securitization framework that results in the highest risk-based capital requirement.

Consistent with the Basel standards, the proposal would expand the treatment of overlapping exposures to allow banking organizations to also apply this treatment (1) where one or more of the overlapping securitization exposures would be subject to the expanded risk-based approach and other(s) to the proposed market risk framework, and (2) to securitization exposures that partially overlap for purposes of the expanded risk-based approach.

First, to the extent that one or more of the such securitization exposures would be subject to the expanded risk-based approach and others to the revised market risk framework, the proposal would allow banking organizations to reflect only the greater of the risk-based capital requirement produced by the expanded risk-based approach or the market risk capital framework, provided the banking organization is able to calculate and compare the capital requirements for the relevant exposures.

Second, if a banking organization has two or more securitization exposures that partially overlap, the proposal would permit the banking organization to treat the exposures as overlapping exposures, provided the banking organization can demonstrate that one of its securitization exposures can fully absorb losses arising from its other securitization exposures. For example, if a banking organization provides a program-wide credit enhancement to an ABCP conduit that covers only the portion of the losses above the seller-provided protection¹⁸³ and the banking organization also holds commercial paper issued by the ABCP conduit, the banking organization would be permitted to reflect the risk-weighted asset amount only for the program-wide credit enhancement, provided the banking organization demonstrates, for purposes of calculating risk-based capital requirements, that the program-wide credit enhancement would require the banking organization to fully absorb any losses arising from the ABCP conduit. As the risk-based capital requirement for the program-wide credit enhancement would be treated as covering any losses on the commercial paper, the proposal would not require the banking organization to also maintain additional risk-based capital against the securitization exposure(s) arising from the commercial paper.

In this regard, the proposal aims to increase risk-sensitivity by allowing banking organizations to appropriately reflect the risk of such overlapping exposures within the calculation of risk-weighted assets while also providing sufficient flexibility if doing so would impose significant burden.¹⁸⁴

¹⁸³ For example, typically in the case of multi-seller ABCP conduits, each seller provides first-loss protection by over-collateralizing the conduit to which it sells loans.

¹⁸⁴ For example, the proposed market risk capital framework would require banking organizations to calculate risk-based capital requirements at the trading desk level. Thus, the cost associated with requiring banking organizations to calculate market risk capital requirements for an individual securitization exposure may outweigh any improvement in risk sensitivity associated with the

Question 76: What challenges, if any, would the option to recognize an overlap between market risk covered and noncovered positions introduce? To what degree do banking organizations anticipate recognizing overlaps between market risk covered and noncovered positions?

e. Look-Through Approach for Senior Securitization Exposures

Consistent with the Basel standards, the proposal would introduce a provision that would allow a banking organization to assign to a senior securitization exposure a risk weight equal to the weighted average risk weight of the underlying exposures, provided that the banking organization has knowledge of the composition of all of the underlying exposures (also referred to as the "look-through approach"). For purposes of calculating the weighted-average risk weight, the proposal would require a banking organization to use (1) the unpaid principal amount of underlying exposures as the weight for each exposure, and (2) determine the risk weight applicable to an underlying equity exposure based on the characteristics of the underlying equity exposure.¹⁸⁵

The proposal would define a senior securitization exposure as an exposure that has a first priority claim on the cash flows from the underlying exposures. When determining whether a securitization exposure has a first priority claim on the cash flows from the underlying exposures, a banking organization would not be required to consider amounts due under interest rate derivative contracts, currency derivative contracts, and servicer cash advance facility contracts,¹⁸⁶ or any fees and other similar payments to be made by the securitization to other parties. Both the most senior commercial paper issued by an ABCP program and a liquidity facility that supports the ABCP program may be senior securitization exposures if the liquidity facility provider's right to reimbursement of the

proposed treatment for overlapping exposures described above.

¹⁸⁵ As discussed in section IV.B.4.c. of this **SUPPLEMENTARY INFORMATION**, the non-significant equity exposure treatment does not apply to equity securities underlying a securitization.

¹⁸⁶ Consistent with the current capital rule, the proposal would define a servicer cash advance facility as a facility under which the servicer of the underlying exposures of a securitization may advance cash to ensure an uninterrupted flow of payments to investors in the securitization, including advances made to cover foreclosure costs or other expenses to facilitate the timely collection of the underlying exposures. See 12 CFR 3.2 (OCC); 12 CFR 217.2 (Board); 12 CFR 324.2 (FDIC).

drawn amounts is senior to all claims on the cash flows from the underlying exposures, except amounts due under interest rate derivative contracts, currency derivative contracts, and servicer cash advance facility contracts, fees due, and other similar payments. Accordingly, under the proposed look-through approach, if a senior securitization exposure's underlying exposures consists solely of past due loans with a weighted-average risk weight of 150 percent, the risk weight for the senior securitization exposure would be no more than 150 percent.

Consistent with the proposed 15 percent floor under the SEC-SA, the proposal would require banking organizations to floor the total risk-based capital requirement under the look-through approach at 15 percent. The proposed 15 percent floor is intended to appropriately reflect the minimum amount of risk-based capital that a banking organization should maintain for senior securitization exposures given that the process of securitization can introduce risks that are not present in directly holding the underlying exposures. For example, the transformation of risk profiles through the securitization process and the introduction of payment waterfalls, among other structural features, can add complexity to modeling and correlation assumptions.

Question 77: What are the advantages and disadvantages of the proposed 15 percent risk weight floor in the look-through approach and why?

f. Credit-Enhancing Interest Only Strips

The proposal would require a banking organization to deduct from common equity tier 1 capital any portion of a credit-enhancing interest-only strip¹⁸⁷ that does not constitute an after-tax-gain-on-sale, regardless of whether the securitization exposure meets the proposed operational requirements. The proposed treatment for credit-enhancing interest-only strips would be different than under standardized approach in the current capital rule, which requires a risk weight of 1,250 percent for these items. The proposal would require

banking organizations to deduct credit-enhancing interest-only strips from common equity tier 1 capital because valuations of credit-enhancing interest-only strips can include a high degree of subjectivity and, just like assets subject to deduction under the current capital rule such as goodwill and other intangible assets, banking organizations may not be able to fully realize value from credit-enhancing interest-only strips based on their balance sheet carrying amounts. While a deduction is generally equivalent to a 1,250 percent risk weight when the banking organization maintains an 8 percent risk-based capital ratio, given the various capital ratios, buffers, and add-ons applicable to banking organizations subject to the proposed expanded risk-based approach, applying a deduction provides a more consistent treatment across capital ratios and greater consistency with the Basel standards.

g. Non-Performing Loan Securitizations

The proposal would define a non-performing loan securitization as a traditional securitization, that is not a resecuritization, where parameter W for the underlying exposures is greater than or equal to 90 percent at the origination cut-off date¹⁸⁸ and at any subsequent date on which exposures are added to or removed from the pool of underlying exposures due to replenishment or restructuring. A securitization exposure that meets the definition of a resecuritization exposure would be excluded from the definition of a non-performing loan securitization.

In a typical non-performing loan securitization, the originating banking organization sells non-performing loans to a securitization at a significant discount to the outstanding loan balances, reflecting the nonperforming nature of the underlying exposures. This nonrefundable purchase price discount functions as a form of credit enhancement to investors. Unlike securitizations of performing loans, which principally depend on the cash flows of the underlying loans, the performance of non-performing loan securitizations depends in part on the performance of workouts on defaulted loans and on the liquidation of underlying collateral for those loans which are unable to be cured, both of which are uncertain and could be volatile.

¹⁸⁸ Cut-off date is the date on which the composition of the underlying exposures collateralizing a securitization transaction is established. This means that all exposures to be included in a securitization must already be in existence and meet the non-performing loan criteria as of that date.

Consistent with the Basel standards, the proposal would introduce a specific capital treatment for non-performing loan securitization exposures. A banking organization would assign a risk weight of 100 percent to a non-performing loan securitization exposure if the following conditions are satisfied: (1) the transaction structure meets the definition of a traditional securitization; (2) the securitization contains a credit enhancement in the form of a nonrefundable purchase price discount greater than or equal to 50 percent of the outstanding balance of the underlying exposures at inception of the transaction; and (3) the banking organization's securitization exposure is a senior securitization exposure, as described in section IV.B.5.e. of this **SUPPLEMENTARY INFORMATION**.¹⁸⁹

Applying the SEC-SA to senior securitizations of non-performing loans that meet these criteria would result in capital requirements that do not appropriately reflect the nonrefundable purchase price discount associated with these transactions. The SEC-SA is calibrated on the assumption that the underlying exposures at origination of the securitization are generally performing and is therefore inappropriate for senior exposures to securitizations of non-performing loans that meet these criteria.

If the non-performing loan securitization exposure is not a senior securitization exposure or the nonrefundable purchase price discount is less than 50 percent, the banking organization would be required to apply the SEC-SA to determine the applicable risk weight (including by reflecting all delinquent exposures in the calculation of parameter W), subject to a risk weight floor of 100 percent. Compared to other securitizations, the higher supervisory risk-weight floor of 100 percent for non-performing loan securitization exposures reflects the greater dependence of non-performing loan securitizations on the servicer's ability to generate recovery cashflows through loan workouts, borrower renegotiations, or enforcement against collateral. If the securitization exposure does not meet the requirements for use of the SEC-SA, the proposal would require the banking

¹⁸⁹ If the banking organization is an originating banking organization with respect to the non-performing loan securitization, the banking organization may maintain risk-based capital against the transferred exposures as if they had not been securitized and must deduct from common equity tier 1 capital any after-tax gain-on-sale resulting from the transaction and any portion of a CEO strip that does not constitute an after-tax gain-on-sale.

¹⁸⁷ Consistent with the current capital rule, the proposal would define a credit-enhancing interest-only strip as an on-balance sheet asset that, in form or in substance (1) represents a contractual right to receive some or all of the interest and no more than a minimal amount of principal due on the underlying exposures of a securitization; and (2) exposes the holder of the CEO to credit risk directly or indirectly associated with the underlying exposures that exceeds a pro rata share of the holder's claim on the underlying exposures, whether through subordination provisions or other credit-enhancement techniques. See 12 CFR 3.2 (OCC); 12 CFR 217.2 (Board); 12 CFR 324.2 (FDIC).

organization to assign a risk weight of 1,250 to the securitization exposure.

Question 78: The agencies seek comment on the proposed 100 percent risk-weight floor for non-performing loan securitization exposures. What modifications, if any, should the agencies consider to the 100 percent risk-weight floor for non-performing loan securitization exposures and why? Commenters are encouraged to provide data (such as loss history) to support their recommendations.

i. Attachment and Detachment Points for NPL Securitizations Subject to the SEC-SA

Under the proposal, the nonrefundable purchase price discount would equal the difference between the outstanding principal balance of the underlying exposures at the time of sale and the price at which these exposures are sold by the securitization originator¹⁹⁰ on a final basis, without recourse, to a company the activities of which are limited to those appropriate for the specific purpose of holding the underlying exposures of a securitization. The purchase price discount would be considered non-refundable when neither the securitization originator nor the original lender are reimbursed with respect to that difference. For any given tranche of the securitization, a banking organization may take into account only the initial sale from the securitization originator in the determination of the non-refundable purchase price discount. In cases where the securitization originator underwrites tranches of a non-performing loan securitization for subsequent sale, an investing banking organization may include in the calculation of the nonrefundable purchase price discount the difference between the outstanding principal balance of the underlying exposures at time of sale and the price at which the securitization originator subsequently sells all of the underwritten tranches to unrelated third parties.

Because the calculation of both parameters A and D depend on the current dollar amount of the underlying exposures, any nonrefundable purchase price discount associated with a securitization would be included in both the numerator and denominator of parameters A and D. For example, assume an originating banking organization sells on a final basis, without recourse, a pool of mortgage

loans with an outstanding principal balance of \$100 million to a securitization at a price of \$60 million. The nonrefundable purchase price discount would be the difference between the outstanding principal balances of the underlying mortgages at the time of sale to the securitization and the price at which the originating banking organization sold these mortgages to the securitization company (that is, \$40 million). Assume that the securitization company issues \$60 million in securitization tranches of which the originating banking organization purchases the senior \$50 million tranche and an investing banking organization purchases the \$10 million subordinate tranche. Parameter A for the investing banking organization's exposure would equal 40 percent (that is, the ratio of \$40 million to \$100 million). In this case, the purchase price discount functions as the effective first-loss position in the securitization structure. Likewise, the originating banking organization would treat both the nonrefundable purchase price discount and the investing banking organization's tranche as subordinate and would set parameter A at 50 percent.

If, in the example above, after selling the \$100 million pool of mortgage loans to a securitization company at a price of \$60 million, the originating banking organization underwrites both the senior tranche and the subordinate tranche and later sells both tranches to third parties at a 20 percent discount (that is, the \$10 million subordinated tranche is sold for a price of \$8 million and the \$50 million senior tranche is sold for a price of \$40 million), the proposal would allow the investing banking organizations to assign an attachment point that reflects the extent to which losses have effectively been absorbed by the non-refundable purchase price discount, as measured by the difference between the outstanding principal amount of the underlying exposures (\$100 million) and the aggregate price at which the originating bank subsequently sells those securitization tranches to unrelated third parties (\$48 million). The originating banking organization as underwriter absorbs the additional 20 percent price discount at the sale of the tranches.¹⁹¹ Thus, the investing banking

organization that purchases the \$8 million subordinate tranche would be permitted to assign an attachment point of 52 percent and a detachment point of 60 percent to its securitization exposure; the investing banking organization that purchases the \$40 million senior tranche would be permitted to assign an attachment point of 60 percent and a detachment point of 100 percent to its securitization exposure.

6. Credit Risk Mitigation for Securitization Exposures

The proposal would incorporate the credit risk mitigation framework for securitization exposures in the current standardized approach, with one exception.¹⁹² A banking organization that purchases or sells tranced credit protection, whether hedged or unhedged, referencing part of a senior tranche would not be allowed to treat the lower-priority portion that the credit protection does not reference as a senior securitization exposure. For example, if a banking organization holds a securitization exposure with an attachment point of 20 percent and a detachment point of 100 percent and the banking organization purchases an eligible guarantee with an attachment point of 50 percent and a detachment point of 100 percent, the banking organization's residual exposure, which attaches at 20 percent and detaches at 50 percent, would be considered a non-senior securitization exposure, and the banking organization would not be permitted to apply the look-through approach to this exposure. A banking organization that purchases a mezzanine tranche that attaches at 20 percent and detaches at 50 percent has a similar economic exposure to a banking organization that purchases a senior

from the sale of the tranches to third-party investors, the purchase price discount would not qualify as a non-refundable purchase price discount and the investing banking organizations would not be permitted to recognize such a discount in the calculation of parameters A and D.

¹⁹² As discussed in section IV.A.4. of this **SUPPLEMENTARY INFORMATION**, the proposal would increase consistency and comparability of capital requirements by reducing the use of bank models. Therefore, the proposal does not include the model-based approaches currently contained in the credit risk mitigation framework under the advanced approaches (such as allowing banking organizations to use their own internal estimates for calculating haircuts under the collateral haircut approach and allowing the use of the internal models methodology or simple value at risk methodology for measuring counterparty credit risk). Instead, consistent with the standardized approach in the current capital rule, the proposed credit risk mitigation framework for securitization exposures would permit the recognition of a credit risk mitigant only to the extent consistent with the requirements of § _____.120 or 121, as applicable, as well as the requirements of the proposed securitization framework.

¹⁹⁰ While originator typically refers to the party originating the underlying loans, in the non-performing loan context it refers to the party arranging the non-performing loan securitization (that is, the securitizer).

¹⁹¹ Under the proposal, a purchase price discount would only qualify as a non-refundable purchase price discount if neither the securitization originator nor the original lender receive reimbursement of the discount. If, in the above example, the securitization company repays the originating banking organization, acting in its role as underwriter, for the purchase price discount

tranche that attaches at 20 percent and detaches at 100 percent and then purchases credit protection that attaches at 50 percent and detaches at 100 percent. Because the former transaction would not be considered a senior securitization exposure eligible for the look-through approach, the latter transaction likewise should not be eligible for the look-through approach. Alternatively, the banking organization may choose not to recognize the tranching credit protection. In this case, the proposal would allow the banking organization to treat the securitization exposure (which attaches at 20 percent and detaches at 100 percent) as a senior securitization exposure.

C. Equity Exposures

Equity exposures present a greater risk of loss relative to credit exposures, as equity exposures represent an ownership interest in the issuer of an equity instrument and is a residual claim on the assets and income of the issuer. An equity exposure entitles a banking organization to no more than the pro-rata residual value of a company after all other creditors are repaid.¹⁹³ As a result, consistent with the current capital rule, the proposal would generally assign higher risk weights to equity exposures than exposures subject to the proposed credit risk framework.

¹⁹³ For example, exposures that could be characterized as an equity exposure under the current capital rule and under the proposal include a short position in an equity security or an equity total return swap. See 12 CFR 3.2 (OCC); 12 CFR 217.2 (Board); 12 CFR 324.2 (FDIC) for the definition of equity exposure.

Under the proposal, for banking organizations subject to the market risk framework, material publicly traded equity exposures would generally be subject to the proposed market risk framework¹⁹⁴ described in section V.A. of this **SUPPLEMENTARY INFORMATION**, unless restrictions exist on the tradability of such exposures. Similarly, equity exposures to investment funds would be subject to the proposed market risk framework when the following conditions are met: (1) the banking organization has access to the investment fund's prospectus, partnership agreement, or similar contract that defines the fund's permissible investments and investment limits, and (2) the banking organization is either able to calculate a market risk capital requirement for its proportional ownership share of each exposure held by the investment fund, or obtain daily price quotes. For banking organizations with significant trading activity, the proposed equity framework would therefore primarily cover illiquid or infrequently traded equity exposures. For banking organizations without significant trading activity, the proposed equity framework would be used to calculate risk-weighted assets for all equity exposures.

The proposed framework would largely maintain the current standardized approach equity framework. The proposal would make one targeted modification to align the treatment of commitments within the expanded risk-based approach.

¹⁹⁴ See § _____.202 for the proposed definition of market risk covered position.

Specifically, the proposal would simplify the current rule's conversion factors for conditional commitments to acquire an equity exposure.

1. Adjusted Carrying Value

The proposal would retain the risk-weighted asset amount calculation under the current capital rule.¹⁹⁵ In addition, the proposal would maintain the current capital rule's methods for calculating the adjusted carrying value for equity exposures, with one exception. Consistent with the update to credit conversion factors described in section IV.A.3.b. of this **SUPPLEMENTARY INFORMATION**, the proposal would simplify the treatment of conditional commitments to acquire an equity exposure by removing the differentiation of conversion factors by maturity. The proposal would require a banking organization to multiply the effective notional principal amount of a conditional commitment by a 40 percent conversion factor to calculate its adjusted carrying value. This change is consistent with the Basel standards, promoting international alignment, and removes incentives for firms to structure commitments based on maturity date to avoid the higher 50 percent conversion factor under the current rule in favor of the lower 20 percent conversion factor.

Under the proposal, the adjusted carrying value of an equity exposure, including equity exposures to investment funds, would be based on the type of exposure, as described in Table 1 below.

¹⁹⁵ See 78 FR 62124.

Table 1: Adjusted Carrying Value for Equity Exposures

Equity exposure type	Adjusted carrying value
On-balance sheet component of an equity exposure	The carrying value of the exposure.
Unconditional commitment to acquire an equity exposure	The effective notional principal amount ¹⁹⁶ of the exposure multiplied by a 100 percent conversion factor.
Conditional commitment to acquire an equity exposure	The effective notional principal amount of the exposure multiplied by a 40 percent conversion factor.
Off-balance sheet component of an equity exposure that is not an equity commitment ¹⁹⁷	The effective notional principal amount of the exposure, the size of which is equivalent to a hypothetical on-balance sheet position in the underlying equity instrument that would evidence the same change in fair value (measured in dollars) for a given small change in the price of the underlying equity instrument, minus the adjusted carrying value of the on-balance sheet component of the exposure.

2. Simple Risk-Weight Approach (SRWA)

Under the proposal, the risk-weighted asset amount for an equity exposure,

except for equity exposures to investment funds, would be the product of the adjusted carrying value of the equity exposure multiplied by the lowest applicable risk weight, as

described in Table 2 below. The proposed simple risk-weight approach maintains the same risk weights applicable to equity exposures under the current capital rule.

¹⁹⁶ Consistent with the current capital rule, the proposal includes the concept of the effective notional principal amount of the off-balance sheet portion of an equity exposure to provide a uniform method for banking organizations to measure the on-balance sheet equivalent of an off-balance sheet exposure. For example, if the value of a derivative contract referencing the common stock of company X changes the same amount as the value of 150 shares of common stock of company X, for a small change (for example, 1.0 percent) in the value of the

common stock of company X, the effective notional principal amount of the derivative contract is the current value of 150 shares of common stock of company X, regardless of the number of shares the derivative contract references. The adjusted carrying value of the off-balance sheet component of this derivative is the current value of shares of common stock of company X minus the adjusted carrying value of any on-balance sheet amount associated with the derivative.

¹⁹⁷ Consistent with the current capital rule, the proposal would allow a banking organization to choose not to hold risk-based capital against the counterparty credit risk of equity derivative contracts, as long as it does so for all such contracts. Where the equity derivative contracts are subject to a qualified master netting agreement, the proposal would require the banking organization to either include all or exclude all of the contracts from any measure used to determine counterparty credit risk exposure. See § _____.114(d) of the proposal.

Table 2: Risk Weights Applicable to Equity Exposures under the Simple Risk-Weight**Approach (SRWA)**

Risk Weight	Equity Exposure
0%	An equity exposure to a sovereign, specified supranational entity, ¹⁹⁸ a multilateral development bank, and any other entity whose credit exposures receive a zero percent risk weight under § __. 111 of the proposal.
20%	An equity exposure to a Public Sector Entity, Federal Home Loan Bank, or the Federal Agricultural Mortgage Corporation.
100%	An equity exposure that qualifies as a community development investment under section 24 (Eleventh) of the National Bank Act.
	Non-significant equity exposures. ¹⁹⁹
	The effective portion of a hedge pair.
250%	Significant investments in the capital of unconsolidated financial institutions in the form of common stock that are not deducted from capital pursuant to § __.22(d)(2)(i)(B) under the proposal.
300%	A publicly traded equity exposure. ²⁰⁰
400%	An equity exposure that is not publicly traded.
600%	An equity exposure to an investment firm that: • Would meet the definition of a traditional securitization were it not for the application of paragraph (8) of that definition; and • Has greater than immaterial leverage.

a. Alternative Approach

The proposal would maintain the current capital rule's treatment of non-significant equity exposures. Non-significant equity exposures means equity exposures to the extent that the aggregate adjusted carrying value of the banking organization's equity exposure does not exceed 10 percent of the

¹⁹⁸ Under the proposal, specified supranational entities would include the Bank for International Settlements, the European Central Bank, the European Commission, the International Monetary Fund, the European Stability Mechanism, and the European Financial Stability Facility. Consistent with the current capital rule, equity exposures to such entities would continue to be subject to a zero percent risk weight for the purposes of the simple risk weight approach.

banking organization's total capital.²⁰¹ Non-significant equity exposures receive a 100 percent risk weight under the current capital rule.

To increase the risk sensitivity of the proposed equity framework, the agencies considered the following alternative approach: (1) remove the 100 percent risk weight for non-significant equity exposures, (2) introduce a 100 percent risk weight for certain tax equity financing transactions and equity

¹⁹⁹ See 78 FR 62124 (Oct. 11, 2013).

²⁰⁰ The proposal would rely on the existing definition of publicly traded under the current capital rule. See 12 CFR 3.2 (OCC); 12 CFR 217.2 (Board); 12 CFR 324.2 (FDIC).

²⁰¹ See ___.141(b).

exposures to Small Business Investment Companies,²⁰² (3) lower the risk weight for publicly traded equity exposures from 300 percent to 250 percent,²⁰³ and (4) increase the risk weight applicable to equity exposures to investment firms with greater than immaterial leverage

²⁰² Under the current capital rule, when determining which equity exposures are "non-significant" and thus eligible for a 100 percent risk weight, a banking organization first must include equity exposures to an unconsolidated small business investment company or held through a consolidated small business investment company described in section 302 of the Small Business Investment Act of 1958 (15 U.S.C. 682).

²⁰³ The 250 percent risk weight for publicly traded equities would be consistent with the Basel standards.

and that would meet the definition of a traditional securitization were it not for the application of paragraph (8) of that definition from 600 percent to 1,250 percent. Outside of those changes under consideration, the agencies would retain the current capital rule's risk weights for equity exposures, the hedge pair treatment, and look-through approaches for equity investment in funds. This alternative approach would increase risk sensitivity by requiring banking organizations to apply a risk weight based on the characteristics of each equity exposure, rather than only for those in excess of 10 percent of the banking organization's total capital. Conversely, the agencies recognize that implementing this alternative approach would increase the operational burden associated with the proposal as banking organizations have developed internal reporting systems and processes to apply the current capital rule's 100 percent risk weight for non-significant equity exposures.

Given that the proposed equity framework captures a more limited set of exposures compared to the current rule,²⁰⁴ the agencies determined that the cost associated with replacing the current treatment for non-significant equity exposures may be higher than the improvement in risk sensitivity associated with the alternative approach described above. As such, to balance risk sensitivity with burden, the proposed simple risk weight approach retains the current capital rule's treatment for non-significant equity exposures.

Question 79: What are the advantages and disadvantages of the proposed 40 percent conversion factor for calculating the adjusted carrying value of conditional equity commitments? How appropriate is this proposed conversion factor for capturing the risk that such commitments will become on-balance sheet equity exposures? What alternative approaches or conversion factor values might better reflect the risk profile of conditional equity commitments, and what would be the potential costs and benefits of such alternatives?

Question 80: What are the advantages and disadvantages of using a treatment for conditional commitments which differentiates conversion factors based on maturity, and would apply a 20 percent credit conversion factor to those commitments with an original maturity of one year or less, and a 50 percent

conversion factor to those with an original maturity of more than one year?

Question 81: The agencies request comment on the proposed 100 percent risk weight for non-significant equity exposures. What are the advantages or disadvantages of replacing the proposed treatment of equity exposures with the alternative approach described above? What other alternatives should the agencies consider, and what would be the advantages and disadvantages of such alternatives?

Question 82: For what, if any, types of exposures would a 100 percent risk weight and classification as non-significant equity exposure be inappropriate and why? What specific characteristics of these exposures would warrant a different risk weight treatment?

Question 83: Certain equity exposures, such as certain tax equity financing transactions, may have a different risk profile than general equity exposures. What types of equity exposures have risk profiles that differ materially from general equity exposures? What risk weights would be appropriate for such exposures, and what are the benefits and costs of applying different risk weight treatments? Please provide relevant data to support your views, including historical loss data and information on risk characteristics of these exposures.

D. Operational Risk

The proposal would include an operational risk capital requirement. Operational risk is defined in the current capital rule as the risk of loss resulting from inadequate or failed internal processes, people, and systems, or from external events.²⁰⁵ It includes a wide range of risks, such as fraud, system failures, business disruptions, damage to physical assets, cyberattacks, and litigation. Operational risk is present across banking products, activities, processes, and systems and has resulted in substantial financial losses for large banking organizations in the United States.²⁰⁶

²⁰⁵ See 12 CFR 3.101 (OCC); 217.101 (Board); 12 CFR 324.101 (FDIC). Under the proposal, the definition of operational risk would include legal risk, but exclude strategic risk.

²⁰⁶ There are several examples of large banking organizations experiencing severe operational losses. Multiple banking organizations have suffered substantial losses due to rogue trading. Large U.S. banking organizations have also experienced billions of dollars in operational losses from legal settlements relating to improper loan origination, securitization, and foreclosure practices associated with the 2007–09 global financial crisis. Some banking organizations have experienced substantial losses from legal settlements relating to the violation of sanctions put in place by the United States. Additionally, a large banking organization

experienced substantial operational losses due to a fake-accounts scandal.

See, e.g., M. Jeremy, "Leeson pleads guilty to two charges in Barings collapse, and may cooperate," *The Wall Street Journal* (Dec. 1, 1995); and Nicola Clark and David Jolly, "French Bank Says Rogue Trader Lost \$7 Billion," *The New York Times*, (Jan. 25, 2008).

See, e.g., U.S. Dep't of Justice, Press Release, Federal Government and State Attorneys General Reach \$25 Billion Agreement with Five Largest Mortgage Servicers to Address Mortgage Loan Servicing and Foreclosure Abuses (Feb. 9, 2012), <https://www.justice.gov/opa/pr/federal-government-and-state-attorneys-general-reach-25-billion-agreement-five-largest>; U.S. Dep't of Justice, Press Release, Justice Department, Federal and State Partners Secure Record \$13 Billion Global Settlement with JPMorgan for Misleading Investors About Securities Containing Toxic Mortgages (Nov. 9, 2013), <https://www.justice.gov/opa/pr/justice-department-federal-and-state-partners-secure-record-13-billion-global-settlement>; FHFA, Press Release, FHFA Announces \$9.3 Billion Settlement With Bank of America Corporation (Mar. 26, 2014), <https://www.fhfa.gov/news/news-release/fhfa-announces-9.3-billion-settlement-with-bank-of-america-corporation>; U.S. Dep't of Justice, Press Release, Bank of America to Pay \$16.65 Billion in Historic Justice Department Settlement for Financial Fraud Leading up to and During the Financial Crisis (Aug. 21, 2014), <https://www.justice.gov/opa/pr/bank-america-pay-1665-billion-historic-justice-department-settlement-financial-fraud-leading>; U.S. Dep't of Justice, Press Release, Justice Department, Federal and State Partners Secure Record \$7 Billion Global Settlement with Citigroup for Misleading Investors About Securities Containing Toxic Mortgages (July 14, 2014), <https://www.justice.gov/opa/pr/justice-department-federal-and-state-partners-secure-record-7-billion-global-settlement>; U.S. Dep't of Justice, Press Release, BNP Paribas Sentenced for Conspiring to Violate the International Emergency Economic Powers Act and the Trading with the Enemy Act (May 1, 2015), <https://www.justice.gov/opa/pr/bnp-paribas-sentenced-conspiring-violate-international-emergency-economic-powers-act-and>; U.S. Dep't of Justice, Press Release, Morgan Stanley Agrees to Pay \$2.6 Billion Penalty in Connection with Its Sale of Residential Mortgage Backed Securities (Feb. 11, 2016), <https://www.justice.gov/opa/pr/morgan-stanley-agrees-pay-26-billion-penalty-connection-its-sale-residential-mortgage-backed>; U.S. Dep't of Justice, Press Release, Deutsche Bank Agrees to Pay \$7.2 Billion for Misleading Investors in its Sale of Residential Mortgage-Backed Securities (Jan. 17, 2017), <https://www.justice.gov/opa/pr/deutsche-bank-agrees-pay-72-billion-misleading-investors-its-sale-residential-mortgage-backed>; U.S. Dep't of Justice, Press Release, Credit Suisse Agrees to Pay \$5.28 Billion in Connection with its Sale of Residential Mortgage-Backed Securities (Jan. 18, 2017), <https://www.justice.gov/opa/pr/deutsche-bank-agrees-pay-72-billion-misleading-investors-its-sale-residential-mortgage-backed>; U.S. Dep't of Justice, Press Release, Credit Suisse Agrees to Pay \$5.28 Billion in Connection with its Sale of Residential Mortgage-Backed Securities (Jan. 18, 2017), <https://www.justice.gov/opa/pr/credit-suisse-agrees-pay-528-billion-connection-its-sale-residential-mortgage-backed>; and U.S. Dep't of Treasury, Office of Foreign Assets Control, Press Release, Settlement Agreement between the U.S. Department of the Treasury's Office of Foreign Assets Control and JPMorgan Chase Bank, N.A. (JPMC), and Finding of Violation issued to JPMC (Oct. 5, 2018), <https://ofac.treasury.gov/recent-actions/20181005> (each

²⁰⁴ A significant portion of publicly traded equity exposures and equity investment in funds exposures will be considered market risk covered positions. See § _____.202 for the proposed definition of market risk covered position.

In total, Category I and II holding companies have experienced over \$308 billion in operational losses between 2007Q1 and 2025Q2.²⁰⁷ These totals include large operational losses from activities that typically do not result in substantial credit or market risk-weighted assets, such as certain fee-based activities, indicating that operational risk can represent the main source of risk for activities that have a limited balance sheet footprint.

In addition to their substantial stand-alone materiality, empirical academic research supports that operational losses tend to increase during economic downturns.²⁰⁸ In some cases, operational losses only become apparent once a banking organization is

describing a settlement between the U.S. government and large banking organizations involving substantial payments by banking organizations to resolve allegations of misconduct).

See, e.g., Jackie Wattles, Ben Geir, Matt Egan, and Danielle Wiener-Bronner, "Wells Fargo's 20-Month Nightmare," CNN Money (Apr. 24, 2018).

²⁰⁷ The \$308 billion figure was calculated by adding together all operational loss events that resulted in a net loss amount of \$20,000 or more and were reported in the FR Y-14Q form.

²⁰⁸ Using a summary measure for the macroeconomic environment, Abdymomunov et al. (2020) find that operational losses increase by 16.5 percent for a one standard deviation decrease in the macroeconomic measure. Similarly, Allen and Bali (2007) find that operational risk is cyclical and relates to measures of the macroeconomy and systemic risk. Chernobai et al. (2011) find that operational risk is higher for firms with higher credit risk. Hess (2011) finds that measures of operational risk for several business lines increased meaningfully after the 2007–09 financial crisis. Cope and Carrivick (2013) find that operational loss frequency and severity increased due to the 2007–09 financial crisis. And Aldosoro et al. (2023) find that operational losses peaked during the 2007–09 financial crisis and that operational losses increase after periods of accommodative monetary policy. Relatedly, Berger et al. (2022) find that operational losses increase the systemic risk posed by large U.S. banking organizations. See Abdymomunov, Azamat, Filippo Curti, and Atanas Mihov, "U.S. Banking Sector Operational Losses and the Macroeconomic Environment," *Journal of Money, Credit, and Banking*, Vol. 52, No. 1, pages 115–144 (2020); Allen, Linda, and Turan G. Bali, "Cyclicality in catastrophic and operational risk measurements," *Journal of Banking & Finance* 31, pages 1191–1235 (2007); Chernobai, Anna, Philippe Jorion, and Fan Yu, "The Determinants of Operational Risk in U.S. Financial Institutions," *Journal of Financial and Quantitative Analysis*, Vol. 46, No. 6, pages 1683–1725 (2011); Hess, Christian, "The impact of the financial crisis on operational risk in the financial services industry: empirical evidence," *The Journal of Operational Risk*, Volume 6, Number 1, pages 23–35 (2011); Cope, Eric W., and Luke Carrivick, "Effects of the financial crisis on banking operational losses," *Journal of Operational Risk* 8(3), pages 3–29 (2013); Aldosoro, Inaki, Leonardo Gambacorta, Paolo Giudici, and Thomas Leach, "Operational and Cyber Risks in the Financial Sector," *International Journal of Central Banking* Vol. 19, No. 5, pages 341–402 (2023); Berger, Allen N., Filippo Curti, Atanas Mihov, and John Sedunov, "Operational Risk is More Systemic than You Think: Evidence from U.S. Bank Holding Companies," *Journal of Banking and Finance* 143, 106619 (2022).

otherwise under stress, with economic downturns and reductions in asset values exposing previous operational failures and fraud.²⁰⁹ For example, the operational failures and fraud of a rogue trader within Barings Bank only became known after the fall in asset values within Asian financial markets following the 1995 Kobe earthquake. These operational losses ultimately resulted in the bank's failure.²¹⁰ Similarly, substantial operational losses followed from the Enron and Worldcom fraud scandals, which coincided with a stock market downturn in the early 2000s.²¹¹ The fall in asset values during the 2007–09 financial crisis was a key factor in exposing Bernard Madoff's ponzi scheme and mortgage servicing abuses, which led to severe operational losses for certain large banking organizations.²¹²

For these reasons, the agencies are proposing to account for operational risk together with credit risk and market risk in the capital framework applicable to Category I and II banking organizations to help ensure their safety and soundness and bolster U.S. financial stability.

²⁰⁹ See Paul Povel, Rajdeep Singh, and Andrew Winton, "Booms, Busts, and Fraud" *The Review of Financial Studies*, 1219–1254 (2007); and Robert T. Stewart, "Bank fraud and the macroeconomy," *Journal of Operational Risk* 11(1), 71–82 (2016).

²¹⁰ The inclusion of operational risk in the Basel II standards was driven in part by Barings Bank's failure in 1995. Barings Bank, originally founded in 1762, collapsed after discovering that one of its Singapore branch traders lost \$1.3 billion in unauthorized derivatives trades made through the bank's error accounts. One of the lessons from the failure of Barings Bank is that a bank's capital could be depleted through rogue traders and other operational events, not just through credit and market losses. See Michael S. Barr, Howell E. Jackson, Margaret E. Tahyar, *Financial Regulation: Law and Policy* (2021).

²¹¹ On the operational losses caused by the Enron scandal, see <https://www.nytimes.com/2005/06/15/business/jp-morgan-chase-to-pay-enron-investors-22-billion.html>; <https://www.nytimes.com/2005/06/15/business/jp-morgan-chase-to-pay-enron-investors-22-billion.html>; <https://www.nytimes.com/2008/03/27/business/27enron.html>; <https://www.nytimes.com/2008/03/27/business/27enron.html>; and Vaughn K. Reynolds, "The Citigroup and J.P. Morgan Chase Enron Settlements: The Impact on the Financial Industry" North Carolina Banking Institute—Financial Accounting and Derivatives (2004), <https://scholarship.law.unc.edu/cgi/viewcontent.cgi?article=1143&context=ncbi>.

On the operational losses caused by the WorldCom scandal, see <https://www.nytimes.com/2005/03/13/business/yourmoney/worldcom-teaches-a-pricey-lesson.html> and <https://www.wsj.com/articles/SB110985786525469459>.

²¹² On the operational losses caused by the Bernard Madoff scandal, see <https://www.justice.gov/usao-sdny/pr/manhattan-us-attorney-and-fbi-assistant-director-charge-announce-filing-criminal>. On operational losses resulting from mortgage servicing abuses, see <https://www.justice.gov/opa/pr/federal-government-and-state-attorneys-general-reach-25-billion-agreement-five-largest>.

Under the current capital rule, Category I and II banking organizations are required to calculate risk-weighted assets for operational risk using the AMA,²¹³ which is based on a banking organization's internal models. The AMA results in significant challenges for banking organizations, market participants, and the supervisory process. AMA exposure estimates can present substantial uncertainty and volatility, introducing challenges to capital planning processes.²¹⁴ In addition, the AMA's reliance on internal models has resulted in a lack of transparency and comparability across banking organizations. As a result, supervisors and market participants experience challenges in evaluating the adequacy of operational risk capital across banking organizations. To address these concerns, the proposal would remove the AMA and introduce a standardized approach for operational risk that seeks to address the operational risks currently covered by the AMA.

Consistent with the Basel standards, risk-weighted assets for operational risk would be equal to 12.5 times the business indicator component.^{215,216} The business indicator component would provide a measure of the operational risk exposure of the banking organization and would be calculated based on its business indicator multiplied by scaling factors that increase with the business indicator. The business indicator would serve as a proxy for a banking organization's business volume and would be based on inputs compiled from a banking organization's financial statements.

Banking organizations with higher overall business volume are larger and more complex, which is likely to result in more operational risk exposure.²¹⁷

²¹³ The agencies adopted the AMA for operational risk as part of the advanced approaches capital framework in 2007. See 72 FR 69288 (Dec. 7, 2007).

²¹⁴ See, e.g., Cope, E., G. Mignola, G. Antonini, and R. Ugocioni. 2009. Challenges and Pitfalls in Measuring Operational Risk from Loss Data. *Journal of Operational Risk* 4(4): 3–27; and Opdyke, J., and A. Cavallo. 2012. Estimating Operational Risk Capital: The Challenges of Truncation, the Hazards of Maximum Likelihood Estimation, and the Promise of Robust Statistics. *Journal of Operational Risk* 7(3): 3–90.

²¹⁵ 12.5 is the amount by which the measure of operational risk exposure needs to be multiplied so that the risk-weighted assets it generates are equivalent to an 8 percent total capital requirement.

²¹⁶ The proposal would not include the internal loss multiplier that was included under the agencies' 2023 proposal, which is equivalent to setting the internal loss multiplier equal to one.

²¹⁷ Recent research connecting operational risk to higher business volume includes Frame, McLemore, and Mihov (2020), Haste Makes Waste: Banking Organization Growth and Operational Risk, Federal Reserve Bank of Dallas, <https://www.dallasfed.org/>

Continued

Higher business volumes present more opportunities for operational risk to manifest. In addition, the complexities associated with a higher business volume can give rise to gaps or other deficiencies in internal controls that result in operational losses. Therefore, the proposal would set a banking organization's operational risk capital requirement in line with its business volume.

Question 84: The Basel standards includes an optional scalar called the internal loss multiplier, which is calculated based on a banking organization's historical internal operational losses. The internal loss multiplier would scale the business indicator component in the calculation of risk-weighted assets for operational risk. The internal loss multiplier is calculated as follows:

Internal loss multiplier = $\ln(\exp(1) - 1 + (15 * \text{average annual total net operational losses/business indicator component})^{0.8})$

where $\ln$ is the natural logarithm and $\exp(1)$ is the Euler's number, which is approximately equal to 2.7183.

Should the agencies include the internal loss multiplier in the calculation of operational risk-weighted assets and, if so, why? If the internal loss multiplier is included in the calculation of the operational risk-weighted assets, should the "15" factor included in its calculation be adjusted to better reflect the operational risks of U.S. Category I and II banking organizations, within a range between 5 and 15? Please provide any analysis justifying a recommendation.

1. Business Indicator

Under the proposal, the business indicator would be based on the sum of the following two components: an interest, lease, and dividend component and a noninterest component. Each component would serve as a measure of a broad category of activities in which banking organizations typically engage. Given that operational risk is inherent to banking products, activities, processes, and systems, these components aim to comprehensively capture a banking organization's financial activities and thus serve as a proxy for its business volume. The interest, lease, and

dividend component aims to capture lending and investment activities through measures of interest income, interest expense, interest-earning assets, and dividends. The noninterest component aims to capture fee and commission-based activities, trading activity and other activities that are associated with a banking organization's assets and liabilities.

Under the proposal, all inputs to the business indicator would be based on three-year rolling averages. For example, a business indicator input reported at the end of the third calendar quarter of 2025 would be the average of the values for the fourth quarter of 2022 through the third quarter of 2023, the fourth quarter of 2023 through the third quarter of 2024, and the fourth quarter of 2024 through the third quarter of 2025. The one exception are interest-earning assets, which would be calculated as the average of the quarter-end values of interest-earning assets for the previous 12 quarters.²¹⁸

The use of three-year averages would capture a banking organization's activities over time and help reduce the impact of temporary fluctuations. Basing the business indicator on a shorter time period, such as a single year of data, would likely result in a more volatile capital requirement, which could challenge the incorporation of the operational risk capital requirement into capital planning processes and result in unduly low or high operational risk capital requirements given temporary changes in a banking organization's activities. Alternatively, basing the business indicator on too many years of data could reduce its responsiveness to changes in a banking organization's activities, which could in turn weaken the relationship between the capital requirements and the banking organization's risk profile. The use of three-year averages aims to balance the stability and responsiveness of the operational risk capital requirement.

As described below, the inputs used in each component of the business indicator would, in most cases, use information contained in line items from schedules RI and RC of the Call Report and schedules HI and HC of the FR Y–9C report, as applicable. The

agencies are planning to separately propose modifications to the FFIEC 101 report so that all inputs to the business indicator would be publicly reported as separate inputs to the applicable calculations.

The inputs to each component of the business indicator would not overlap. Income and expenses would not be counted in more than one component of the business indicator, consistent with instructions to the regulatory reports and the principles of accounting. The inputs used to calculate the business indicator would include data for entities that have been acquired by, or merged with, the banking organization over the period prior to the acquisition or merger that is relevant to the calculation of the business indicator.

a. The Interest, Lease, and Dividend Component

Under the proposal, the interest, lease, and dividend component would account for activities that produce interest, lease, and dividend income and would be calculated as follows:

Interest, lease, and dividend component

$$= \min(\text{Avg3y}(\text{Abs}(\text{total interest income} - \text{total interest expense})), 0.0225 * \text{Avg3y}(\text{interest-earning assets})) + \text{Avg3y}(\text{dividend income})$$

where Avg3y refers to the three-year average of the quantity in parentheses; Abs refers to the absolute value of the quantity in parentheses; *total interest income* would mean interest income from all financial assets and other interest income;²¹⁹ *total interest expense* would mean interest expenses related to all financial liabilities and other interest expenses;²²⁰ *interest-earning assets* would mean the sum of all gross outstanding loans and leases, securities that pay interest, interest-bearing balances, Federal funds sold, and securities purchased under agreements to resell;²²¹ and *dividend income* would mean all dividends

²¹⁹ Total interest income would correspond to total interest income in the FR Y–9C (holding companies) and Call Report, excluding dividend income as defined in the proposal.

²²⁰ Total interest expense would correspond to total interest expense in the FR Y–9C (holding companies) and Call Report.

²²¹ Interest-earning assets would equal the sum of interest-bearing balances in U.S. offices, interest-bearing balances in foreign offices, Edge and agreement subsidiaries, and IBFs, Federal funds sold in domestic offices, securities purchased under agreements to resell, loans and leases held for sale, loans and leases held for investment, total held-to-maturity securities at amortized cost (only including securities that pay interest), total available-for-sale securities at fair value (only including securities that pay interest), and total trading assets (only including trading assets that pay interest) in the FR Y–9C (holding companies) and Call Report.

research/papers/2020/wp2023; Curti, Frame, and Mihov (2019), Are the Largest Banking Organizations Operationally More Risky?, *Journal of Money, Credit and Banking* Vol. 54, Issue 5, 1223–1259, <https://doi.org/10.1111/jmcb.12933>; and Abdymomunov and Curti (2020), Quantifying and Stress Testing Operational Risk with Peer Banks' Data, *Journal of Financial Services Research* Vol. 57, 287–313, <https://link.springer.com/article/10.1007/s10693-019-00320-w>.

²¹⁸ Unlike the other inputs used to calculate the business indicator, interest-earning assets are balance-sheet items, rather than income statement items, and thus their use in the business indicator does not represent a flow over a one-year period, but rather a point-in-time value. The use of average interest-earning assets for the previous 12 quarters instead of, for example, the average interest-earning assets for the ending quarter of the last three years aims to increase the robustness of the average used in the calculation.

received on securities not consolidated in the banking organization's financial statements.²²²

The interest, lease, and dividend component would capture a banking organization's interest income and expenses from financial assets and liabilities, as well as dividend income from investments in stocks and mutual funds.

The interest income and expense portion of the interest, lease, and dividend component would be calculated as the absolute value of the difference between total interest income and total interest expense (which constitutes net interest income) and be subject to a ceiling equal to 2.25 percent of the banking organization's interest-earning assets. Net interest income is a useful indicator of a banking organization's operational risk because a higher volume of business is associated with higher operational risk. Given that operational risk is unlikely to increase proportionally to increases in net interest margin, the net interest income input would be capped at 2.25 percent of interest-earning assets, consistent with the Basel standards.

The proposal would add dividend income to the net interest income input to capture investment activities that produce dividends instead of interest income (for example, investment in equities and mutual funds).

Question 85: The proposal would include interest income and expenses in the interest component and noninterest income and certain noninterest expenses in the noninterest component. Income and expenses relating to operating leases are typically characterized as noninterest income and noninterest expenses, respectively, in regulatory reports. However, income and certain expenses relating to operating leases are included in the interest component under the Basel standards. What would be the advantages and disadvantages of including (1) income from operating leases and (2) depreciation and impairments relating to operating leased assets in the interest component rather than the noninterest component?

b. The Noninterest Component

Under the proposal, the noninterest component would account for fee and commission-based activities, trading activity, and other activities that are associated with a banking organization's assets and liabilities and would be calculated as follows:

Noninterest component =

Avg3y(Abs(total noninterest income + realized gains (losses) on held-to-maturity securities + realized gains (losses) on available-for-sale debt securities – noninterest expense for BI – 0.7(total noninterest income from investment management, investment services, and non-lending treasury services – noninterest expense for BI from investment management, investment services, and non-lending treasury services)) + total operational losses)*

where Avg3y refers to the three-year average of the quantity in parentheses; Abs refers to the absolute value of the quantity in parentheses; *total noninterest income, realized gains (losses) on held-to-maturity securities, and realized gains (losses) on available-for-sale debt securities* are as reported in the consolidated financial statements of the banking organization;²²³ *noninterest expense for BI* means expense reported as other noninterest expense, excluding expenses that relate to non-financial services received by the banking organization and total operational losses;²²⁴ *investment management* means activities related to asset management, wealth management and private banking, including the professional management of mutual funds and institutional accounts, and professional portfolio management and advisory services for individuals; *investment services* means activities related to asset servicing (which include custody, fund services, securities lending, liquidity services, collateral management, and other asset servicing; as well as recording keeping services for 401K and employee benefit plans, but exclude funding or guarantee products offered to such clients), issuer services (which include corporate trust, shareowner services, depository receipts, and other issuer services), and other investment services (which include clearing and other investment services); *non-lending treasury services* means activities related to cash management, global payments, and deposit services (and excludes any

lending or card activities); and *total operational losses* equals the sum of all operational losses within the relevant period.

The netting of income and expenses in the calculation of the noninterest component would provide two main benefits relative to how the Basel standards treats these sources of income in the calculation of the business indicator. First, this net treatment would be similar to the approach used for the interest, lease, and dividend component and, therefore, would improve the consistency of treatments between the two components. Second, the one-step netting of all noninterest income and expenses would help ensure that the operational risk requirements treat noninterest income and expenses consistently despite the range of acceptable accounting practices across banking organizations. For example, certain expenses are accounted for as “contra revenues” by some banking organizations, but not by others.²²⁵ The proposed approach would avoid the variability in the calculation of risk-weighted assets for operational risk that could result from inconsistent accounting classification of more granular items.

The operational risk capital requirement is designed to reflect all operational risks to which a banking organization is exposed, regardless of the activity or legal entity in which this risk resides. The proposal would, therefore, include the income and expense of a banking organization's insurance activities within the business indicator calculation.

The agencies have received feedback from the public regarding the relative operational risk of certain activities. In particular, industry experts have argued that investment management (including asset management and wealth management), investment services (including custody), and treasury services pose low operational risk. In considering this feedback, the agencies reviewed the operational loss and income data currently reported by Category I and II bank holding companies in the FR Y-14Q. The aggregate ratio of operational losses to business line income for all Category I and II holding companies was calculated from 2009Q1 to 2025Q2.²²⁶

²²³ The total noninterest income, realized gains (losses) on held-to-maturity securities, and realized gains (losses) on available-for-sale debt securities to be used in the calculation of the noninterest component align with the corresponding values in the banking organization's Call Report or FR Y-9C report. Ahead of the implementation of any final rule, the agencies plan to issue an update to the FFIEC 101 report, which would include reporting instructions for all items relevant to the calculation of risk-weighted assets for operational risk.

²²⁴ Other noninterest expense is as reported in the consolidated financial statements of the banking organization.

²²⁵ Contra revenues are reductions to a revenue account in an accounting statement (typically, most expenses are included in accounting statements through expense accounts).

²²⁶ Operational loss data was obtained from FR Y-14Q Schedule E. Income data was obtained from FR Y-14Q Schedule G. Only observations for which both the operational losses and the necessary

²²² Dividend income is currently included in total interest income in the FR Y-9C (holding companies) and Call Report.

This analysis shows that the aggregate ratio of historical operational losses to income for investment management

activities, investment services, and treasury services is approximately 32 percent of the same ratio for the

Category I and II holding companies as a whole.

Aggregate operational losses and income: investment management, investment services, and treasury services vs. all business lines

	Operational losses (\$ billion)	Income (\$ billion)	Ratio of operational losses to income
Investment management, investment services, and treasury services	15.5	1,981	0.78%
All business lines	144.6	5,937	2.44%

Notes:

Aggregates reflect data from 2009Q1 to 2025Q2 for Category I and II holding companies.

Operational losses for “all business lines” reflect all operational losses reported in Schedule E of the FR Y-14Q form that are assigned to a business line (that is, not included under the “corporate level” business line).

Operational losses from investment management, investment services, and treasury services include all operational losses classified as from BL5 “Payment and Settlement,” BL6 “Agency Services,” BL7 “Asset Management,” BL8 “Retail Brokerage,” or BL32 “Private Banking” in Schedule E of the FR Y-14Q form.

Income from all business lines reflects income reported in item 27 “Total Revenues” in Schedule G of the FR Y-14Q form minus the income reported in items 9 and 22 “Insurance Services,” 10 and 23 “Retirement / Corporate Benefits Products,” 11 and 24 “Corporate / Other,” and 12 and 25 “Optional Immaterial Business Segments” of the same form.

Income for investment management, investment services, and treasury services reflects income reported in items 6 and 19 “Investment Management,” 7 and 20 “Investment Services,” and 8 and 21 “Treasury Services” in Schedule G of the FR Y-14Q form.

Only observations for which both the operational losses and the necessary income elements were reported are included in this analysis.

Only operational loss events that resulted in a net loss amount of \$20,000 or more over the period from 2009Q1 to 2025Q2 and were reported in the FR Y-14Q form are included.

Considering the findings of this analysis, the proposal would reduce by 70 percent the noninterest income and expenses from investment management, investment services, and non-lending treasury services used in the calculation of the noninterest income component and, thereby, reflect the lower operational risk that these activities have presented historically.²²⁷

There are substantial practical difficulties in designing and implementing scalars to differentiate the contribution of business lines to the operational risk capital requirement.

The existing segmentation of business lines for purposes of reporting operational losses, income, and expenses does not align in all cases. Also, banking organizations’ practices around classification of operational losses and income vary, and there may be meaningful variability across banking organizations with respect to the ratio of operational losses to income at the business line level. In addition, introducing differentiated scalars across multiple business lines could introduce inconsistency across banking organizations, as the business line

classification of income or expense would have risk-based capital consequences. Addressing such potential inconsistency would necessitate significant supervisory review of business line income and expense classification, which would result in additional compliance costs for banking organizations. Further, differentiation of operational risk requirements across business lines would introduce additional inconsistencies relative to the Basel standards. Given these considerations, the proposal would only differentiate

income elements were reported are included in this analysis.

²²⁷ The definition of treasury services currently employed in the FR Y-14 includes certain lending

activities such as trade finance and corporate and commercial credit cards. To ensure that lending activities are treated consistently by the operational risk framework, the proposal would not include

lending activities within treasury services in the scope of activities whose contribution to the noninterest component would be reduced by 70 percent.

the contribution of investment management, investment services, and non-lending treasury services activities to the noninterest component.

The proposal would reflect operational losses within the business indicator. Empirical research suggests observed operational losses are a meaningful indicator of a banking organization's operational risk exposure.²²⁸ Including expenses related to operational loss events in the business indicator is therefore consistent with the operational risk requirement's objective of supporting a banking organization's resilience to operational risk. Specifically, the proposal would add *total operational losses* within the noninterest component. This approach is consistent with how operational losses contribute positively to *other operating expense* under the Basel standards and, therefore, would contribute positively to the business indicator under the Basel standards when *other operating expense* is higher than *other operating income*.²²⁹

The proposed noninterest component, including the downscaling of income net of expenses from investment management, investment services, and non-lending treasury services activities, would improve the consistency of requirements across Category I and II banking organizations and better reflect the operational risk of their activities.

Question 86: What are the advantages and disadvantages of the proposed design of the noninterest component, including any impact on specific business models? Which alternatives, if

any, should the agencies consider and why? Please provide supporting data with your response.

Question 87: What are the advantages and disadvantages of the proposed downscaling of the income and expense from investment management, investment services, and non-lending treasury services activities? What are the advantages and disadvantages of the proposed calibration approach? Should the agencies consider differentiated scalars (both increasing and decreasing requirements) across multiple business lines and why? What alternatives, if any, should the agencies consider and why? Please include data to support your views.

C. Exclusions From the Business Indicator

Consistent with the Basel standards, the business indicator under the proposal would reflect the volume of financial activities of a banking organization; therefore, the business indicator would exclude expenses that do not relate to financial services received by the banking organization. Excluded expenses would include staff expenses, expenses to outsource non-financial services (such as logistical, human resources, and information technology), administrative expenses (such as utilities, telecommunications, travel, office supplies, and postage), expenses relating to premises and fixed assets, and depreciation of tangible and intangible assets.

Also consistent with the Basel standards, the proposal would exclude loss provisions and reversal of provisions (except for those related to operational loss events) or changes in goodwill from the business indicator, as these items reflect accounting adjustments rather than financial transactions. In addition, the business indicator would be neutral relative to applicable income taxes by excluding them from the expense considered.

With prior supervisory approval, the proposal would allow banking

organizations to exclude activities that they have ceased to conduct, whether directly or indirectly, from the calculation of the business indicator, provided that the banking organization demonstrates that such activities do not carry legacy legal exposure. Supervisory approval would not be granted when, for example, legacy business activities are subject to potential or pending legal or regulatory enforcement action. The supervisory approval requirement would help ensure that a banking organization's operational risk capital requirement aligns with its existing operational risk exposure.

Question 88: Under what circumstances, if any, would it be appropriate for the business indicator to also exclude income relating to non-financial activities provided by a banking organization, such as an exclusion for income relating to non-financial activities provided to foreign affiliates or parents (recharge income)? What are the advantages and disadvantages of such exclusion, and what distinguishes such potentially excluded income from other income relating to non-financial activities? Please provide any data that would be useful to consider on this issue, including data that would allow the agencies to estimate the impact of such exclusion.

2. Business Indicator Component

Under the proposal, the business indicator component would rise with the size of the business indicator, but at three different rates. It would increase by 12 percent for each unit of business indicator up to \$1 billion, by 15 percent for each unit above \$1 billion and up to \$30 billion, and by 18 percent for each unit above \$30 billion. As described in section II.E., these thresholds would be indexed to inflation over time. Table 3 below presents the formulas that can be used to calculate the business indicator component given a banking organization's business indicator.

²²⁸ See Filippo Curti and Marco Migueis, "The Information Value of Past Losses in Operational Risk," *Journal of Operational Risk* Volume 18, Number 2, 1–36 (2023), <https://doi.org/10.21314/JOP.2022.033>.

²²⁹ Subtracting operational losses from the noninterest component (and thereby the business indicator)—as would occur if operational losses were retained within *noninterest expense for BI*—would not be appropriate because operational losses would generally be reducing risk-weighted assets for operational risk.

Table 3 – Business Indicator Component by Business Indicator Range

Business indicator range	Business indicator component ²³⁰
\$0 to \$1 billion	0.12 * Business Indicator (BI)
\$1 billion to \$30 billion	\$120 million + 0.15 * (BI - \$1 billion)
> \$30 billion	\$4.47 billion + 0.18 * (BI - \$30 billion)

The proposed higher rate of increase of the business indicator component as a banking organization's business indicator rises above \$1 billion and \$30 billion reflects operational risk generally increasing more than proportionally with a banking organization's overall business volume, in part due to the increased complexity of large banking organizations. This approach is supported by analysis undertaken by the Basel Committee.²³¹ Similarly, academic studies have found that larger U.S. bank holding companies have higher operational losses per dollar of total assets.²³²

3. Alternative Simple Approaches

In developing the proposal, the agencies considered alternative approaches to the proposed framework for determining a banking organization's operational risk capital requirement. These alternatives would rely on simpler measures of size and complexity that may provide an appropriate proxy for operational risk exposure. Specifically, the agencies considered an income-based approach and an asset-based approach as alternatives. Each of these approaches could provide a simple alternative for determining operational risk capital, which could easily be measured from existing regulatory reporting.

Under an income-based approach, size and complexity—and associated operational risk exposure—could be measured using a broad measure of

income, such as gross income, similar to the Basel Committee's basic indicator approach.²³³ Under the Basel Committee's basic indicator approach, risk-weighted assets for operational risk equal 15 percent of average annual gross income, defined as net interest income plus net noninterest income, over the previous three years where annual gross income is positive, multiplied by 12.5. Notably, the definition of gross income under the basic indicator approach excludes certain income statement items.²³⁴

In an income-based alternative closest to the Basel Committee's basic indicator approach, the agencies would define gross income in a given year as net-interest income plus noninterest income minus noninterest expense, where noninterest expense excludes salaries and employee benefits, expenses of premises and fixed assets, goodwill impairment losses, and amortization expense and impairment losses for other intangible assets. Like in the Basel Committee's basic indicator approach, the calculation of risk-weighted assets for operational risk under this approach would equal the product of the gross income scalar and average annual gross income over the previous three years where annual gross income is positive, multiplied by 12.5.

²³³ See Basel Committee on Banking Supervision (2006): "International Convergence of Capital Measurement and Capital Standards," <https://www.bis.org/publ/bcbs128.htm>. Upon the adoption of the new approach for calculating operational risk capital to the Basel standards, the basic indicator approach is no longer part of the Basel framework.

The agencies have previously considered simple options for operational risk, including the basic indicator approach. See 73 FR 43982, <https://www.govinfo.gov/content/pkg/FR-2008-07-29/pdf/E8-16262.pdf>.

²³⁴ The basic indicator approach specifies that gross income should (1) be gross of any provisions (for example, for unpaid interest), (2) be gross of operating expenses, including fees paid to outsourcing service providers, (3) exclude realized gains or losses from the sale of securities in the banking book such as from securities classified as "held to maturity" and "available for sale," and (4) exclude extraordinary or irregular items as well as income derived from insurance.

To appropriately calibrate an operational risk capital requirement based on gross income, the agencies considered two alternatives. In the first alternative, the scalar determining the capital requirement would be calibrated to result in a similar amount of aggregate required capital as under the proposed standardized approach for operational risk. Analysis by the agencies suggests that a scalar between 15 and 20 percent would be necessary to achieve the target calibration.²³⁵ As a second alternative, the gross income scalar could be set to cover the operational risk exposure of Category I and II banking organizations demonstrated by their historical operational losses.

The agencies also considered potential modifications to gross income. For example, gross income could be defined solely as net-interest income plus net-noninterest income, with no exclusions for noninterest expenses. Based on agency analysis of FR Y-9C data between 2022Q3 to 2025Q2, such an approach would require a gross-income scalar between 35 and 45 percent to result in a similar amount of aggregate required capital as under the proposed standardized approach for operational risk.

Separately, both gross income definitions discussed above could be modified to add operational losses (similar to the methodology within the noninterest component under the proposal's operational risk standardized approach). Such a modification would ensure that operational losses are positively reflected in operational risk capital requirements and could incentivize better operational risk management. Under such a

²³⁵ Based on data from form FR Y-9C, Schedule HI, between 2022Q3 to 2025Q2. Net-interest income would correspond to line 3 from Schedule HI, noninterest income to line 5.m, and noninterest expense excluding salaries and employee benefits, expenses of premises and fixed assets, goodwill impairment losses, and amortization expense and impairment losses for other intangible assets to line 7.d.

²³⁰ \$120 million is equal to 0.12 * \$1 billion. \$4.47 billion is equal to 0.12 * \$1 billion + 0.15 * (\$30 billion - \$1 billion).

²³¹ See Basel Committee (2014), "Operational risk—Revisions to the simpler approaches," <https://www.bis.org/publ/bcbs291.htm> and Basel Committee (2016), "Standardized Measurement Approach for operational risk," <https://www.bis.org/bcbs/publ/d355.htm>.

²³² See Curti, Mih, and Mihov (2022), "Are the Largest Banking Organizations Operationally More Risky?", *Journal of Money, Credit and Banking*, DOI: 10.1111/jmcb.12933; and Frame, McLemore, and Mihov (2020), "Haste Makes Waste: Banking Organization Growth and Operational Risk," Federal Reserve Bank of Dallas, <https://www.dallasfed.org/research/papers/2020/wp2023>.

modification, operational losses would be excluded from noninterest expense.

The agencies also considered an alternative that would use an institution's balance sheet, rather than income, for calculating the operational risk capital requirement. Such an approach could use total consolidated assets as an alternative, simple measure of size and complexity and, therefore, as a proxy for operational risk exposure. Asset size is a common proxy for size and complexity in the agencies' regulatory framework.

In an asset-based approach, a scalar would be applied to total assets to determine the operational risk capital requirement. To result in a similar aggregate amount of required capital as under the proposed standardized approach for operational risk, analysis by the agencies suggests that a scalar between 0.4 percent and 0.5 percent would be appropriate. Similar to the income-based approach, the scalar in an asset-based approach could be calibrated to cover the operational risk exposure of Category I and II banking organizations demonstrated by their historical operational losses.

An approach based on total assets could be modified to capture off-balance sheet activities, which may improve how the requirement captures operational risk exposure at the cost of some additional complexity.²³⁶

Relative to an approach based on income, an approach based on the balance sheet of a banking organization may not appropriately capture the operational risks associated with activities with small footprint in terms of on-balance sheet assets and few quantifiable off-balance sheet exposures.

Using gross income or total assets instead of the business indicator to set the operational risk capital requirement would result in a simpler method for calculating the operational risk requirement than the proposal. However, such approaches may be less risk sensitive than the proposed requirement based on the business indicator. Also, use of the business indicator as a proxy for operational risk exposure provides for greater alignment with the Basel standard than these alternatives, consistent with a broader objective of the proposal. Still, the agencies welcome comments on all

aspects of these potential alternatives and on alternative calibrations.

Question 89: The agencies invite comments on the use of a simple approach for determining a banking organization's operational risk capital requirement. Are there any aspects associated with using a simple approach that should be considered? What are the advantages and disadvantages of a simple approach relative to the proposed standardized approach for operational risk? Which aspects of the proposed standardized approach for operational risk would provide for greater risk sensitivity relative to the simple approaches discussed above? To what extent should risk sensitivity be an objective for the operational risk capital requirement, and how should that be weighed against complexity?

Question 90: The agencies invite comments on an approach based on gross income for determining a banking organization's operational risk capital requirement. What are the advantages and disadvantages of such an approach? What are the advantages and disadvantages of excluding salaries and employee benefits, expenses of premises and fixed assets, goodwill impairment losses, and amortization expense and impairment losses for other intangible assets from the definition of gross income? What are the advantages and disadvantages of adding operational losses to gross income in the calculation of the operational risk capital requirement? Provide any analysis supporting your recommendation.

Question 91: The agencies invite comments on an asset-based approach for determining a banking organization's operational risk capital requirement. What are the advantages and disadvantages of such an approach? What are the advantages and disadvantages of including off-balance sheet exposures on the size proxy used in such an approach? How should off-balance sheet exposures be measured under such an alternative? Provide any analysis supporting your recommendation.

Question 92: The agencies invite comments on how to calibrate an income-based or an assets-based approach, if such an approach were to be adopted. What are the advantages and disadvantages of using projected requirements under the proposed standardized approach as the basis for calibration?

For calibration of an income-based approach: (1) In a gross income variant where salaries and employee benefits, expenses of premises and fixed assets, goodwill impairment losses, and

amortization expense and impairment losses for other intangible assets are excluded from the calculation, would a scalar between 15 percent and 20 percent be appropriate and why?(2) In a gross income variant where gross income does not have the exclusions under (1), would a scalar between 35 and percent and 45 be appropriate and why?

For the calibration of an asset-based approach would a scalar between 0.4 percent and 0.5 percent be appropriate and why?

What are the advantages and disadvantages of calibrating the operational risk capital requirement such that it would capture operational risk exposure as demonstrated by banking organizations' historical operational losses? If the agencies were to follow such a calibration approach, which methodology should be used to estimate operational risk exposure and why? Provide any analysis supporting your recommendations.

4. Operational Risk Management

The agencies consider effective operational risk management to be critical to ensuring the financial and operational resilience of banking organizations, particularly for large banking organizations.²³⁷ Thus, consistent with the current advanced approaches qualification requirements applicable to Category I and II banking organizations, the proposal would require that banking organizations subject to the expanded risk-based approach have an operational risk management function that is independent of business line management. This independent operational risk management function would design, implement, and oversee the comprehensiveness and accuracy of operational loss event data and its collection processes and oversee other aspects of the banking organization's operational risk management. In addition, banking organizations subject to the expanded risk-based approach would be required to report operational loss events and other relevant operational risk information to business unit management, senior management, and the board of directors (or a designated committee of the board). Lastly, the proposal would require banking organizations subject to the expanded risk-based approach to have

²³⁶ The current capital rule applies certain adjustments to capture off-balance sheet activities. For example, the standardized approach for credit risk utilizes credit conversion factors to incorporate off-balance sheet activities into risk-weighted assets. Similarly, the supplementary leverage ratio incorporates off-balance sheet activities into the calculation of total leverage exposure.

²³⁷ The interagency paper titled "Sound Practices to Strengthen Operational Resilience" (Nov. 2, 2020) notes that operational resilience "is the outcome of effective operational risk management combined with sufficient financial and operational resources to prepare, adapt, withstand, and recover from disruptions."

operational loss event data collection processes that meet certain requirements.

V. Calculation of Risk-Weighted Assets Under the Market Risk Framework

A. Market Risk

1. Background

a. Description of Market Risk

Market risk for a banking organization results from exposure to price movements caused by changes in market conditions, market events, and issuer events that affect asset prices. Losses resulting from market risk can affect a banking organization's capital strength, liquidity, and profitability. To help ensure that a banking organization maintains a sufficient amount of capital to withstand adverse market risks and consistent with amendments to the Basel Capital Accord, the agencies adopted risk-based capital standards for market risk in 1996 (1996 rule).²³⁸ Although adoption of the 1996 rule was a constructive step in capturing market risk for risk-based capital standards, the 1996 rule did not sufficiently capture the risks associated with financial instruments that became prevalent in the years following its adoption. This became evident during the 2007–2009 financial crisis, when the 1996 rule did not fully capture banking organizations' increased exposures to traded credit and other structured products, such as collateralized debt obligations (CDO), credit default swaps (CDS), mortgage-related securitizations, and exposures to other less liquid products.

In August 2012, the agencies issued a final rule that modified the capital rule to address these deficiencies.²³⁹ Specifically, the rule added a stressed value-at-risk (VaR) measure, a capital requirement for default and migration risk (the incremental risk capital requirement), a comprehensive risk measurement for correlation trading portfolios, a modified definition of covered position, a definition of trading position, an expanded set of requirements for internal models to reflect advances in risk management, and revised requirements for regulatory backtesting. These changes enhanced the calibration of market risk capital requirements by incorporating stressed conditions into VaR and increasing the comprehensiveness and quality of the

standards for internal models used to calculate market risk capital requirements.²⁴⁰

While these updates to the rule addressed certain pressing deficiencies in the calculation of market risk capital requirements, a number of structural shortcomings that came to light during the crisis remained unaddressed (such as an inability of a VaR metric to adequately capture tail risks beyond the VaR confidence level). To address these shortcomings, the Basel Committee established minimum capital requirements for market risk.²⁴¹ To increase risk sensitivity, transparency, and consistency of the market risk capital requirements, the proposal would replace the existing market risk capital framework within the capital rule with a new framework that is based on the revised framework of the Basel Committee (Basel standards).

b. Overview of the Proposal

The proposal would improve the risk sensitivity and calibration of market risk capital requirements relative to the current capital rule. The proposal would introduce a simple, transparent, and risk-sensitive standardized methodology for calculating risk-weighted assets for market risk (standardized measure for market risk) and a new models-based methodology (models-based measure for market risk) to replace the market risk capital framework in the current capital rule. The proposed standardized and models-based measures would improve the risk-sensitivity of market risk capital requirements by replacing the VaR-based measure of market risk with an expected shortfall-based measure that better accounts for extreme losses.²⁴² In

addition, the proposal would replace the fixed ten-business-day liquidity horizon in the current capital rule with liquidity horizons that vary based on the underlying risk factors to appropriately capture the market risk of less liquid positions.²⁴³

The standardized measure for market risk would be the default methodology for calculating market risk capital requirements for all banking organizations subject to market risk capital requirements. A banking organization would be required to obtain prior approval from its primary Federal supervisor to use the models-based measure for market risk to determine its market risk capital requirements.²⁴⁴

In contrast to the current framework which, subject to approval by the primary Federal supervisor, allows the use of internal models at the level of the consolidated banking organization, the proposal would provide for enhanced risk sensitivity by introducing the concept of a trading desk and restricting application of the proposed models-based approach to the trading desk level. Under the proposal, a banking organization would be required to conduct and successfully pass two quantitative tests (a backtesting requirement²⁴⁵ and a profit and loss attribution (PLA) requirement²⁴⁶) at the trading desk level in order to use the models-based approach. The trading desk-level approach is intended to limit use of the models-based approach to only those trading desks that can appropriately capture the risk of market risk covered positions in banking organizations' internal models. The

exceeding the VaR at a given confidence level and over a specified horizon. The risk weights within the standardized measure were calibrated based on the expected shortfall-based measure in the models-based measure for market risk.

²⁴³ The proposal would define liquidity horizon as the time required to exit or hedge a market risk covered position without materially affecting market prices in stressed market conditions.

²⁴⁴ A banking organization that has regulatory approval to use internal models to measure market risk under the current rule would be required to obtain new approval to use the models-based measure for market risk under the proposed framework.

²⁴⁵ The proposed desk-level backtesting requirements are intended to measure the accuracy and conservatism of the forecasting assumptions and valuation methods used in the desk's internal models.

²⁴⁶ The proposed desk-level PLA testing requirements are intended to measure the accuracy of the potential future profits or losses estimated by the valuation models used for internal risk management purposes relative to those produced by the financial reporting models. For purposes of this **SUPPLEMENTARY INFORMATION**, the term "financial reporting model" refers to the valuation methods used to report actual profits and losses for financial reporting purposes.

²³⁸ Risk-Based Capital Standards: Market Risk, 61 FR 47358 (Sept. 6, 1996). The agencies' market risk capital rules were located at 12 CFR part 3, appendix B (OCC), 12 CFR part 208, appendix E and 12 CFR part 225, appendix E (Board), and 12 CFR part 325, appendix C (FDIC).

²³⁹ Risk-Based Capital Guidelines: Market Risk, 77 FR 53059 (Aug. 30, 2012).

²⁴⁰ The rule was subsequently modified in 2013 with changes that included moving the market risk requirements from the agencies' respective appendices to subpart F of the capital rule; making savings associations and covered savings and loan holding companies with material exposure to market risk subject to the market risk rule, 78 FR 62018 (Oct. 11, 2013); addressing changes to the country risk classifications, clarifying the treatment of certain traded securitization positions; revising the definition of covered position, and clarifying the timing of the market risk disclosure requirements, 78 FR 76521 (Dec. 18, 2013).

²⁴¹ The Basel Committee has published three consultative documents on the review and to address the structural shortcomings identified. "Fundamental review of the trading book," May 2012, www.bis.org/publ/bcbs219.pdf; "Fundamental review of the trading book: A revised market risk framework," October 2013, www.bis.org/publ/bcbs265.pdf; and, "Fundamental review of the trading book: Outstanding issues," December 2014, www.bis.org/bcbs/publ/d305.pdf. The Basel Committee published a new, more robust framework, which established minimum capital requirements for market risk, "Minimum capital requirements for market risk," January 2016, www.bis.org/bcbs/publ/d352.pdf.

²⁴² The proposal would define expected shortfall as a measure of the average of all potential losses

agencies recognize the potential difficulties that a banking organization could experience when performing the proposed desk-level PLA test. To improve the ability of banking organizations to use more risk-sensitive modeled approaches, where appropriate, the proposal would provide a three-year transition period during which there would be no automatic consequences based on PLA test results. This extended transition period for implementation of the PLA test would allow banking organizations to gain experience with the test, provide time to improve their systems and processes, and address any potential gaps in data and model performance. The delayed transition would also provide the agencies an additional opportunity to monitor the effectiveness of the PLA test metric and thresholds.

The proposal would also revise the criteria for determining whether a banking organization is subject to the market risk capital requirements to (1) reflect the inflation since 1996 and growth in the capital markets as well as to reflect CPI-W going forward; (2) provide a more reliable and stable measure of banking organizations' trading activity by introducing a four-quarter average requirement, and (3) incorporate measures of risk identified as part of the agencies' 2019 regulatory tailoring rule.²⁴⁷ In general, the revised criteria would take into account the prudential benefits of the proposed market risk capital requirements and the potential costs, including compliance costs.

In addition, the proposal would help promote consistency and comparability in market risk capital requirements across banking organizations by strengthening the criteria for identifying positions subject to the proposed market risk capital requirement and by proposing a risk-based capital treatment of transfers of risk between a trading desk and another unit within the same banking organization (internal risk transfers). The proposal would also improve the transparency of market risk capital requirements through enhanced disclosures.

2. Scope and Application of the Proposed Rule

a. Scope of the Proposed Rule

Under the current capital rule, any banking organization with aggregate trading assets and trading liabilities that, as of the most recent calendar quarter, equal \$1 billion or more, or 10 percent or more of the banking

organization's total consolidated assets, is required to calculate market risk capital requirements.

The proposal would revise the criteria for determining whether a banking organization is subject to market risk capital requirements. Under the proposal, a Category I or Category II depository institution holding company would be subject to market risk capital requirements. In addition, a banking organization with average aggregate trading assets and trading liabilities, excluding customer and proprietary broker-dealer reserve bank accounts,²⁴⁸ over the previous four calendar quarters equal to \$5 billion or more or equal to 10 percent or more of total consolidated assets at quarter end as reported on the most recent quarterly regulatory report would be subject to market risk capital requirements.²⁴⁹

The proposed scope is designed to apply market risk capital requirements to the largest and most complex banking organizations. As the agencies noted in the preamble to the final tailoring rule, due to their operational scale or global presence, banking organizations subject to Category I or II capital standards pose heightened risks to U.S. financial stability which necessitate more stringent capital requirements.²⁵⁰ Further, because such banking organizations are generally the most internationally active and interconnected banking organizations, the proposed scope of the market risk capital requirements (which are based largely on the international framework adopted by the Basel Committee), should help promote competitive equity among U.S. banking organizations and their foreign peers and competitors, and reduce opportunities for regulatory arbitrage across jurisdictions.

In addition to applying market risk capital requirements to the largest banking organizations, the proposed rule would retain and increase the trading activity threshold from \$1 billion to \$5 billion to reflect inflation since 1996 and growth in the capital markets. The agencies are also proposing to index the \$5 billion trading activity threshold based on the CPI-W going forward. Additionally, a banking organization whose trading assets and trading liabilities are equal to 10 percent

or more of its total assets would continue to be subject to market risk capital requirements under the proposal. This means that any subsidiary depository institution of a Category I and II depository institution holding company or any banking organization that is not a Category I or II banking organization would be subject to market risk capital requirements if it has trading activity that exceeds either of these quantitative thresholds. The proposed trading activity dollar threshold would be measured using the average aggregate trading assets and trading liabilities of a banking organization, calculated in accordance with the instructions to the FR Y-9C or Call Report, as applicable, over the prior four consecutive quarters, rather than using only the single most recent quarter.²⁵¹ This approach would provide a more reliable and stable measure of the banking organization's trading activities than the current capital rule's quarter-end measure.²⁵² Furthermore, for purposes of determining applicability of market risk capital requirements, a banking organization would exclude from its calculation of aggregate trading assets and trading liabilities securities related to certain segregated accounts established by a subsidiary of a banking organization pursuant to SEC Rule 15c3-3 and CFTC Regulation 1.20 (customer and proprietary broker-dealer reserve bank accounts). To protect customers against losses arising from a broker-dealer's use of customer assets and cash, the SEC's and CFTC's requirements for customer and proprietary broker-dealer reserve bank accounts limit the ability of a banking organization to benefit or suffer loss from short-term price movements on the assets held in such accounts. When such accounts constitute the vast majority of a banking organization's trading activities, the prudential benefit of requiring the banking organization to

²⁵¹ For purposes of the proposed scoping criteria, aggregate average trading assets and trading liabilities would mean the sum of the amount of trading assets and the amount of trading liabilities as reported by the banking organization on the Consolidated Financial Statements for Holding Companies (sum of line items 5 and 15 on schedule HC of the Y-9C) or on the Consolidated Reports of Condition and Income (*i.e.*, the sum of line items 5 and 15 on schedule RC of the FFIEC 031, the FFIEC 041, or the FFIEC 051), as applicable.

²⁵² If the banking organization has not reported trading assets and trading liabilities for each of the preceding four calendar quarters, the threshold would be based on the average amount of trading assets and trading liabilities over the quarters that the banking organization has reported, unless the primary Federal supervisor notifies the banking organization in writing to use an alternative method.

²⁴⁷ See 84 FR 59230, 59249 (Nov. 1, 2019).

²⁴⁸ The proposal would define customer and proprietary broker-dealer reserve bank accounts as segregated accounts established by a subsidiary of a banking organization that fulfill the requirements of 17 CFR 240.15c3-3 (SEC Rule 15c3-3) or 17 CFR 1.20 (CFTC Regulation 1.20).

²⁴⁹ See section I.I.E. of this **SUPPLEMENTARY INFORMATION** for a more detailed discussion on indexing nominal thresholds in the proposal going forward to reflect CPI-W.

²⁵⁰ See 84 FR 59230, 59249 (Nov. 1, 2019).

measure risk-weighted assets for market risk would be limited. The proposal would only allow a banking organization to exclude these amounts from proposed trading activity thresholds for the purpose of determining whether the banking organization is subject to market risk capital requirements. If a banking organization exceeds either of the proposed trading threshold criteria after excluding such accounts, the proposal would require the banking organization to include such accounts when calculating its market risk capital requirements.

b. Application of Proposed Rule

The proposal would require a banking organization to comply with the market risk capital requirements (as well as the related reporting and public disclosure requirements) beginning the quarter after the banking organization meets any of the proposed scoping criteria. To avoid volatility in requirements, a banking organization that is not a Category I or II depository institution holding company would remain subject to market risk capital requirements unless and until its trading activity falls below the threshold criteria for each of the prior four consecutive quarters.

Implementing the proposed market risk capital requirements would require significant operational preparation. Therefore, the agencies expect that a banking organization would monitor its aggregate trading assets and trading liabilities on an ongoing basis and work with its primary Federal supervisor as it approaches any of the proposed scoping criteria to prepare for compliance.

While the proposed threshold criteria for application of market risk capital requirements would help reasonably identify a banking organization with significant levels of trading activity given the current risk profile of the banking organization, there may be unique instances where a banking organization either should or should not be required to reflect market risk in its risk-based capital requirements. To continue to allow the agencies to address such instances on a case-by-case basis, the proposal would retain, without modification, the authority under the market risk framework of the current capital rule for the primary Federal supervisor to either: (1) require a banking organization that does not meet the proposed criteria to calculate a market risk capital requirement, or (2) exclude a banking organization that meets the proposed criteria from such calculation, as appropriate.

Question 93: The agencies seek comment on the appropriateness of the

proposed scope of application thresholds. Given the compliance costs associated with the proposal, what, if any, alternative thresholds should the agencies consider and why?

Question 94: What are the advantages or disadvantages of using a four-quarter rolling average for the \$5 billion aggregate trading assets and trading liabilities scope of application threshold? What different methodologies and time periods should the agencies consider for purposes of this threshold?

3. Measure for Market Risk

Under the current capital rule, a banking organization subject to market risk capital requirements must use one or more internal models to calculate market risk capital requirements for its covered positions.²⁵³ A banking organization's market risk-weighted assets equal the sum of the VaR-based capital requirement, the stressed VaR-based capital requirement, specific risk add-ons, the incremental risk capital requirement, the comprehensive risk capital requirement, and the capital requirement for de minimis exposures, plus any additional capital requirement established by the primary Federal supervisor, multiplied by 12.5. The primary Federal supervisor may require the banking organization to maintain an overall amount of capital that differs from the amount otherwise required under the rule, if the supervisor determines that the banking organization's market risk-based capital requirements under the rule are not commensurate with the risk of the banking organization's covered positions, a specific covered position, or portfolios of such positions, as applicable.

The proposal would introduce a standardized methodology for calculating market risk capital requirements (standardized measure for market risk) and a new models-based methodology (models-based measure for market risk) to replace the market risk capital framework of the current capital rule. A banking organization with no model-eligible trading desks would calculate market risk capital requirements under the standardized measure for market risk. Alternatively, with prior approval from its primary Federal supervisor, a banking organization that has one or more model-eligible trading desks would be

required to calculate market risk capital requirements under the models-based measure for market risk.²⁵⁴

If a trading desk does not receive approval to use the models-based non-default capital requirement or fails to meet the operational requirements of the models-based non-default capital requirement on an on-going basis, the desk would be required to use the standardized non-default capital requirement to calculate its market risk capital requirements. The agencies view the proposed standardized non-default capital requirement as sufficiently risk sensitive to serve as a credible alternative to the models-based non-default capital requirement given the conservative calibration of the risk weights and correlations applied to market risk covered positions under the standardized non-default capital requirement. Additionally, by relying in part on inputs a banking organization uses for its own internal risk management or financial reporting purposes, the proposed standardized non-default capital requirement would help ensure market risk capital requirements appropriately capture a banking organization's actual market risk exposure in a manner that minimizes compliance burden and enhances risk-capture. Furthermore, the proposed standardized measure for market risk would promote comparability in market risk capital requirements across banking organizations subject to the proposal.

The proposed models-based measure for market risk would provide important improvements to the risk sensitivity and calibration of risk-weighted assets for market risk. In addition to replacing the VaR-based measure with an expected shortfall measure to capture tail risk better, the models-based measure for market risk would replace the fixed ten business-day liquidity horizon in the market risk capital framework of the current capital rule with liquidity horizons that vary based on the underlying risk factors in order to adequately capture the market risk of less liquid positions. The proposal also would limit the regulatory capital benefit of hedging and portfolio diversification across different asset classes, which may dissipate in stress periods.

At a high level, both the proposed standardized measure and the models-based measure for market risk would consist of a non-default capital

²⁵³ Notably, for securitization positions subject to the market risk capital framework, the current capital rule provides a standardized measurement method for capturing specific risks and a models-based measure for capturing general risks for purposes of calculating market risk-weighted assets.

²⁵⁴ The proposal would require a banking organization to calculate the standardized measure for market risk on a weekly basis and the models-based measure for market risk, if applicable, on a daily basis.

requirement specific to each measure; a default risk capital requirement, which would be the same under both the standardized and models-based measures for market risk; a fallback capital requirement; and a capital add-

on for re-designations. Each measure would include any additional capital requirement established by the primary Federal supervisor. Figure 1 illustrates the components of the standardized measure for market risk and Figure 2

illustrates the components of the models-based measure for market risk. Each of the components is described below in this section.

Figure 1

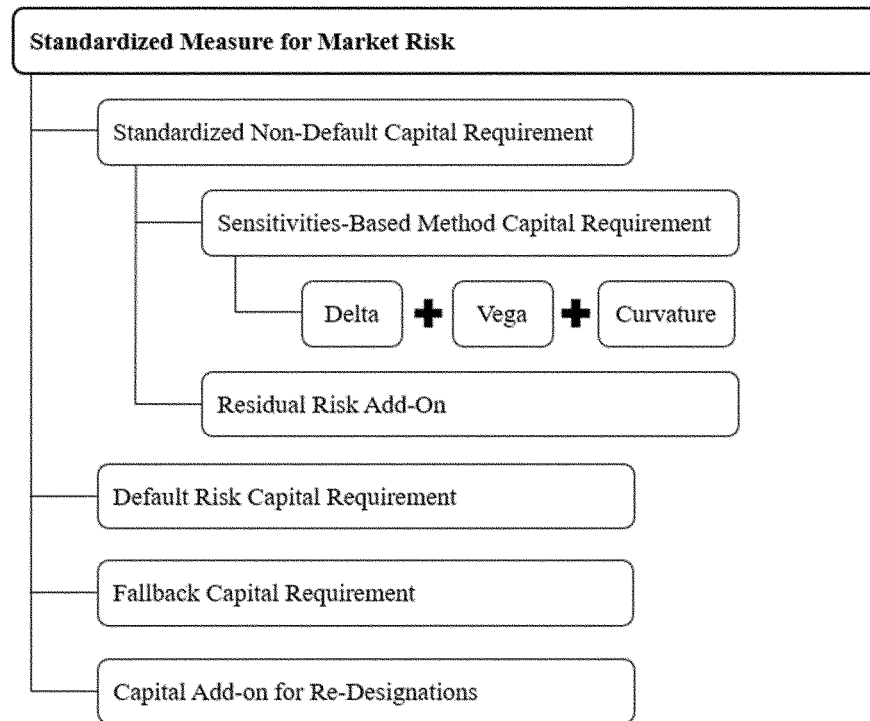
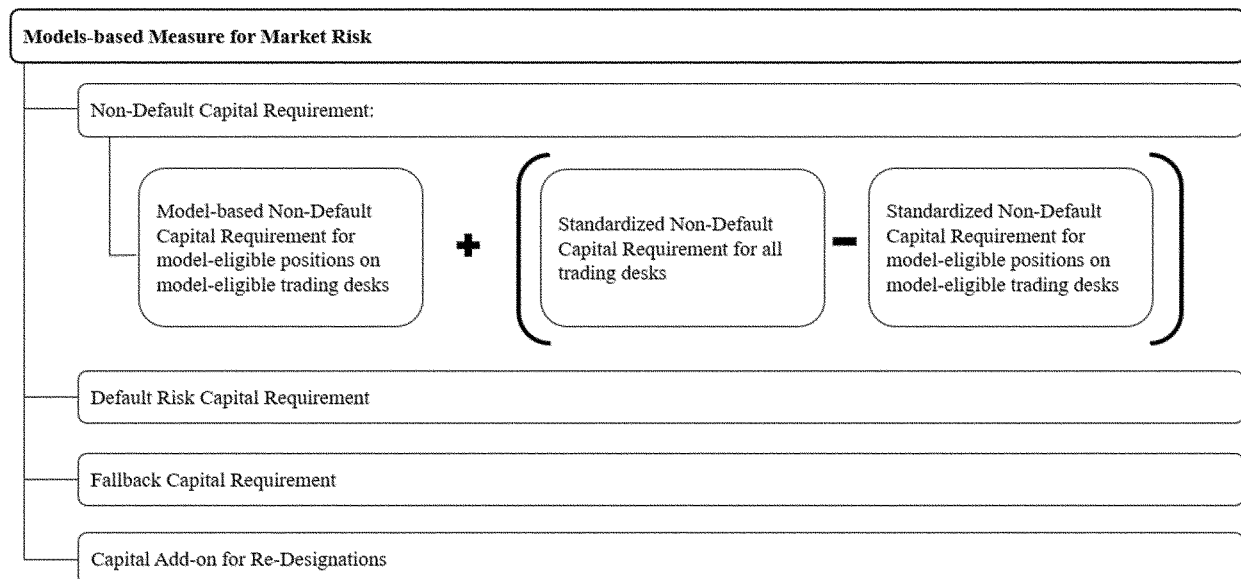


Figure 2



a. Standardized Non-Default Capital Requirement

Under the proposal, the standardized non-default capital requirement would consist of two components: a sensitivities-based method capital requirement and a residual risk add-on, each further described in section V.A.7. of this **SUPPLEMENTARY INFORMATION**. The sensitivities-based capital requirement captures non-default market risk based on the estimated losses produced by risk factor sensitivities²⁵⁵ under regulatorily determined stressed conditions.²⁵⁶ The residual risk add-on serves to produce a simple, conservative capital requirement for any other known risks that are not already captured by the sensitivities-based method capital requirement or the default risk capital requirement, including gap risk, correlation risk, and behavioral risks, such as prepayments.

b. Non-Default Capital Requirement Under the Models-Based Measure

Under the proposal, a banking organization that has received prior supervisory approval to use the models-based measure for market risk could have some trading desks that are eligible for the models-based non-default capital requirement (model-eligible trading desks) and others that are not (model-ineligible trading desks).²⁵⁷ The proposal would limit use of the models-based non-default capital requirement to those trading desks that can appropriately capture the risks of

market risk covered positions in internal models and that satisfy the model eligibility criteria and processes (for example, desk-level backtesting) introduced under the proposal, as described in section V.A.6.d. of this **SUPPLEMENTARY INFORMATION**.

Specifically, if the primary Federal supervisor were to approve a banking organization to calculate market risk capital requirements for one or more model-eligible trading desks under the models-based non-default capital requirement, the banking organization would be required to calculate the entity-wide market risk capital requirement under the models-based measure for market risk, which would incorporate the capital requirements for model-eligible and model-ineligible positions, according to the following formula, as provided under § _____.204(c) of the proposed rule:

Models-based measure for market risk =

$$NDCR + DRC + \text{fallback capital requirement} + \text{capital add-on for redesignations}$$

Consistent with the standardized non-default capital requirement as discussed above, the non-default capital requirement under the models-based measure (*NDCR*) is intended to capture potential losses arising from changes in risk factors under severe stress conditions. More specifically, the proposal would set the non-default capital requirement under the models-based measure equal to the sum of (1) the models-based non-default capital requirement for model-eligible positions ($IMA_{G,A}$) and (2) the difference between the standardized non-default capital requirement for all trading desks ($SA_{all\ desks}$) and the standardized non-default capital requirement for model-eligible positions ($SA_{G,A}$).

$$NDCR = IMA_{G,A} + (SA_{all\ desks} - SA_{G,A})$$

The agencies recognize that simply adding the standardized non-default capital requirements for model-ineligible positions and the models-based non-default capital requirements for model-eligible positions ($IMA_{G,A}$) together would disregard potential diversification effects between these two types of market risk covered positions. In order to appropriately reflect the marginal contribution of model-ineligible positions subject to the standardized non-default capital requirement, the proposal would require a banking organization to calculate the standardized non-default capital requirement for all market risk covered positions on all trading desks ($SA_{all\ desks}$) and subtract the amount required under the standardized non-default capital

requirement for model-eligible positions ($SA_{G,A}$). To appropriately capture implied diversification benefits between model-eligible and model-ineligible positions across trading desks, the proposal would require a banking organization to calculate the non-default capital requirement as the sum of the models-based non-default capital requirement for model-eligible positions ($IMA_{G,A}$) and the adjusted standardized non-default capital requirement for model ineligible positions ($SA_{all\ desks} - SA_{G,A}$).

In some circumstances, non-default capital requirement for model-eligible positions ($IMA_{G,A}$) may exceed the standardized non-default capital requirement for model-eligible positions ($SA_{G,A}$). In such cases, the non-default capital requirement under the models-based measure (*NDCR*) would exceed the standardized non-default capital requirement for all market risk covered positions on all trading desks ($SA_{all\ desks}$). While there can be merit in requiring a banking organization to reflect higher capital requirements produced by the models-based non-default capital requirement for model-eligible positions, there could be instances when the higher capital requirements are not commensurate with the risk profile of the banking organization's market risk covered positions. To address such situations, the proposal would allow a banking organization, with prior approval from the primary Federal supervisor, to cap the amount of capital required under the non-default capital requirement of the models-based measure (*NDCR*) at the standardized non-default capital requirement for all trading desks ($SA_{all\ desks}$). To receive approval to cap the non-default capital requirement under the models-based measure, a banking organization would be required to demonstrate to the primary Federal supervisor that the aggregate market risk capital requirement with the cap would be adequate with respect to the risk profile of the banking organization's market risk covered positions and consistent with safety and soundness.²⁵⁸

Question 95: The agencies seek comment on the recognition of diversification benefits between model-eligible and model-ineligible positions across trading desks. What are the advantages and disadvantages of

²⁵⁵ A risk factor sensitivity is the change in value of an instrument given a small movement in a risk factor that affects the instrument's value.

²⁵⁶ Under the proposal, the market risk capital requirement for the sensitivities-based method would equal the sum of the capital requirements for a given risk factor for delta (a measure of impact on a market risk covered position's value from small changes in underlying risk factors), vega (a measure of the impact on a market risk covered position's value from small changes in volatility) and curvature (a measure of the additional change in the positions' value not captured by delta arising from changes in the value of an option or an embedded option). As discussed further in section V.A.6.d.i. of this **SUPPLEMENTARY INFORMATION**, model-eligible trading desk would be allowed to hold insignificant amounts of model-ineligible positions such as securitization positions, correlation trading positions, or certain equity positions in investment funds. The proposal would require a banking organization to calculate the non-default capital requirement for model-ineligible positions using the standardized non-default capital requirement.

²⁵⁷ As discussed further in section V.A.6.d.i. of this **SUPPLEMENTARY INFORMATION**, model-eligible trading desk would be allowed to hold insignificant amounts of model-ineligible positions such as securitization positions, correlation trading positions, or certain equity positions in investment funds. The proposal would require a banking organization to calculate the non-default capital requirement for model-ineligible positions using the standardized non-default capital requirement.

²⁵⁸ For example, periods of sudden and extreme market volatility (such as the COVID pandemic) may significantly increase the number of aggregate trading portfolio backtesting exceptions, which can result in models-based non-default capital requirement being unduly conservative relative to the market risk to which the banking organization is exposed.

requiring a banking organization to calculate the models-based non-default capital requirement as the sum of the models-based non-default capital requirement for model-eligible positions ($IMA_{G,A}$) and the adjusted standardized non-default capital requirement for model ineligible positions ($SA_{all desks} - SA_{G,A}$), and why? If the agencies were to consider not recognizing any diversification benefits between model-eligible and model-ineligible positions across trading desks, should the agencies consider adopting the following formula:

Models Based Non – Default Capital Requirement = $\min((IMA_{G,A} + PLA \text{ add-on} + SA_U), SA_{all desks}) + \max((IMA_{G,A} - SA_{G,A}), 0)$

Where, SA_u would be the standardized approach capital requirement for market risk covered positions for model-ineligible trading desks.

What are the advantages and disadvantages of calculating the models-based non-default capital requirement as the sum of the models-based non-default capital requirement for model-eligible trading desks and the standardized non-default capital requirement for model-ineligible trading desks, capped at the capital requirement for all trading desks under the standardized non-default capital requirement, plus the difference between the models-based non-default capital requirement for model-eligible desks and the standardized non-default capital requirement for model-eligible desks? If the agencies were to consider this alternative, what adjustments should be made? Why? Please include any supporting empirical data, including during periods of market stress, and rationale that would be helpful for evaluating this alternative.

Question 96: The agencies seek comment on allowing a banking organization to cap the non-default risk capital requirement under the models-based measure at the amount required by the standardized non-default capital requirement for all trading desks upon approval by the primary Federal supervisor. What are the advantages and disadvantages of the proposed cap, and why? If the agencies were to consider allowing the cap to be in effect in all circumstances, without prior approval, what are the advantages and disadvantages of the proposed supervisory approval requirement, and why? Commenters are encouraged to provide supporting rationale and data.

Question 97: In order to provide appropriate incentives for banking organizations to use internal models, what, if any, alternatives to capping the

amount of capital required under the non-default risk capital requirement within the models-based measure at the amount required by the standardized non-default capital requirement for all trading desks should the agencies consider, and why?

c. Default Risk Capital Requirement

The default risk capital requirement, further described in section V.A.9. of this **SUPPLEMENTARY INFORMATION**, would capture losses on credit and equity positions in the event of issuer default for purposes of both the standardized measure for market risk and the models-based measure for market risk. To recognize offsetting of long and short positions across model-eligible and model-ineligible positions, the models-based measure for market risk would require banking organizations to perform a single calculation of the default risk capital requirement that includes all market risk covered positions.

d. Fallback Capital Requirement

The agencies recognize that a banking organization may not be able to calculate market risk capital requirements for one or more of its market risk covered positions under the standardized non-default capital requirement, the models-based non-default capital requirement, or the default risk capital requirement. For example, a banking organization may not be able to calculate some risk factor sensitivities or components for one or more market risk covered positions due to an operational issue or a calculation failure. Such issues could arise when a new market product is introduced and the banking organization has not had sufficient time to develop models and analytics to produce the required sensitivities or the new data feeds for the proposed market risk capital calculations. In such cases, the proposal would require a banking organization to apply the fallback capital requirement to the affected market risk covered positions, as further described below.

For purposes of calculating the standardized measure for market risk, the proposal would require a banking organization to apply the fallback capital requirement to each of the affected positions and exclude such positions from the standardized non-default capital requirement and the default risk capital requirement.²⁵⁹

For purposes of calculating the models-based measure for market risk,

²⁵⁹ The respective components of the standardized non-default capital requirement are the sensitivities-based method capital requirement and the residual risk add-on.

the proposal would require the banking organization to apply the fallback capital requirement to each market risk covered position for which it is not able to apply the models-based non-default capital requirement, the standardized non-default capital requirement, or the default risk capital requirement, as applicable, and exclude such positions from the respective components of models-based measure for market risk.

The fallback capital requirement would equal the sum of the absolute value of the fair value of each position subject to the fallback capital requirement, unless the banking organization receives prior approval from its primary Federal supervisor to use an alternative method to quantify the market risk capital requirement for such positions. The fallback capital requirement would only apply in instances where a banking organization is not able to capture all relevant risks of market risk covered positions under the standardized non-default capital requirement, the models-based non-default capital requirement, or the default risk capital requirement. As such, the agencies consider that applying a separate capital treatment for such positions is appropriate to ensure that they are conservatively incorporated into the market risk capital requirement. The agencies also recognize that using the fair value for derivatives can materially underestimate the exposure to the derivative positions given the fair market value of any given derivatives can change daily, often with a magnitude much greater than their current fair value. Therefore, for derivative positions that represent more than de-minimis exposure, the banking organizations should notify their primary Federal supervisor. In such cases, the banking organization can propose an alternative methodology (subject to approval from the primary Federal supervisor) or the primary Federal supervisor can mandate a methodology for the banking organization to adopt for the fallback capital requirement.

Question 98: The fair value for derivative positions may materially underestimate the exposure because the fair value of derivatives is generally lower than the derivatives' potential exposure (for example, fair value of a derivative swap contract is generally zero at origination). What are the advantages and disadvantages of using the absolute fair value of the derivative positions for the calculation of the fallback capital requirement? What could be alternative methodologies for the fallback capital requirements for

derivative positions? What, if any, alternative techniques would more appropriately measure the market risk associated with market risk covered positions for which the standardized non-default capital requirement cannot be applied?

Question 99: What are the advantages and disadvantages of asking a banking organization to notify its primary Federal supervisor if the banking organization has derivative positions that represent more than de-minimis exposure and it plans to use an alternative methodology to calculate the fallback capital requirement, and why? What are the advantages and disadvantages of requiring a banking organization to notify its primary Federal supervisor, and why?

e. Capital Add-On for Re-Designations

The proposal would require a banking organization to have clearly defined policies and procedures for identifying positions that are market risk covered positions and those that are not, as well as for determining whether, after such initial designation, a position needs to be re-designated as being a market risk covered position or not.

A position's effect on risk-weighted assets can vary based on whether it is a market risk covered position. Therefore, to offset any potential capital benefit that otherwise might be received from re-designating a position, the proposal would introduce the capital add-on requirement to compensate for any re-designation. The capital add-on requirement for re-designations would apply in cases where a banking organization re-classifies an instrument after initial designation as being subject either to the market risk capital requirements or to the capital requirements under the standardized approach or the expanded risk-based approach, respectively. With prior notification to the primary Federal supervisor, the proposal would not require a banking organization to apply the capital add-on for re-designations arising from circumstances that are outside of the banking organization's control (for example, changes in accounting standards or in the characteristics of the instrument itself, such as an equity being listed or delisted). The agencies expect re-designations to be extremely rare, and recognize that re-designations could occur, for example, due to the termination of a business activity applicable to the instrument. Given the very limited circumstances under which re-designations would occur, any re-designation would be irrevocable, unless the banking organization receives

prior approval from its primary Federal supervisor.

To calculate the capital add-on for a re-designation, a banking organization would be required to calculate its total capital requirements for the re-designated positions separately under the standardized approach or the expanded risk-based approach, as applicable, and under market risk capital framework before and immediately after the re-designation of a position. If the total capital requirement is lower as a result of the re-designation, then the difference between the two would be the capital add-on for the re-designation to avoid any resultant reduction in market risk capital requirements.

The proposal would require a banking organization to calculate the capital add-on requirement at the time of the re-designation. The capital add-on requirement would decline proportionate to the balance sheet value relative to the time of the re-designation. This could occur when an instrument matures, pays down, amortizes, or expires, or the banking organization sells or exits (in whole or in parts) the position.

Question 100: What, if any, operational challenges could the proposed capital add-on calculation pose? What, if any, changes should the agencies consider making to the proposed exceptions to the capital add-on, such as to address additional circumstances in which the capital add-ons for re-designations should not apply, and why? For example, what would be advantages and disadvantages of exempting transactions in high quality liquid assets (HQLA) between a business unit of a banking organization that engages in asset-liability management and internal trading desk from the re-designation framework, and why?

Question 101: The agencies seek comment on whether the re-designation framework should include a grace period (for example, 10 business days) that would allow a banking organization to identify and correct any errors during the initial re-designation process. What are the advantages and disadvantages of the grace period and why?

f. Additional Capital Requirement and Other Provisions

As part of the proposal's reservation of authority provisions, the primary Federal supervisor may require a banking organization to maintain an overall amount of capital that differs from the amount otherwise required under the proposal, if the primary Federal supervisor determines that the

banking organization's market risk capital requirements under the proposal are not commensurate with the risk of the banking organization's market risk covered positions, a specific market risk covered position, or categories of positions, as applicable.

The primary Federal supervisor also would have the authority to require a banking organization to calculate capital requirements for specific positions or categories of positions under either the standardized approach or the expanded risk-based approach instead of under the market risk capital framework, or under the market risk capital framework instead of under the standardized approach or the expanded risk-based approach, as applicable, to more appropriately reflect the risks of the positions. Alternatively, under the proposal, the primary Federal supervisor may require a banking organization to apply a capital add-on for re-designations of specific positions or portfolios. These proposed provisions would help the primary Federal supervisor ensure that a banking organization's risk-based capital requirements appropriately reflect the risks of such positions.

Additionally, for a banking organization that uses the models-based measure for market risk, the agencies would reserve the authority to require such a banking organization to modify its observation period or methodology (including the stress period) used to measure market risk, when calculating the expected shortfall measure or stressed expected shortfall. In this way, the proposal would help the primary Federal supervisor ensure that a banking organization's internal models remain sufficiently robust to capture risks in a dynamic market environment and appropriately reflect the risks of such positions. Furthermore, the primary Federal supervisor could require a banking organization that has one or more model-eligible trading desks to calculate the standardized non-default risk capital requirement for each model-eligible trading desk as if that trading desk were a standalone regulatory portfolio. This situation could arise when, for example, a banking organization is unable to empirically justify the correlation of a trading desk's losses with other model-eligible trading desks.

4. Market Risk Covered Position

Market risk capital requirements under the current capital rule apply to a banking organization's covered positions, which are defined to include, subject to certain restrictions: (i) any trading asset or trading liability as

reported on a banking organization's regulatory reports that is a trading position²⁶⁰ or that hedges another covered position and is free of any restrictive covenants on its tradability or for which the material risk elements may be hedged by the banking organization in a two-way market, and (ii) any foreign exchange²⁶¹ or commodity position regardless of whether such position is a trading asset or trading liability. The definition of a covered position also explicitly excludes certain positions. Thus, the definition is structured into three broad categories, each subject to certain conditions: trading assets or liabilities that are covered positions, positions that are covered positions regardless of whether they are trading assets or trading liabilities, and exclusions.

The proposal would retain the structure and major elements of the existing definition of covered position (re-designated as "market risk covered position") with several modifications. These modifications aim to better align the definition of market risk covered position with those positions the agencies consider should be subject to the market risk capital requirements, as well as to reflect other proposed changes to the framework (for example, to incorporate the proposed treatment of internal risk transfers). The proposed revisions would capture positions that have exposures to market risk and also help promote consistency and comparability in the risk-based capital treatment of positions across banking organizations.

a. Trading Assets and Trading Liabilities That Would Be Market Risk Covered Positions Under the Proposal

The proposed definition of market risk covered position would explicitly include any trading asset or trading liability that is held for the purpose of

regular dealing or making a market in securities or other instruments.²⁶² In general, such positions are held to facilitate sales to customers or otherwise to support the banking organization's trading activities, for example by hedging its trading positions, and, therefore, expose a banking organization to market risk.

b. Positions That Would Be Market Risk Covered Positions Under the Proposal Regardless of Whether They are Trading Assets or Trading Liabilities

The proposal would include as market risk covered positions certain positions or hedges of such positions regardless of whether the position is a trading asset or trading liability.²⁶³ Consistent with the current capital rule, such positions would continue to include foreign exchange and commodity positions with certain exclusions. In particular, the proposal would continue to allow a banking organization to exclude structural positions in a foreign currency from market risk covered positions with prior approval from its primary Federal supervisor. To incentivize prudent hedging and sound risk management, the proposal would also exclude foreign exchange and commodity positions that are CVA hedges from the definition of market risk covered position.²⁶⁴

The proposal would also expand the types of positions that would be market risk covered positions, even if not categorized as trading assets or trading liabilities, to include the following, each discussed further below: (i) certain equity positions in an investment fund;²⁶⁵ (ii) net short risk positions; (iii)

certain publicly traded equity positions;²⁶⁶ (iv) certain embedded derivatives on instruments issued by the banking organization that relate to credit or equity risk and that the banking organization bifurcates for accounting purposes or elects the fair value option for purposes of financial reporting;²⁶⁷ (v) certain positions associated with internal risk transfer under the proposal;²⁶⁸ and (vi) certain instruments resulting from securities underwriting commitments.

First, the proposal would include as a market risk covered position an equity position in an investment fund for which the banking organization has access to the fund's prospectus, partnership agreement, or similar contract that defines the fund's permissible investments and investment limits, and which meets one of two conditions. Specifically, the banking organization would either need to (i) be able to use the look-through approach to calculate a market risk capital requirement for its proportional ownership share of each exposure held by the investment fund, or (ii) obtain daily price quotes for the investment fund.

The current covered position definition relies in part on the legal form of the investment fund by referencing the Investment Company Act of 1940²⁶⁹ to determine whether an equity position in such a fund is a covered position. In contrast, the proposed criteria would capture equity positions for which there is sufficient transparency for the positions to be reliably valued on a daily basis. This valuation could come either from an observable market price for the equity position in the investment fund itself or

life insurance owned by an affiliate, or that the banking organization has acquired for the purpose of providing such fund with sufficient initial equity to permit the fund to attract unaffiliated investors and held for less than five years ("seed capital investments") and any hedges of such positions that qualify for effective hedge pair treatment under § _____.52(c) of the current rule or § _____.141(c) of the proposal would not be included in the scope of market risk covered position.

²⁶⁶ Equity positions arising from deferred compensation plans and hedges of such positions that qualify for effective hedge pair treatment under § _____.52(c) of the current rule or § _____.141(c) of the proposal would not be included in the scope of market risk covered position.

²⁶⁷ With prior approval from its primary Federal supervisor, the proposal would allow a banking organization to include in the scope of market risk covered positions an entire instrument with an embedded derivative issued by the banking organization and that relates to credit or equity risk and for which the banking organization elects the fair value option for purposes of financial reporting.

²⁶⁸ See section V.A.5. of this **SUPPLEMENTARY INFORMATION** for further detail on eligible internal risk transfer positions.

²⁶⁹ 15 U.S.C. 80a–1 *et seq.*

²⁶⁰ The current capital rule defines a trading position as one that is held by a banking organization for the purpose of short-term resale or with the intent of benefiting from actual or expected short-term price movements or to lock-in arbitrage profits.

²⁶¹ With prior approval from its primary Federal supervisor, the proposal would allow a banking organization to exclude from its market risk covered positions any structural position in a foreign currency, which is defined as a position that is not a trading position and that is (i) a subordinated debt, equity or minority interest in a consolidated subsidiary that is denominated in a foreign currency; (ii) capital assigned to foreign branches that is denominated in a foreign currency; (iii) a position related to an unconsolidated subsidiary or another item that is denominated in a foreign currency and that is deducted from the banking organization's tier 1 or tier 2 capital, or (iv) a position designed to hedge a banking organization's capital ratios or earnings against the effect of adverse exchange rate movements on (i), (ii), or (iii).

²⁶² Consistent with the current capital rule, the proposal also would require such a position to be free of any restrictive covenants on its tradability or for the banking organization to be able to hedge the material risk elements of such a position in a two-way market.

²⁶³ A position that hedges a trading position would be required to be within the scope of the banking organization's hedging strategy as described in § _____.203(a)(2) of the proposed rule. Extending market risk covered positions to also include such hedges is intended to encourage sound risk management by allowing a banking organization to capture both the underlying market risk covered position and any associated hedge(s) when calculating its market risk capital requirements. Consistent with current practice, the agencies would review a banking organization's hedging strategies to ensure the appropriate designation of positions subject to market risk capital requirements.

²⁶⁴ The proposal would define CVA hedge as a transaction that a banking organization enters into with a third party or an internal trading desk and manages for the purpose of mitigating CVA risk. Thus, the proposal would exclude from market risk capital requirements any CVA hedge—regardless of whether or not a banking organization is subject to CVA risk capital requirements.

²⁶⁵ Equity positions in investment funds arising from bank-owned life insurance, corporate owned-

from the banking organization's ability to identify the underlying positions held by the investment fund.

Second, the proposal would introduce a new term, net short risk positions, to describe credit and equity exposures that are outright short positions or over-hedges of credit and equity exposures that are not market risk covered positions. As the hedged exposures from which such positions originate are not traded, net short risk positions would not meet the definition of trading position even though they expose the banking organization to market risk.²⁷⁰ The agencies propose to include any net short risk position of at least \$20 million, adjusted to reflect CPI-W, in market risk covered positions in order to help ensure that such exposures are appropriately reflected in banking organizations' risk-based capital requirements.²⁷¹

For example, assume a banking organization purchases an eligible credit derivative (for example, a credit default swap) to mitigate the credit risk arising from a loan that is not a market risk covered position and the notional amount of protection provided by the credit default swap exceeds the loan exposure amount. The banking organization is exposed to additional market risk on the exposure arising from the difference between the amount of protection purchased and the amount of protected exposure because the value of the protection would fall if the credit spread of the credit default swap narrows. Neither the standardized approach nor the expanded risk-based approach would require the banking organization to reflect this risk in risk-weighted assets. To capture the market risk arising from net short risk positions, the proposal would require the banking organization to treat such positions that meet or exceed the proposed dollar threshold described above as market risk covered positions.

To calculate the exposure amount of a net short risk position, the proposal would require a banking organization to compare the notional amounts of its long and short credit positions and the adjusted notional amounts of its long and short equity positions that are not market risk covered positions.²⁷² For

purposes of this calculation, the notional amounts would include the total funded and unfunded commitments for loans that are not market risk covered positions. Additionally, as a banking organization may hedge exposures at either the single-name level or the portfolio level, the proposal would require a banking organization to identify separately net short risk positions for single-name exposures and for index hedges. For single-name exposures, a banking organization would need to evaluate its long and short equity and credit exposures for all positions referencing a single name or obligor to determine if it has a net short risk position. For index hedges, a banking organization would need to evaluate its long and short equity and credit exposures for all positions that are not market risk covered positions in the hedged portfolio (aggregating across all relevant individual exposures) to determine if it has a net short risk position for any hedged portfolio.

Exposures arising from net short risk positions are a potential area where a banking organization may maintain insufficient capital relative to the market risk. The agencies nonetheless recognize that requiring a banking organization to capture every net short exposure that may arise, regardless of size or duration, when calculating its market risk capital requirements could be burdensome. Accordingly, the proposed \$20 million threshold is intended to help ensure that individual net short risk exposures that could materially impact the risk-based capital requirements of a banking organization would be appropriately reflected in the proposed market risk capital requirements. Additionally, the proposed \$20 million threshold is intended to strike a balance between over-hedging concerns and aligning incentives for banking organizations to prudently hedge and manage risk while capturing positions for which a market risk capital requirement would be appropriate. For example, if a loan amortizes more quickly than expected, due to a borrower making additional payments to pay down principal, the amount of notional protection would only constitute a net short risk position if it exceeds the amount of the total committed loan balance by \$20 million or more. The operational burden of requiring a banking organization to capture temporary or small differences due to accelerated amortization within

its market risk capital requirements could inhibit the banking organization from engaging in prudential hedging and sound risk management. The proposal would require a banking organization to calculate net short risk positions on a spot, quarter-end basis, consistent with regulatory reporting, in order to reduce the operational burden of identifying such positions subject to the proposed market risk capital requirements.²⁷³

Third, the proposal generally would include as market risk covered positions all publicly traded equity positions²⁷⁴ regardless of whether they are trading assets or trading liabilities, provided that there are no restrictions on the tradability of such positions.

Fourth, a banking organization may issue hybrid instruments that contain an embedded derivative related to credit or equity risk and a host contract, and bifurcate the derivative and the host contract for accounting purposes under GAAP or elect the fair value option for such an embedded derivative for purposes of financial reporting.²⁷⁵ Under such circumstances, the proposal would include the embedded derivative in the definition of market risk covered position regardless of whether GAAP treats the derivative as a trading asset or a trading liability.²⁷⁶ This approach

²⁷³ For net short-risk positions, banking organizations may use their spot, quarter-end calculations for the purposes of their weekly calculations of the standardized measure for market risk or daily calculations of the models-based measure for market risk.

²⁷⁴ The proposal would not change the current capital rule's definition of publicly traded as 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 is registered with, or approved by, a national securities regulatory authority and that provides a liquid, two-way market for the instrument in question. Consistent with the current capital rule, the proposal would define a two-way market as 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.

²⁷⁵ This would apply to hybrid contracts containing an embedded derivative that must be separated from the host contract and accounted for as a derivative instrument under ASC Topic 815, Derivatives and Hedging (formerly FASB Statement No. 133 "Accounting for Derivative Instruments and Hedging Activities," as amended).

²⁷⁶ For purposes of regulatory reporting, the instructions to the FR Y-9C and Call Report require a banking organization to classify as trading securities all debt securities that a banking organization has elected to report at fair value under a fair value option with changes in fair value reported in current earnings, regardless of whether such positions are held with trading intent. ASC 815-15-25-4 permits both issuers of and investors in hybrid financial instruments that would

²⁷⁰ The proposal would retain, without modification, the existing definition of trading position in the market risk capital framework of the current capital rule. See 12 CFR 3.202 (OCC); 12 CFR 217.202 (Board); 12 CFR 324.202 (FDIC).

²⁷¹ As discussed in section II.E. of this **SUPPLEMENTARY INFORMATION**, the proposal would index the \$20 million threshold for net short risk positions going forward on an annual basis to reflect CPI-W.

²⁷² For equity derivatives, the adjusted notional amount would be the product of the current price

of one unit of the stock (for example, a share of equity) and the number of units referenced by the trade.

would capture the market risk of embedded derivatives a banking organization faces when it issues such hybrid instruments while being sensitive to the operational challenges of requiring banking organizations to calculate the fair value of such derivatives on a daily basis, and also appropriately exclude conventional instruments with an embedded derivative for which the capital requirements under the standardized approach or the expanded risk-based approach, as applicable, would be appropriate.²⁷⁷ If a banking organization elects to report the entire hybrid instrument at fair value under the fair value option for accounting purposes (rather than bifurcating the derivative and host contract), the proposal would allow the banking organization to treat the entire instrument (and any associated hedges) as a market risk covered position with prior approval from the primary Federal supervisor. The agencies recognize such hybrid instruments can also present market risk, which banking organizations may choose to hedge either at the level of the embedded derivative or the entire instrument. To encourage sound risk management without unduly increasing operational burden or decreasing the overall capital required under the market risk framework,²⁷⁸ the proposal would allow banking organizations to treat the entire instrument (as well as any associated hedges) as a market risk covered position with prior approval from the primary Federal supervisor.²⁷⁹

Fifth, the proposed definition of market risk covered position would include certain transactions of internal risk transfers, as described in section V.A.5. of this **SUPPLEMENTARY INFORMATION**, based in certain cases on the eligibility of the internal risk transfers. The market risk covered position would explicitly include (1) the trading desk segment of an eligible internal risk transfer of credit risk, interest rate risk, or CVA risk;²⁸⁰ and (2)

certain external transactions²⁸¹ based on eligibility of the risk transfers, executed by a trading desk related to an internal risk transfer of credit or interest rate risk. This aspect of the proposal is intended to help promote consistency and comparability in the risk-based capital treatment of such positions across banking organizations and ensure the appropriate capitalization of such positions under the standardized approach, the expanded risk-based approach, or the market risk capital framework of the capital rule.

Sixth, the proposed definition of market risk covered position would include instruments resulting from securities underwriting commitments where the securities are expected to be purchased by the banking organization on the settlement date, except those that a banking organization expects to classify as held to maturity or available for sale upon purchase. In general, such positions are held for sale or otherwise to support the banking organization's trading activities and, therefore, expose a banking organization to significant market risk. The agencies recognize that there may be circumstances under which the banking organization, as underwriter, might hold securities for investment purposes that it could not sell in the distribution. As such securities are not reflective of a banking organization's trading activity, the proposal would exclude instruments that a banking organization expects to purchase for held to maturity or available for sale purposes from the definition of market risk covered position.

c. Exclusions From the Proposed Definition of Market Risk Covered Position

The definition of a covered position in the current capital rule explicitly excludes certain positions.²⁸² These excluded instruments and positions generally reflect the fact that they are

either deducted from regulatory capital, explicitly addressed under the standardized approach and advanced approaches of the current capital rule, have significant constraints in terms of a banking organization's ability to liquidate them readily and value them reliably on a daily basis, or are not held with trading intent.

Consistent with the current capital rule, the proposal would continue to exclude from the definition of market risk covered positions: (1) any intangible asset, including any servicing asset; (2) any hedge of a trading position that the banking organization's primary Federal supervisor determines to be outside the scope of the banking organization's trading and hedging strategy; (3) any instrument that, in form or substance, acts as a liquidity facility that provides support to asset-backed commercial paper; (4) any position a banking organization holds with the intent to securitize; and (5) any CVA hedge.²⁸³ The proposed definition would also continue to exclude from market risk covered positions any direct real estate holdings.²⁸⁴ Consistent with past guidance from the agencies, indirect investments in real estate, such as through REITs or special purpose vehicles, would not be direct real estate holdings and could be market risk covered positions if they meet the proposed definition.²⁸⁵

The proposed definition would also exclude the following from the definition of market risk covered position: (1) any non-publicly traded equity positions, other than certain equity positions in investment funds, (2) any publicly traded equity position that has restrictions on tradability; (3) any publicly traded equity position that is a significant investment in the capital of an unconsolidated financial institution in the form of common stock not deducted from regulatory capital, as applicable, (4) any equity position in an investment fund that is not a trading asset or trading liability or that otherwise does not meet the requirements to be a market risk covered position,²⁸⁶ and (5) equity positions that

otherwise require bifurcation of an embedded derivative to elect at acquisition, issuance or a new basis event to carry such instrument at fair value with all changes in fair value reported in earnings.

²⁷⁷ For example, a conventional mortgage loan contains an embedded prepayment or call option.

²⁷⁸ For example, a banking organization can choose to hedge structured notes issued by a banking organization that are linked to credit or equity risk with trading instruments even if the banking organization does not view the structured note as a trading position.

²⁷⁹ The agencies anticipate that such approval would be granted in limited circumstances such as where the instrument or associated hedges trade or may be hedged in liquid, two-way markets.

²⁸⁰ Under the proposal, only banking organizations subject to CVA risk capital requirements would be required to treat the trading

desk segment of an eligible internal risk transfer of CVA risk as a market risk covered position, as described in section V.B.2. of this **SUPPLEMENTARY INFORMATION**. The proposed definition of market risk covered position would not include the trading desk segment of an eligible internal risk transfer of CVA risk for banking organizations subject to the market risk framework but not CVA risk framework.

²⁸¹ An external transaction generally refers to a transaction between a banking organization and an unaffiliated third party (except that in the case of a banking organization that is a depository institution, a transaction with an affiliate that is not a direct or indirect subsidiary of the depository institution would also be an external transaction for purposes of the depository institution's stand-alone capital requirement).

²⁸² See 77 FR 53060, 53064–65 (Aug. 30, 2012) for a more detailed discussion on these exclusions under the market risk capital rule.

²⁸³ See definition of "CVA hedge" and "market risk covered position" under § _____.202 of the proposal rule.

²⁸⁴ Direct real estate holdings include real estate for which the banking organization holds title, such as "other real estate owned" held from foreclosure activities, and bank premises used by the bank as part of its ongoing business activities.

²⁸⁵ See 77 FR 53060, 53065 (August 30, 2012) for the agencies' interpretive guidance on the treatment of such indirect holdings under the market risk capital framework of the capital rule.

²⁸⁶ For example, the proposal would exclude equity positions in investment funds arising from

Continued

qualify as effective hedges pursuant to § _____.52(c) of the current capital rule or § _____.141(c) of the proposal.

The proposed definition would add an exclusion for any derivative instrument or exposure to an investment fund that has material exposures to any of the preceding excluded instruments or positions discussed in this section. The proposal would also add an exclusion for instruments held for the purpose of hedging a particular risk of a position in any of the preceding excluded types of instruments discussed in this section.

*Question 102: The agencies seek comment on the appropriateness of the proposed definition of market risk covered position. What, if any, practical challenges might the proposed definition pose for banking organizations, such as the ability to fair value daily any of the proposed instruments that would be captured by the definition?*²⁸⁷

bank-owned life insurance and corporate owned-life insurance owned by an affiliate from the scope of market risk covered position. Such positions are held for the purpose of covering the cost of providing benefits to employees and retirement planning, and not with trading intent. Similarly, the proposal would exclude equity positions in investment funds arising from seed capital investments from the definition of market risk covered position. A banking organization typically invests a limited amount of its own capital as part of organizing the fund to produce investment performance as a record of the fund's investment strategy ("track record"). Only once a track record is established would the banking organization market the fund to investors with trading intent. As investors may demand a track record of at least five years before investing in the fund, the proposal would exclude equity positions in investment funds arising from seed capital investments, if the banking organization has held the fund for less than five years from the date on which the investment adviser or similar entity to the fund begins making initial investments pursuant to the written strategy of the fund upon its establishment. The exclusion is not intended to be used in situations where an investment manager provides additional capital to a fund after the fund has developed a track record. See (2)(x) and (2)(xiv) within the definition of market risk covered position under § _____.202 of the proposal.

²⁸⁷ For banking organizations subject to market risk capital requirements under the capital rule, the Volcker Rule defines the scope of instruments subject to the proprietary trading prohibition (trading account) based on two prongs: market risk capital rule covered positions that are trading positions, and instruments purchased or sold in connection with the business of a dealer, swap dealer, or securities-based swap dealer that require it to be licensed or registered as such. The proposed revisions to the definition of covered positions (re-designated as "market risk covered position"), as described in section V.A.4. of this **SUPPLEMENTARY INFORMATION**, could alter the scope of financial instruments deemed to be in the trading account under the Volcker Rule, but only to the extent that a market risk covered position is also a trading position and the position is not otherwise excluded from the Volcker rule definition of trading account. See 12 CFR 44.3(b) (OCC); 12 CFR 248.3(b) (Board); 12 CFR 351.3(b) (FDIC).

Question 103: The proposal would include as a market risk covered position an equity position in an investment fund that satisfies the conditions described in the definition of "market risk covered position" in § _____.202. Consistent with the definition of "investment fund" under the current capital rule, to be an eligible market risk covered position, an equity position must be in a company (1) where all or substantially all of the assets of the company are financial assets, and (2) that has no material liabilities. The agencies seek comment on whether a more specific definition of eligible "investment fund" would be appropriate for market risk covered positions. For example, what other vehicles that do not meet the criteria of the "investment fund" definition but would be subject to market risk capital requirements, in a manner that such positions would be most appropriately subject to market risk capital requirements, such as an investment fund with material liabilities? What are the advantages and disadvantages of subjecting such investment funds to market risk capital requirements, and why? Alternatively, what additional conditions or limitations should the agencies consider to place on investment funds eligible for being a market risk covered position, beyond those currently in the proposal?

Question 104: The agencies seek comment on the extent to which limiting the proposed definition of market risk covered position to include equity positions in investment funds only for which a banking organization has access to the fund's investments limits (as specified in the fund's prospectus, partnership agreement, or similar contract that define the fund's permissible investments) appropriately captures the types of positions that should be subject to regulatory capital requirements under the proposed market risk framework. What types of investment funds, if any, would a banking organization have the ability to value reliably on a daily basis that do not meet this condition? In addition, what are the advantages and disadvantages of excluding equity positions in investment funds arising from bank-owned life insurance or corporate-owned life insurance from the definition of market risk covered positions?

Question 105: For the purposes of determining whether certain positions are within the definition of market risk covered position, is the proposed definition of net short risk position appropriate, and why? What, if any, alternative measures should the

agencies consider to identify net short risk positions and why would these be more appropriate?

Question 106: The agencies seek comment on whether the proposed \$20 million threshold is an appropriate measure for identifying significant net short risk exposures that warrant capitalization under the market risk framework. What alternative thresholds or methods should the agencies consider for identifying significant net short risk positions, and why would these alternatives be more appropriate than the proposed \$20 million threshold?

Question 107: What, if any, challenges might banking organizations face in calculating the market risk capital requirement for net short risk positions? In particular, what, if any, alternatives to the total commitment for loans should the agencies consider using to calculate notional amount—for example, delta notional values rather than notional amount, present value, sensitivities—and why would any such alternatives be a better metric? Please provide specific details on the mechanics of and rationale for any suggested methodology. In addition, which, if any, of the items to be included in a banking organization's net short credit or equity risk position may present operational difficulties and what is the nature of such difficulties? How could such concerns be mitigated?

5. Internal Risk Transfers

A banking organization may choose to hedge the risks of certain positions²⁸⁸ held by a banking unit or a CVA desk by having one of its trading desks obtain the hedge for a banking unit or a CVA desk exposure. The current capital rule does not address the transfers of risk from a banking unit or a CVA desk (or a functional equivalent thereof) to a trading desk within the same banking organization²⁸⁹ (internal risk transfers), for example between a mortgage banking unit and a rates trading desk. Thus, market risk-weighted assets do not reflect the market risk of such internal transactions and capture only

²⁸⁸ Such risks can include credit, interest rate, or CVA risk arising from exposures that are subject to risk-based requirements under the standardized approach, the expanded risk-based approach, or the market risk capital framework of the capital rule.

²⁸⁹ For example, if the banking organization is a depository institution within a holding company structure, transactions conducted between the depository institution and an affiliated broker-dealer entity that is not a subsidiary of the depository institution would not qualify as transactions within the same banking organization for the depository institution. Such transactions would qualify as transactions within the same banking organization for the consolidated holding company.

the external portion of the hedge, potentially misrepresenting the risk position of the banking organization.

Accordingly, the proposal would define internal risk transfers and establish a set of requirements including documentation and other conditions for a banking organization to recognize certain types of internal risk transfers in risk-based capital requirements. The proposal would define internal risk transfers as transfers executed through internal derivatives trades of credit risk or interest rate risk arising from an exposure capitalized under the standardized approach of the capital rule or the proposed expanded risk-based approach to a trading desk, or a transfer of CVA risk arising from a CVA desk (or the functional equivalent if the banking organization does not have any CVA desks) to a trading desk.²⁹⁰ The proposed definition of internal risk transfer would not include transfers of risk from a trading desk to a banking unit or between trading desks because such transactions present the types of risks appropriately captured in market risk-weighted assets.²⁹¹

In practice, for internal risk management purposes, most banking organizations already document the source of risk being hedged and the trading desk providing the hedge.²⁹² As a result, the agencies do not expect the proposed documentation requirements for such transactions to qualify as eligible internal risk transfers, as described in more detail below, to pose a significant compliance burden on banking organizations. The agencies encourage prudent risk management and view that this aspect of the proposal will help promote consistency and comparability in the risk-based capital treatment of such internal transactions across banking organizations and ensure the appropriate capitalization of such positions.

²⁹⁰ An internal risk transfer transaction would comprise two perfectly offsetting segments—one segment for each of two parties to the transaction.

²⁹¹ As described in section V.A.7.b.ii. of this **SUPPLEMENTARY INFORMATION**, for transfers of risk between a trading desk that uses the standardized non-default capital requirement and a trading desk that uses the models-based non-default capital requirement, a banking organization may exclude the leg of the transaction acquired by the trading desk using the standardized non-default capital requirement from the residual risk add-on.

²⁹² The agencies recognize that some internal risk transfers will be executed by means of legally binding contracts entered into between affiliates, while others will be executed between business units within the same legal entity under other arrangements, and that the form of documentation used by a banking organization may vary accordingly.

a. Internal Risk Transfers of Credit Risk

The Basel standards introduce a risk-based capital treatment for internal transfers of credit risk executed from a banking unit to a trading desk to hedge the credit risk arising from exposures in the banking unit. The proposal is generally consistent with the Basel standards in specifying the criteria for internal risk transfer eligibility and clarifying the scope of exposures subject to market risk capital requirements. Specifically, a banking organization would be required to maintain documentation identifying the underlying exposure under the standardized approach or the expanded risk-based approach, as applicable, being hedged and its sources of credit risk. In addition, a trading desk would be required to enter into an external hedge that meets the requirements of § _____.36 of the current capital rule or § _____.120 of the proposed rule and matches the terms, other than amount, of the internal credit risk transfer at trade initiation. The agencies recognize that under certain circumstances a banking organization could choose to novate to a CCP an external transaction entered into in connection with an internal risk transfer. Because such transactions could be subject to compression, the terms of the internal risk transfer, aside from amount, would not be identical to the terms of the external hedge of credit risk post trade initiation. As such, the proposal would require the terms of the external hedge and the internal risk transfer to be identical only at trade initiation.

When these requirements are met, the transaction would qualify as an eligible internal risk transfer, for which the banking unit would be allowed to recognize the amount of the hedge position received from the trading desk as a credit risk mitigant when calculating the risk-based capital requirements for the underlying exposure under the standardized approach or the expanded risk-based approach. Because the trading desk enters into external hedges to manage credit risk arising from banking unit exposures, such external hedges would be included in the scope of market risk covered positions along with the internal risk transfer (the trading desk segment), where they would cancel out each other provided the amounts and terms of both transactions match. Nevertheless, if the internal risk transfer results in a net short credit position greater than \$20 million for the banking unit, the trading desk would be required to calculate market risk-based capital requirements for such positions. A net

short risk credit position results when the external hedge exceeds the amount required by the banking unit to hedge the underlying exposure under the standardized approach or the expanded risk-based approach.

For transactions that do not meet these requirements, the proposal would require a banking organization to disregard the internal risk transfer (the trading desk segment) from the market risk covered positions. The proposal would subject the entire amount of the external hedge acquired by the trading desk to the proposed market risk capital requirements and disallow any recognition of risk mitigation benefits of the internal credit risk transfer under the standardized approach or the expanded risk-based approach, as applicable.

b. Internal Risk Transfers of Interest Rate Risk

The proposal would specify the risk-based capital treatment of internal transfers of interest rate risk from a banking unit to the trading desk to hedge the interest rate risk arising from the banking unit. When a banking organization executes an internal interest rate risk transfer between a banking unit and a trading desk, the transferred interest rate risk exposure would be considered an eligible risk transfer that the banking organization may treat as a market risk covered position only if such internal risk transfer meets a set of requirements. Specifically, the banking organization would be required to maintain documentation of the underlying exposure being hedged and its sources of interest rate risk.²⁹³ In addition, given the complexity of tracking the direction of internal transfers of interest rate risk, the proposal would allow a banking organization to establish a dedicated notional trading desk for conducting internal risk transfers to hedge interest rate risk. If a banking organization conducts internal transfers of interest rate risk on a dedicated notional trading desk, the proposal would require a banking organization to calculate market risk capital requirements for such positions on the dedicated notional trading desk on a standalone basis apart from all other market risk covered positions. Specifically, a banking organization would be required to calculate either the standardized measure for market risk or the models-based measure for market risk, if

²⁹³ The proposal would not require a banking organization to purchase the hedge from a third party for such transactions to qualify as an internal risk transfer, because tracking interest rate risk transfers can be operationally burdensome.

applicable, for the internal risk transfer positions on the dedicated notional trading desk separate from all other market risk covered positions.

When these requirements are met, the internal risk transfer would qualify as an eligible internal interest rate risk transfer, for which the banking organization may recognize the hedge benefit of an internal derivative transaction. A trading desk that conducts internal risk transfers of interest rate risk may enter into external hedges to mitigate the risk but would not be required to do so under the proposal. As the amount transferred to the trading desk from the banking unit to hedge the underlying exposure under the standardized approach or the expanded risk-based approach, as applicable, would be a market risk covered position, any such external hedges would also be market risk covered positions and thus also subject to the proposed market risk capital requirements.²⁹⁴

For transactions that do not meet these requirements, a banking organization would be required to exclude the internal interest rate risk transfer (the trading desk segment) from its market risk covered positions. The entire amount of any external hedge of an ineligible internal risk transfer would be a market risk covered position.

c. Internal Risk Transfers of CVA Risk

For banking organizations that are subject to CVA risk capital requirements, the proposal would specify the capital treatment of internal CVA risk transfers executed between a CVA desk (or the functional equivalent thereof) and a trading desk to hedge CVA risk arising from exposures that are subject to the proposed capital requirements for CVA risk.²⁹⁵

Under the proposal, an internal CVA risk transfer would involve two perfectly offsetting positions of a derivative transaction executed between a CVA desk and a trading desk: the position of the CVA desk (the CVA segment) and the position of the trading desk (the trading desk segment). For the

CVA desk to recognize the risk mitigation benefits of the internal risk transfer under the risk-based capital requirements for CVA risk, the proposal would require the banking organization to have a dedicated CVA desk or the functional equivalent thereof that, along with other functions performed by the desk, manages internal risk transfers of CVA risk. In either case, such a desk would not need to satisfy the proposed trading desk definition, given the proposed risk-based capital requirements for CVA risk are not calibrated at the trading desk level. Additionally, the proposal would require a banking organization to maintain, at either the desk or portfolio level, an internal written record of internal derivative transaction(s) executed between the CVA desk and the trading desk, including identifying the underlying exposure(s) being hedged by the CVA desk and the sources of such risk.

In addition to the above-mentioned requirements for the internal transaction to qualify as an eligible internal risk transfer of CVA risk, the proposal sets forth general requirements for the recognition of CVA hedges that would be applicable to both internal transfers of CVA risk and external CVA hedges. The proposal specifies these requirements for both the basic approach for CVA risk and standardized approach for CVA risk, as described in section V.B.3. of this **SUPPLEMENTARY INFORMATION**.²⁹⁶

For eligible internal risk transfers of CVA risk, the banking organization would be required to treat the CVA segment as an eligible CVA hedge when calculating the CVA risk capital requirement and treat the trading desk segment as a market risk covered position. In this way, the proposal would allow the CVA desk to recognize the risk-mitigating benefit of the hedge position received from the trading desk when calculating risk-based capital requirements for CVA risk.

For transactions that do not meet these requirements or the general hedge eligibility requirements under the basic approach for CVA risk or the standardized approach for CVA risk, a banking organization would be required to exclude both the trading desk segment and the CVA segment of the internal transfer of CVA risk from

market risk-weighted assets, thus disregarding the ineligible internal CVA risk transfer. In addition, the CVA desk would not be able to recognize any risk mitigation or offsetting benefit from the ineligible internal risk transfer in its capital requirements for CVA risk.

d. Internal Risk Transfers of Equity Risk

The agencies are not proposing to allow a banking organization to recognize any risk mitigation benefits for internal equity risk transfers executed between a trading desk and a banking unit to hedge exposures that are subject to either the standardized approach or the expanded risk-based approach, as applicable. The proposed definition of market risk covered position would generally include equity positions that are publicly traded with no restrictions on tradability, with a few exceptions.²⁹⁷ Given the expanded scope of equity positions that would be subject to the proposed market risk capital requirements, primarily illiquid or irregularly traded equity positions would remain subject to the standardized approach or the expanded risk-based approach, as applicable.²⁹⁸ In general, banking organizations would not be able to hedge the material risk elements of illiquid or irregularly traded equity positions in a liquid, two-way market. For publicly traded equity exposures still subject to the standardized approach or the expanded risk-based approach, as applicable, banking organizations may apply the hedge pair treatment, which allows for the recognition of risk-mitigating benefits of hedged transactions. Given the narrower scope of equity positions subject to the standardized approach or the expanded risk-based approach, as applicable, and the option to apply hedge pair treatment for publicly traded exposures, the proposal would not allow a banking organization to recognize internal transfers of equity risk of such positions.

Question 108: The agencies seek comment on any operational challenges

²⁹⁷ For example, the proposed market risk covered position would exclude equity positions arising from deferred compensation plans and hedges of such positions that qualify for effective hedge pair treatment under § _____.52(c) of the current capital rule and under § _____.141(c) of the proposed rule. See section V.A.4.b. of this **SUPPLEMENTARY INFORMATION** for the proposed definition of market risk covered position.

²⁹⁸ Consistent with the current capital rule, the proposed equity risk framework under the expanded risk-based approach would allow firms to apply the effective hedge pair treatment to equity exposures not subject to market risk capital requirements for which the banking organization can demonstrate that the hedge transaction at initiation satisfies one of the three hedge effectiveness tests.

²⁹⁴ As the trading desk segments of eligible internal risk transfers of interest rate risk would be market risk covered positions, to the extent a trading desk enters into external hedges to mitigate the risk of such positions, the external hedge would also be subject to the market risk capital rule and could in whole or in part offset the market risk of the eligible internal risk transfer.

²⁹⁵ Under the proposal, the requirements for internal CVA risk transfers would not apply to banking organizations that are not subject to the proposed CVA risk capital requirement. See section V.B.2. of this **SUPPLEMENTARY INFORMATION** for the scope of banking organizations that would be subject to CVA risk capital requirements under the proposal.

²⁹⁶ While the basic approach for CVA applies certain restrictions on eligible instrument types for hedges to be recognized as eligible, the standardized approach for CVA risk allows for a broader set of hedging instruments. Moreover, the standardized approach for CVA risk would also recognize as eligible hedges instruments that are used to hedge the exposure component of CVA risk.

of the proposed internal risk transfer framework, in particular any potential difficulties related to internal risk transfers executed before implementation of the proposed market risk capital rule. What is the nature of such difficulties and how could they be mitigated?

Question 109: The agencies seek comment on the extent to which the proposed internal risk transfer framework would incentivize hedging and prudent risk management and/or potentially misrepresent the risk profile of a banking organization. What, if any, additional requirements or other modifications should the agencies consider?

Question 110: The agencies seek comment on the appropriateness of the proposed eligibility requirements for a banking unit to recognize the risk mitigation benefit of an eligible internal risk transfer of credit risk. What, if any, additional requirements or other modifications should the agencies consider, and why?

Question 111: What, if any, operational burden might the proposed exclusion for the credit risk segment of internal risk transfers pose for banking organizations? What, if any, alternatives should the agencies consider that would appropriately exclude the types of positions that should be captured under the standardized approach or the expanded risk-based approach, as applicable, and also impose less operational burden relative to the proposal?

Question 112: The agencies seek comment on subjecting the internal risk transfers of interest rate risk to the market risk capital requirements on a standalone basis. What are the benefits and costs associated with this requirement? What would be an alternative approach for calculating a standalone capital requirement for internal transfers of interest rate risk? What would be the advantages and disadvantages of allowing a banking organization to calculate the market risk capital requirements for the internal risk transfers of interest rate risk together with other market risk exposures, and why?

Question 113: The agencies seek comment on the proposed documentation requirements for an internal risk transfer of credit risk, interest rate risk, or CVA risk to qualify as an eligible internal risk transfer. What, if any, changes to the proposed documentation requirements should the agencies consider, particularly in cases in which CVA risk is hedged on a portfolio basis? What, if any, alternatives should the agencies

consider that would appropriately capture the types of positions that should be recognized under the standardized approach or the expanded risk-based approach, as applicable?

Question 114: The agencies seek comment on not allowing a banking organization to recognize any risk mitigation benefits for internal equity risk transfers executed between a trading desk and a banking unit to hedge exposures that are subject to either the standardized approach or the expanded risk-based approach, as applicable. Given the proposed scope of equity positions that would be subject to the proposed market risk capital requirements and the retention of effective hedge pair treatment, under what circumstances would there be a need for internal equity risk transfers? What would be advantages and disadvantages of including the concept of internal risk transfer to equity risk and why?

6. General Requirements for Market Risk

The current capital rule requires a banking organization to satisfy certain general risk management requirements related to the identification of trading positions, active management of covered positions, stress testing, control and oversight, and documentation. The proposal would maintain these requirements, as well as introduce additional requirements. The additional requirements are designed to further strengthen a banking organization's risk management of market risk covered positions and to appropriately reflect other changes under the proposal such as the definition of market risk covered position and the introduction of the trading desk concept, as described in sections V.A.4. and V.A.6.b. of this **SUPPLEMENTARY INFORMATION**. The proposal would also make certain technical corrections related to the requirements around valuation of market risk covered positions.²⁹⁹

a. Identification of Market Risk Covered Positions

The current capital rule requires a banking organization to have clearly defined policies and procedures for determining which trading assets and trading liabilities are trading positions and which trading positions are

correlation trading positions, as well as for actively managing all positions subject to the rule.

The proposal would expand these requirements to reflect the proposed scope and definition of market risk covered position as described in section V.A.4. of this **SUPPLEMENTARY INFORMATION**. A banking organization also would be required to update its policies and procedures for identifying market risk covered positions at least annually and to identify positions that must be excluded from market risk covered positions. In addition, the proposal would introduce a new requirement for a banking organization to establish a formal framework for re-designating a position after its initial designation as being subject to the market risk capital framework or to the standardized approach or the expanded risk-based approach, as applicable, of the capital rule. Specifically, the proposal would require a banking organization to establish policies and procedures that describe the events or circumstances under which a re-designation would be considered, a process for identifying such events or circumstances, any restrictions on re-designations, and the process for obtaining senior management approval as well as for notifying the primary Federal supervisor of material re-designations. These proposed requirements are intended to complement the proposed capital requirement for re-designations described in section V.A.3.e. of this **SUPPLEMENTARY INFORMATION** by ensuring re-designations would occur in only those circumstances identified by the banking organization's senior management as appropriate to merit re-designation.³⁰⁰

In addition to the requirements for identifying market risk covered positions, the proposal would require a banking organization to have clearly defined trading and hedging strategies for its market risk covered positions that are approved by the banking organization's senior management. Consistent with the current capital rule, the trading strategy would need to specify the expected holding period and the market risk of each portfolio of market risk covered positions, and the hedging strategy would need to specify

²⁹⁹ Specifically, to align with the GAAP considerations for valuation of market risk covered positions, the proposal would eliminate the market risk capital rule requirement that a banking organization's process for valuing covered positions must consider, as appropriate, unearned credit spreads, close-out costs, early termination costs, investing and funding costs, liquidity, and model risk. See 12 CFR 3.203(b)(2) (OCC); 12 CFR 217.203(b)(2) (Board); 12 CFR 324.203(b)(2) (FDIC).

³⁰⁰ As described in further detail in section V.A.3.e. of this **SUPPLEMENTARY INFORMATION**, the proposal would introduce a capital requirement (the capital add-on for re-designations) to offset any potential capital benefit that a banking organization otherwise might have received from re-classifying an instrument previously treated under the standardized approach or the expanded risk-based approach of the capital rule, as applicable, as a market risk covered position.

the level of market risk that the banking organization is willing to accept for each portfolio of market risk covered positions, along with the instruments, techniques, and strategies for hedging such risk.

b. Trading Desk

i. Trading Desk Definition

To limit overreliance on internal models, support more prudent market risk management practices, and better align operational requirements with the level at which trading activity is conducted, the proposal would introduce the concept of a trading desk and apply the proposed models-based non-default capital requirement at the trading desk level. Regardless of whether a banking organization uses the standardized or the models-based measure for market risk, the proposal would require the banking organization to satisfy certain general operational requirements for each trading desk, as described below in section V.A.6.c. of this **SUPPLEMENTARY INFORMATION**. The proposal would also require the banking organization to satisfy certain additional operational requirements, as described below in section V.A.6.d. of this **SUPPLEMENTARY INFORMATION**, in order for the banking organization to calculate the market risk capital requirements for trading desks under the models-based non-default capital requirement.

The proposal would define a trading desk as a unit of organization of a banking organization that purchases or sells market risk covered positions and satisfies three requirements. First, the proposal would require a banking organization to structure a trading desk pursuant to a well-defined business strategy. In general, a well-defined business strategy would include a written description of the trading desk's general strategy, including the economics behind the business strategy, the trading and hedging strategies and a list of the types of instruments and activities that the desk will use to accomplish its objectives. Second, the proposal would require a trading desk to be organized to ensure the appropriate setting, monitoring, and management review of the desk's trading and hedging limits and strategies. Third, the proposal would require that a trading desk be characterized by a clearly-defined unit of organization that: (1) engages in coordinated trading activity with a unified approach to the key elements of the proposed rule's requirements for trading desk policies and active management of market risk covered positions; (2) operates subject to a common and calibrated set of risk

metrics, risk levels, and joint trading limits; (3) submits compliance reports and other information as a unit for monitoring by management; and (4) books its trades together.

The proposed trading desk definition is intended to help ensure that a banking organization structures its trading desks to capture the level at which trading activities are managed and operated and at which the profit and loss of the trading strategy is attributed.³⁰¹ This approach would recognize the different strategies and objectives of discrete units in a banking organization's trading operations. The proposed parameters provide sufficient specificity to enable more precise measures of market risk for the purpose of determining risk-based capital requirements, while taking into account the potential variation in trading practices across banking organizations. In this regard, the proposal aims to reduce the regulatory compliance burden for banking organizations by providing flexibility to align the proposed trading desk definition with the organizational structure that banking organizations may already have in place to carry out their trading activities.

Question 115: What, if any, changes should the agencies consider making to the definition of a trading desk and why? What, if any, other key factors do banking organizations typically use to define trading desks for business purposes that the agencies should consider including in the trading desk definition to clarify the designation of trading desks for purposes of the market risk capital framework?

Question 116: The agencies seek comment on any implementation challenges banking organizations with cross-border operations could face in applying the proposed trading desk definition. What are the advantages and disadvantages of permitting a U.S. subsidiary of a foreign banking organization to apply trading desk designations consistent with its home country's regulatory requirements, provided those requirements are consistent with the Basel standards?

ii. Notional Trading Desk Definition

The proposed definition of market risk covered position would include certain types of instruments and

positions that may not arise from, and may be unrelated to, a banking organization's trading activities, such as net short risk positions, certain embedded derivatives on instruments issued by the banking organization that relate to credit or equity risk, as well as foreign exchange and commodity exposures that are not trading assets or trading liabilities. When a banking organization enters into such positions, it may do so in a manner that causes these positions to appear not to originate from a banking organization's existing trading desks.

To address the issue that certain trading desk-level requirements are not applicable to these types of activities and positions, the proposal would introduce the concept of a notional trading desk³⁰² to which such positions would be allocated. Under the proposal, notional trading desks would be subject to only a subset of the general risk management requirements applicable to trading desks. Specifically, the proposal would require a banking organization to identify any such positions and activities allocated to notional trading desks, as described in section V.A.6.b.iii. of this **SUPPLEMENTARY INFORMATION**, but would not require a banking organization to establish policies and procedures describing the trading strategy or risk management for the notional trading desks or require a notional trading desk to satisfy the requirements for active management of market risk covered positions. Nevertheless, to qualify for use of the models-based non-default capital requirement, the proposal would require a notional trading desk to satisfy all of the general requirements for trading desks, as well as those applicable for the models-based measure.³⁰³

The agencies are proposing to require a banking organization to identify any notional trading desks as part of the trading desk structure requirement, described in section V.A.6.b.iii. of this **SUPPLEMENTARY INFORMATION**, to help

³⁰² The proposal would define a notional trading desk as a trading desk created for regulatory capital purposes to account for market risk covered positions arising under the standardized approach or the expanded risk-based approach of the capital rule, as applicable, such as net short risk positions, certain embedded derivatives on instruments that the banking organization issued that relate to credit or equity risk, instruments with an embedded derivative that the banking organization issued that relate to credit or equity risk that it elects the fair value option for purposes of financial reporting, and foreign exchange positions and commodity positions that are not trading assets or trading liabilities.

³⁰³ See section V.A.6.d. of this **SUPPLEMENTARY INFORMATION** for further discussion on the additional operational requirements applicable to model-eligible trading desks.

³⁰¹ A banking organization subject to the market risk capital requirements under the proposal would be required to use the same trading desk structure it establishes pursuant to the proposed market risk capital framework to demonstrate compliance with the prohibitions and restrictions on proprietary trading under the Volcker Rule. See 12 CFR 44.3(e)(14) (OCC); 12 CFR 248.3(e)(14) (Board); 12 CFR 351.3(e)(14) (FDIC).

ensure that a banking organization appropriately treats all market risk covered positions under the capital rule. The agencies would review a banking organization's trading desk structure, including notional trading desks and trading desks used for internal risk transfers, to help ensure that they have been appropriately identified.

Question 117: What, if any, additional requirements should apply to notional trading desks to clarify the level at which market risk capital requirements must be calculated? What, if any, additional types of positions should be assigned to the notional trading desk and why?

iii. Trading Desk Structure

The proposal would require a banking organization to define its trading desk structure. Specifically, the structure must define each constituent trading desk and identify: (1) model-eligible trading desks that are used in the models-based measure for market risk, (2) model-ineligible trading desks used in both the standardized measure and models-based measure for market risk,³⁰⁴ (3) trading desks that are used for internal risk transfers (as applicable), and (4) notional trading desks (as applicable).³⁰⁵

Additionally, before calculating market risk capital requirements under the models-based measure for market risk, the proposal would require a banking organization to receive prior approval from the primary Federal supervisor of its trading desk structure. As part of the model approval process described in section V.A.6.d.iv. of this **SUPPLEMENTARY INFORMATION**, the primary Federal supervisor would consider whether the level at which a banking organization is proposing to establish its trading desks is consistent with the level at which trading activities are actively managed and operated. The primary Federal supervisor would also consider whether the level at which the banking organization defines each trading desk is sufficiently granular to

allow the banking organization and the primary Federal supervisor to assess the adequacy of the internal models used by the trading desk. For example, a banking organization's proposed trading desk structure may be considered insufficiently detailed if it reflects risk limits, internal controls, and ongoing management at one or more organizational levels above the routine management of the trading desk (for example, at the division-wide or entity level).

iv. Trading Desk Policies

The current capital rule requires a banking organization to have clearly defined trading and hedging strategies for its trading positions that are approved by senior management. In addition to applying these requirements at the trading desk level for trading desks that are not notional trading desks, the proposal would require policies and procedures for each trading desk to describe the strategy and risk management framework established for overseeing the risk-taking activities of the trading desk.

For each trading desk that is not a notional trading desk, the proposal would require a banking organization to have a clearly defined policy, approved by senior management, that describes the general strategy of the trading desk, the risk and position limits established for the trading desk, and the internal controls and governance structure established to oversee the risk-taking activities of the trading desk.³⁰⁶ At a minimum, this would include the business strategy for each trading desk;³⁰⁷ a clearly defined trading strategy that details the market risk covered positions in which the trading desk is permitted to trade, identifies the main types of market risk covered positions purchased and sold by the trading desk, and articulates the expected holding period of, and market risk associated with, each portfolio of market risk covered positions held by the trading desk; a clearly defined hedging strategy that articulates the acceptable level of market risk and details the instruments, techniques, and strategies that the trading desk will use to hedge the risks of the portfolio; and a brief description of the general strategy of the trading desk that addresses the economics of its business

strategy, primary activities, and trading and hedging strategies.

Together, the proposed requirements are intended to help ensure that each trading desk engages only in those activities that are permitted by senior management and that any exceptions would be elevated to the appropriate organizational level. For example, the proposed requirement for a banking organization to document trading, hedging, and business strategies, including the internal controls established to manage the risks arising from the trading strategy, at the level of the organization responsible for implementing the general business strategy, is intended to help ensure appropriate monitoring of the risk limits set by senior management. Additionally, the proposed requirements would help to assist the primary Federal supervisor in monitoring compliance, particularly when assessing whether the trading activities conducted by a trading desk are consistent with the general strategy of the desk and the appropriateness of the limits established for the desk. For example, the requirement for a trading desk to list the types of instruments traded by the desk to hedge risks arising from its business strategy would help to assist the primary Federal supervisor in providing effective supervisory oversight of the trading desk's activities.

c. Operational Requirements

The current capital rule requires a banking organization to satisfy certain operational requirements for active management of market risk covered positions, stress testing and internal assessment of capital adequacy, control and oversight, and documentation. The proposal would maintain these requirements and introduce revisions designed to complement changes under the proposed standardized and models-based measures for market risk (including the application of calculations at the trading desk level in the case of the models-based measure for market risk), and to support the proposed requirements described in section V.A.6.a. of this **SUPPLEMENTARY INFORMATION** that would help ensure a banking organization maintains robust risk management processes for identifying and appropriately managing its market risk covered positions.

A key assumption of the proposed market risk framework is that the financial reporting and internal risk management models³⁰⁸ used by banking

³⁰⁴ The list of model-ineligible trading desks should include both those for which the banking organization has elected to calculate market risk capital requirements under the standardized non-default capital requirement as well as any trading desks that previously received approval to use the models-based non-default capital requirement but subsequently reported the PLA test metric in the red zone, as described in more detail in section V.A.8.e. of this **SUPPLEMENTARY INFORMATION**. A banking organization should maintain a list of all trading desks and make it available for the primary Federal supervisor for review upon request.

³⁰⁵ A banking organization could also seek approval for a notional trading desk to be a model-eligible trading desk. Any such desk that is approved would be subject to backtesting and profit and loss attribution testing at the trading desk level.

³⁰⁶ Under the proposal, these requirements would generally not apply to notional trading desks, except those with prior approval from the primary Federal supervisor to use the models-based non-default capital requirement.

³⁰⁷ Under the proposal, the business strategy must include regular reports on the revenue, costs, and market risk capital requirements of the trading desk.

³⁰⁸ The proposal would define internal risk management model as a valuation model that the independent risk control unit within the banking

organizations provide an adequate basis for determining risk-based capital requirements for market risk covered positions.³⁰⁹ To help ensure such adequacy, the proposal would reinforce a banking organization's prudent valuation practices by incorporating requirements that build on the agencies' overall framework for market risk management.³¹⁰ In addition to facilitating the regulatory review process, the proposed revisions are intended to assist a banking organization's independent risk control unit and audit functions in providing appropriate review of and challenge to model risk management, thereby promoting effective model risk management.

The general risk management requirements described in this section would apply to all banking organizations subject to the proposed market risk capital framework.

i. Active Management of Market Risk Covered Positions

The current capital rule requires a banking organization to have clearly defined policies and procedures for actively managing all positions subject to market risk capital requirements, including establishing and conducting daily monitoring of position limits.³¹¹ These requirements are appropriate to support active management and monitoring under the current framework; the proposal adds enhancements to support active management and monitoring at the trading desk level.

Accordingly, the proposal would require a banking organization to have clearly defined policies and procedures that describe its internal controls, as well as its ongoing monitoring,

management, and authorization procedures, including escalation procedures, for the active management of all market risk covered positions. At a minimum, these policies and procedures must identify key groups and personnel responsible for overseeing the activities of the banking organization's trading desks that are not notional trading desks.

Further, the proposal would specify a broader set of risk metrics for the monitoring requirement, which would apply at the trading desk level. Specifically, at a minimum, the proposal would require that a banking organization establish and conduct daily monitoring by trading desks of: (1) trading limits, limit usage, and remedial actions taken in response to limit breaches; (2) sensitivities to risk factors; (3) market risk covered positions and transaction volumes; and, as applicable, (4) VaR and expected shortfall; (5) backtesting and *p*-values³¹² at the trading desk level and at the aggregate level for all model-eligible trading desks; and (6) comprehensive profit-and-loss attribution (each as described in sections V.A.8.d.–f. of this **SUPPLEMENTARY INFORMATION**). These risk metrics are the minimum elements necessary to support adequate daily monitoring of market risk covered positions at the trading desk level.

Consistent with the current capital rule, for a banking organization that has approval for at least one model-eligible trading desk, the proposal would require the banking organization's policies and procedures to describe the establishment and monitoring of backtesting and *p*-values at the trading desk level and at the aggregate level for all model-eligible trading desks. Daily information on the probability of observing a loss greater than that which occurred on any given day is a useful metric for a banking organization and supervisors to assess the quality of a banking organization's VaR model. For example, if a banking organization that used a historical simulation VaR model using the most recent 500 business days experienced a loss equal to the second worst day of the 500, it would assign a probability of 0.004 (2/500) to that loss based on its VaR model. Applying this process many times over a long interval provides information about the adequacy of the VaR model's ability to characterize the entire distribution of losses, including information on the size

and number of backtesting exceptions. The requirement to create and retain this information at the entity-wide and trading desk level for model-eligible trading desks may help identify particular products or business lines for which a model does not adequately measure risk. The agencies view active management of model risk at the trading desk level as the best mechanism to address potential risks of reliance on models, such as the possible adverse consequences (including financial loss) of decisions based on models that are incorrect or misused.

ii. Stress Testing and Internal Assessment of Capital Adequacy

The current capital rule requires a banking organization to have a rigorous process for assessing its overall capital adequacy in relation to its market risk. The process must take into account market concentration and liquidity risks under stressed market conditions as well as other risks arising from the banking organization's trading activities that may not be fully captured by a banking organization's internal models. At least quarterly, a banking organization must conduct stress tests at the entity-wide level of the market risk of its covered positions.

The proposal would enhance the current stress testing and internal assessment of capital adequacy requirements to reflect both the entity-wide and the trading-desk level elements for model-eligible positions within the proposed market risk capital requirement calculation. Specifically, the proposal would require a banking organization to stress-test the market risk of its market risk covered positions at both the entity-wide and trading-desk level for model-eligible positions on at least a quarterly basis. The proposal also would require that results of such stress testing be reviewed by senior management of the banking organization and reflected in the policies and limits set by the banking organization's management and the board of directors, or a committee thereof. In addition to concentration and liquidity risks, the proposal would require stress tests to take into account risks arising from a banking organization's trading activities that may not be adequately captured in the standardized or the models-based measure for market risk, as applicable.

The proposed requirements are intended to help ensure that each trading desk only engages in those activities that are permitted by the banking organization's senior management, and that any weaknesses revealed by the stress testing results would be elevated to the appropriate

organization uses to report market risks and risk-theoretical profits and losses to senior management. See § _____.202 of the proposed rule.

³⁰⁹ As a banking organization's financial reporting models are already subject to requirements to support the accuracy of the financial data produced (such as the requirements from the Sarbanes-Oxley Act of 2002, Pub. L. 107–204), such models would satisfy the proposed independent validation requirements described in more detail in section V.A.6.c.iii. of this **SUPPLEMENTARY INFORMATION**.

³¹⁰ The supervisory guidance set forth in the Board's Supervision and Regulation (SR) Letter 11–7 and OCC's Bulletin 2011–12, Supervisory Guidance on Model Risk Management includes prudent valuation practices for banking organizations subject to market risk capital requirements.

³¹¹ The proposal would retain certain other requirements with modifications such as policies and procedures for active management of trading positions subject to the market risk requirements which include, but are not limited to, ongoing assessment of the ability to hedge market risk covered positions and portfolio risks. See 12 CFR 3.203(b)(1) (OCC); 12 CFR 217.203(b)(1) (Board); 12 CFR 324.203(b)(1) (FDIC).

³¹² Under the proposal, *p*-value would be defined as the probability, when using the VaR-based measure for purposes of backtesting, of observing a profit that is less than, or a loss that is greater than, the profit or loss that actually occurred on a given date.

management levels of the banking organization and addressed in a timely manner.

iii. Control and Oversight

The current capital rule requires a banking organization to maintain a risk control unit that reports directly to senior management and is independent of the business trading units. The internal audit function is responsible for assessing, at least annually, the effectiveness of the controls supporting the banking organization's market risk measurement systems (including the activities of the business trading units and independent risk control unit), compliance with the banking organization's policies and procedures, and the calculation of the banking organization's market risk capital requirements. At least annually, the internal audit function must report its findings to the banking organization's board of directors (or a committee thereof).

The proposal largely would retain the control, oversight, and validation requirements in the capital rule, including the requirement that a banking organization maintain an independent risk control unit. The proposal would expand the required oversight responsibilities of the independent risk control unit to include the design and implementation of market risk management systems that are used for identifying, measuring, monitoring, and managing market risk. The proposed change is intended to complement other changes under the proposal, in particular allowing a banking organization to calculate risk-based requirements using standardized and models-based measures for market risk (for example, the inclusion of more rigorous model eligibility tests that apply at the trading desk level), as well as the introduction of a capital add-on requirement for re-designations.

Further, the proposal would enhance the internal review and challenge responsibilities of a banking organization by requiring it to maintain conceptually sound systems and processes for identifying, measuring, monitoring, and managing market risk. In addition to the current requirements in the capital rule, the banking organization's internal audit function would have to assess at least annually the effectiveness of the designations and re-designations of market risk covered positions, and the calculation of the banking organization's measures for market risk, including the mapping of risk factors to liquidity horizons, as applicable. The proposal would enhance the validation requirements by

requiring a banking organization to maintain independent validation of its valuation models and valuation adjustments or reserves.³¹³

The agencies intend for these elements of the proposal to enhance the accountability of the banking organization's independent risk control unit and internal audit function and provide banking organizations with sufficient flexibility to incorporate the risk management processes required for regulatory capital purposes within those daily risk management processes used by the banking organization, such that managing market risk would be more consistent with the banking organization's overall risk profile and business model.

iv. Documentation

Similar to the enhancements to policies and procedures described above, the proposal would enhance the documentation requirements in the capital rule to reflect the proposed market risk capital framework. Specifically, a banking organization would be required to document adequately all material aspects of its identification, management, and valuation of market risk covered positions, including internal risk transfers and any re-designations of positions between the market risk capital framework and the standardized approach or the expanded risk-based approach of the capital rule, as applicable. Consistent with the current capital rule, the proposal would require a banking organization to document adequately all material aspects of its internal models, and its control, oversight, validation, and review processes and results, as well as its internal assessment of capital adequacy. The proposal also would require a banking organization to document an explanation of the empirical techniques used to measure market risk. Further, a banking organization would be required to establish and document its trading desk structure, including identifying which trading desks are model-eligible, model-ineligible, used for internal risk transfers, or constitute notional trading desks, as well as document policies describing how each desk satisfies

applicable requirements. These enhancements would help ensure that a banking organization appropriately treats all market risk covered positions under the capital rule.

d. Additional Operational Requirements for the Models-Based Measure for Market Risk

Under the current capital rule, a banking organization must use an internal VaR-based model to calculate risk-based capital requirements for its covered positions. Under the proposal, only a banking organization that receives approval from its primary Federal supervisor to use the models-based non-default capital requirement for at least one model-eligible trading desk would be required to calculate market risk capital requirements under the models-based measure for market risk.

As a condition for use of the models-based non-default capital requirement, the proposal would require a trading desk to satisfy certain additional operational requirements, which are intended to help ensure that the banking organization has allocated sufficient resources for the desk to develop and rely on internal models that appropriately capture the market risk of its market risk covered positions. Specifically, the additional operational requirements, as well as the proposed profit and loss attribution and backtesting requirements described in sections V.A.8.e. and V.A.8.f. of this **SUPPLEMENTARY INFORMATION**, would help ensure that the internal models used to calculate a trading desk's risk-based capital requirements are sufficiently accurate and conservative relative to the models used to report actual profits and losses for financial reporting purposes (financial reporting models).³¹⁴ In this way, the additional operational requirements are intended

³¹³ A banking organization's financial reporting models provide an appropriate basis for determining risk-based capital requirements because such models are subject to requirements intended to enhance the accuracy of the financial data produced by the models, such as the requirements from the Sarbanes-Oxley Act of 2002, Pub. L. 107-204. Accordingly, banking organizations that rely on financial reporting models for purposes of calculating risk-based capital requirements would satisfy the proposed prudent valuation requirement.

³¹⁴ The proposed backtesting requirements are intended to measure the conservatism of the forecasting assumptions and valuation methods in the internal models used to determine risk-based capital requirements relative to those used in the financial reporting models. The proposed PLA testing requirement is intended to measure the accuracy of the potential future profits or losses estimated by the valuation models used for internal risk management purposes (internal risk management models) relative to those produced by the valuation models used for financial reporting. If a trading desk fails to satisfy either the backtesting requirements or, after the three-year transition period, the proposed PLA test requirements, it would no longer be able to calculate risk-based capital requirements using the models-based non-default capital requirement. In this way, the proposal would only allow trading desks for which the internal models are sufficiently conservative and accurate to use the models-based non-default capital requirement to calculate market risk capital requirements.

to help ensure that the internal models of a trading desk properly measure all material risks of the market risk covered positions to which they are applied, and the sophistication of the internal models is commensurate with the complexity and extent of trading activity conducted by the trading desk.

As described above, the proposal would require eligibility for use of the models-based non-default capital requirement to be determined at the trading desk level, rather than for the entire banking organization. By aligning the level at which a banking organization may be permitted to model market risk capital requirements with the level at which the banking organization applies the controls used for financial reporting, the proposed requirements would enhance prudent capital management for banking organizations that use the models-based measure for market risk.

i. Trading Desk Identification

As part of the model approval process, the proposal would require a banking organization to identify all trading desks within its trading desk structure that it would designate as model-eligible and for which it would seek approval to use the models-based non-default capital requirement from the primary Federal supervisor.

Additionally, the proposal generally would prohibit a banking organization from seeking model approval for trading desks that hold securitization positions, correlation trading positions, or certain equity positions in investment funds (together “model-ineligible positions”), with one exception.³¹⁵ Given the operational difficulties of requiring a banking organization to bifurcate trading desks that hold an insignificant amount of model-ineligible positions pursuant to their trading or hedging strategy, the proposal would allow the banking organization to designate such desks as model-eligible. If the primary Federal supervisor were to approve the use of models-based non-default capital requirement for such desks, the proposal would require the banking organization to separately calculate market risk capital requirements for such model-ineligible positions held by a model-eligible trading desk under either the standardized non-default capital requirement or the fallback capital requirement, and otherwise treat

such positions as if they were not held by the desk.³¹⁶

Question 118: The agencies seek comment on the benefits and drawbacks of requiring trading desks that hold an insignificant amount of model-ineligible positions to exclude from the models-based non-default capital requirement such positions and any related hedges, if applicable, in order for such desks to request approval to calculate market risk capital requirements under the models-based measure for market risk. Commenters are encouraged to provide data to support their responses.

ii. Review, Risk Management, and Validation

To help ensure that the internal models appropriately capture a model-eligible trading desk’s market risk exposure on an ongoing basis, the proposal would require a banking organization to satisfy additional model review and validation standards for model-eligible trading desks to use the models-based non-default risk capital requirement to calculate market risk capital requirements.

Specifically, a banking organization that uses the models-based measure for market risk would be required to (1) review its internal models at least annually and enhance them, as appropriate, to help ensure the models continue to satisfy the regulatory requirements and employ risk measurement methodologies that are the most appropriate for the banking organization’s market risk covered positions, (2) integrate its internal models used for calculating the expected shortfall-based measure for market risk into its daily risk management process, and (3) independently³¹⁷ validate its internal

³¹⁶ Specifically, the proposal would require a banking organization to exclude any insignificant amount of model-ineligible positions held by the model-eligible trading desk from the aggregate trading portfolio backtesting and the relevant desk-level backtesting and profit and loss attribution metric, unless the banking organization receives approval from its primary Federal supervisor to include such positions.

³¹⁷ Either the validation process itself would have to be independent, or the validation process would have to be subjected to independent review of its adequacy and effectiveness. The independence of the banking organization’s validation process would be characterized by separateness from and impartiality to the development, implementation, and operation of the banking organization’s internal models, or otherwise by independent review of its adequacy and effectiveness, though the personnel conducting the validation would not necessarily be required to be external to the banking organization. As a banking organization’s financial reporting models provide an appropriate basis for determining risk-based capital requirements because such models are subject to the requirements of the Sarbanes-Oxley Act of 2002, including external audit, banking organizations that

models both initially and on an ongoing basis, and revalidate them when there is a material change to a model, a significant structural change in the market, or changes in the composition of the banking organization’s market risk covered positions that might result in the internal models no longer adequately capturing the market risk of the market risk covered positions held by the model-eligible trading desk.

The proposal also would require a banking organization to establish a validation process that, at a minimum, includes an evaluation of the internal models’ (1) conceptual soundness³¹⁸ and (2) adequacy in appropriately capturing and reflecting all material risks, including ensuring that the assumptions are appropriate and do not underestimate risks. Additionally, the proposal would require a banking organization to perform ongoing monitoring to review and verify processes, including by comparing the outputs of the internal models with relevant internal and external data sources or estimation techniques. The results of this comparison provide a valuable diagnostic tool for identifying potential weaknesses in a banking organization’s models. As part of this comparison, a banking organization would be expected to investigate the source of differences between the model estimates and the relevant internal or external data or estimation techniques and whether the extent of the differences is appropriate.

In addition, the proposal would expand on the outcomes analysis requirements of the current capital rule by requiring validation to include not only any outcomes analysis that includes backtesting at the aggregated level of all model-eligible trading desks, but also backtesting and profit and loss attribution testing at the trading desk level for each model-eligible trading desk. The agencies recognize that financial markets and modeling technologies undergo continual development. Accordingly, a banking organization needs to continually ensure that its models are appropriate. The ongoing review, risk management, and validation requirements in the proposal are intended to help ensure that the internal models used accurately reflect the risks of market risk covered positions in evolving markets.

rely on financial reporting models for purposes of calculating risk-based capital requirements would satisfy the proposed prudent valuation requirement.

³¹⁸ The process should include evaluation of empirical evidence supporting the methodologies used and evidence of a model’s strengths and weaknesses.

³¹⁵ As described in section V.A.10.e.ii. of this SUPPLEMENTARY INFORMATION, an equity position in an investment fund could be a model-eligible position to the extent a banking organization is able to identify the underlying positions held by an investment fund on a quarterly basis.

iii. Documentation

In addition to the general documentation requirements applicable to all banking organizations described in section V.A.6.c.iv. of this

SUPPLEMENTARY INFORMATION, the proposal would require a banking organization that uses the models-based measure for market risk to document policies and procedures regarding (1) the determination of which risk factors are modellable and which are not modellable (risk factor quantitative and qualitative tests), including a description of how the banking organization maps real price observations to risk factors; (2) the alignment of the profits and losses reported by financial reporting models and the internal risk management models for purposes of the PLA test;³¹⁹ and (3) the assignment of risk factors to liquidity horizons, and any empirical correlations recognized with respect to risk factor classes.

As with the other enhanced operational requirements applicable to a banking organization that uses the models-based measure for market risk, these requirements are designed to help ensure the use of models-based non-default capital requirement only applies to those trading desks for which the banking organization is able to demonstrate that the internal models appropriately capture the market risk of the market risk covered positions held by the trading desk.

iv. Model Eligibility

For a banking organization to use the models-based measure for market risk, the proposal would require the banking organization to receive the prior approval from its primary Federal supervisor for at least one trading desk to apply the models-based non-default capital requirement. Accordingly, the proposal would establish a framework for such approval.

I. Initial Approval

Under the proposal, the approval for a banking organization to use internal models would be granted at the individual trading desk level.³²⁰ For the primary Federal supervisor to approve an internal model, the proposal would

require a banking organization to demonstrate that (1) the internal model properly measures all the material risks of the market risk covered positions to which it would be applied; (2) the internal model has been properly validated in accordance with the validation requirements; (3) the level of sophistication of the internal model or methodology is commensurate with the complexity and amount of the market risk covered positions to which it would be applied; and (4) the internal model or methodology meets all applicable requirements.

To receive approval as a model-eligible trading desk, the proposal would require a trading desk to satisfy one of the following criteria.³²¹ The banking organization could provide to the primary Federal supervisor at least 250 business days of backtesting and PLA test results for the trading desk. Alternatively, the banking organization could either (1) provide at least 125 business days of backtesting and PLA test results for the trading desk and demonstrate to the satisfaction of the primary Federal supervisor that the internal models would be able to satisfy the backtesting and PLA requirements on an ongoing basis; (2) demonstrate that the trading desk consists of market risk covered positions similar to those of another trading desk that has received approval from the primary Federal supervisor and such other trading desk has provided at least 250 business days of backtesting and PLA results, or (3) subject the trading desk to the PLA add-on until the desk provides at least 250 business days of backtesting and PLA test results that pass the trading-desk level backtesting requirements and produce a PLA metric in the green zone, as further described in sections V.A.8.e. and V.A.8.f. of this **SUPPLEMENTARY INFORMATION**, respectively.³²²

³²¹ As discussed in section V.A.8.e. of this **SUPPLEMENTARY INFORMATION**, to receive approval as a model-eligible desk during the three-year PLA test transition period, the proposal would require the banking organization to provide backtesting results for the trading desk and demonstrate to the satisfaction of the primary Federal supervisor that the internal models would be able to satisfy the backtesting requirements on an on-going basis. During the three-year transition period, a banking organization would not be required to submit PLA test results to its primary Federal supervisor in order to receive approval to use an internal model by the trading desk. The proposal would nevertheless require a banking organization to submit quarterly PLA test results to its primary Federal supervisor for monitoring purposes without automatic consequences for PLA test results.

³²² Under the proposal, there would be no automatic consequences for the PLA test results during the three-year transition period. Accordingly, during the transition period, a banking organization would not be able to seek model approval for trading desks with less than six

The proposed criteria would hold trading desks to robust modeling requirements, while providing a banking organization sufficient flexibility to satisfy the standard over time and as the banking organization adapts its business structure. The agencies recognize that when initially requesting approval and in subsequent requests (for example, after a reorganization or upon entering into a new business), a banking organization may not always be able to provide a full year of backtesting and PLA test results for each trading desk, even if the internal models used by the desk provide an adequate basis for determining risk-based capital requirements. The proposed criteria would allow a banking organization to seek model approval for trading desks with at least a six-month track record demonstrating (using the PLA and backtesting results) the accuracy and conservatism of the internal models used by the desk as well as for trading desks that consist of similar market risk covered positions to another trading desk, for which the banking organization has provided at least 250 business days of trading desk level PLA test and backtesting results and has received approval from its primary Federal supervisor. The internal models used by trading desks that meet all the requirements to the satisfaction of the primary Federal supervisor except the PLA test and backtesting requirements would be subject to a PLA add-on until the desk produces one year of satisfactory PLA test and backtesting results in the green zone.³²³ Thus, the trading desk would remain subject to an additional capital requirement until it provides sufficient evidence demonstrating the appropriateness of the internal models, at which time application of the PLA add-on would automatically cease.

II. Ongoing Eligibility and Changes to Trading Desk Structure or Internal Models and Stressed Expected Shortfall Methodologies

The current capital rule requires a banking organization to promptly notify its primary Federal supervisor when (1) extending the use of a model that the primary Federal supervisor has approved to an additional business line

months of backtesting results and that do not consist of market risk covered positions similar to those of another trading desk that has received approval as model-eligible.

³²³ Based on the PLA test results, a banking organization would be required to allocate each model-eligible trading desk to a PLA test zone (green, amber, or red) as set out in Table 1 to § _____.213 of the proposed rule.

³¹⁹ See section V.A.8.e. of this **SUPPLEMENTARY INFORMATION** for a more detailed description of the proposed PLA test.

³²⁰ The proposal would require a banking organization to receive approval from the primary Federal supervisor for both the expected shortfall internal model and the stressed expected shortfall methodology used by the trading desk. As the initial approval process for each would be the same, for simplicity, the term "internal models" used throughout this section is intended to refer to both.

or product type, (2) making any change to an internal model that would result in a material change in the banking organization's total risk-weighted asset amount for an exposure type, or (3) making any material change to its modelling assumptions.

The proposal would expand on these requirements to require a banking organization to receive prior approval from its primary Federal supervisor before implementing any change to its trading desk structure, internal models or methodologies (including any material change to its modelling assumptions) that would (1) in the case of trading desk structure, materially impact the market risk capital requirements for a portfolio of market risk covered positions; or (2) in the case of internal models or methodologies, result in a material change in the banking organization's expected shortfall-based measure for a trading desk, the internally modelled capital calculation, or the stressed expected shortfall calculation under the models-based non-default capital requirement. Additionally, the proposal would require a banking organization to promptly notify its primary Federal supervisor of any change, including non-material changes, to its internal models, modelling assumptions, or trading desk structure.³²⁴ Whether a banking organization would be required to receive prior approval or promptly notify the primary Federal supervisor before extending the use of an approved model to an additional business line or product type would depend on the nature of and impact of such a change.

The proposal also would require a model-eligible trading desk to perform and successfully pass quarterly backtesting and PLA testing requirements on an ongoing basis in order to maintain its approval status.³²⁵ As banking organizations' quarterly review of backtesting and PLA test results would take place after a quarter is over, the proposal would permit a banking organization to rely on the models-based non-default capital requirement for model-eligible trading

desks that previously received approval from the primary Federal supervisor during the 30 calendar day period following the end of a calendar quarter while updating its use of internal models based on the results of the quarterly review.

Even if a model-eligible trading desk were to satisfy the above requirements, a banking organization's primary Federal supervisor could determine that the desk no longer complies with any of the proposed applicable requirements for use of the models-based measure for market risk or that the banking organization's internal model for the trading desk or methodology fails to either comply with any of the applicable requirements or to accurately reflect the risks of the desk's market risk covered positions. In such cases, the primary Federal supervisor could (1) rescind the desk's model approval and require the desk to calculate market risk capital requirements under the standardized non-default capital requirement, or (2) subject the desk to a PLA add-on capital requirement until it restores the desk's full approval, in the case of trading desk noncompliance.³²⁶

The agencies recognize that even if a banking organization's internal model for a trading desk satisfies the proposed backtesting, PLA testing, and operational requirements, the model may not appropriately capture the risk of the market risk covered positions held by the desk (for example, if the model develops specific shortcomings in risk identification, risk aggregation and representation, or validation). Thus, as an alternative to requiring a trading desk to use the standardized non-default capital requirement, the proposal would allow the primary Federal supervisor to subject the trading desk to the PLA add-on if the desk were to continue to satisfy all of the proposed backtesting, PLA testing, and operational requirements for use of the models-based non-default capital requirement. In this way, the proposal would help to ensure that the market risk capital requirements for the trading desk appropriately reflect the materiality of the shortcomings of the internal model, as the PLA add-on would apply until such time that the banking organization enhances the accuracy and conservatism of the trading desk's internal model to the satisfaction of its primary Federal supervisor.

Similarly, after approving a banking organization's stressed expected shortfall methodology to capture non-modellable risk factors for use by one or more trading desks, as described in section V.A.8.c. of this **SUPPLEMENTARY INFORMATION**, the primary Federal supervisor may subsequently determine that the methodology no longer complies with the operational requirements for use of the models-based measure for market risk or that the methodology fails to accurately reflect the risks of the market risk covered positions held by the trading desk. In such cases, the proposal would allow the primary Federal supervisor to rescind its approval of the banking organization's methodology and require the affected trading desk(s) to calculate market risk capital requirements for the trading desk under the standardized non-default capital requirement. As the methodologies used to capture the market risk of non-modellable risk factors would not be subject to the proposed PLA testing requirements, which inform the calibration of the PLA add-on as described in section V.A.8.e. of this **SUPPLEMENTARY INFORMATION**, the PLA add-on would not be an alternative if the primary Federal supervisor rescinds its approval of such a methodology.

7. Standardized Non-Default Capital Requirement

Under the proposal, the standardized non-default risk capital requirement would comprise two components: (1) the sensitivities-based capital requirement, which captures non-default market risk based on the estimated losses produced by risk factor sensitivities under regulatorily determined stressed conditions, and (2) the residual risk add-on, which serves to produce a simple, conservative capital requirement for any other risks that are not already fully captured by sensitivities-based measure or the default risk capital requirement, such as gap risk, correlation risk, and behavioral risks such as prepayments.

a. Sensitivities-Based Method

Conceptually, the proposed sensitivities-based method is similar to a simple stress test in which a banking organization estimates the change in value of its market risk covered positions by applying standardized shocks to relevant market risk covered positions. The sensitivities-based method uses risk weights that represent the standardized shocks, with each prescribed risk weight calibrated to a defined liquidity time horizon consistent with the expected shortfall

³²⁴ In such cases, a banking organization should notify the primary Federal supervisor in writing, in a manner acceptable to the supervisor (such as through email, where appropriate).

³²⁵ The desk-level backtesting and PLA testing requirements are described in sections V.A.8.e. and V.A.8.f. of this **SUPPLEMENTARY INFORMATION**, respectively. While the proposal would require a banking organization to submit quarterly PLA test results to its primary Federal supervisor during the three-year transition period, a banking organization's model-eligible trading desk would only be required to successfully pass quarterly backtesting requirements on an on-going basis to maintain its approval status during that three-year transition period.

³²⁶ Under the proposal, there would be no automatic consequences for the PLA test results during the three-year transition period. Thus, the PLA add-on would not be an alternative if the primary Federal supervisor rescinds its approval during the three-year transition period.

measurement framework under stressed conditions. To help ensure consistency in the application of risk-based capital requirements across banking organizations, the proposal would establish the following process to determine the sensitivities-based capital requirement: (1) identify all relevant risk factors associated with a market risk covered position and allocate them to one of seven risk classes; (2) allocate such risk factors to a corresponding bucket within the appropriate risk classes; (3) calculate the sensitivity of a market risk covered position for each of the prescribed risk factors by applying regulatory prescribed risk weights to the net sensitivity of risk factors within each bucket; (4) aggregate the weighted sensitivities across risk factors within a corresponding bucket (bucket-level capital requirement); (5) aggregate the bucket-level risk positions for each risk class (risk class-level capital requirement); and (6) aggregate the risk class-level capital requirements for each risk class under each correlation scenario.

First, under the proposal, a banking organization would identify all relevant risk factors associated with its market risk covered positions and then assign such risk factors to one or more of seven risk classes. The seven prescribed risk classes, which are based on standard industry classifications, are interest rate risk, credit spread risk for non-securitization positions,³²⁷ credit spread risk for correlation trading positions, credit spread risk for securitization positions that are not correlation trading positions, equity risk, commodity risk, and foreign exchange risk. The risk factors are separately defined to measure their individual impact on market risk covered positions' value from small changes in the value of a risk factor (the movement in price (delta) and, where applicable, the movement in volatility (vega)), and the additional change in the positions' value not captured by delta for each relevant risk factor (curvature) in stress.³²⁸ For example, the price of a typical corporate

bond fluctuates primarily due to changes in interest rates and issuer credit spreads. Therefore, a position in a corporate bond would be placed in two separate risk classes, one for interest rate risk and one for credit spread risk for non-securitization positions.³²⁹

Second, the proposal would require a banking organization to allocate all identified risk factors associated with a market risk covered positions to a corresponding bucket within the appropriate risk class. The proposal specifies buckets for each risk class, which represent common risk characteristics of a given risk class, in recognition that positions sharing such risk characteristics are highly correlated and therefore their values tend to change in substantially the same manner. Further, the proposed buckets correspond to common industry practice as large trading banking organizations often use bucketing structures similar to those set forth in the proposal. For example, for positions within the credit spread non-securitization risk class, a banking organization would group the corporate bond position and other positions with similar credit quality and issuers operating in the same sector together in one bucket. Further, the banking organization would apply the proposed risk factors to each position within that bucket based on credit spread curves and tenors of each position.

Third, a banking organization would calculate the sensitivity of a market risk covered position as prescribed under the proposal to each of the proposed risk factors for delta, vega, and curvature sensitivities, as applicable. The proposed sensitivity calculations for delta, vega, and curvature risk factors are intended to estimate how much a market risk covered position's value might change as a result of a specified change in the risk factor, assuming all other relevant risk factors remain constant. For each risk factor, the banking organization would separately sum the resulting delta, vega, and curvature sensitivities for all market risk covered positions within the same bucket to produce a net sensitivity for each risk factor, which is the potential value impact on all of the banking organization's market risk covered positions in the bucket as a result of a uniform change in a risk factor.³³⁰

³²⁹ Under the proposal, a banking organization would have to separately calculate the potential losses arising from the position's sensitivity to changes in interest rates and changes in the issuer's credit spread.

³³⁰ The proposed risk factors are intended to be sufficiently granular such that only long and short

To capture how much the risk factor might change over a defined time horizon in stress conditions and how that would change the value of the market risk covered position, a banking organization would multiply the net delta sensitivity and the net vega sensitivity, respectively, for each risk factor within a bucket by the proposed standardized risk weight for the bucket. The proposed risk weights are intended to capture the amount that a risk factor would be expected to move during the liquidity horizon of the risk factor in stress conditions.³³¹ To capture curvature risk, a banking organization would be required to aggregate the incremental loss above the delta capital requirement from applying larger upward and downward shock scenarios to each risk factor.

Fourth, to account for the potential price impact of interactions between the risk factors, the proposal would prescribe aggregation formulas for calculating the total delta, vega, and curvature capital requirements within buckets and across buckets. Specifically, the risk-weighted sensitivities for delta, vega, and curvature risk, respectively, first would be summed for a risk factor, then aggregated across risk factors with common characteristics within their respective buckets to arrive at bucket-level risk positions. Lastly, these bucket-level risk positions would then be aggregated for each risk class using the prescribed aggregation formulas to produce the respective delta, vega, and curvature risk capital requirements.

The aggregation formulas prescribe offsetting and diversification benefits via correlation parameters. Under the proposal, the correlation parameters specified for each risk factor pair are

exposures without basis risk would be able to fully offset for purposes of calculating the net sensitivity to a risk factor. For example, by defining the risk factors for equity risk at the issuer level, the proposal would allow long and short equity risk exposures to the same issuer to fully offset for purposes of calculating the net equity risk factor sensitivity, but only partially offset (correlations than one) for exposures to different issuers with the same level of market capitalization, the same type of economy, and the same market sector (such as those within the same equity risk bucket).

³³¹ The prescribed risk weights represent the estimated change in the value of the market risk covered position as a result of a standardized shock to the risk factor based on characteristics of the position and historic price movements. Additionally, the proposed risk weights are intended to help ensure comparability with the proposed models-based non-default capital requirement described in section V.A.8. of this **SUPPLEMENTARY INFORMATION**, which generally would require banking organizations' internal models to follow a methodology similar to the one used to calibrate the risk weights when determining risk-based requirements for market risk covered positions under the standardized non-default capital requirement.

³²⁷ Under the proposal, a non-securitization position would be defined as a market risk covered position that is not a securitization position or a correlation trading position and that has a value that reacts primarily to changes in interest rates or credit spreads.

³²⁸ Vega and curvature risk estimates are required for instruments with optionality or embedded prepayment option risk. For example, for an equity option, the proposed delta risk factor (equity spot price) would capture the impact on the option's value from changes in the equity spot price, the proposed vega risk factor (implied volatility) would capture the impact from changes in the implied volatility, and the proposed curvature risk factors (equity spot prices for the issuer) would capture other higher-order factors from nonlinear risks.

intended to limit the risk-mitigating benefit of hedges and diversification, given that the hedge relationship between an underlying position and its hedge, as well as the relationship between different types of risk factors, could decrease or become less effective in a time of stress. Specifically, taking into account prescribed correlation parameters, a banking organization would need to calculate the aggregate requirements first within a bucket and then across buckets within one risk class to produce the risk-class-level capital requirement for delta, vega, and curvature risk. The resulting capital requirements for delta, vega, and curvature risk then would be summed across risk classes, respectively, with no recognition of any diversification benefits, because in stress diversification across different risk classes may become less effective.

To capture the potential for risk factor correlations to increase or decrease in periods of stress, the calculation of bucket-level capital requirements and risk class-level capital requirements for each risk class would be calculated using three different correlation scenarios—assuming high, medium and low correlations between risk factor shocks. The banking organization would use this process to calculate the overall delta, vega, and curvature capital requirements for all risk classes and determine the overall capital requirement for each scenario. The prescribed correlation parameters in the intra-bucket and inter-bucket aggregation formulas would be those used in the medium correlation scenario. For the high and low correlation scenarios, a banking organization generally would increase and decrease the medium correlation parameters by 25 percent, respectively, to appropriately reflect the potential changes in the historical correlations during a crisis.³³²

Finally, to determine the overall capital requirements for each of the three correlation scenarios, the banking organization would sum the separately calculated delta, vega, and curvature capital requirements for all risk classes without recognition of any diversification benefits, given that delta, vega, and curvature sensitivities are intended to separately capture different

risks. The sensitivities-based capital requirement would be the largest capital requirement resulting from the three correlation scenarios.

Question 119: The agencies seek comment on the sensitivities-based method for market risk. To what extent does the sensitivities-based method appropriately capture the risks of positions subject to the market risk capital requirement? What additional features, adjustments (such as to the treatment of diversification of risks), or alternative methodology could the sensitivities-based method include to reflect these risks more appropriately and why? Commenters are encouraged to provide supporting data.

Question 120: The agencies seek comment on approaches to allow further recognition of diversification between risk classes that are not eligible for the models-based non-default capital requirement (such as securitizations) and risk classes that are eligible for the models-based non-default capital requirement within the sensitivities-based method of the standardized non-default capital requirement. What other areas in the sensitivities-based method should the agencies consider where it would be prudent to enhance the recognition of diversification, and why? Commenters should provide evidence to demonstrate the additional recognition of diversification is commensurate with the risk of the combined positions both in normal times and under stress.

i. Risk Factors

The proposal would require a banking organization to map all relevant risk factors associated with a market risk covered position to a risk class and then allocate such risk factors to a corresponding bucket within the appropriate risk classes in order to calculate the capital requirements for delta, vega, and curvature. The proposed risk factors differ for each risk class to reflect the specific market risk variables relevant for each risk class (for example, no tenor is specified for the delta risk factor for equity risk as equities do not have a stated maturity, whereas the proposed tenors for credit spread delta risk reflect the common maturities of positions within those risk classes). The granular level at which the proposed risk factors would be defined is intended to promote consistency and comparability in regulatory capital requirements across banking organizations and to help ensure the appropriate capitalization of market risk covered positions.

For risk classes that include specific tenors or maturities as risk factors (for

example, delta risk factors for interest rate risk), the proposal would require a banking organization to assign the risk factors to the proposed tenors through linear interpolation or a method that is consistent with the pricing functions used by the internal risk management models. The banking organization's internal risk management models, which are used by risk control units and reviewed by auditors and regulators, would provide an appropriate basis for determining regulatory capital requirements, without imposing the operational burden of the time-consuming methods used by the financial reporting models. Additionally, relying on banking organizations' internal risk management models, rather than the financial reporting models, to identify the relevant risk factors would help ensure that a control function that is independent of business-line management would determine the regulatory capital requirement for market risk.

I. Interest Rate Risk

Under the proposal, the delta risk factors for interest rate risk would be separately defined for each currency along two dimensions: tenor and interest rate curve. To value market risk covered positions with interest rate risk, the proposal would require a banking organization to construct and use interest rate curves for the each currency in which interest rate-sensitive market risk covered positions are denominated. By defining each interest rate curve as a distinct risk factor, the proposed delta risk factors for interest rate risk would require banking organizations to reflect the basis risk between different interest rate curves (for example, interest rate curves from the overnight index swap curve (OIS) or an alternative reference rate curve).

As interest rate curves incorporate nominal inflation, an additional delta risk factor would be required for instruments with cash flows that are functionally dependent on a measure of inflation (such as TIPS) to appropriately account for inflation risk. Furthermore, the proposal would require an additional delta risk factor for instruments with cash flows in different currencies to appropriately reflect the cross-currency basis risk of each currency over USD or EUR.³³³ Under

³³² As the degree to which a pair of variables are linearly related (the correlation) can only range from negative one to one, the proposal would cap the correlation parameters under the high scenario at no more than one (100 percent) and floor those under the low scenario at no less than negative one. For highly correlated positions, the low correlation scenario also would not always reduce the correlation parameter by 25 percent.

³³³ Cross-currency basis is a basis added to a yield curve in order to evaluate a swap for which the two legs are paid in two different currencies. Market participants use cross-currency basis to price cross currency interest rate swaps paying a fixed or a floating leg in one currency, receiving a fixed or a floating leg in a second currency, and including an

the proposal, a banking organization would not recognize the term structure for inflation risk and cross-currency basis risk for each currency. A banking organization would be required to consider the inflation risk factor and the cross-currency basis risk factor, if applicable, in addition to the sensitivity for the other delta risk factors for the interest rate risk (currency, tenor and interest rate curve) of the market risk covered position. Accordingly, a banking organization would be required to allocate the sensitivities for inflation risk and cross-currency basis risk to the interest rate bucket for each currency.

The vega risk factors for interest rate risk would be the implied volatilities of options referencing the interest rate of the underlying instrument. The implied volatilities of inflation rate risk-sensitive options and cross-currency basis risk-sensitive options would be defined along the maturity of the option, whereas the implied volatilities of interest-rate risk-sensitive options would be defined along two dimensions: the maturity of the option and the residual maturity of the underlying instrument at the expiration date of the option. For example, a banking organization would calculate the vega sensitivity of a European interest rate swaption that expires in 12 months referring to a one-year swap based on the maturity of the option (12 months) as well as the residual maturity of the underlying instrument (the swap's maturity of 12 months).

The proposal would define the curvature risk factors for interest rate risk along one dimension: the interest rate curve of each currency (no term structure would be considered).

II. Credit Spread Risk

The proposal would separately define the credit spread risk factors for non-securitization positions,³³⁴ securitization positions that are not correlation trading positions (securitization positions non-CTP), and correlation trading positions. The proposal would define the delta risk factors for credit spread risk for non-securitization positions along two dimensions: the credit spread curve of a relevant issuer and the tenor of the position. The delta risk factors for credit spread risk for securitization positions

non-CTP would be defined also along two dimensions: the credit spread curve of the tranche and the tenor of the tranche. Lastly, the delta risk factors for credit spread risk for correlation trading positions would be defined along two dimensions: the credit spread curve of the underlying name and the tenor of the underlying name. Under the proposal, the vega risk factors for credit spread risk are the implied volatilities of options referencing the credit spreads,³³⁵ defined along one dimension: the option's maturity.

The proposal would define the curvature risk factors for credit spread risk for non-securitization positions along one dimension: the credit spread curve of the issuer. The curvature risk factors for credit spread risk for securitization positions non-CTP would be defined along the relevant bond and CDS credit spread curve of the tranche, and for correlation trading positions along the bond and CDS credit spread curve of each underlying name. The agencies recognize that requiring a banking organization to estimate the bond-CDS basis for each issuer would impose a significant operational burden with limited benefit in terms of risk capture. To simplify the sensitivities-based method calculation for curvature risk in these cases, the proposal would require banking organizations to ignore any bond-CDS basis that may exist between the bond and CDS spreads and to calculate the credit spread risk sensitivity as a single spread curve across the relevant tenor points.

III. Equity Risk

Similar to interest rate risk, the delta risk factors for equity risk would be separately defined for each issuer as the spot prices of each equity (for example, for cash equity positions) and an equity repo rate (for example, for term repo-style transactions), as appropriate. Under the proposal, the vega risk factors for equity risk would be the implied volatilities of options referencing the equity spot price, defined along the maturity of the option. The curvature risk factors for equity risk would be the equity spot price. There are no curvature risk factors for equity repo rates.

IV. Commodity Risk

Similar to interest rate and equity risk, the delta risk factors for commodity risk would be separately defined for each commodity type³³⁶ along two dimensions: the contracted delivery location of the commodity and the remaining maturity of the contract. A banking organization could only treat separate contracts as having the same delivery location if both contracts allow delivery in all of the same locations.³³⁷ Additionally, the proposal would follow the established pricing convention for commodities and require a banking organization to use the remaining maturity of the contract to measure the delta sensitivity for instruments with commodity risk. As the price impact of risk factor changes varies significantly between different types of commodities, the proposal would define the delta risk factors for each commodity type to limit offsetting across commodity types, as such offsetting could drastically understate the potential losses arising from those positions.

To measure the price sensitivity of a commodity market risk covered position, the proposal would require a banking organization to use either the spot price or the forward price, depending on which risk factor is used by the internal risk management models to price commodity transactions. For example, if the internal risk management model typically values electricity contracts based on forward prices (rather than spot prices), the proposal would require the banking organization to compute the delta capital requirement using the current prices for futures and forward contracts. Similar to equity risk, the proposal would define the commodity vega risk factors based on the implied volatilities of commodity-sensitive options as defined along the maturity of the option and the curvature risk factors based on the constructed curve per commodity spot price.

³³⁶ Under the proposal, any two commodities would be considered distinct if the underlying commodity to be delivered would cause the market to treat the two contracts as distinct (for example, West Texas Intermediate oil and Brent oil).

³³⁷ For example, a contract that can be delivered in four ports may have less sensitivity to each location defined risk factor than a contract that can only be delivered in three of those ports. If a banking organization has entered into a contract to deliver 1000 barrels of oil in port A, B, C or D, and a hedge contract to receive 1000 barrels of oil on the same date in port A, B or C, if on delivery day ports A, B and C are closed, the banking organization is exposed to commodity risk in that it must deliver 1000 barrels of oil to port D without receiving 1000 barrels. As a result, the two contracts would have different sensitivity to location defined risk factors.

exchange of the notional amount in the two currencies at the start date and at the end date of the swap.

³³⁴ Under the proposal, a non-securitization position would be defined as a market risk covered position that is not a securitization position or a correlation trading position and that has a value that reacts primarily to changes in interest rates or credit spreads.

³³⁵ When calculating the sensitivity for securitization positions non-CTP, a banking organization would calculate the sensitivities for credit spread risk based on the embedded subordination of the position, such as the spread of the tranche. For correlation trading positions, the credit spread risk sensitivity would be based on the underlying names in the securitization position, or nth-to-default position.

V. Foreign Exchange Risk

The proposal would define the delta risk factors for foreign exchange risk as the exchange rate between the currency in which the market risk covered position is denominated and the reporting currency of the banking organization. For market risk covered positions that reference two currencies other than the reporting currency, the banking organization generally would be required to calculate the delta risk factors for foreign exchange risk using the exchange rates between each of the non-reporting currencies and the reporting currency. For example, for a foreign exchange forward referencing EUR/JPY, the relevant risk factors for a USD-reporting banking organization would be the exchange rates for USD/EUR and USD/JPY.

To reduce operational burden, the proposal would allow a banking organization to calculate delta risk factors for foreign exchange risk relative to a base currency instead of the reporting currency, if approved by the primary Federal supervisor.³³⁸ In this case, after designating a single currency as the base currency, a banking organization would calculate the foreign exchange risk for all currencies relative to the base currency, and then convert the foreign exchange risk into the reporting currency using the spot exchange rate (reporting currency/base currency). For example, if a USD-reporting banking organization receives approval to calculate foreign exchange risk using JPY as the base currency, for a foreign exchange forward referencing EUR/JPY, the banking organization would calculate separate deltas for the EUR/JPY exchange rate risk and USD/JPY foreign exchange translation risk and then translate the resulting capital

requirement to USD at the USD/JPY spot exchange rate.

The proposal would define the vega risk factors for foreign exchange risk as the implied volatility of options that reference exchange rates between currency pairs along one dimension: the maturity of the option. For curvature, the foreign exchange risk factors would be all exchange rates between the currency in which a market risk covered position is denominated and the reporting currency (or the base currency, if approved by the primary Federal supervisor).

ii. Risk Factor Sensitivities

A fundamental element of the sensitivities-based method is the risk factor sensitivity calculation, which estimates the change in the value of a market risk covered position as a result of a regulatorily prescribed change in the value of a risk factor, assuming all other risk factors are held constant. To help ensure consistency and conservatism across banking organizations, the proposal would set requirements on the valuation models, currency, inputs, and sensitivity calculation, as applicable, that a banking organization could use to measure the risk factor sensitivity of a market risk covered position.

The proposal would require a banking organization to calculate risk factor sensitivities using either the valuation methods used in its financial reporting models or internal risk management models.³³⁹ The agencies recognize that a banking organization can calculate risk sensitivities for delta and vega or estimate curvature using valuation methods and systems from equivalent internal risk management models. Accordingly, the proposal would also permit a banking organization to use the valuation methods used in its internal risk management models to calculate delta and vega sensitivities and curvature scenarios.

For consistency and comparability in risk-based capital requirements across banking organizations, the proposal would require each banking

organization to calculate all risk factor sensitivities in the reporting currency of the banking organization, except for the foreign exchange risk class where, with prior approval of the primary Federal supervisor, the banking organization may calculate the sensitivities relative to a base currency instead of the reporting currency. To appropriately capture a banking organization's exposure to market risk, the proposal would require banking organizations to use fair values that exclude CVA in the calculation of risk factor sensitivities.

Question 121: The agencies seek comment on the advantages and disadvantages of allowing a banking organization to use the risk factor sensitivities from the previous day in limited circumstances when a banking organization is unable to calculate such sensitivity for the day, and why?

I. Delta

Under the proposal, a banking organization would calculate the delta capital requirement using the steps previously outlined in section V.A.7.a. of this **SUPPLEMENTARY INFORMATION** for its market risk covered positions except those whose value exclusively depends on risk factors not captured by any of the proposed risk classes (exotic exposures).³⁴⁰ The proposal would require a banking organization to separately calculate the market risk capital requirements for such positions under the residual risk add-on as described in section V.A.7.b. of this **SUPPLEMENTARY INFORMATION**.

For purposes of calculating the delta capital requirement, the proposal would require a banking organization to calculate the delta sensitivity of a position using the sensitivity definitions provided in the proposal for each risk factor. Based on the proposed sensitivity definitions, the delta sensitivity would reflect the change in the value of a market risk covered position resulting from a small specified shift of one basis point or one percent change to a risk factor, assuming all other relevant risk factors are held at the current level, divided by the same specified shift to the risk factor.

For the equity spot price, commodity, and foreign exchange risk factors, the delta sensitivity would equal the change in value of a market risk covered position due to a one percentage point increase in the risk factor divided by one percentage point. For the interest rate, credit spread, and equity repo rate

³³⁸ A banking organization would have to demonstrate to its primary Federal supervisor that calculating foreign exchange risk relative to its base currency provides an appropriate risk representation of the banking organization's market risk covered positions and that the foreign exchange risk between the base currency and the reporting currency is addressed. In general, the base currency would be the functional currency in which the banking organization generates or expends cash. For example, a multinational banking organization headquartered in the United States that primarily transacts in and uses EUR to value its assets and liabilities for internal accounting and risk management purposes could use EUR as its base currency. As its consolidated financial statement must be reported in USD, this multinational banking organization would need to translate the value of those assets and liabilities from the base currency (EUR) to the reporting currency (USD). Because exchange rates fluctuate continuously, this conversion could increase or decrease the value of those assets and liabilities and thus generate foreign exchange gains (or losses) from non-operating activity.

³³⁹ The proposal would require banking organizations to have a prudent valuation process, including the independent validations of the valuation models used in the standardized non-default capital requirement. The financial reporting models provide an appropriate basis for determining risk-based capital requirements because such models are subject to requirements intended to enhance the accuracy of the financial data produced by the models, such as the requirements from the Sarbanes-Oxley Act of 2002, Public Law 107-204. Accordingly, banking organizations that rely on financial reporting models for purposes of calculating risk factor sensitivities would satisfy the proposed prudent valuation requirement.

³⁴⁰ Examples of exotic exposures not captured by any of the proposed risk classes include but are not limited to longevity, weather, and natural disasters derivatives.

risk factors, the delta sensitivity would equal the change in value of a market risk covered position due to a one basis point increase in the risk factor divided by one basis point. In the case of credit spread risk for securitizations non-CTP, a banking organization would calculate the delta sensitivity for the positions with respect to the credit spread of the tranche rather than the credit spread of the underlying positions. For credit spread risk for correlation trading positions, the delta sensitivity for credit spread risk would be computed using a one basis point shift in the credit spreads of the individual underlying names of the securitization position or nth-to-default position.

When calculating the delta sensitivity for positions with optionality, a banking organization would apply either the sticky strike rule,³⁴¹ the sticky delta rule,³⁴² or, with the prior approval from its primary Federal supervisor, another assumption that is consistent with the banking organization's internal models. Each of these methods, or various combinations of such methods, is intended to measure appropriately the sensitivity of a risk factor within any of the risk classes.

II. Vega

For market risk covered positions with optionality, the vega sensitivity to a risk factor would equal the vega of an option, which represents approximately the change in the option's value as the result of a one percentage point increase in the value of the option's volatility, multiplied by the volatility of the option. To measure the vega sensitivity of a market risk covered position, the proposal would require a banking organization to use either the at-the-money volatility of an option or the implied volatility of an option, depending on which is used by the financial reporting models or the internal risk management models to determine the intrinsic value of volatility in the price of the option.

The vega capital requirement would only apply to options or instruments with embedded optionality, including instruments with material prepayment risk. For purposes of calculating the vega capital requirement, a banking organization would follow the steps

previously outlined for purposes of calculating the delta capital requirements and use the same buckets for each risk class as those specified for the delta capital calculation and use the corresponding vega risk weights.

Callable and puttable bonds that are priced based on the yield to maturity of the instrument would not be subject to the vega capital requirement. The agencies recognize that in practice a banking organization may not be able to calculate vega risk for callable and puttable bonds, as implied volatility for credit spread typically is not used as an input for the pricing of such instruments, and thus implied volatility is not captured by the internal models. Therefore, the proposal would allow banking organizations to exclude from the vega capital requirement callable and puttable bonds that are priced based on the yield to maturity of the instrument, as the delta capital requirement in these cases would be sufficiently conservative to capture the potential vega risk arising from such exposures.

The proposal would require a banking organization to assign the sensitivity to implied volatility based on the option maturity. As the proposal defines the vega risk factors for interest rate risk along two dimensions: the maturity (or expiry) of the option and the maturity of the option's underlying instrument—a banking organization would be required to group options within the interest rate risk class along both of these two dimensions. To help ensure appropriately conservative capital requirements, the proposal would require a banking organization to (1) assign instruments with optionality that either do not have a stated maturity (for example, cancelable swaps) or that have an undefined maturity to the longest prescribed maturity tenor for vega, and (2) subject such instruments to the residual risk add-on, as described in section V.A.7.b. of this **SUPPLEMENTARY INFORMATION**. Similarly, for options that do not have a stated strike price or that have multiple strike prices, or that are barrier options, the proposal would require a banking organization to apply the maturity and strike price used in either its financial reporting models or internal risk management models to value the position and apply a residual risk add-on.³⁴³ The agencies are proposing these constraints as a simple and conservative approach for market

risk covered positions that are difficult to value in practice.

Question 122: The agencies solicit comment on the appropriateness of relying on a banking organization's internal pricing methods for determining the maturity and strike price of positions without a stated strike price or with multiple strike prices. What, if any, alternative approaches (such as using the average maturity of options with multiple exercise dates) would better serve to promote consistency and comparability in risk-based capital requirements across banking organizations? What are the benefits and drawbacks of such alternatives compared to the proposed reliance on the internal pricing models of banking organizations?

III. Curvature

The proposed curvature capital requirements are intended to capture the price risks inherent in instruments with optionality that are not already captured by delta (for example, the change in the value of an option that exceeds what can be explained by the delta of the option alone). Under the proposal, only options or positions that contain embedded optionality, including positions with material prepayment risk, would be subject to the curvature capital requirement because they present material price risks not captured by delta. While linear instruments may also exhibit a certain degree of non-linearity, it is not always material for such instruments. Therefore, to allow for a more accurate representation of risk, the proposal would permit a banking organization, at its discretion, to make an election for a trading desk³⁴⁴ to include instruments without optionality in the curvature capital requirement, provided that the trading desk consistently includes such positions through time.

The proposal would require a banking organization to use the same buckets applied in the delta capital calculation to calculate curvature capital requirements. To calculate the risk-weighted sensitivity for each curvature risk factor within a bucket, the proposal would require a banking organization to fully revalue all of its market risk

³⁴¹ Under the sticky strike rule, a banking organization would assume that the implied volatility for an option remains unaffected by changes in the underlying asset price for any given strike price.

³⁴² Under the sticky delta rule, the banking organization would assume that the implied volatility for a particular maturity depends only on the ratio of the price of the underlying asset to the strike price (sometimes called the moneyness of the option).

³⁴³ Tranches of correlation trading positions that do not have an implied volatility would not be subject to the vega risk capital requirement. Such instruments would not be exempt from delta and curvature capital requirements.

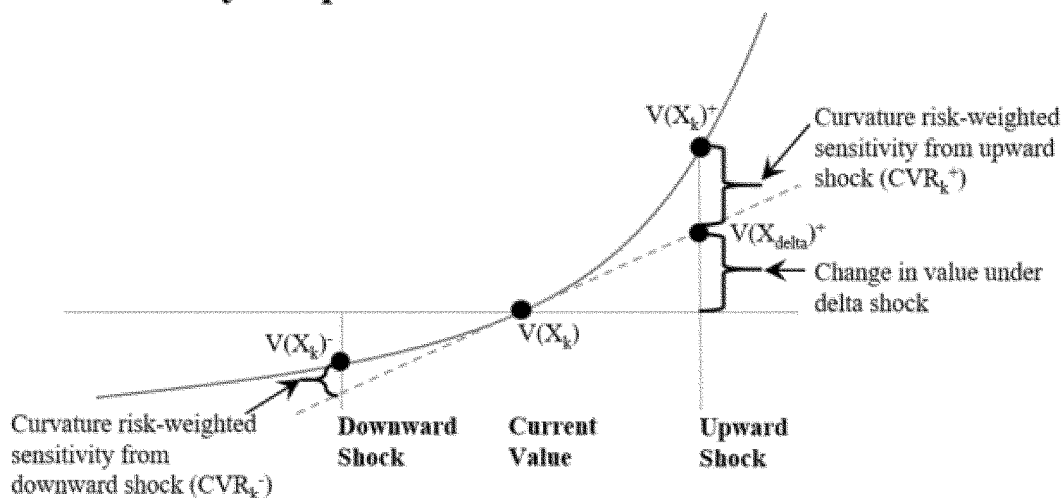
³⁴⁴ For a banking organization that has established a trading desk structure with a single trading desk that uses the standardized measure to calculate market risk capital requirements, the proposal would allow such banking organization to make such an election for the entire organization rather than on a trading desk by trading desk basis. If such an election is made at the enterprise-wide level, the proposal would require the banking organization to consistently include positions without optionality within the curvature calculation.

covered positions with optionality as well as any market risk covered position that a banking organization has elected to include in the calculation of its curvature capital requirement, as applicable, after applying an upward shock and a downward shock to the current value of the market risk covered

position. To avoid double counting, the banking organization would calculate the incremental loss in excess of that already captured by the delta capital requirement for all market risk covered positions subject to the curvature capital requirements. The larger incremental loss resulting from the upward and the

downward shock would be the curvature risk-weighted sensitivity.³⁴⁵ The below graphic provides a conceptual illustration of the calculation of the curvature risk-weighted sensitivity based on the upward and the downward shock scenarios.

Graphic 1: Calculation of curvature risk-weighted sensitivity in upward and downward shock scenarios



In calculating the curvature risk-weighted sensitivity for the interest rate, credit spread, and commodity risk classes, a banking organization would apply the upward and downward shocks assuming a relative shift of all tenors for each curve based on the highest prescribed delta risk weight for the applicable bucket.^{346 347} The proposal would require a banking organization to apply the highest risk weight for each bucket to all tenor points along the curve to help ensure the curvature capital requirements reflect incremental losses from curvature and not those due to changes in the shape or slope of the curve. The proposal would require a banking organization to perform this calculation at the bucket level (not the risk class level). To the extent that applying the downward shocks results in negative credit spreads, the proposal would allow a banking organization to floor credit spreads at zero, which is the

natural floor for credit spreads given that negative CDS spreads are not meaningful.

For the foreign exchange and equity risk classes, the upward and downward shocks represent a relative shift of the foreign exchange spot prices or equity spot prices, respectively, equal to the delta risk weight prescribed for the risk factor. The agencies recognize that the conversion of other currencies into either the reporting currency or base currency, if applicable, would capture exchange rate fluctuations, and thus overstate the sensitivity for foreign exchange risk. Thus, for options that do not reference the reporting or base currency of the banking organization as an underlying exposure, the proposal would allow the banking organization to divide the net curvature risk positions by a scalar of 1.5, provided that the banking organization consistently applies the scalar to all market risk

covered positions with foreign exchange risk through time.

To aggregate the bucket-level capital requirements and risk class-level capital requirements for curvature, a banking organization would bifurcate positions into those with positive curvature and those with negative curvature. For the purposes of calculating risk-based capital requirements for curvature, positions with negative curvature represent a capital benefit—as they reduce rather than increase risk, and thus lower risk-based capital requirements. For example, the downward shock as depicted in the above graphic produces less of an estimated price reduction under the curvature scenario than under the linear delta shock (negative curvature). To limit the effect of negative curvature capital requirements on the overall capital required under the sensitivities-based method, both the intra-bucket and inter-bucket aggregation formulas would

³⁴⁵ To promote consistency and comparability in regulatory capital requirements across banking organizations, the proposal would require that in cases where the incremental loss resulting from the upward and the downward shock is the same, the banking organization must select the scenario in which the sum of the capital requirements of the curvature risk factors is greater.

³⁴⁶ As described in section V.A.7.a.iii.I. of this SUPPLEMENTARY INFORMATION, the proposed bucket

structure used to group the delta risk factors for interest rate risk (and the corresponding risk weight for each bucket) is solely based on the tenor of market risk covered position. For purposes of calculating the curvature sensitivity for interest rate risk, the proposal would require a banking organization to disregard the bucketing structure and apply the highest prescribed delta risk weight (the 1.7 percent risk weight applicable to the 0.25-year tenor, or 1.7 percent divided by $\sqrt{2}$ if the interest rate curve references a currency that is

eligible for a reduced risk weight) to all tenors simultaneously for each yield curve.

³⁴⁷ As the curvature capital requirements would capture an option's change in the value above that captured by delta, a banking organization would calculate the curvature sensitivity to credit spread risk for securitization positions non-CTP and correlation trading positions using the spread of the tranche and the spread of the underlying names, respectively.

floor the curvature capital requirement at zero. Additionally, both formulas include a variable³⁴⁸ to allow a banking organization to recognize the risk-reducing benefits of market risk covered positions with negative curvature in offsetting those with positive curvature, while limiting the reduction in the overall capital resulting from the aggregation of market risk covered positions with negative curvature.

Question 123: For consistency with flooring credit spreads at zero when the downward shock for curvature results in negative credit spreads, the agencies seek comment on whether the agencies should allow banking organizations to cap the level of shock (for example, $RW_K^{Curvature}$) at the difference between the current level of the credit spread risk curvature risk factor and zero when calculating the curvature risk. What would be advantages and disadvantages of this cap and why?

Question 124: The agencies solicit comment on the appropriateness of calculating the curvature risk-weighted sensitivity for the commodity risk class using the upward and downward shocks assuming a parallel shift of all tenors for each curve. Would a relative shift be more appropriate for calculating risk-weighted sensitivity for the commodity risk class and why?

iii. Buckets and Corresponding Risk Weights

After determining the net sensitivity for each of the proposed risk factors within each risk class, a banking organization would calculate the risk-weighted sensitivity by multiplying the net sensitivity for each risk factor by the risk weight prescribed for the applicable bucket.³⁴⁹ The proposed buckets and corresponding risk weights are largely consistent with the framework issued by the Basel Committee. However, to reflect the potential systematic risks that positions may experience in a time of stress and avoid reliance on external ratings in accordance with U.S. law, the agencies are proposing to use alternative criteria to define the bucketing structure for risk factors related to credit spread risk and to clarify the application of the credit spread buckets for certain U.S. products, as described in section

V.A.7.a.iii.II. of this **SUPPLEMENTARY INFORMATION**.³⁵⁰ Additionally, to appropriately reflect a jurisdiction's stage of economic development, the agencies are proposing to use objective market economy criteria to define the bucketing structure for risk factors related to equity risk, as described in section V.A.7.a.iii.III. of this **SUPPLEMENTARY INFORMATION**.

Furthermore, the proposal would include electricity in the same bucket as gaseous combustibles in view of the inherent relationship between the price of electricity and natural gas and to simplify the proposal, as described in section V.A.7.a.iii.IV. of this **SUPPLEMENTARY INFORMATION**.

The proposed buckets and associated risk weights are intended to appropriately capture the specific, idiosyncratic risks of market risk covered positions (for example, negative betas or variations in capital structure). These components of the proposal also are largely consistent with the Basel standards and would promote consistency and comparability in market risk capital requirements among banking organizations domestically and across jurisdictions. The sections that follow describe the proposed buckets and associated risk weights for each risk factor.

I. Interest Rate Risk

Table 1 to § _____.209 of the proposed rule sets forth the ten proposed buckets for the interest rate risk factors of market risk covered positions and the corresponding risk weight applicable to each bucket.³⁵¹ The proposal would require a banking organization to use separate buckets for each currency, for each of ten proposed tenors to capture most commonly traded instruments across market risk covered positions held by a banking organization and align with bucketing structures used by trading firms.

By delineating interest rate risk factors based on currency³⁵² and tenor, the granularity of the proposed buckets is intended to appropriately balance the risk sensitivity of the proposed framework with providing consistency in risk-based requirements across banking organizations by assigning

similar risk weights to similar kinds of positions.

Factors such as the stage of the economic cycle and the role of exchange rates can cause interest rate risk to diverge significantly across different currencies, particularly in stress periods. Accordingly, the proposal would require banking organizations to establish separate interest rate buckets for each currency.

OTC interest rate derivatives for liquid currencies have significant trading activity relative to non-liquid currencies, which means a banking organization faces a shorter liquidity horizon to offload exposure to interest rate risk factors in liquid currencies. Therefore, the proposal would allow a banking organization to divide the proposed risk weight applicable to each interest rate risk factor bucket by the square root of two if the interest rate risk factor relates to a liquid currency listed in § _____.209(b)(1)(iv) of the proposed rule or any other currencies specified by the primary Federal supervisor. This approach would allow a banking organization to apply a lower risk weight for purposes of the delta, vega, and curvature capital requirements, as applicable, for interest rate risk factors for the listed liquid currencies and any other currencies specified by the primary Federal supervisor.

II. Credit Spread Risk

Tables 3, 5, and 7 to § _____.209 of the proposed rule set forth the buckets and corresponding risk weights for the credit spread risk factors of non-securitization positions, correlation trading positions, and securitization positions non-CTP, respectively. Under the proposal, a banking organization would group the credit spread risk factors for non-securitization positions, correlation trading positions, and securitization positions non-CTP into one of twenty, sixteen, or twenty-five proposed buckets, respectively, based on market sector and credit quality.

The credit quality of a market risk covered position in a given sector is inversely related to its credit spread. Accordingly, the buckets for credit spread risk consider the credit quality of a given market risk covered position. More specifically, the proposal would generally use the same approach to delta credit spread buckets and corresponding risk weights provided in the Basel standards for non-securitization positions, correlation trading positions, and securitization positions non-CTP, except that the proposal would define the buckets using alternative criteria to capture the creditworthiness of the obligor. The delta credit spread buckets

³⁴⁸ Specifically, this refers to the psi variable (Ψ) within the intra and inter-bucket aggregation formulas in § _____.206(d)(2) and § _____.206(d)(3) of the proposed rule.

³⁴⁹ Vega and curvature capital requirements would use the same risk buckets as prescribed for delta. See § _____.209(c) and (d) of the proposed rule. Table 11 to § _____.209 of the proposed rule provides the proposed vega risk weights for each risk class, which incorporate the liquidity horizons for each risk class (risk of market illiquidity) from the Basel standards.

³⁵⁰ See 15 U.S.C. 78o–7 note.

³⁵¹ The buckets reflect that interest rates at a longer tenor have less uncertainty and thus lower volatility than interest rates at a shorter tenor that are more receptive to changes in interest rate risk.

³⁵² As noted in section V.A.7.a.i.I. of this **SUPPLEMENTARY INFORMATION**, under the proposal, each currency would represent a separate risk factor for interest rate risk.

in the Basel standards are defined based on the applicable credit ratings of the reference entity. Section 939A of the Dodd-Frank Act required the agencies to remove references to credit ratings in Federal regulations.³⁵³ Therefore, the agencies are proposing an approach that would allow for a level of risk sensitivity in the delta credit spread buckets and corresponding risk weights that would be generally consistent with the Basel standards and not rely on external credit ratings. Specifically, the proposal would categorize the delta credit spread buckets and corresponding risk weights for non-securitizations, correlation trading positions, and securitization positions non-CTP based on the definitions for investment grade as defined in the agencies' existing capital rule³⁵⁴ and the definitions of speculative grade³⁵⁵ and sub-speculative grade³⁵⁶ as defined in the proposal.

The credit spread risks of industries within the proposed sectors react similarly to the same market or economic events by principle of shared economic risk factors (for example, technology and telecommunications). Furthermore, the proposal would provide sectors similar to those contained in the Basel standards and specify a treatment for certain U.S.-specific sectors (for example, GSE debt and public sector entities). Specifically, the proposal would include GSE debt and public sector entities in the sector for government-backed non-financials, education, and public administration to appropriately reflect the potential variability in the credit spreads of such positions. Accordingly, assigning the same risk weight to these positively correlated sectors would reduce administrative burden and not have a material effect on risk sensitivity. Relative to the Basel standards, the proposal would expand the scope of the financials, including government-

backed financials, bucket to apply to real estate activities. This clarification aligns the treatment of real estate activities across the credit spread risk sector buckets and equity sector buckets.

Some of the proposed sector buckets consist of different industries, for example basic materials, energy, industrials, agriculture, manufacturing, and mining and quarrying. Positions within the same sector that are the same credit quality would be assigned to the same bucket because from a market risk perspective an economic event causing volatility in a sector tends to similarly affect all positions in the industries operating in that sector, even if there may be differences in credit quality between individual issuers within a sector. When calculating the delta and curvature capital requirements for securitization indices, the proposal would allow a banking organization to apply the look-through approach or treat the index as a single position, as described in section V.A.10.d.i. of this **SUPPLEMENTARY INFORMATION**.

The agencies recognize that there may be sectors that are not expressly categorized by the proposed buckets, and that specifying all sectors for such purpose may not be possible. The proposed buckets would include an "other sector" category for market risk covered positions that do not belong to any of the other buckets.

The proposed risk weights are based on empirical data which reflect the historical stress period for which the risk factors within the bucket caused the largest cumulative loss at various liquidity horizons. As such, for speculative grade sovereign exposures, multilateral development banks, and specified supranational entities³⁵⁷ the agencies are proposing a 3 percent risk weight for such positions that are non-securitization positions (Table 3 to § ___.209) and a 13 percent risk weight for such positions that are correlation trading positions (Table 5 to § ___.209).³⁵⁸ Based on the agencies'

quantitative analysis of the historical data, the credit spreads of speculative grade sovereign bonds have typically widened more than 200 basis points after a downgrade, and significantly more for sub-speculative grade sovereigns.³⁵⁹ Multilateral development banks and specified supranational entities exhibit similar credit spread risk as sovereign exposures and merit similar risk weights. Additionally, for non-securitization positions and correlation trading positions, the proposal would include separate buckets with higher risk weights (7 percent and 16 percent, respectively) for sub-speculative grade sovereign exposures, multilateral development banks, and specified supranational entities than for those of speculative grade, because of the additional risk posed by sub-speculative exposures.

For securitization positions non-CTP (Table 7 to § ___.209), the proposal would clarify the treatment of personal loans and dealer floorplan loans within the delta credit spread buckets. Specifically, the proposal would require a banking organization to include personal loans within the bucket for credit card securitizations and dealer floorplans within the bucket for auto securitizations in order to appropriately

stressed expected shortfall specified in the models-based non-default capital requirement. For calibration, the agencies used IHS Markit credit default swap data and calculated ten-day overlapping absolute changes in sovereign credit default swap spreads. For the period of stress, the agencies used the period from May 2011 to May 2012 during the European sovereign debt crisis, which is representative of stress risk for these exposures. The agencies calibrated the risk weight by multiplying the standard deviation of the absolute changes in sovereign spreads over the stress period by 2.34 and by the square root of the applicable liquidity horizon divided by ten days. The agencies multiplied the standard deviation by 2.34 to ensure the risk weight was calibrated to the same 97.5 percent threshold required in the expected shortfall measure and to align with the calculation of other risk weights. The multiplication by the square root of the ratio of the liquidity horizon to ten days was done to convert the metric to the appropriate liquidity horizon specified in the models-based non-default capital requirement.

³⁵⁹ The result of calibration based on the IHS Markit credit default swap data is a seven percent risk weight for sub-speculative grade. Credit default swap data were used for sub-speculative sovereign exposures because credit default swap spreads generally reflect the credit spread risk characteristics of sub-speculative grade sovereign issuers. For speculative grade sovereign exposures, the proposal would assign a three percent risk weight, rather than the two percent risk weight specified in the Basel standards, because the analysis described above shows that the credit spreads of speculative grade sovereign bonds have typically widened more than two percent after a downgrade. In addition, the proposed three percent risk weight for such exposures would support the agencies' objectives of ensuring an appropriate level of conservativeness while also differentiating between the relative risks of speculative and sub-speculative grade sovereign exposures.

³⁵³ 15 U.S.C. 78o–7 note.

³⁵⁴ See 12 CFR 3.2 (OCC); 12 CFR 217.2 (Board); 12 CFR 324.2 (FDIC).

³⁵⁵ The proposal would define speculative grade to mean that the entity to which a banking organization is exposed through a loan or security, or the reference entity with respect to a credit derivative, has adequate capacity to meet financial commitments in the near term, but is vulnerable to adverse economic conditions, such that should economic conditions deteriorate, the issuer or the reference entity would present an elevated default risk.

³⁵⁶ The proposal would define sub-speculative grade to mean that the entity to which a banking organization is exposed through a loan or a security, or the reference entity with respect to a credit derivative, depends on favorable economic conditions to meet its financial commitments, such that should economic conditions deteriorate, the issuer or the reference entity likely would default on its financial commitments.

³⁵⁷ Under the proposal, specified supranational entities would include the Bank for International Settlements, the European Central Bank, the European Commission, the International Monetary Fund, the European Stability Mechanism, and the European Financial Stability Facility. Consistent with the current capital rule, exposures to such entities would continue to be subject to a zero percent risk weight for purposes of general credit risk under the proposal.

³⁵⁸ The agencies calibrated the credit spread risk weights for speculative and sub-speculative sovereign exposures by applying a methodology similar to what the Basel Committee used for calibrating risk weights for other asset classes. In particular, the agencies used a methodology that aligned the sensitivities-based method risk weight calibration to the liquidity horizon-adjusted

reflect the lower credit spread risk of these positions relative to those within the other sector bucket.³⁶⁰

For securitization positions non-CTP, the proposal would also clarify the delta credit spread buckets for residential mortgage-backed securities to help ensure consistency in bucketing assignments across banking organizations. Specifically, the proposal would define prime residential mortgage-backed securities based on the definition of qualified residential mortgages in the credit risk retention rule³⁶¹ and would define sub-prime residential mortgage-backed securities based on the definitions of higher-priced mortgage loans and high-cost mortgages in Regulation Z,³⁶² respectively.

Under the proposal, prime residential mortgage-backed securities would be defined as securities in which the underlying exposures consist primarily of qualified residential mortgages as defined under the credit risk retention rule. The eligibility criteria of the qualified residential mortgage definition are designed to help ensure the borrower's ability to repay.³⁶³ Residential mortgage-backed securities that are primarily backed by qualified residential mortgage loans carry significantly lower credit risk than those backed primarily by non-qualifying loans. Therefore, the proposal would use the existing definition of qualified residential mortgage in the credit risk retention rule, which refers to the Regulation Z definition of qualified mortgage to identify residential mortgage-backed securities that are primarily backed by underlying loans with sufficiently low credit risk to be classified as prime.

Similarly, the proposal would define a sub-prime residential mortgage-backed security as a security in which the underlying exposures consist primarily

of higher-priced mortgage loans as defined under Regulation Z (12 CFR 1026.35), high-cost mortgages as defined under Regulation Z (12 CFR 1026.32), or both. In general, Regulation Z defines higher-priced mortgage loans³⁶⁴ and high-cost mortgages³⁶⁵ to include consumer credit transactions secured by the consumer's principal dwelling with an annual percentage rate³⁶⁶ that exceeds the average prime offer rate (APOR)³⁶⁷ for a comparable transaction. Consistent with Regulation Z, the subprime market is identified by loan price rather than by borrower characteristics, which could present operational difficulties and other problems. Therefore, the proposal would use the existing definitions in Regulation Z, which rely on a loan's annual percentage rate and other characteristics, to identify residential mortgage-backed securities that are primarily backed by underlying loans with sufficiently high credit risk to be classified as sub-prime. In addition, the proposal would reduce compliance burden for banking organizations by allowing them to leverage criteria already being used to evaluate mortgage

loans for coverage under the prescribed Regulation Z thresholds.

The agencies recognize that a securitization vehicle that holds residential mortgage-backed securities may hold assets other than the residential mortgage loans, such as interest rate swaps, to support its liabilities. Furthermore, not all mortgage loans that satisfy the requirements of the proposed definitions when the securitization vehicle acquires the residential mortgage-backed securities will continue to do so throughout the lifecycle of the position. To minimize variability in risk-based capital requirements, reduce the operational burdens imposed on banking organizations and help ensure consistency and comparability in risk-based capital requirements across banking organizations, the proposal would define prime and sub-prime as those vehicles that primarily hold qualified residential mortgages or high-priced mortgage loans and high-cost mortgages, respectively. All other mortgage-backed securities would be defined as mid-prime mortgage-backed securities.

Question 125: The agencies seek comment on the appropriateness of adding the sub-speculative grade category for non-securitizations and for correlation trading positions. What, if any, operational challenges might the proposed bucketing structure pose for banking organizations and why? What, if any, alternatives should the agencies consider to better capture the risk of these positions?

Question 126: The agencies seek comment on the treatment of certain sovereign exposures. What would be the advantages and disadvantages of applying a zero percent credit spread risk weight to short-term (less than one year) U.S. sovereign exposures such as U.S. Treasury securities that are investment grade, and why? What, if any, alternative risk weight treatment should the agencies consider for sovereign exposures that are primarily exposed to interest rate risk, rather than credit spread risk, and why?

Question 127: The agencies seek comment on the risk weight for covered bonds. What, if any, alternative approaches would better serve to differentiate the credit quality of highly rated covered bonds without referring to credit ratings and why?

Question 128: The agencies seek comment on whether the proposed definitions for each sector bucket appropriately capture the characteristics to distinguish between the categories of residential mortgage-backed securities. What would be the

³⁶⁰ The other sector risk bucket refers to bucket 25 in Table 7 to § __.209 of the proposed rule.

³⁶¹ The credit risk retention rule generally requires a securitizer to retain not less than 5 percent of the credit risk of certain assets that the securitizer, through the issuance of an asset-backed security, transfers, sells, or conveys to a third party. See 12 CFR part 43 (OCC); 12 CFR part 244 (Board); 12 CFR part 373 (FDIC).

³⁶² To help ensure that credit terms are disclosed in a meaningful way so consumers can compare credit terms more readily and knowledgeably, Regulation Z mandates regulations on how lenders may calculate and disclose loan costs. See 12 CFR part 1026.

³⁶³ Under the general definition for qualified mortgages in 12 CFR 1026.43(e)(2), a creditor must satisfy the statutory criteria restricting certain product features and points and fees on the loan, consider and verify certain underwriting requirements that are part of the general ability-to-repay standard, and meet certain other requirements.

³⁶⁴ Under Regulation Z, a higher-priced mortgage loan is defined as a closed-end consumer credit transaction secured by the consumer's principal dwelling with an annual percentage rate that exceeds the average prime offer rate for a comparable transaction as of the date the interest rate is set by a certain amount of percentage points depending on the type of loan. See 12 CFR 1026.35(a)(1).

³⁶⁵ Under Regulation Z, a high-cost mortgage is defined as a closed- or open-end consumer credit transaction secured by the consumer's principal dwelling and in which the annual percentage rate exceeds the average prime offer rate for a comparable transaction by a certain amount, or the transaction's total points and fees exceed a certain amount, or under the terms of the loan contract or open-end credit agreement, the creditor can charge a prepayment penalty more than 36 months after consummation or account opening, or prepayment penalties that can exceed, in total, more than 2 percent of the amount prepaid. See 12 CFR 1026.32(a).

³⁶⁶ Annual percentage rates are derived from average interest rates, points, and other loan pricing terms currently offered to consumers by a representative sample of creditors for mortgage transactions that have low-risk pricing characteristics. Other pricing terms include commonly used indices, margins, and initial fixed-rate periods for variable-rate transactions. Relevant pricing characteristics include a consumer's credit history and transaction characteristics such as the loan-to-value ratio, owner-occupant status, and purpose of the transaction.

³⁶⁷ Loans with higher annual percentage rates or that have higher points and fees or prepayment penalties generally are extended to less creditworthy borrowers (for example, weaker borrower credit histories, higher borrower debt-to-income ratios, higher loan-to-value ratios, less complete income or asset documentation, less traditional loan terms or payment schedules, or combinations of these or other risk factors) and thus pose higher credit risk.

benefits and drawbacks of using the definition of qualified residential mortgage in the credit risk retention rule? What, if any, alternative approaches should the agencies consider to more appropriately distinguish between the categories of residential mortgage-backed securities?

Question 129: The agencies seek comment on whether the proposed sector bucket definitions for residential mortgage-backed securities are sufficiently clear. What, if any, additional criteria should the agencies consider to define “primarily” in the context of residential mortgage-backed securities (for example, quantitative limits or other thresholds) and what are the associated benefits and drawbacks of doing so?

Question 130: What, if any, operational challenges might the proposed sector bucket definitions pose for banking organizations in allocating the credit spread risk sensitivities of existing mortgage exposures to the respective buckets and why? To what extent would using one metric (for example, average prime offer rate) to define the sector buckets address any such concerns?

Question 131: What, if any, other sector buckets require additional clarification, and why?

III. Equity Risk

Table 8 to § __.209 of the proposed rule provides the proposed delta buckets and corresponding risk weights for market risk covered positions with equity risk, which would be generally consistent with those in the Basel standards.³⁶⁸ Under the proposal, a banking organization would group the equity risk factors for market risk covered positions into one of thirteen buckets based on market capitalization, market economy, and sector.

The proposed sector buckets and associated risk weights would differentiate between large and small market capitalization issuers to appropriately reflect the relatively higher volatility and increased equity risk of small market capitalization issuers.³⁶⁹ Under the proposal, issuers

with a consolidated market capitalization equal to or greater than \$2 billion, adjusted to reflect CPI-W,³⁷⁰ would be classified as large market capitalization issuers, and all other issuers would be classified as small market capitalization issuers. The proposed large market capitalization designation would help ensure an amount of information and trading activity related to an issuer that is suitable for differentiating risks between large and small market capitalization issuers. The market capitalization data of publicly traded firms is readily available and therefore would not be burdensome to identify.

For purposes of the market economy criteria, the proposal would differentiate between “liquid market economy” countries and territorial entities and emerging market economy countries and territorial entities to appropriately reflect the higher volatility associated with emerging market equities. Under the proposal, a banking organization would use the following criteria to identify annually a country or territorial entity with a liquid market economy: (1) \$10,000 or more in per capita income, (2) \$95 billion or more in market capitalization of all domestic stock markets, (3) no single export sector or commodity comprises more than 50 percent of the country or entity’s total annual exports, (4) no material controls on liquidation of direct investment, and (5) free of sanctions imposed by the U.S. Office of Foreign Assets Control against a sovereign entity, public sector entity, or sovereign-controlled enterprise of the country or territorial entity.³⁷¹ Countries or territorial entities that satisfy all five criteria or that are in a currency union³⁷² with at least one country or territorial entity that satisfies all five criteria would be classified as liquid

with a durable business model. During downturns in the economic cycle, such complications can increase the volatility (and therefore the equity risk) of investments in such issuers.

³⁷⁰ See section I.I.E. of this **SUPPLEMENTARY INFORMATION** for a more detailed discussion on indexing nominal thresholds in the proposal going forward to reflect CPI-W.

³⁷¹ According to the agencies’ analysis of the data, the initial list of “Liquid Market Economies” would include: United States, Canada, Mexico, the 19 Euro area countries (Austria, Belgium, Cyprus, Estonia, Finland, France, Germany, Greece, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Portugal, Slovakia, Slovenia, and Spain), non-Eurozone, western European nations (the United Kingdom, Sweden, Denmark and Switzerland), Japan, Australia, New Zealand, Singapore, Israel, South Korea, Taiwan, Chile, and Malaysia.

³⁷² The proposal would define a currency union as an agreement by treaty among countries or territorial entities, under which the members agree to use a single currency, where the currency used is described in § __.209(b)(1)(i) of the proposed rule.

market economies, and all others would be classified as emerging market economies.

In relying on a set of objective criteria, the proposed approach for market economy buckets is designed to increase risk sensitivity by distinguishing between equities with lower volatility or higher volatility in a manner consistent with the Basel standards while also providing sufficient flexibility to reflect changes to the list of market economies as countries’ profiles evolve.

For market risk covered positions with exposure to large market capitalization issuers, the proposal would group equity risk factors into one of four sectors for each of the emerging market and liquid market economy categories: (1) consumer goods and services, transportation and storage, administrative and support service activities, healthcare, and utilities; (2) telecommunications and industrials; (3) basic materials, energy, agriculture, manufacturing, and mining and quarrying; and (4) financials including government-backed financials, real estate activities, and technology.

The proposed equity buckets are intended to reflect differences in the extent to which equity prices in varying sectors are affected by the business cycle (such as GDP growth). Differentiating sectors for purposes of assigning risk weights to exposures to large market capitalization issuers is relevant because some sectors are more sensitive than others to the given phase in a business cycle. The proposal groups together industries into sectors that tend to have similar economic sensitivities and therefore are sufficiently homogenous from a risk perspective. Conversely, among small market capitalization issuers, volatility is more attributable to whether a market risk covered position is related to an emerging market economy or liquid market economy, regardless of the sector. Therefore, the proposed buckets for small market capitalization issuers delineate emerging market economies from liquid market economies but do not delineate sectors.

In addition, the proposal includes three buckets representing other sectors; equity indices that are both large market capitalization and liquid market economy (non-sector specific); and other equity indices (non-sector specific). As is the case with credit spread buckets, the agencies recognize that specifying all sectors for the purpose of applying buckets is infeasible. Accordingly, the last three buckets set forth in Table 8 to § __.209 are intended to strike a balance between risk sensitivity and operational burden.

³⁶⁸ Vega and curvature capital requirements use the same buckets as prescribed for delta. See § __.209(c)(1), (d)(1) of the proposed rule.

³⁶⁹ Relative to large market capitalization issuers, instruments issued by those with small market capitalization are typically less liquid and thus pose greater equity risk, as investors holding these instruments may encounter difficulty in buying or selling shares particularly during a stress event. Small market capitalization issuers also typically have less access to capital (such that they are less capable of obtaining sufficient financing to bridge gaps in cash flow) and have a relatively shorter operational history and thereby less evidence of a

Equity indices aggregate risk across different sectors and accordingly require separate treatment from sector-specific buckets. Nonetheless, equity indices that are both large market capitalization and liquid market economy are relatively less risky than other equity indices and can be identified in the course of determining large market capitalization issuers and liquid market economies, such that it would not impose a great burden to delineate them as a separate bucket.

Question 132: The agencies solicit comment on the proposed definition of liquid market economy. Specifically, would the proposed criteria sufficiently differentiate between economies that have liquid and deep equity markets? What, if any, alternative criteria should the agencies consider and why? What, if any, of the proposed criteria should the agencies consider eliminating and why?

Question 133: The agencies solicit comment related to the proposed bucket structure for equity risk. What, if any, other relationships should the agencies consider for highly correlated risks among different equity types that are currently in different buckets and why? Please describe the historical correlations between such equities, and historical price shocks for purposes of assigning the appropriate risk weight.

Question 134: The agencies solicit comment related to the use of materiality criteria to identify annually a country or territorial entity with a liquid market economy. What are the advantages and disadvantages of indexing such thresholds in the proposal to reflect CPI-W going forward, and why?

IV. Commodity Risk

Table 9 to § __.209 of the proposed rule provides the proposed delta buckets and corresponding risk weights for positions with commodity risk. Under the proposal, a banking organization would group commodity risk factors into one of twelve buckets based on the following commodity classes: energy—solid combustibles; energy—liquid combustibles; energy—carbon trading; freight; metals—non-precious; gaseous combustibles and electricity; precious metals (including gold); grains and oilseed; livestock and dairy; forestry and agricultural; and commodity index.

The proposed buckets and associated risk weights for commodity risk would be distinguished by the underlying commodity types described above to appropriately reflect differences in volatility (and therefore market risk) between those commodity types. In general, the price sensitivity of a

commodity to changes in global supply and demand can vary between commodity types due to production and storage cycles, along with other factors. For example, energy commodities are generally delivered year-round, whereas grain production is seasonal such that deliverable futures contracts are available on dates to coincide with harvest. Further, commodities within the proposed commodity types have generally historically similar levels of volatility and high correlation. The proposed commodity buckets are intended to strike a balance between the risk sensitivity of measuring market risk for the delineated commodity groups and the operational burden of capturing the market risk of all commodities. As is the case with credit spread buckets and equity buckets, the agencies recognize that specifying all commodities for the purpose of applying buckets is operationally difficult. Accordingly, the proposal includes an additional “other commodity” bucket to conservatively capture the risk of additional commodities that are not otherwise specified and a commodity index bucket to include indexes that may track multiple commodities. The commodity index bucket is introduced to capture the diversified risk of pooling several commodities together that do not concentrate into a particular sector.

As is the case with other buckets, the proposed risk weights for commodity risk factors are based on empirical data during historical periods of stress. The agencies are proposing to align the delta risk factor buckets and corresponding risk weights with those provided in the Basel standards, with two exceptions. First, the Basel standards prescribe separate buckets with different risk weights for electricity and gaseous combustibles. The proposal would include a single bucket for electricity and gaseous combustibles to allow for greater recognition of hedges between these two commodities.³⁷³ The proposed bucketing structure would reflect appropriately the inherent relationship between the price of electricity and natural gas, as empirical evidence demonstrates a strong correlation between price movements of

natural gas and electricity contracts.³⁷⁴ Second, the proposal would introduce a bucket for commodity indices with a prescribed risk weight of 30 percent and intra bucket correlation of 50 percent.³⁷⁵

Question 135: The agencies solicit comment related to the proposed bucket structure and risk weights for commodities. What, if any, other relationships should the agencies consider for highly correlated risks among different commodity types that are currently in different buckets and why? Please describe the historical correlations between such commodities,

³⁷⁴ The calibration of the risk weight for the gas and electricity commodity risk bucket in the sensitivities-based method followed the stressed expected shortfall calibration methodology specified in the models-based non-default capital requirement, accounting for variations in liquidity horizons. The agencies used Thomson Reuters to obtain spot price data for electricity and gas risk factors and calculated ten-day overlapping returns constructed as $r_t = (p_t - p_{t/10})/p_{t/10}$, where r is the return, p is the spot price for gas and electricity risk factors for the most recent outcome, denoted as t , and for the date that is 10 business days prior to t , denoted as $t/10$. The 97.5 percent expected shortfall was calculated as the average of the m worst returns, where $m = n * 2.5$ percent rounded to the nearest integer, and n is the number of ten-day returns that had all values for both p_t and $p_{t/10}$. For the period of stress, the agencies used the period between September 1, 2008 and August 31, 2009, when the S&P Goldman Sachs Commodity Index had the highest month-end 99th percentile VaR. The resulting estimated risk weight for electricity and gas was 48 percent. For the calibration of the intra-bucket correlation parameter between natural gas and electricity, the agencies used Bloomberg to source data on 10 series of commodity futures (five series for each commodity, representing five distinct markets with high trading activity for both natural gas and electricity, specifically, the United States, United Kingdom, France, Germany, and the Netherlands) and calculated ten-day overlapping returns for each series as $r_t = (p_t - p_{t/10})/p_{t/10}$. To estimate the pairwise correlation between gas and electricity, the agencies used the period between January 2018 and December 2022, which included the time of unprecedented commodity market volatility. The resulting estimated average pairwise correlation between electricity and natural gas was 66 percent.

³⁷⁵ The agencies are applying a similar methodology for the calibration of the commodity index bucket risk weight as the Basel Committee used for calibrating risk weights for all asset classes, which aligns the sensitivities-based method risk weight calibration to the liquidity horizon adjusted stressed expected shortfall specified in the internal model approach. When calibrating commodity risk weights the Basel Committee used data on prices and calculated ten day overlapping returns (such as relative changes in prices). For the period of stress, the agencies used the second half of 2008 and the first half 2009 stress period. The standard deviation obtained was multiplied by 2.34 to reflect the expected shortfall quantile of 97.5. The estimate was adjusted to meet the commodity liquidity horizon specified for internal models. The last step takes the average of the estimates across several commodity indices. The intra-bucket correlation was calibrated following the Basel Committees methodology of calculating long term correlations for the sensitivities-based method. Specifically, the index bucket intra-bucket correlation was estimated for returns over the period starting in late 2000 to early 2024.

³⁷³ The agencies are proposing to include electricity and gas in the same bucket based on an analysis of correlations between natural gas and electricity futures prices pairs across multiple geographical regions. The analysis shows that pairwise correlations between gas and electricity prices within the same region are high and stable and in excess of the inter bucket correlation that would be applied if the two financial instruments were bucketed separately.

and historical price shocks for purposes of assigning the appropriate risk weight.

Question 136: The agencies solicit comment on the bucket for energy—carbon trading. To what extent is the proposed 60 percent risk weight reflective of the risk in carbon trading under stressed conditions?

V. Foreign Exchange Risk

The proposal would require a banking organization to establish separate buckets for each exchange rate between the currency in which a market risk covered position is denominated and the reporting currency (or, as applicable, alternative base currency). To calculate the risk-weighted delta sensitivity for foreign exchange risk, the proposal would require a banking organization to apply a 15 percent risk weight to each currency pair, with one exception. Similar to the proposed risk weights for interest rate risk, the proposal would allow a banking organization to divide the proposed 15 percent risk weight by the square root of two for certain liquid currency pairs specified under the proposal,³⁷⁶ as well as any additional currencies specified by the primary Federal supervisor. Given high trading activity and use of such liquid currency pairs relative to non-liquid pairs, the proposal incorporates the effect of a shorter liquidity horizon for liquid currency pairs and would allow a banking organization to appropriately reflect the lower foreign exchange risk posed by such liquid currency pairs.

iv. Correlation Parameters

To appropriately reflect the risk-mitigating benefits of hedges and diversification, the proposal would prescribe the correlation parameters³⁷⁷ that a banking organization would be required to use for each risk factor pair when calculating the aggregate bucket and risk class level capital requirements for delta, vega, and curvature.³⁷⁸ The proposed correlation parameters which closely follow those in the Basel standards are calibrated to capture market correlations observed over a long time horizon that included a period of

stress based on empirical data.³⁷⁹ To determine the applicable correlation parameter for purposes of calculating the bucket or risk class level capital requirements, a banking organization would apply the same criteria used to define the risk factors within each risk class, as described in section V.A.7.a.i. of this **SUPPLEMENTARY INFORMATION**, with two exceptions.

First, in addition to the proposed risk factors for credit spread risk of non-securitizations, securitization positions non-CTP, and correlation trading positions,³⁸⁰ the proposal would require a banking organization to consider the name (in the case of non-securitization positions and correlation trading positions) and tranche (in the case of securitization positions non-CTP) to determine the applicable correlation parameters for risk factors within the same bucket when calculating the aggregate bucket level capital requirements for delta and vega.

In the case of credit spread risk for securitization positions non-CTP, the agencies generally are proposing to require a 100 percent intra-bucket correlation parameter for securitization positions in the same bucket and related to the same securitization tranche with more than 80 percent overlap in notional terms and a 40 percent intra-bucket correlation parameter otherwise. Furthermore, in the case of credit spread risk for non-securitization and correlation trading positions, the proposal would allow banking organizations to treat Uniform Mortgage-Backed Security (UMBS) positions, including to-be-announced (TBA) securities and UMBS-eligible deliverable pools,³⁸¹ as exposures to a single obligor, regardless of the issuing entity of the UMBS. The single security initiative led by Fannie Mae and Freddie Mac has homogenized the mortgage pool and security characteristics for UMBS, such that positions issued by different obligors

have immaterial observed basis risk.³⁸² In addition, because mortgage pools delivered by either Fannie Mae or Freddie Mac can satisfy an UMBS TBA security, no significant pricing difference has been observed since the introduction of the single security initiative, as shown by empirical studies on agency mortgage-backed securities.³⁸³

Second, for risk factors allocated to the “other sector” bucket within the credit spread and equity risk classes,³⁸⁴ the bucket level capital requirement would equal the sum of the absolute values of the risk-weighted sensitivities for both the delta capital requirement and the vega capital requirement (no correlation parameters would apply to such exposures). Additionally, the proposal would require a banking organization to assign a zero percent correlation parameter when aggregating the delta risk-weighted sensitivity of exposures within the “other sector” bucket with those in any of the other bucket-level capital requirements for credit spread and equity risk.

The agencies consider that the proposed correlation parameters are sufficiently conservative to appropriately capture the potential interactions between risk factors that the market risk covered positions may experience in a time of stress.

Question 137: Related to securitization positions non-CTP, the agencies seek comments on requiring banking organizations to apply a 100 percent delta correlation parameter for cases where the securitization positions are in the same bucket, are related to the same securitization tranche, and have more than 80 percent overlap in notional terms. What, if any, alternative criteria should the agencies consider for application of the 100 percent correlation parameter and why? For example, what are benefits and drawbacks of allowing a banking organization to apply a 100 percent delta correlation parameter if the securitization tranches can offset all or substantially all of the price risk of the

³⁷⁶ The proposal would allow a banking organization to apply a lower risk weight for any currency pair formed of the following currencies: USD, EUR, JPY, GBP, AUD, CAD, CHF, MXN, CNY, NZD, HKD, SGD, TRY, KRW, SEK, ZAR, INR, NOK, and BRL.

³⁷⁷ The correlation parameter measures how different risk factors (for example, interest rates at various points on a curve) move together and determines how banking organizations could diversify risk and offset risks with each other.

³⁷⁸ As there is only one risk factor prescribed for foreign exchange risk, the proposal does not specify an intra-bucket correlation parameter.

³⁷⁹ For example, the correlation parameters for vega, curvature, delta interest rate risk, and delta equity risk are identical to those in the Basel standards.

³⁸⁰ As described in section V.A.7.a.i.II. of this **SUPPLEMENTARY INFORMATION**, the proposal would define the delta risk factors for credit spread risk along two dimensions: the credit spread curve of the reference entity and the tenor of the position.

³⁸¹ Chapter 8 of the Securities Industry and Financial Markets Association (SIFMA) Uniform Practices guidelines states that all UMBS and Supers, which are single class, pass-through, TBA-eligible securities, are good delivery for an UMBS TBA trade, regardless of issuer. See SIFMA, Chapter 8: Standard Requirements for Delivery on Settlements of UMBS and Ginnie Mae Securities, Uniform Practices (2024), <https://www.sifma.org/wp-content/uploads/2023/02/uniform-practices-2023-chapter-8.pdf>.

³⁸² See, e.g., Haoyang Liu, Zhaogang Song, and James Vickery, “Defragmenting Markets: Evidence from Agency MBS” (December 2021), https://www.newyorkfed.org/research/staff_reports/sr965.html. The research paper finds that Fannie Mae mortgage-backed securities command a liquidity premium over Freddie Mac, of about 17 cents per \$100 face value in price and about 4 basis points in yield. Furthermore, the difference in trading costs between Fannie Mae and Freddie Mac in the TBA market overall is extremely small, only 2 basis points.

³⁸³ See id.

³⁸⁴ The other sector buckets refer to buckets 18 and 16 in Tables 3 and 5, respectively, as well as buckets 25 and 11 in Tables 7 and 8, respectively, of § __.209 of the proposed rule.

position? What challenges exist, if any, with respect to banking organizations' ability to implement such criteria? What quantitative measures can be used to implement these criteria? How would a market stress impact the basis risk between securitization tranches within the same buckets, and the ability to adequately hedge all or substantially all of the price risk using similar but unrelated securitized tranches?

Question 138: The agencies request comment on the appropriateness of allowing banking organizations to apply a higher intra-bucket correlation parameter of 99.5 percent to 99.9 percent for energy—carbon trading. What would be the benefits and drawbacks of such a higher correlation parameter relative to the correlation parameter of 40 percent currently contained in the proposal?

Question 139: The agencies request comment on requiring banking organizations to apply a 35 percent correlation parameter for Uniform Mortgage Backed Securities. What alternative correlation parameter should the agencies consider for Uniform Mortgage Backed Securities and why?

b. Residual Risk Capital Requirement

It is not possible in a standardized methodology, such as the sensitivities-based method, to sufficiently specify all relevant distinctions between different market risks to capture appropriately existing and future financial products. Accordingly, the proposed residual risk add-on capital requirement (residual risk add-on) is intended to reflect risks that would not be fully reflected in the sensitivities-based capital requirement or the default risk capital requirement, as described in sections V.A.7.a. and V.A.9. of this **SUPPLEMENTARY INFORMATION**, respectively. Specifically, the residual risk add-on is intended to capture exotic risks, such as weather, longevity, and natural disasters, as well as other residual risks, such as gap risk, correlation risk, and behavioral risks such as prepayments.

To calculate the residual risk add-on, the proposal would require a banking organization to risk weight the gross effective notional amount of a market risk covered position by 1 percent for market risk covered positions that have an exotic exposure³⁸⁵ and by 0.1 percent for other market risk covered positions with residual risks (described

in the next section). The total residual risk add-on capital requirement would equal the sum of such capital requirements across subject market risk covered positions.

i. Positions Subject to the Residual Risk Add-on

The proposal would require a banking organization to calculate a residual risk add-on for market risk covered positions that have an exotic exposure, and those with known residual risks that are not captured by the sensitivities-based method or the default risk capital requirement. As the potential losses of market risk covered positions with exotic exposures (longevity risk, weather, natural disaster, among many) would not be adequately captured under the sensitivities-based method, the proposed residual risk add-on capital requirement would equal to 1 percent of the gross effective notional amount of the market risk covered position, which is intended as an appropriately conservative capital requirement for such exposures.

In contrast, market risk covered positions with other residual risks would include those for which the primary risk factors are mostly captured under the sensitivities-based method or the default risk capital requirement, but for which there are additional risks that are not fully captured by those components. Specifically, under the proposal, market risk positions with other residual risks would include: (1) correlation trading positions with three or more underlying exposures that are not hedges of correlation trading positions; (2) options or positions with embedded optionality, where the payoffs could not be replicated by a finite linear combination of vanilla options or the underlying instrument; and (3) options or positions with embedded optionality that do not have a stated maturity or strike price or barrier, or that have multiple strike prices or barriers.³⁸⁶ As the residual risk add-on is intended as a supplement to the capital requirements under the sensitivities-based method or default risk capital requirement for these known risks, the residual risk add-on capital requirement for market risk covered positions with other residual risks would equal to 0.1 percent of the gross

effective notional amount of the market risk covered position.

Furthermore, in situations when a banking organization cannot use the look-through approach to calculate the market risk capital requirements for an equity position in investment fund and when the investment fund's mandate permits the fund to invest in exposures with exotic or other residual risks, the proposal would require a banking organization to subject that portion of the exposure amount resulting from an equity position in an investment fund to the residual risk add-on.

In addition to positions with exotic or other residual risks, a primary Federal supervisor may require a banking organization to subject other market risk covered positions to the residual risk add-on, if the proposed framework would not otherwise appropriately capture the material risks of such positions. While the proposed definitions are intended to reasonably identify positions with risks not appropriately captured by other aspects of the proposed framework, there could be instances where a market risk covered position should be subject to the residual risk add-on in order to capture appropriately the associated market risk of the exposure in risk-based capital requirements. To allow the agencies to address such instances on a case-by-case basis, the proposal would allow the primary Federal supervisor to make such determinations, as appropriate.

ii. Excluded Positions

To promote appropriate capitalization of risk, the proposal would allow certain market risk covered positions to be excluded from the calculation of the residual risk add-on if such positions meet the following set of exclusions. Specifically, the proposal would permit a banking organization to exclude market risk covered positions, other than those that have an exotic exposure, from the residual risk add-on, if the position is (1) listed on an exchange; (2) eligible to be cleared by a CCP or QCCP; or (3) an option that has two or fewer underlying positions and does not contain path dependent pay-offs. The proposed exclusions would permit a banking organization to exclude simple options, such as spread options, which have two underlying positions, but not those for which the payoffs cannot be replicated by a combination of traded instruments. As spread options would be subject to the vega and curvature requirements under the sensitivities-based method, subjecting spread options to the residual risk add-on would be incommensurate with the risks of such

³⁸⁵ Under the proposal, an exotic exposure means an underlying exposure that is not in scope of any of the risk classes under the sensitivities-based capital requirement or is not captured by the default risk capital requirement, which includes, but is not limited to, longevity risk, weather risk, and natural disaster risk.

³⁸⁶ As proposed, the criteria are intended to capture (1) correlation risks for basket options, best of options, basis options, Bermudan options, and quanto options; (2) gap risks for path dependent options, barrier options, Asian options and digital options; and (3) behavior risks that might arise from early exercise (call or put features, or pre-payment).

positions and could increase inappropriately the cost of hedging without a corresponding reduction in risk. Additionally, as most agency mortgage-backed securities and certain convertible instruments (for example, callable bonds) are eligible to be cleared, the proposal would allow a banking organization to exclude these instruments that are eligible to be cleared from the residual risk add-on, despite the pre-payment risk of such instruments.³⁸⁷

The proposal would also allow a banking organization to exclude market risk covered positions, including those with exotic exposures, from the residual risk add-on if the banking organization has entered into a third-party transaction that exactly matches the market risk covered position (a back-to-back transaction). As the long position and short position of two identical trades would completely offset, excluding such transactions from the residual risk add-on would appropriately reflect the lack of residual risk inherent in such transactions.

Furthermore, the proposal would allow a banking organization to exclude certain offsetting positions that may exhibit insignificant residual risks and for which the residual risk add-on would be overly punitive. Specifically, the proposal would allow a banking organization to exclude the following from the residual risk add-on: (1) positions that can be delivered into a derivative contract where the positions are held as hedges of the banking organization's obligation to fulfill the derivative contract (for example, TBA and security interests in associated mortgage pools) as well as the associated derivative exposure; (2) any debt issued or guaranteed by a GSE or any securities issued and guaranteed by the U.S. government; (3) positions subject to the fallback capital requirement; (4) internal transactions between two trading desks, if only one trading desk is model-eligible; and (5) any other types of positions that the primary Federal supervisor determines are not required to be subject to the residual risk add-on, as the material risks would be sufficiently captured under other aspects of the proposed market risk framework. Based on these criteria, the agencies expect that a banking organization would not need to calculate a residual risk add on for the

following risks: risks from cheapest-to-deliver options; volatility smile risk; correlation risk arising from multi-underlying European or American plain vanilla options; dividend risk; and index and multi-underlying options that are well-diversified or listed on exchanges for which sensitivities are captured by the capital requirement under the sensitivities-based method.

Question 140: The agencies seek comment on all aspects of the proposed residual risk add-on. Specifically, the agencies request comment on whether there are alternative methods to identify more precisely exotic exposures and other residual risks for which the residual risk capital requirement is appropriate. What, if any, additional instruments and offsetting positions should be excluded from the residual risk add-on and why? What, if any, quantitative measures should the agencies consider to identify or distinguish residual risks and why?

Question 141: Would characterizing volatility and variance swaps as bearing other residual risk more appropriately reflect the risks of such exposures and why?

8. Models-Based Non-Default Capital Requirement

Under the proposal, the models-based non-default capital requirement for model-eligible positions ($IMA_{G,A}$)³⁸⁸ would consist of four components: (1) the internally modelled capital calculation (IMCC); (2) the stressed expected shortfall (SES); (3) the aggregate trading portfolio backtesting capital multiplier; and (4) the PLA add-on.

Like the sensitivities-based method in the standardized non-default capital requirement, the first two components, IMCC and SES, are intended to capture the potential losses arising from changes in risk factors during a period of substantial market stress. The IMCC and SES would distinguish between risk factors for which there is appropriate data for the twelve-month historical stress period used by the model and a sufficient number of real prices in the current period to qualify as modellable risk factors and those for which there is not (non-modellable risk factors or

NMRFs).³⁸⁹ The proposal would generally require banking organizations to separately calculate the capital requirement for both types of risk factors using an expected shortfall methodology. Under the proposal, the capital requirement for both modellable and non-modellable risk factors would reflect the losses calibrated to a 97.5 percent threshold over a twelve-month period of substantial market stress and incorporate the prescribed liquidity horizons applicable to each risk factor.

Relative to the IMCC for modellable risk factors, the SES calculation for non-modellable risk factors would provide significantly less recognition of hedging and portfolio diversification due to the lower quality inputs to the expected shortfall models; for example, limited data on the market prices observed or quoted during the twelve-month historical stress period are available to estimate the correlations between non-modellable risk factors used by the expected shortfall model. These data limitations can increase the possibility that a banking organization's expected shortfall models overstate the diversification benefits or understate price volatility (and therefore, understate the magnitude of potential losses) of such non-modellable risk factors. Furthermore, the conservative treatment of non-modellable risk factors that do not meet the proposed data quality standards would provide appropriate incentives for banking organizations to enhance the quality of data inputs used in the expected shortfall models.

Under the proposal, the overall capital required under the models-based non-default capital requirement ($IMA_{G,A}$) would equal the sum of the capital requirements for modellable and non-modellable risk factors and the PLA add-on to address shortcomings in the valuation models used to determine regulatory capital, if applicable. The capital requirements for modellable and non-modellable risk factors would equal the greater of (i) the sum of such capital requirements as of the most recent reporting date ($IMCC_{t-1}$ and SES_{t-1} , respectively), or (ii) the sum of the average of such capital requirements for non-modellable risk factors over the prior 60 business days ($SES_{average}$) and the product of the average capital requirements for modellable risk factors over the prior 60 business days

³⁸⁷ As discussed in section V.A.7.a.ii.II. of this **SUPPLEMENTARY INFORMATION**, callable bonds that are priced as yield to maturity would not be subject to vega risk, as the risk factors for such instruments would already be sufficiently captured by the delta capital requirement under the sensitivities-based method.

³⁸⁸ As described in section V.A.3.b. of this **SUPPLEMENTARY INFORMATION**, the total non-default capital requirement under the models-based measure generally would equal to the sum of (1) the models-based non-default capital requirement ($IMA_{G,A}$) and (2) the difference between the standardized non-default capital requirement for all trading desks ($SA_{all\ desks}$) and the standardized non-default capital requirement for model-eligible positions ($SA_{G,A}$).

³⁸⁹ Non-modellable risk factors for which there is appropriate data for the twelve-month historical stress period used by the expected shortfall models, but insufficient real prices in the current period (type A non-modellable risk factors) would be subject to both IMCC and SES as described in section V.A.8.a. of this **SUPPLEMENTARY INFORMATION**.

($IMCC_{average}$) and a multiplication factor (m_c) of at least 1.5, which serves to capture a model's performance over time based on the aggregate trading portfolio backtesting.³⁹⁰ The overall capital requirement under the models-based non-default capital requirement can be expressed by the following formula:

$$IMA_{G,A} = \max((IMCC_{G,A} + SES_{t-1}), ((m_c \times IMCC_{average}) + SES_{average})) + PLA \text{ add-on}$$

Due to the capital multiplier (m_c), the agencies generally expect the capital requirements for modellable and non-modellable risk factors to reflect those based on the prior 60 business day average, which would reduce quarterly variation. The proposal would require a banking organization to take into account the capital requirements as of the most recent reporting date to capture situations where the banking organization has significantly increased its risk taking relative to the prior 60-day average with the capital multiplier. Thus, the max function in the above formula would capture cases where risk has risen significantly throughout the quarter such that the average over the quarter is significantly less than the risk the banking organization faces at the end of the quarter.

Question 142: The agencies seek comment on the models-based non-default capital requirement. To what extent does the approach appropriately capture the risks of positions subject to the market risk capital requirement? What additional features, adjustments (such as to the treatment of diversification of risks), or alternative methodology could the approach include to reflect these risks more appropriately and why? Commenters are encouraged to provide supporting data.

a. Risk Factor Identification and Model Eligibility

Under the proposal, a banking organization that intends to use the models-based non-default capital requirement would be required to identify an appropriate set of risk factors that is sufficiently representative of the risks inherent in all of the model-eligible positions on model-eligible trading desks. Specifically, the proposal would require a banking organization's expected shortfall models to include all

the applicable risk factors specified in the sensitivities-based method under the standardized non-default capital requirement as well as those used in either the banking organization's financial reporting or internal risk management models. If the risk factors specified in the sensitivities-based method are not included in the expected shortfall models, the banking organization would be required to justify the exclusions to the satisfaction of its primary Federal supervisor. To help ensure that the expected shortfall models appropriately capture the market risk of a banking organization's model-eligible positions held by model-eligible trading desks,³⁹¹ model-eligible trading desks would be subject to PLA test³⁹² and backtesting requirements, which would help ensure the accuracy and conservatism of the risk-based capital requirements estimated by the banking organization's expected shortfall models.

For each identified risk factor, a banking organization would conduct two separate risk factor eligibility tests to determine whether the risk factor is subject to the IMCC, SES, or both. The first is a qualitative test, which determines whether the data and other information used to calibrate the expected shortfall models for IMCC appropriately capture the risk factor. The second is a quantitative test, which determines whether there are a sufficient number of real prices over the prior twelve months that are representative of the risk factor to infer the value of the risk factor.³⁹³ A risk factor that satisfies both tests would be classified as a modellable risk factor and would be subject to the IMCC, but not SES. Non-modellable risk factors would be classified as either type A or type B. Type A non-modellable risk factors would be those that satisfy the qualitative test but not the quantitative test and would be subject to both IMCC and SES; all other risk factors would be

type B non-modellable risk factors and would be subject to SES.

The agencies recognize that requiring banking organizations to exclude all non-modellable risk factors from expected shortfall models used to calculate the IMCC could be operationally burdensome and can render the models-based non-default risk capital requirement relatively unstable given that some modelling approaches rely on co-dependencies between risk factors that are modellable and non-modellable. Accordingly, the proposal would require type A non-modellable risk factors to be included in the calculation of both the IMCC and SES. The inclusion of type A non-modellable risk factors in IMCC is intended to reflect the higher quality data available for such risk factors relative to type B non-modellable risk factors. The agencies also recognize that if type A non-modellable risk factors are not included in the calculation of the IMCC, it could create perverse incentives for banking organizations to claim a modellable risk factor that is highly correlated with other risk factors as a type A non-modellable risk factor to receive more favorable diversification treatment in the SES under the proposal. As such, requiring type A non-modellable risk factors to be included in the IMCC would help address regulatory arbitrage concerns by ensuring that capital requirements would not fall in response to a modellable risk factor becoming a type A non-modellable risk factor.

The agencies recognize, however, that type A non-modellable risk factors may have inherently higher risk than typical modellable risk factors due to infrequent price observations that can lead to model risk and a more elevated liquidity risk. Therefore, the proposal would also require type A non-modellable risk factors to be included in SES to account for any additional risks that might not be fully captured within the IMCC calculation. Given that the IMCC calculation captures model-estimated correlations among risk factors, type A non-modellable risk factors would therefore receive full diversification (zero correlation) within the SES calculation. The remaining type B non-modellable risk factors would be subject to a more conservative treatment with a supervisory correlation, or rho, of 0.36.

To capture the inherently higher risk associated with type A non-modellable risk factors in the models-based non-default capital requirement, the agencies also considered an alternative approach that would only require banking organizations to capture type A non-modellable risk factors in IMCC but not

³⁹¹ For example, unlike the proposed standardized non-default capital requirement, which would require a banking organization to use a prescribed set of risk buckets and correlation parameters, as described in section V.A.7.a.iii. of this **SUPPLEMENTARY INFORMATION**, the models-based non-default capital requirement would allow a banking organization to use its own bucketing structure and correlation parameters.

³⁹² As described in section V.A.1.b. of this **SUPPLEMENTARY INFORMATION**, the proposal would provide a three-year transition period during which there would be no automatic consequences for PLA test results.

³⁹³ Evidence of a sufficient number of real prices demonstrates the liquidity of the underlying risk factor and helps to ensure there is a sufficient quantity of historical data to appropriately capture the risk factor under expected shortfall models used in the IMCC calculation.

³⁹⁰ The size of the multiplication factor could vary from 1.5 to 2 based on the results of the entity-wide backtesting for all model-eligible positions. See section V.A.8.d. of this **SUPPLEMENTARY INFORMATION** for further discussion on the entity-wide backtesting for all model-eligible positions, otherwise known as the aggregate trading portfolio backtesting multiplier.

in the SES. The alternative approach would instead require banking organizations to assign minimum liquidity horizons to type A non-modellable risk factors that are one-level higher than those required for modellable risk factors in the IMCC calculation, as described in section V.A.8.b.ii. of this **SUPPLEMENTARY INFORMATION**, unless the position's maturity is shorter than the respective liquidity horizon.³⁹⁴ As the proposed IMCC calculation limits model-estimated diversification across risk classes, assigning higher minimum liquidity horizons to type A non-modellable risk factors could appropriately capture the inherently higher model and liquidity risk of such risk factors.

The agencies recognize that implementing this alternative approach could increase the operational burden associated with the proposal. This alternative may also increase variability in the market risk capital requirements across banking organizations, if banking organizations are also allowed to increase the minimum liquidity horizon assigned to modellable risk factors to align with the higher minimum liquidity horizon assigned to type A non-modellable risk factors, as under the current proposal. Accordingly, to capture the elevated model and liquidity risk of type A non-modellable risk factors in a consistent manner across banking organizations without

imposing undue operational burden, the proposal would require banking organizations to include type A non-modellable risk factors in both IMCC and SES.

Question 143: The agencies request comment on the appropriateness of the proposed requirements for the risk factors included in the models-based non-default capital requirement. What, if any, alternative requirements should the agencies consider, such as requiring risk factor coverage to align with the financial reporting models, and why? Specifically, please describe any operational challenges and impact on banking organizations' minimum capital requirements that requiring the expected shortfall model to align with the financial reporting models would create relative to the proposal.

Question 144: The agencies seek comment on whether it is appropriate to include type A non-modellable risk factors within IMCC and SES calculations. What, if any, adjustments (such as permitting banking organizations to treat type A non-modellable risk factors as type B non-modellable risk factors) should the agencies consider to more appropriately reflect type A non-modellable risk factors within the models-based non-default capital requirement and why? Commenters are encouraged to provide supporting data.

Question 145: The agencies seek comment on whether the alternative approach described above would more

appropriately capture the inherently higher model and liquidity risk associated with a type A non-modellable risk factors due to infrequent price observations. What would be advantages and disadvantages of requiring a higher minimum liquidity horizon for type A non-modellable risk factors to capture their risks within IMCC? How would banking organizations implement and ensure consistency in the appropriate treatment of these risk factors when there is already flexibility to scale up liquidity horizons above the minimum requirement for both modellable risk factors and non-modellable risk factors? What would be the impact on capital requirements of capturing type A non-modellable risk factors with a higher minimum liquidity horizon only within the IMCC calculation? What, if any, other alternative approaches should the agencies consider to more appropriately capture the risks of type A non-modellable risk factors (for example, applying capital multiplier (mc) adjustment to the 60-day average IMCC when it incorporates type A non-modellable risk factors), and why? In such cases, what would be the appropriate higher capital multiplier for the IMCC? What are the advantages and disadvantages of using a higher capital multiplier (mc) adjustment to the 60-day average IMCC as shown in the example table below in place of the higher minimum liquidity horizon?

Number of Backtesting Exceptions	Multiplication factor for (m_c)
0	1.70
1	1.70
2	1.70
3	1.70
4	1.70
5	1.90
6	1.96
7	2.03
8	2.08
9	2.12
10 or more	2.20

a. Qualitative Test

To help ensure the appropriateness of the data and other information used to calibrate the expected shortfall models

for the IMCC, the proposal would establish data quality requirements for risk factors to be eligible for inclusion within the IMCC. A risk factor that fails

required to assign a liquidity horizon of sixty days rather than forty days, if the associated credit

to meet any of the following six proposed data quality requirements would be a type B non-modellable risk factor, excluded from the calculation of

spread risk factor was a type A non-modellable risk factor.

³⁹⁴ For example, for an investment grade corporate bond, the banking organization would be

IMCC and subject to the more conservative treatment within the SES calculation.

First, the proposal would require the data used in the expected shortfall models to calculate the IMCC to capture both the systematic risk and idiosyncratic risk, as applicable, of a risk factor, so that the IMCC appropriately reflects the potential losses arising from the risk factor.

Second, the proposal would require the data used to calculate the expected shortfall-based measure to reflect the volatility and correlation of risk factors of model-eligible positions. Different data sources can provide dramatically different volatility and correlation estimates for asset prices. When selecting the data sources to be used in calculating the IMCC, a banking organization should assess the quality and relevance of the data to ensure it would be appropriately representative of real prices, not understate price volatility, and accurately reflect the correlation of asset prices, rates across yield curves, and volatilities within volatility surfaces.

Third, the proposal would generally require that the data used to calculate the expected shortfall-based measure reflect prices observed or quoted in the market. For any data not derived from real prices, the banking organization must be able to demonstrate that such data are reasonably representative of real prices. A banking organization should periodically reconcile the price data used to calibrate its expected shortfall models for the IMCC with that used by its financial reporting³⁹⁵ and internal risk management models, to confirm the validity of the price data used to calculate the IMCC.

Fourth, the proposal would require a banking organization to update the data at a sufficient frequency to accurately reflect the performance of the risk factor, at a minimum on a weekly basis. While generally banking organizations should strive to update the data inputs as frequently as possible, the proposal would only require banking organizations to update the data on a weekly basis, as requiring large data sets to be updated more frequently may pose significant operational challenges.³⁹⁶ The proposal would also require a banking organization that uses

regressions to estimate risk factor parameters to re-estimate the parameters on a regular basis. In addition, the agencies would expect a banking organization to calibrate its expected shortfall models to current market prices at a sufficient frequency to accurately reflect the performance of the risk factor, ideally no less frequently than the calibration of financial reporting models. The proposal would also require a banking organization to have clear policies and procedures for updating the sources of data used as well as for backfilling and gap-filling missing data.

Fifth, in determining the liquidity horizon-adjusted expected shortfall-based measure within IMCC, a banking organization that uses a reduced set of risk factors to calculate the expected shortfall-based measure³⁹⁷ would be required to use data that are reflective of market prices observed or quoted in the twelve-month historical stress period used by the expected shortfall model.³⁹⁸ Under the proposal, banking organizations should source the data directly from the historical stress period, whenever possible. There may be cases where the characteristics of positions currently being traded in the market differ from those traded during the historical stress period used by the expected shortfall model. The proposal would require a banking organization to empirically justify any instance where the market prices used for the historical stress period in the expected shortfall calculation differ from the market prices actually observed for that period. For model-eligible positions that did not exist during the historical stress period, the proposal would require banking organizations to demonstrate that the prices used match changes in the prices or spreads of similar instruments traded during that period.

Sixth, the proposal would allow the data for risk factors to include proxies if the banking organization is able to

demonstrate the appropriateness of such proxies to the satisfaction of the primary Federal supervisor. At a minimum, a banking organization would be required to have sufficient evidence demonstrating the appropriateness of the proxies, such as an appropriate track record for their representation of model-eligible positions. Additionally, any proxies used would be required to (1) exhibit sufficiently similar characteristics to the transactions they represent in terms of volatility level and correlations, and (2) be appropriate for the region, credit spread cohort, quality, and type of instrument they are intended to represent.

Even if a risk factor satisfies each of the six proposed data quality requirements, a banking organization's primary Federal supervisor may determine the data inputs to be unsuitable for use in calculating the IMCC (for example, where the data inputs reflect variation that is less than the bid-ask spread for a product). Any risk factor that does not satisfy the proposed data quality requirements would be a type B non-modellable risk factor, which the banking organization would be required to exclude from the IMCC calculation and include in the more conservative SES calculation.

Question 146: The agencies request comment on the appropriateness of the proposed data quality requirements for risk factors. What, if any, challenges might the proposed requirements pose for banking organizations? What, if any, additional requirements should the agencies consider to help ensure the data used to calculate the IMCC appropriately capture the potential losses arising from modellable and type A non-modellable risk factors?

Question 147: The agencies request comment on the appropriateness of requiring banking organizations to re-estimate parameters in line with the frequency specified in their policies and procedures. What, if any, challenges might this pose for banking organizations?

ii. Quantitative Test

For risk factors that pass the qualitative test, the banking organization would then need to determine whether there are a sufficient number of real prices in the prior twelve months (quantitative test) for the risk factor to qualify as a modellable risk factor. The quantitative test would require a banking organization to establish buckets for each relevant risk factor or set of risk factors, and assign real prices to the relevant bucket(s). If the number of real prices allocated to the bucket equals or exceeds the

³⁹⁵ As described in section V.A.6.d. of this **SUPPLEMENTARY INFORMATION**, the term "financial reporting models" used throughout this section is intended to refer to the models a banking organization uses to report actual profits and losses for financial reporting purposes.

³⁹⁶ For example, a banking organization that relies on a third-party provider may not be able to receive updated data on a real time or daily basis.

³⁹⁷ As discussed in section V.A.8.b.i. of this **SUPPLEMENTARY INFORMATION**, a banking organization may elect to either use (1) the full set of risk factors employed by its internal risk management models and directly calculate the daily expected shortfall measure under the selected twelve-month historical stress period or (2) an appropriate subset of risk factors to estimate the potential losses that would be incurred throughout the selected stress period, which would require the banking organization to estimate a daily expected shortfall measure for both the current and stress period.

³⁹⁸ As described in more detail in section V.A.8.b.iii. of this **SUPPLEMENTARY INFORMATION**, for purposes of calculating the IMCC daily expected shortfall measures, the proposal would require a banking organization to use the twelve-month historical stress period in which its model-eligible positions on model-eligible trading desks would experience the largest loss.

minimum number required under the proposal, the risk factor would qualify as a modellable risk factor.

I. Real Price

To perform the quantitative test, the proposal would first require a banking organization to map real prices observed over the prior twelve months to each of the risk factors that affect the value of the model-eligible positions. For example, as the price of a typical corporate bond fluctuates primarily due to changes in interest rates and issuer credit spreads, a banking organization could map the price of a corporate bond to a credit spread risk factor and an interest rate risk factor. The proposal would define a real price as (1) a price at which the banking organization has executed a transaction, (2) a price provided by an exchange, a qualifying central counterparty, a sovereign entity, a specified supranational entity, or a multilateral development bank, (3) a verifiable price for an actual transaction between third parties transacting at arm's length or obtained from a bona fide competitive bid or offer made by the banking organization itself or another party transacting at arm's length, subject to certain conditions discussed below.

The agencies recognize that a banking organization may need to obtain pricing information from third parties to demonstrate the market liquidity of the underlying risk factors, and this may pose unique challenges for validation and other model risk management activities. Therefore, the proposed definition of a real price would generally limit recognition of prices obtained from third-party providers to only those for which (1) the transaction, bid, or offer has been processed through a third-party provider, or (2) the third-party provider agrees to provide evidence of the transaction, bid, or offer to the banking organization upon request.³⁹⁹

In certain cases, obtaining information on the prices of individual transactions from third parties may raise legal concerns for a banking organization, a third-party provider, or both.⁴⁰⁰

³⁹⁹ The additional requirements for prices or other information obtained from third parties to qualify as a real price would not apply to prices (1) obtained from an exchange or a qualifying central counterparty, or (2) provided by an exchange, a qualifying central counterparty, a sovereign entity, a specified supranational entity or a multilateral development bank. As such entities are subject to extensive regulation and oversight (including requirements regarding maintaining accurate data), the proposed requirements are unnecessary to assess the validity of the prices or other information obtained from such third-parties.

⁴⁰⁰ Banking organizations must ensure that exchanges of price information among competitors

Therefore, the proposal would allow a banking organization to consider information obtained from a third party on the number of corresponding real prices observed and the dates at which they have been observed in determining whether a risk factor satisfies the quantitative test, if the banking organization is able to appropriately map this information to the risk factors relevant to the model-eligible positions. For a banking organization to be able to use such information for determining the model eligibility of a risk factor, the proposal would require that either the third-party provider's internal audit function or another external party audit the validity of the third-party provider's pricing information. Additionally, the proposal would require that the results and reports of the audit either be made public or available upon request to the banking organization.⁴⁰¹

The additional requirements described above for prices or other information obtained from third parties to qualify as a real price for purposes of the quantitative test would allow banking organizations to appropriately demonstrate the market liquidity of a risk factor, while also ensuring there is sufficient documentation for the banking organization and the primary Federal supervisor to assess the validity of the prices or other information obtained from a third party.

Question 148: What, if any, other information should the agencies consider in defining a real price that would better demonstrate the market liquidity for risk factors, such as valuations of individual derivative contracts for the purpose of exchanging variation margin? What, if any, conditions or limitations should the agencies consider applying to help ensure the validity of such information, such as only allowing information related to individual derivative transactions to qualify as a real price and not information provided on a pooled basis or subject to a loss threshold or minimum transfer requirement for exchanging variation margins?

or with third parties are not likely to include acts or omissions that could result in a violation of antitrust laws, including the Sherman Act, 15 U.S.C. 1 *et seq.*, and the Federal Trade Commission Act, 15 U.S.C. 41 *et seq.*

⁴⁰¹ If the audit on the third-party provider is not satisfactory to a banking organization's primary Federal supervisor (for example, the auditor does not meet the independence or expertise standards of U.S. securities exchanges), the supervisor may determine that data from the third-party provider may not be used for purposes of the quantitative test.

II. Bucketing Approach

Under the proposal, a banking organization would be required to (1) establish buckets for each relevant risk factor or set of risk factors, and (2) assign real prices to each relevant bucket to determine whether each bucket has the minimum number of real price observations to satisfy the quantitative test. A banking organization could choose to apply either its own bucketing approach or the standard bucketing approach. As the choice of approach is at the risk factor level, the proposal would allow a banking organization to adopt its own bucketing approach for some risk factors and the standard bucketing approach for others. The number of buckets should be driven by the banking organization's trading strategies. For example, a banking organization with a complex portfolio across many points on the yield curve could elect to define more granular buckets for interest rate risk, such as separate 3-month and 6-month buckets, than those prescribed under the standard bucketing approach, which puts all maturities of less than 9 months in one bucket. Conversely, a banking organization with less complex products could elect to use the less granular standard bucketing approach.

Table 1 to § __.214 of the proposal provides the proposed buckets a banking organization would be required to use to group real prices under the standard bucketing approach. The proposal would define the buckets under the standard bucketing approach based on the type of risk factor, the maturity of the instruments used for the real prices, and the probability that an option has value (is "in the money") at the maturity of the instrument.⁴⁰² The proposed buckets are intended to balance between the granularity of the risk factors allocated to each standardized bucket and the compliance burden of tracking and mapping the allocation of real prices to more granular buckets, especially as market conditions change. Too frequent re-allocation of real prices may lead to artificial and unwarranted regulatory capital requirement volatility.

When using its own bucketing approach, a banking organization would be able to define more granular buckets than those prescribed under the standard bucketing approach. While the

⁴⁰² Whether an option has value (is "in the money") at the maturity of the instrument depends on the relationship between the strike price of the option and the market price for the underlying instrument (the spot price). A call option has value at maturity if the strike price is below the spot price. A put option has value at maturity if the strike price is above the spot price.

use of more granular buckets could facilitate a model-eligible trading desk's ability to pass the proposed PLA test, it would also render the quantitative test more challenging as the banking organization would need to source a sufficient number of real prices for each additional bucket. Therefore, the proposal would provide a banking organization the flexibility to define its own bucketing structures and would place an additional operational burden on the banking organization to demonstrate the appropriateness of using a more granular bucketing structure.

As positions mature, a banking organization could continue to allocate real prices identified within the prior twelve months to the bucket that the banking organization initially used to reflect the maturity of such positions. Alternatively, the banking organization could re-allocate the real prices for maturing positions to the adjacent (shorter) maturity bucket. To avoid overstating the market liquidity of a risk factor, the proposal would allow the banking organization to count a real price observation only once, either in the initial bucket or the adjacent bucket to which it was re-allocated, but not in both.

To enable banking organizations' expected shortfall models to capture market-wide movements for a given economy, region, or sector, the proposal would allow, but not require, a banking organization to decompose risks associated with credit or equity indices into systematic risk factors⁴⁰³ within its expected shortfall models.⁴⁰⁴ The proposal would allow a banking organization, where possible, to consider real prices of market indices (for example, CDX.NA.IG and S&P 500 Index) and instruments of individual issuers as representative for a systematic risk factor as long as they share the same attributes (for example, economy, region, sector, and rating) as the systematic risk factor. The proposed treatment would allow banking organizations to align the treatment of real prices for market indices with those for single-name positions and, thus, provide greater hedging recognition.

⁴⁰³ The proposal would define systematic risk factors as categories of risk factors that present systematic risk, such as economy, region, and sector. Systematic risk would be defined as the risk of loss that could arise from changes in risk factors that represent broad market movements and that are not specific to an issue or issuer.

⁴⁰⁴ As banking organizations may not always be able to model each constituent of the index, the proposal would not require banking organizations to always decompose credit spread and equity risk factors.

To determine whether each bucket has the minimum number of real prices required to satisfy the quantitative test, the proposal would require a banking organization to allocate each real price to any bucket for which the price is representative of the risk factor(s) within the bucket and to count all real prices mapped to a bucket. As real price may often be used to infer values for multiple risk factors, requiring banking organizations to assign real prices to all of the buckets for which it is representative would more accurately capture the market liquidity for the relevant risk factors.

Question 149: What, if any, modifications to the proposed bucketing structure should the agencies consider to better reflect the risk factors used to price certain classes of products. What would be the benefits or drawbacks of such alternatives compared to the proposed bucketing structure?

III. Minimum Number of Real Price Observations

For a risk factor to pass the quantitative test, the proposal would require a banking organization on a quarterly basis to identify a minimum number of real prices for the bucket corresponding to the relevant risk factor(s). Specifically, the proposal would require the banking organization to identify in the previous twelve-month period at least 24 real prices for the most liquid risk factors (those with a liquidity horizon of 20 days or less, as described in section V.A.8.b.ii. of this **SUPPLEMENTARY INFORMATION**) and at least 16 real prices for all other risk factors.

The proposed criteria are intended to help ensure real prices capture products that exhibit a minimum level of trading activity throughout the year. Aligning the minimum number of real prices required to pass the quantitative test with the liquidity horizon assigned to the risk factor in the IMCC calculation is intended to enhance the risk sensitivity of the models-based non-default capital requirement. The longer liquidity horizons assigned to less liquid risk factors within the IMCC calculation should appropriately capture the illiquidity of such risk factors. As such, the proposal would require a banking organization to identify fewer real prices for less liquid risk factors to pass the quantitative test and qualify as modellable risk factors.

For risk factors associated with new issuances, the proposal would allow a banking organization to consider the observation period for purposes of the quantitative test to begin on the issuance date and pro-rate the minimum

number of real prices required to pass the quantitative test until twelve months after the issuance date. For example, for a bond that was issued six months prior, the proposal would require at least 8 real prices for the bucket relating to for the issuer credit spread risk, prorated from the 16 real price annual requirement.

For any model-eligible position, the banking organization could not count more than one real price in any single day and would be required to count the real price for all of the buckets for which it is representative. The agencies recognize that the banking organization may use a combination of internal and external data for the quantitative test. When a banking organization relies on external data, the real prices may be provided with a time lag. Therefore, the proposal would allow the banking organization to use a different time period for purposes of the quantitative test than that used to calibrate the expected shortfall model, if such difference is not greater than one month. Together, these requirements are intended to help ensure that real prices capture more accurately the market liquidity for the relevant risk factors and prevent outdated prices from being used as model inputs.⁴⁰⁵

If a bucket contains a sufficient number of real prices to pass the quantitative test, the risk factor(s) within that bucket would qualify as a modellable risk factor. Risk factors that pass both the quantitative and qualitative tests would be deemed modellable and included in the IMCC, but not the SES.

Question 150: What, if any, restrictions on the minimum observation period for new issuances should the agencies consider and why?

Question 151: What, if any, operational challenges could the proposed quantitative test pose? What, if any, changes should the agencies consider making to the quantitative test, such as excluding risk factors from the quarterly real price observation requirement if the banking organization can demonstrate the substantial market depth and liquidity of such risk factors over time? What criteria (such as exchange listing criteria for the New York Stock Exchange) should the agencies consider to appropriately differentiate between risk factors with liquid and deep markets that should be

⁴⁰⁵ For example, if several transactions occur on day one, followed by a long period for which there are no real price observations, the proposal would prevent a banking organization from using the outdated day-one prices to estimate the fair value of its current model-eligible positions on model-eligible trading desks.

subject to the qualitative test only once versus those that should be subject on a quarterly basis, and why?

Question 152: The agencies seek comment on the framework of identifying a minimum number of real prices for the bucket corresponding to the relevant risk factor(s) in order to pass the quantitative test. Specifically, the agencies seek comment on adjusting the real price observations based on liquidity horizons for risk factor category. For example, for investment grade corporate positions (the credit spread risk category) with a liquidity horizon of 40 days, a banking organization would be required to have at least 8 real price observations for the risk factor in the last 12 months to be able to pass the quantitative test. What would the advantages and disadvantages of this approach and why?

b. Internally Modelled Capital Calculation (IMCC)

The IMCC is intended to capture the estimated losses for model-eligible positions arising from changes in modellable and type A non-modellable risk factors over a twelve-month historical period of substantial market stress. As described in this section, the IMCC would begin with the calculation of a daily expected shortfall-based measure over a twelve-month historical stress period on both an entity-wide level for each risk class and on an entity-wide level across risk classes for all model-eligible positions, each of which then would be adjusted using risk-factor specific liquidity horizons.⁴⁰⁶

While the proposal would allow a banking organization's expected shortfall models to use any generally accepted modelling approach (for example, variance-covariance models, historical simulations,⁴⁰⁷ or Monte Carlo simulations) to calculate the expected shortfall-based measure, the proposal would require the models to satisfy the proposed backtesting and PLA testing requirements on an ongoing basis to help ensure that the models are functioning effectively over

time as conditions and model applications change.⁴⁰⁸

Additionally, the proposal would require a banking organization's expected shortfall models to appropriately capture the risks associated with options, including non-linear price characteristics, within each of the risk classes, as well as correlation and relevant basis risks, such as basis risks between credit default swaps and bonds. For options, at a minimum, the proposal would require a banking organization's expected shortfall models to have a set of risk factors that capture the volatilities of the underlying rates and prices and model the volatility surface across both strike price and maturity, which are necessary inputs for appropriately valuing the options.

i. Expected Shortfall-Based Measure

To reflect the potential losses arising from the risk factors throughout an appropriately severe, historical twelve-month period of stress (as described in section V.A.8.b.iii. of this **SUPPLEMENTARY INFORMATION**), the proposal would require a banking organization to use one or more expected shortfall models to calculate on each business day an expected shortfall-based measure using a one-tail, 97.5th percentile confidence interval at the entity-wide level for each risk class and across all risk classes for all model-eligible positions.⁴⁰⁹

To calculate the daily expected shortfall-based measure, a banking organization would apply a base liquidity horizon of 10 days (the shortest liquidity horizon applicable to any risk factor category) to either the full set of risk factors for its model-eligible positions or an appropriate subset of risk factors throughout the twelve-month historical stress period (base expected shortfall). Requiring a banking organization to directly estimate the potential change in value of each of its model-eligible positions arising from the full set of risk factors throughout the twelve-month historical stress period may pose significant operational challenges. For example, a banking organization may not be able to source sufficient data for all risk factors during the identified twelve-month historical stress period. Thus, the proposal would allow a banking

organization to use either the full set of risk factors employed by the expected shortfall models (direct approach) or an appropriate subset (indirect approach) to estimate the losses that would be incurred throughout the twelve-month historical stress period.⁴¹⁰

Under the direct approach, the banking organization would directly calculate the daily expected shortfall measure at the entity-wide level for each risk class and across all risk classes for all model-eligible positions throughout the twelve-month historical stress period and then apply the liquidity horizon adjustments discussed in the following section.

Under the indirect approach, a banking organization would use a reduced set of risk factors in IMCC to estimate the losses that would be incurred throughout the twelve-month historical stress period for the full set of risk factors. The proposal would require a banking organization using the indirect approach to calculate three separate daily expected shortfall measures at the entity-wide level for each risk class and at the entity-wide level across risk classes: one using a reduced set of risk factors for the twelve-month historical stress period, one using the same reduced set of risk factors for the current period, and one using the full set of risk factors for the current period. Similar to the direct approach, the proposal would require the banking organization to apply the liquidity horizon adjustments discussed in the following section to each of the three expected shortfall measures to approximate the entity-wide liquidity horizon-adjusted expected shortfall-based measures for the full set of risk factors in stress.

Specifically, the proposal would require banking organizations that use the indirect approach to multiply the liquidity horizon-adjusted expected shortfall-based measure for the

⁴⁰⁶ As discussed in section V.A.8.b.i. of this **SUPPLEMENTARY INFORMATION**, if a banking organization elects to use a subset of modellable risk factors to estimate the potential losses that would be incurred throughout the selected stress period, the proposal would require the banking organization to estimate a daily expected shortfall measure for the current period as well as the historical stress period.

⁴⁰⁷ The proposal would allow a banking organization to use filtered historical simulation, as the approach generally reflects current volatility and would maintain equal weighting of the observations by rescaling all of the observations.

⁴⁰⁸ See sections V.A.8.e. and V.A.8.f. of this **SUPPLEMENTARY INFORMATION** for further discussion on the proposed desk-level PLA testing and backtesting requirements, respectively.

⁴⁰⁹ The proposal would also require banking organizations to calculate a daily expected shortfall-based measure at the trading desk level for the purposes of backtesting to calculate the PLA add-on. See section V.A.8.f. of this **SUPPLEMENTARY INFORMATION** for further discussion.

⁴¹⁰ In calculating the IMCC, a banking organization could use other data than that used to demonstrate the market liquidity of a risk factor for purposes of the quantitative test, provided that such data satisfy the qualitative test. Alternative sources may provide updated data more frequently than would otherwise be available from those used to obtain real prices. For example, banking organizations may be able to obtain updated data more frequently from internal systems than from third-party providers. Additionally, in certain cases, a banking organization may not be able to use the real prices to calculate the IMCC. For example, a banking organization may receive data from a third-party provider on the dates and number of real prices, as described in section V.A.8.a.ii.I. of this **SUPPLEMENTARY INFORMATION**. While such data demonstrates the liquidity of a risk factor for purposes of the quantitative test, without the transaction prices, such real prices would not provide any value to calibrate potential losses for a particular risk factor.

historical stress period based on the reduced set of risk factors ($ES_{R,S}$) by the ratio of the liquidity horizon-adjusted expected shortfall-based measure in the current period based on the full set of risk factors ($ES_{F,C}$) to the liquidity horizon-adjusted expected shortfall-based measure using the reduced set of risk factors based on the most recent twelve-month period ($ES_{R,C}$), as provided according to the following formula under § _____.215(b)(6)(ii)(B) of the proposed rule:

$$ES = ES_{R,S} \cdot \max \left(1, \frac{ES_{F,C}}{ES_{R,C}} \right)$$

The proposal would floor this ratio at one to prevent a reduction in capital requirements due to using the reduced set of risk factors.

Additionally, the proposal would require the entity-wide liquidity horizon-adjusted expected shortfall-based measure for the current period based on the reduced set of risk factors ($ES_{R,C}$) to explain at least 75 percent of

the variability of the losses estimated by the liquidity horizon-adjusted expected shortfall-based measure in the current period for the full set of risk factors ($ES_{F,C}$) over the preceding 60 business days. Under the proposal, compliance with the 75 percent variation requirement would be determined based on an out-of-sample R^2 measure, as defined according to the following formula under § _____.215(b)(5)(ii)(C) of the proposed rule:

$$1 - \frac{\sum_{h=t-60}^{t-1} (ES_{F,C,h} - ES_{R,C,h})^2}{\sum_{h=t-60}^{t-1} (ES_{F,C,h} - \text{Mean}(ES_{F,C}))^2}$$

Where:

$ES_{F,C,h}$ is the liquidity horizon-adjusted ES-based measure based on the most recent 12-month observation period (the current ES-based measure) using the full set of risk factors calculated at date h , which ranges from one day prior to date t to 60 days prior to date t ;

$ES_{R,C,h}$ is the current liquidity horizon-adjusted ES-based measure using the reduced set of risk factors calculated at date h , which ranges from one day prior to date t to 60 days prior to date t ; and

$\text{Mean}(ES_{F,C})$ is the mean of $ES_{F,C}$ over the previous 60 business days.

This formula is intended to help ensure that the potential losses estimated under the indirect approach appropriately reflect those that would be produced by the full set of modellable risk factors, if the historical

stress were to occur in the current period.

Furthermore, to help ensure the accuracy of this comparison, the proposal would require a banking organization that uses the indirect approach to update the reduced set of risk factors whenever it updates its twelve-month historical stress period, as described in section V.A.8.b.iii. of this

SUPPLEMENTARY INFORMATION. The proposal would also require the reduced set of risk factors used to calculate the liquidity horizon-adjusted expected shortfall-based measure for the twelve-month historical stress period in IMCC to have a sufficiently long history of observations that satisfies criteria five within the qualitative risk factor eligibility test, as described in section V.A.8.a.i. of this **SUPPLEMENTARY**

INFORMATION. In this manner, the proposal would hold the inputs used for the indirect approach to the same data quality standards requirements as those for inputs used in the direct approach.

Question 153: The agencies request comment on the appropriateness of requiring the election of either the direct or the indirect approach to be made at the entity-wide level for all risk factors of model-eligible positions on model-eligible trading desks. What, if any, alternatives should the agencies consider that would enable banking organizations' expected shortfall models to more accurately measure potential losses under the selected stress period, such as allowing banking organizations to make this election at the level of the trading desk, risk class, or risk factor?

ii. Liquidity Horizon Adjustments
To capture appropriately the potential losses from the longer periods of time needed to reduce the exposure to certain

risk factors (for example, by selling assets or entering into hedges), a banking organization would assign each risk factor in IMCC to a proposed

minimum liquidity horizons, as specified in Table 2 to § _____.215 of the proposed rule.

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Table 2 to § _____.215. Liquidity horizon, *n* (number of days), by risk factor category

Risk factor category	<i>n</i>	Risk factor category	<i>n</i>
Interest rate and inflation: specified currencies - EUR, USD, GBP, AUD, JPY, SEK, CAD, and the domestic currency of the banking organization	10	Equity (small market cap): volatility	60
Interest rate and inflation: unspecified currencies	20	Equity: other types	60
Interest rate: volatility	60	Foreign exchange rate: specified currency pairs ⁴¹¹	10
Interest rate: other types	60	Foreign exchange rate: currency pairs	20
Credit spread: Sovereign exposures, MDBs and specified supranational entities (investment grade)	20	Foreign exchange: volatility	40
Credit spread: Sovereign exposures, MDBs and specified supranational entities (speculative grade and sub-speculative grade)	40	Foreign exchange: other types	40
Credit spread: GSE debt	40	Energy and carbon emissions trading price	20
Credit spread: corporate positions (investment grade)	40	Precious metals and non-ferrous metals price	20
Credit spread: corporate positions (speculative grade and sub-speculative grade)	60	Other commodities	60
Credit spread: volatility	120	Energy and carbon emissions trading price: volatility	60
Credit spread: other types	120	Precious metals and non-ferrous metals price: volatility	60
Equity (large market cap or index)	10	Other commodities: volatility	120
Equity (small market cap)	20	Commodity: other types	120
Equity (large market cap or index): volatility	20		

⁴¹¹ Any currency pair formed by the following list of currencies: USD, EUR, JPY, GBP, AUD, CAD, CHF, MXN, CNY, NZD, HKD, SGD, TRY, KRW, SEK, ZAR, INR, NOK, BRL, and any additional currencies specified by the primary Federal supervisor.

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The proposed liquidity horizons (10, 20, 40, 60, and 120 days) would vary across risk factors, with longer horizons assigned to those that would require longer periods of time to sell or hedge. For each model-eligible trading desk, the proposal would generally require banking organizations to assign the same minimum liquidity horizon to each risk factor within the same risk categories as specified in Table 2 to § _____.215 for all model-eligible positions, with two exceptions.

For instruments with a maturity shorter than the respective liquidity horizon assigned to the risk factor, the proposal would require banking organizations to use the next longer liquidity horizon compared to the maturity of the model-eligible position. For example, if an investment grade corporate bond matures in nineteen days, the proposal would require a banking organization to assign the associated credit spread risk factor a liquidity horizon of twenty days rather than the proposed forty-day liquidity horizon.

To map liquidity horizons for multi-underlying instruments, such as credit and equity indices, the proposal would require a banking organization to take a weighted average of the liquidity horizons of risk factors corresponding to the underlying constituents and the respective weighting of each within the index and use the shortest liquidity horizon that is equal to or longer than the weighted average.⁴¹² Furthermore, the proposal would require a banking organization to apply a consistent liquidity horizon to both the inflation risk factors and interest rate risk factors for a given currency, as specified in Table 2 to § _____.215 of the proposal.

The proposal would also specify the applicable liquidity horizon for non-securitization positions issued by GSEs, as such instruments are unique to the United States. Consistent with the current capital rule, the proposal would assign a longer forty-day liquidity horizon to debt instruments issued by the GSEs, as such instruments are not as liquid or readily marketable as U.S. Treasury securities and other exposures directly and unconditionally backed by the full faith and credit of the United

States (such as mortgage-backed securities issued by Ginnie Mae). Additionally, as multilateral development banks and specified supranational entities have similar liquidity risk profiles as sovereign exposures, the proposal would require banking organizations to apply the liquidity horizons applicable to sovereigns to multilateral development banks and specified supranational entities. Together, the proposed treatment is intended to promote consistency and comparability in regulatory capital requirements across banking organizations and to help ensure appropriate capitalization of such positions under the proposed market risk framework.

To encourage sound risk management and enable banking organizations and the agencies to appropriately evaluate the conceptual soundness of the expected shortfall models used to calculate the IMCC, the proposal would require a banking organization to have in place internal risk management systems and processes for performing risk factor mappings consistently over time. Additionally, the proposal would require a banking organization to map each of its risk factors to one of the risk factor categories and the corresponding liquidity horizon in a consistent manner on a quarterly basis to help ensure that the selected historical stress period continues to appropriately reflect potential losses for the risk factors of model-eligible positions over time.⁴¹³

To conservatively recognize empirical correlations across risk classes, the proposal would require a banking organization to calculate the liquidity horizon-adjusted expected shortfall-based measure both at the entity-wide level for each risk class and at the entity-wide level across risk classes for all model-eligible positions. To calculate the entity-wide liquidity horizon-adjusted expected shortfall-based measure for each risk class, the banking organization would (1) calculate the ten-day base expected shortfall measure for each risk factor

category as specified in Table 2 to § _____.215 of the proposal, (2) scale up the ten-day base expected shortfall measure using the longer proposed liquidity horizons for each risk factor category within the same risk class. When scaling up the ten-day base expected shortfall measure for the risk factor category(s) assigned a liquidity horizon of more than ten-days within the same risk class, the banking organization would hold all other risk factors, including those within the same risk class but assigned a shorter liquidity horizon, constant to appropriately reflect the incremental losses attributable to the specific risk factor categories within the same risk class over the longer proposed liquidity horizon. In this manner, the proposal would require a banking organization to calculate separately the liquidity horizon-adjusted expected shortfall-based measure for risk factors within the same risk class at each proposed liquidity horizon consecutively, starting with the shortest (ten days). Specifically, for each risk factor category within the same risk class, a banking organization would first compute the potential loss over the zero to ten-day period,⁴¹⁴ then the potential loss over the subsequent ten- to twenty-day period—assuming that its exposure to risk factors within the ten-day liquidity horizon has been eliminated—and continue this calculation for each of the proposed liquidity horizons, as described in Table 1 to § _____.215 of the proposed rule. A banking organization would then aggregate the losses for each period to determine the total liquidity horizon-adjusted expected shortfall-based measure for the risk class.

The liquidity horizon-adjusted expected shortfall-based measure for each risk class would reflect both the losses under the expected shortfall-based measure and the incremental losses at each proposed liquidity horizon, according to the following formula, as provided under § _____.215(b)(3) of the proposed rule:

⁴¹² A weighted average would be based on the market value of the instruments with the same liquidity horizon.

⁴¹³ As described in section V.A.8.b.iii. of this **SUPPLEMENTARY INFORMATION**, the proposal would require banking organizations to calculate the entity-wide expected shortfall-based measures for each risk class and across risk classes using the twelve-month historical stress period in which either the full or reduced set of risk factors would incur the largest loss.

⁴¹⁴ When computing losses over the zero to ten-day period, the proposal would require a banking organization to floor the time period for extinguishing its exposure to a risk factor exposure at ten days. For example, if an instrument would mature in two days, the banking organization must still calculate the potential losses assuming a ten-day liquidity horizon.

$$ES = \sqrt{(ES_T(P))^2 + \sum_{j \geq 2} \left(ES_T(P, j) \sqrt{\frac{(LH_j - LH_{j-1})}{T}} \right)^2}$$

Where:

ES is the liquidity horizon-adjusted expected shortfall-based measure;

T is the length of the base liquidity horizon, 10 days;

$ES_T(P)$ is ES at base liquidity horizon T of a portfolio with market risk covered positions P ;

$ES_T(P, j)$ is the ES at base liquidity horizon T of a portfolio with market risk covered positions P for all risk factors whose liquidity horizon is at least as long as the liquidity horizon corresponding to the index value, j , LH_j , as specified in Table 1 to § _____.215 of the proposed rule;

LH_j is the liquidity horizon corresponding to the index value, j , specified in Table 1 to § _____.215 of the proposed rule.

To calculate the liquidity horizon-adjusted expected shortfall-based measure at the entity-wide level across risk classes for all model-eligible positions, a banking organization would scale up the ten-day expected shortfall-based measure for all risk factors assigned either the same or a longer liquidity horizon, without distinguishing between risk classes. Otherwise, the process to calculate the entity-wide liquidity horizon-adjusted expected shortfall-based measure would be the same as the risk-class level calculation.

For example, assume that a banking organization would be required to calculate the liquidity horizon-adjusted expected shortfall-based measure for a single, USD denominated, investment grade corporate bond, whose price is driven by two risk factors, interest rate risk and credit spread risk. Under the proposal, the banking organization would calculate the expected shortfall-based measure for both interest rate risk and credit risk factors using the ten-day liquidity horizon, as expressed by $ES_T(P)$ in the above formula. According to Table 2 to § _____.215 in the proposed rule, the liquidity horizon for interest rate risk denominated in USD is ten days and the liquidity horizon for credit spread risk of investment grade issuers is forty days. Therefore, the banking organization would not extend the liquidity horizon for interest rate risk factor but would for the credit spread risk factor. To determine the liquidity horizon-adjusted expected shortfall-based measure for the credit spread risk factor, the banking organization would (1) scale the credit spread risk factor by the square root of the incremental increase in time (one for liquidity

horizon from ten to twenty days and the square root of two for liquidity horizon from twenty to forty days),⁴¹⁵ (2) add the resulting liquidity horizon adjustment for credit spread risk factor, as expressed by the second term in the above formula and repeated below, to the base ten-day liquidity horizon squared, and (3) calculate the square root of the sum of (1) and (2):

$$\sum_{j \geq 2} \left(ES_T(P, j) \sqrt{\frac{(LH_j - LH_{j-1})}{T}} \right)^2$$

As described above, the proposal would require the banking organization to perform this calculation for all model-eligible positions at the entity-wide level across risk classes and separately at the entity-wide level for each risk class, such as interest rate risk and credit spread risk. The proposal would require the banking organization to use the results of these calculations as inputs into the overall models-based non-default capital requirement, described in more detail below in section V.A.8.b.iv. of this

SUPPLEMENTARY INFORMATION.

Question 154: What, if any, risk factors exist that would not be captured by the proposal for which the agencies should consider designating a specific liquidity horizon and why?

Question 155: The agencies request comment on the appropriateness of assigning a liquidity horizon for multi-underlying instruments based on the weighted average of the liquidity horizons for the risk factors corresponding to the underlying constituents and the respective weighting of each within the index. What, if any, alternative methodologies should the agencies consider, such as assigning the liquidity horizon for credit and equity indices based on the longest liquidity horizon applicable to the risk factors corresponding to the underlying constituents? What would be the

⁴¹⁵ The incremental increase in time is represented by the difference in the liquidity horizons, $LH_j - LH_{j-1}$. In the example, the incremental increase in time for the liquidity horizon of twenty days and forty days would be twenty days (forty days minus twenty days). The incremental increase in time is divided by the base horizon of ten days. Thus, the time scaling factor for credit spread risk is the square root of two.

benefits and drawbacks of such alternatives compared to the proposal? Commenters are encouraged to provide data to support their responses.

Question 156: The agencies request comment on the appropriateness of requiring banking organizations to use the next-longer liquidity horizon for instruments with a maturity shorter than the respective liquidity horizon assigned to the risk factor. What, if any, operational challenges might this pose for banking organizations? How could such concerns be mitigated while still ensuring consistency and comparability in regulatory capital requirements across banking organizations?

iii. Stress Period

To appropriately account for potential losses in stress, the proposal would require a banking organization to calculate the entity-wide expected shortfall-based measures for each risk class and across risk classes described in section V.A.8.b.i. of this **SUPPLEMENTARY INFORMATION** using the twelve-month historical stress period during which its model-eligible positions would experience the largest loss according to the banking organizations' policies and procedures approved by its primary Federal supervisor. To identify the appropriate stress period, the proposal would require a banking organization to consider all twelve-month periods spanning back to at least 2007 and, depending on whether the banking organization elected to employ the direct or indirect approach, select the period in which either the full or reduced set of risk factors would incur the largest loss.⁴¹⁶ The proposal would require a banking organization to equally weight observations within each twelve-month historical stress period when selecting the appropriate stress period.

To help ensure that the twelve-month historical stress period continues to appropriately reflect potential losses for the risk factors of model-eligible positions over time, the proposal would require a banking organization to review and update the twelve-month historical

⁴¹⁶ Under the proposal, a banking organization that has elected to use the direct approach would select the relevant stress period using the full set of modelable risk factors, while that using the indirect approach would use the reduced set of risk factors to select the stress period.

stress period on at least a quarterly basis, if appropriate, or whenever there are material changes in the risk factors of model-eligible positions.

Question 157: The agencies seek comment on the appropriateness of requiring banking organizations to use the same reduced set of risk factors to both identify the appropriate twelve-month historical stress period and calculate the IMCCs. To what extent does the proposed approach provide banking organizations sufficient flexibility to appropriately capture the risk factors that may be present in some, but not all stress periods? What, if any, alternative approaches should the agencies consider that would better serve to capture such risk factors relative to the proposal?

Question 158: The agencies are considering options to define the largest loss when identifying the appropriate twelve-month historical stress period. For example, what are the advantages and disadvantages of defining the largest loss based on amounts banking organizations use for financial reporting, and why? What are the advantages and disadvantages of requiring firms to have policies and procedures approved by a banking organization's primary Federal supervisor to identify the twelve-month historical stress period during based on the largest loss, and why?

iv. Total Internal Models Capital Calculations (IMCC)

The proposal would require banking organizations to use the liquidity

horizon-adjusted expected shortfall-based measures calculated throughout the twelve-month historical stress period at the entity-wide level for each risk class ($IMCC(C_i)$) and at the entity-wide level across risk classes ($IMCC(C)$) to calculate the IMCC for model-eligible positions. To constrain the empirical correlations and provide an appropriate balance between perfect diversification and no diversification across risk classes, the IMCC would equal half of the entity-wide liquidity horizon-adjusted expected shortfall-based measure across all risk classes plus half of the sum of the liquidity horizon-adjusted expected shortfall measures for each risk class, according to the following formula, as provided under § _____.215(c)(4) of the proposed rule:

$$IMCC = \omega(IMCC(C)) + (1 - \omega) \left(\sum_i IMCC(C_i) \right)$$

Where:

ω equals 0.5;

i is the index of risk classes, which are the following: interest rate risk, credit spread risk, equity risk, commodity risk and foreign exchange risk.

$IMCC(C)$ equals the aggregate liquidity horizon-adjusted ES-based measure across all risk classes; and

(iv) $IMCC(C_i)$ equals the partial liquidity horizon-adjusted ES-based measure for each risk class (i).

c. Stressed Expected Shortfall (SES) for Non-Modellable Risk Factors

Under the proposal, the SES for non-modellable risk factors would be similar to the IMCC for modellable and type A non-modellable risk factors, except that, relative to the IMCC, the SES calculation would provide significantly less recognition for hedging and portfolio diversification for type B non-modellable risk factors and significantly more for type A non-modellable risk factors.

Under the proposal, a banking organization would have to calculate the liquidity horizon-adjusted expected shortfall-based measure for non-modellable risk factors using the same general process as proposed for

modellable and type A non-modellable risk factors in IMCC, with three key differences. First, the proposal would require a banking organization to separately carry out such calculation for each non-modellable risk factor, rather than at the risk class level. Second, the proposal would require a banking organization to apply a minimum liquidity horizon adjustment of at least twenty days, rather than ten days. Third, the proposal would require a banking organization to identify a common twelve-month historical stress period for all non-modellable risk factors within the same risk class, which is calibrated to be at least as conservative as the twelve-month historical stress period used within IMCC. To reduce operational burden, the proposal would allow banking organizations to apply the same twelve-month historical stress period used to calculate IMCC for purposes of the common twelve-month historical stress period used for each risk class within the SES calculation. If a banking organization is not able to determine a stress scenario capital requirement for a risk factor, the proposal would require the banking organization to set the SES

capital requirement equal to the maximum possible loss for that risk factor.

Alternatively, with approval from its primary Federal supervisor, a banking organization may use an alternative approach to design the stress scenario for each risk class of non-modellable risk factors.

In recognition of the data limitations of non-modellable risk factors, the proposal would allow a banking organization that receives approval to use an alternative approach to use proxies in determining the common twelve-month historical stress period for each risk class of non-modellable risk factors, as long as such proxies satisfy the data quality requirements of the qualitative test.⁴¹⁷

To calculate the SES for non-modellable risk factors, the proposal would require a banking organization to separate non-modellable risk factors into type A and type B non-modellable risk factors. A banking organization would calculate the SES for both types of non-modellable risk factors, according to the following formula as provided under § _____.215(d)(2) of the proposed rule:

⁴¹⁷ See section V.A.8.a.i. of this **SUPPLEMENTARY INFORMATION** for a description of the data quality requirements in the qualitative test.

$$SES = \sqrt{\left(\sum_{k=1}^K SES_{NM,k}^2\right) + \left((1 - \rho_b) \sum_{j=1}^J SES_{NM,j}^2 + \rho_b \left(\sum_{j=1}^J SES_{NM,j}\right)^2\right)}$$

Where:

- (i) $SES_{NM,k}$ is the stress scenario capital measure for the type A non-modellable risk factor k ;
- (ii) K is the number of type A non-modellable risk factors;
- (iii) ρ_b is 0.36;
- (iv) $SES_{NM,j}$ is the stress scenario capital measure for the type B non-modellable risk factor j ; and
- (v) J is the number of type B non-modellable risk factors.

For type B non-modellable risk factors, the second term would allow for a limited and appropriate diversification benefit that depends on the level of ρ parameter. The first term would provide type A non-modellable risk factors a greater diversification benefit by allowing such non-modellable risk factors to be aggregated with zero correlation because they passed the qualitative test.

Given the limited data available for type B non-modellable risk factors from which to estimate correlations between such factors throughout the twelve-month historical stress period, the proposed conservative capital treatment

of type B non-modellable risk factors would address the potential risk of lower quality inputs being used in calculating market risk capital requirements for such factors (for example, the risk that the limited data set overstates the diversification benefits and, therefore, understates the magnitude of potential losses of type B non-modellable risk factors).

Type A non-modellable risk factors would already be captured within the IMCC, which limits the model-estimated diversification benefit across risk classes. Thus, the IMCC would capture most of the risk arising from type A non-modellable risk factors. Yet, unlike modellable risk factors, type A non-modellable risk factors can pose higher model risk and elevated liquidity risk due to infrequent price observations. To appropriately capture such additional risks that may not be fully captured by IMCC, type A non-modellable risk factors would also be included in the SES calculation.⁴¹⁸

Question 159: The agencies seek comment on the proposed rho parameter (ρ_b) for type B non-

modellable risk factors. What are the advantages and disadvantages of the proposed rho parameter (ρ_b)? What are the advantages and disadvantages of reducing the rho parameter (ρ_b) to a lower value (such as 0.0625 or 0.16), and why? Please provide any data and rationale that would be useful to consider for this purpose.

Question 160: What are the advantages and disadvantages of the proposed calculation of the stressed expected shortfall capital requirement for non-modellable risk factors? Alternatively, what are the advantages and disadvantages of requiring a banking organization to separate non-modellable risk factors into those with idiosyncratic credit spread risk, those with idiosyncratic equity risk, and those with systematic risk, according to the following formula, and why? Specifically, what are the advantages and disadvantages of the following alternative formula for calculating the stressed expected shortfall capital requirement for non-modellable risk factors:

$$SES = \sqrt{\sum_{i=1}^I ISES_{NM,i}^2} + \sqrt{\sum_{j=1}^J ISES_{NM,j}^2} + \sqrt{\left(\rho \sum_{k=1}^K SES_{NM,k}\right)^2 + (1 - \rho^2) \sum_{k=1}^K SES_{NM,k}^2}$$

Where:

- $ISES_{NM,i}$ is the stress scenario capital measure for non-modellable idiosyncratic credit spread risk, i , aggregated with zero correlation, and where I is a non-modellable idiosyncratic credit spread risk factor;
- $ISES_{NM,j}$ is the stress scenario capital measure for non-modellable idiosyncratic equity risk, j , aggregated with zero correlation, and where J is a non-modellable idiosyncratic equity risk factor;
- $SES_{NM,k}$ is the stress scenario capital measure for the remaining non-modellable systematic risk factors, k , and where K is the remaining non-modellable risk factors in a model-eligible trading desk; and

ρ is equal to 0.6.

If the agencies were to consider this alternative approach, what further

adjustments should they also consider (such as using a different correlation parameter, ρ , between 0 and 1.0)? Please provide any data and rationale, including data from a wide range of stressed market conditions, that would be useful for evaluating this alternative.

d. Aggregate Trading Portfolio Backtesting Capital Multiplier

Under the current capital rule, each quarter, a banking organization must compare each of its most recent 250 business days of entity-wide trading losses (excluding fees, commissions, reserves, net interest income, and intraday trading) with the corresponding daily VaR-based measure calibrated to a one-day holding period and at a one-tail, 99.0 percent

confidence level. Depending on the number of exceptions in the entity-wide backtesting results, a banking organization must apply a multiplication factor, which can range from 3 to 4, to a banking organization's VaR-based and stressed VaR-based capital requirements for market risk.

The proposal generally would retain the backtesting requirements in the current capital rule, with two modifications. First, the proposal would require backtesting of the VaR-based measures against both the actual and the hypothetical profits and losses produced by the financial reporting

⁴¹⁸ Unlike type B non-modellable risk factors, type A non-modellable risk factors would receive

full diversification (zero correlation) with other

type A non-modellable risk factors in the SES calculation.

models.⁴¹⁹ Specifically, for the most recent 250 business days,⁴²⁰ a banking organization would be required to separately compare each business day's aggregate actual profit and loss for transactions on model-eligible trading desks and aggregate hypothetical profit and loss for transactions on model-eligible trading desks with the corresponding aggregate VaR-based measures for that business day calibrated to a one-day holding period at a one-tail, 99.0 percent confidence level for transactions on all model-eligible trading desks.⁴²¹ Second, the proposal generally would require a banking organization to apply a lower capital multiplier (m_c), that could range from a factor of 1.5 to 2, to the 60-day average estimated capital required for modifiable and type A non-modifiable risk factors, based on the number of exceptions in the entity-wide backtesting results.⁴²²

$$IMA_{G,A} = \max((IMCC_t - 1 + SES_{t-1}), ((m_c \times IMCC_{average}) + SES_{average})) + PLA \text{ add on}$$

The proposed backtesting requirements would measure the conservatism of the forecasting assumptions and the valuation methods used in the internal models by

⁴¹⁹ The proposal would define hypothetical profit and loss as the change in the value of the market risk covered positions that would have occurred due to changes in the market data at end of current day if the end-of-previous-day market risk covered positions remained unchanged. Valuation adjustments that are updated daily would have to be included, unless the banking organization receives approval from its primary Federal supervisor to exclude them. Valuation adjustments for which separate regulatory capital requirements have been otherwise specified, commissions, fees, reserves, net interest income, intraday trading, and time effects would have to be excluded. See § __.202 of the proposed rule.

⁴²⁰ In its first year of backtesting, a banking organization would count the number of exceptions that have occurred since it began backtesting.

⁴²¹ As described in section V.A.6.d.i. of this **SUPPLEMENTARY INFORMATION**, the proposal would allow, subject to approval by the primary Federal supervisor, a banking organization, for a model-eligible trading desk that holds a limited amount of model-ineligible positions pursuant to its trading or hedging strategy, to include such positions for the purposes of the aggregate trading portfolio backtesting requirement as well as for the desk-level PLA and backtesting requirements.

⁴²² The mechanics of the backtesting requirements for the aggregate trading portfolio backtesting multiplier would be the same as those at the trading desk level. Consistent with the trading desk level backtesting requirements, the proposal would allow banking organizations to disregard backtesting exceptions related to official holidays and, in certain instances, those related to non-modifiable risk factors, model-ineligible positions and technical issues. See section V.A.8.f. of this **SUPPLEMENTARY INFORMATION** for a detailed description of the mechanics of the proposed trading desk-level backtesting requirements, including circumstances in which a banking organization may disregard a backtesting exemption.

comparing the daily VaR-based measure against the actual and hypothetical profits and losses produced by the financial reporting models. Such comparisons are a critical part of a banking organization's ongoing risk management, as they improve a banking organization's ability to make prompt adjustments to the pricing models that impact the expected shortfall calculation used for determining risk-based capital requirements to address factors such as changing market conditions and model deficiencies. A high number of exceptions could indicate modeling issues (for example, insufficiently conservative risk factor shocks) and warrant increased capital requirements.

The backtesting requirements and associated multiplication factor provide appropriate incentives for banking organizations to regularly update the internal models used for calculating expected shortfall-based measure in determining regulatory capital requirements.

Question 161: The agencies request comment on the appropriateness of the proposed calculation for the aggregate trading portfolio backtesting capital multiplier. What, if any, changes should the agencies consider that would appropriately measure the robustness of a banking organization's internal models used in calculating the expected shortfall-based measure but impose less operational burden relative to the proposal?

e. PLA Test and Add-On

Under the proposal, use of the models-based non-default capital requirement for a model-eligible trading desk fundamentally would depend on the accuracy of the potential future profits or losses estimated by the banking organization's internal risk management models relative to those produced by its financial reporting models. The proposed profit and loss attribution test metric⁴²³ would help ensure that the theoretical changes in a model-eligible trading desk's revenue produced by the internal risk management models are sufficiently close to the hypothetical changes produced by valuation methods used by the financial reporting models in the banking organization's end-of-day valuation process and adequately capture the risk factors used in such models. Thus, the proposed PLA test metric would measure the materiality of

the simplifications of the internal risk management models used by a model-eligible trading desk relative to the financial reporting models and remove the eligibility of any trading desk for which such simplifications are deemed material from using the models-based non-default capital requirement to calculate its regulatory capital requirement for market risk.

The proposed models-based non-default capital requirement would include an additional capital requirement (the PLA add-on) for model-eligible trading desks for which the desk-level PLA test metric demonstrates deficiencies in the ability of the valuation methods used by the banking organization's internal risk management models to appropriately capture the market risk of the model-eligible positions but does not disqualify the eligibility of the models. The PLA add-on would help ensure that banking organizations with model-eligible trading desks with non-disqualifying model deficiencies are subject to more conservative capital requirements relative to banking organizations with model-eligible trading desks without such deficiencies.⁴²⁴ Additionally, the PLA add-on would provide appropriate incentives for banking organizations with model-eligible trading desks with model deficiencies to address the potential gaps in data and model deficiencies.

The agencies recognize the potential difficulties for banking organizations in implementing the proposed desk-level PLA test metric. To improve the ability of banking organizations to use more risk-sensitive modeled approaches for non-default capital requirement, where appropriate, the proposal would provide a three-year transition period during which there would be no automatic consequences for PLA test results. During this period, a banking organization would be required to submit quarterly PLA test results to its primary Federal supervisor. The test results would not have any automatic regulatory consequences during the transition period. This extended transition period for implementation of the PLA test would allow banking organizations to gain experience with the test and provide time to improve their systems and processes and address potential gaps in data and model

⁴²⁴ As described in section V.A.6.d.iv. of this **SUPPLEMENTARY INFORMATION**, a model-eligible trading desk that passes the PLA test metric could still be subject to the PLA add-on if the primary Federal supervisor determines that the trading desk no longer complies with all applicable requirements.

⁴²³ The proposed PLA test metric refers to the Kolmogorov-Smirnov metric which assesses the similarity of the distributions of the risk-theoretical profit and loss and the hypothetical profit and loss.

performance. Furthermore, the delayed implementation would allow more time to develop and refine the valuation methods used in the expected shortfall models without the potential cliff effects that could arise when one or more model-eligible trading desks having PLA test results in the amber or red zone. The delayed transition of PLA test automatic consequences would also provide the agencies an additional opportunity to monitor the effectiveness of the PLA test metric and identify the root causes leading to poor testing performances while allowing banking organizations to gain experience with the tests and improve their systems and models.

Question 162: The agencies seek comment on the proposed three-year transition period for the PLA test. What are the benefits and drawbacks of delaying for three years the automatic consequences of having PLA test results in the amber or red zones? To what extent does the proposed time period facilitate banking organizations' ability to gain experience with the tests and address any potential gaps in data and model performance? Please provide any rationale that would be useful to consider for this purpose.

i. PLA Test

To measure the materiality of the simplifications (for example, missing risk factors and differences in the way positions are valued) within the expected shortfall models used by each model-eligible trading desk, the PLA test would require a banking organization, for each model-eligible trading desk, to compare the daily profit and loss values produced by its internal risk management models (risk-theoretical profit and loss)⁴²⁵ against the hypothetical profit and loss produced by the financial reporting models.

I. Data Input Requirements

For the sole purpose of the PLA test, the proposal would permit a banking organization to align the risk factor input data used in the valuations calculated by the internal risk management models with that used in the financial reporting models, if the banking organization demonstrates that such an alignment would be

appropriate. If the input data for a given risk factor that is common to both the financial reporting models and the internal risk management models differs due to data acquisition complications (specifically, different market data sources, time fixing of market data sources, or transformations of market data into input data suitable for the risk factors of the underlying valuation engines), a banking organization may adjust the input data used by the financial reporting models into a format that can be used by the internal risk management models. When transforming the input data of the financial reporting models into a format that can be applied to the risk factors used in internal risk management models, the banking organization would be required to demonstrate that no differences in the risk factors or in the valuation models have been omitted. The proposal would require a banking organization to assess the effect of these input data alignments on both the valuations produced by the internal risk management models and the PLA test when designing or changing the input data alignment process, or at the request of the primary Federal supervisor. Additionally, the proposal would require a banking organization to treat time effects⁴²⁶ in a consistent manner in the hypothetical profit and loss and the risk-theoretical profit and loss.⁴²⁷ The proposed flexibility would allow the results of the PLA test metric to more accurately assess the consistency of the risk-theoretical and hypothetical profit and loss for a particular model-eligible trading desk, by focusing on differences due to the pricing function and risk factor coverage rather than those arising from use of different data inputs.

Furthermore, the proposal would allow, subject to approval by the primary Federal supervisor, a banking organization, for a model-eligible trading desk that holds a limited amount of model-ineligible positions pursuant to its trading or hedging strategy,⁴²⁸ to include such positions for the purposes of the PLA tests. Allowing such positions to be included would

enable model-ineligible positions held as hedges to be recognized with the underlying positions they are intended to hedge and thus minimize the potential for the PLA test to incorrectly identify model deficiencies for model-eligible trading desks due solely to the bi-furcation of such hedges. For model-eligible trading desks with approval of the primary Federal supervisor to incorporate model-ineligible positions in their PLA test metric, the proposal would require the banking organization to calculate the market risk capital requirements for such positions using the more conservative capital treatment under the standardized non-default capital requirement or the fallback capital requirement, as described in sections V.A.7. and V.A.3.d. of this **SUPPLEMENTARY INFORMATION**, respectively.

II. PLA Test Metric

For the PLA test, the banking organization would be required to compare, for each model-eligible trading desk, the risk-theoretical profit and loss and the hypothetical profit and loss for the most recent 250 business days using the Kolmogorov-Smirnov metric.

To calculate the Kolmogorov-Smirnov metric, the banking organization, for each model-eligible trading desk, would identify the number of daily observations over the most recent 250 business days where the risk-theoretical profit and loss or separately the hypothetical profit and loss is less than or equal to the specified value. To appropriately weight the probability of each daily observation,⁴²⁹ the proposal would define the empirical cumulative distribution function as the number of daily observations multiplied by 0.004 (1/250). Under the proposal, the Kolmogorov-Smirnov metric would be the largest absolute difference observed between these two empirical cumulative distributions of profit and loss at any value, which could be expressed as:

$$KS = \max(\text{abs}(D_{HPL} - D_{RTPL}))$$

where D_{HPL} is the empirical cumulative distribution of hypothetical profit and loss produced by the financial reporting models and D_{RTPL} the empirical cumulative distribution of risk-theoretical profit and loss produced by the internal risk management models.

As a testing metric, the Kolmogorov-Smirnov metric is intended to support good risk management by requiring

⁴²⁵ The proposal would define risk-theoretical profit and loss as the daily trading desk-level profit and loss on the end-of-previous-day market risk covered positions generated by the banking organization's internal risk management models. The risk-theoretical profit and loss would have to take into account all risk factors and positions, including non-modellable risk factors and model-ineligible positions, in the banking organization's internal risk management models.

⁴²⁶ Time effects can include various elements such as the sensitivity to time, or theta effect, and carry or costs of funding.

⁴²⁷ In particular, when time effects are excluded from the hypothetical profit and loss, they must also be excluded from the risk-theoretical profit and loss. A banking organization that excludes time effects must do so consistently for purposes of backtesting and the PLA test.

⁴²⁸ Model-ineligible positions include equity positions in an investment fund where the banking organization is not able to identify the underlying positions held by an investment fund on a quarterly basis, securitization positions, and correlation trading positions.

⁴²⁹ For example, if the internal risk management model generates the same value for the model-eligible trading desk's portfolio on two separate days, the proposal would require the banking organization to assign a larger probability by requiring each daily observation to be weighted at 0.004.

banking organizations to assess the similarity of the distribution of the daily portfolio values for a model-eligible trading desk generated by the internal risk management models and the financial reporting models. The closeness of the distributions would indicate how accurately the internal risk management models capture the range of losses experienced by the model-eligible trading desk across different market conditions with closer distributions indicating greater accuracy with respect to pricing and risk factor coverage. Applying this process over a given period would provide information about the accuracy of the internal risk management model's ability to appropriately reflect the shape of the whole distribution of values for the model-eligible trading desk's portfolio compared to the distribution of values generated by the financial reporting models, including information on the size and number of valuation differences.

Based on the PLA test results for the Kolmogorov-Smirnov metric, a banking organization would be required to allocate each model-eligible trading desk to a PLA test zone as set out in Table 1 to § _____.213 of the proposed rule. Additionally, under the proposal, the primary Federal supervisor could require a banking organization to assign a different PLA test zone to a model-eligible trading desk than that based on PLA test metric of the model-eligible trading desk.⁴³⁰

Question 163: What, if any, modifications should the agencies

consider with respect to the PLA test? Commenters are encouraged to provide specific details on the mechanics, empirical support, capital implications, and rationale for any suggested modifications.

Question 164: The agencies seek comment on the appropriateness of allowing banking organizations to align the risk input data between the internal risk management models and the financial reporting models. What other instances, if any, should the agencies consider to ensure accurate and consistent assessment of the profit and losses produced by the internal risk management models with those produced by the financial reporting models for a particular model-eligible trading desk?

Question 165: The agencies request comment on the benefits and drawbacks of allowing banking organizations, with regulatory approval, to include non-modellable risk factors for purposes of the PLA tests. Should non-modellable risk factors be excluded from the PLA tests? Why or why not? What, if any, further conditions should the agencies consider including to appropriately limit the inclusion of non-modellable risk factors for purposes of the PLA tests? Commenters are encouraged to provide data to support their responses.

ii. Calculation of the PLA Add-On

Under the proposal, a banking organization would consider model-eligible trading desks in the green zone or amber zone as passing the PLA test for model eligibility purposes. If a

banking organization has one or more model-eligible trading desks within the amber zone, the proposal would require the banking organization to reflect the PLA add-on in the models-based non-default risk capital requirement, as described above in section V.A.8. of this **SUPPLEMENTARY INFORMATION**.⁴³¹ Under the proposal, a banking organization would calculate the PLA add-on as the greater of zero and the aggregate capital benefit to the banking organization from the models-based non-default capital requirement (the difference between the capital requirements for all model-eligible trading desks⁴³² in the green or amber zone under the standardized non-default capital requirement ($SA_{G,A}$) and those under the models-based non-default capital requirement ($(IMCC_{t-1} + SES_{t-1})$, $((m_c \times IMCC_{average}) + SES_{average})$), multiplied by a multiplication factor of k , as defined according to the following formula under § _____.213(c)(4) of the proposed rule:

$$PLA \text{ add-on} = k \times \max((SA_{G,A} - \max((IMCC_{t-1} + SES_{t-1}), ((m_c \times IMCC_{average}) + SES_{average}))), 0)$$

Under the proposal, the value of k would equal half of the ratio of the sum of the standardized non-default capital requirement for each model-eligible trading desk within the amber zone and those for each of the model-eligible trading desks within either the green or amber zone as defined according to the following formula under § _____.213(c)(4)(i) of the proposed rule:

$$k = 0.5 \times \frac{\sum_{i \in A} SA_i}{\sum_{i \in G,A} SA_i}$$

Thus, the value of k would gradually increase from 0 to 0.5 as the number of model-eligible trading desks within the amber zone increases, which is intended to mitigate the potential cliff effect of significantly increasing market risk capital requirements as a model-eligible trading desk transitions from using the

models-based non-default capital requirement to the standardized non-default capital requirement.

iii. Application of the PLA Add-On

After the three-year transition period, if, in the most recent 250 business day period, a trading desk that the primary

Federal supervisory previously approved to use the models-based non-default capital requirement produces results in the PLA test red zone, the proposal would require the banking organization to use the standardized non-default capital requirement and calculate market risk capital

⁴³⁰ As discussed in more detail in section V.A.6.d.iv. of this **SUPPLEMENTARY INFORMATION**, if, after the three-year transition period, the primary Federal supervisor subjects a model-eligible trading desk to the PLA add-on as part of the initial approval or for on-going model eligibility, the model-eligible trading desk would remain subject to the PLA add-on until either the model-eligible trading desk (1) provides at least 250 business days of backtesting and PLA test results that pass the trading-desk level backtesting requirements and produce PLA metric in the green zone, or (2) receives approval from the primary Federal supervisor that the PLA add-on no longer applies.

⁴³¹ As described in section V.A.1.b. of this **SUPPLEMENTARY INFORMATION**, the proposal would provide a three-year transition period during which there would be no automatic consequences for PLA test results. While banking organizations would be required to report PLA test results during the transition period, the PLA add-on would not apply until after the expiration of the three-year transition period.

⁴³² In calculating the PLA add-on, the proposal would require a banking organization to exclude any model-ineligible positions held by a model-eligible desk, as such positions must be subject to

either the standardized non-default capital requirement or the fallback capital requirement.

⁴³³ As discussed in section V.A.6.d.i. of this **SUPPLEMENTARY INFORMATION**, model-eligible trading desks that hold limited amounts of model-ineligible positions must calculate regulatory capital requirements for such positions under the standardized non-default capital requirement or fallback capital requirement, as applicable. With regulatory approval, a banking organization may include such positions within its internal models for the purposes of the desk-level PLA and backtesting requirements as well as the aggregate trading portfolio backtesting requirement.

requirements for the positions held by the trading desk together with all other trading desks subject to the standardized non-default capital requirement.⁴³³ The proposal would not permit the banking organization to use the models-based non-default capital requirement to calculate market risk capital requirements for the trading desk until the trading desk (i) produces PLA test results in either the green or amber zone and passes specific trading desk level backtesting requirements over the most recent 250 business days, or (ii) receives approval from the primary Federal supervisor.⁴³⁴

f. Backtesting Requirements for Model-Eligible Trading Desks

Under the proposal, a banking organization may treat a trading desk that conducts and successfully passes both backtesting and the PLA test at the trading desk level on an ongoing quarterly basis as a model-eligible trading desk.⁴³⁵ For determining the model eligibility of a trading desk, the proposal would require the banking organization to perform backtesting at the trading desk level. For the purpose of desk-level backtesting, for each trading desk, a banking organization would be required to compare each of its most recent 250 business days' actual profit and loss and hypothetical profit and loss produced by the financial reporting models with the corresponding daily VaR-based measure calculated by the banking organization's internal models. The proposal would require the banking organization, for each trading desk, to calibrate the VaR-based measure to a one-day holding period and at both the 97.5th percentile and the 99.0th percentile one-tail confidence levels. Time effects must be treated in a consistent manner in the hypothetical profit and loss metric used for purposes the backtesting and PLA tests.

Under the proposal, a backtesting exception would occur when the daily actual profit and loss or the daily hypothetical profit and loss produced by the financial reporting model for the trading desk exceeds the corresponding daily VaR-based measure. A banking organization must count separately the

number of backtesting exceptions that occurred in the most recent 250 business days for actual profit and loss at each confidence level and those that occurred for hypothetical profit and loss at each confidence level. A trading desk would become model-ineligible if, in the most recent 250 business day period, the desk experiences any of the following: (1) 12 or more exceptions for actual profit and loss at the 99.0th percentile; (2) 12 or more exceptions for hypothetical profit and loss at the 99.0th percentile; (3) 30 or more exceptions for actual profit and loss at the 97.5th percentile; or (4) 30 or more exceptions for hypothetical profit and loss at the 97.5th percentile. In the event that either the daily actual or hypothetical profit and loss is unavailable or impossible to compute, the proposal would require the banking organization to treat such an occurrence as a backtesting exception for the actual profit and loss or hypothetical profit and loss, respectively. If the VaR-based measure for a particular business day is unavailable or impossible to compute, an exception for actual and hypothetical profit and loss is deemed to have occurred. No exception is deemed to have occurred if the unavailability or the impossibility is related to an official holiday; in such cases the banking organization may disregard the backtesting exception. In addition, with approval of the primary Federal supervisor, the banking organization may disregard the backtesting exception if the banking organization could demonstrate that the backtesting exception is due to technical issues that are unrelated to the banking organization's financial reporting or internal models; or to one or more model-ineligible positions; or if the banking organization could demonstrate that a backtesting exception relates to one or more non-modellable risk factors or to one more model-ineligible positions and the portion of the stressed expected shortfall or standardized non-default capital requirement attributed to these non-modellable risk factors or model-ineligible positions, respectively, for that business day exceeds the difference between the banking organization's VaR-based measure and the actual or hypothetical loss for that business day.⁴³⁶

⁴³⁶ It is not sufficient to compare the size of backtesting exceptions to standalone SES for individual non-modellable risk factors or standalone standardized non-default capital requirements for model-ineligible positions because the sum of standalone capital requirements for individual non-modellable risk factors or model-ineligible positions would almost always be smaller than the relevant aggregate capital requirement.

If in the most recent 250 business day period a trading desk experiences either 12 or more backtesting exceptions at the 99.0th percentile, or 30 or more backtesting exceptions at the 97.5th percentile, the proposal would require the banking organization to use the standardized non-default capital requirement to determine the market risk capital requirements for the market risk covered positions held by the trading desk. If a model-eligible trading desk is approved with less than 250 business days of trading desk level backtesting and PLA test results, the proposal would require a banking organization to use all backtesting data for the model-eligible trading desk and to prorate the number of allowable exceptions by the number of business days for which backtesting data are available for the model-eligible trading desk.⁴³⁷ The proposal would allow the banking organization to return to using the models-based non-default capital requirement to calculate market risk capital requirements for the trading desk if the banking organization (1) remediates the internal model deficiencies such that the trading desk successfully passes trading desk-level backtesting and reports PLA test metric in the green or amber zone or (2) receives approval of the primary Federal supervisor.⁴³⁸

Question 166: Should non-modellable risk factors be excluded from the proposed backtesting requirements? Why or why not? What, if any, further

Instead, the size of backtesting exceptions needs to be compared to the portion of the aggregate SES or standardized non-default capital requirement that can be attributed to those non-modellable risk factors or model-ineligible positions, accounting for recognition of diversification within each formula. For example, one approach for determining the portion of the aggregate SES attributable to a particular non-modellable risk factor is to multiply the risk factor's standalone SES by its marginal contribution to the aggregate SES (*i.e.*, for non-modellable risk factor *i*, attribute $(aSES/aSES_{mm,i}) \cdot SES_{mm,i}$), which is a valid method for apportioning the aggregate SES because the SES formula is homogenous of degree one.

⁴³⁷ To receive approval as a model-eligible desk during the three-year transition period, the proposal would require the banking organization to provide backtesting results for the trading desk and demonstrate to the satisfaction of the primary Federal supervisor that the expected shortfall models would be able to satisfy the backtesting requirements on an on-going basis. See section V.A.6.d.iv.I. of this SUPPLEMENTARY INFORMATION for the criteria for a trading desk to receive approval as a model-eligible trading desk.

⁴³⁸ Under the proposal, there would be no automatic consequences for the PLA test results during the three-year transition period. Accordingly, during the transition period, a banking organization's model-eligible trading desk would only be required to successfully pass quarterly trading desk-level backtesting requirements to return to using the models-based non-default capital requirement.

⁴³⁴ During the three-year transition period, a banking organization may use the models-based non-default capital requirement to calculate market risk capital requirements for the trading desk once the desk produces satisfactory desk-level backtesting results for the most recent 250 business days.

⁴³⁵ During the three-year transition period, a banking organization may treat a trading desk that conducts and successfully passes backtesting at the trading desk level on an ongoing quarterly basis as a model-eligible trading desk.

conditions should the agencies consider including to limit appropriately the inclusion of non-modellable risk factors for purposes of the backtesting requirements? Commenters are encouraged to provide data to support their responses.

Question 167: The agencies invite comment on what, if any, challenges requiring banking organizations to directly calculate the internally modelled capital requirement for modellable risk factors using a 10-day liquidity horizon for the purposes of the daily expected shortfall-based measure for modellable risk factors could pose and a 1-day VaR for the purposes of backtesting could pose. What, if any, alternative methodologies should the agencies consider?

Question 168: The agencies invite comment on whether notional desks that are model-eligible desks and primarily hold foreign exchange and commodity positions to hedge banking book exposures should be excluded from PLA testing and backtesting requirements. What would be the potential benefits and drawbacks of providing such an exclusion for these specific desk types? Would alternative treatment or modified requirements for these desks be more appropriate and if so, why?

9. Default Risk Capital Requirement

The default risk capital requirement is intended to capture the incremental loss if the issuer of an equity or credit position were to immediately default (the additional losses from jump-to-default risk), which are not captured by the credit spread or equity shocks under the sensitivities-based method or the models-based non-default capital requirement. Thus, the proposed default risk capital requirement would apply only to non-securitization debt or equity positions (except for U.S. sovereigns, specified supranational entities, and multilateral development banks), securitization positions non-CTP, and correlation trading positions. To recognize offsetting of long and short positions across model-eligible and model-ineligible desks, the proposal would allow a banking organizations that has one or more model-eligible trading desks to perform a single calculation of the default risk capital requirement across model-eligible and model-ineligible trading desks.

Under the proposal, a banking organization would be required to separately calculate the default risk capital requirement for each of the three default risk categories (three position types that could incur default risk) using the following five steps.

First, for each of the three default risk categories, the banking organization would be required to group instruments with similar risk characteristics throughout an economic cycle into the defined default buckets as described in more detail below.

Second, to estimate the position-level losses from an immediate issuer default, the banking organization would be required to calculate the gross default exposure separately for each default risk position. Additionally, the banking organization would be required to determine the long and short direction of the gross default exposure based on whether it would experience a loss (long) or gain (short) in the event of a default.

Third, to estimate the portfolio-level losses of a trading desk from an immediate issuer default, the banking organization would be required to calculate the net default exposure for each obligor by offsetting the gross long and short default exposures to the same obligor, where permitted.

Fourth, to estimate and recognize hedging benefit between net long and net short position of different issuers within the same default bucket, the banking organization would be required to calculate the hedge benefit ratio and apply the prescribed risk weights⁴³⁹ to the net default exposures within the same default bucket for the class of instruments.⁴⁴⁰ In general, the proposed buckets and associated risk weights closely follow those in the Basel standards, which are calibrated to reflect a through-the-cycle probability of default. The hedge benefit ratio is calculated based on the aggregate net long default positions and the aggregate net short default positions. It is intended to recognize the partial hedging of net long and net short default

⁴³⁹ The proposal would require a banking organization that applies a hypothetical portfolio approach to apply the highest risk weight that is applicable under the investment limits of an equity position in an investment fund that may invest in primarily high-yield or distressed names under the fund's mandate by first applying the highest risk weight that is applicable under the fund's investment limits to defaulted instruments, followed by sub-speculative grade, then speculative grade, then investment grade securities. A banking organization may not recognize any offsetting or diversification benefit when calculating the average risk weight of the fund. See § _____.205(e)(3)(ii) of the proposed rule.

⁴⁴⁰ Specifically, a banking organization would first calculate the hedge benefit ratio (the total net long jump-to-default risk positions (numerator) divided by the sum of the total net long jump-to-default risk positions and the sum of the absolute value of the total net short positions (denominator), and then calculate the risk-weighted exposure for each risk bucket by multiplying the aggregate total net jump-to-default exposure by the risk weight prescribed for the applicable risk bucket.

positions in distinct obligors due to systematic risk. The bucket-level default risk capital requirement would equal (1) the sum of the risk-weighted net long default positions minus (2) the product of the hedge benefit ratio and the sum of the risk-weighted absolute value of the net short default positions. For non-securitization debt and equity positions and securitization positions non-CTP, the results of this calculation would be floored at zero.

Fifth, to calculate the default risk capital requirement for each default risk category, the banking organization would sum the bucket-level capital requirements (except for correlation trading positions). The aggregation for correlation trading positions is not the simple sum but is the sum of the risk-bucket level capital requirements for the net long default exposures plus half of the sum of the risk-weighted exposures for the net short default exposures as further described in section V.A.9.c.iii. of this **SUPPLEMENTARY INFORMATION**. For conservatism, the proposal would require a banking organization to calculate the total default risk capital requirement as the sum of each of the default risk category level capital requirements without recognizing any diversification benefits across different types of default risk categories.

a. Non-Securitization Debt or Equity Positions

i. Gross Default Exposure

Under the proposal, the default risk capital requirement for non-securitization debt or equity positions would generally follow the calculation steps described above. To calculate the gross default exposure for each non-securitization debt or equity position, the proposal would require a banking organization to multiply the notional amount (face value) of the instrument and the prescribed loss given default (LGD) rate⁴⁴¹ to determine the total potential loss of principal at default and then add the cumulative profits (losses) already realized on the position to avoid double-counting realized losses, with one exception.⁴⁴² The proposed calculation methodology is intended to appropriately quantify the gross default risk for most securities, including those that are less common.

For the purpose of calculating the gross default exposure for each non-securitization debt or equity position, the proposal would require banking

⁴⁴¹ The loss rate from default is one minus the recovery rate.

⁴⁴² As losses are recorded as a negative value, effectively they would be subtracted from the overall exposure amount.

organizations to use the following LGD rates, which are generally consistent with those in the Basel standards: 100 percent for equity and non-senior debt instruments, and defaulted positions,⁴⁴³ 75 percent for senior debt instruments, unless a lower LGD is assigned, 75 percent for GSE debt issued but not guaranteed by the GSEs, 50 percent for U.S. PSEs,⁴⁴⁴ 25 percent for GSE debt guaranteed by the GSEs, 25 percent for covered bonds, and zero percent for instruments whose value is not linked to the recovery rate of the issuer.⁴⁴⁵ GSE debt issued and guaranteed by the GSEs is secured generally by residential properties that satisfy the specific underwriting standards of the GSEs (for example, loan-to-value ratios of less than 80 percent), and include a guarantee on the repayment of principal by the GSE. As these characteristics are economically similar to the requirements for covered bonds, the proposal would extend the LGD rate applied to covered bonds to GSE debt issued and guaranteed by the GSEs to appropriately capture the expected losses of such positions in the event of default. As GSE debt instruments issued but not guaranteed by the GSEs are similarly secured by high-quality residential mortgages, the proposal would allow banking organizations to treat such exposures as senior debt (subject to a 75 percent LGD rate) rather than apply the higher proposed risk weight for equity and non-senior debt

instruments. For debt positions in U.S. PSEs, the proposal would allow a banking organization to apply an LGD rate aligned with the average loss given default for such entities, rather than applying the higher LGD rate for senior debt. For credit derivatives, a banking organization would be required to use the LGD rate of the reference exposure.

For consistency across banking organizations, the proposal specifies that a banking organization would be required to reflect the notional amount⁴⁴⁶ of a non-securitization debt or equity position that gives rise to a long gross default exposure as a positive value and the corresponding loss as a negative value, and those that produce a short exposure as a negative value and the corresponding gain as a positive value. If the contractual or legal terms of a derivative contract allow for the unwinding of the instrument, with no exposure to default risk, the gross default exposure would equal zero.

Question 169: The agencies request comment on whether the proposed formula for calculating gross default exposure appropriately captures the gross default risk for all types of non-securitization debt and equity instruments. What, if any, positions exist for which the formula cannot be applied? What is the nature of such difficulties and how could such concerns be mitigated? In particular, the agencies seek comment on whether the proposed formula appropriately captures the gross default risk of convertible instruments.

Question 170: The agencies request comment on the appropriateness of the proposed LGD rates for non-securitization debt or equity positions. What, if any, changes should the agencies consider making to the categories to appropriately differentiate the LGD rates for various instruments or for instruments with different seniority (for example, senior versus non-senior)?

ii. Net Default Exposure

To calculate the net default exposure for non-securitization debt or equity positions, the proposal would permit a banking organization to recognize either full or partial offsetting of the gross default exposures for long and short positions if both reference the same obligor and the short positions have the same or lower seniority as the long

positions.⁴⁴⁷ To appropriately reflect the net default risk, the proposed calculation would not allow a banking organization to recognize any offsetting of the gross default exposure for market risk covered positions where the obligor is not identified, such as equity positions in an investment fund, index instruments, and multi-underlying options for which a banking organization elects to calculate a single risk factor sensitivity (not to apply the look-through approach).

As the GSEs can default independently of one another, the agencies are clarifying that banking organizations should treat Federal National Mortgage Association (Fannie Mae), Federal Home Loan Mortgage Corporation (Freddie Mac), the Federal Agricultural Mortgage Corporation (Farmer Mac) and a Federal Home Loan Bank as separate obligors. As the single security initiative led by Fannie Mae and Freddie Mac has homogenized the mortgage pool and security characteristics for Uniform Mortgage-Backed Securities (UMBS), the proposal would allow the banking organization to fully offset UMBS that are issued by two different obligors.

Full offsetting would be permitted for short and long market risk covered positions with maturities greater than one year or positions with perfectly matching maturities provided other criteria are met such as if both long and short positions reference the same obligor and the short positions have the same or lower seniority as the long positions. To determine the offsetting treatment for market risk covered positions with maturities of one year or less, a banking organization would be required to scale the gross default exposure by the fraction of a year corresponding to the maturity of the instrument, subject to a three-month floor. In the case where long and short gross default exposures both have maturities of one year or less, scaling would apply to both the long and short gross default exposure. By allowing only partial offsetting, the proposed scaling approach is intended to appropriately reflect the risk posed by maturity mismatch between exposures and their hedges within the one-year capital horizon. For example, under the proposal, the gross default exposure for an instrument with a six-month

⁴⁴³ The proposal would allow a banking organization to treat a distressed position as a defaulted position for the purpose of calculating market risk capital requirements. Furthermore, to prevent situations when the default capital requirement would increase the capital requirements for defaulted positions beyond the maximum potential loss, a banking organization would be able to calculate the gross default exposure for defaulted positions by multiplying the current market value and the prescribed LGD rate.

⁴⁴⁴ The proposed LGD rate for U.S. PSEs is consistent with the debt-size weighted average LGD rate using Moody's municipal bonds data between 1970 and 2022. The debt-size weighted average LGD rate is derived as one minus the ultimate recovery rate, which is based on the recovery value creditors actually received at the resolution of the default relative to what the creditors should have contractually received inclusive of any accrued interest. For issuers with a range of estimated recovery rates, the proposed LGD rate is consistent with both the worst LGD and the mid-point LGD, for municipal bonds over this period. The data used in the analysis is from Moody's data on U.S. municipal bond defaults and recoveries 1970–2022 published by Moody's Investors Service Data Report. See Moody's Investors Service Data Report, U.S. Municipal Bond Defaults and Recoveries, 1970–2022 (July 19, 2023).

⁴⁴⁵ For example, in the case of a call option on a bond, the notional amount to be used in the jump-to-default calculation would be zero given that in the event of default the call option would not be exercised (the default would extinguish the call option's value, with the loss captured through the reduced fair value of the position).

⁴⁴⁶ For all non-securitization debt or equity positions, the notional amount would equal the amount of the non-securitization debt or equity position relative to which the loss of principal is calculated. For a call option on a non-securitization position, the notional amount to be used in the gross default exposure calculation would be zero.

⁴⁴⁷ For a market risk covered position that has an eligible guarantee, to determine if the exposure is to the underlying obligor or an exposure to the eligible guarantor, the credit risk mitigation requirements set out in the § _____.36 of the current capital rule and § _____.120 of the proposed rule would apply. See 12 CFR 3.36 (OCC); 12 CFR 217.36 (Board); 12 CFR 324.36 (FDIC).

maturity would be weighted by one-half, whereas that for a one-week repurchase agreement would be prescribed a three-month maturity and weighted by one-fourth.

The proposal would permit a banking organization to assign a maturity of either three months or one year to cash equity positions that do not have a stated maturity. For derivative transactions, the proposal would require a banking organization to use the maturity of the derivative contract, rather than that of the underlying, to determine the applicable scaling factor. To prevent broken hedges for equity and derivative positions, the proposal would allow banking organizations to assign the same maturity to a cash equity position as the maturity of the derivative contract it hedges (permit full offsetting). Similarly, the proposal would allow a banking organization to align the maturity of an instrument with that of a derivative contract for which that instrument could be delivered to satisfy the derivative contract, and thus permit full offsetting between the instrument and the derivative. For example, a banking organization may assign the maturity of a derivative contract in the to-be-announced (TBA) market that is hedging a security interest in a pool of mortgages to that security interest provided that the delivery of the security interest would satisfy the delivery terms of the TBA derivative contract.

The net default exposure to an issuer would be the sum of the maturity-weighted default exposures to the issuer.

Question 171: The agencies request comment on the appropriateness of allowing banking organizations to net the gross default exposures of derivative contracts and the underlying positions that are deliverable to satisfy the derivative contract. What, if any, additional criteria should the agencies consider to further clarify the netting of gross default exposures and why? What, if any, positions should the agencies consider allowing to net that would not exhibit default risk? What would be the advantages and disadvantages of allowing a banking organization to offset short dated futures with longer-dated derivatives when the underlying exposures match, and why?

iii. Buckets and Corresponding Risk Weights

Table 1 to § _____.210 of the proposed rule provides the proposed default buckets and corresponding risk weights for non-securitization debt or equity positions, which reflect counterparty type and credit quality, respectively.

Under the proposal, the buckets and applicable risk weights would distinguish between the type of obligor based on whether the exposure is to a non-U.S. sovereign, a public sector entity or GSE, or a corporate and include a single bucket for defaulted positions.

To capture the credit quality of the obligor, the proposal would define the default buckets in a manner that is generally consistent with those provided in the Basel standards but uses alternative criteria. The default buckets for non-securitization positions in the Basel standards are defined based on the applicable credit ratings of the reference entity. As discussed previously in section V.A.7.a.iii.II. of this **SUPPLEMENTARY INFORMATION**, the proposed approach does not rely on external credit ratings but allows for a level of granularity in the default buckets (and corresponding risk weights) applicable to non-securitization positions that is generally consistent with the Basel standards. Specifically, the proposal would define the default buckets and corresponding risk weights for non-securitization positions based on the definition for investment grade in the agencies' existing capital rule and the proposed definitions of speculative grade and sub-speculative grade.⁴⁴⁸

⁴⁴⁸ The agencies propose to modify the Basel standards' ratings-based risk weights, as in previous rules, to instead use grade-based risk weights, calculated as a weighted average of the ratings-based risk weights. The weighting scheme for this calculation would be derived from the notional amount of bond issuances in each grade category from 2007 through 2019. For this analysis, the agencies used the Mergent Fixed Income Securities Database to identify bond notional issuance amounts for the period from January 1, 2007 through December 31, 2019. See LSEG Mergent, <https://wrds-www.wharton.upenn.edu/pages/about/data-vendors/lseg-mergent/>. This look back period (from January 1, 2007 to December 31, 2019) was selected to: (i) capture issuance activity across varying market conditions, including pre-crisis, crisis, and initial recovery phases; (ii) ensure sufficient data availability, reliability, and through the cycle stability. The methodology employed by the agencies proceeded in two distinct analytical stages. First, the original Basel III standardized approach risk weights based on external credit ratings, as set forth in the Basel Committee on Banking Supervision's finalized standards published in December 2017 and revised in 2019, were adjusted by the proportionate share of bond issuances in each corresponding Basel rating category during the look back period (January 1, 2007–December 31, 2019). This adjustment reflects the actual distribution of market issuance activity across rating grades and serves to calibrate the risk weights to observed market behavior rather than theoretical rating-based classifications. Second, following this proportionate adjustment, the ratings-based risk weights were collapsed and consolidated to form three simplified creditworthiness categories: (a) "Investment Grade," (b) "Non-Investment Grade," and (c) "Sub-Investment Grade." This categorical consolidation was applied uniformly across three principal

Question 172: The agencies solicit comment on the appropriateness of the proposed risk weights and granularity in Table 1 to § _____.210. What, if any, alternative approaches should the agencies consider for assigning risk weights that would be consistent with the prohibition on the use of credit ratings? Commenters are encouraged to provide specific details on the mechanics of and rationale for any suggested methodology.

b. Securitization Positions Non-CTP

For securitization positions non-CTP, the process to calculate the default risk capital requirement would be identical to that for non-securitization positions, except for the gross default exposure calculation, the offsetting of long and short exposures in the net default exposure calculation, and the proposed buckets and corresponding risk weights.

i. Gross Default Exposure

Under the proposal, the gross default exposure for a securitization position non-CTP equals the position's market value. As the proposed bucket-level risk weights described in section V.A.7.a.iii.II. of this **SUPPLEMENTARY INFORMATION** would already reflect the LGD rates for such positions, a banking organization would not apply an LGD rate to calculate the gross default exposure.

ii. Net Default Exposure

First, the proposal would allow offsetting between securitization exposures with the same underlying asset pool and belonging to the same tranche. No offsetting would be permitted between securitization exposures with different underlying asset pools, even where the attachment and detachment points are the same.

Second, the proposal would permit a banking organization to offset the gross default exposure of a securitization position non-CTP with one or more non-securitization positions by decomposing the exposure of non-tranched index

exposure types: corporate exposures, public sector entity (PSE) exposures, and sovereign exposures. The agencies determined that this two-stage methodology—consisting of proportionate adjustment followed by categorical consolidation—achieves an appropriate balance among the following regulatory objectives: (i) alignment with the fundamental risk-sensitivity principles underlying the Basel framework; (ii) consistency with Section 939A of the Dodd-Frank Wall Street Reform and Consumer Protection Act (codified at 15 U.S.C. 78o–7 note); (iii) operational simplicity and administrability for banking organizations of varying sizes and complexity; (iv) consistency with observed market issuance patterns during the relevant look back period (January 1, 2007–December 31, 2019); and (v) stability of risk weights across credit cycles.

instruments and replicating the exposures that make up the entire capital structure of the securitized position. Additionally, a banking organization would be required to exclude non-securitization positions that are recognized as offsetting the gross default exposure of a securitization position non-CTP from the calculation of the default risk capital requirement for non-securitization debt and equity positions.

Third, the proposal would allow a banking organization to offset the gross default exposure of a securitization position non-CTP through decomposition if a collection of short securitization positions non-CTP replicates a collection of long securitization positions non-CTP. For example, if a banking organization holds a long position in the securitization, and a short position in a mezzanine tranche that attaches at 3 percent and detaches at 10 percent, the proposal would permit the banking organization to decompose the securitization into three tranches and offset the gross default exposures for the common portion of the securitization (3–10 percent). In this case, the net default exposure would reflect the long positions in the 0–3 percent tranche and in the 10–100 percent tranche.

Question 173: The agencies seek comment on the proposed netting and decomposition criteria for calculating the net default exposure for securitization positions non-CTP. What, if any, alternative non-model-based methodologies should the agencies consider that would conservatively recognize some hedging benefits but still capture the basis risk between non-identical positions?

iii. Buckets and Corresponding Risk Weights

To promote consistency and comparability in risk-based capital requirements across banking organizations, the proposal would define the bucket structure that a banking organization would be required to use to group securitization positions non-CTP. Specifically, the proposal would require a banking organization to classify securitization positions non-CTP as corporate positions or based on the asset class and the region of the underlying assets, following market convention.⁴⁴⁹ Under the proposal, a

banking organization would assign each position to one bucket, and those with underlying exposures in the same asset class and region to the same bucket. Additionally, the proposal would require a banking organization to assign any position that is not a corporate position and that it cannot assign to a specific asset class or region to one of the “other” buckets.⁴⁵⁰

For consistency in the capital requirements for securitizations under either the standardized approach or the expanded risk-based approach, as applicable, and to recognize credit subordination,⁴⁵¹ the proposed risk weights for securitization positions non-CTP are based on the proposed risk weights calculated for securitization exposures under either the proposed standardized approach or expanded risk-based approach of the capital rule.

To calculate the default risk capital requirement for securitization positions non-CTP, a banking organization would sum the bucket-level capital requirements, except that a banking organization could cap the default risk capital requirement for an individual cash securitization position non-CTP at its fair value. For cash positions, the maximum loss on the exposure would not exceed the fair value of the position even if each of the underlying assets of the securitization were to immediately default. Furthermore, the proposed treatment would align with the maximum potential capital requirement for securitizations under either the standardized approach or the expanded risk-based approach, as applicable, of the capital rule.⁴⁵²

Question 174: The agencies request comment on the proposed buckets. What are the potential benefits and drawbacks of aligning the default bucketing structure with the proposed delta buckets for securitization positions non-CTP in the sensitivities-based method? Commenters are encouraged to

commercial mortgage-backed securities, collateralized loan obligations, collateralized debt obligations squared, small and medium enterprises, student loans, other retail, and other wholesale. See § _____.210(c)(3)(B) of the proposed rule.

⁴⁵⁰ Under the proposal, the other buckets would include other retail and other wholesale (for asset class) and other (for region). See § _____.210(c)(3)(B) of the proposed rule.

⁴⁵¹ For example, consistent with the existing SSFA, the proposed SEC-SA would use the risk weights applicable to the underlying exposures within the general credit risk framework to calculate the risk weight for the securitization exposure. The SEC-SA calculates the risk weight for a securitization exposure based on characteristics of the tranche, such as the attachment and detachment points and quality of the underlying collateral.

⁴⁵² See § _____.44(a) of the current capital rule and § _____.132(a)(3) of the proposed rule.

provide information regarding any associated burden, complexity, and capital impact of such an alignment.

c. Correlation Trading Positions

The process to calculate the default risk capital requirement for correlation trading positions would be the same as that for non-securitization debt and equity positions, except for the metrics used to measure gross default exposure, the offsetting of long and short exposures in the net default exposure calculation, the buckets, and the aggregation of the bucket level exposures across buckets.

i. Gross Default Exposure

Under the proposal, the gross default exposure for a correlation trading position equals the position's market value. To calculate the gross default exposure for correlation trading positions that are nth-to-default positions, the proposal would require a banking organization to treat such positions as tranches and to calculate the attachment point as (N–1) divided by the total number of single names in the underlying basket or pool and the detachment point as N divided by the total number of single names in the underlying basket or pool. The proposed calculation is intended to appropriately reflect the credit subordination of such positions.

ii. Net Default Exposure

Similar to securitization positions non-CTP, to increase risk sensitivity and permit greater offsetting of substantially similar exposures, the proposal would permit banking organizations to offset gross long and short default exposures in specific cases.

First, the proposal would allow a banking organization to offset the gross default exposure of correlation trading positions that are otherwise identical except for maturity, including index tranches of the same series. This means the offsetting positions would need to have the same underlying index family of the same series, and the same attachment and detachment points.

Second, the proposal would allow a banking organization to offset the gross default exposure of long and short exposures of tranches that are perfect replications of non-tranched correlation trading positions. For example, the proposal would allow a banking organization to offset the gross default exposure of a long position in the CDX.NA.IG.24 index with short positions that together comprise the entire index position (for example, three distinct tranches that attach and detach

⁴⁴⁹ The proposal would define the asset class buckets along two dimensions: asset class and region. The region risk buckets would include Asia, Europe, North America, and other. The asset class risk buckets would include asset-backed commercial paper, auto loans/leases, residential mortgage-backed securities, credit cards,

at 0–3 percent, 3–10 percent, and 10–100 percent, respectively).

Third, the proposal would allow a banking organization to offset the gross default exposure of indices and single-name constituents in the indices through decomposition when the long and the short gross default exposures are otherwise equivalent except for a residual component. Under the proposal, a banking organization would account for the residual exposure in the calculation of the net default exposure. In such cases, the proposal would require that the decomposition into single-name equivalent exposures account for the effect of marginal defaults of the single names in the tranching correlation trading position. Such decomposition generally would be permissible for correlation trading positions (for example, vanilla CDOs, index tranches or bespoke indices), but would be prohibited for exotic securitizations (for example, CDO squared).

Fourth, the proposal would allow a banking organization to offset the gross default exposure of different series (non-tranched) of the same index through decomposition when the long and the short gross default exposures are otherwise equivalent except for a residual component. Under the proposal, a banking organization would account for the residual exposure in the calculation of the net default exposure. For example, assume that a banking organization holds a long position in a CDS index that references 125 underlying credits and a short position in the next series of the index that also references 125 credits. The two indices share the same 123 reference credits, such that there are two unique credits in each index. Under the proposal, a banking organization could offset the 123 names through decomposition, in which case the net default exposure would reflect only the two unique single-name credits for the long index position and the two unique single-name credits for the short index position. Similarly, a banking organization could offset the long exposure in 125 credits by selling short an index that contains 123 of those same credits. In this case, only the two residual names would be reflected in the net default exposure.

Fifth, the proposal would allow a banking organization to offset different tranches of the same index and series through replication and decomposition and calculate a net default exposure on the unique component only, if the residual component has the attachment and detachment point nested with the original tranche or the combination of

tranches. In such cases, the banking organization would be required to account for the residual component of the unhedged tranche within the default risk capital requirement. For example, assume that a banking organization holds long positions in two tranches, one that attaches at 5 percent and detaches at 10 percent and another that attaches at 10 percent and detaches at 15 percent. To hedge this position, the banking organization holds a short position in a tranche on the same index that attaches at 5 percent and detaches at 20 percent. In this case, the banking organization's net default exposure would only be for the residual portion of the tranche that attaches at 15 percent and detaches at 20 percent.

iii. Buckets and Corresponding Risk Weights

For correlation trading positions, the proposal would define buckets by index, each index would comprise its own bucket.⁴⁵³ Under the proposal, a bespoke correlation trading position would be assigned to its own unique bucket, unless it is substantially similar to an index instrument, in which case the bespoke position would be assigned to the bucket corresponding to the index. For a non-securitization position that hedges a correlation trading position, a banking organization would be required to assign such position and the correlation trading position to the same bucket.

For consistency in the proposed capital requirements for securitizations under either the standardized approach or the expanded risk-based approach of the capital rule and to recognize credit subordination,⁴⁵⁴ the proposed risk weights corresponding to the proposed buckets for correlation trading positions are based on the proposed treatment under either the standardized approach or the expanded risk-based approach of the capital rule.⁴⁵⁵ For non-tranched hedges of correlation trading positions or decomposed single-name exposures, the proposal would allow a banking

organization to apply the same risk weights and loss given default rates as for non-securitization debt or equity positions, provided that such hedges or decomposed single-name exposures are excluded from the default risk capital requirement for non-securitization debt or equity positions.

The agencies recognize that the granularity of the proposed bucket structure could result in several individual buckets containing only net short exposures and thus overstate the offsetting benefits of non-identical exposures if the total default risk capital requirement for correlation trading positions was calculated as a sum of the bucket-level capital requirements. To appropriately limit the benefit of buckets with short default exposures offsetting those with long exposures, the total default risk capital requirement for correlation trading positions would be calculated as the sum of the risk-bucket level capital requirements for the net long default exposures plus half of the sum of the risk-weighted exposures for the net short default exposures.

10. Treatment of Certain Market Risk Covered Positions

To promote consistency and comparability in the risk-based capital requirements across banking organizations and to help ensure appropriate capitalization of positions subject to the proposed market risk framework, the proposal would clarify the treatment of certain market risk covered positions under the standardized and models-based measures for market risk.

a. Net Short Risk Positions

The proposal would require a banking organization to calculate on a quarterly basis its exposure arising from any net short credit or equity position.⁴⁵⁶ A banking organization would be required to include any net short risk position of at least \$20 million, adjusted to reflect CPI-W, in its total market risk capital requirement for the entire quarter, under both the standardized measure for market risk and the models-based measure for market risk, as applicable.

The proposed quarterly approach is intended to reduce operational burden of requiring a banking organization to capture temporary or small differences arising from fluctuations in the value of positions subject to the credit risk framework. Further, the proposed quarterly calculation requirement should help ensure that banking

⁴⁵³ A non-exhaustive list of indices include: the CDX North America IG, iTraxx Europe IG, CDX HY, iTraxx XO, LCDX (loan index), iTraxx LevX (loan index), Asia Corp, Latin America Corp, Other Regions Corp, Major Sovereign (G7 and Western Europe) and Other Sovereign.

⁴⁵⁴ For example, consistent with the existing SSFA, the proposed SEC-SA would use the risk weights applicable to the underlying exposures within the general credit risk framework to calculate the risk weight for the securitization exposure. The SEC-SA calculates the risk weight for a securitization exposure based on characteristics of the tranche, such as the attachment and detachment points and quality of the underlying collateral.

⁴⁵⁵ See § _____.42 of the current capital rule and § _____.132 of the proposed rule.

⁴⁵⁶ See section V.A.4.b. of this SUPPLEMENTARY INFORMATION for a more detailed discussion on net short risk positions.

organizations are appropriately managing and monitoring net short risk positions arising from exposures subject to the standardized approach or the expanded risk-based approach of the capital rule at intervals of sufficient frequency to prevent the formation of non-negligible net short risk positions.

As proposed it may be difficult for a banking organization to apply the standardized non-default capital requirement or models-based non-default capital requirement to net short risk positions given that the composition of any particular net short position could contain a different combination of various underlying instruments. Therefore, if unable to calculate a risk factor sensitivity for a net short risk position, the proposal would require the banking organization to calculate market risk capital requirements using the fallback capital requirement as described in section V.A.3.d. of this **SUPPLEMENTARY INFORMATION**.

b. Securitization Positions and Defaulted and Distressed Market Risk Covered Positions

The proposal would require a banking organization to calculate market risk capital requirements for securitization positions using the standardized non-default capital requirement or the fallback capital requirement, as applicable. The proposed treatment would address regulatory arbitrage concerns as well as deficiencies in the modelling of securitization positions that became more evident during the course of the financial crisis that began in mid-2007.⁴⁵⁷

The proposal would require a banking organization to include defaulted market risk covered positions in the default risk capital requirement. The proposal would allow a banking organization to extend the treatment of defaulted market risk covered positions to distressed market positions. Such positions are not required to be included in the standardized non-default capital requirement or in the models-based non-default capital requirement. Generally, distressed and

defaulted positions trade based on recovery, which is not driven by or reflective of the credit spread of the issuer. Therefore, in addition to being operationally difficult, requiring a banking organization to calculate the sensitivity of such positions to changes in credit spreads may not be appropriate for the purposes of quantifying the risk posed by such positions. Additionally, subjecting defaulted and distressed positions to capital requirements under the standardized or models-based non-default capital requirement would increase the capital requirements for such positions beyond the maximum potential loss of such holdings, as the default risk capital requirement already assigns a 100 percent risk weight and 100 percent LGD to such exposures. If a banking organization is unable to calculate the default risk capital requirement for such positions, the proposal would require the banking organization to calculate market risk capital requirements using the fallback capital requirement.⁴⁵⁸

As the amount of regulatory capital required under the fallback capital requirement would equal the absolute fair value of the position, the proposal would cap the overall market risk capital requirement for defaulted, distressed, and securitization positions at the maximum loss of the position. By capping the regulatory capital requirement for such positions at the total potential loss that a banking organization could incur from holding such positions, the proposal would align the risk-based requirements under the standardized and models-based non-default capital requirements, as applicable, with those under the fallback capital requirement.

c. Hybrid Instruments

i. Standardized Non-Default Capital Requirement

Hybrid instruments are instruments that have characteristics in common with both debt and equity instruments, including traditional convertible bonds. As hybrid instruments primarily react to changes in interest rates, issuer credit spreads, and equity prices, the proposal would require a banking organization to assign risk sensitivities for these instruments into the interest rate risk class, credit spread risk class for non-

securitization positions, and equity risk class, as applicable, when calculating the delta, curvature, and vega capital requirements under the sensitivities-based method.

ii. Default Risk Capital Requirement

For the default risk capital requirement, the proposal would require a banking organization to decompose a hybrid instrument into a non-securitization position and an equity position and calculate the default risk capital requirement for each position respectively. For example, a convertible bond can be decomposed into a vanilla bond and an equity call option. The notional amount to be used in the calculation of the default risk capital requirement for the vanilla bond is the notional amount of the convertible bond. The notional amount to be used in the calculation of the default risk capital requirement for the call option is zero (because, in the event of default, the call option will not be exercised). In this case, a default of an issuer of the convertible bond would extinguish the call option's value and this loss would be captured through the profit and loss component of the gross default exposure amount calculation. The default risk capital requirement for the convertible bond would be the sum of the default risk capital of the vanilla bond and the default risk capital requirement for the equity option.

d. Index Instruments and Multi-Underlying Options

i. Standardized Non-Default Capital Requirement

When calculating the delta and curvature capital requirements under the sensitivities-based method for index instruments and multi-underlying options, the proposal would allow a banking organization to apply the look-through approach or the single sensitivity approach.

The look-through approach would require a banking organization to identify the underlying positions of the index instrument or multi-underlying option and calculate market risk capital requirements as if the banking organization directly held the underlying exposures. Under the proposal, a banking organization would be required to apply the look-through approach consistently through time and for all positions that reference the same index. The proposed look-through approach would align the treatment of such instruments with that of single-name positions and thus provide greater hedging recognition by allowing such instruments to net with single-name

⁴⁵⁷ As discussed further in section V.A.6.d.i. of this **SUPPLEMENTARY INFORMATION**, model-eligible trading desk would be allowed to hold insignificant amounts of model-ineligible positions, including securitization positions. For model-eligible trading desks that hold insignificant amounts of such positions, the proposal would require a banking organization to exclude any model-ineligible positions held by the model-eligible trading desk from (1) the aggregate trading portfolio backtesting; and (2) the relevant desk-level backtesting and profit and loss attribution metric, unless the banking organization receives approval from its primary Federal supervisor to include such positions.

⁴⁵⁸ As described in more detail in section V.A.3.d. of this **SUPPLEMENTARY INFORMATION**, the fallback capital requirement would apply in instances where a banking organization is unable to calculate market risk capital requirements for one or more of its market risk covered positions under either the standardized non-default capital requirement, the models-based non-default capital requirement, if eligible, or the default risk capital requirement.

positions issued by the same company. Specifically, a banking organization would be able to net risk factor sensitivities of such positions of the index instrument or multi-underlying option and other single-name positions without restriction when calculating delta and curvature capital requirements under the sensitivities-based method.

The single sensitivity approach would require a banking organization to calculate a single sensitivity to the index and then assign the index instrument or multi-underlying option to a relevant bucket to calculate the delta and curvature capital requirements. To assign the sensitivity of the index to the relevant sector or index bucket, the proposal includes a waterfall approach as a simple and risk-sensitive method to appropriately reflect the risk of such positions based on the risk and diversification of the underlying assets. For indices where at least 75 percent of the notional value of the underlying constituents relate to the same sector (sector-specific indices), taking into account the weightings of the index, the sensitivity would be assigned to the corresponding sector bucket; otherwise, the proposal would require a banking organization to assign the sensitivity to an appropriate index bucket. For equity indices that are not sector specific, the proposal would require a banking organization to assign the sensitivity to the large market cap and liquid market economy (non-sector specific) equity indices bucket if least 75 percent of the market value of the index constituents met both the large market cap and liquid market economy criteria, and to the other equity indices (non-sector specific) bucket otherwise. For credit indices that are not sector specific, the sensitivity would be assigned to the investment grade indices bucket if the credit quality of at least 75 percent of the notional value of the underlying constituents is investment grade, and to the speculative grade and sub-speculative grade indices bucket otherwise.⁴⁵⁹ To the extent a credit or an equity index spans multiple risk classes, the proposal would require the banking organization to allocate the index proportionately to the relevant risk classes following the above methodology. For credit indices the proposal would allow a banking organization to use delta sensitivity for equity risk of the index adjusted by the index's effective duration as a proxy to

calculate delta sensitivity for interest rate risk and credit spread risk for non-securitizations in the sensitivities-based method. This approach would help ensure a more risk sensitive treatment of credit indices when the look-through approach is not possible or practical. Furthermore, a banking organization would need to assign credit spread risk and interest rate risk delta sensitivities to the closest tenors using interpolation. The delta sensitivity for interest rate risk should be assigned based on currency. To calculate the vega capital requirement for options on credit indices under the single sensitivity approach, the proposal would require a banking organization to follow the steps outlined in section V.A.7.a.ii.I. of this **SUPPLEMENTARY INFORMATION** and use the same buckets as applied in the delta capital calculation. When calculating curvature for options on credit indices, the proposal would allow a banking organization to use a single shock measured as the delta risk weight multiplied by the index's effective duration.

When calculating vega capital requirements for index instruments and multi-underlying options (including index options), the proposal would permit, but not require, a banking organization to apply the look-through approach and calculate the vega capital requirements based on the implied volatility of options on the underlying constituents. Alternatively, under the proposal, a banking organization could calculate the vega capital requirement for multi-underlying options based on the implied volatility of the option, which typically is the method used by banking organizations' financial reporting models for multi-underlying options. For indices, the proposal would require a banking organization to calculate vega capital requirements with respect to the implied volatility based on the same sector specific bucket or index bucket used to calculate the delta capital requirement and the curvature capital requirement, or an appropriate sector specific or index bucket otherwise.

ii. Models-Based Non-Default Capital Requirement

When calculating the models-based non-default capital requirement for indices and multi-underlying options the proposal would allow, but not require, a banking organization to calculate the market risk capital requirement for such positions held by a model-eligible desk by applying the look-through approach or the hypothetical portfolio approach based on the most recent quarterly disclosure

of the index's historical holdings of underlying positions. In addition, a banking organization may use any other modelling approach to calculate the models-based non-default capital requirement after receiving a prior approval from its primary Federal supervisor.

iii. Default Risk Capital Requirement

The default risk of credit and equity indices as well as multi-underlying options that are non-securitization debt or equity positions is primarily a function of the idiosyncratic default risk of the underlying constituents. Accordingly, to capture appropriately the default risk of such positions, the proposal would allow a banking organization to apply the look-through approach when calculating the default risk capital requirement for indices and multi-underlying options that are non-securitization debt or equity positions. When decomposing multi-underlying exposures or indices, a banking organization would be required to set the gross default exposure assigned to a single name, referenced by the instrument, equal to the difference between the value of the instrument assuming only the single name defaults and the value of the instrument assuming none of the single names referenced by the instrument default. By aligning the treatment of positions in credit and equity indices with that of single-name positions, the proposal would provide greater hedging recognition as the banking organization would be able to offset the gross default exposure of long and short positions in indices with that of single-name positions included in the index.

Alternatively, as the underlying constituents of credit and equity indices and multi-underlying options could react differently to the same market or economic event, the proposal would also allow a banking organization to treat such positions as a single position for purposes of calculating the default risk capital requirement, provided the index or multi-underlying option substantially meets the criteria for the applicable bucket. Also, the proposal would allow a banking organization to treat the index or multi-underlying option as a single sub-speculative exposure. For example, a banking organization may choose to apply a single sub-speculative exposure approach when it would be operationally challenging for a banking organization to apply the look-through approach or perform the analysis to identify an appropriate bucket for a single exposure.

⁴⁵⁹ See section V.A.7.a.iii. of this **SUPPLEMENTARY INFORMATION** for a more detailed description on the assignment of delta sensitivities to the prescribed buckets under the proposed sensitivities-based method.

Question 175: The agencies seek comment on the proposed threshold of 75 percent for assigning a credit or equity index to the corresponding sector or the investment grade indices bucket. What would be the benefits and drawbacks of the proposed threshold? What, if any, alternative thresholds should the agencies consider that would more appropriately measure the majority of constituents in listed and well-diversified credit and equity indices?

Question 176: The agencies seek comment on the calculation of vega capital requirement for credit indices for which a banking organization chooses to apply a single sensitivity approach. To mitigate any operational burden that could arise from using the single sensitivity approach in order to calculate the vega capital requirement, what would be the advantages and disadvantages of allowing a banking organization to calculate the vega capital requirement according to the backstop fund method? Please specify how a banking organization would perform such calculation.

e. Equity Positions in an Investment Fund

i. Standardized Non-Default Capital Requirement

For equity positions in an investment fund or portions of such positions for which the banking organization is able to use the look-through approach to calculate a market risk capital requirement for its proportional ownership share of each exposure held by the investment fund, the proposal would allow a banking organization to apply the look-through approach under the standardized measure for market risk. If a banking organization is able to use the look-through approach to calculate market risk capital requirements for only a portion of the underlying positions in the fund, the proposal would require a banking organization to treat the equity position in the investment fund as two separate market risk covered positions: one as a market risk covered position for which the banking organization is able to apply the look-through approach and the rest as a market risk covered position for which the banking organization is not able to apply the look-through approach. In this circumstance, each position would represent the proportional amount of original position corresponding to the portion of the investment fund that the banking organization is able to use the look-through approach or not able to use the look-through approach, respectively.

Alternatively, a banking organization could elect not to apply the look-through approach for such positions and, instead, apply the single sensitivity approach if the investment fund meets the criteria to be assigned to the relevant bucket as described in further detail in section V.A.10.d.i. of this

SUPPLEMENTARY INFORMATION. For equity or debt positions in publicly traded real estate investment trusts, the proposal would allow a banking organization to treat such exposures as a single exposure and apply the risk weight applicable to exposures allocated to the financial sector bucket when calculating the delta, vega, and curvature capital requirements under the sensitivities-based method.⁴⁶⁰ While equity positions in publicly traded real estate investment trusts are traded on the market, the underlying assets of such trusts generally are not. Thus, a banking organization will generally not be able to calculate the risk factor sensitivity for each of the underlying assets of the real estate investment trust and perform a full look through. Allowing a banking organization to treat equity positions in real estate investment trusts as a single position would help ensure that market risk capital requirements appropriately capture a banking organization's market risk exposure arising from such positions in a manner that minimizes compliance burden and enhances risk-capture. As each of the proposed alternative approaches would reflect a conservative capital requirement, the agencies consider that the proposed alternatives would help ensure a banking organization maintains sufficient capital against potential losses arising from equity positions in an investment fund for which the banking organization is unable to identify the underlying positions held by the fund.

Additionally, for equity positions in an investment fund or portions of such positions where a banking organization is not able to apply the look-through approach, the proposal would allow the banking organization to either apply the tracked index method, the hypothetical portfolio approach or the backstop fund method, as applicable. A banking organization could apply the tracked index method if the investment fund closely tracks an index benchmark or

the investment fund's mandate or prospectus requires that it tracks an index with tracking performance published quarterly. Generally, the agencies would consider an equity position in an investment fund to closely track the index if the returns of the investment fund (ignoring fees and commissions) over the prior year differs from those of the index by only a small percentage. For an equity position in an investment fund that closely tracks an index benchmark or if its mandate or prospectus requires that it tracks an index and publishes its tracking performance on a quarterly basis, the proposal would allow a banking organization to treat the equity position in the investment fund as if it was the tracked index in calculating the delta, vega, and curvature capital requirements, given the high correlation of the equity position with that of the index.⁴⁶¹ Further, for equity positions in an investment fund that holds an index, the proposal would allow a banking organization to calculate the delta, vega, and curvature capital requirements for the underlying index position using the treatment for indices⁴⁶² and apply the look-through approach or the single sensitivity approach to the other underlying exposures of the investment fund.

Under the proposed hypothetical portfolio approach, the banking organization would need to assume that the investment fund invests to the maximum extent permitted under its mandate in those exposures with the highest applicable risk weight and continues to make investments in the order of the exposure type with the next highest applicable risk weight until the maximum total investment level is reached. If more than one risk weight can be applied to a given exposure, the proposal would require the banking organization to use the maximum applicable risk weight in calculating the sensitivities-based method requirement. Alternatively, the banking organization may assume that the investment fund invests based on the most recent quarterly disclosure of the fund's historical holdings of underlying positions. The proposal would require a banking organization to weigh the constituents of the investment fund based on the hypothetical portfolio.

⁴⁶⁰ Under the proposal, such exposures would receive the 55 percent or 50 percent risk weight applicable to equity risk factors allocated to buckets 4 or 8, respectively, in Table 8 to § _____.209 of the proposed rule. Similarly, such exposures would receive the five percent or 12 percent risk weight applicable to counterparty credit spread risk for non-securitization risk factors allocated to buckets 3 and 11, respectively, in Table 3 to § _____.209 of the proposed rule.

⁴⁶¹ In this situation, the banking organization would apply the treatment for index instruments described in section V.A.10.d.i. of this **SUPPLEMENTARY INFORMATION.**

⁴⁶² In this situation, the banking organization would apply the treatment for index instruments described in section V.A.10.d.i. of this **SUPPLEMENTARY INFORMATION.**

To address any potential operational burden that can arise from the above discussed approaches for equity positions in an investment fund, the proposal would permit a banking organization to use an effective risk weight calculated by third parties in the calculation of market risk capital requirements for the look-through approach,⁴⁶³ hypothetical portfolio approach, and tracked index method. Under this approach, the fund's exposure would be assigned to one or more appropriate buckets without the requirement to look-through the fund, and with diversification allowed with other exposures.

Alternatively, the proposal's backstop fund method would allow a banking organization to allocate equity positions in an investment fund to the applicable other sector bucket.⁴⁶⁴ This approach would be a simple conservative measure in situations when, due to computational or operational challenges, a banking organization is unable to apply other allowed approaches to calculate the standardized non-default capital requirement. In situations when the mandate of the investment fund allows investments in positions subject to the residual risk add-on, such as positions with exposures to exotic risks or residual risks, the banking organization would need to calculate residual risk add on requirement for the equity position in the investment fund assuming that the investment fund has invested in such exposures to the maximum extent permitted under its mandate.

ii. Models-Based Non-Default Capital Requirement

The proposal would only allow a banking organization to use the models-based non-default capital requirement for equity positions in an investment fund for which the banking organization is able to identify the underlying positions held by the fund on a quarterly basis.⁴⁶⁵ Otherwise, these

positions would be calculated using the standardized non-default capital requirement or the fallback capital requirement. Under the proposal, a banking organization would be required to calculate the market risk capital requirement for such positions held by a model-eligible desk by applying the look-through approach or the hypothetical portfolio approach based on the most recent quarterly disclosure of the investment fund's historical holdings of underlying positions. In addition, a banking organization also may use any other modelling approach to calculate the models-based non-default capital requirement after receiving a prior approval from its primary Federal supervisor.

Question 177: What would be the advantages and disadvantages of allowing banking organizations to decompose equity positions in investment funds into the underlying holdings of the fund or based on the hypothetical portfolio, for purposes of calculating capital requirements under the models-based non-default capital requirement? Please provide specific details on the mechanics, capital implications and rationale for any suggested methodology, in particular the extent to which the proposed backtesting and PLA requirements would help ensure appropriate risk capture for positions in which the banking organization is only able to perform a look-through on a quarterly basis.

iii. Default Risk Capital Requirement

Similar to index instruments and multi-underlying options that are non-securitization debt or equity positions, the default risk of equity positions in an investment fund is primarily a function of the idiosyncratic default risk of the underlying constituents. Accordingly, to capture appropriately the default risk of such positions, the proposal would allow a banking organization to apply the look-through approach when calculating the default risk capital requirement for equity positions in an investment fund that are non-securitization debt or equity positions. Alternatively, for positions in an investment fund that closely tracks an index benchmark or for which a banking organization can identify the main investment strategy specified in the fund's mandate or prospectus, a banking

such exposures held by the investment fund. For portions of equity positions in an investment fund for which the banking organization is unable to use the look-through approach, the banking organization would use one of the approaches discussed in section V.A.10.e.i. of this

SUPPLEMENTARY INFORMATION.

organization would be allowed to treat an exposure to the fund as a single-name exposure assigned to an appropriate default bucket for non-securitization debt and equity positions.⁴⁶⁶ In situations when a banking organization is unable to use either the look-through approach or apply the single exposure treatment to calculate the default risk capital requirement for such positions due to some potential operational limitations, the proposal would allow a banking organization to treat a fund as a single-name sub-speculative exposure with the highest risk weight applicable to the fund (for example, 50 percent risk weight as specified in Table 1 to § _____.210 of the proposed rule).

For equity positions in an investment fund for which the banking organization applies the hypothetical portfolio approach under the standardized non-default capital requirement described above, the proposal would require a banking organization to apply the same hypothetical portfolio approach for purposes of calculating the default risk capital requirement for such positions.

For equity positions in an investment fund for which the banking organization applies the backstop fund method under the standardized non-default capital requirement, the proposal would allow a banking organization to use either the hypothetical portfolio approach for purposes of calculating the default risk capital requirement for such positions or treat the fund as a single sub-speculative exposure. The proposed treatment would help ensure the risk-based requirements appropriately capture the default risk of such positions in a manner that is consistent across banking organizations and minimizes operational burden.

Question 178: The agencies seek comment on whether a banking organization's ability under the proposal to treat an equity position in an investment fund as an index position when the investment fund closely tracks an index benchmark provides sufficient specificity to help ensure consistent application across banking organizations. To what extent would a specific quantitative measure more appropriately capture the types of positions that should be treated as index positions? What, if any, alternatives should the agencies consider (such as specifying an absolute value of one percent) to better capture the types of positions whose risks would

⁴⁶⁶ See Table 1 to § _____.210 of the proposed rule provides the proposed default risk buckets and corresponding risk weights for the non-securitization debt and equity risk positions.

⁴⁶³ If a banking organization relies on a third party to calculate the effective risk weight, the banking organization should be able to have understanding of how the third party calculates the risk weight and be able to verify that the calculation was conducted in a manner consistent with the requirements of the capital rule.

⁴⁶⁴ Table 8 to § _____.209 of the proposed rule provides the proposed delta risk buckets and corresponding risk weights for positions within the equity risk class.

⁴⁶⁵ The proposal would allow a banking organization to use the models-based non-default capital requirement for portions of equity positions in an investment fund for which the banking organization is able to use the look-through approach to calculate a market risk capital requirement for its proportional ownership share of

more appropriately be captured by the proposed market risk capital requirements for index positions and why? Commenters are encouraged to provide specific details on the mechanics, capital implications, and rationale for any suggested methodology.

Question 179: The agencies seek comment on requiring banking organizations to calculate the default risk capital requirement for equity positions in investment funds, if, based on its mandate, the fund would invest in the types of exposures that would be subject to the residual risk add-on to the maximum extent permitted under the mandate. What, if any, alternatives—such as allowing banking organizations to use the historical risk characteristics of the fund—should the agencies consider to better capture the residual risks of such positions? Commenters are encouraged to provide specific details on the mechanics, capital implications and rationale for any suggested methodology.

f. Treatment of Term Repo-Style Transactions

The current capital rule permits a banking organization to calculate a market risk capital requirement for securities subject to repurchase and lending agreements with an original maturity of more than one business day (term repo-style transactions), regardless of whether such transactions meet the short-term trading intent criterion of the definition of a market risk covered position.⁴⁶⁷ Under the current capital rule, this optionality is only available for term repo-style transactions for which the banking organization separately calculates risk-based requirements for counterparty credit risk using the collateral haircut approach under the standardized approach or the advanced approaches of the capital rule.⁴⁶⁸ The standardized approach and the advanced approaches of the capital rule permit a banking

organization to recognize the credit risk mitigation benefits of non-financial collateral under the collateral haircut approach for these term repo-style transactions.

The proposal would retain the treatment of term repo-style transactions in the current capital rule. The proposal similarly would permit a banking organization to include term repo-style transactions in market risk covered positions, where the transactions are marked to market and provided that it includes all of such term repo-style transactions in market risk covered positions consistently over time. In such cases, the proposal would permit a banking organization to include term repo-style transactions in the sensitivities-based method or models-based non-default capital requirement if held by a model-eligible trading desk. For purposes of calculating market risk capital requirements under the sensitivities-based method or the models-based non-default capital requirement, the proposal would require a banking organization to capture the risk factor sensitivities of the cash leg to general interest rate risk. The proposal would also require a banking organization to separately calculate the default risk capital requirement to capture losses on the underlying reference exposure in the event of issuer default as described in section V.A.9.a. of this **SUPPLEMENTARY INFORMATION** and the risk-based capital requirements for counterparty credit risk using the collateral haircut approach as described in section IV.A.4.a. of this **SUPPLEMENTARY INFORMATION**.

Question 180: The proposal would retain the current capital rule's treatment of repurchase and lending agreements with an original maturity of more than one business day (term repo-style transactions). What are the advantages and disadvantages of allowing a banking organization to treat repurchase agreements with no specified maturity date (open repurchase transactions) or those which maturity date automatically renews until canceled by a participating party (evergreen repurchase transactions), and why? To what extent open and evergreen repurchase transactions have different risk profiles from term repo-style transactions?

11. Reporting and Disclosure Requirements

The reporting and public disclosures required under the proposal are intended to strike a balance between the information necessary for ensuring that a banking organization is conforming to the requirements of the proposed market

risk rule, the public policy benefits that result from transparency of information, and a banking organization's compliance burden. The proposal does not change the requirements under the current capital rule regarding public disclosure policy and attestation, the frequency of required disclosures, the location of disclosures, or the treatment of proprietary and confidential information except that each of these aspects of the proposal is discussed not only in regard to a banking organization's public disclosures, but also in regard to its reporting (public regulatory reports and, as applicable, confidential supervisory reports).

a. Scope

The quantitative and qualitative disclosures required by this section would not apply to a banking organization that is a consolidated subsidiary of a bank holding company, savings and loan holding company, or a depository institution that is subject to these requirements, or of a non-U.S. banking organization subject to comparable public disclosure requirements in its home jurisdiction.

The information contained within both public regulatory reports and, as applicable, confidential supervisory reports described in the proposal would be necessary for the primary Federal supervisor to assess whether a banking organization has adequately implemented the proposed market risk capital framework. Therefore, under the proposal, any banking organization that is subject to the proposed market risk capital requirements must provide public regulatory reports in the manner and form prescribed by its primary Federal supervisor, including any additional information and reports that the primary Federal supervisor may require. Any such banking organization that also uses the models-based measure for calculating market risk capital requirements must provide confidential supervisory reports as discussed below to its primary Federal supervisor in a manner and form prescribed by that supervisor.

b. Quantitative and Qualitative Disclosures

The current capital rule requires a banking organization subject to the market risk capital framework to disclose information related to the composition of portfolios of covered positions as well as the internal models used to calculate the market risk of covered positions. The proposal would eliminate the existing quantitative disclosures related to the calculations of VaR and incremental and

⁴⁶⁷ While such transactions are similar to trading activities, not all such transactions meet the short-term trading intent criterion of the definition of covered position. For example, certain repo-style transactions operate in economic substance as secured loans and do not, in normal practice, represent trading positions.

⁴⁶⁸ Under the market risk capital framework in the current capital rule, a banking organization that uses the simple VaR approach for purposes of calculating counterparty credit risk capital requirements may also include term repo-style transactions within the VaR-based measure for market risk. As noted in section IV.A.1. of this **SUPPLEMENTARY INFORMATION**, the proposal would eliminate the simple VaR approach for calculating risk-based requirements for counterparty credit risk—and thus this optionality would only apply in the context of the collateral haircut approach.

comprehensive risk capital requirements, which would no longer be necessary for calculating risk-based capital requirements for market risk under the proposal. The proposal would, however, retain the existing quantitative disclosures related to the aggregate amount of on-balance sheet and off-balance sheet securitization positions by exposure type, as well as the aggregate amount of correlation trading positions. Together, these disclosures would promote transparency regarding a banking organization's securitizations, which have historically been sources of uncertainty for regulators and market participants during periods of financial stress. Finally, the proposal would add a quantitative disclosure requiring a banking organization that uses the models-based measure for market risk to disclose a comparison of VaR-based estimates to actual gains or losses for each material portfolio of market risk covered positions with an analysis of important outliers. In addition to the requirement to disclose a general description of a banking organization's internal capital adequacy assessment methodology, a banking organization that uses the models-based measure for market risk would also be required to include such assessment for categories of non-modellable risk factors.⁴⁶⁹

The proposal would also retain the existing qualitative disclosures for material portfolios but with certain revisions to reflect the changes to the market risk framework under the proposal. Specifically, the requirement that a banking organization disclose characteristics of internal models would be revised to also require that the banking organization disclose information related to the models used to calculate expected shortfall (ES), the frequency with which data is updated, and a description of the calculation based on current and stress observations. The existing requirement that a banking organization disclose its internal capital adequacy assessment, including a description of the methodologies used to achieve a capital adequacy assessment consistent with the soundness standard, would be subsumed into the quarterly quantitative disclosure requirements described above. Qualitative disclosures

that typically do not change each quarter may be disclosed annually, provided any significant changes are disclosed in the interim.

The proposal would add new qualitative disclosures related to a banking organization's processes and policies for managing market risk. Specifically, the proposed qualitative disclosures include (i) a description of the structure and organization of the market risk management system, including a description of the market risk governance structure established to implement the strategies and processes described below; (ii) a description of the policies and processes for determining whether a position is designated as a market risk covered position and the risk management policies for monitoring market risk covered positions; (iii) a description of the scope and nature of risk reporting and/or measurement systems and the strategies and processes implemented by the banking organization to identify, measure, monitor, and control the banking organization's market risks, including policies for hedging; and (iv) a description of the trading desk structure and the types of market risk covered positions included on the trading desks or in trading desk categories, including a description of the model-eligible trading desks for which a banking organization calculates the models-based non-default risk capital requirement and any changes in the scope of model-ineligible trading desks and the market risk covered positions on those desks. Together, the additional disclosure requirements in the proposal would increase transparency, encourage sound risk management practices, and assist the regulatory review process of a banking organization subject to the proposed market risk framework by providing clear information on the policies and procedures that each banking organization has adopted to manage and mitigate potential losses arising from market fluctuations.

c. Public Reports

In addition to the public disclosure requirements, the proposal would require that a banking organization provide a quarterly public regulatory report of its measure for market risk. This public report, the form of which would be specified by the agencies, would contain information that the agencies deem necessary for assessing the manner in which a banking organization has implemented the proposed market risk rule. This, in turn, would help ensure the safety and soundness of the financial system by facilitating the identification of

problems at a banking organization and ensuring that a banking organization has implemented any corrective actions imposed by the agencies.

d. Confidential Supervisory Reports

Under the proposal, a banking organization using the models-based measure to calculate market risk capital requirements would be required to submit, via confidential regulatory reporting in the manner and form prescribed by the primary Federal supervisor, data pertaining to its backtesting and PLA testing.

To reflect the proposed changes to the market risk framework, the proposal would require a banking organization to submit backtesting information for model-eligible trading desks at both the aggregate level and for each trading desk, as well as PLA testing information for each model-eligible trading desk, on a quarterly basis. This information would cover the previous 500 business days, or all business days if 500 business days are not available, and would have to be reported with no more than a 20-day lag. At the aggregate level, the data would include the daily VaR-based measures calibrated to the 99.0th percentile; the daily ES-based measure calibrated at the 97.5th percentile; the actual profit and loss; the hypothetical profit and loss; and the p-value of the profit or loss for each day. At the trading desk level, the data would include the daily VaR-based measure for the trading desk calibrated at both the 97.5th and 99.0th percentile; the daily ES-based measure calibrated at the 97.5th percentile; the actual profit and loss; the hypothetical profit and loss; the risk-theoretical profit and loss; and the p-values of the profit or loss for each day.

The information in the proposed report would enable the primary Federal supervisor to identify changes to the risk profiles of reporting banking organizations as well as to monitor the risk inherent in the broader banking system. Specifically, the collection of backtesting and PLA data included in the proposed reports would enable the primary Federal supervisor to determine the validity of a banking organization's internal models, and whether these models accurately account for the risk associated with exposure to price movements, changes in market structure, or market events that affect specific assets. If the primary Federal supervisor finds these models to be flawed, the banking organization must then use the standardized non-default capital requirement for calculating its market risk capital requirements, thereby preventing divergence between a banking organization's risk profile and

⁴⁶⁹ The agencies would expect a banking organization to have sound internal capital assessment processes which would include, but not be limited to, identification of capital adequacy goals with respect to risks, taking into account the strategic focus and business plan of the banking organization, risk identification, measurement, and documentation, as well as a process of internal controls, reviews, and audits.

its capital position. In addition, the proposed report would be a valuable tool for a banking organization subject to the market risk capital requirements under the proposal to verify that the proposed market risk framework has been appropriately implemented.

12. Technical Amendments

The proposal would streamline the definitions related to securitizations in the market risk capital framework with those in the standardized approach or the expanded risk-based approach of the capital rule. Specifically, the proposal would eliminate the definition of “securitization” from the market risk capital framework and revise the definitions of “securitization position” and “resecuritization position” to refer to the terms “securitization exposure” and “resecuritization exposure,” which are defined in § _____.2 of the capital rule.⁴⁷⁰ These modifications would not change the scope of positions that would be considered securitization positions and resecuritization positions under the market risk capital framework. Rather, the proposed revisions would clarify that the same types of positions are captured under the market risk capital framework as under the standardized approach and the proposed expanded risk-based approach, which currently use substantially similar, but separate definitions.

B. Credit Valuation Adjustment Risk

1. Background

In general, OTC derivative contracts are bilateral agreements either to make or receive payments or to buy or sell an underlying asset on a certain date, or dates, in the future. The value of an OTC derivative contract, and thus a party’s exposure to its counterparty, changes over the life of the contract

based on movements in the value of the reference rates, assets, commodity prices, or indices underlying the contract. In addition to the exposure to changes in the market value of OTC derivative contracts, there is also credit risk associated with such contracts. Specifically, if a counterparty to an OTC derivative contract, or a portfolio of such contracts subject to a qualifying master netting agreement or a qualifying cross-product master netting agreement,⁴⁷¹ defaults prior to the contract’s expiration, the non-defaulting party will experience a loss if the market value of the contract, or of the portfolio of contracts under a qualifying master netting agreement, is positive at the time of default. The risk of such a loss, known as counterparty credit risk, exists even if the current market value of the contract, or the portfolio under a qualifying master netting agreement, is negative because the future market value may become positive if market conditions change. Under the current capital rule, a banking organization determines risk-based capital requirements for counterparty credit risk using the credit risk framework, with exposure amounts determined via either SA–CCR, the current exposure methodology, or the internal models methodology, as applicable.⁴⁷²

The valuation change of OTC derivative contracts resulting from the risk of the counterparty’s defaulting prior to the expiration of the contracts, known as the credit valuation adjustment (CVA), depends on (1) counterparty credit spreads, which reflect the creditworthiness of the counterparty perceived by the market; and (2) credit exposure generated by CVA risk covered positions⁴⁷³ that the market would expect at various future points in time. Thus, CVA risk has two components: a counterparty credit spread component (CVA increases as a result of the deterioration in the

creditworthiness of a counterparty perceived by the market) and an exposure component (CVA increases as a result of an increase in the expected future exposure).

The proposal would revise the criteria for determining whether a banking organization is subject to CVA risk capital requirements. Under the proposal, a Category I or Category II depository institution holding company and its depository institution subsidiaries that are subject to the market risk framework, as well as any banking organization with significant OTC derivatives that is subject to the market risk framework, would be required to reflect in risk-weighted assets the potential losses on OTC derivative contracts resulting from increases in CVA for all OTC derivative contract counterparties, subject to certain exceptions.⁴⁷⁴

The proposal would provide two measures for calculating CVA risk capital requirements: (1) the basic measure for CVA risk that includes the basic CVA approach (BA–CVA) capital requirement, which recognizes only the credit spread component of CVA risk and is similar to the current capital rule’s simple CVA approach, and (2) a standardized measure for CVA risk that includes a new standardized CVA approach (SA–CVA) capital requirement and the BA–CVA capital requirement. The SA–CVA would account for both credit spread and exposure components of CVA risk and would allow a banking organization to recognize hedges for the exposure component of CVA risk. Under the proposal, only banking organizations that use SA–CCR for counterparty credit risk would be eligible to use the standardized measure to calculate its CVA risk capital requirements.⁴⁷⁵ Additionally, the proposal would require the banking organization to receive a prior approval from the primary Federal supervisor to calculate the CVA risk capital requirements under the SA–CVA approach.

2. Scope of Application

The proposed capital requirements for CVA risk would apply to a Category I or

⁴⁷⁰ Section 2 of the capital rule defines a securitization exposure as an on- or off-balance sheet credit exposure (including credit-enhancing representations and warranties) that arises from a traditional or synthetic securitization (including a resecuritization), or an exposure that directly or indirectly references a securitization exposure. The agencies’ capital rule defines a traditional securitization, in part, as a transaction in which all or a portion of the credit risk of one or more underlying exposures is transferred to one or more third parties (other than through the use of credit derivatives or guarantees), where the credit risk associated with the underlying exposures has been separated into at least two tranches reflecting different levels of seniority. The definition includes certain other conditions, such as requiring all or substantially all of the underlying exposures to be financial exposures. See 12 CFR 3.2 s.v. securitization exposure, traditional securitization (OCC); 12 CFR 217.2 s.v. securitization exposure, traditional securitization (Board); 12 CFR 324.2 s.v. securitization exposure, traditional securitization (FDIC).

⁴⁷¹ “Qualifying master netting agreement” is defined in § _____.2 of the current capital rule. In order to recognize an agreement as a qualifying master netting agreement, a banking organization must meet the operational requirements in § _____.3(d) of the current capital rule. See 12 CFR 3.2, and 3.3(d) (OCC); 12 CFR 217.2 and 217.3(d) (Board); 12 CFR 324.2, and 324.3(d) (FDIC). In general, a qualifying master netting agreement means a netting agreement that permits a banking organization to accelerate, terminate, close-out on a net basis and promptly liquidate or set off collateral upon default of the counterparty. The proposal would retain this definition, except as discussed in section IX of this **SUPPLEMENTARY INFORMATION**, whereby the proposal would modify the definition in the Board’s and OCC’s rule to address a prior error.

⁴⁷² See §§ _____.34 and _____.132 of the current capital rule.

⁴⁷³ CVA risk covered positions are described in section V.B.3.a. of this **SUPPLEMENTARY INFORMATION**.

⁴⁷⁴ The proposal would allow a banking organization to exclude certain OTC derivative contracts recognized as a credit risk mitigant and that receive substitution treatment under § _____.36 of the current capital rule or § _____.120 of the proposed rule from the portfolio of OTC derivative contracts that are subject to the CVA risk capital requirements (under both BA–CVA and SA–CVA).

⁴⁷⁵ The proposal would require banking organizations that use the current exposure methodology to calculate exposure amounts for counterparty credit risk to use the BA–CVA measure to calculate CVA risk capital requirements.

Category II depository institution holding company, a subsidiary depository institution of a Category I or II banking organization that is subject to the proposed market risk capital requirements, and to any banking organization subject to the proposed market risk capital requirements that has average aggregate OTC derivatives gross notional amounts of \$1 trillion or more, adjusted to reflect CPI-W, over the prior four quarters. Under the proposal, these banking organizations would be required to calculate a risk-weighted asset amount for the CVA risk arising from their portfolio of OTC derivative transactions that would be subject to the CVA risk capital requirement, as described in the following section of this **SUPPLEMENTARY INFORMATION**.

Consistent with the current capital rule, the proposed scope would apply CVA risk capital requirements to the largest and complex banking organizations that, due to their significant trading activity, operational scale, and domestic and global presence, are subject to more stringent capital requirements. As Category I or II banking organizations are generally subject to rules based on the standards published by the Basel Committee, the proposed scope would help promote competitive equity among U.S. banking organizations and their foreign peers and competitors, and reduce opportunities for regulatory arbitrage across jurisdictions. At the same time, the proposal would apply CVA risk capital requirements to subsidiary depository institutions of Category I or II banking organizations only if the subsidiary is subject to market risk capital requirements. The proposed criterion is intended to tailor the proposed CVA risk capital requirements to only those subsidiary depository institutions with significant trading activity and increased exposure to CVA risk, and thus reduce operational burden for those with less exposure to CVA risk.

In addition to applying CVA risk capital requirements to the largest banking organizations, the proposed rule would introduce activity-based thresholds. The proposed CVA risk capital requirement would apply to a banking organization that is subject to the proposed market risk capital requirements and that has average aggregate OTC derivatives gross notional amounts of \$1 trillion or more, adjusted to reflect CPI-W,⁴⁷⁶ over the prior four

consecutive quarters. Due to their substantial derivative portfolios, these banking organizations have meaningful exposure to losses resulting from changes to their credit valuation adjustment accounting reserve.

Under the proposal, the primary Federal supervisor of a banking organization that does not meet the proposed scoping criteria for CVA risk capital requirements could require the banking organization to apply the risk-based capital requirements for CVA risk if the supervisor deems it necessary or appropriate because of the level of CVA risk of the banking organization's portfolio of OTC derivative contracts or to otherwise ensure safe and sound banking practices. The primary Federal supervisor could also exclude from application of the proposed CVA risk capital requirements a banking organization that meets the scoping criteria if the supervisor determines that (1) the exclusion is appropriate based on the level of CVA risk of the banking organization's CVA risk covered positions, and (2) such an exclusion would be consistent with safe and sound banking practices. While the agencies consider that the proposed scoping criteria for application of CVA risk capital requirements would reasonably identify a banking organization with significant CVA risk given the current risk profile of a banking organization, there may be unique instances where a banking organization either should or should not be required to reflect CVA risk in its risk-based capital requirements. As such, the proposal would allow the primary Federal supervisor to exercise its authority to address such instances on a case-by-case basis.

Question 181: The agencies seek comment on the appropriateness of the proposed scope of application of CVA risk capital requirements. What, if any, alternative thresholds should the agencies consider and why?

Question 182: What are the advantages or disadvantages of using an average aggregate OTC derivatives gross notional amount of \$1 trillion or more for the scope of application threshold, and why?

3. CVA Risk Covered Positions and CVA Hedges

1. Definition of CVA Risk Covered Position

The proposal would define a CVA risk covered position as a derivative contract that is not a client-facing derivative transaction or cleared transaction. In

addition, the proposal would allow a banking organization to choose to exclude an eligible credit derivative for which the banking organization recognizes credit risk mitigation benefits from the calculation of its CVA risk capital requirement.⁴⁷⁷ This approach would align the scope of the CVA framework with the scope of instruments that present CVA risk. The proposal would also allow a banking organization to exclude certain OTC derivative contracts that are credit risk mitigants from the CVA risk covered positions in order not to create a disincentive to hedge against credit default risk in the standardized approach or the expanded risk-based approach of the capital rule, as applicable. For example, a CDS on a loan borrower that is recognized as a credit risk mitigant and receives substitution treatment under § _____.¹²⁰ of the proposed rule would not be included in the portfolio of OTC derivative contracts that are subject to the CVA risk capital requirements.

A banking organization generally does not calculate accounting CVA for cleared transactions, client-facing derivative transactions, or for securities financing transactions (SFTs) for financial reporting purposes. Consistent with industry practice and to align the scope of the CVA framework with the scope of instruments that present CVA risk, the proposed definition of CVA risk covered position would not include a cleared transaction, a client-facing derivative transaction, or an SFT. Therefore, the CVA risk-based capital requirements would not apply to such positions under the proposal.

The proposal would exclude cleared derivative transactions from the CVA risk-based capital requirements because the primary risk of a banking organization facing a CCP lies in the risk that a CCP participant, not the CCP itself, defaults.⁴⁷⁸ Clearing members of

⁴⁷⁷ A cleared transaction includes an exposure resulting from a transaction that a CCP has accepted. For purposes of the CVA risk capital requirement, a banking organization that is not a clearing member may treat its exposure as directly facing the CCP (that is, the banking organization would have no exposure to the clearing member) and may exclude that cleared transaction from CVA risk covered positions. Additionally, when a clearing member banking organization is either (1) acting as a financial intermediary and entering into an offsetting transaction with a QCCP or (2) providing a guarantee on the performance of its client to a QCCP, the banking organization may exclude the client-facing derivative transaction from CVA risk covered positions. See the definitions of cleared transaction and client-facing derivative transaction in 12 CFR 3.2 (OCC), 12 CFR 217.2 (Board), 12 CFR 324.2 (FDIC).

⁴⁷⁸ A CCP could only default if a sufficient number of members default at the same time and

⁴⁷⁶ See section II.E. of this **SUPPLEMENTARY INFORMATION** for a more detailed discussion on

indexing nominal thresholds in the proposal going forward to reflect CPI-W.

the CCP would be responsible for covering losses of a defaulted clearing member's portfolio with the CCP; clearing member banking organizations are subject to a capital requirement for such risk in § _____.116 of the proposal or § _____.35 of the current capital rule, as applicable.

In addition, in light of the systemic risk-reducing benefits of derivatives clearing and to minimize potential unintended consequences for client clearing activities, the proposal would also exclude from CVA risk capital requirements client-facing derivative transactions which generally present low CVA risk.⁴⁷⁹ Client-facing derivative transactions generally are highly collateralized transactions subject to netting, daily or intraday margin requirements, immediate close-out, and significant regulatory oversight, thus resulting in small expected exposure amounts for clearing members to their clients. While this expected exposure does result in CVA in the economic sense, it is usually immaterial and banking organizations do not include it in the CVA they calculate for accounting purposes. Given these considerations, subjecting such transactions to the CVA risk capital requirements would be incommensurate with the risk of such transactions.

2. Recognition of CVA Hedges

The proposal would set forth general requirements for the recognition of CVA hedges, as well as specific requirements under BA-CVA and SA-CVA. The proposal would allow a banking organization to include certain CVA hedges as risk-reducing elements in risk-weighted asset calculations for CVA risk (eligible CVA hedges). The proposal would define a CVA hedge as a transaction the banking organization enters into with a counterparty that is a third party (external CVA hedge) or an internal trading desk (internal CVA hedge),⁴⁸⁰ as described in section V.B.3.b. of this **SUPPLEMENTARY**

the remaining clearing members of this CCP are unable to contribute sufficient funds to make the counterparties to the defaulting members whole.

⁴⁷⁹ See 88 FR 64028, at 64150 n. 428 (Sept. 18, 2023). See also 12 CFR 3.2 (definitions of cleared transaction and client-facing derivative transaction) (OCC); 12 CFR 217.2 (definitions of cleared transaction and client-facing derivative transaction) (Board); 12 CFR 324.2 (definitions of cleared transaction and client-facing derivative transaction) (FDIC).

⁴⁸⁰ Both BA-CVA and SA-CVA would recognize internal CVA hedges that satisfy eligibility requirements of the specific approach and require that a banking organization have a CVA risk management function to manage internal CVA risk transfers as described in section V.A.5.c. of this **SUPPLEMENTARY INFORMATION**.

INFORMATION, and manages for the purpose of mitigating CVA risk.

An internal CVA hedge is an internal derivative transaction that is usually executed between a CVA risk management function, such as a CVA desk (or a functional equivalent thereof), and a trading desk of the banking organization. Every such internal CVA hedge has two offsetting positions: the position of the CVA risk management function (the CVA segment) and the position of the trading desk (the trading desk segment). In addition to its ability to reduce CVA risk, a CVA hedge may also contribute to CVA risk arising from the counterparty of the hedge, in which case the CVA hedge could also be a CVA risk covered position. Whether a CVA hedge is a CVA risk covered position has no impact on its qualification as an eligible CVA hedge. Specifically, a non-CVA risk covered position could be an eligible CVA hedge if it meets the proposed eligibility criteria as described below. For example, a banking organization could hedge its CVA risk using a cleared transaction; in such cases, the CVA hedge would effectively reduce the CVA risk of the banking organization, though the transaction itself would not be a CVA risk covered position. The proposed treatment of CVA hedges intends to provide better alignment between the economic risks posed by such transactions and the risk-based capital requirement for CVA risk. In this manner, the proposal would provide incentives for a banking organization to manage CVA risk prudently.

As described below, the proposal would include two approaches for calculating CVA capital requirements: the basic approach or BA-CVA⁴⁸¹ and the standardized approach or SA-CVA.⁴⁸² The BA-CVA is simpler, but less risk sensitive, than the SA-CVA. For this reason, these two approaches have different eligibility requirements for recognizing the risk-mitigating benefits of CVA hedges.

Under the BA-CVA, the proposal would allow a banking organization to recognize in the CVA risk capital calculation the risk-mitigating benefit of hedges of the counterparty credit spread component of CVA risk, where the only instruments that could be recognized as eligible hedges are the following instruments: index CDS, single-name

⁴⁸¹ The basic approach for calculating CVA capital requirements (BA-CVA) is discussed below in section V.B.5.a. of this **SUPPLEMENTARY INFORMATION**.

⁴⁸² The standardized approach for calculating CVA capital requirements (SA-CVA) is discussed below in section V.B.5.b. of this **SUPPLEMENTARY INFORMATION**.

CDS, and single-name contingent CDS. The proposal would expand the set of instruments recognized as eligible CVA hedges relative to the simple CVA approach within the current capital rule to include a single-name credit instrument that references an affiliate of the counterparty or that references an entity that belongs to the same sector and region⁴⁸³ as the counterparty (together, eligible indirect single-name CVA hedges). Although a banking organization generally can hedge the credit spread risk of a counterparty whose credit risk is actively traded (that is, liquid counterparties) by using credit instruments that directly reference that counterparty, instruments referencing illiquid counterparties are thinly traded, if at all. For illiquid counterparties, a banking organization may use credit instruments that reference a sufficiently liquid entity whose credit spread is highly correlated with the credit spread of the illiquid counterparty such as counterparties that belong to the same sector and region. For this reason, the BA-CVA would allow a banking organization to recognize the risk-mitigating benefit of eligible indirect single-name CVA hedges, but, given the potentially significant basis risk between the counterparty and the hedge reference name, the BA-CVA would require a banking organization to use a non-perfect correlation parameter between the counterparty credit spread and the hedge reference name credit spread in order to constrain the risk-mitigating benefit of such indirect but eligible CVA hedges.⁴⁸⁴ The restrictions on hedging instruments as stated above apply to both external and internal hedging transactions. Additionally, for a banking organization to recognize an internal CVA hedging transaction as an eligible CVA hedge under the BA-CVA, the transaction would have to satisfy the requirements of an eligible internal risk transfer of CVA risk, as described in section V.A.5.c. of this **SUPPLEMENTARY INFORMATION**.

Under the SA-CVA, hedges of the counterparty credit spread component of CVA risk would be recognized without the BA-CVA restriction on eligible instrument types described above. Furthermore, the SA-CVA would recognize as eligible CVA hedges

⁴⁸³ Under the proposal, for BA-CVA purposes, a region would refer to a country or territorial entity.

⁴⁸⁴ The aggregation formula in the BA-CVA calculation would introduce new regulatory correlation parameters that quantify the relationship between the credit spreads of the counterparty and of the entity referenced by the hedge, thus restricting hedging benefits. See section V.B.5.a. of this **SUPPLEMENTARY INFORMATION** for a more detailed description of the BA-CVA calculation.

instruments that are used to hedge the exposure component of CVA risk. The SA-CVA would also recognize both external and internal CVA hedging transactions as eligible CVA hedges. Similar to the BA-CVA, a banking organization would be able to recognize an internal CVA hedging transaction as an eligible CVA hedge under the SA-CVA if the transaction satisfies the requirements of an eligible internal risk transfer of CVA risk, as described in section V.A.5.c. of this **SUPPLEMENTARY INFORMATION**.

Under both the BA-CVA and SA-CVA, the proposal would not allow a banking organization to recognize a fraction of an actual transaction as an eligible CVA hedge. Instead, a banking organization would only be permitted to recognize whole transactions as eligible CVA hedges. For example, if a banking organization for internal risk management purposes uses an interest rate swap to hedge interest rate risk for both CVA and margin valuation adjustment, the banking organization would either have to recognize the entire swap when calculating its risk-based capital requirements for CVA risk or exclude the entire swap. The proposed treatment intends to prevent a banking organization from choosing a fraction of a hedging transaction to minimize its capital requirement.

Finally, under both the BA-CVA and SA-CVA, the proposal would not allow a banking organization to recognize the risk mitigating benefits of CVA hedges that are securitization positions or correlation trading positions when calculating risk-based capital requirements for CVA risk. As reliably pricing such instruments is difficult, the agencies are concerned with the ability of a banking organization to measure reliably the price sensitivity of such positions to the proposed risk factors under the SA-CVA. The BA-CVA, as a very simplistic approach, is even less suitable than the SA-CVA for adequately capturing the risk of such instruments.

Question 183: The agencies seek comments on the proposed interpretation of region for the purposes of BA-CVA. To what extent would limiting a region to a country or a territorial entity pose challenges for hedge recognition under BA-CVA? What, if any, other criteria or interpretations should the agencies consider and why?

4. General Risk Management Requirements

The proposal would require a banking organization to satisfy certain general risk management requirements related

to the identification and management of CVA risk covered positions and eligible CVA hedges and also to comply with additional operational requirements as described in section V.B.4.c. of this **SUPPLEMENTARY INFORMATION**.

a. Identification and Management of CVA Risk Covered Positions and CVA Hedges

Identification of CVA risk covered positions and CVA hedges is the prerequisite of prudent CVA risk management. The proposal would therefore require a banking organization subject to the proposed CVA framework to identify all CVA risk covered positions and all transactions that hedge or are intended to hedge CVA risk. For transactions that hedge or are intended to hedge CVA risk, the proposal would require the banking organization to identify which are eligible CVA hedges and which are ineligible CVA hedges.⁴⁸⁵ A banking organization that received approval from its primary Federal supervisor to use the standardized measure for CVA risk would be required to identify all eligible CVA hedges for the purposes of calculating the BA-CVA and all eligible CVA hedges for the purpose of calculating the SA-CVA. Furthermore, a banking organization that hedges its CVA risk must have a clearly defined hedging policy for CVA risk that is reviewed and approved by senior management at least annually. The hedging policy would be required to quantify the level of CVA risk that the banking organization is willing to accept and detail the instruments, techniques, and strategies that the banking organization would use to hedge CVA risk.

b. Documentation

The proposal would also require a banking organization to have policies and procedures for determining its CVA risk capital requirement and to document adequately all material aspects of its management and identification of CVA risk covered positions and eligible CVA hedges, and its control, oversight, and review processes. Such general documentation requirements are intended to facilitate regulatory review and a banking organization's internal risk management and oversight processes.

⁴⁸⁵ The proposal would exclude ineligible CVA hedges from both market risk and CVA risk capital requirements. Accordingly, this proposed requirement is intended to support appropriate risk measurement and monitoring of CVA risk and help ensure that a banking organization appropriately reflects the respective hedges in the calculation of risk-based capital requirements for CVA risk.

The proposed requirements are intended to appropriately support the active risk management and monitoring of CVA risk under the proposed framework.

c. Additional Risk Management Requirements for Use of the Standardized Measure for CVA Risk

In addition to the general risk management requirements, a banking organization that has received approval from its primary Federal supervisor to use the standardized measure for CVA risk would be required to comply with additional operational requirements on documentation, initial approval and ongoing performance of regulatory CVA models as described below.

i. Documentation

The proposal would require a banking organization using the SA-CVA to adequately document policies and procedures of the CVA desk, or similar dedicated function, and the independent risk control unit. Furthermore, the banking organization would be required to document the internal auditing process; the internal policies, controls, and procedures concerning the banking organization's CVA calculations for financial reporting purposes; the initial and ongoing validation of models used to calculate regulatory CVA (including exposure models); and the banking organization's process to assess the performance of models used for calculating regulatory CVA (including exposure models) and implement remedies to mitigate model deficiencies. The agencies expect that a banking organization would document any adjustments, if applicable, made to the CVA models to satisfy the operational requirements described in section V.B.4.c. of this **SUPPLEMENTARY INFORMATION** under SA-CVA. These enhanced documentation requirements are designed to help ensure that exposure models under the SA-CVA appropriately capture the CVA risk of CVA risk covered positions and that a banking organization has effective and sound risk management and oversight processes.

ii. Initial Approval

To receive approval from its primary Federal supervisor to use the SA-CVA for any of its CVA risk covered positions, a banking organization must be capable of calculating, on at least a monthly basis, regulatory CVA (as described in section V.B.5.b.i. of this **SUPPLEMENTARY INFORMATION**), as well as the sensitivities of regulatory CVA to counterparty credit spreads and market risk factors. Due to the computational

intensity associated with calculating regulatory CVA and its sensitivities, the proposal would permit a banking organization to choose to recognize in its risk-based capital requirement certain netting sets of CVA risk covered positions under BA-CVA and other netting sets under SA-CVA.

Furthermore, the prior approval from the primary Federal supervisor could specify which CVA risk covered positions must be included in the calculation of the BA-CVA, and which could be included in the calculation of the SA-CVA. If a banking organization were to use both SA-CVA and BA-CVA for the calculations of risk-based capital requirements for CVA risk, the proposal would require the banking organization to assign each CVA hedge that the banking organization intends to recognize in these calculations to one of the two approaches (SA-CVA or BA-CVA). This assignment would have to satisfy the eligibility requirements of the SA-CVA or the BA-CVA. For example, a single-name CDS hedging the counterparty credit spread component of CVA risk could be assigned to either the SA-CVA or the BA-CVA, while an interest rate swap hedging the interest rate component of CVA risk could only be assigned to the SA-CVA. With this proposed requirement, the agencies intend to support appropriate risk measurement and monitoring of CVA risk and help ensure that a banking organization appropriately reflects the respective hedges in the calculation of risk-based capital requirements for CVA risk.

To better align regulatory CVA with accounting CVA and to help ensure that CVA capital requirements more accurately reflect CVA risk, the proposal would require a banking organization to use CVA models that it uses for financial reporting purposes (accounting CVA models) to calculate regulatory CVA under the SA-CVA, adjusted, if necessary, to satisfy the additional requirements as described in section V.B.5.b. of this **SUPPLEMENTARY INFORMATION**.

Furthermore, to support active management of CVA risk, the proposal would require a banking organization that intends to use the SA-CVA to have a CVA desk, or similar dedicated function, responsible for risk management and hedging of CVA risk consistent with the banking organization's CVA risk management and hedging policies and procedures. The agencies view a designated CVA desk or designated function as the best mechanism to support the active management of CVA risk.

The primary Federal supervisor may rescind its approval of the use of the standardized measure for CVA risk in whole or in part, if it determines that the banking organization's models no longer comply with all applicable requirements or fails to reflect accurately the CVA risk. If the primary Federal supervisor determines that a banking organization's implementation of the SA-CVA risk no longer complies with proposed requirements or fails to accurately reflect CVA risk, the primary Federal supervisor could specify one or more types of CVA risk covered positions or eligible CVA hedges must be included in the BA-CVA or prescribe an alternative capital requirement.

iii. Ongoing Eligibility

For a banking organization approved to use the standardized measure for CVA risk, the proposal would require the exposure models used in the calculation of regulatory CVA to be part of a CVA risk management framework that includes the identification, management, measurement, approval, and internal reporting of CVA risk.

I. Control and Oversight

A banking organization that receives prior approval from its primary Federal supervisor to use the standardized measure for CVA risk would be required to maintain an independent risk control unit that is responsible for the effective initial and ongoing validation of the models used for calculating regulatory CVA (including exposure models), reports directly to senior management, and is independent of the banking organization's trading desks and CVA desk, or similar dedicated function, as well as the business unit that evaluates counterparties and sets limits.

Senior management of the banking organization would be required to have oversight of the CVA risk control process. In addition, the banking organization would be required to have a regular independent audit review of the overall CVA risk management process, including both the activities of the CVA desk (or similar dedicated function) and of the independent risk control unit. The agencies intend that, together, the independent risk control unit and internal audit would provide appropriate review and credible challenge of the effectiveness of CVA risk management function.

II. Exposure Model Eligibility

The proposal would introduce requirements for a banking organization that calculates the CVA risk-based capital requirements under SA-CVA to further strengthen its CVA risk

management processes and promote effective CVA risk management pertaining specifically to CVA exposure models. Such requirements would guide the banking organization's internal CVA risk control unit and audit functions in providing appropriate review and challenge of CVA risk management. In particular, the proposal would require the banking organization to (1) include exposure models for the regulatory CVA calculation in its CVA risk management framework and (2) define criteria on which to assess the exposure models and their inputs and have a written policy in place describing the process for assessing the performance of exposure models and for remedying unacceptable performance.

To help ensure that the CVA capital requirements are commensurate with CVA risk, the proposal would require a banking organization to have the exposure models used in regulatory CVA calculation be part of its ongoing CVA risk management framework, including identification, measurement, management, approval, and internal reporting of CVA risk. Such requirements would subject the regulatory CVA exposure models to ongoing effective measurement and management.

Specifically, the proposal would require a banking organization to document the process for initial and ongoing validation of its models used for calculating regulatory CVA, including exposure models, with sufficient detail to enable a third party to understand the model's operations, limitations, and key assumptions. A banking organization would be required to validate, no less than annually, its CVA models including exposure models, and to account for other circumstances, such as a sudden change in market behavior, under which additional validation would need to be conducted more frequently. In addition, a banking organization would be required to sufficiently document how the validation is conducted with respect to data flows and portfolios, what analyses are used, and how representative counterparty portfolios are constructed. As part of the independent model validation, a banking organization would be required to test the pricing models used to calculate exposure for given paths of market risk factors against appropriate independent benchmarks for a wide range of market states as part of the initial and ongoing model validation process. The proposal would require the pricing models for CVA risk covered positions that are options to account for

the non-linearity of option value with respect to market risk factors.

Additionally, a banking organization would be required to obtain current and historical market data that are either independent of the line of business or validated independently of the line of business, to be used as an input for an exposure model, as well as comply with applicable financial reporting standards. The proposal would require well-developed data integrity processes to handle the data of erroneous and anomalous observations, and that data be input into exposure models in a timely and complete fashion and be maintained in a secure database that is subject to formal periodic audits. Where data used in the exposure model are proxies for actual market data, the proposal would require a banking organization to set internal policies to identify suitable proxies and be able to demonstrate, empirically on an ongoing basis, that the proxy data are a conservative representation of the underlying risk under adverse market conditions.

To accurately calculate simulated paths of a discounted future exposure required for regulatory CVA calculations as discussed below, a banking organization's exposure models would need to capture and accurately reflect transaction-specific information (for example, terms and specifications). A banking organization would be required to verify that transactions are assigned to the appropriate netting set within the model. The terms and specifications would need to reside in a secure database subject to at least annual formal audit. The transmission of the transaction terms and specifications data to the exposure model would also be subject to internal audit. The proposal would require a banking organization to establish formal reconciliation processes between the internal model and source data systems to verify on an ongoing basis that transaction terms and specifications are being reflected correctly or at least conservatively.

5. Measure for CVA Risk

To calculate the risk-based capital requirement for CVA risk, the proposal would provide a basic measure for CVA risk and a standardized measure for CVA risk. Under the proposal, the basic measure for CVA risk would include risk-based capital requirements for all CVA risk covered positions and eligible CVA hedges calculated using the BA-CVA, and any other additional capital requirement for CVA risk established by a banking organization's primary Federal supervisor if the primary

Federal supervisor determines that the capital requirement for CVA risk as calculated under the BA-CVA is not commensurate with the CVA risk of the banking organization's CVA risk covered positions. The standardized measure for CVA risk would include risk-based capital requirements calculated under (1) the SA-CVA for all standardized CVA risk covered positions⁴⁸⁶ and standardized CVA hedges, (2) the BA-CVA for all basic CVA risk covered positions⁴⁸⁷ and basic CVA hedges, and (3) any additional capital requirement for CVA risk established by a banking organization's primary Federal supervisor if the primary Federal supervisor determines that the capital requirement for CVA risk as calculated under the SA-CVA and BA-CVA is not commensurate with the CVA risk of the banking organization's CVA risk covered positions. The primary Federal supervisor may require the banking organization to maintain an overall amount of capital that differs from the amount otherwise required under the proposal, if the primary Federal supervisor determines that the banking organization's CVA risk capital requirements under the rule are not commensurate with the risk of the banking organization's CVA risk covered positions, a specific CVA risk covered position, or portfolios of such positions, as applicable.

Banking organizations that use the current exposure methodology for counterparty credit risk would be required to use the basic measure for CVA risk. A banking organization that uses SA-CCR for counterparty credit risk would only be able to use the standardized measure for CVA risk if it has received prior approval from the primary Federal supervisor. A banking organization that has received prior approval from its primary Federal supervisor to use the standardized measure for CVA risk would be required to include all CVA risk covered positions that are outside of the approval scope of the SA-CVA in the BA-CVA. Furthermore, a banking organization could choose to exclude any number of in-scope netting sets

⁴⁸⁶ The proposal would define standardized CVA risk covered positions as all CVA risk covered positions that are not basic CVA risk covered positions; these terms are used in the standardized measure for CVA risk.

⁴⁸⁷ The proposal would define basic CVA risk covered positions as CVA risk covered positions that must be included in the BA-CVA because: (i) the banking organization does not have supervisory approval to use the SA-CVA for these CVA risk covered positions; or (ii) the banking organization chooses to exclude the netting sets with these CVA risk covered positions from the SA-CVA.

from SA-CVA calculations and recognize them instead in the BA-CVA. Given that the calculation of CVA sensitivities to market risk factors in the SA-CVA is computationally intensive for large netting sets, the proposal would allow a banking organization to restrict application of the SA-CVA only to netting sets with the most material CVA risk. A banking organization may also bifurcate CVA risk covered positions of a single netting set between SA-CVA and BA-CVA. Thus, for a banking organization that has received prior approval from its primary Federal supervisor to use the standardized measure for CVA risk, the CVA capital requirement generally would equal the SA-CVA capital requirement for its CVA risk covered positions and eligible CVA hedges recognized under SA-CVA (these CVA risk covered positions and eligible CVA hedges are referred to as "standardized" in the proposal), plus the BA-CVA capital requirement for its CVA risk covered positions and eligible CVA hedges recognized under BA-CVA (these CVA risk covered positions and eligible CVA hedges are referred to as "basic" in the proposal), if applicable.

After calculating the CVA capital requirement using either the basic measure for CVA risk or the standardized measure for CVA risk, a banking organization's total capital requirements for CVA risk would equal the CVA capital requirement multiplied by 12.5. Additionally, the primary Federal supervisor could require the banking organization to maintain an amount of regulatory capital that differs from the amounts required under the basic measure for CVA risk or the standardized measure for CVA risk.

a. Basic Approach for CVA Risk

Similar to the simple CVA approach in the current capital rule, the capital requirement for CVA risk under the BA-CVA would be calculated according to a formula, described below, that approximates CVA expected shortfall, which replaces value-at-risk in the simple CVA approach, assuming fixed expected exposure profiles and based on a set of simplifying assumptions. The assumptions provide that: (1) all credit spreads have a flat term structure; (2) all credit spreads at the time horizon have a lognormal distribution; (3) each single name credit spread is driven by the combination of a single systematic risk factor and an idiosyncratic risk factor; (4) the correlation between any single name credit spread and the systematic risk factor is 0.5, and (5) the single systematic risk factor drives all credit indices without any idiosyncratic risk component.

The BA-CVA would improve upon the simple CVA approach in the current capital rule by: (1) providing limited recognition for the risk-mitigating benefit of eligible single-name credit instruments that do not reference a counterparty directly; (2) putting a restriction on hedge effectiveness; (3) relying on risk weights derived from the SA-CVA; and (4) introducing a new method of calculating risk weights for credit indices.

Under the proposal, the risk-based capital requirement under the BA-CVA would be calculated according to the following formula, as provided under § _____.222(a) of the proposed rule:

$$K_{basic} = 0.65 \cdot (\beta \cdot K_{unhedged} + (1 - \beta) \cdot K_{hedged})$$

Where:

K_{basic} is the risk-based capital requirement under the BA-CVA;

$K_{unhedged}$ is the risk-based capital requirement for CVA positions before recognizing the

risk mitigating effect of eligible CVA hedges; K_{hedged} is the risk-based capital requirement after recognizing such hedges; and β is a regulatory parameter set to 0.25.

The formula sets the capital requirement under the BA-CVA equal to the weighted average of $K_{unhedged}$ and K_{hedged} scaled by a factor of 0.65 in order to ensure that the simpler and less risk-sensitive BA-CVA method is calibrated appropriately relative to the SA-CVA. Applying the weighted average in the BA-CVA capital requirement formula is a conservative measure that implicitly recognizes the presence of the expected exposure component of CVA risk by reducing the effectiveness of eligible CVA hedges to 75 percent (preventing a banking organization's eligible CVA hedges from fully offsetting the CVA risk of its CVA risk covered positions).⁴⁸⁸ Thus, even if a banking organization perfectly hedges the

counterparty credit spread component of CVA risk, the BA-CVA capital requirement would be equal to $0.65 \cdot (0.25 \cdot K_{unhedged})$. For a banking organization that does not hedge CVA risk, eliminating the recognition of eligible CVA hedges would result in $K_{hedged} = K_{unhedged}$, so that the BA-CVA calculation would become:

$$K_{basic} = 0.65 \cdot (K_{unhedged})$$

i. Calculation of $K_{unhedged}$

Under BA-CVA, the proposal would first require a banking organization to calculate the risk-based capital requirements for CVA risk covered positions without recognizing the risk mitigating effect of eligible CVA hedges, $K_{unhedged}$, for each counterparty on a stand-alone basis ($SCVA_c$) and then aggregate the respective standalone counterparty capital requirements across counterparties, as expressed by the following formula:

$$K_{unhedged} = \sqrt{\left(\rho \cdot \sum_c SCVA_c\right)^2 + \left((1 - \rho^2) \cdot \sum_c SCVA_c^2\right)}$$

The first term under the square root in the formula ($(\rho \cdot \sum_c SCVA_c)^2$) aggregates the systematic components of CVA risk, while the second term under the square root in the formula ($((1 - \rho^2) \cdot \sum_c SCVA_c^2)$) aggregates the idiosyncratic components of CVA risk. The purpose of the $K_{unhedged}$ formula is intended to reflect the potential losses arising from unhedged CVA risk.

I. Regulatory Correlation Parameter

One of the basic assumptions underlying the BA-CVA is that a single risk factor drives systematic credit spread risk. This assumption is important because it simplifies the credit spread correlation structure. The proposed regulatory correlation parameter ρ of 0.5 approximates the correlation between the credit spread of a counterparty and the systematic risk

factor. The square of the regulatory correlation parameter (0.25) approximates the correlation between credit spreads of any two counterparties. The proposed value of the regulatory correlation parameter is generally consistent with historically observed correlations between credit spreads and would appropriately recognize the diversification of CVA risk by ensuring that a banking organization's exposure would be less than the sum of the CVA risks for each counterparty.

II. Standalone CVA Capital Requirement for Each Counterparty ($SCVA_c$)

$SCVA_c$ represents the capital requirement a banking organization would be subject to under the BA-CVA if a single counterparty were the only counterparty with which the banking

organization has CVA risk covered positions (that is ignoring the existence of the other counterparties), and there are no eligible CVA hedges to consider. For purposes of calculating $SCVA_c$, the proposal first would require a banking organization to calculate for each netting set the product of the effective maturity M_{NS} , the exposure at default amount EAD_{NS} , and the regulatory discount factor DF_{NS} , and sum the resulting products across all netting sets with the same counterparty. The banking organization would multiply the resulting quantity for each counterparty by the supervisory risk weight of the counterparty RW_c from Table 1 to § _____.222 and divide by alpha (α), discussed below, as expressed by the following formula:⁴⁸⁹

$$SCVA_c = \frac{1}{\alpha} \cdot RW_c \cdot \sum_{NS} (M_{NS} \cdot EAD_{NS} \cdot DF_{NS})$$

The proposal would set the exposure at default amount, EAD_{NS} , for the

netting set, NS , equal to the exposure amount calculated by the banking

organization for the same netting set for counterparty credit risk capital

⁴⁸⁸ Suppose, for example, that a banking organization perfectly offsets the counterparty credit spread component of CVA risk, so that $K_{hedged} = 0$. Allowing the banking organization to set the

BA-CVA to zero in this case would not be prudent because there is also the exposure component of CVA risk, which is not explicitly captured by the BA-CVA.

⁴⁸⁹ The above formula for $SCVA_c$ is a simplified representation of how the expected shortfall of the counterparty credit spread component of CVA risk of a single counterparty can be calculated.

requirements according to § ____ . 34 of the current rule or § ____ . 113 of the proposal,⁴⁹⁰ which captures the potential losses in the event of the counterparty's default. The effective maturity of the netting set, M_{NS} , would equal the weighted-average remaining maturity, measured in whole or fractional years, of the individual CVA risk covered positions in the netting set, NS , with the weight of each individual position set equal to the ratio of the notional amount of the position to the aggregate notional amount of all CVA risk covered positions in the netting set.⁴⁹¹ As the proposal would define the effective maturity of a netting set as an average of the actual CVA risk covered position maturities, the regulatory discount factor, DF_{NS} , would scale down the potential losses projected over the effective maturity of the netting set to their net present value, using a 5 percent interest rate. The proposed interest rate would be a reasonable

discount factor and generally consistent with historical long-term interest rates. The proposal would define components of the SCVA_c calculation at a netting set level, thus clarifying the use of counterparty-level exposure at default and effective maturity calculated in the same way as the banking organization calculates it for minimum capital requirements for counterparty credit risk.

A. Supervisory Risk Weights (RW_c)

Table 1 to § ____ .222 of the proposed rule provides the proposed supervisory risk weights for each counterparty, RW_c , which reflect the potential variability of credit spreads based on a combination of the sector and credit quality of the counterparty or of the eligible hedge reference entity. With the exception of sovereign exposures, specified supranational entities, and MDBs, each sector would have two risk weights, one for counterparties that are investment grade, as defined in the current rule,⁴⁹²

and one for counterparties that are speculative grade or sub-speculative grade, each as defined in the proposal.⁴⁹³ Sovereign exposures, specified supranational entities, and MDBs would have separate risk weights for counterparties that are speculative grade and counterparties that are sub-speculative grade. The proposed supervisory risk weights match the risk weights set out in the SA-CVA for counterparty credit spread risk class.

The proposal would provide counterparty sectors generally similar to those contained in the Basel standards and a treatment for certain U.S.-specific counterparties (for example, GSEs and public sector entities). Specifically, the proposal would group GSEs and public sector entities (PSEs) with government-backed non-financials, education and public administration to appropriately reflect the potential variability in the credit spreads of such counterparties, as shown in Table 1 to § ____ .222 below.

Table 1 to § ____ .222 Supervisory Risk Weights, RW_c

Sector of counterparty	Credit quality of counterparty		
	Investment grade	Speculative grade / sub-speculative grade	
Sovereign exposures, MDBs, and specified supranational entities	0.5%	3.0%	7.0%
PSEs, ⁴⁹⁴ government-backed non-financials, GSEs, education, and public administration	1.0%	4.0%	
Financials including government-backed financials	5.0%	12.0%	
Basic materials, energy, industrials, agriculture, manufacturing, and mining and quarrying	3.0%	7.0%	
Consumer goods and services, transportation and storage, administrative and support service activities	3.0%	8.5%	
Technology and telecommunications	2.0%	5.5%	
Health care, utilities, professional and technical activities	1.5%	5.0%	
Other sector	5.0%	12.0%	

Counterparty credit spread risk for financial entities is a large component of CVA-related capital requirements and the financial sector bucket comprises a broad category of financial entities including financial institutions as defined in the capital rule,⁴⁹⁵ mutual funds, pension funds, registered

investment companies, hedge funds, and other financial entities. Although regulated financial entities have many similar characteristics to other financial entities, such as hedge funds and private equity funds, they also differ in ways that may significantly affect CVA risk. For example, regulated financial

entities typically differ from other financial entities in capital structure, scope and risk of activities, regulatory frameworks, and are also subject to robust disclosure requirements, regulatory oversight, or supervision. Therefore, regulated financial entities may present a different risk profile for

⁴⁹⁰ Under the proposal, banking organizations that would be subject to the proposed expanded risk-based approach or that have elected to use SA-CCR to calculate counterparty credit risk exposure amounts would be required to use the *Exposure Amount* for the single product netting set or the *Exposure Amount_{derivatives}* for cross-product netting set calculated under SA-CCR for purposes of EAD_{NS} within the proposed BA-CVA approach. See § ____ .34 of the current rule or § ____ .113 through § ____ .114 of the proposed rule, as applicable. All other banking organizations would be required to

use the exposure amount produced by the current exposure methodology for purposes of EAD_{NS} within the proposed BA-CVA approach.

⁴⁹¹ For a netting set consisting of a single transaction (for example, a derivative contract that is not subject to a qualifying master netting agreement, the effective maturity would equal the remaining contractual maturity of the derivative contract.

⁴⁹² See the definition of Investment Grade in the capital rule. 12 CFR 3.2 (OCC); 12 CFR 217.2 (Board); 12 CFR 324.2 (FDIC).

⁴⁹³ See the definitions of Speculative Grade and Sub-Speculative Grade in § ____ .2 of the proposed rule.

⁴⁹⁴ Under § ____ .2 of the current capital rule, *public sector entity (PSE)* means a state, local authority, or other governmental subdivision below the sovereign level.

⁴⁹⁵ See 12 CFR 3.2 (OCC); 12 CFR 217.2 (Board); 12 CFR 324.2 (FDIC).

purposes of CVA risk compared to other financial entities and the agencies are seeking comments on a potential modification to the proposed supervisory risk weights that would introduce separate supervisory risk weights for counterparty credit spread risk within the financial sector bucket to reflect potential differences in risk profiles between regulated financial entities and other financial entities. The agencies seek feedback on the appropriateness of assigning lower supervisory risk weights (such as a range between 3 and 5 percent for investment grade and a range between 8.5 and 12 percent for speculative or sub-speculative) to certain regulated financial entities to better differentiate risk profiles of the various types of entities within the financial sector bucket.⁴⁹⁶ The agencies seek feedback on whether these additional supervisory risk weights would enhance the risk-sensitivity of the CVA risk capital requirement by better capturing differences in the risk profiles of the various entities within the financials sector bucket.

Question 184: The agencies seek comments on the appropriateness of the proposed risk weights of Table 1 to § _____.222 for financials, including government-backed financials. What, if any, alternative risk weights should the agencies consider? What are the advantages and disadvantages of subjecting regulated financial entities (such as banks, insurance companies, broker-dealers, pension funds, and registered investment companies or their foreign equivalents) to lower risk weights? Please provide specific details and supporting evidence on the alternative risk weights.

Question 185: The agencies seek comments on the appropriateness of

treating the counterparty credit risks of public-sector entities and the GSEs in the same way as those of government-backed non-financials, education, and public administration entities. What, if any, alternatives should the agencies consider to more appropriately capture the counterparty credit risk for such entities?

Question 186: The agencies seek comments on the appropriateness of applying a 0.65 calibration factor in the formula setting the capital requirement under the BA-CVA to ensure that CVA risk capital requirements appropriately reflect CVA risk. What other level of calibration should the agencies consider and why? If IMM were retained as a method to calculate the capital requirements for counterparty credit risk, what if any adjustments to the multiplier should the agencies consider to reflect the generally reduced capital requirements for banking organizations that use IMM for purposes of calculating the BA-CVA?

B. Alpha Factor (α)

As previously discussed, when calculating a standalone CVA counterparty-level capital requirement, the proposal would require a banking organization to use the exposure amount that it uses in the counterparty credit risk framework. The exposure amount determined in the counterparty credit risk framework under SA-CCR would be the sum of replacement cost and potential future exposure multiplied by a multiplication factor (the alpha factor) to capture certain risks (for example, wrong-way risk⁴⁹⁷ and risks resulting from non-perfect granularity).⁴⁹⁸ CVA calculations are based on expected exposure, which in SA-CCR is proxied by the sum of replacement cost and potential future exposure. Accordingly,

the proposal would remove the effect of this multiplication factor from the risk-based capital requirement for CVA risk by dividing the exposure at default amount used in the $SCVA_c$ formula by the alpha factor. Specifically, the proposal would require such banking organization to use the same alpha factor in calculating the risk-based capital required under the BA-CVA as required in exposure amount calculations under SA-CCR by setting the alpha factor at 1.4 for derivative contracts with counterparties that are not commercial end-users and at 1 for derivative contracts with counterparties that are commercial end-users.

Unlike SA-CCR, the exposure amount determined in the counterparty credit risk framework under the current exposure methodology does not reflect a multiplication factor. Accordingly, the proposal would set the alpha factor equal to 1 for banking organizations that use the current exposure methodology to calculate exposure amount in the counterparty credit risk framework.

Question 187: The agencies seek comment on using the counterparty credit risk framework to calculate the exposure amount for the standalone CVA counterparty-level capital requirement. Does the CVA capital requirement pose particular issues in the case of nonfinancial counterparties? If so, what modifications should the agencies consider to mitigate such issues?

ii. Calculation of K_{hedged}

The second component of the BA-CVA calculation, K_{hedged} , represents the risk-based capital requirements for CVA risk after recognizing the risk mitigation benefits of eligible CVA hedges, as expressed by the following formula:

$$K_{hedged} = \sqrt{\left(\rho \cdot \sum_c (SCVA_c - SNH_c) - IH\right)^2 + (1 - \rho^2) \cdot \sum_c (SCVA_c - SNH_c)^2 + \sum_c HMA_c}$$

⁴⁹⁶ For example, banks, insurance companies, broker-dealers, pension funds, and investment companies registered with the SEC under the 1940 Act or foreign equivalents thereof (registered investment companies).

⁴⁹⁷ Wrong-way risk reflects the situation where exposure is positively correlated with the

counterparty's probability of default—that is, the exposure amount of the derivative contract increases as the counterparty's probability of default increases.

⁴⁹⁸ See 85 FR 4362 (Jan. 24, 2020). Under SA-CCR, the alpha factor generally is set at 1.4. However, for a derivative contract with a

commercial end-user counterparty, the alpha factor is removed from the exposure amount formula. This is equivalent to applying an alpha factor of 1 to these contracts.

In general, the calculation of K_{hedged} follows that of $K_{unhedged}$, but introduces new terms to reflect the risk-mitigating effect of eligible CVA hedges.⁴⁹⁹ The first term, $((\rho \cdot \Sigma_c(SCVA_c - SNH_c) - IH)^2)$, recognizes the risk mitigating effect of single-name hedges (SNH_c) and index hedges (IH) on the systematic component of a banking organization's aggregate CVA risk. The second term, $((1 - \rho^2) \cdot \Sigma_c(SCVA_c - SNH_c)^2)$, recognizes the risk mitigating effect of single-name hedges on the aggregate idiosyncratic component of aggregate CVA risk. The third term, $\Sigma_c HMA_c$, aggregates the components of indirect single-name hedges that are not aligned with

counterparty credit spreads and is designed to limit the regulatory capital reduction a banking organization may realize from indirect hedges given that such hedges will not fully offset movements in a counterparty's credit spread (that is, indirect hedges cannot reduce K_{hedged} to zero).

I. Single-Name Hedges of Credit Spread Risk (SNH_c)

Under the proposal, to calculate the capital reduction for a single-name hedging instrument, a banking organization would multiply the supervisory prescribed correlation (r_{hc}) between the credit spread of the counterparty and the hedging

instrument, the supervisory risk weight of the reference name of the hedging instrument (RW_h), the remaining maturity of the hedging instrument in years (M_h^{SN}), the notional amount of the hedging instrument (B_h^{SN})⁵⁰⁰ and the supervisory discount factor (DF_h^{SN}). The offsetting benefit of all single-name hedges of credit spread risk on the CVA risk of each counterparty (SNH_c) would equal the simple sum of the capital reduction for each eligible CVA hedge that a banking organization uses to hedge the counterparty credit spread component of CVA risk of a given counterparty as expressed by the following formula:

$$SNH_c = \sum_{h \in c} (r_{hc} \cdot RW_h \cdot M_h^{SN} \cdot B_h^{SN} \cdot DF_h^{SN})$$

Risk weights (RW_h) would be based on a combination of the sector and the credit quality of the reference name of the hedging instrument as prescribed in

Table 1 to § _____.222 included above. Parameter r_{hc} is the regulatory value of the correlation between the credit spread of the counterparty and the

credit spread of the reference name of an eligible single-name hedge as prescribed in Table 2 to § _____.222 below.

Table 2 to § _____.222—Correlations Between Credit Spread of Counterparty, c , and a Single-Name Hedge, h

Single-name hedge, h , of counterparty, c	Value of r_{hc}
References counterparty, c , directly	100%
References an affiliate of counterparty, c	80%
References an entity that belongs to the same sector and region as the counterparty, c	50%

II. Hedge Mismatch Adjustment for Indirect Single-Name Hedges (HMA_c)

Under the proposal, the portion of the indirect hedges that are not recognized

in SNH_c due to the imperfect regulatory prescribed correlation would be reflected in the hedge mismatch

adjustment, HMA_c , as expressed by the following formula:

$$HMA_c = \sum_{h \in c} ((1 - r_{hc}^2) \cdot (RW_h \cdot M_h^{SN} \cdot B_h^{SN} \cdot DF_h^{SN})^2)$$

While the summation would cover all single-name hedges assigned to counterparty c , only indirect hedges for which correlation with the counterparty spread is non-perfect (that is, the regulatory prescribed correlation (r_{hc}) is less than one) would contribute to HMA_c .

III. Index Hedges of Credit Spread Risk (IH)

Under the proposal, the total amount by which index hedges of credit spread risk reduce the systematic component of the aggregate CVA risk across all counterparties, IH , would equal the simple sum of the capital reduction

amounts for eligible CVA hedges that are index hedges, which would be calculated for each such hedge as the product of the supervisory risk weight (RW_i), the remaining maturity in years (M_i^{ind}), notional amount (B_i^{ind}), and the supervisory discount factor (DF_i^{ind}), as expressed by the following formula:

⁴⁹⁹ The standalone CVA capital, $SCVA_c$, and regulatory correlation parameter, ρ , are defined in exactly the same way as in the formula for CVA risk

covered positions $K_{unhedged}$. See section V.B.5.a.i. of this **SUPPLEMENTARY INFORMATION**.

⁵⁰⁰ Under the proposal, the notional amount for single-name contingent CDS would be determined by the current market value of the reference portfolio or instrument.

$$IH = \sum_i (RW_i \cdot M_i^{ind} \cdot B_i^{ind} \cdot DF_i^{ind})$$

Each term in the summation in the formula for IH above is a simplified representation of how the expected shortfall for the market value of a given index hedge can be calculated. Because of the BA-CVA's underlying assumption that each credit index is driven by the same systematic factor without any idiosyncratic risk component, the expected shortfall of each individual index hedge would be aggregated via simple summation across all such hedges, and the result of this aggregation (IH) would appear only in the systematic risk component in the formula for K_{hedged} above.

To determine the appropriate supervisory risk weight (RW_i) for each index hedge, the proposal would require a banking organization to adjust the supervisory risk weights in Table 1 to § _____.222. Specifically, for index hedges where all the underlying constituents belong to the same sector and are of the same credit quality, a banking organization would assign the index hedge to the corresponding bucket used for single-name positions and multiply the supervisory risk weight by 0.7. For index hedges where the underlying constituents span multiple sectors or are not of the same credit quality, the banking organization would calculate the notional-weighted average of the risk weights assigned to each underlying constituent in the index based on the risk weights provided in Table 1 to § _____.222 and multiply the result by 0.7. Multiplication by a factor of 0.7 is intended to recognize diversification of idiosyncratic risk of individual index constituents.

b. Standardized Approach for CVA Risk

The SA-CVA is an adaptation of the sensitivities-based method used in the standardized measure for market risk as described in section V.A.7.a. of this **SUPPLEMENTARY INFORMATION**. The inputs to the SA-CVA calculations are sensitivities of the aggregate regulatory CVA (discussed in the following subsection) and of the market value of all eligible CVA hedges under SA-CVA (discussed below in this section) to delta and vega risk factors specified in the proposal. In general, the proposed SA-CVA would closely follow the sensitivities-based method for market risk with some exceptions. Broadly, the SA-CVA calculation would reflect capital requirements for only delta and vega (but not curvature), apply slightly

different steps in the calculation of the risk-weighted net sensitivity, use less granular risk factors and buckets, and include a capital multiplier to account for model risk.

There are other specific differences between the SA-CVA and the sensitivities-based method for market risk. Unlike the market risk of trading instruments, CVA risk always depends on two types of risk factors: the term structure of credit spreads of the counterparty and a set of market risk factors that drives the expected exposure of the banking organization to the counterparty. For this reason, the SA-CVA would have six distinct risk classes for the CVA delta capital requirement: counterparty credit spread and the five risk classes for exposure-related market risk factors which are the interest rate, foreign exchange, reference credit spread, equity, and commodity risk classes. Regulatory CVA is approximately linear in counterparty credit spreads and does not depend on their volatilities. Accordingly, calculation of the CVA vega capital requirement would not be required in the counterparty credit spread risk class. Expected exposure, on the other hand, is always sensitive to volatilities of market risk factors that drive market values of CVA risk covered positions. Because of this, a banking organization would be required to calculate the CVA vega capital requirements for the five exposure-related risk classes regardless of the presence of options in CVA risk covered positions.

Regulatory CVA would require simulating future exposure that depends on multiple market risk factors over long time horizons. Calculation of each CVA sensitivity to an exposure-related market risk factor would involve a separate regulatory CVA calculation, which could limit the number of CVA sensitivities to market risk factors that a banking organization could realistically calculate. Accordingly, the agencies would reduce the granularity of both delta and vega risk factors in the five exposure-related risk classes in the SA-CVA compared to the sensitivities-based method for market risk. Curvature calculations would not be required. For the five exposure-related risk classes, the SA-CVA would use the same buckets, regulatory risk weight calibrations, and correlation parameters as are used in the sensitivities-based method for market risk, with necessary

adjustments for the SA-CVA's reduced granularity of market risk factors.

In contrast to market risk factors that drive exposure, CVA sensitivities to counterparty credit spreads can be calculated based on a single regulatory CVA calculation. In the counterparty credit spread risk class, the SA-CVA would use the same granularity of risk factors as are used in the sensitivities-based method for market risk. Vega and curvature calculations would not be required in the counterparty credit spread risk class because regulatory CVA would be approximately linear with respect to counterparty credit spreads. For counterparty credit spreads, the SA-CVA would adjust buckets and correlations based on the role that counterparty credit spreads play in CVA calculations.

i. Regulatory CVA

Under the proposal, the aggregate regulatory CVA would equal the simple sum of counterparty-level regulatory CVAs. Counterparty-level regulatory CVA is intended to reflect an estimate of the market expectation of future loss that a banking organization would incur on its portfolio of derivatives with a counterparty in the event of the counterparty's default, assuming that the banking organization survives until the maturity of the longest instrument in the portfolio. For consistency in the calculation of risk-based capital across banking organizations, the proposal would require a banking organization to apply a positive sign to non-zero losses, so that regulatory CVA is always a positive quantity. The proposal would require a banking organization to base the calculation of regulatory CVA for each counterparty on at least three sets of inputs: the term structure of market-implied probability of default (market-implied PD) of the counterparty, the market-consensus expected loss-given-default (ELGD), and the simulated paths of discounted future exposure. In addition to the three specified inputs, the proposal would also allow a banking organization to use models that incorporate additional inputs for purposes of calculating regulatory CVA.

I. Term Structure of Market-Implied PD

The proposal would require a banking organization to use credit spreads observed in the markets, if available, to estimate the term structure of the market-implied PD based on market expectations of the likelihood that the

counterparty will default by a certain point in the future. Relative to historical default probabilities, market-implied PDs are typically substantially higher as they reflect the premium that investors demand for accepting default risk.

As many counterparties' credit is not actively traded, the proposal would allow a banking organization to use proxies to estimate the term structure of market-implied PD. For these illiquid counterparties, a banking organization would be required to estimate proxy credit spreads from credit spreads observed in the market for the counterparty's liquid peers, determined using, at a minimum, credit quality, industry, and region. Alternatively, the proposal would permit a banking organization to map an illiquid counterparty to a single liquid reference name if the banking organization demonstrates to its primary Federal supervisor the appropriateness of such mapping.⁵⁰¹ In addition, for illiquid counterparties for which there are no available credit spreads of liquid peers, the proposal would permit a banking organization to use an estimate of credit risk to proxy the credit spread of an illiquid counterparty (for example, to use a more fundamental analysis of credit risk based on balance sheet information or other approaches). While historical default probabilities may form part of this analysis, the resulting spread would have to relate to credit markets as well. This requirement would help ensure that the estimated term structure of market-implied PD reflects the market risk premium for counterparty credit risk.

II. Market-Consensus ELGD

In general, the proposal would require a banking organization to use the market-consensus ELGD value that is used to calculate the market-implied PDs from the counterparty's credit spreads. The fraction of exposure that a banking organization would lose in the event of a counterparty default (that is, loss given default) depends on the seniority of the derivative contracts that the banking organization has with the counterparty at the time of default. Most CDS contracts, which are used to calculate the market-implied PD, allow for delivery of senior unsecured bonds and thus have the same seniority as senior unsecured bonds in bankruptcy. By generally requiring a banking organization to use the same market-

consensus ELGD as the one used in calculations of the market-implied PD from the credit spreads, the proposal would require a banking organization to generally assume that derivative contracts' seniority is the same as the seniority of senior unsecured bonds. If a banking organization's derivative contracts with the counterparty are more or less senior to senior unsecured bonds, the proposal would allow a banking organization to adjust the market-consensus ELGD to appropriately reflect the lower or higher losses arising from such exposures. However, the proposal would not allow a banking organization to use collateral provided by the counterparty as the justification for changing the market-consensus ELGD as the banking organization would already have considered collateral in determining its exposure to the counterparty.

III. Simulated Paths of Discounted Future Exposure

To align regulatory CVA with industry practices, the regulatory CVA calculation in the SA-CVA would generally be based on the exposure models that a banking organization uses to calculate CVA for purposes of financial reporting. Specifically, a banking organization would obtain the simulated paths of discounted future exposure by using the exposure models the banking organization uses for calculating CVA for financial reporting, adjusted, if needed, to meet the requirements imposed for the regulatory CVA calculation, as described below. The proposal would require that these exposure models be subject to the same model calibration processes (with the exception of the margin period of risk, which would have to meet the regulatory floors), and use the same market and transaction data as the exposure models that the banking organization uses for calculating CVA for financial reporting purposes.

To produce the simulated paths of discounted future exposure, a banking organization would price all standardized CVA risk covered positions with the counterparty along simulated paths of relevant market risk factors and discount the prices to today using risk-free interest rates along the path. The banking organization would be required to simulate all market risk factors material to the transactions as stochastic processes for an appropriate number of paths defined on an appropriate set of future time points extending to the maturity of the longest transaction. The proposal would require drifts of risk factors to be consistent with a risk-neutral probability measure

and would not permit historical calibration of drifts. The banking organization would be required to calibrate volatilities and correlations of market risk factors to current market data whenever sufficient data exist in a given market, although the proposal would permit a banking organization to use historical calibrations of volatilities and correlations if sufficient current market data are not available. A banking organization's assumed distributions for modelled risk factors would be required to account for the possible non-normality of the distribution of exposures, including the existence of leptokurtosis (that is, "fat tails"), where appropriate. The banking organization would be required to use the same netting recognition as in its CVA calculations for financial reporting. Where a transaction has a significant level of dependence between exposure and the counterparty's credit quality, the banking organization would be required to take this dependence into account.

The proposal would permit a banking organization to recognize financial collateral as a risk mitigant for margined counterparties if the financial collateral would be included in the net independent collateral amount or variation margin amount and the collateral management requirements in SA-CCR are satisfied.

The proposal would require that (1) simulated paths of discounted future exposure capture the effects of margining collateral that is recognized as a risk mitigant along each exposure path; and (2) the exposure model appropriately captures all the relevant contractual features such as the nature of the margin agreement (that is, unilateral versus bilateral), the frequency of margin calls, the type of collateral, thresholds, independent amounts, initial margins, and minimum transfer amounts.⁵⁰² To determine collateral available to a banking organization at a given exposure measurement time, the proposal would require a banking organization's exposure model to assume that the counterparty will not post or return any collateral within a certain time period immediately prior to that time, known as the margin period of risk (MPoR). The proposal specifies a minimum length of time for the MPoR. For all CVA risk covered positions, the minimum MPoR is equal to 9 + N business days, or 10 business days for margin agreements

⁵⁰¹ For example, a banking organization may be permitted to use the credit spread curve of the home country as a proxy for that of a municipality in the home country (that is, setting the municipality credit spread equal to the sovereign credit spread plus a premium).

⁵⁰² Minimum transfer amount means the smallest amount of variation margin that may be transferred between counterparties to a netting set pursuant to the variation margin agreement.

with daily or intra-daily exchange of margin.

ii. Calculation of the SA-CVA Approach

Conceptually, the proposed SA-CVA approach is similar to the proposed sensitivities-based method under the market risk framework, as described in section V.A.7.a. of this **SUPPLEMENTARY INFORMATION**, in that a banking organization would estimate the changes in regulatory CVA arising from CVA risk covered positions and, if applicable, eligible CVA hedges resulting from applying standardized shocks to the relevant risk factors. As in the case of the proposed sensitivities-based method, to help ensure consistency in the application of risk-based capital requirements across banking organizations, the proposal would establish the applicable risk factors, the method to calculate the sensitivity of regulatory CVA and CVA hedges to each of the prescribed risk factors, the shock applied to each risk factor, and the process for aggregating the net weighted sensitivities within each risk class and across risk classes to arrive at the total CVA risk-based capital requirement for the portfolio under the SA-CVA. First, under the proposal, a banking organization would identify one or more of the specified risk classes that, in addition to counterparty credit spread risk class, would be applicable to its CVA risk covered positions and its CVA hedges. Based on standard industry classifications, the proposed exposure-related risk classes represent the common, yet distinct market variables that impact the value of CVA risk covered positions and CVA hedges. The proposed sensitivity calculations for delta and vega risk factors would estimate how much the aggregate regulatory CVA arising from CVA risk covered positions and separately the market value of all standardized CVA hedges would change as a result of a small change in a given risk factor, while all other relevant risk factors remain constant. For the sensitivity calculation, a banking organization would be able to use either the standard risk factor shifts or smaller values of risk factor changes, if such smaller values are consistent with those used by the banking organization for internal risk management.

Second, for each delta (and, separately, vega) risk factor, the banking organization would multiply the measured sensitivity of the aggregate CVA arising from CVA risk covered positions to that risk factor and, separately, that of the market value of the aggregate eligible CVA hedges to that risk factor by the standardized risk

weight proposed for that risk factor. A banking organization would then subtract the resulting weighted sensitivity for the eligible CVA hedges from the weighted sensitivity for the aggregate CVA arising from the CVA risk covered positions to obtain the net weighted sensitivity to a given risk factor. The agencies intend the proposed risk weights to capture the amount that a risk factor would be expected to move during the liquidity horizon of the risk factor in stress conditions and generally would be consistent with the risk weights in the proposed sensitivities-based method for market risk outlined in section V.A.7.a.iii. of the **SUPPLEMENTARY INFORMATION**.

Third, to aggregate CVA risk contributions of individual risk factors, the proposal would provide aggregation formulas for calculating the total delta and vega capital requirements for the entire CVA portfolio. Within each risk class, the proposal would group similar risk factors into buckets. Similar to the sensitivities-based method for market risk, a banking organization would aggregate the net risk-weighted sensitivities for delta (and, separately, for vega) risk factors first within each bucket and then across buckets within each risk class using the prescribed aggregation formulas to produce the respective delta and vega risk-based capital requirements. The agencies' intention is that the aggregation formulas limit offsetting and diversification benefits via the prescribed correlation parameters. Under the proposal, the correlation parameters specified for each risk factor pair would limit the risk-mitigating benefit of hedges and diversification, given that the hedge relationship between the underlying position and the hedge as well as the relationship between different types of positions could decrease or become less effective in a time of stress.

Fourth, a banking organization would aggregate the resulting delta and vega risk-class-level capital requirements as the simple sum across risk classes with no recognition of any diversification benefits because in stress, diversification across different risk classes may become less effective.

Finally, the overall risk-based capital requirement for CVA risk would be the simple sum of the separately calculated delta and vega capital requirements without recognition of any diversification benefits as these measures are intended to capture different types of risk and because in stress, diversification may become less effective.

I. Delta and Vega

To appropriately capture linear CVA risks, the proposal would require a banking organization to separately calculate the risk-based capital requirements for delta and vega using the above steps. As the sensitivity to vega risk is always material for CVA (as discussed further below), the proposal would require a banking organization to always measure the sensitivity of regulatory CVA to vega risk factors, regardless of whether the CVA risk covered positions include positions with optionality. When a banking organization calculates the sensitivity of regulatory CVA to a vega risk factor, it would apply the appropriate volatility shift to both types of volatilities that appear in exposure models: volatilities used for generating risk factor paths and volatilities used for pricing options.

II. Risk Classes

Under the proposal, a banking organization would be required to identify all of the relevant risk factors for which it would calculate sensitivities for delta risk and vega risk. Based on the identified risk factors, a banking organization would be required to identify the corresponding buckets within relevant risk classes. The CVA of a single counterparty can be represented as the product of counterparty credit spread and expected exposure for various future time points, aggregated across these time points. Because of this structure, counterparty credit spread risk naturally presents itself as a separate delta risk class that is always present in CVA risk regardless of the type of CVA risk covered positions in the portfolio.⁵⁰³ The risk classes specified for delta and vega risk factors related to expected exposure under SA-CVA are generally consistent with those under the sensitivities-based method for market risk and include interest rate, foreign exchange, credit spread, equity, and commodity.

For credit spread risk, the proposal would specify two distinct risk classes that may share the same risk factors but would need to be treated separately: (i) counterparty credit spread risk; and (ii) reference credit spread risk. Reference credit spread risk would be defined as the risk of loss that could arise from changes in the underlying credit spread risk factors that drive the exposure component of CVA risk. For example, a banking organization could have a portfolio of derivatives with Firm X as

⁵⁰³ This is a fundamental distinction between CVA risk and market risk, which, in the latter case, is entirely determined by market risk covered positions.

a counterparty and, at the same time, have a CDS referencing credit of Firm X in a portfolio of derivatives with Firm Y. In such cases, under the SA-CVA, the same credit spreads of Firm X would be treated as distinct risk factors in two sets of sensitivity calculations: one within the counterparty credit spread risk class calculations, and the other within the reference credit spread risk class calculations. To incorporate credit spread hedges of CVA risk properly, each such hedge would be designated as either a counterparty credit spread hedge or a reference credit spread hedge and included only in one calculation according to the designation.

Each risk class used for delta would also apply to vega, except for counterparty credit spread risk. The regulatory CVA is approximately linear in counterparty credit spreads and does not depend on their volatilities. Accordingly, calculation of the CVA vega capital requirement would not be required in the counterparty credit spread risk class. On the other hand, expected exposure is always sensitive to volatilities of market risk factors that drive market values of CVA risk covered positions.⁵⁰⁴ Accordingly, for each of the five exposure-related risk classes, a banking organization would be required to compute vega risk factor sensitivities of the aggregate regulatory CVA, in addition to delta risk factor sensitivities, regardless of whether the portfolio includes options.

III. Risk Factors

Under the proposal, a banking organization would be required to identify all of the relevant risk factors for which it would calculate sensitivities for delta risk and vega risk. The proposed risk factors differ for each risk class to appropriately reflect the specific market risk variables relevant for each risk class.

To measure the impact of a small change in each of the risk factors on the aggregate regulatory CVA and the market value of eligible CVA hedges, the proposal would specify the sensitivity calculations that a banking organization may use to calculate the CVA sensitivity to small changes in each of the specified delta or vega risk factors, as

applicable.⁵⁰⁵ Specifically, for the equity, commodity, and foreign exchange delta risk factors, the sensitivity would equal the change in the aggregate regulatory CVA arising from CVA risk covered positions and separately the market value of all eligible CVA hedges due to a one percentage point increase in the delta risk factor divided by one percentage point. For the interest rate, counterparty credit spread, and reference credit spread delta risk factors, the sensitivity would equal the change in the aggregate regulatory CVA arising from CVA risk covered positions and separately the market value of all eligible CVA hedges due to a one basis point increase in the risk factor divided by one basis point. The sensitivity to a vega risk factor would equal the change in the aggregate regulatory CVA arising from CVA risk covered positions and separately the market value of all eligible CVA hedges due to a one percentage point increase in the volatility risk factor divided by one percentage point. When a banking organization calculates the sensitivity of regulatory CVA arising from CVA risk covered positions and separately of the market value of all eligible CVA hedges to a vega risk factor, the banking organization would apply the shift to the relevant volatility used for generating risk factor simulation paths for regulatory CVA calculations. If there are options in the portfolio with the counterparty, the shift would also be applied to the relevant volatility used to price options along the simulation paths.

In cases where a CVA risk covered position or an eligible CVA hedge references an index, the proposal would require a banking organization to calculate the sensitivities of the aggregate regulatory CVA arising from the CVA risk covered positions or the market value of the eligible CVA hedges to all risk factors upon which the value of the index depends. The sensitivity of the aggregate regulatory CVA or the market value of the eligible CVA hedges to a risk factor would be calculated by applying the shift of the risk factor to all index constituents that depend on this risk factor and recalculating the aggregate regulatory CVA or the market value of the eligible CVA hedges.

⁵⁰⁵ As previously noted, for the sensitivity calculation, a banking organization would be able to use either the standard risk factor shifts or smaller values of risk factor changes, if such smaller values are consistent with those used by the banking organization for internal risk management (for example, using infinitesimal values of risk factor shifts in combination with algorithmic differentiation techniques).

For the risk classes of counterparty credit spread risk, reference credit spread risk, and equity risk, the SA-CVA would allow a banking organization to introduce a set of additional risk factors that directly correspond to credit and equity indices.⁵⁰⁶ For a CVA risk covered position or an eligible CVA hedge whose underlying is an index, its contribution to sensitivities to the index constituents would be replaced with its contribution to a single sensitivity to the underlying index, provided that (1) for an index where at least 75 percent of notional value for credit indices or market value for equity indices of the index's constituents on a weighted basis are mapped to the same sector, the entire index would have to be mapped to that sector and treated as a single-name sensitivity in that bucket, and (2) in all other cases, the sensitivity would have to be mapped to the applicable index bucket. The proposal would provide this option because some popular credit and equity indices involve a large number of constituents⁵⁰⁷ and calculating sensitivities to each constituent may be impractical for such indices.

C. Counterparty Credit Spread Risk

The proposal would define the counterparty credit spread delta risk factors as the absolute shifts of credit spreads of individual entities (counterparties and reference names for counterparty credit spread hedges) and indices (under the optional treatment of indices) for the following tenors: 0.5 years, 1 year, 3 years, 5 years, and 10 years.

In addition to single-name CVA counterparty credit spread hedges, banking organizations use index hedges to hedge the systematic component of counterparty credit spread risk. If an eligible CVA counterparty credit spread risk hedge references a credit index, a banking organization would be required to calculate delta sensitivities of the market value of all eligible CVA hedges of counterparty credit spread risk to the credit spread of each constituent entity included in the index. In these calculations, a banking organization would be required to shift the credit spread of each of the underlying constituents of the index while holding the credit spreads of all others constant.

⁵⁰⁶ If a banking organization chooses to introduce such additional risk factors, the banking organization would be required to calculate CVA sensitivities to the index risk factors in addition to sensitivities to the non-index risk factors.

⁵⁰⁷ For example, the credit index CDX has 125 constituents and the equity index S&P 500 has 500 constituents.

⁵⁰⁴ CVA expected exposure profile can be characterized as today's price of a call option on the portfolio market value at that time point (or on the increment of the portfolio market value over the MPoR for a margined portfolio). Since the price of an option depends both on the price and volatility of the underlying asset, both delta and vega risk factor sensitivities materially contribute to expected exposure variability, even when the portfolio of CVA risk covered positions with a counterparty does not include options.

The SA-CVA would offer an alternative, optional approach that introduces additional index risk factors for indices. Specifically, for each index referenced by eligible CVA counterparty credit spread risk hedges, delta risk factors would be absolute shifts of the index for the following tenor points: 0.5 years, 1 year, 3 years, 5 years, and 10 years. Under this optional approach, when a banking organization calculates sensitivities to single-name credit spread risk factors, the indices would remain unchanged. For each distinct credit index referenced by an eligible CVA counterparty credit spread risk hedge, the banking organization would perform a separate delta sensitivity calculation where the entire credit index is shifted. The index sensitivity calculations would only affect eligible CVA hedges of counterparty credit spread risk that reference the indices. This alternative is designed to reduce the complexity of constituent-by-constituent calculations, as many popular credit indices have more than a hundred constituents.

D. Risk Factors for Exposure-Related Risk Classes

As noted above, given the computational intensity of calculating the sensitivity of CVA to market risk factors and the less material impact of such risk factors on the volatility of CVA, the proposal would define the delta and vega risk factors for all five market risk classes (interest rate risk, foreign exchange risk, reference credit spread risk, equity risk, and commodity risk) in a much less granular way than under the sensitivity-based method for market risk.

1. Interest Rate Risk

For both delta and vega risk factors in the interest rate risk class, the proposal would define individual buckets by currency, which would consist of interest rate risk factors and inflation rate risk factors. For specified currencies (USD, EUR, GBP, AUD, CAD, SEK, or JPY), the delta interest rate risk factors would be defined as the simultaneous absolute change in all risk-free yields in a given currency at each specified tenor point (1 year, 2 years, 5 years, 10 years, and 30 years) and the absolute change in the inflation rate of a given currency. For all other currencies, the delta risk factors for interest rate risk would be defined along two dimensions: the simultaneous parallel shift in all risk-free yields in a given currency and the absolute change in the inflation rate of a given currency.

As the specified currencies are intended to capture the set of liquid

currencies that would likely dominate a banking organization's portfolios, the proposal would require a banking organization to identify and apply more granular delta risk factors for such exposures relative to those for all other currencies. Of the ten tenors used under the sensitivities-based method in market risk, the proposed five tenors are intended to capture the most commonly used tenors based on the liquidity in interest rate OTC derivative markets.

For all currencies, the interest rate vega risk factors for each currency would be defined along two dimensions: the simultaneous relative change of all interest rate volatilities for a given currency and the simultaneous relative change of all inflation rate volatilities for a given currency. For vega risk factors, the proposal would reduce the granularity in the tenor dimension in the same manner for all currencies given the computational intensity of calculating the vega risk sensitivity and the less material impact of such risk factors on the volatility of CVA.

2. Foreign Exchange Risk

The proposal would specify delta and vega buckets for foreign exchange risk as individual foreign currencies. For each foreign exchange bucket, the proposal would define one delta risk factor and one vega risk factor. Specifically, the proposal would define (1) the foreign exchange delta risk factor as the relative change in the foreign exchange spot rate⁵⁰⁸ between a given foreign currency and the reporting currency (or base currency); and (2) the foreign exchange vega risk factor as the simultaneous, relative change of all volatilities for an exchange rate between a banking organization's reporting currency (or base currency) and another given currency. For transactions that reference an exchange rate between a pair of non-reporting currencies, the sensitivities to the foreign exchange spot rates between the bank's reporting currency and each of the referenced non-reporting currencies must be measured.

3. Reference Credit Spread Risk

The proposal would define buckets for the delta and vega risk factors by sector and credit quality which is consistent with the definitions of buckets for non-securitization credit spread risk that are used in the proposed sensitivities-based method for market risk. The proposal would define

⁵⁰⁸ Under the proposal, the foreign exchange spot rate would be defined for purposes of CVA risk as the current market price of one unit of another currency expressed in the units of the banking organization's reporting (or base) currency.

one reference credit spread risk factor per delta or vega bucket under the SA-CVA. Specifically, the proposal would define (1) the delta risk factor as the simultaneous absolute shift of all credit spreads of all tenors for all reference entities in the bucket; and (2) the vega risk factor as the simultaneous relative shift of the volatilities of all credit spreads of all tenors for all reference entities in the bucket. In addition, similar to the counterparty credit spread risk as described above in section V.B.5.b.ii.III.A. of this **SUPPLEMENTARY INFORMATION**, the SA-CVA would offer an alternative, optional approach that introduces additional index risk factors for qualified indices and allows a banking organization to calculate delta and vega sensitivities of aggregate regulatory CVA and eligible CVA hedges with respect to the qualified indices instead of each constituent of the indices.

4. Equity Risk

The proposal would set the buckets for delta and vega risk factors generally matching the buckets for equity risk in the proposed sensitivities-based method for market risk. The proposal would define one equity risk factor per delta or vega bucket to reduce the complexity of calculating CVA sensitivities to equity risk factors. The proposal would define (1) the delta risk factor as the simultaneous relative change of all equity spot prices for all entities in the bucket and (2) the vega risk factor as the simultaneous relative change of all equity price volatilities for all entities in the bucket. In addition, similarly to the counterparty credit spread risk and reference credit spread risk as described in sections V.B.5.b.ii.III.A. and V.B.5.b.ii.III.B.3. of this **SUPPLEMENTARY INFORMATION**, the SA-CVA would offer an alternative, optional approach that introduces additional index risk factors for qualified indices and allows a banking organization to calculate delta and vega sensitivities of aggregate regulatory CVA and eligible CVA hedges with respect to the qualified indices instead of each constituent of the indices.

5. Commodity Risk

The proposal would set the buckets for delta and vega risk factors matching the buckets for commodity risk in the proposed sensitivities-based method for market risk. The proposal would define one commodity risk factor per delta or vega bucket under the SA-CVA. Specifically, the proposal would define (1) the delta risk factor as the simultaneous relative shift of all commodity spot prices for all

commodities in the bucket and (2) the vega risk factor as the simultaneous relative shift of all commodity price volatilities for all commodities in the bucket.

IV. Buckets, Risk Weights, and Correlations

As noted above, there are six risk classes for delta risk factors in the SA-CVA: the counterparty credit spread risk class and the five risk classes for market risk factors that drive expected exposure (interest rate, foreign exchange, reference credit spread, equity, and commodity). In addition, there are five exposure-related risk classes for vega risk factors. The granularity of risk factors in the counterparty credit spread risk class matches the one in the non-securitization credit spread risk class in the sensitivities-based method for market risk, while the granularity of both delta and vega risk factors in the exposure-related risk classes is greatly reduced.

A. Exposure-Related Risk Classes

The exposure component of regulatory CVA of a portfolio of CVA risk covered positions is affected by delta and vega market risk factors in a similar way as a portfolio of options on future market values (or their increments). Therefore, there is no compelling reason for the exposure-related risk classes in the SA-CVA to deviate from the bucket structure, risk weights, and correlations used in the corresponding risk classes in the sensitivities-based method for market risk, except for accommodating the reduced granularity of exposure-related risk factors in the SA-CVA. Accordingly, for both delta and vega risk factors in the exposure-related risk classes, the SA-CVA would use the bucket structure that matches the bucket structure of the corresponding risk classes in the sensitivities-based method for market risk. Furthermore, the proposal would set the values of all cross-bucket correlations, γ_{bc} , used for aggregation of bucket-level capital requirements across buckets within each exposure-related risk class equal to the corresponding values used in the sensitivities-based method for market risk.

For the foreign exchange, reference credit spread, equity, and commodity risk classes, the SA-CVA would assign one delta (and, separately, one vega) risk factor per bucket. Therefore, in contrast to the sensitivities-based method for market risk, the SA-CVA does not need to provide intra-bucket correlations, ρ_{kl} , for these risk classes. Furthermore, because the sensitivities-based method

for market risk provides no more than one risk weight per bucket for the corresponding risk classes (foreign exchange, non-securitization credit spread, equity, and commodity), the SA-CVA would generally match the values of these risk weights for both delta and vega risk factors.⁵⁰⁹

For the interest rate risk class, similar to the market risk, the SA-CVA would have two groups of buckets/currencies: the “specified” currencies (USD, EUR, GBP, AUD, CAD, SEK, and JPY) and the other currencies. However, while in the sensitivities-based method for market risk the two groups only differ in the values of the risk weights (the risk weights can be divided by $\sqrt{2}$ when applied to the specified currencies), in the SA-CVA they would differ both in the value of risk weights and in the level of granularity for delta risk factors. As mentioned above, the SA-CVA would specify delta risk factors for the specified currencies as the absolute changes of the inflation rate and of the risk-free yields for the following five tenors: 1 year, 2 years, 5 years, 10 years, and 30 years. Risk weights for these risk factors would be set approximately equal to the risk weights for the inflation rate and for the corresponding tenors of risk-free yields in the sensitivities-based method for market risk divided by $\sqrt{2}$. The intra-bucket correlations, ρ_{kl} , for the specified currencies in the SA-CVA would approximately match the ones between the corresponding tenors and the inflation rate in the sensitivities-based method for market risk. For each of the non-specified currencies, the SA-CVA would provide two delta risk factors per bucket/currency: the absolute change of the inflation rate and the parallel shift of the entire risk-free yield curve for a given currency. The risk weights for these risk factors would approximately match the ones for the inflation rate and for the 1-year risk free yield in the sensitivities-based method for market risk. The intra-bucket correlation between the two risk factors for the non-specified currencies would be set equal to the value of the correlation between the inflation rate and any tenor of the risk-free yield specified in the sensitivities-based method for market risk. As stated above, the SA-CVA would specify two vega risk factors for the interest rate risk class for each bucket/currency: a simultaneous

relative change of all inflation rate volatilities and a simultaneous relative change of all interest rate volatilities for a given currency. The SA-CVA would set the vega risk weights for both risk factors equal to the single value of the vega risk weight used for all interest rate vega risk factors in the sensitivities-based method for market risk. The SA-CVA would set the only intra-bucket interest rate vega correlation equal to the value of the SA-CVA intra-bucket interest rate delta correlation for the non-specified currencies.

Question 188: The agencies seek comment on the appropriateness of the proposed buckets, risk weights, and correlations for the exposure-related risk classes. What, if any, alternative bucketing structures, risk weights, or correlations should the agencies consider and why?

B. Counterparty Credit Spread Risk Class

Fundamentally, counterparty credit spreads are no different from reference credit spreads and, therefore, should follow the same dynamics. While the common dynamics might suggest using the same set of buckets for counterparty credit spread risk class and the reference credit spread risk class, the proposal would modify bucket definitions and structure for the counterparty credit spread risk class based on different counterparty types and the different roles counterparty credit spreads play in CVA risk management.

The counterparty credit spread component of CVA risk is usually substantially greater than the exposure component, and, therefore, is the primary focus of CVA risk management by banking organizations. To promote prudent risk management by improving recognition of certain hedges of the counterparty credit spread component of CVA risk and to better align the calibration of the CVA risk capital framework with the underlying economic risk, the agencies propose, for the application in the counterparty credit spread risk class, to modify the bucket structure that is used for the non-securitization credit spread risk class in the sensitivities-based method for market risk, as described below. These modifications would not generally affect the risk weights (Table 3 to § _____.225) in the counterparty credit spread risk class that would generally follow the corresponding risk weights in the sensitivities-based method for market risk.

Banking organizations often use single-name credit instruments to hedge the counterparty credit spread

⁵⁰⁹ The only exception would be foreign exchange delta risk: the sensitivities-based method for market risk would use two values for the delta risk weight (depending on the currencies), while the SA-CVA would use a single delta risk weight (set approximately equal to the lower of the two) regardless of the currency.

component of CVA risk of individual counterparties with large CVA and use index credit instruments to hedge the systematic part of the counterparty credit spread component of the aggregate (across counterparties) CVA risk. In the non-securitization credit spread risk class in the sensitivities-based method for market risk, (1) investment grade entities and (2) speculative and sub-speculative grade entities from the same sector generally form two separate buckets based on credit quality. This, however, could undermine the efficiency of hedges of the counterparty credit spread component of CVA risk. In order to prevent this, the proposal would merge the investment grade bucket and speculative and sub-speculative grade bucket of each sector into a single bucket.

Furthermore, banking organizations often use single-name sovereign CDS as indirect single-name counterparty credit spread hedges of CVA risk of illiquid counterparties such as GSEs and local governments. However, in the non-securitization credit spread risk class in the sensitivities-based method for market risk, such entities would belong to the PSE, government-backed non-financials, GSE debt, education, and public administration sector, which form a bucket separate from sovereign exposures, specified supranational entities, and MDBs. Thus, following the non-securitization credit spread bucket structure of the sensitivities-based method for market risk would result in a situation where the counterparty and the reference entity of the hedge reside in different buckets, thus substantially reducing the effectiveness of the hedge. In order to prevent a such scenario, the proposal would merge the sovereign exposures, specified supranational entities, and MDBs sector and the PSE, government-backed non-financials, GSE debt, education, and public administration sector into a single bucket. To preserve hedging efficiency, the proposal would move government-backed financials from the “financials” bucket to the combined bucket that includes sovereign exposures.

The agencies propose to set the cross-bucket correlations, γ_{bc} , equal to the corresponding correlations that would be applicable under the assumption of the same credit quality in the non-securitization credit spread risk class as in the sensitivities-based method for market risk. The agencies propose to

change both the structure and the values of the intra-bucket correlations used in the sensitivities-based method to better recognize indirect single-name hedges where the reference name is in the same bucket as the counterparty. Similar to the non-securitization credit spread risk class in the sensitivities-based method for market risk, the intra-bucket correlations, ρ_{kl} , proposed for the counterparty credit spread risk class would be equal to the product of three correlation parameters. Two of the SA-CVA parameters—for tenor difference and name difference—are the same as in the sensitivities-based method if risk factors are identical but have higher values for non-identical risk factors for better hedge recognition. The third SA-CVA parameter—for credit quality difference—would replace the basis correlation parameter of the sensitivities-based method. This parameter would equal 100 percent if the credit quality of the two names is the same (treating speculative and sub-speculative grade as one credit quality category) and 80 percent otherwise. The basis correlation parameter is not needed in the SA-CVA because the SA-CVA does not make a distinction between different credit curves referencing the same entity. On the other hand, reference entities of the same sector, but different credit quality would be in different buckets under the sensitivities-based method, so the sensitivities-based method does not need the credit quality difference correlation parameter.

To promote prudent risk management by improving recognition of cross-sector index hedges of the counterparty credit spread component of CVA risk, the agencies are proposing to increase the inter-bucket correlation between bucket 8 (the index bucket) and buckets 1 through 6 from 45 to 70 percent. While the sensitivities-based method applies a correlation value of 45 percent for cross-sector indices within the non-securitization credit spread risk class, this would not appropriately reflect counterparty credit spread risk within the CVA risk framework. Counterparty credit spread risk class has a very specific structure for purposes of the CVA risk, where firms would offset the aggregate CVA amount, which is essentially a weighted sum of individual counterparty credit spreads with positive weights, with a cross-bucket index hedge, which represents its own bucket. Thus, for purposes of the CVA

risk capital requirement, the correlation parameter between a specific single-name bucket and the index bucket should reflect the actual correlation between the bucket-level CVA and a cross-bucket index. Because the bucket-level CVA is a weighted sum of the individual counterparty credit spreads within the bucket, it has a substantial amount of idiosyncratic credit spread risk diversified away and can be, therefore, viewed as a single-bucket index. Thus, the correlation between the bucket-level CVA and the cross-bucket index is comparable to the correlation between a single-bucket index and a cross-bucket index. The agencies consider that this correlation is substantially higher than 45 percent and are proposing to increase it to 70 percent. This increase would improve recognition of cross-bucket index hedges of counterparty credit spread component of CVA risk in SA-CCR.

Question 189: The agencies seek comments on the appropriateness of the proposed risk weights of Table 3 to § _____.225 for financials, including government-backed financials. What, if any, alternative risk weights should the agencies consider? Should regulated financial institutions (such banks, insurance companies, broker dealers, pension funds, registered investment companies, and their foreign equivalents) be subject to lower risk weights? Please provide specific details and supporting evidence on the alternative risk weights.

Question 190: To what extent are the proposed buckets, risk weights, and correlations for counterparty credit spread risk class appropriate? What, if any, alternative bucketing structures, risk weights, or correlations should the agencies consider and why?

V. Intra- and Inter-Bucket Aggregation

Consistent with the sensitivities-based method for market risk, the proposal would require a banking organization first to separately aggregate the risk-weighted net sensitivities for CVA delta and CVA vega within their respective buckets and then across buckets within each risk class using the prescribed aggregation formulas to produce respective delta and vega risk capital requirements for CVA risk.

First, for each bucket b , a banking organization would aggregate all net weighted sensitivities for all risk factors within this bucket according to the following formula:

$$K_b = \sqrt{\left(\sum_{k \in b} WS_k^2 + \sum_{k \in b} \sum_{l \in b, l \neq k} \rho_{kl} \cdot WS_k \cdot WS_l \right) + R \cdot \sum_{k \in b} (WS_k^{Hdg})^2}$$

where WS_k is the net weighted sensitivity to risk factor k , WS_k^{Hdg} is the weighted sensitivity of the market value of all standardized CVA hedges to risk factor k , ρ_{kl} is the regulatory correlation parameter between risk factors k and l within bucket b , and R is the hedging disallowance parameter set at 0.01.

While this formula is similar to the intra-bucket aggregation formula in the

sensitivities-based method for market risk, it differs by the presence of an additional term under the square root, proportional to the hedging disallowance parameter R . The purpose of this term is to prevent extremely small levels of K_b when most of the risk factors k are perfectly hedged. For the case of perfect hedging ($WS_k = 0$ for all

k), the term provides a floor equal to 10 percent of weighted sensitivities of the standardized CVA hedges, aggregated as idiosyncratic risks.

Second, a banking organization would aggregate bucket-level capital requirements across buckets within the same risk class according to the following formula:

$$K = m_{CVA} \cdot \sqrt{\sum_b K_b^2 + \sum_b \sum_{c \neq b} \gamma_{bc} \cdot S_b \cdot S_c}$$

where γ_{bc} is the regulatory correlation parameter between bucket b and bucket c ; S_b is the sum of the net weighted sensitivities WS_k over all risk factors k

in bucket b , floored by $-K_b$ and capped by K_b ; and S_c is the sum of the net weighted sensitivities WS_k over all risk factors k in bucket c , floored by $-K_c$

and capped by K_c as given by the following formulas:⁵¹⁰

$$S_c = \max \left(\min \left(\sum_{k \in c} WS_k, K_c \right), -K_c \right)$$

$$S_b = \max \left(\min \left(\sum_{k \in b} WS_k, K_b \right), -K_b \right)$$

This aggregation formula differs from the one used in the sensitivities-based method for market risk. In order to compensate for a higher level of model risk in the calculation of sensitivities for the aggregate regulatory CVA arising from the CVA risk covered positions relative to that for market risk covered positions, the proposed inter-bucket aggregation formula includes a multiplication factor (m_{CVA}) with a default value equal to one but would allow the primary Federal supervisor to increase the multiplier and scale up risk-based capital required for each risk class (K), if the supervisor determines that the banking organization's CVA model risk warrants such an increase.⁵¹¹ The primary Federal supervisor would notify the banking organization in writing that a different value must be used.

Finally, as with the sensitivities-based method for market risk, the overall risk-

based capital requirement for CVA risk would be the simple sum of the separately calculated risk-class level delta and vega capital requirements across risk classes without any recognition of any diversification benefits given that delta and vega are intended to separately capture different risks.

Question 191: To what extent are the proposed intra- and inter-bucket aggregation methodologies appropriate? What, if any, alternative methodologies should the agencies consider and why?

Question 192: What, if any, alternative methods should the agencies consider for recognizing diversification across risk classes in the calculation of the SA-CVA, and why?

Question 193: To what extent is the default value of one for the multiplier appropriate or should the agencies consider a higher or lower default value for the multiplier and why?

6. Reporting and Disclosure Requirements

Table 1 to § _____.217, "General Qualitative Disclosure Requirements Related to CVA" is a new disclosure table that would require a banking organization to disclose certain information pertaining to CVA risk, including its risk management objectives and policies for CVA risk and information related to a GSIB's CVA risk management framework, including processes implemented to identify, measure, monitor, and control CVA risks and effectiveness of CVA hedges. Table 2 to § _____.217, "Qualitative Disclosures for Banks Using the SA-CVA" is a new disclosure table that would require a banking organization that has approval to use the standardized CVA approach (SA-CVA) to make disclosures related to the banking organization's risk management framework, including a description of

⁵¹⁰ Note that this definition of S_b differs from the one used in the sensitivities-based method for market risk, where the floor and the cap apply only

when the quantity under the square root in the aggregation formula is negative.

⁵¹¹ For example, the SA-CVA calculation does not fully account for the dependence between the

banking organization's exposure to a counterparty and the counterparty's credit quality.

the banking organization's risk management framework, a description of how senior management is involved in the CVA risk management framework, and an overview of the governance of the CVA risk management framework such as documentation, independent risk control unit, independent review, and independence of data acquisition from lines of business.

VI. Disclosure Requirements

A. Proposed Disclosure Requirements

Meaningful public disclosures of a banking organization's activities and the features of its risk profile, including risk appetite, work in tandem with the regulatory and supervisory frameworks by helping to support robust market discipline. In this way, meaningful public disclosures help to support the safety and soundness of banking organizations and the financial system more broadly.

The proposal would revise certain existing qualitative disclosure requirements and introduce new and enhanced qualitative disclosure requirements related to the proposed revisions described in this **SUPPLEMENTARY INFORMATION**. The proposal would also remove most of the existing required quantitative disclosures, which would instead be included in regulatory reporting forms. Therefore, the agencies anticipate separately proposing revisions to the Consolidated Reports of Condition and Income, the Regulatory Capital Reporting for Institutions Subject to the Advanced Capital Adequacy Framework (FFIEC 101), and the Market Risk Regulatory Report for Institutions Subject to the Market Risk Capital Rule (FFIEC 102). The Board similarly anticipates proposing corresponding revisions to the Consolidated Financial Statements for Holding Companies (FR Y-9C), the Capital Assessments and Stress Testing (FR Y-14A and FR Y-14Q), and the Systemic Risk Report (FR Y-15) to reflect the changes to the capital rule that would be required under this proposal. The proposal would also remove disclosures related to internal ratings-based systems and internal models that are not required by the proposal.

Under the current capital rule, Category I and II banking organizations generally are subject to enhanced public disclosure in comparison to other banking organizations. Under the proposal, the enhanced public disclosure requirements would generally apply to any Category I and II banking organizations and any banking

organization that opts into the expanded risk-based approach. Consistent with the current capital rule, the proposed enhanced public disclosure requirements would be required of the top tier banking organization within a consolidated organization and not other entities within the consolidated organization. Disclosure table 4 would only apply to Category I and II banking organizations. These enhanced disclosure requirements would promote transparency for market participants.

The proposal would not change the current capital rule's requirements regarding public disclosure policy and attestation, the frequency of required disclosures, the location of disclosures, or the treatment of proprietary information.

B. Specific Public Disclosure Requirements

The proposed changes to disclosure requirements pertaining to the risk-based capital framework are described below.⁵¹² Disclosure tables 1,⁵¹³ 2,⁵¹⁴ 3,⁵¹⁵ 4,⁵¹⁶ 11⁵¹⁷ (table 9 to § _____.162 in the proposal), and 12⁵¹⁸ (table 10 to § _____.162 in the proposal) in § _____. 173 of the current capital rule would be retained without material modification, although some of the table numbers would change.

The proposal would retain the requirement that Category I and II banking organizations disclose their risk management objectives as they relate to specific risk areas (e.g., credit risk). The proposal would revise the risk areas to which these disclosure requirements apply to help ensure consistency with the broader proposal. In addition, the proposal would require a Category I or II banking organization to describe its risk management objectives as they relate to the organization overall. The required disclosures would include information regarding how each Category I and II banking organization's business model determines and interacts with the overall risk profile; how this risk profile aligns with the

parameters of the risk tolerance approved by its board of directors; the banking organization's risk governance structure; channels to communicate, define, and enforce the risk culture within the banking organization; scope and features of risk measurement systems; risk information reporting; qualitative information on stress testing; and the strategies and processes to manage, hedge, and mitigate risks. These disclosures are intended to allow market participants to evaluate the adequacy of Category I and II banking organizations' approaches to risk management.

Table 5 to § _____.162, "Credit Risk: General Disclosures," would include the disclosures a banking organization is required to make under the current capital rule regarding its approach to general credit risk.⁵¹⁹ In addition, the proposal would require Category I and II banking organizations to disclose certain additional information regarding its risk management policies and objectives for credit risk. Specifically, the proposal would require Category I and II banking organizations to enhance their existing disclosures by describing how their business model translates into the components of the banking organization's credit risk profile and how it defines credit risk management policy and sets credit limits. Additionally, Category I and II banking organizations would be required to disclose the organizational structure of their credit risk management and control function as well as interactions with other functions. Category I and II banking organizations would also be required to disclose information on their policies related to reporting of credit risk exposure and the credit risk management function that are provided to the banking organization's leadership.

Table 6 to § _____.162, "General Disclosure for Counterparty Credit Risk-Related Exposures," would include the disclosures Category I and II banking organizations are required to make under the current capital rule regarding their approach to managing counterparty credit risk.⁵²⁰ The proposal would also include new disclosure requirements regarding Category I and II banking organizations' methodology for assigning economic capital for counterparty credit risk exposures as well as their policies

⁵¹² The table numbers refer to the table numbers included in the proposed rule.

⁵¹³ See Table 1 to § 3.173 (OCC); § 217.173 (Board); § 324.173 (FDIC)—Scope of Application.

⁵¹⁴ See Table 2 to § 3.173 (OCC); § 217.173 (Board); § 324.173 (FDIC)—Capital Structure.

⁵¹⁵ See Table 3 to § 3.173 (OCC); § 217.173 (Board); § 324.173 (FDIC)—Capital Adequacy.

⁵¹⁶ See Table 4 to § 3.173 (OCC); § 217.173 (Board); § 324.173 (FDIC)—Capital Conservation and Countercyclical Capital Buffers.

⁵¹⁷ See Table 11 to § 3.173 (OCC); § 217.173 (Board); § 324.173 (FDIC)—Equities Not Subject to Subpart F of This Part.

⁵¹⁸ See Table 12 to § 3.173 (OCC); § 217.173 (Board); § 324.173 (FDIC)—Interest Rate Risk for Non-Trading Activities.

⁵¹⁹ See Table 5 to § 3.173 (OCC); § 217.173 (Board); § 324.173 (FDIC)—Credit Risk—General Disclosures.

⁵²⁰ See Table 7 to § 3.173 (OCC); § 217.173 (Board); § 324.173 (FDIC)—General Disclosure for Counterparty Credit Risk of OTC Derivative Contracts, Repo-Style Transactions, and Eligible Margin Loans.

regarding wrong-way risk exposures. Additionally, the proposal would further require Category I and II banking organizations to disclose their risk management objectives and policies related to counterparty credit risk, including the method used to assign the operating limits defined in terms of internal capital for counterparty credit risk exposures and for CCP exposures, policies relating to guarantees and other risk mitigants and assessments concerning counterparty credit risk (including exposures to CCPs), and the increase in the amount of collateral that the banking organization would be required to provide in the event of a credit rating downgrade.

Table 7 to § _____.162, “Credit Risk Mitigation,” would include the disclosures Category I and II banking organizations are required to make under the current rule regarding their approach to credit risk mitigation.⁵²¹ In addition, the proposal would specify that Category I and II banking organizations must provide a meaningful breakdown of their credit derivative providers, including a breakdown by rating class or by type of counterparty (e.g., banking organizations, other financial institutions, and non-financial institutions). These disclosures would apply to eligible credit risk mitigants under the proposal,⁵²² although a banking organization would be encouraged to also disclose information about other mitigants. The credit risk mitigation disclosures in Table 7 to § _____.162 of the proposal would not apply to synthetic securitization exposures, which would be included in Table 8 to § _____.162 as part of the banking organization’s disclosures related to securitization exposures.

Table 8 to § _____.162, “Securitization,” would include the disclosures Category I and II bank holding companies are required to make under the current capital rule regarding their approach to securitization.⁵²³ In addition to the existing qualitative disclosures related to securitization, the proposal would require disclosure of whether the banking organization provides implicit support to a

securitization and the risk-based capital impact of such support.

Table 11 to § _____.162, “Additional Disclosure Related to the Credit Quality of Assets,” is a new disclosure table that would require Category I and II banking organizations to provide further information on the scope of “past due” exposures used for accounting purposes, including the differences, if any, between the banking organization’s scope of exposures treated as past due for accounting purposes and those treated as past due for regulatory capital purposes.

Table 12 to § _____.162, “General Qualitative Information on a Banking Organization’s Operational Risk Framework,” is a new disclosure table that would require a Category I and II banking organizations to disclose information regarding its operational risk management processes, including its policies, frameworks, and guidelines for operational risk management; the structure and organization of its operational risk management and control function; the systems and data used to calculate the operational risk capital requirement; the scope and context of its reporting framework on operational risk to executive management and to the board of directors; and the risk mitigation and risk transfer used in the management of operational risk.

Table 13 to § _____.162, “Main Features of Regulatory Capital Instruments and of Other TLAC-Eligible Instruments,” is a new disclosure table that would require Category I banking organizations to disclose information regarding the terms and features of its regulatory capital instruments and other instruments eligible for TLAC.⁵²⁴ In addition, the proposal would require a Category I bank holding company to describe the main features of its regulatory capital instruments and provide disclosures of the full terms and conditions of all instruments included in regulatory capital. Category I bank holding companies would also be required to describe the main features of their covered debt positions and provide disclosures of the full terms and conditions of all covered debt positions.

Question 194: The agencies invite comment on the utility of the proposed public disclosure requirements. What additional considerations, if any, should the agencies consider with regard to the

scope and granularity of the proposal’s disclosure requirements? What are the advantages and disadvantages of the proposed disclosure requirements?

VII. Estimated Impact on Capital Requirements

The proposal would revise the calculation of risk-weighted assets for Category I and II banking organizations and other banking organizations choosing to adopt the expanded risk-based approach, as well as the calculation of market risk and CVA risk requirements for a small number of other banking organizations. These changes would in turn affect these banking organizations’ risk-based capital requirements. The impact on required capital would depend on banking organizations’ risk exposures as well as the other capital requirements to which they are subject.

The remainder of this section provides estimates of the impact of the proposal on risk-weighted assets and capital requirements, with particular focus on Category I and II banking organizations. Section VII.A provides the impact of this proposal relative to the current capital requirements, inclusive of applicable buffer requirements and reflecting recently finalized changes to the enhanced supplementary leverage ratio standards (recent eSLR changes).⁵²⁵ To provide a broader perspective of recent capital reforms, section VII.B provides cumulative impact estimates of both recent and concurrent capital-related proposals that would affect these banking organizations. The set of proposals considered jointly includes the recent eSLR changes, the Board’s GSIB surcharge proposal, and proposed changes to the Board’s supervisory stress test.⁵²⁶ Section VII.C attributes the impact across several broad areas of banking activity. Section VII.D describes the data and estimation methodology used in this section. Discussion of the economic impact of these changes to capital requirements is provided in section VIII.

A. Standalone Effect of Proposed Capital Rule Changes

Table VII.1 below presents the estimated impact of the proposal on aggregate capital requirements for Category I and II banking organizations. While banking organizations’ minimum regulatory capital ratios and capital

⁵²¹ See Table 8 to § 3.173 (OCC); § 217.173 (Board); § 324.173 (FDIC)—Credit Risk Mitigation.

⁵²² See section IV.A.5. of this SUPPLEMENTARY INFORMATION for a more detailed discussion on the types of credit risk mitigants that a banking organization would be allowed to recognize for purposes of calculating risk-based capital requirements.

⁵²³ See Table 9 to § 3.173 (OCC); § 217.173 (Board); § 324.173 (FDIC)—Securitization.

⁵²⁴ For purposes of Table 13, unique identifiers associated with regulatory capital instruments and other instruments eligible for TLAC may include Committee on Uniform Security Identification Procedures number, Bloomberg identifier for private placement, International Securities Identification Number, or others.

⁵²⁵ See 90 FR 55248 (Dec. 1, 2025).

⁵²⁶ See Federal Reserve Board Requests Comment on Proposals to Enhance the Transparency and Public Accountability of its Annual Stress Test (Oct. 24, 2025), <https://www.federalreserve.gov/newsevents/pressreleases/bcreg20251024a.htm>.

buffer requirements have distinct, complementary purposes, the estimates in this proposal represent requirements inclusive of GSIB surcharge and stress

capital buffer requirements, as described below, in order to present impact as a single quantity. In addition, the standalone impact estimates of the

proposal on tier 1 capital requirements reflect the recent eSLR changes. The methodology behind the estimates is described in section VII.D.

Table VII.1: Estimate of the Proposal’s Impact on Aggregate Capital Requirements of Category I and II Banking Organizations (%)

	Common Equity Tier 1	Tier 1
Bank Holding Companies	+1.4%	+1.6%
Depository Institution Subsidiaries	-4.8%	-2.3%

The agencies estimate that the proposal would increase aggregate common equity tier 1 capital requirements for Category I and II bank holding companies by about 1.4 percent relative to current requirements and would increase their aggregate tier 1 capital requirements by about 1.6 percent. Across Category I and II depository institution subsidiaries, the proposal is estimated to decrease aggregate common equity tier 1 and tier 1 capital requirements by about 4.8 and 2.3 percent, respectively. The proposal would increase aggregate capital requirements for holding companies but decrease them for depository institutions because the proposal has a different impact on their aggregate risk-weighted assets, detailed below. Specifically, market risk-weighted assets, which generally increase under the proposal, and operational risk-weighted assets are relatively concentrated at the holding company level. The decrease in tier 1 capital requirements for depository institutions is limited by binding leverage requirements for several banks.

The capital impact estimates are based on balance sheets as of 2025 Q2 and GSIB surcharges that would be applicable in early 2026 under the current rule.⁵²⁷ The estimates represent a simple average of the impact calculated using the stress capital buffer requirement from the 2024 stress test and the impact using the stress capital buffer requirement from the 2025 stress test. While the specific stress test and level of the resulting stress capital buffer requirement has little effect on the

percentage impact of this proposal,⁵²⁸ it can materially change the impact of other capital changes considered cumulatively with the proposal. The analysis therefore considers an average across two years to mitigate effects of a specific year on the impact estimates.

As detailed in section VII.D.5, the methodology behind these estimates abstracts from bucketing and rounding effects that are present in the capital rule and that would primarily add noise to estimates. In addition, capital requirements include amounts of assets that are subject to threshold-based capital deductions so that deducted and risk-weighted portions of such exposures are treated comparably. The cumulative effect of these methodological choices is small in aggregate.⁵²⁹

As described in section VII.D.1, the estimated changes in risk-weighted assets are extrapolated from the Federal Reserve’s Basel III Endgame Special Data Collection. This data collection details exposures as of Q2 2023 under the agencies’ 2023 Basel III proposal. Adjustments, as described in section VII.D.1.c, are applied to these data to reflect the current proposal, and the resulting estimates are then extrapolated to data as of Q2 2025. This extrapolation

procedure, also described in section VII.D.2, accounts for changes in the composition of exposures across different areas of risk, but does not reflect changes in impact associated with changes in the composition of exposures within each of these areas. For example, the extrapolated estimates reflect changes in impact due to a different growth rate of residential real estate lending and trading activities, but would not reflect changes in impact due to a shift in the LTV ratios of the real estate exposures or the composition of the risk within market risk covered positions. Thus, there may be a tradeoff whereby estimates with as of dates closer to Q2 2023 may more accurately reflect capital impact at that point in time than later estimates, but later estimates may still be more informative of impact going forward given that they account for how banking activity has shifted at a high level. Regardless, when using risk exposures and banking activity as of intermediate calendar quarters between Q2 2023 and Q2 2025, the estimated aggregate impact on common equity tier 1 capital requirements varies between an increase of 0.6 percent and an increase of 1.4 percent. Thus, changes in the broad composition of large banking organizations’ balance sheets and activity over the past few years, as measured, have not materially affected the estimated impact of this proposal on capital requirements.

Importantly, all of these impact estimates are made ex-ante—before banking activity and risk exposures have adjusted to any changes in incentives that may result from the proposal.⁵³⁰ As the proposal goes into

⁵²⁷ These GSIB surcharges are based on the firm-specific minimum of GSIB scores from year-end 2023 and 2024 derived from FR Y–15 Systemic Risk Report data.

⁵²⁸ For example, the increase in aggregate common equity tier 1 capital requirements is 1.5 and 1.3 percent when using stress capital buffer requirements from 2024 and 2025, respectively. However, the capital impact of the enhanced supplementary leverage ratio proposal on aggregate tier 1 capital requirements of Category I and II bank holding companies would have been a decrease of 0.4 percent and 4.2 percent using 2024 and 2025 stress capital buffer requirements respectively.

⁵²⁹ If using bucketed GSIB surcharges and rounded stress capital buffer requirements, and excluding threshold deductions from requirements, the estimated change in the aggregate common equity tier 1 capital requirements of Category I and II banking organizations would be an increase of about 0.9 percent.

⁵³⁰ Arguably, to the extent that some aspects of the proposal’s impact might have been anticipated in advance, some of the impact of its effect on

effect, banking organizations might increase activities that would receive relative reductions in requirements or decrease activities that would receive relative increases in requirements, which could result in a lower ex-post level of capital requirements.

While all impact estimates in this proposal reflect aggregates across banking organizations, the impact on individual banking organizations would vary. Across the nine Category I and II bank holding companies, the standard deviation of the percentage impact on common equity tier 1 capital requirements is estimated at about 8.7 percent. In general, firm-specific impact is well explained by variation in exposure to risk categories or engagement in business activities that face different impacts under the proposal.

While this proposal would change both the numerator and denominator of risk-based capital ratios,⁵³¹ the impact operates primarily through the denominator, risk-weighted assets. To simplify discussion of the impact of the proposal on requirements at a more granular level, the analysis focuses on changes to risk-weighted assets.

Table VII.2 provides risk-weighted assets for Category I and II bank holding companies aggregated by risk category across the current standardized approach, the advanced approaches,⁵³² and the proposed expanded risk-based approach. Under the proposal, the aggregate risk-weighted assets for such Category I and II banking organizations would increase by about 1.9 percent compared to the current standardized approach (which produces the binding risk-based capital requirements for

nearly all of the banking organizations). Market risk-weighted assets increase by approximately 20 percent under the proposal. However, as discussed in section VII.C, the cumulative effect on the requirements applicable to trading activities of this and related capital proposals is more moderate. Meanwhile, combined risk-weighted assets for credit, operational, and CVA risks are roughly equal to general credit risk-weighted assets under the current standardized approach. For the depository institution subsidiaries of these organizations, risk-weighted assets would decrease by 3.0 percent relative to the standardized approach on aggregate, consistent with the relatively smaller amount of trading activity at the level of the depository institution.

Table VII.2: Category I and II Banking Organization Risk-weighted Assets Under the Proposal
by Risk Category (\$ billion)

	Current		Expanded risk-based approach
	Standardized approach	Advanced approaches	
Bank Holding Companies			
Credit risk	7,235	4,890	6,165
Operational risk		1,745	927
CVA		280	207
Market risk	453	453	546
Total ⁵³³	7,673	7,362	7,820
Depository Institution Subsidiaries ⁵³⁴			
Credit risk	6,173	4,015	5,168
Operational risk		1,252	637
CVA		202	132
Market risk	256	257	309
Total	6,413	5,718	6,220

incentives may already be reflected in banking organizations' risk exposures and activity.

⁵³¹ The impact on the numerator includes the removal of capital deductions for above-threshold mortgage servicing assets. While no Category I or II banking organizations currently have any such deductions, the removal of the deduction treatment may have a significant effect on these banking organizations' incentives to originate and service

mortgages, as discussed in section VIII.D.2. In addition, impact estimates account for changes to required capital ratios due to how changes in risk-weighted assets affected the stress capital buffer requirement and the short-term wholesale funding score in the current GSIB surcharge rule. Also, the proposal affects capital requirements by removing the advanced approaches requirements, which

occasionally are larger than standardized requirements for some banking organizations.

⁵³² For purposes of sections VII and VIII, the term "advanced approaches" refers to a banking organization's total risk-weighted asset amount based on the sum of its risk-weighted assets calculated for credit, CVA, and operational risks plus, if applicable, risk-weighted assets for market risk, minus certain deductions.

1. Impact on Other Banking Organizations^{533 534}

In addition to the revisions to the capital requirements of Category I and II banking organizations, the proposal would introduce certain changes to the capital requirements of non-Category I or II banking organizations. Specifically, the proposed market risk capital requirements would apply to banking organizations with significant trading activity, while no longer applying to a small number that would not meet the proposed applicability thresholds. In addition, some of the banking organizations that would remain subject to market risk capital requirements and have substantial exposure to OTC derivatives would become subject to capital requirements for CVA risk. For these non-Category I and II banking organizations that would remain subject to market risk capital requirements, the proposed market risk and CVA requirements would increase common equity tier 1 capital requirements by 0.9 percent.⁵³⁵

Furthermore, other banking organizations would have the option to apply the expanded risk-based approach. The agencies estimate that three Category III or IV holding companies would see a reduction in capital requirements in the range of three to seven percent if they were to choose to apply the expanded risk-based approach instead of the concurrently proposed revised standardized approach. In addition, the agencies estimate that about a third of banking organizations below Category IV would see reductions in capital requirements of between five and ten percent if they were to apply the expanded risk-based approach, although only a small number might see a reduction in capital requirements greater than ten percent. However, various features of the expanded risk-based approach that are appropriate for larger and more complex banking organizations, such as the requirements to adopt SA-CCR and

reflect most elements of accumulated other comprehensive income in regulatory capital, may make the framework unappealing to many smaller banking organizations. Section VIII.F.2 considers further how other banking organizations' may respond to the optional application of this rule.

Lastly, while banking organizations that remain below the Category I and II applicability thresholds would retain this optionality, those that subsequently become Category I or II banking organizations would become subject to the proposal's requirements. The different treatment of business activities under the proposal may affect the incentives of smaller banking organizations that plan to elect to use the expanded risk-based approach.

B. Cumulative Effect of Proposed Capital Rule Changes

Other recently finalized or proposed revisions that relate to the regulatory capital framework could also materially affect the capital requirements of Category I and II banking organizations. These include (1) the recent eSLR changes, (2) the concurrent GSIB surcharge proposal, and (3) the Board's proposed stress test changes for the Board's supervisory stress test,⁵³⁶ which would inform the Board's determination of a bank holding company's stress capital buffer requirement.⁵³⁷ This section estimates the impact of this Stress Test Transparency Proposal jointly with these other capital reforms. Specifically, the stress testing

component of the cumulative analysis here incorporates the data published in the Stress Test Transparency Proposal, which projected impacts to stress capital buffer requirement determinations as if the proposed model changes and proposed revisions to the global market shock scenario design had been implemented in the 2024 and 2025 stress tests, independent of other factors that affect the determination of a banking organization's stress capital buffer requirement.⁵³⁸ In addition, this section provides some historical context for the overall cumulative impact of these proposals on capital requirements.

In addition to capital requirements, the proposal's adjustments to risk-weighted assets would also affect the Board's total loss absorbing capacity (TLAC) and long-term debt requirements for U.S. GSIBs. The estimated impact of this proposal on TLAC and long-term debt requirements is described in the economic analysis section contained in the Board's separate notice of proposed rulemaking for the GSIB surcharge proposal.

I. Cumulative Impact of Recent Proposals on Capital Requirements

Table VII.3 provides estimates of the combined impact of these revisions on Category I and II bank holding companies' aggregate common equity tier 1 and tier 1 capital requirements. The rightmost column in the table presents aggregate leverage requirements for these bank holding companies as a share of aggregate tier 1 capital risk-based requirements.⁵³⁹

⁵³⁶ The "proposed stress test changes" refer to the proposed model changes and revisions to the global market shock component announced in connection with the Board's proposal to enhance the transparency and public accountability of the Board's supervisory stress test. See Board, Enhanced Transparency and Public Accountability of the Supervisory Stress Test Models and Scenarios; Modifications to the Capital Planning and Stress Capital Buffer Requirement Rule, Enhanced Prudential Standards Rule, and Regulation LL, 90 FR 51856 (Nov. 18, 2025) (the "Stress Test Transparency Proposal").

⁵³⁷ This analysis excludes consideration of the proposal to reduce the volatility of the stress capital buffer requirement, which would not have any standalone impact on the determination of a bank holding company's stress capital buffer requirement. Instead, the proposal would reduce the volatility of the stress capital buffer requirement by averaging the maximum common equity tier 1 capital declines projected in each of the Board's prior two annual supervisory stress tests to inform a bank holding company's stress capital buffer requirement. See Board, Modifications to the Capital Plan Rule and Stress Capital Buffer Requirement, 90 FR 16843 (Apr. 22, 2025).

⁵³³ Data in the "Total" rows of the table also reflect deductions from risk-weighted assets for excess allowances for credit losses and allocated transfer risk reserves.

⁵³⁴ Includes all depository institution subsidiaries of Category I and II bank holding companies.

⁵³⁵ The aggregate impact is small as the additional CVA requirements are significantly offset by estimated reductions in market risk-weighted assets for smaller banking organizations under the proposal.

⁵³⁸ The estimated capital impact described in this cumulative analysis with respect to the proposed stress test changes announced in the Stress Test Transparency Proposal incorporates the underlying data published by the Board in the Stress Test Transparency Proposal, without changes to the underlying data. That proposal included illustrative analysis that considered the potential effects of the proposed stress test model and scenario changes, independent of other factors and components that inform the Board's stress capital buffer determinations for specific bank holding companies, within the 2024 and 2025 supervisory stress tests. As stated in the Stress Test Transparency Proposal, in aggregate, the proposed stress test model and scenario changes are not expected to materially change capital requirements for bank holding companies subject to the supervisory stress test, across various stress scenarios and jump-off conditions at the start of the test.

⁵³⁹ As with the estimates reported earlier, the estimates in section VII.B reflect the GSIB surcharge that would be applicable in early 2026.

Table VII.3: Cumulative Impact of Proposals on Capital Requirements of Category I and II

Bank Holding Companies		Cumulative % Change in Requirements		Aggregate Leverage /
		Common Equity Tier 1	Tier 1	Risk-Based Requirement
Current Rule	Pre-Nov 2025 Rules	-	-	99.0%
	+ Recent eSLR changes	-	-2.3%	76.8%
Proposals	+ This proposal	+1.4%	-0.7%	75.8%
	+ GSIB surcharge proposal	-2.4%	-3.9%	79.4%
	+ Proposed stress test changes	-4.8%	-6.0%	81.1%

The combined impact of this proposal and the GSIB surcharge proposal on GSIBs' aggregate common equity tier 1 capital requirements would be a decrease of 2.4 percent. When combined with the proposed stress test changes, the decrease would be 4.8 percent, based on the average impact across 2024 and 2025 stress tests. The aggregate combined capital impact of the proposals is close to the sum of their standalone impact, as there are limited interactions between them.

Turning to tier 1 capital, the recent eSLR changes are projected to reduce requirements for Category I and II bank holding companies by about 2.3 percent. When combined with this proposal, the GSIB surcharge proposal, and the stress testing changes, the reduction in aggregate tier 1 capital requirements is projected to be 6.0 percent. The estimated cumulative reduction of tier 1 capital requirements is only about 1.2 percentage points larger than for common equity tier 1 capital requirements (6.0 percent decrease versus 4.8 percent decrease) despite the 2.3 percent reduction due to recent eSLR changes because tier 1 leverage requirements would become binding for two of the bank holding companies.

The final column of Table VII.3 shows how binding the leverage and risk-based tier 1 capital requirements are by reporting the ratio of the aggregate leverage to risk-based requirements.⁵⁴⁰ Before the recent eSLR changes, aggregate leverage and risk-based tier 1 capital requirements were almost equal for Category I and II bank holding

companies. With the recent eSLR changes, aggregate risk-based requirements would remain significantly higher than leverage requirements after accounting for the cumulative effects of the proposed changes to risk-based requirements, preserving the role of leverage as a backstop capital requirement.

Also, while these estimates reflect an average across requirements under 2024 and 2025 stress tests, the specific stress test significantly affects the impact of certain of these changes in particular. The potential impact of the proposed stress test changes are conditional on the specific stress scenario used. In addition, the level of the stress capital buffer requirement affects the relative level of risk-based and leverage capital requirements, and thus the effect of the recent eSLR changes.

While these proposals would result in a reduction relative to current capital requirements, requirements would still remain higher than they would be absent certain increases in capital requirements in recent years. To illustrate this, Figure VII.1 below plots common equity tier 1 capital requirements for Category I and II bank holding companies under two scenarios.⁵⁴¹ The black curve provides requirements under the then-current rules. The gray curve provides a counterfactual where past increases in capital requirements that do not clearly respond to increasing banking system risks have been neutralized. First, the counterfactual assumes that method 2 coefficients are indexed such that they grow at the same rate as method 1 scores

beginning in Q4 2019. This date is chosen as the lack of indexation in method 2 becomes particularly apparent as GSIBs' balance sheets expand rapidly in response to monetary and fiscal policy actions taken in the global COVID-19 pandemic. In addition, the counterfactual replaces the stress capital buffer requirement, which came into effect in late 2020, with an estimate of what capital requirements would have been under the previous stress testing framework.⁵⁴² The counterfactual also neutralizes the aggregate impact on risk-weighted assets of the introduction of the standardized approach for counterparty credit,⁵⁴³ and reduces requirements by the estimated amount

⁵⁴² Specifically, the counterfactual subtracts planned cumulative common stock dividends and net share repurchases from holding companies' stress CET1 capital over the whole 9-quarter stress period, then recalculates the maximum decline in the CET1 ratio, and sets a stress requirement equal to 4.5% plus this maximum decline of standardized risk-weighted assets. Overall CET1 capital requirements under the counterfactual equal the greater of this stress requirement or the greater of standardized and advances approaches risk-weighted assets multiplied by 7.0% plus the GSIB surcharge. The counterfactual does not account for changes in assumed stress balance sheet growth that were part of the stress capital buffer rule, but does account for the counterfactual's changes to risk-weighted assets (for SA-CCR) and allowances (for CECL). See Federal Reserve Board approves rule to simplify its capital rules for large banks, preserving the strong capital requirements already in place (Mar. 4, 2020), <https://www.federalreserve.gov/newsevents/pressreleases/bcreg20200304a.htm>.

⁵⁴³ Based on values reported in eight of the nine banking organizations' SEC 10-Q/K filings following SA-CCR adoption (Q2 2020 for Bank of America, Q4 2021 for Goldman Sachs and Morgan Stanley, and Q1 2022 for all others), in aggregate, at adoption, SA-CCR increased risk-weighted assets associated with derivatives exposures by about 15.8 percent. Consequently, in every quarter following SA-CCR adoption, each banking organizations' risk-weighted assets for derivative exposures under the counterfactual is scaled by 1.158.

⁵⁴⁰ Prior to this proposal, the denominator of this ratio is measured using the greater of advanced approaches and standardized approach requirements.

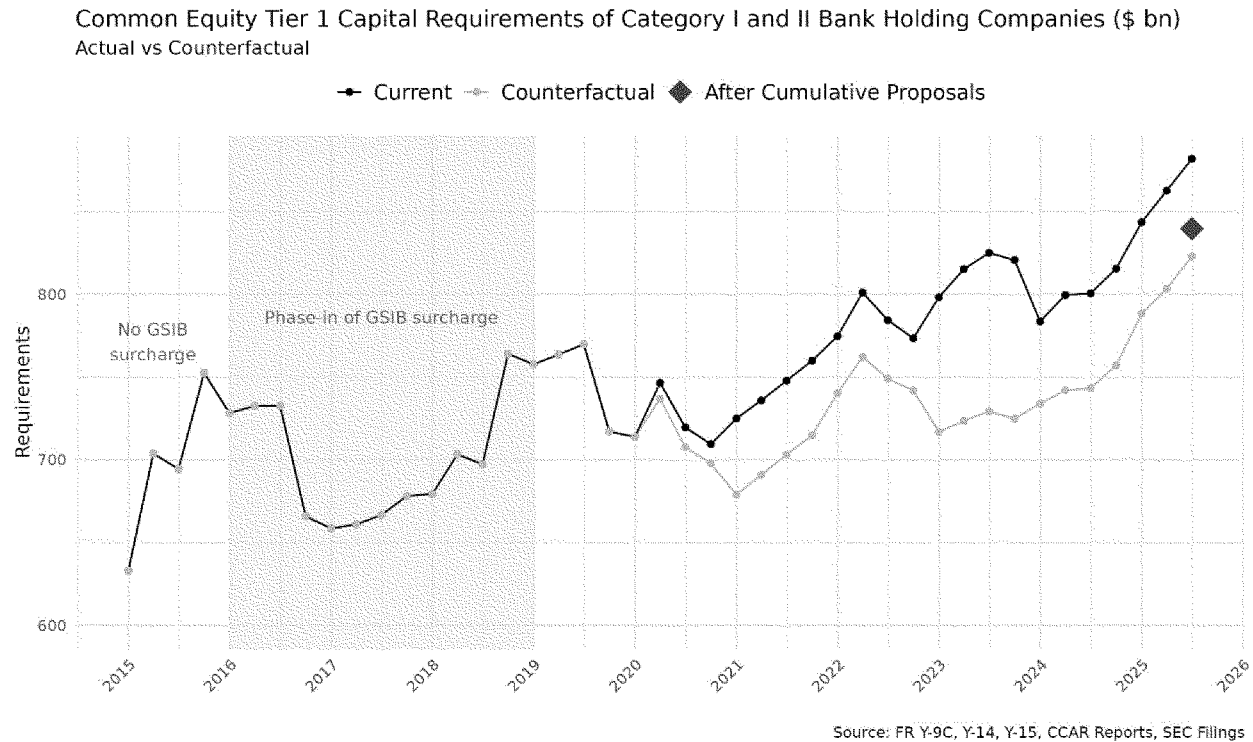
⁵⁴¹ This plot is constructed using rounded stress capital buffer requirements and threshold deductions are not included in requirements.

of the impact of the current expected credit losses (CECL) accounting standard on common equity tier 1 capital.⁵⁴⁴ The gap between the two curves grows in early 2020 due to CECL, in late 2020 due to the stress capital buffer requirement, in 2022 due to SA-CCR, and gradually widens over time

due to the impact of this balance sheet growth on method 2 scores. The gap is especially large in 2023 due to the impact of the stress capital buffer requirement under the 2022 stress test. The blue diamond on the plot represents requirements in Q2 2025 after the estimated cumulative reduction

in requirements of 4.8 percent under the several recently proposed revisions.⁵⁴⁵ In comparison, aggregate common equity tier 1 capital requirements are lower under the counterfactual.

Figure VII.1



2. Cumulative Impact of Recent Proposals on Common Equity Tier 1 Capital Requirements by Risk Type

The analysis now turns to the cumulative impact at the more granular level, focusing on the specific types of risk measured under the proposal: credit, operational, market, and CVA. The cumulative impact on capital requirements for each risk type can differ markedly from what is implied by the proposal's standalone impact on risk-weighted assets.

As an example, capital requirements for trading activity are affected not only by risk-weighted assets for market risk but also by the overall required capital ratio, which is affected by a banking

organization's stress capital buffer requirement. As a result, capital requirements for trading activities are also informed by the revenues and losses such activities generate in the Board's supervisory stress test, independent of other factors, which depend on the scenarios and models used to project outcomes.

As the minimum capital requirements is a fixed percentage point amount regardless of the composition of the banking organization's risks, it can be mapped straightforwardly to risk types based on the risks' share of risk-weighted assets. However, both the GSIB surcharge and stress capital buffer requirement reflect a banking organization's composition of risks, and

thus attributing these requirements to risk types is conceptually more complex. Given that the GSIB surcharge proposal has a relatively limited impact on the composition of risks reflected by GSIB scores, this analysis makes the simplifying assignment of GSIB surcharge requirements to risks in proportion to their share of risk-weighted assets as well.

As discussed in the Stress Test Transparency proposal, the proposed stress test changes, independent of other factors, could affect the composition of risks reflected in the modeled losses.⁵⁴⁶ Therefore, a more detailed approach to attributing the stress capital buffer requirement is undertaken in this analysis. The approach first considers

⁵⁴⁴ The impact of additional allowances under CECL in each quarter after adoption is estimated as equal to the capital impact at adoption (January 1, 2020), multiplied by the ratio of the current balance of allowances for loans and lease losses divided by the sum of the balance of such allowances on December 31, 2019, plus the impact of CECL on allowances at adoption. Data are from the FR Y-9C, with reference codes (MDRM) as follows: capital impact at adoption (BHCKJJ26), allowance impact at

adoption (BHCKJJ28), and allowances for loans and lease losses (BHCT3123).

⁵⁴⁵ The dollar amount of common equity tier 1 requirements in this plot do not correspond with dollar requirements elsewhere in this proposal, primarily because the analysis elsewhere uses an average impact across 2024 and 2025 stress capital buffer requirements and GSIB surcharges applicable in 2026.

⁵⁴⁶ In aggregate, the stress test model and scenario changes are not expected to materially change

capital requirements for bank holding companies subject to the supervisory stress test, across various stress scenarios and jump-off conditions at the start of the test. However, notwithstanding the limited overall effect on stressed CET1 capital ratios, there may be significant variation across the different loss drivers. For example, the proposed changes could result in less severe credit, market, and operational loss estimates. See 90 *Federal Register* 51856, 51874–51877 (Nov. 18, 2025).

whether the bank holding company's stress capital buffer requirement has been consistently bound by the 2.5 percent floor. For holding companies with stress capital buffer requirements consistently set at 2.5 percent, the requirement is effectively independent of the stress losses each risk type might generate, and so the 2.5 percent buffer is attributed to risks in proportion to each risk's share of risk-weighted assets. For other holding companies, however, the hypothetical losses generated by risks are reasonably likely to affect the stress capital buffer requirement. For these remaining banking organizations, each modelled driver of the maximum decline in the common equity tier 1 capital ratio under the stress scenario is mapped to risks. Similarly, proposed stress test changes are mapped to risks.

Some of this mapping is relatively straightforward, such as mapping losses associated with provisions to credit risk, trading losses to market risk, counterparty losses to credit risk, and operational losses to operational risk. Revenue sources or other losses are mapped using blunt assumptions. Specifically, interest expenses and offsetting account fees are attributed across market and credit risk in proportion to the holding company's trading versus non-trading assets.

Compensation and general noninterest expenses are attributed across risks in proportion to their estimated business-as-usual net revenues. Potential changes in capital requirements due to reconciliation of differences in accounting, tax and regulatory treatments are then allocated proportionally across each risk's contributions to the common equity tier 1 capital decline under the stress capital buffer, which is informed by the Board's stress test results. Finally, potential declines in the common equity tier 1 capital ratio associated with planned distributions are attributed across risks in proportion to their share of risk-weighted assets. Further details of this attribution process are in section VII.D.

Table VII.4 below presents estimates of how common equity tier 1 capital requirements are cumulatively affected by the proposed revisions to capital requirements and the proposed stress test changes. The first two columns provide requirements under the current advanced and standardized approaches. While the standardized approach does not include measures of operational or CVA risk-weighted assets, requirements for these risks in the standardized approach column result from their contribution to the stress capital buffer requirement. The "binding"

requirement is determined by which requirement is commonly binding for that bank holding company. Specifically, for all but two bank holding companies, the standardized approach requirement has been binding over at least the past five years, so their binding requirements are set equal to the standardized approach. For the other two bank holding companies, where the advanced approaches have occasionally been binding, the binding requirement reflects an average of the standardized and advanced approaches capital requirements.⁵⁴⁷ The requirements under the combined proposals column represents risk-weighted assets measured under this proposal, GSIB surcharges computed under the corresponding GSIB surcharge proposal, and stress capital buffer requirements recalculated when applying the proposed revisions to the stress test, independent of other factors, to historical 2024 and 2025 stress testing scenarios.

⁵⁴⁷ For these two bank holding companies, the share of requirements attributed to each risk stripe under standardized and advanced approaches is averaged, and then multiplied by the maximum of standardized and advanced approaches requirements.

Table VII.4: Common Equity Tier 1 Capital Requirements of Category I and II Bank Holding

Companies By Risk - Current Rule and Combined Proposal (\$bn)

	Current Rules			Combined Proposals	Change vs. Binding ⁵⁴⁸
	Advanced Approaches	Standardized Approach	Binding		
Credit	507	690	680	612	-10.0%
Operational	180	102	113	130	14.9%
Market	47	50	49	42	-5.8%
CVA	29	16	17	34	96.0%
<u>Total</u>	764	858	860	818	-4.8%

Note: This table shows banking activity common equity tier 1 capital requirements for Category I and II bank holding companies under the current standardized and advanced approaches and the proposal, inclusive of the GSIB surcharge proposal and proposed stress test changes. Estimated requirements are constructed separately for 2024 and 2025 stress tests, and the reported numbers reflect the average across these two estimates. Estimates are based on an as of date of June 30, 2025. Source: Special data collection, FR Y-9C, FR Y-14, stress testing output, and agency calculations as described in section VII.D.⁵⁴⁹

In aggregate, common equity tier 1 capital requirements would decrease modestly—by about 5 percent—with notable differences across risk types. The binding requirement is projected to decline from \$860 billion under current rules to \$818 billion under the combined proposals.

Credit risk capital requirements would decline by about 10.0 percent under the combined proposals. This decline occurs because the Basel III

proposal would generally reduce risk weights for credit exposures, and the proposed stress test changes are not projected to meaningfully modify the capital requirements applicable to credit risk. Therefore, the combined proposals' effects on credit risk capital requirements are more directly aligned with the changes in credit risk-weighted assets implied by the expanded risk-based approach.

Operational risk capital requirements would increase because the Basel III proposal includes operational risk-weighted assets in the expanded risk-based approach. However, the proposed stress test changes would meaningfully reduce the operational risk requirements embedded in the stress capital buffer requirement in this analysis. Taking both the Basel III and the proposed stress test changes together, the requirement for operational risk would increase by about 14.9 percent. Still, operational risk requirements would be substantially lower than those that currently result from banking

organizations' internal models under the advanced approaches.

Cumulative market risk capital requirements are projected to decline by approximately 5.8 percent.⁵⁵⁰ The increase in market risk-weighted assets as a result of the Basel III proposal would be more than offset by the proposed changes to the global market shock component of the Board's stress test. The changes to the global market shock component would better align the liquidity horizons used to calibrate risk-factor shocks.

Finally, CVA capital requirements would increase substantially because CVA risk-weighted assets would be included in the single risk-based capital requirement applicable to Category I and II banking organizations. The binding common equity tier 1 capital requirement for CVA risk would rise about 96 percent increase. Still, CVA risk would continue to represent a small

⁵⁴⁸ The changes reported reflect the simple average of the percentage change calculated separately using 2024 and 2025 stress tests, and thus differ from the change computed from the dollar amounts in the columns to the left.

⁵⁴⁹ Statistics used in agency calculations are from the special data collection, FR Y-9C, and FR Y-14 forms as of June 30, 2025. See FFIEC 031 Form Statistics. For Form Y-14M, see Board of Governors of the Federal Reserve System, Reporting Forms: FR Y-14M (Capital Assessments and Stress Testing) (version June 2025) ("Form FR Y-14M"), https://www.federalreserve.gov/apps/reportingforms/Report/Index/FR_Y-14M. For FR Y-14Q, see Board of Governors of the Federal Reserve System, Reporting Forms: FR Y-14Q (Capital Assessments and Stress Testing) (version June 2025) ("Form FR Y-14Q"), https://www.federalreserve.gov/apps/reportingforms/Report/Index/FR_Y-14Q.

⁵⁵⁰ The reduction would be larger when considering the proposed changes, independent of other factors, as implemented for the 2024 stress test than under the 2025 stress test.

share of total risk-based capital requirements compared with credit and operational risk. Also, the share of capital requirements for CVA risk would remain similar to its share under the advanced approaches.

C. Impact by Banking Activities

To assess how the proposal may affect the incentives for Category I and II banking organizations to engage in different lines of business, this section analyzes the proposal's estimated impact on the risk-weighted assets associated with different banking activities. The section then turns to an analysis of the cumulative impact of the recent and concurrent capital-related proposals considered in the previous section, on the common equity tier 1 capital requirements of these banking activities.

1. Impact on Risk-Weighted Assets by Banking Activity

A single banking activity can be associated with several categories of risk-weighted assets under the expanded risk-based approach. For example, mortgage intermediation can generate credit risk-weighted assets associated with mortgages, mortgage-backed securities, and mortgage servicing assets. In addition, the interest income on the mortgages, fee income on mortgage originations or servicing, and gains on mortgage sales or securitizations would increase risk-weighted assets for operational risk through their inclusion in the business indicator. Thus, all sources of risk-weighted assets need to be considered to understand how the proposal may affect overall capital requirements—and thereby the funding costs—associated with an activity. Conversely, a single category of risk-weighted assets does not generally represent a single type of banking activity. For example, credit risk-weighted assets could represent a loan to a household to buy a car, a line of credit to a nonbank financial company, debt securities primarily held to preserve the banking organization's liquidity, or an exposure to a corporate counterparty on a derivative contract.

To assess the impact of the proposal on different banking activities, risk-weighted assets were decomposed into three areas intended to be broadly representative of banking organizations' high-level functions: traditional lending, credit facilitation, and trading-related activity. The remaining bank exposures and activities represent banking services, such as wealth management and corporate treasury, as well as fixed assets that could not be neatly slotted into the three primary activity areas.

The largest category of banking activity is what is described here as traditional lending, which primarily serves to fund the economic activity of households and non-financial businesses. In this analysis, traditional lending includes exposures to loans, debt securities (including securitizations), and undrawn commitments. Traditional lending is further subdivided into residential mortgage lending, other retail lending, and corporate lending. Residential mortgage lending includes loans, residential mortgage-backed securities and mortgage securitization and servicing activity. Other retail lending captures all other forms of credit extension to households, such as credit cards, auto loans, installment loans, and student loans. In addition, loans to small businesses below \$1 million are included in retail lending. Corporate lending consists of larger loans to non-financial sector businesses and includes both commercial and industrial loans as well as commercial real estate loans. Small business lending would fall under a mix of retail and corporate lending, based primarily on whether the amount borrowed exceeds \$1 million.⁵⁵¹

Large banking organizations also engage in credit facilitation beyond the direct lending activity discussed above. This activity includes providing financing to other financial sector entities. It also includes investing in Treasury securities and central bank reserves, which enable the banking organization to meet liquidity needs while engaging in less liquid traditional lending activity. It further includes products, such as guarantees or letters of credit, that facilitate business transactions by offering assurances.

In addition to providing credit, large banking organizations serve an important intermediary role through a range of activities associated with trading. Certain core trading activities generate market risk-weighted assets due to their exposure to gains and losses based on market prices or factors. Such activities include maintaining an inventory of financial instruments when a banking organization acts as a

principal to the transactions. Additionally, market risk-weighted assets can result from exposures that arise as part of banking organizations' provision of derivatives or other financial products. Derivatives and other activities that facilitate clients' trading positions, such as securities financing transactions, also generate counterparty credit risk, and derivatives also generate CVA risk.

The remaining risk-weighted assets are associated with "other banking services" or are "fixed or other assets." Other banking services include wealth management and custody, advisory, insurance, and cash management services. These services would generate operational risk-weighted assets through the associated fee income, net of fee expenses, under the proposal. Fixed or other assets include owned real estate, investment in unconsolidated subsidiaries, and deferred tax assets, as well as any residual uncategorized balance sheet assets.

While the attribution of risk-weighted assets for credit, market, and CVA risks across these activities is relatively straightforward, operational risk-weighted assets must be split across several activities that generate income. While certain activities may have a disproportionate effect on a banking organizations' GSIB scores, GSIB surcharge requirements are assigned in proportion to each activity's attributed risk-weighted assets to avoid further complexity. Details of the methodology are covered in section VII.D.

Table VII.5 provides risk-weighted assets aggregated by banking activity across the current standardized approach and under the proposal. In most cases, capital requirements under the standardized approach exceed those under the advanced approaches, so this analysis is simplified by considering only the standardized approach here. Table VII.6 further below provides the breakdown of risk-weighted assets of each banking activity under the proposal across the several risk categories.

Despite the explicit measure of operational risk when compared to the current standardized approach, the proposal would generally reduce the risk-weighted assets associated with traditional lending activity. Risk-weighted assets would decrease by 10 percent for residential real estate due to a roughly 21 percent reduction in credit risk-weighted assets on residential mortgages, which is only partly offset by operational risk-weighted assets. Similarly, risk-weighted assets decrease by a significant 18 percent for corporate lending. Risk-weighted assets increase

⁵⁵¹ While the banking activities of large banking organizations are less concentrated in small business lending, they remain significant providers of small business credit. As of Q2 2025, category I and II banking organizations account for about 18 percent of small business loans below \$1 million, and 33 percent of small business loans below \$100,000. Source: FFIEC Call Report, Line Item "Loans to Small Businesses and Small Farms." This may not capture all small business lending, as the line item only covers exposures of \$1 million or less and extensions of credit to small businesses may fall into other categories, such as real estate exposures, for purposes of the FFIEC Call Report.

by 9 percent for retail lending due to a smaller 9 percent decrease in credit risk-weighted assets related to the risk-weighting of unconditionally cancelable commitments and comparatively larger operational risk requirements associated with the higher interest margins on most retail lending. Risk-weighted assets associated with credit facilitation would decrease by about 10 percent.

Risk-weighted assets associated with trading-related activity would increase by 31 percent. While more than half of these risk-weighted assets come from counterparty credit risk on derivatives and securities financing transactions, the increase is driven by increases in market risk-weighted assets and operational risk associated with the

significant revenue generated by trading-related activity.

While the share of Category I and II banking organizations' risk-weighted assets resulting from trading-related activities would increase, traditional lending activity would still account for the largest share of their risk-weighted assets under the proposal. Specifically, traditional lending activity would account for 44 percent of risk-weighted assets of Category I and II banking organizations under the proposal, a decrease from 50 percent under the current standardized approach. In contrast, the percentage of Category I and II banking organizations' total risk-weighted assets arising from trading-related activities would increase from 23 percent under the standardized

approach to 29 percent under the proposal.

Other banking services, which consist primarily of investment management, merchant banking, advisory services and corporate treasury, generate operational risk-weighted assets under the proposal due to their income. Income associated with these banking activities accounts for about 27 percent of Category I and II banking organizations' noninterest income. Consequently, while this analysis does not assign assets to such activities that would generate risk-weighted assets under the standardized approach, they would account for approximately 1.8 percent of risk-weighted assets under the proposal.

Table VII.5: Banking Activity Risk-Weighted Assets Under the Current Standardized Approach and the Proposal

	Standardized Approach (\$bn)	Expanded Risk-Based Approach (\$bn)	Change vs. Standardized
Traditional Lending	3,863	3,488	-9.7%
Corporate	1,964	1,604	-18.3%
Retail	946	1,029	8.8%
Res. Real Estate	953	855	-10.3%
Credit Facilitation	1,598	1,433	-10.3%
Trading-Related Activities	1,748	2,289	30.9%
Other Banking Services	0	144	N/A
Fixed or Other Assets	463	466	0.5%
Total	7,673	7,820	1.9%

Note: This table shows banking activity risk-weighted assets under the current capital rule and proposal for 9 banking organizations subject to Category I and II capital standards. Risk-weighted assets are as of June 30, 2025.

Source: Special data collection, FR Y-9C, FR Y-14, and agency calculations as described in section VII.D.⁵⁵²

⁵⁵² Statistics used in agency calculations are from the special data collection, FR Y-9C, and FR Y-14 forms as of June 30, 2025. See FFIEC 031 Form Statistics. For Form Y-14M, see Board of Governors of the Federal Reserve System, Reporting Forms: FR

Y-14M (Capital Assessments and Stress Testing) (version June 2025) ("Form FR Y-14M"), https://www.federalreserve.gov/apps/reportingforms/Report/Index/FR_Y-14M. For FR Y-14Q, see Board of Governors of the Federal Reserve System,

Reporting Forms: FR Y-14Q (Capital Assessments and Stress Testing) (version June 2025) ("Form FR Y-14Q"), https://www.federalreserve.gov/apps/reportingforms/Report/Index/FR_Y-14Q.

Table VII.6: Banking Activity Risk-Weighted Assets (\$ bn) by Risk Type under the Proposal

	Credit	Operational	Market	CVA	Total⁵⁵³
Traditional Lending	3,134	366	0	0	3,488
Corporate	1,523	86	0	0	1,604
Retail	860	173	0	0	1,029
Res. Real Estate	751	106	0	0	855
Credit Facilitation	1,278	160	0	0	1,433
Trading-Related Activities	1,286	257	546	207	2,289
Other Banking Services	0	144	0	0	144
Fixed or Other Assets	467	0	0	0	466
<u>Total</u>	6,165	927	546	207	7,820

Source: Special data collection, FR Y-9C, FR Y-14Q, and agency calculations as described in section VII.D.⁵⁵⁴

2. Cumulative Impact of Recent Proposals on Common Equity Tier 1 Capital Requirements by Banking Activity

The final analysis in this section attributes common equity tier 1 capital requirements to business activities. Due to the challenges of attributing many sources of stress loss to a specific banking activity, this analysis assigns the stress capital buffer requirements associated with each risk type in proportion to each activities' share of the risk type within the proposal's risk-weighted assets calculation. For example, if corporate lending accounts for 15 percent of credit risk-weighted assets at a bank, 15 percent of the portion of the banks' stress capital

buffer requirement attributed to credit risk would be further attributed to corporate lending.

Table VII.7 presents the cumulative impact of the proposals and proposed stress test changes on requirements by banking activity. The cumulative impact on requirements for traditional lending and credit facilitation roughly track the risk-weighted asset changes. However, the 9 percent increase in common equity tier 1 capital requirements for trading-related activities is significantly smaller than the 31 percent risk-weighted asset impact. This difference is primarily driven by the proposed stress test changes, which would significantly reduce projected market risk losses (particularly in the 2024

stress test) and projected operational losses (which are attributed in significant part to trading-related activity) in this analysis. At the same time, the increase in requirements for trading-related activities is significantly larger than the 6 percent decrease in requirements for market risk,⁵⁵⁵ which falls within the broader category of trading-related activities. This follows, as trading-related activities include significant operational risk and CVA requirements, which increase relative to current rules, notwithstanding the proposed stress test changes.

Further discussion of the economic implications of this proposal in combination with other recent capital rulemakings is found in section VIII.

⁵⁵³ Includes risk-weighted asset deductions—allocated proportionally to pre-deduction risk-weighted assets.

⁵⁵⁴ Statistics used in agency calculations are from the special data collection, FR Y-9-C, and FR Y-14Q

forms as of June 30, 2025. For FR Y-9-C, see June 2025 Form Statistics. For FR Y-14Q, see Board of Governors of the Federal Reserve System, Reporting Forms: FR Y-14Q (Capital Assessments and Stress Testing) (version June 2025) ("Form FR Y-14Q"),

https://www.federalreserve.gov/apps/reportingforms/Report/Index/FR_Y-14Q.

⁵⁵⁵ See section VII.B.2.

Table VII.7: Banking Activity Common Equity Tier 1 Capital Requirements for Category I and II Banking Organizations Under the Current Standardized Approach and the Combined Proposals

	Standardized Approach (\$bn)	Combined Proposals (\$bn)	Change vs. Standardized
Traditional Lending	402	360	-10.6%
Credit Facilitation	171	151	-11.8%
Trading-Related Activities	224	242	9.2%
Other Banking Services	14	18	33.5%
Fixed or Other Assets	47	47	-0.3%
Total	858	818	-4.6%

Note: This table shows banking activity common equity tier 1 capital requirements under the current capital rule and combined proposals (current proposal, GSIB surcharge, and proposed stress test changes) for 9 banking organizations subject to Category I and II capital standards. Risk-weighted assets are as of June 30, 2025. Source: Special data collection, FR Y-9C, FR Y-14, and agency calculations as described in section VII.D.⁵⁵⁶

D. Data and Estimation Methodology

This section describes the data and methodology used to estimate the impact of this proposal on banking organizations' risk-weighted assets and capital requirements. Section VII.D.1 describes the "special data collection" used as a starting point for the risk-weighted asset impact estimates for holding companies, and the adjustments made to these data to reflect the current proposal. Section VII.D.2 describes how these estimates of risk-weighted assets are extrapolated to more recent time periods and depository institution subsidiaries. Section VII.D.3 describes

how risk-weighted assets are attributed across banking activities under the current standardized approach as well as under the proposal. Section VII.D.4 describes how impacts on capital requirements are constructed from the estimated total risk-weighted assets. Section VII.D.5 describes how stress capital buffer capital requirements, as informed by the Board's supervisory stress test, are attributed to risk types within the cumulative capital impact analysis.

Question 195: The agencies request comment on all aspects of the impact analysis in this proposal, including the estimation of risk-weighted assets and capital requirements, the attribution of risk-weighted assets to banking activities and the attribution of stress capital buffer requirements to risk categories. What changes or alternative methodologies, if any, should the agencies consider, and why? What additional analysis or data should the agencies consider, and why? Commenters are encouraged to provide any additional data that would be relevant.

1. Estimation of Risk-Weighted Assets Under the Proposed Expanded Risk-Based Approach

a. Special Data Collection

In late 2023, the Board collected data on risk-weighted assets from 32 large bank holding companies based on the specific requirements contained in a July 27, 2023, capital proposal.⁵⁵⁷ The data in this voluntary collection reflected respondents' exposures as of June 30, 2023.⁵⁵⁸ The differences between the current proposal and the proposal on which the special data collection was intended to inform are broad and material. However, the definitions of risk exposures under the current proposal is still significantly better aligned with the special data collection than alternative sources, making the special data collection the

⁵⁵⁶ Statistics used in agency calculations are from the special data collection, FR Y-9C, and FR Y-14 forms as of June 30, 2025. See FFIEC 031 Form Statistics. For Form Y-14M, see Board of Governors of the Federal Reserve System, Reporting Forms: FR Y-14M (Capital Assessments and Stress Testing) (version June 2025) ("Form FR Y-14M"), https://www.federalreserve.gov/apps/reportingforms/Report/Index/FR_Y-14M. For FR Y-14Q, see Board of Governors of the Federal Reserve System, Reporting Forms: FR Y-14Q (Capital Assessments and Stress Testing) (version June 2025) ("Form FR Y-14Q"), https://www.federalreserve.gov/apps/reportingforms/Report/Index/FR_Y-14Q.

⁵⁵⁷ See <https://www.federalreserve.gov/newsevents/pressreleases/bcreg20231020b.htm>.

⁵⁵⁸ One banking organization submitted data as of the third quarter of 2023, instead of as of June 30, 2023. The data provided by this banking organization was not used for the analysis described in this proposal. This banking organization would not be subject to the current proposal.

most suitable starting point for much of the impact analysis.⁵⁵⁹

The special data collection includes data from all nine Category I and II bank holding companies, as well as most of the additional bank holding companies that are expected to be subject to the proposed market risk capital requirements, and these data were substantially complete.⁵⁶⁰ In addition, the special data collection includes estimates of market risk and CVA covering most of the additional bank holding companies that would be subject to market risk and CVA. However, the collection did require some limited imputation of data points to address inconsistencies, as discussed below in section VII.D.1.ii. In addition, significant adjustments were made to reflect differences between the current proposal and the 2023 proposal. These adjustments, detailed below in section VII.D.1.iii, were informed by a combination of FR Y–14 data and industry comment letters received in response to the 2023 proposal. For comparison with the current capital rule, the analysis also relied on regulatory financial reports (FFIEC Call Reports, FR Y–9C, FR Y–15, FFIEC 101, and FFIEC 102), supplemented with data on stress capital buffer requirements.⁵⁶¹

⁵⁵⁹ The Board is releasing an aggregated form of the special data collection in order to preserve the confidentiality of the responses provided by individual banking organizations while also providing additional information to the public. The aggregated form of the special data collection will be available on the Board's website, see: <https://www.federalreserve.gov/supervisionreg/basel/basel-default.htm>.

⁵⁶⁰ Specifically, banking holding companies with complete market risk estimates in the special data collection represent over 96 percent of the Q2 2025 trading assets plus liabilities of all bank holding companies expected to be subject to market risk capital requirements.

⁵⁶¹ Reporting forms issued by the Federal Financial Institutions Examination Council (FFIEC) are available at www.ffiec.gov and reporting forms issued by the Federal Reserve Board are available at www.federalreserve.gov. The "Call Report" collectively refers to the data from the FFIEC 031, 041, and 051 forms. Specifically, see FFIEC 031 Form Statistics and FFIEC 041 Form Statistics. For FFIEC 051 ("FFIEC 051 Form Statistics"), see FFIEC, Reporting Forms, Consolidated Reports of Condition and Income for a Bank with Domestic Offices Only and Total Assets Less than \$5 Billion: FFIEC 051 (version June 2023). Bulk data download available at: <https://cdr.ffiec.gov/public/PWS/DownloadBulkData.aspx>. Certain financial reports filed by banking organizations, including portions of the FFIEC 101 and FFIEC 102 reports, as well as FR Y–14 reports, are not available publicly because they contain confidential supervisory information and are confidential business information of the reporting banking organizations. Where the agencies relied on confidential information collected through these reports for estimates in this SUPPLEMENTAL INFORMATION, the agencies have described in detail what confidential data were used and how they were used.

A few important caveats remain for impact estimates included in this section. Although the agencies and participating banking organizations have corrected known erroneous data submissions through extensive dialogue and resubmissions from reporting banking organizations, some data quality issues could remain. In addition, the adjustments detailed in section VII.D.1.iii in many cases are only approximations and may not account for all material differences between the current proposal and the 2023 proposal upon which the special data collection was based. Also, the impact estimates do not reflect potential longer-term changes in banking organizations' behavior or changes in market conditions that may occur after implementation of the proposal. Section VIII includes discussion of the economic implications of the capital impact of the proposal on different banking activities and under different economic conditions.

b. Data Imputations

The imputations fall into two categories: recalculations and proxies. Recalculations are applied to adjust certain firm-wide totals based on subcomponent data where a banking organization did not report such total values or because inconsistencies were identified in a banking organization's calculations based on its subcomponent data. Proxies are extrapolations of missing data from one banking organization based on submissions of similar banking organizations. Proxies were only applied in cases where subcomponent data that could enable a recalculation were also not provided.

There are three areas that required recalculations:

(1) *CVA risk-weighted assets*, where one GSIB submitted data using an incorrect formula that was included in an early version of the data submission instruction, before the Board issued an update to correct the error in submission instructions. In this case, the Board used the correct formula to recalculate CVA risk-weighted assets.

(2) *Operational risk-weighted assets*, where some banking organizations' total operational risk-weighted assets were calculated in a manner inconsistent with the formula published in the proposal. In these cases, the agencies recalculated total operational risk-weighted assets from their subcomponents by applying the formula in the proposal, which had a material effect for one GSIB.

(3) *Internal models approach market risk-weighted assets*, where some banking organizations provided internal

models approach values for one or more trading desks but did not follow the formula for calculating the entity-wide market risk capital requirement using these values. In these cases, the agencies assumed that these trading desks are model-eligible and applied the proposed formula to recalculate market risk weighted assets, which caps the banking organization's entity-wide internal models-based market risk-weighted assets.⁵⁶²

These recalculations carry through to firm-wide calculations. For example, the agencies recalculated total risk-weighted assets to reflect recalculated operational or market risk-weighted assets where appropriate.

Proxies were applied where a banking organization's submission for market risk-weighted assets was missing or equal to zero, and the banking organization's regulatory reports suggested that it would likely be subject to market risk under the proposal. For these few holding companies, market risk-weighted assets under the proposal were proxied by market risk-weighted assets under the current rule, multiplied by (one plus) the median percentage change in market risk-weighted assets under the proposal across peer holding companies in the data collection. These peer groups were constructed as (i) Category I and II holding companies, (ii) Category III and IV domestic holding companies, and (iii) Category III and IV foreign holding companies. As with recalculated values, the proxied value was carried through to the calculation of total risk-weighted assets.

c. Data Adjustments To Reflect Current Proposal

The special data collection measures risk-weighted assets under the 2023 proposal, necessitating adjustments to reflect the impact of this proposal. Where possible, the special data collection is used to estimate these adjustments to risk-weighted assets. However, in some cases, a sufficiently accurate estimate requires additional regulatory data or industry estimates. The discussion below details how the estimates used in this proposal were constructed.⁵⁶³

The current proposal would apply the Basel III risk weights for residential real estate exposures, removing 20

⁵⁶² Estimates of the impact of the proposal cap the banking organization's entity-wide internal models-based market risk capital requirement at the capital requirement under the standardized approach.

⁵⁶³ The estimated risk-weighted assets do not include adjustments for details of the current proposal not reflected in the 2023 special data collection where the impact is both expected to be immaterial and difficult to reliably estimate.

percentage points from the set of risk weights proposed in 2023. To reflect this, risk-weighted assets were adjusted by an amount equal to 20 percent of the estimated residential real estate exposure in the special data collection. In calculating real estate exposure, on-balance sheet residential real estate exposures are taken as those reported as regulatory residential real estate under risk weights that correspond to such exposures under the 2023 proposal.⁵⁶⁴ Because there is no specific item for off-balance sheet residential real estate exposures in the special data collection, these are estimated as the amount of home equity loan commitments in the FR Y–9C under the assumption that these are all unconditionally cancelable exposures with a 10 percent credit conversion factor under the proposal.⁵⁶⁵

Similarly, the current proposal would reduce retail risk weights by 10 percentage points relative to the 2023 proposal. The impact of this modification is calculated similarly to the residential real estate modification, with the applicable on- and off-balance sheet retail exposure estimated using special data collection exposures reported under 55, 85, or 110 percent risk weights in the items corresponding to retail and unconditionally cancelable commitments, respectively.

The scope of applicability of the 65 percent risk weight for investment grade corporate exposures has expanded significantly relative to the 2023 proposal. Data from the special data collection are used to estimate the impact of this change. Specifically, for each banking organization, memo items M.6 and M.10 are used as estimates of the amount of additional investment grade corporate exposure to which the 65 percent risk weight would apply.⁵⁶⁶ Across Category I and II banking organizations, an estimated 53 percent of balance sheet corporate exposure and 60 percent of off-balance sheet corporate exposure is classified as investment-

grade and risk-weighted at 65 percent under the proposal, including the exposure already risk-weighted at 65 percent under the 2023 proposal. The bank-specific difference between this amount and the amount of corporate exposure risk-weighted at 65 percent under the 2023 proposal is multiplied by the negative 35-percentage-point change in risk weight to obtain the estimated adjustment to risk-weighted assets.

The treatment of equity exposures in the banking book differs significantly under this proposal versus the special data collection. As this proposal retains the current treatment of banking book equity exposures, their risk-weighted assets under the current simple risk-weight method are used as the starting point for their estimated risk-weighted assets under the proposal.⁵⁶⁷ However, a downward adjustment is applied to this amount to account for publicly traded equity exposures that are scoped into market risk under this proposal. This adjustment was estimated using memo item 2 of the “Equity exposures” template of the special data collection. For the few banking organizations that did not provide data for this memo item, the share of equity exposure migrating to the trading book is imputed as the aggregate share of such exposure across the special data collection banking organizations that did provide these data.⁵⁶⁸ In calculating risk-weighted assets, it is assumed that the migrating equity exposures would have otherwise received the 100 percent risk weight applicable to “non-significant” equity exposures.

Risk-weighted assets in the special data collection are also adjusted to reflect removal of the minimum haircut floor. As the special data collection does not provide the calculation of a standalone impact of the minimum haircut floor in the 2023 proposal on risk-weighted assets, the impact of removing the haircut floor is estimated by calculating the difference between the current standardized approach and the expanded risk-based approach for exposures that would fail the minimum haircut floor requirement.⁵⁶⁹

The adjustments to operational risk-weighted assets in the special data collection are constructed in two stages.

First, risk-weighted assets for operational risk are recalculated using an internal loss multiplier equal to one for all banking organizations. Risk-weighted assets for operational risk are then recomputed using the business indicator as defined in the proposal, replacing the financial and services components with a noninterest component that also downscales net income from investment management, investment services, and treasury services.⁵⁷⁰ This noninterest component is computed primarily from the special data collection “Operational risk” sheet as the three-year average of the absolute value of net noninterest income before operational losses (Part 2, sum of 2.a, 2.c, 3.a and 3.b, plus Part 1, item 1, minus the sum of 2.b and 2.d), accounting for a scaling of net noninterest income associated with investment management, and investment and treasury services, plus the three-year average operational losses (Part 1, item 1). To account for the scaling of net noninterest income from historically lower operational risk activities, the three-year average absolute value of net noninterest income is scaled by a factor that accounts for the scaling of net income associated with investment management and investment and treasury services in the proposal.⁵⁷¹ Due to data limitations, this factor is based on these activities share of total, not net, noninterest income.

The agencies used information from the special data collection to recalculate market risk-weighted assets under the proposal.⁵⁷² The main changes from the 2023 proposal were to: (1) recognize full diversification for certain non-modellable risk factors, (2) recognize diversification between positions modeled under the standardized approach and the internal models

⁵⁶⁴ Special data collection item 6.e under 40, 45, 50, 60, 70, or 90 percent risk weights and item 6.f under 50, 55, 65, 80, 95, and 125 percent risk weights.

⁵⁶⁵ FR Y–9C, Schedule HC–L, item 1.a.

⁵⁶⁶ One banking organization’s entry on memo item 10 is divided by 1000 due to a likely unit error. In addition, in each of memo items 6 and 10, there is one entry that is likely incorrect (*i.e.* zero or amounts exceeding total corporate exposure risk-weighted at 100 percent), and treated as missing. The missing values for the (on/off-balance sheet) investment-grade corporate exposures risk weighted at 100 percent are imputed by multiplying (on/off-balance sheet) corporate exposures risk-weighted at 100 percent (item 8) by the aggregate investment grade share of (on/off-balance sheet) corporate exposures, based on those banking organizations in the special data collection where the investment grade 100 percent risk weighted memo item is reported.

⁵⁶⁷ Specifically, risk-weighted assets are taken as the amount reported in Schedule B of the FFIEC 101, item 23, column G.

⁵⁶⁸ The estimate of the aggregate share of equity exposures migrating out of the equity framework is 3.79 percent.

⁵⁶⁹ Specifically, this difference is the sum of items 1 through 4 and 11 through 14 of column M minus the sum of those same items in column K within the “transacts fail haircut flrs” sheet of the special data collection.

⁵⁷⁰ The proposal would not downscale all treasury services (as defined in the FR Y–14Q report), but rather only certain treasury services (see Section IV.D.1 of this Supplemental Information). However, data on the relevant subset of treasury services is not available to the agencies. This discrepancy implies that the aggregate impact of the proposal would be slightly smaller than estimated. If none of treasury services income were subject to the scaling factor, the impact of the proposal on aggregate common equity tier 1 capital requirements would only be about 0.3 percent higher.

⁵⁷¹ Specifically, the scaling factor equals one minus the ratio of 70 percent of three-year average of the sum of investment management, investment services, and treasury services noninterest income divided by three-year average total noninterest income. Investment management, investment services, treasury services, and total noninterest income are items 19, 20, 21, and 26 of FR Y–14Q Schedule G.

⁵⁷² Due to nonlinearities in market risk formulas, firm-level data are required to construct these estimates.

approach, (3) use a single default risk calculation for all trading desks rather than separate default risk calculations for modeled and non-modeled desks, (4) cap the amount of capital required under the internal models approach at the amount required by the standardized approach for market risk in certain circumstances, (5) remove the Spearman Correlation profit and loss attribution test for internally modelled desks, and (6) clarify netting for Uniform Mortgage-Backed Securities.⁵⁷³ In addition to the changes noted above, the estimated impact of the proposal includes an estimated impact on risk-weighted assets from a reduction in the scope of application of the market risk framework of the capital rule. Due to limited data on which to base the corresponding impact estimate for scope, it is assumed that the credit risk-weighted assets of these currently market risk-weighted exposures would equal the current market risk-weighted assets of these exposures.⁵⁷⁴

Most market risk impact estimates are obtained by applying formulas in the regulation. To calculate the impact of removing the Spearman Correlation test, the agencies assume a 20 percentage point increase in the share of modeled capital requirements and also assume that shifting positions from the standardized approach to internal models reduces capital requirements by 50 percent.⁵⁷⁵

Additionally, due to data limitations, to reflect the impacts of clarifying netting for Uniform Mortgage-Backed Securities, an estimate from the joint comment letter from the International Swaps and Derivatives Association and Securities Industry and Financial Markets Association was used. This letter estimates an approximately nine percent reduction in capital requirements for market risk positions capitalized under the standardized approach across eight GSIBs.⁵⁷⁶ These

impact estimates apply the nine percent reduction in standardized approach capital requirements across all banking organizations.

Due to data limitations, to reflect the exemption of client-facing derivative transactions from CVA risk, an estimate from the joint comment letter from the International Swaps and Derivatives Association and Securities Industry and Financial Markets Association was used. This letter estimates that such a change would reduce proposed CVA risk-weighted assets relative to the 2023 proposal by about 9 percent in aggregate.⁵⁷⁷ This 9 percent impact was applied to each bank's CVA risk-weighted assets.

Lastly, to reflect a change in the securitization p-factor under the proposal, the agencies use estimates of securitization risk-weighted assets under a p-factor of 0.5 (memo item 1 in the "Securitization exposures" sheet of the data collection). This estimate was completed by all holding companies that would be subject to this proposal.

2. Extrapolation of Estimates to Other Time Periods and Banking Organizations

As it has been more than two years since the as of date of the special data collection (June 30, 2023), the analysis in this proposal adjusts risk-weighted assets to reflect more current balance sheets. The adjustment approach in this proposal is intended to capture not only general growth, but also the potential effect of broad shifts in the composition of banking organizations' balance sheets since 2023. Specifically, the analysis in this proposal decomposes risk-weighted assets into eleven exposure segments, and then establishes an index for each segment and banking organization; a measure which is assumed to change over time in proportion to the exposures' risk-weighted assets under the proposal. The risk-weighted assets for each segment under the proposal, as of Q2 2025, are then estimated as the segment's risk-weighted assets under the special data collection, adjusted for differences between the 2023 and

current proposal as described above, and then multiplied by one plus the cumulative growth in the segment's index over the period Q2 2023 through Q2 2025. Total risk-weighted assets under the proposal as of Q2 2025 are then taken by summing across the segments.⁵⁷⁸

The analysis in this proposal takes a similar approach when estimating risk-weighted assets for the depository institution subsidiaries of holding companies present in the special data collection. Specifically, the index for each segment is measured at both the depository institution and holding company levels, and the share of risk-weighted assets at the depository institution subsidiary is estimated to be the same as the share of the corresponding index at the depository institution subsidiary.

The eleven exposure segments and their corresponding indices, are described below. Given their function, the indices must exist over time at both the holding company and depository institution levels. Furthermore, the selected indices should bear a close conceptual relationship with the risk-weighted assets associated with the exposure. This improves the reliability of the estimates by ensuring that drivers of changes in the index should generally be reflected in changes to risk-weighted assets under the proposal. In most cases, the chosen index is the risk-weighted assets of the exposure segment under the standardized approach.

The eleven exposure segments include operational risk, market risk, CVA, and eight areas of credit risk exposure. The eight segments within credit risk are: residential real estate,⁵⁷⁹ retail,⁵⁸⁰ securitization, banking book

⁵⁷³ The analysis assumes that banking organizations receive supervisory approval to cap the amount of capital required under the internal models approach at the amount of capital required for all trading desks under the standardized approach. For more information on this process, see section V.A.3.b.

⁵⁷⁴ This conservative assumption results in the small increase in risk-weighted assets noted in section VII.A.1, as the proposed market risk rule would otherwise result in an overall decrease in market risk-weighted assets for these banking organizations.

⁵⁷⁵ The 50 percent impact is derived from an analysis of the ratio of modelled capital requirements compared to standardized approach capital requirements for the same portfolio using information from the special data collection.

⁵⁷⁶ The nine percent figure is imputed from the comment letter. Page 23 includes a figure indicating a \$70.3 billion reduction in risk-weighted assets

from the "GSE" change on a base of \$801.7 billion in risk-weighted assets under the standardized approach. \$70.3 billion is approximately nine percent of \$801.7 billion. See Comment Letter from International Swaps and Derivatives Association and the Securities Industry and Financial Markets Association, (Jan. 16, 2024), https://www.federalreserve.gov/SECRS/2024/February/20240220/R-1813/R-1813_011724_156753_496678267479_1.pdf.

⁵⁷⁷ Comment Letter from International Swaps and Derivatives Association and the Securities Industry and Financial Markets Association, at 103 & n. 269, 160 (Jan. 16, 2024), https://www.federalreserve.gov/SECRS/2024/February/20240220/R-1813/R-1813_011724_156753_496678267479_1.pdf.

⁵⁷⁸ In addition, total risk-weighted assets reflect a small adjustment for an estimate of risk-weighted asset deductions as of Q2 2025—actual deductions for allocated transfer risk reserve (FR Y-9C HC-R Part II, item 30), plus an adjusted deduction for excess AACL. This adjusted excess AACL deduction is estimated as zero for holding companies reporting no excess AACL deduction in Q2 2025 (FR Y-9C HC-R Part II, item 29), and for other holding companies it is equal to this reported amount plus 1.25 percent of the difference in the credit risk-weighted assets of non-equity exposures between the proposal and the current standardized approach.

⁵⁷⁹ Includes all risk-weighted assets reported in items 6.a, e, and f of the special data collection "General credit risk exposures" sheet, plus 10 percent of the exposure amount reported in item 1.a of FR Y-9C HC-L (i.e. home equity line of credit risk-weighted assets when assuming a 100 percent credit risk weight and a 10 percent CCF under the proposal).

⁵⁸⁰ Includes all risk-weighted assets reported in item 7, plus risk-weighted assets of exposures risk-weighted at 55, 85 or 110 percent in item 12 of the special data collection "General credit risk exposures" sheet.

equity, SFTs,⁵⁸¹ derivatives,⁵⁸² all other balance sheet exposures,⁵⁸³ and all other off-balance sheet exposures.⁵⁸⁴ For nine of the eleven exposure segments, the chosen index represents risk-weighted assets for the exposure segment under the standardized approach, or a close approximation thereof.⁵⁸⁵ Standardized risk-weighted assets should change similarly to risk-weighted assets under this proposal as long as there are not large changes within the exposure segment associated with the additional risk-drivers incorporated within the proposal. For example, risk-weighted assets for residential real estate should grow similarly as long as the loan-to-value composition of the portfolio does not shift significantly.

Neither operational risk or CVA risk are part of current standardized risk-weighted assets, so a different approach to indexing is required. CVA risk-weighted assets measured under the advanced approaches is used as the index for CVA.⁵⁸⁶ Lastly, for operational risk, the agencies index the business indicator to an approximation developed from regulatory report data items. This approximation equals three-year average absolute modified revenue, where modified revenue has two parts. The first part is the minimum of net interest income and 2.25 percent of

interest earning assets.⁵⁸⁷ The second part is modified net noninterest income, defined as noninterest income plus realized gains or losses on securities, minus 70 percent of investment management noninterest income and other noninterest expenses.⁵⁸⁸ Operational risk weighted-assets are extracted by applying the operational risk formula to the estimated Q2 2025 business indicator, which in turn equals the business indicator measured from the special collection data, indexed by growth in this approximate indicator.

3. Attribution of Risk-Weighted Assets to Banking Activities

This section provides the methodology used to attribute all risk-weighted assets under the standardized and proposed expanded risk-based approach, to the banking activities that most likely generated them. The sample includes the bank holding companies that participated in the special data collection, including all that would be subject to this proposal. The attribution of banking activity applied in this section is chosen to distinguish the several functions that large banking organizations serve in the U.S. economy. Banks may decide to expand or contract the business units that perform each of these functions based on the required capital, among other factors. These categories of banking activity are chosen to be broad enough to allow for a mapping of risk exposures between the FR Y–9C, which collects standardized risk-weighted assets, and the special data collection.

Section VII.D.3.a applies this exercise to expanded total risk-weighted assets, as reported in the special data collection and modified to reflect the proposal. Section VII.D.3.b describes how the agencies estimate the attribution of risk-weighted assets under the standardized approach to these same banking activities. The total risk-weighted assets attributed align with amounts reported within the sections VII.C and VIII.

a. Attribution of Expanded Total Risk-Weighted Assets

When estimating risk-weighted assets by banking activity, the agencies

attribute all risk-weighted assets reported in the special data collection under the expanded risk-based approach as well as all adjustments (described above in section VII.D.1.c) to these figures that were made to reflect the current proposal.

Most risk-weighted asset items in the special data collection are attributed entirely to a specific banking activity. These comparatively simple attributions are described below.

Traditional lending includes all credit risk-weighted assets associated with exposures to GSEs, residential and commercial real estate, and retail exposures, as well as all securitizations.⁵⁸⁹ Risk-weighted assets for equity exposures not subject to the market risk framework are also attributed to traditional lending as, like loans, these are typically illiquid long-term funding arrangements.⁵⁹⁰ Within these traditional lending exposures, securitization risk-weighted assets are split evenly across the residential real estate, retail, and corporate lending categories due to data limitations. In aggregate, securitizations account for less than 3 percent of risk-weighted assets under the proposal. Exposures to GSEs and residential real estate, including statutory multifamily and “other real estate exposures,” are attributed to residential real estate lending, and all other exposures except for “retail” are attributed to corporate lending.

Credit facilitation includes credit risk-weighted exposures to sovereigns, supranational entities, public-sector enterprises, and banks.⁵⁹¹ This banking activity also includes credit risk-weighted assets associated with letters of credit, guarantees, contingent items, and forward agreements.⁵⁹²

Trading-related activities include all market risk-weighted assets, as well as credit risk-weighted assets associated with derivatives, repo-style transactions, and exposures to unsettled transactions.⁵⁹³ In addition, CVA risk

⁵⁸¹ Includes all risk-weighted assets reported in items 18, 20 and 21 of the special data collection “General credit risk exposures” sheet, plus risk-weighted assets reported in items 1 through 4 and 11 through 14 of the “Transacts fail min hairct flrs” sheet.

⁵⁸² Includes all risk-weighted assets reported in items 24 and 25 of the special data collection “General credit risk exposures” sheet.

⁵⁸³ Defined as all risk-weighted assets reported in part 1 of “General credit risk exposures” in the special data collection, less those amounts already included within residential real estate or retail.

⁵⁸⁴ Defined as all risk-weighted assets reported in part 2 of “General credit risk exposures” in the special data collection, less those amounts already included within residential real estate, retail, SFT or derivatives.

⁵⁸⁵ For these nine exposure segments, the standardized approach-based index is defined by items in regulatory reports as follows. Unless indicated otherwise, amounts represent risk-weighted assets associated with the indicated items from the FR Y–9C, HC–R Part II, with corresponding values from FFIEC Call reports used for depository institution subsidiaries. Market risk—item 27. Residential real estate—items 4.a and 5.a, amounts in columns H, I and S. Retail—HC–C items 6.a through d (all amounts assumed risk-weighted at 100 percent). Securitization—items 9 and 10. Banking book equity—FFIEC 101, Schedule B, item 23. SFTs—item 16. Derivatives—items 20 and 21. All other off-balance sheet items—items 12 through 15, 17, and 18. All other balance sheet items—item 28, minus the amounts for the other eight standardized risk-weighted asset exposure segments.

⁵⁸⁶ Specifically, items 31.a and b of FFIEC 101 Schedule B.

⁵⁸⁷ Net interest income is FR Y–9C Schedule HI item 5.m and interest earning assets are approximated as the sum of Schedule HC items 1.b, 3, 4.a, and 4.b, Schedule HC–B item 8 (cols A and D), and Schedule HC–D item 12. Corresponding items from FFIEC Call reports are used for the depository institution subsidiaries.

⁵⁸⁸ Specific FR Y–9C data used are in Schedule HI—item 5.m (noninterest income), item 6 (gains on securities sales), item 7.d (other noninterest expense). Investment management noninterest income is taken as item TPPNRS68 from the FR Y–14.A.

⁵⁸⁹ These exposures correspond to items 3, 6 and 7 of “general credit risk exposures” plus item 1.c of “overview” of the special data collection template.

⁵⁹⁰ These exposures correspond to item 2 of part 1 of the “overview” sheet of the special data collection template, modified to reflect the current treatment of banking book equity exposures.

⁵⁹¹ Within the special data collection template, these correspond to items 1, 2, 4 and 5 of “general credit risk exposures.”

⁵⁹² Within the special data collection template, these correspond to items 14 through 17, 19, 22 and 23 of “general credit risk exposures.”

⁵⁹³ Within the special data collection template, market risk-weighted assets correspond to item 4 in part 1 of “overview” and the credit risk items correspond to item 1.b of overview and items 18,

and default fund contributions accompany the derivative exposures.⁵⁹⁴

Fixed or other assets include credit risk-weighted assets associated with insurance and other exposures, except for mortgage servicing assets which are included in residential real estate lending.⁵⁹⁵ This segment also incorporates exposures that were deducted from common equity tier 1 capital under the 2023 proposal, and therefore not present in risk-weighted assets, but risk-weighted at 250 percent under this proposal.⁵⁹⁶

The remaining risk-weighted assets under the proposal are split across several banking activities. These include credit risk associated with commitments and corporate exposures, as well as operational risk and deductions from risk-weighted assets for excess allowances or allocated transfer risk reserves.

Credit risk-weighted assets associated with corporate exposures are attributed to either traditional lending or credit facilitation based on whether the borrower is a financial firm.⁵⁹⁷ This is determined from the proportion of such exposures to non-financial firms based on the FR Y–14Q Schedule H.1 data.⁵⁹⁸ The adjustment to risk-weighted assets that is made to account for the broader applicability of the 65 percent investment grade corporate risk weight under the proposal, as compared to the 2023 proposal, is similarly split across traditional lending and credit facilitation based on the proportion of non-public investment grade corporate exposures that are indicated as

exposures to highly regulated industries in the special data collection.

Commitments could represent exposures to counterparties that are corporate, retail, banks, or sovereigns.⁵⁹⁹ The likely type of counterparty is indicated by the risk weight assigned to the commitment exposure. Therefore, within each risk weight, commitments are allocated to banking activities based on the activity's share of balance sheet exposure assigned that risk weight.⁶⁰⁰

Under the proposal, the operational risk-weighted assets of each banking organization are attributed to banking activities based on their contribution to the banking organization's business indicator. The business indicator is comprised of an interest, lease, and dividend component and a noninterest component. Operational risk-weighted assets are attributed to these two components in proportion to their share of the business indicator. The operational risk-weighted assets attributed to each of these components are further attributed to the banking activities as discussed below.

The interest, lease, and dividend component is proportional to the banking organization's net interest income until it hits a cap equal to 2.25 percent of average interest-earning assets. Thus, each banking activity's share of the net interest component equals either the activity's share of net interest income if the banking organization is below the cap or the activity's share of interest-earning assets if the banking organization is above the cap. As many banking organizations are currently near the cap, the agencies first estimate for each banking organization the probability that it will be subject to the cap in the long run. This estimate is equal to the fraction of the previous ten years (2015 through 2025) in which the banking organization had a net interest margin exceeding 2.25 percent.⁶⁰¹ Then, a weight equal to the probability of having net interest margin above the cap is applied to the segment's share of interest-earning assets, while a weight equal to the probability of having net interest margin below the cap is applied to the segment's share of net interest income. To calculate each segment's share of net interest income and interest-earning assets, the agencies rely

on data from the FR Y–14Q Schedule G and special data collection.⁶⁰²

While the noninterest income component includes historical operational losses, these are excluded from the attribution of the component across business segments.⁶⁰³ Furthermore, due to data limitations and the difficulty of allocating noninterest expenses, the agencies use each segment's share of noninterest income as a proxy for its share of net noninterest income. Noninterest income is taken from the FR Y–14Q Schedule G. Traditional lending is associated with noninterest income from retail and small business banking and corporate lending (items 14 and 15). Credit facilitation accounts for noninterest income associated with syndicated lending (item 16D). Trading-related activities are associated with noninterest income from equity and debt capital markets activities as well as sales and trading and investment services (items 16B, 16C, 18 and 20). The other banking services segment's noninterest income includes investment banking advisory, merchant banking, investment management, investment services, insurance services, and other small income sources (items 16A, 17, 19, and 21 through 25).

Each banking activity's share of both the interest, lease, and dividend component and noninterest income component is floored at zero, and scaled so that the sum of shares across banking activities for each component is equal to one. To calculate the operational risk-weighted assets for each banking activity, these component shares are multiplied by the operational risk-weighted assets associated with that component, and the contributions of the two components are added together.

As a final step, deductions from risk-weighted assets associated with excess allowances and allocated transfer risk reserve are attributed to business segments for each banking organization

20, 21, 24, 25 and 27 of "general credit risk exposures."

⁵⁹⁴ In the special data collection, default fund contributions are item 26 of "general credit risk exposures" and CVA risk-weighted assets are item 5 on part 1 of the "overview" sheet.

⁵⁹⁵ Within the special data collection template, these correspond to items 9 and 10 of "general credit risk exposures."

⁵⁹⁶ These exposures are mostly deferred tax assets, and thus would be reported as other assets on the balance sheet if not deducted.

⁵⁹⁷ The small amount of corporate exposures not reported under either a 65 percent or 100 percent risk weight in the special data collection (item 8) are attributed to lending and credit facilitation. The small amount of corporate risk-weighted assets not reported under a specific risk weight are attributed to banking activities pro rata with all other corporate exposures across the entire sample.

⁵⁹⁸ Specifically, starting from all drawn exposure in the H.1 (commercial and industrial loan data) that are reported in items 1.e.1, 3, 4, 9.a, 9.b.2 and 10.b of the FR Y–9C and have known NAICS codes, the fraction to borrowers in NAICS starting 52 or 53 is attributed to credit facilitation with the remainder to corporate lending. The average share across other banking organizations is used where NAICS are not reported for the banking organization.

⁵⁹⁹ Commitments represent items 12 and 13 in the "general credit risk exposures" sheet of the special data collection template.

⁶⁰⁰ Balance sheet exposures are those reported in Part 1 of "general credit risk exposures" in the special data collection.

⁶⁰¹ The average probability of having a net interest margin over 2.25 percent equals about 61 percent for the four GSIB universal bank holding companies and is zero for the other five Category I and II bank holding companies.

⁶⁰² Net interest income in the FR Y–14Q Schedule G is attributed to segments as follows: traditional lending—retail and small business banking (except deposits) and commercial lending (items 1 and 2, except 1E); trading—sales and trading and investment services (items 5 and 7); credit facilitation—investment banking (item 3); other banking services—merchant banking, investment management, insurance services, and other immaterial segments (items 4, 6, and 9 through 11). Net interest income associated with deposits and corporate treasury is excluded from the calculation. Interest-bearing assets are estimated as those reported in special data collection items 1 through 8, which are attributed to business activities as discussed earlier in this section.

⁶⁰³ This approach is equivalent to an assumption that operational losses are distributed across business segments in the same proportion as net noninterest income.

in proportion to those segments' risk-weighted assets.⁶⁰⁴

b. Attribution of Risk-Weighted Assets Under the Standardized Approach

In this second part of the analysis, the agencies construct an estimate of standardized risk-weighted assets for the same banking activities. For credit risk exposures on the balance sheet, the agencies extrapolate from the special data collection. Adjustments to risk-weighted assets are applied to ensure that total standardized risk-weighted assets equal those in the FR Y–9C. For other exposures, the agencies take standardized risk-weighted asset amounts directly from the FR Y–9C.

The FR Y–9C does not disaggregate balance sheet exposures sufficiently to allow for the direct calculation of risk-weighted assets by banking activity. Therefore, the agencies risk-weight the balance sheet exposure amounts from the special data collection using assumed standardized risk weights, discussed below. These assumed risk weights apply in place of the risk weights under the proposal wherever the risk weight in the special data collection does not exist under the standardized approach. In addition, the assumed standardized risk weights are applied in place of the 150 percent risk weight for all special data collection items where a 150 percent risk weight (1) might be applicable to non-defaulted exposures under the 2023 proposal and (2) would be applicable only to defaulted exposures under the standardized approach.⁶⁰⁵

For assumed risk weights, the agencies use the most commonly applicable standardized risk weight for the special data collection item. This assumed risk weight is zero percent for sovereign and supranational exposures (items 1 and 2); 20 percent for GSEs, public sector entities, U.S. depository institutions, and self-liquidating trade-related items (items 3, 4.a, 4.c, and 5); 50 percent for statutory multifamily mortgages, pre-sold construction loans, and residential real estate (items 6.a., b, e, and f); 150 percent for high-volatility commercial real estate (item 6.c); and 100 percent for all other balance sheet exposures. In addition, the assumed risk weight for equity exposures not subject to the market risk framework is 100

percent, as almost all such exposures fall under the non-significant equity exposure threshold in the standardized approach. Because the assumed risk weights are slightly different from the actual average risk weight, the resulting estimates of standardized risk-weighted assets using assumed risk weights are scaled so that the total balance sheet risk-weighted assets align with the comparable amounts in the FR Y–9C for each banking organization.⁶⁰⁶

For the remaining off-balance sheet and counterparty credit risk exposures, as well as securitizations and market risk, standardized risk-weighted assets corresponding to items or small sets of items in the special data collection can be taken directly from the FR Y–9C Schedule HC–R Part 2. Traditional lending includes securitization exposures and retained recourse on small business obligations (items 9, 10, and 15). Trading-related activities include all market risk-weighted assets, as well as credit risk-weighted assets associated with repo-style transactions, derivatives, central counterparty default fund contributions, and exposures to unsettled transactions (items 8.b, 16, 20 through 22, and 27). The credit facilitation segment includes letters of credit and other off-balance sheet liabilities (items 12 through 14 and 17).

Commitments (items 18 and 19) are present in multiple banking segments. Consistent with the attribution of commitment risk-weighted assets under the proposal discussed above, in each risk weight, commitment exposures are attributed to banking activities pro rata based on the activity's share of balance sheet exposures assigned to that risk weight.⁶⁰⁷ This distribution of balance sheet exposures across special data collection items is also used to estimate an average assumed standardized risk weight for the commitment. As a final step, the estimated risk-weighted assets for commitments summed across banking segments are scaled to match the risk-weighted asset amount reported in the FR Y–9C. This scaling addresses not only potential errors in the assumed standardized risk weights, but also the change in credit conversion factors under the proposal.⁶⁰⁸

⁶⁰⁶ Specifically, the agencies match the sum of standardized risk-weighted assets associated with items 1 through 8.a in FR Y–9C HC–R Part 2. On average, the initial estimates of standardized risk-weighted assets using assumed risk weights are scaled down by about 2 percent.

⁶⁰⁷ Risk-weighted assets associated with unconditionally cancelable commitments are zero under the standardized approach.

⁶⁰⁸ The calculation implicitly assumes that the percentage change in commitments' average credit conversion factors is the same across business segments within each banking organization.

At this stage, by construction, the standardized risk-weighted asset amounts match with those reported in the FR Y–9C prior to application of any deduction for excess allowances or allocated transfer risk reserve. As was done throughout other estimates in section VII, the agencies allocate these risk-weighted asset deductions across banking segments in proportion to their pre-deduction total risk-weighted assets.

4. Estimation of Capital Requirements

The capital requirements computed in this proposal include both common equity tier 1 and tier 1 risk-based requirements under the standardized and advanced approaches as well as tier 1 leverage and supplemental leverage ratio requirements. Dollar amounts of requirements are calculated by multiplying the applicable requirement ratio by the relevant risk-weighted asset or exposure measure. In addition, in order to capture changes to the definition of capital, the requirements calculated in this proposal include the estimated amount of changes in capital deductions, plus the current amount of threshold deductions for deferred tax assets, mortgage servicing assets, or investments.⁶⁰⁹ Previous sections discuss the how risk-weighted assets are computed under the proposal, and the analysis assumes no changes to leverage exposure measures under all proposals under consideration. Therefore, the remainder of this section discusses how the buffer requirements are calculated.⁶¹⁰

The risk-based capital ratio requirements used within the estimates throughout this proposal include all applicable minimum capital ratio and buffer requirements, including the stress capital buffer requirement and GSIB surcharge. The estimated stress capital buffer requirement and GSIB surcharge are adjusted to reflect the mechanical effect of risk-weighted asset changes under this proposal. In addition, the GSIB surcharges and stress capital buffer estimates, as described below, are linearized to avoid discontinuities in requirements that could result in the short-run from small changes in risk-weighted assets or GSIB scores when using bucketed GSIB surcharges or rounded stress capital buffer requirements.

⁶⁰⁹ As of Q2 2025, only one of the bank holding companies that would be subject to this proposal had any threshold capital deductions, and none had deductions for mortgage servicing assets. Therefore, this adjustment has limited impact.

⁶¹⁰ The calculation of method 1 GSIB surcharge, using the approach described below, is applicable to estimating the enhanced supplementary leverage ratio requirement under the recently finalized rule.

⁶⁰⁴ Allowance and transfer risk reserve deductions amount to only about 0.3 percent of risk-weighted assets in aggregate, so their attribution does not materially affect conclusions.

⁶⁰⁵ Specifically, the assumed risk weight is applied to exposures to the U.S. government, supranational entities, GSEs, U.S. public sector entities, U.S. depository institutions, ADC (not high-volatility commercial real estate) and other real estate loans, and corporate exposures.

Under the capital plan rules, the stress capital buffer requirement is generally calculated as (1) the difference between a banking organization's starting and minimum projected common equity tier 1 capital under the severely adverse scenario in the Board's supervisory stress test plus (2) the sum of the dollar amount of the banking organization's planned common stock dividend for each of the fourth through seventh quarters of the capital planning horizon as a percentage of risk-weighted assets.⁶¹¹ Therefore, stress capital buffer requirements, expressed as a ratio, would differ under the proposal due to the proposal's impact on risk-weighted assets. To adjust the stress capital buffer requirement to reflect the proposal, the Board assumed that the estimated percentage difference in risk-weighted assets between the expanded risk-based approach and the standardized approach would have applied at the date at which the stress capital buffer requirement was calculated. Specifically, the estimates in this proposal adjust the actual stress capital buffer requirements by (i) removing the 2.5 percent floor and rounding, (ii) multiplying by the ratio of risk-weighted assets under the standardized approach relative to risk-weighted assets under the expanded risk-based approach in this proposal, and then (iii) reapplying the 2.5 percent floor on the requirement. For comparability, stress capital buffer requirements under current rules in this proposal also removes the effect of rounding.⁶¹² Therefore, for bank holding companies whose stress capital buffer requirements exceed 2.5 percent under both the standardized and expanded risk-based approach, the change in risk-weighted assets under the proposal has no effect on the stress capital buffer requirement when expressed in dollar terms. However, for bank holding companies whose stress capital buffer requirement would equal the 2.5 percent floor under both the standardized approach and the proposed expanded-risk based approach, the dollar amount of the stress capital buffer requirement would change proportionally to any changes in risk-weighted assets.

Under the current rule, risk-weighted assets are an input in method 2 of the GSIB surcharge calculation.⁶¹³ In particular, the short-term wholesale funding score's contribution to a GSIB's

method 2 score is calculated by dividing the average of a banking organization's weighted short-term wholesale funding amount by its average risk-weighted assets and multiplying that amount by a fixed factor of 350.⁶¹⁴ Hence, increases (or decreases) in a banking organization's risk-weighted assets would decrease (or increase) its method 2 score, thereby partially offsetting in GSIB surcharge requirements the proposal's effect on capital requirements. The standalone impact analysis in section VII.A adjusts the short-term wholesale funding score used in the GSIB surcharge calculation with the proposal's estimated impact on risk-weighted assets and recalculates GSIBs' method 2 scores and capital surcharges using the adjusted short-term wholesale funding indicator.⁶¹⁵ The GSIB score for each year is then taken as the minimum of the method 1 and 2 score, which is then converted into a surcharge using the following linearization which approximates the surcharge step function: $\text{surcharge} = 0.01 + 0.00005 \times \max[0, \text{score} - 180]$. The same linearization is applied to scores calculated under the GSIB surcharge proposal, noting that scores under the GSIB surcharge proposal are independent of risk-weighted assets. In this proposal, analyses use the linearized version of the surcharge applicable in 2026, which reflects the minimum of the surcharge based on year-end 2023 and year-end 2024 score data.

5. Attribution of Stress Capital Buffer Requirement to Risk Categories

Analysis of the cumulative impact of the several changes to large banking organizations' capital requirements at the risk or business activity level, as described in sections VII.B and VII.C, necessitates a mapping from the components of stress capital buffer requirements to the risks that they reflect. This section describes the method used to attribute stress capital buffer requirements to the four risk types (credit, market, operational, and CVA) measured under this proposal.

The stress capital buffer requirement represents the maximum decline in each bank holding company's common equity tier 1 capital ratio, plus four quarters of planned common stock dividends, also expressed as a

percentage of risk-weighted assets.⁶¹⁶ Thus, the quarter in the stress scenario with the minimum capital ratio is first identified, and the drivers of the cumulative change in capital through that quarter are attributed to risks. In estimates reflecting changes to the stress test, the impact (on minimum capital ratio) of several proposed changes is also attributed to risks. Lastly, the common stock dividends are attributed. Details of the attribution are covered below. Note that the analysis attributing capital requirements to banking activities, as described in section VII.C, does not require an explicit attribution of stress capital buffer requirements to banking activities. Instead, as discussed in section VII.C, this attribution is extrapolated from the combination of the attribution of risk-weighted assets by risk type to banking activities (discussed above in section VII.D.3) and the attribution of stress capital buffer requirements to risk types discussed here.

First, the drivers of the stress capital decline that can be entirely attributed to a specific risk type are attributed. All credit loss provisions are attributed to credit risk,⁶¹⁷ along with losses on loans held at fair value and private equity, gains or losses on asset-liability hedges, changes in capital due to "accumulated other comprehensive income" (AOCI), and expenses associated with other real estate owned. Losses from the largest counterparty default in the stress test are also attributed to credit risk. Reducing the credit-attributed losses, interest income on all assets except trading assets are attributed to credit risk. When changes to the stress test are considered, those changes associated with credit losses (including counterparty credit), assets under fair value option, securities losses, and net interest margin models are attributed to credit risk. Losses (or gains) attributed to market risk include those on public equity securities, and both mark-to-market and intraday trading. Trading revenue and interest income on trading assets are also attributed to market risk. When considered, the impact of changes associated with the global market shock component of the severely adverse scenario are attributed to market risk. Counterparty losses associated with credit valuation adjustments, net of hedges, are attributed to CVA. Lastly, modeled operational losses are attributed to operational risk. These

⁶¹¹ See 12 CFR 225.8(f)(2) and 12 CFR 238.170(f)(2).

⁶¹² Under the current capital plan, stress capital buffer requirements are rounded to the nearest 0.1 percent.

⁶¹³ See 12 CFR part 217, subpart H.

⁶¹⁴ See 12 CFR 217.406 (calculation of the short-term wholesale funding score).

⁶¹⁵ The cumulative impact analysis in section VII.B and VII.C does not require this adjustment as under the GSIB proposal, the method 2 score would be unaffected by changes in risk-weighted assets.

⁶¹⁶ Before application of the 2.5 percent floor on the requirement.

⁶¹⁷ The adjustment credit for allowances held at the start of the stress test is also attributed to credit risk.

losses change under proposed changes to the stress test.

Second, all interest expenses, net of income from account fees and services charges are attributed across credit and market risk in proportion to the trading book share of total assets. The implicit assumption here is that the funding composition of a dollar of trading and non-trading assets is the same.

Third, estimated changes in capital with drivers that are not neatly associated with the specific types of measured are attributed across credit, market, and CVA risk categories in proportion to their share of risk-weighted assets. These drivers consist primarily of noninterest income associated with fiduciary and investment banking services, but also include other noninterest income, servicing fees, changes in goodwill, and income due to minority interests. Under the proposed stress test changes, changes in losses associated with the proposed use of a discount path approach are also attributed in proportion to risk-weighted asset shares.

Fourth, the major operating expense categories that cut across banking activities are attributed across the risks in proportion to each risk's share of an estimate of the "business as usual" income associated with the risk. The operating expenses attributed in this step include those associated with employee compensation, fixed assets and all other non-interest expenses other than operational losses and expenses associated with other real estate owned. When considering requirements incorporating proposed stress test changes, the operating expenses attributed here reflects the proposed use of efficiency ratio-based expense projections. The estimate of "business as usual" income associated with each risk type equals that risk type's share of net interest income plus non-interest income, where these items are attributed to risks as described above.

Fifth, accounting and regulatory capital-related adjustments that are driven by losses in general are applied across risks in proportion to their stress losses as attributed thus far. These adjustments include those associated with deferred tax assets, taxes and associated valuation allowance adjustment, and any (generally de minimus) changes in common equity tier 1 threshold deduction amounts.

Lastly, as the stress capital buffer requirement associated with common and preferred stock dividends is independent of the risks the bank holding company undertakes or the gains and losses realized in the stress

test, it functions similarly to a requirement that is a fixed percentage of risk-weighted assets. Therefore, the dividend portion of the stress capital buffer requirement is attributed to risks in proportion to their share of risk-weighted assets under whichever framework (standardized or expanded risk-based) is being applied in the given estimate.

At this point in the process, the impact of the 2.5 percent floor on the stress capital buffer requirement is considered. Since the introduction of the stress capital buffer in 2020, three of the nine bank holding companies subject to this proposal have consistently had pre-floor stress capital buffer requirements below 2.5 percent. For these bank holding companies, the stress capital buffer requirement is independent of the specific drivers of the stress test loss, and is effectively proportional to risk-weighted assets. Therefore, the stress capital buffer requirement for these three bank holding companies is attributed proportionally to risk-weighted assets. For the other bank holding companies, the stress capital buffer requirements is routinely in excess of 2.5 percent, so the requirement is attributed as described above. However, in those instances where the pre-floor requirement for these bank holding companies is below 2.5 percent, the additional requirement associated with the 2.5 percent floor is attributed across risk types in proportion to their associated risk-weighted assets.

VII. Economic Analysis

This section evaluates the projected economic effect of the proposal by analyzing its key costs and benefits. When applicable, the analysis considers the effects of the GSIB surcharge proposal, the standardized approach proposal, and the proposed changes to the supervisory stress testing models and scenarios.

Section VIII.A presents an overview of the baseline of the economic analysis by examining the current state of banking organizations and the economy absent the combined proposals. It provides context for subsequent analyses on changes in risk-weighted assets, capital requirements, revenue sources, assets, and the relative importance of bank and nonbank financial intermediation.

Section VIII.B compares the anticipated risk-weighted asset effects of the proposal with three reasonable alternative implementations of the Basel standards. Changes in risk-weighted assets under the proposal would be within the range of impact of the

alternatives while providing a substantial degree of risk-sensitivity.

Section VIII.C discusses the macroeconomic effects of changes in capital requirements. Based on the agencies' analysis, the decrease in capital requirements stemming from the proposal combined with the GSIB surcharge proposal and the standardized approach proposal would maintain levels of banking organization capital that are reasonable to achieve a safe and sound banking system based on the academic literature. Using a variety of methods, this literature provides a wide range of optimal capital requirements that balance the benefits of safety and soundness against the costs of reduced banking organization lending from higher requirements. This section also acknowledges certain limitations in applying this literature to analyze the proposed regulatory changes.⁶¹⁸

The proposal aims to enhance the measurement of credit, operational, and market risk to more accurately capture the underlying risks of covered banking organizations' activities. Improved risk measurement helps avoid unintended inefficiencies and potential misallocation of resources from capital regulation. Given the effects of regulatory capital requirements on the real economy, the proposal may improve economic efficiency. Moreover, reducing complexity in the regulatory framework enhances transparency of capital requirements and supports market discipline, with potential safety and soundness benefits.

Section VIII.D presents information on the potential effects of the proposal on banking organization lending, such as credit card, residential mortgage, and business lending.⁶¹⁹ Lending is a key business for banking organizations and an essential method for intermediating between savers and borrowers. The section analyzes a range of lending products that facilitate consumption and investment throughout the economy. The proposal's changes to risk sensitivity, operational risk, and treatment of off-balance sheet exposures would be the primary drivers of changes in capital requirements, potentially encouraging banking organizations to

⁶¹⁸ The literature on optimal capital levels has limitations in its applicability to the proposed changes, as it typically assumes fixed risk weights and focuses primarily on loan portfolios rather than trading activities. This is particularly relevant given the important role of capital markets in the U.S. economy.

⁶¹⁹ While this analysis primarily relies on data for the largest banks, the findings are also likely applicable to any smaller banks that choose to adopt the expanded risk-based approach, as the expected changes in risk weighted assets for lending portfolios would be similar.

shift lending toward activities with projected reductions in risk weights.

Residential mortgage lending would incorporate LTV-based risk weights to enhance risk sensitivity. At the same time, lower risk weights would likely lead to a modest increase in mortgage lending by the banking organizations. Risk-weighted assets for corporate lending is projected to decrease due to more favorable treatment of investment-grade borrowers and lower standardized credit conversion factors for conditional equity and credit commitments with more than one year to maturity, which together outweigh new operational risk requirements and higher credit conversion factors for off-balance sheet exposures with less than one year to maturity. Credit card portfolios would experience mixed effects by borrower repayment behavior and utilization rates. Depending on whether the new risk-weight on unutilized balances and the operational risk add-ons outweigh lower risk-weights on utilized balances, risk-weighted assets on credit card exposures under the proposal could be higher or lower than the current standardized approach.

Section VIII.E assesses the projected effects of the proposal on trading activities of banking organizations and the potential impact on their customers and on markets. The agencies expect the proposal would help preserve the availability of intermediation and market functioning during economic downturns by determining capital requirements based on losses from historical stress periods, which exhibits less cyclical than the current approach. Also, trading products that are less liquid or more difficult to model would require more market risk capital. This may increase the cost of intermediation of some products but would also better align capital requirements with risk.

Trading activity involves market risk, counterparty credit risk, CVA risk, and operational risk. This proposal makes major revisions to the market risk framework which would affect incentives for banking organizations' hedging strategies and risk modelling methods. In addition, risk-weighted assets related to trading activity would increase from the inclusion of CVA and operational risk-weighted assets, which are not part of the current standardized approach that generally determines capital requirements today. The majority of capital requirements for trading activity today comes from counterparty credit risk-weighted assets, and this would remain true under the proposal.

Taken together with the proposed changes to the GSIB surcharge and supervisory stress test models, and the recent revision of the eSLR, the cumulative effect on capital requirements related to trading activity is expected to be about a 9 percent increase for Category I and II banking organizations. Increases in risk-weighted assets from changes in the market risk framework and inclusion of CVA and operational risk are expected to be materially offset by the proposed changes to the global market shock in supervisory stress tests. Non-Category I and II banking organizations will see generally a small impact to their trading activity given the relatively smaller change in their market risk and CVA.

Section VIII.F considers the potential effects of the proposal on competition between financial institutions. The proposed changes to capital requirements for large U.S. banking organizations are expected to have implications for competition both domestically and internationally. By aligning U.S. capital requirements more closely with international standards, the proposal may enhance Category I and II banking organizations' ability to compete globally without compromising their comparatively strong capital positions. The revised risk weights, and increased certainty in capital requirements from moving to a single set of risk-based requirements, are anticipated to support more consistent lending and market-making activities throughout economic cycles.

The proposal incorporates measures that maintain competitive balance while acknowledging the business model differences between large and small institutions. Notably, the proposal would allow banking organizations of any size to adopt the new risk-weight framework. This proposal preserves higher overall capital requirements for Category I and II banking organizations which, along with the parallel proposal to revise the U.S. standardized approach, would mitigate concerns about an unlevel playing field. Moreover, reducing complexity in the regulatory framework enhances transparency of capital requirements and supports market discipline, with potential safety and soundness benefits.

The proposal would likely, in aggregate, encourage the migration of certain activities, particularly traditional lending, back towards banking organizations while effects on trading activities would be more mixed. Lower risk weights for most mortgages and the removal of the mortgage servicing assets threshold capital deduction could encourage covered banking

organizations to maintain or expand these activities relative to nonbank financial intermediaries, directly and via correspondent lending relationships with independent mortgage banks and smaller depository institutions. More broadly, enhanced competition in key lending markets could reduce the premiums that lenders can charge above their costs, providing greater economic benefits to consumers. For Category I and II banking organizations, heterogeneous effects on different products within the proposed market risk framework could incentivize liquidity provision for those products to either shift toward or away from nonbank financial intermediaries, with increases in risk weights being offset by both reductions in the GSIB surcharge proposal and the proposed revision to stress test scenarios.

A. Overview of the Baseline

This section discusses the current state of Category I and II banking organizations and the economy absent the proposal (the baseline) to help understand the potential effects of the proposal. To help contextualize the broader macroeconomic effects of the proposal, a discussion of the total banking system is also included.

Sections VIII.A.1 and VIII.A.2 provide context for the changes in capital requirements under the proposal by exploring the cross-section and time series of bank capital. Sections VIII.A.3 and VIII.A.4 help to contextualize results presented in sections VIII.D and VIII.E that discuss the potential effects on lending, trading, and other business activities by breaking down the principal revenue sources and assets of covered banking organizations. Finally, sections VIII.A.5 and VIII.A.6 document the relative dependency of the economy on bank and nonbank sources of financial intermediation. These sections support later analyses in section VIII.D regarding the potential macroeconomic and financial intermediation effects of the proposal on the U.S. economy.

1. Capital Ratios of Category I and II Banking Organizations—Cross Section

Banking organizations generally maintain capital ratios above regulatory capital requirements, including any applicable buffer requirements. The excess above such requirements—often called “management buffers”—varies across banking organizations and would likely continue to vary under the proposal as such buffers reflect firm-specific considerations. Table VIII.1 shows the average required and actual common equity tier 1 capital levels for Category I and II banking organizations.

Table VIII.1: Minimum-Plus-Buffer Required and Actual Common Equity Tier 1 Capital Levels for Banking Organizations Subject to Category I or II Capital Standards

Standardized Approach Requirement	Advanced Approaches Requirement	Actual CET1 Capital
\$858 Billion	\$764 Billion	\$1,008 Billion

Note: This table shows aggregate required and actual common equity tier 1 capital levels as of June 30, 2025, for the top-tier holding companies of Category I and II banking organizations. For this purpose, capital requirements include applicable buffer requirements, including, as applicable, the GSIB surcharge requirement and, under the standardized approach only, the stress capital buffer requirement. Required capital ratios were calculated using the methodology described in section VII.D. Source: FR Y-9C and FFIEC 101.⁶²⁰

Note: This table shows aggregate required and actual common equity tier 1 capital levels as of June 30, 2025, for the top-tier holding companies of Category I and II banking organizations. For this purpose, capital requirements include applicable buffer requirements, including, as applicable, the GSIB surcharge requirement and, under the standardized approach only, the stress capital buffer requirement. Required capital ratios were calculated using the methodology described in section VII.D. Source: FR Y–9C and FFIEC 101.⁶²⁰

Capital Ratios of Banking Organizations—Time Series

Observing banking organizations’ capital ratios over time helps provide another perspective on the capital in the U.S. banking system.⁶²¹ In this case, the agencies consider the entire banking system to provide context for considering the potential effects of the proposal from a broader macroeconomic perspective. Figure VIII.1 shows that the aggregate common equity tier 1 capital ratios of the U.S. banking system have increased slowly from around 12

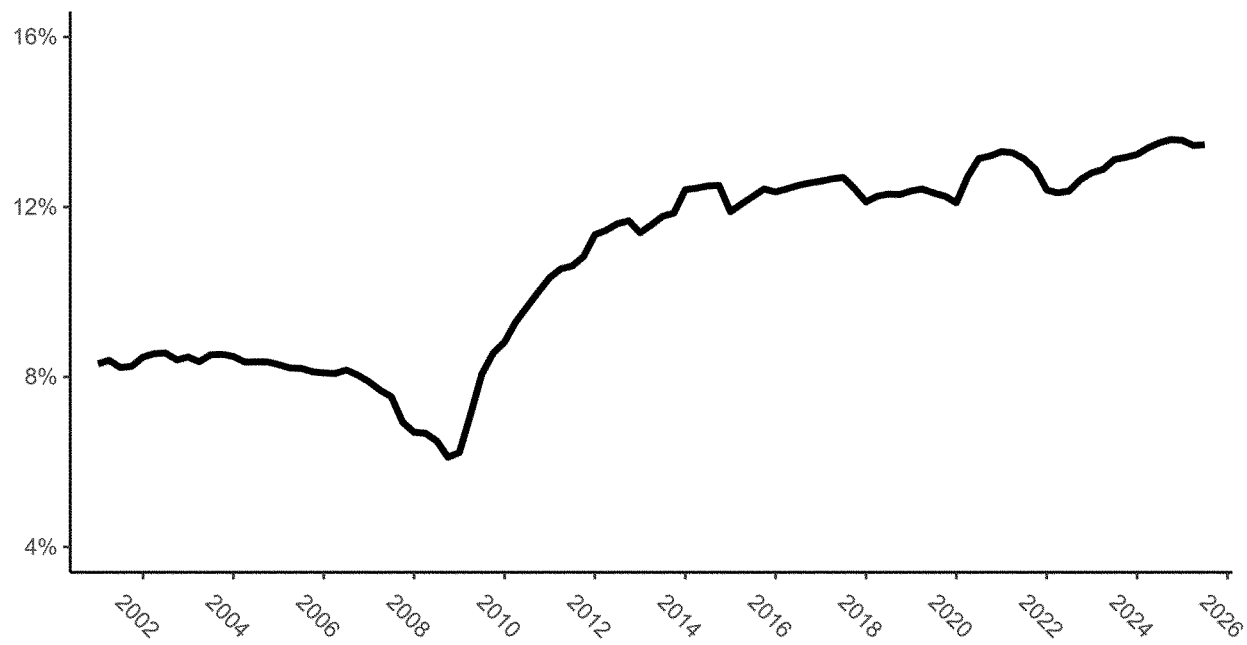
percent in the middle of the last decade to a bit above 13 percent now. Currently, the U.S. banking system, not counting credit unions, maintains over \$2.2 trillion in common equity tier 1 capital to help support approximately \$31 trillion in assets (\$17 trillion in risk-weighted assets). The proposal is expected to generally maintain the overall stability of capital in the U.S. banking system.

Figure VIII.1: Aggregate U.S. Banking System Common Equity Tier 1 Capital Ratio (Percent)

⁶²⁰ Statistics are calculated from the FR Y–9C and FFIEC 101, as of June 30, 2025 (collectively, “June 2025 Form Statistics”).

⁶²¹ The analysis presented in section VIII.A.2 was conducted using data from all top-level depository institution holding companies that file the FR Y–9C, except for community banking organizations

that have opted into the community bank leverage ratio framework and therefore do not report risk-based capital ratios. Credit unions are not included in the analysis.



Note: This figure shows aggregate common equity tier 1 capital as a percentage of aggregate risk-weighted assets from March 31, 2001, to September 30, 2025. Source: Federal Reserve

Bank of New York.⁶²²

3. Portfolio Characteristics of Category I and II Banking Organizations—By Revenue

Capital requirements affect banking organizations' choice of business model and hence the composition of their revenue. Interest income, primarily accrued from loans and fixed-income securities, is a key source of banking organization revenue. Across Category I and II banking organizations, interest income constitutes nearly 69 percent of total gross income.⁶²³ The remaining approximately 31 percent of total gross income is earned from noninterest sources, such as fees and commissions. These and other figures included in this section are based on Y–9C data.

A significant share of interest income (39 percent) comes from domestic loan portfolios, which generally include residential mortgages; commercial mortgages; other loans to businesses;

and consumer loans such as credit cards, student loans, and auto loans. Another 27 percent comes from interest on securities held for investment and trading assets. The remainder of interest income comes from foreign loans (6 percent) and other interest earning activities (29 percent) including federal funds sold, interest on balances due from other depository institutions, and lease financing receivables.

Roughly 36 percent of noninterest income is earned from trading activities. Securities-related activities account for nearly 35 percent of gross noninterest income. This category includes fees and commissions from activities such as securities brokerage, investment banking, and advisory activities.

While these are the broad patterns of aggregate income, there is substantial variation across Category I and II banking organizations. The largest universal banking organizations offer a wide array of services, whereas other banking organizations are more specialized.

Therefore, while aggregate statistics provide an overview of covered banking organizations subject to the proposal, each banking organization differs in its revenue streams. Hence, the potential effects of the proposal are likely to vary

depending on each banking organization's business model, although the overall effect is likely to reinforce the role of banks in traditional banking activities. Moreover, the proposed rule could also create feedback effects that alter these metrics as banking organizations adjust their business activities to optimize their risk-weighted assets.

4. Portfolio Characteristics of Category I and II Banking Organizations—By Broad Asset Class

This section presents the composition of the aggregate assets of Category I and II banking organizations. The largest asset category on the balance sheet of these banking organizations is loans and leases (31 percent), which are the traditional lending business of banking organizations. Another major category is securities (19 percent), which includes both held-to-maturity and available-for-sale debt securities, as well as equity securities not held for trading.⁶²⁴ Debt

⁶²² Data from Quarterly Trends for Consolidated U.S. Banking Organizations https://www.newyorkfed.org/research/banking_research/quarterly_trends.html (Downloaded on 1/15/26).

⁶²³ Estimates are based on data from the FR Y–9C filings of banking organizations subject to Category I or II capital standards as of June 30, 2025. Interest Income share is calculated as Total Interest Income (BHCK4107) divided by the sum of Total Interest Income and Total Noninterest Income (BHCK4079).

⁶²⁴ Estimates are based on data from schedule RC of the FR Y–9C filings on June 30, 2025. Loans and leases consist of Loans and Leases Held for Sale (BHCK5369) and Loans and Leases Held for Investment (BHCKB528). Securities held for investment includes Held to Maturity (BHCKJ34)

securities holdings include primarily government and corporate bonds, and mortgage-backed securities. The trading assets category (19 percent), which includes securities that are in banking organizations' trading portfolios as well as derivatives and other financial instruments, is also a major asset category. Trading securities are generally substantial for banking organizations engaged heavily in investment banking activities, a group that includes six of the nine Category I and II bank holding companies.

As with the presentation of the sources of aggregate income, these aggregate statistics mask heterogeneity across Category I and II banking organizations. The heterogeneity in their asset compositions exposes these banking organizations to different combinations of credit, market, and operational risk. Therefore, the effects of the proposal would vary based on individual banking organizations' business models.

Balance sheet data provide an incomplete picture of risk because they do not account for off-balance sheet exposures, including contingent liabilities like loan commitments and letters of credit. Banking organizations subject to Category I or II capital standards have close to \$6 trillion in total undrawn loan commitments, including consumer credit card lines, lines of credit extended to non-financial corporates as well as nonbank financial entities, commitments to fund commercial real estate and other construction loans, securities underwriting commitments, and other

commitments.⁶²⁵ This total is about a third of the size of these banking organizations' on-balance sheet assets of \$16.8 trillion. The proposal would apply different risk weights and credit conversion factors for certain off-balance sheet exposures, relative to the standardized approach.

5. Dependency of the U.S. Economy on the Banking System

As shown in Figure VIII.2 below, U.S. businesses and households receive a larger share of financing from nonbank entities relative to other advanced economies due to the depth and breadth of U.S. financial markets. The difference in bank dependence is partially due to the United States having a more market-oriented financial system that provides more opportunities for various forms of equity financing as well as for nonbanks to participate in credit markets compared with the more bank-oriented financial systems of Europe and Japan. This difference may affect how the implementation of the Basel standards would impact the U.S. economy when compared to the impact on the economies of Europe and Japan. To better understand these differences, the agencies analyzed trends in total bank credit in the United States as a share of gross domestic product (GDP) and compared these trends with those of the United Kingdom, Japan, and the Euro Area using data from the Bank for International Settlements (BIS).⁶²⁶

⁶²⁵ The undrawn loan commitments calculation includes the sum of items BHCKJ455, BHCKJ456, BHCK3816, BHCK6550, BHCK3817, BHCKJ457, BHCKJ458, and BHCKJ459 from schedule HC–L. To provide a sense of the relative importance of off-balance sheet exposures, the agencies use data from Schedule HC–L of FR Y–9C reports as of June 30, 2025.

⁶²⁶ Bank of International Settlements (BIS), BIS Data Portal, Credit to the Non-Financial Sector (data

In other advanced economies, particularly in Europe and Japan, banks are the primary source of credit for the non-financial sector. As shown in Figure VIII.2, the share of credit to the non-financial sector coming from banks is significantly higher in these jurisdictions than in the United States. Moreover, the share of banking sector credit in the United States has remained relatively constant over the past decade.⁶²⁷ Because a smaller share of private sector credit originates from the banking system in the United States, the proposal, which directly affects only covered banking organizations, is likely to have more modest macroeconomic effects than a similar regulation in a more bank-dependent economy.

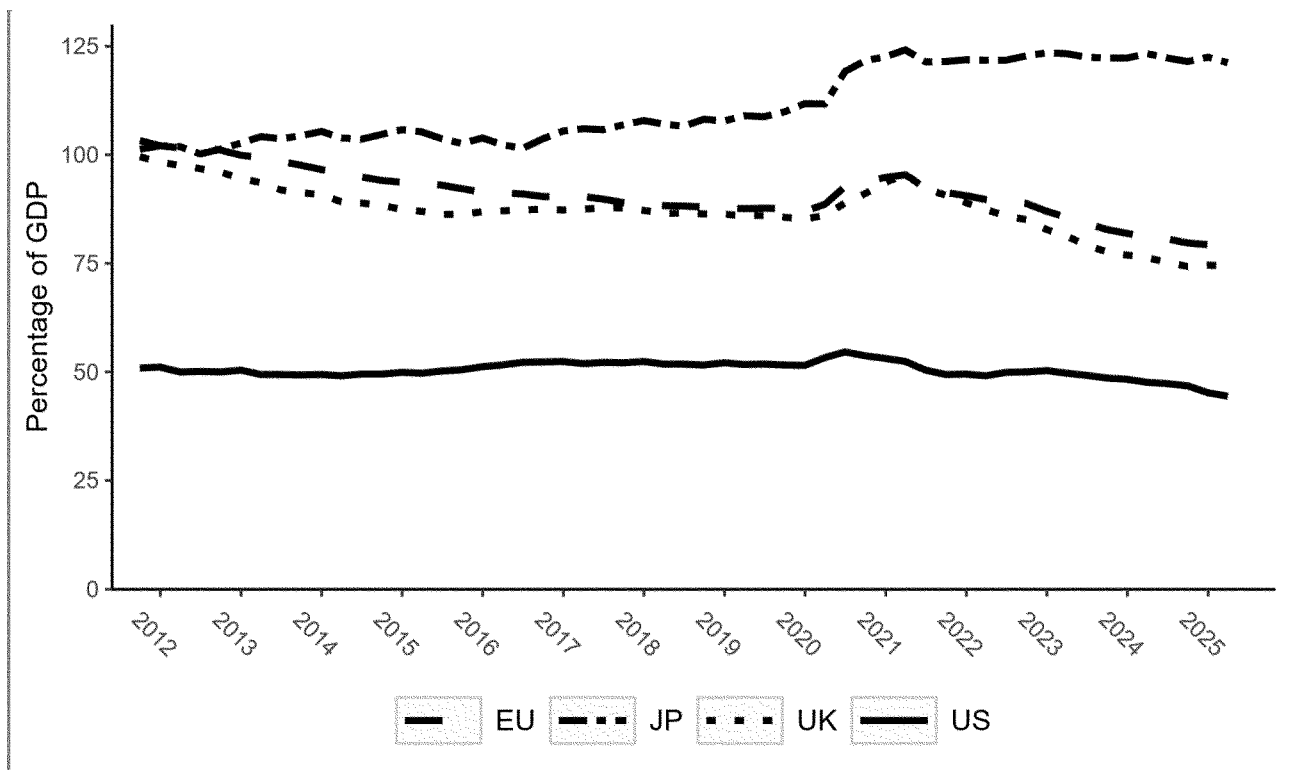
However, looking at the potential direct effects alone may underestimate the impact of the proposal. Covered banking organizations facilitate significant provision of credit to households and nonbank financial institutions through their role in financial markets (these effects are described in section VIII.D).

Figure VIII.2: Credit From the Banking Sector to the Private Non-Financial Sector as a Share of GDP

flow ID: BIS_WS_TC.2.0), "Comparative View of Advanced Economies—Credit from Banks, Domestic to Private Non-Financial Sector at Market Value, Percentage of GDP, Adjusted for Breaks" (series key: Q.5R.P.B.M.770.A) (data sets downloaded on September 29, 2025) ("BIS Data: Credit (2025)"), https://data.bis.org/topics/TOTAL_CREDIT/BIS_WS_TC.2.0/Q.5R.P.B.M.770.A?additional_ts=BIS%2CWS_TC%2C2.0%255EQ.DE%2BFR%2BUS%2BGB.P.B.M.770.A.

⁶²⁷ Over time, the share of bank credit in the United Kingdom and the European Union has declined some, converging partway towards the United States' level.

and Available for Sale Securities (BHCK1773). Trading assets is BHCK3545.



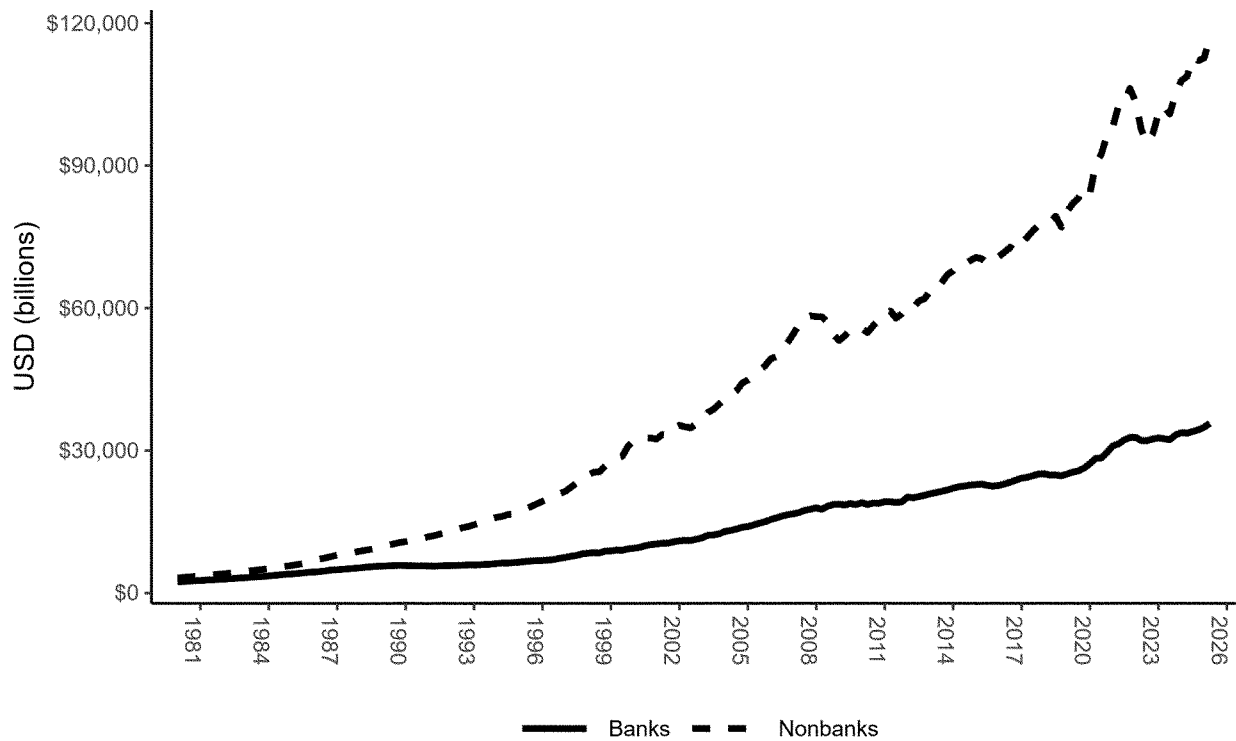
Note: This figure shows credit from the banking sector to the private non-financial sector as a share of GDP between December 31, 2011 and June 30, 2025. Source: BIS.⁶²⁸

6. Nonbank Financial Intermediaries
U.S. nonbank financial entity (nonbank) assets are currently three times larger than bank assets (Figure

VIII.3). This is the result of a longstanding trend; since 1985, nonbank assets have grown much faster than bank assets.

Figure VIII.3: Total Assets of Banks and Nonbanks

⁶²⁸ BIS Data: Credit (2025).



Note: This figure shows the total assets of banks and nonbanks in billions of U.S. dollars between December 31, 1979, and June 30, 2025 in the United States. Source: Flow of Funds, and agency calculations.⁶²⁹ Nonbanks include the following Flow of Fund sectors: asset-backed securities, broker/dealers, closed-end funds, exchange-traded funds, finance companies, money market funds, mortgage real estate investment trusts, mutual funds, other financial businesses, insurance companies (PC insurance), and pension funds. Banks include the following Flow of Funds sectors: Banks and Holding Companies.

The growth in total assets discussed above is often cited to gauge the shift in financial activity between traditional banks and nonbanks. However, this analysis omits other linkages, such as

credit lines provided by banking organizations to nonbanks,⁶³⁰ and can also overestimate activity by nonbanks.⁶³¹

The amount of credit that banks and nonbanks provide to the non-financial private sector is another way to measure the migration of activity out of the traditional banking sector. Figure VIII.4 shows that the share of credit to the non-financial private sector provided by banking organizations has been between 30 and 35 percent since the early 2000s. This share has persisted through regulatory changes and economic

⁶²⁹ Statistics used in agency calculations are from the Board of Governors of the Federal Reserve System, Z.1 Financial Accounts of the United States (from Dec. 31, 1979, to June. 30, 2025), <https://www.federalreserve.gov/releases/z1/>. The bank data consists of the sum of series FL702000095.Q and FL734194005.Q. The nonbank data consists of series FL792000095.Q less the sum of series FL702000095.Q and FL734194005.Q.

⁶³⁰ Viral V. Acharya, Nicola Cetorelli & Bruce Tuckman, "Where Do Banks End and NBFIs Begin?" *National Bureau of Economic Research*, Working Paper No. 32216, (March 2024) ("Acharya et al. (2024)"), <https://dx.doi.org/10.2139/ssrn.4760963>.

⁶³¹ Joshua Gallin, "Shadow Banking and the Funding of the Nonfinancial Sector," *Measuring Wealth and Financial Intermediation and Their Links to the Real Economy*, Chapter 4, 89–124

(February 2015) ("Gallin (2015)"), <https://doi.org/10.7208/chicago/9780226204437.003.0004>.

events, including the U.S. implementation of Basel II and Basel III reforms, the 2007–09 financial crisis, and the COVID–19 pandemic. The faster growth in nonbank assets (Figure VIII.3) and (Figure VIII.4) noting the increased role of nonbanks in the investment activity of U.S. households and small and medium enterprises. For example, a substantial share of mortgage origination is now primarily undertaken by nonbanks.⁶³²

Figure VIII.4 also shows a sharp decline in bank credit to the non-financial private sector in the 1980s from the higher levels of the 1970s. This decline was likely driven by a combination of regulation and financial sector innovation that reshaped the U.S. financial system.⁶³³ One of these

developments was the introduction of formal leverage requirements in bank supervision and regulation in 1981.⁶³⁴ Other important changes also contributed to this decline. In the 1980s, the financial landscape began to shift significantly, marked by the expanded activities of government-sponsored enterprises (GSEs) and U.S. agencies, including Fannie Mae, Freddie Mac, and Ginnie Mae. During this period, certain housing GSEs rapidly expanded their role in the mortgage market by securitizing a substantial share of residential loans. Previously, the bulk of loans had generally been held on the balance sheets of banking organizations.⁶³⁵ This expansion of

regulation/summer-2023/rise-nonbank-mortgage-lending.

⁶³⁴ Federal Reserve Bank of St. Louis, Federal Reserve History, “Bank Capital Standards” (March 2024), <https://www.federalreservehistory.org/essays/bank-capital-standards>; “Capital Adequacy Guidelines,” 68 *Federal Reserve Bulletin*, 33 (1982).

⁶³⁵ Dwight M. Jaffee & Kenneth T. Rosen, “Mortgage Securitization Trends,” *Journal of Housing Research*, 1(1), 117–37 (1990) (“Jaffee and Rosen (1990)”), <http://www.jstor.org/stable/24825876>.

securitization allowed nonbanks to intermediate a larger share of mortgage lending, a trend that accelerated with the creation of real estate mortgage investment conduits in the late 1980s.⁶³⁶ As a result, the share of credit provided by banking organizations to the non-financial private sector began to decline sharply. This rise in GSE activity and the broader growth of securitization markets played a pivotal role in the long-term shift of credit provision away from banking organizations.⁶³⁷ As described in the sections below, by adjusting the capital framework, the proposal may support lessening of this decline in the share of credit to the non-financial private sector provided by banking organizations.

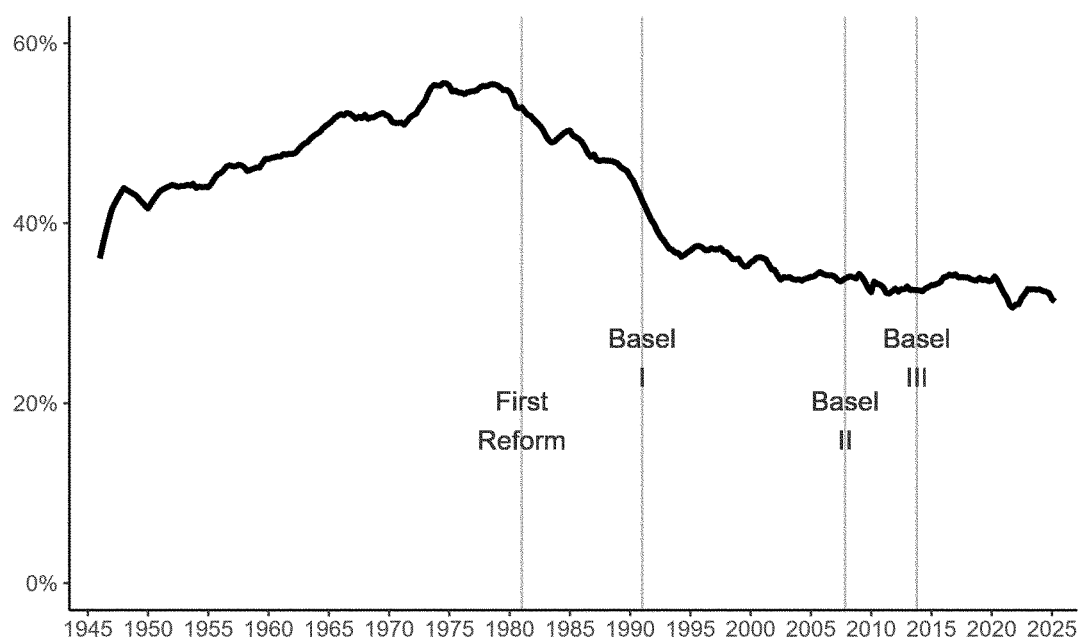
Figure VIII.4: Share of Credit to Non-Financial Private Sector Provided by Banks

⁶³⁶ Solomon Y. Deku & Alper Kara, “A Historical and Regional Overview of Securitization,” *Securitization: Past, Present and Future*, 57–91 (August 2017) (“Deku and Kara (2017)”), https://doi.org/10.1007/978-3-319-60128-1_4.

⁶³⁷ See Calabria (2023).

⁶³² Rebucci, Alessandro; Scip, Alex; Sapriza, Horacio; and te Kaat, Daniel. (August 2025) “Bank Liquidity and Financing of Nonbank Mortgage Companies.” *Federal Reserve Bank of Richmond Economic Brief*, No. 25–33, https://www.richmondfed.org/publications/research/economic_brief/2025/eb_25-33.

⁶³³ Mark A. Calabria, “The Rise of Nonbank Mortgage Lending,” *Regulation*, 46(18) (2023) (“Calabria (2023)”), <https://www.cato.org/>



Note: This figure shows the share of credit provided by banking organizations to the private non-financial sector between 1945 and 2025. Vertical lines represent the issuance date of the U.S. final rules for the introduction of formal capital requirements, including implementation of leverage ratio requirements in 1981 and the different Basel accords. Source: BIS, *Credit to the Non-Financial Sector*, “United States - Credit from All Sectors to Private Non-Financial Sector at Market Value, U.S. Dollar, Adjusted for Breaks.”⁶³⁸

The nonbank sector is diverse, comprising investment funds, insurance providers, pensions, specialty finance companies (such as mortgage lenders and private credit funds), and market infrastructure providers, among other types of institutions. Nonbanks that are funded by less stable sources of funding or are highly leveraged and nonbanks’ funding access interlinkages with wholesale capital markets, institutional investors, and banking institutions can pose financial stability concerns. For example, as seen during the 2007–09 financial crisis, the suspension of redemptions by one money market mutual fund can cause contagion as

investors are incentivized to withdraw from other funds.⁶³⁹ In addition, during the market dislocations in the early days of the COVID–19 pandemic, principal trading firms, facing volatile and uncertain markets, may have pulled back from providing liquidity to U.S. Treasury markets, thus contributing to the overall stressed market conditions.⁶⁴⁰ Moreover, the uneven regulatory oversight of nonbanks, relative to banks, may increase their

vulnerability to runs, liquidity stresses, and other systemic shocks, with potential financial stability consequences.⁶⁴¹ Any potential shifts in activity from the nonbank sector to the banking sector stemming from this proposal may help alleviate such vulnerabilities.

The presence of nonbanks alongside, and in competition with, traditional banks can also promote access to credit for households and businesses and improve the secondary market liquidity for this credit. Nonbanks, with business models, funding structures, and use of technology that differ from traditional banks, can help to diversify the financial landscape, foster innovation, and enhance the overall efficiency of

⁶³⁸ BIS, BIS Data Portal, *Credit to the Non-Financial Sector* (data flow ID: BIS.WS_TC.2.0), “United States—Credit from All Sectors to Private Non-Financial Sector at Market Value, U.S. Dollar, Adjusted for Breaks” (series key: Q.US.P.A.M.USD.A) (data set downloaded on October 17, 2025), https://data.bis.org/topics/TOTAL_CREDIT/BIS.WS_TC.2.0/Q.US.P.A.M.USD.A.

⁶³⁹ “Financial Crisis Inquiry Commission, The Financial Crisis Inquiry Commission: Final Report of the National Commission on the Causes of the Financial and Economic Crisis in the United States,” *Featured Commission Publications*, (February 2011), <https://www.govinfo.gov/content/pkg/GPO-FCIC/pdf/GPO-FCIC.pdf>.

⁶⁴⁰ U.S. Department of the Treasury, the Board of Governors of the Federal Reserve System, the Federal Reserve Bank of New York, the U.S. Securities and Exchange Commission & the U.S. Commodity Futures Trading Commission, “Recent Disruptions and Potential Reforms in the U.S. Treasury Market: A Staff Progress Report” (November 2021), <https://home.treasury.gov/system/files/136/IAWG-Treasury-Report.pdf>.

⁶⁴¹ Gary Gorton & Andrew Metrick, “Getting Up to Speed on the Financial Crisis: A One-Weekend-Reader’s Guide,” *Journal of Economic Literature* 50(1), 128–150 (March 2012) (“Gorton and Metrick (2012)”), <https://www.doi.org/10.1257/jel.50.1.128>.

financial services.⁶⁴² These tradeoffs are discussed further when analyzing the potential competitive effects of the proposal in section VIII.F.

B. Reasonable Alternatives

This section compares the estimated consequences of the proposal on banking organization risk-weighted assets with three reasonable alternatives to implement the Basel standards in the United States and achieve the objectives of the proposal. These alternatives, along with the proposal, represent different approaches intended to promote robust levels of capital, risk sensitivity, and a simplified capital framework. Similar to the current capital rule, Alternative 1 would subject Category I and II banking organizations to two sets of risk-based capital ratio requirements: one set based on the proposed revisions to the standardized approach, the other set based on the proposed expanded risk-based approach (subsequently referred to as the dual calculation implementation). Alternative 2 would replace the current capital framework with a version of the Basel standards that does not contain any of the U.S.-specific adjustments in the proposal that account for factors such as the specific characteristics of U.S. markets, practices of U.S. banking organizations, or U.S. statutory mandates and policy objectives and, in contrast to the proposal, would assume use of models-based approaches for credit risk (subsequently referred to as the BCBS models-based implementation). Alternative 3 would also not contain the U.S.-specific adjustments outlined in the proposal and would only allow use of standardized, non-modelled approaches within the Basel standards without any U.S.-specific adjustments (subsequently referred to as the BCBS standardized implementation). Both Alternatives 2 and 3 would entail a single calculation and rely on data from the quantitative impact studies conducted by the Basel Committee on Banking Supervision.⁶⁴³ This section discusses each alternative

in turn, then presents a quantitative comparison of their effects on the risk-weighted assets of Category I banking organizations.

1. Alternative 1: Dual Calculation Implementation

Category I and II banking organizations are currently required to calculate two sets of risk-based capital ratio requirements: one set based on the standardized approach (which also applies generally to other banking organizations), the other set based on the advanced approaches. The binding requirement for purposes of complying with minimum risk-based capital requirements is the lower of each ratio calculated under the two approaches.⁶⁴⁴ Under the proposal, Category I and II banking organizations would be subject to requirements based on the expanded risk-based approach and revised market risk framework. The standardized approach would no longer apply to these banking organizations and the advanced approaches would be eliminated. Thus, such banking organizations would no longer be required to calculate two sets of risk-based capital ratios.

In contrast, Alternative 1's dual calculation implementation assumes that Category I and II banking organizations would be required to calculate ratios under both the standardized approach (inclusive of proposed amendments in the companion proposal to modify the standardized approach) and the expanded risk-based approach. In the context of comparing the proposal with the reasonable alternatives, which focuses on comparisons of risk-weighted assets, the approach under the dual calculation implementation that yields the higher amount of risk-weighted assets would be considered the binding approach.

The retention of the standardized approach requirements alongside the expanded risk-based approach for banking organizations using the latter approach could be justified by the goal of improving comparability in capital resulting from the proposals. As discussed in section I.B and II.C, the proposal introduces consistent, comparable, and robust capital requirements, without requiring two parallel sets of requirements like in Alternative 1.

2. Alternative 2: BCBS Models-Based Implementation

In the design of this proposal, the agencies made certain adjustments to the Basel standards to address factors such as specific characteristics of U.S. markets, practices of U.S. banking organizations, and U.S. policy objectives. The BCBS models-based implementation would not include these U.S.-specific adjustments and would assume the use of internal models for credit risk and market risk, similar to implementation of the Basel standards in other jurisdictions. The scope of application for mandatory use would remain Category I and II banking organizations, consistent with the proposal and the current advanced approaches framework.

Empirically, under the BCBS models-based implementation, modelled risk-weighted assets would generally be higher than the Basel standardized approach output floor.⁶⁴⁵ However, the Basel output floor, which limits the benefits banking organizations can derive from using internal models to calculate minimum capital requirements, would be binding for a few Category I or II banking organizations.

The key methodological difference in the treatment of credit risk under the BCBS models-based implementation is that it continues the use of the internal ratings-based approach for credit risk, albeit in a constrained way.⁶⁴⁶ In contrast, the proposal does not allow the use of internal models to determine risk-weighted assets for credit portfolios. This generally causes a lower requirement, under Alternative 2, for low-default non-sovereign exposures.

The proposal's market risk capital requirements include several important differences relative to the BCBS models-based framework. For example, the proposal would recognize market risk diversification between modelled and unmodelled positions. The proposal would also change the internal models approach to streamline testing requirements and modify the treatment of non-modelled risk factors. Additionally, risk weights and correlation parameters for some risk buckets in the standardized approach to

⁶⁴² Stijn Claessens & Laura E. Kodres, "The Regulatory Responses to the Global Financial Crisis: Some Uncomfortable Questions," *International Monetary Fund*, Working Paper No. 2014/046 (March 2014) ("Claessens and Kodres (2014)"), <https://www.imf.org/external/pubs/ft/wp/2014/wp1446.pdf>.

⁶⁴³ See, e.g., Basel Committee on Banking Supervision (2010, 2025). Basel Committee on Banking Supervision. "Results of the Comprehensive Quantitative Impact Study." Bank for International Settlements, December 2010. <https://www.bis.org/publ/bcbis186.pdf>.

Basel Committee on Banking Supervision. "Basel III Monitoring Report." Bank for International Settlements, October 2025. <https://www.bis.org/bcbis/publ/d599.pdf>.

⁶⁴⁴ The lower of the two ratios is the stricter of the two requirements.

⁶⁴⁵ The Basel standards include a floor to risk-weighted assets, which corresponds to 72.5 percent of risk-weighted assets calculated only using standardized approaches.

⁶⁴⁶ With credit risk, the BCBS Basel III internal rating-based approaches remove the estimation of loss given default for lower default portfolios (large corporates, sovereigns, banks). In addition, the output floor constrains the degree to which those models can reduce the contribution of risk weighted assets to risk-weighted assets.

market risk would be calibrated for U.S.-specific markets. The proposal also includes a simplified partial look-through approach for calculating fund exposures based on an appropriate index that is less conservative than the Basel standard.

The proposal's credit valuation adjustment (CVA) risk requirements are similar to those under the BCBS models-based implementation. One important difference is that client-facing exposures, in connection with client-cleared derivative transactions, are excluded from CVA risk capital requirements under the proposal. Another important difference is that the proposal introduces a separate counterparty credit spread risk weight category for certain lower-risk financial institutions.

The proposal also differs in certain key respects from the operational risk Basel standard and, therefore, from Alternative 2.⁶⁴⁷ Under the Basel standards, the business indicator is composed of three components: (1) the interest, lease, and dividend component; (2) the services component;

and (3) the financial component. The proposal retains the interest, lease, and dividend component. However, the services and financial components are replaced with a single noninterest component, in part to allow for netting of applicable income and expenses.⁶⁴⁸ In addition, the proposal would scale the income and expenses of the investment management business line in the business indicator calculation while the Basel standard does not scale any business line.

3. Alternative 3: BCBS Standardized Implementation

The BCBS standardized implementation under Alternative 3 modifies Alternative 2 in two respects. First, Alternative 3 only contemplates the use of standardized approaches for credit and market risk as outlined in the Basel standards. Thus, Alternative 3 would remove the option to use models to determine market risk capital

⁶⁴⁸ In particular, the BCBS models-based implementation (1) calculates the services component on a gross basis, (2) does not allow netting across banking book and trading book activities in the financial component, and (3) does not allow netting across activities captured in the services component and those captured in the financial component.

requirements compared to the proposal. Requiring the use of the market risk standardized approach generally results in higher, less risk-sensitive capital requirements. Second, because alternative 3 reflects only the use of standardized approaches, it does not include the 72.5 percent output floor.

4. Quantitative Estimates and Discussion

For each of the three alternatives, the agencies estimate aggregate risk-weighted assets under the alternatives and contrast them with the estimated levels under the proposal. The results for Category I banking organizations appear in Table VIII.2.⁶⁴⁹

TABLE VIII.2: Aggregate GSIB Risk-Weighted Assets under the Reasonable Alternatives (\$ billion)

⁶⁴⁹ While Category II banking organizations are also subject to the proposal, there is insufficient Basel quantitative impact study data to calculate the impact for such banking organizations under Alternative 2 and Alternative 3. Category II banking organizations are part of the impact figures in section VII. In addition, Table VIII.2 does not reflect RWA deductions. Therefore, the aggregate figures for risk-weighted assets under the proposal, in Table VIII.2, are slightly different from those reported in Tables VII.2 and VII.5 in sections VII.A and VII.C.1, respectively.

⁶⁴⁷ The proposal is consistent with the approach in the Basel standards of setting the internal loss multiplier equal to 1.

Table VIII.2: Aggregate GSIB Risk-Weighted Assets under the Reasonable Alternatives (\$ billion)

			Dual Calculation*	BCBS Models- based*	BCBS Standardized
	Current Standardized	Proposal	Alternative 1	Alternative 2	Alternative 3
Credit risk	7,144	6,095	6,120	5,044	6,971
Operational risk		920	904	1,169	1,207
CVA		207	207	226	233
Market risk	453	545	545	866	997
Total	7,597	7,768	7,776	7,305	9,408
Change from Current Standardized		2.2%	2.4%	-3.9%	23.8%

*This table shows the RWA component of the most binding component of the requirement.

Totals are the sum of most binding requirement. Estimates as of Q2 2025.

Under the dual calculation implementation, aggregate risk-weighted assets would be slightly higher than risk-weighted assets under the proposal, and about 2 percent above current levels under the standardized approach, which most commonly is the more binding of the current risk-based capital requirements. The dual calculation requirements are only slightly higher than under the proposal, as only one of the smaller banking organizations subject to the proposal would have higher risk-weighted assets under the standardized approach proposal.

The BCBS models-based implementation would modestly reduce aggregate risk-weighted assets by about 4 percent, relative to the current standardized approach. Most Category I banking organizations would have lower risk-weighted assets under Alternative 2 than under the proposal.

The BCBS standardized approach would substantially increase aggregate risk-weighted assets by 24 percent, relative to current standardized approach. All Category I bank holding companies have higher risk-weighted

assets under Alternative 3 than under the proposal or the other alternatives.

Despite variations in their estimated effects on total risk-weighted assets, the proposal and alternatives maintain similar relative contributions across risk stripes. Table VIII.2 illustrates this composition, with credit risk contributing the majority at 70–80 percent of the total, operational risk accounting for 12–16 percent, market risk representing 7–12 percent, and CVA comprising the smallest portion at 3 percent. Risk-weighted assets are directly changed by the proposal, and these alternatives do not necessarily imply equivalent changes to capital requirements. Typically, capital requirements move in the same direction as changes in risk-weighted assets. But changes in capital requirements would likely be smaller in percentage terms primarily because the capital amount required by the stress capital buffer framework would be unaffected by changes in risk-weighted assets for holding companies for which the 2.5 percent capital conservation buffer requirement floor does not bind. In addition, changes in risk-weighted

assets may not translate into proportional changes in tier 1 capital requirements if leverage requirements, rather than risk-based capital requirements, were binding for a given banking organization.

C. Macroeconomic Effects and the Analysis of the Proposal With Respect to Estimates of Optimal Capital Levels

This section situates the proposal within the context of the academic literature and policy analysis on the optimal capital levels of the banking system. The proposal would change risk weights to more closely align with the risks of covered banking organizations. These changes in risk weights imply that the amount of required capital would change for these banking organizations, potentially resulting in a change to U.S. banking system capital requirements. The economic effect of these changes can be evaluated in light of the findings of the optimal capital research.

As noted, the proposal would mandatorily apply to Category I and II banking organizations and banking organizations with significant trading

activity. These banking organizations hold about half of the assets of the U.S. banking system. In addition, the standardized approach proposal would revise capital requirements for non-Category I and II banking organizations that are subject to the risk-based framework. As such, the analysis considers the literature on the optimal level of capital for all banking organizations.⁶⁵⁰

As shown earlier in Figure II.1, the aggregate U.S. banking system has more than \$2.2 trillion of common equity tier 1 capital, equaling 13.4 percent of risk-weighted assets (as of June 30, 2025).

1. Impact of the Proposals

The agencies examined the impact of the proposals on capital requirements for the U.S. banking system. This analysis includes the proposed revisions to the calculation of risk-weighted assets and the proposed amendments to the GSIB surcharge framework under the Board's GSIB surcharge proposal. It also includes the proposed revisions to the risk-weights in the U.S. standardized approach. When applicable, it also notes the impact of the recent proposal to modify the Board's stress tests.

Based on the estimates reported in section VII.C.2, the revisions to the risk-weight framework and the GSIB surcharge would result in a decrease to common equity tier 1 capital minimum plus buffer requirements for Category I and II bank holding companies of \$42.1 billion (inclusive of changes to stress capital buffer and GSIB surcharge requirements). The estimated capital decrease is based on balance sheets and exposures as of June 30, 2025. The actual impact may be higher or lower depending on the future behavior of Category I and II banking organizations.

Capital requirements for Category III and IV bank holding companies would change due to revisions to risk-weighted assets for these banking organizations that engage in significant trading activity, as well as the accompanying proposal to revise the standardized approach. In conjunction with the proposed stress test changes, these proposals are expected to lower common equity tier 1 requirements of such bank holding companies by \$19.5 billion. Turning to bank holding companies with assets below \$100 billion, the proposals under consideration would lower their common equity tier 1 requirements by \$26.2 billion. Altogether, these proposals would lower the common

equity tier 1 requirements in the U.S. banking system by about \$87.7 billion. Excluding the effects of the stress test proposal, the three proposals under consideration would lower common equity tier 1 requirements by about \$58.3 billion.

Using the total amount of common equity tier 1 capital in the U.S. banking system of \$2.22 trillion as a denominator and assuming affected banking organizations would decrease their capital dollar-for-dollar with the decrease in capital requirements—in effect maintaining the same dollar amount of capital over requirements as they currently do—the proposals altogether would lower aggregate capital in the U.S. banking system by 4.0 percent.⁶⁵¹ When this percentage decrease is applied to the current common equity tier 1 capital ratio of the U.S. banking system of 13.4 percent, the combined proposals are estimated to decrease the common equity tier 1 capital ratio of the U.S. banking system to an amount that is equivalent to about 12.9 percent when measured relative to risk-weighted assets under the current rule.⁶⁵²

To situate the proposals' effect on the quantity of capital in the U.S. banking system in the literature on the optimal level of capital, the agencies discuss the historical evolution of this literature as well as more recent advances.

2. Development of the Literature on the Optimal Level of Capital in the Banking System

The Basel Committee's long-term economic impact assessment of capital requirements (BCBS 2010 study) represented an important milestone in the development of the literature on the optimal capital level in the banking system.⁶⁵³ This study was carried out in the aftermath of the 2007–09 financial crisis and supported the increase in capital requirements that was part of the initial phase of the Basel III reforms.⁶⁵⁴

⁶⁵¹ The corresponding decrease in capital requirements from the three proposals under consideration—the Basel III proposal, the standardized approach proposal and the G–SIB surcharge proposal—yields an estimated decrease of 2.6 percent. The lower estimates arises due to excluding the effects of the proposed changes to the stress tests.

⁶⁵² The projected common equity tier 1 capital ratio of 12.9 percent is obtained via $13.4 \text{ percent} \times (1 - 0.040)$.

⁶⁵³ See generally Basel Committee, "An Assessment of the Long-Term Economic Impact of Stronger Capital and Liquidity Requirements" (Aug. 2010), <https://www.bis.org/publ/bcbs173.pdf> ("BCBS 2010 study").

⁶⁵⁴ See, e.g., Basel Committee, "Basel III: A Global Regulatory Framework for More Resilient Banks and Banking Systems" (June 2011), <https://www.bis.org/publ/bcbs189.htm>.

It helped spur a number of related studies by academics and staff at regulatory agencies across the world.

The BCBS 2010 study developed a framework in which the benefits of higher capital stem from a reduced probability of a financial crisis.⁶⁵⁵ These benefits can be quantified by estimating the degree to which higher bank capital reduces the probability of a crisis and multiplying this reduction in probability by the expected economic output loss caused by a crisis. The cost of higher capital requirements stems from the increased cost of funding for banks, which can lead to higher interest rates on lending and thus lower economic activity, depending on market structure, competition, and other factors. The trade-off between these benefits and costs yields the optimal level of capital in the banking system. That said, significant uncertainties and limitations remain on how to measure these benefits and costs, and different approaches used in various studies yield different estimates of the optimal level of capital. Moreover, as discussed subsequently in section VIII.C.3, the literature has since developed additional frameworks.

The BCBS 2010 study applies this framework using several macroeconomic models to capture a range of possible costs and benefits, resulting in a range of possible values for the optimal level of capital in the banking system. The study concludes that the optimal capital requirement, measured as tangible common equity capital to risk-weighted assets, is in the range of 10–14 percent,⁶⁵⁶ which encompasses the projected new level of the common equity tier 1 capital ratio of the U.S. banking system, under the proposals, of about 13 percent, as described in section VII.B. The fact that the projected capital level falls within the range of optimal values suggests that the overall proposals are consistent with the analysis of the BCBS 2010 study.

Other studies provide additional perspective. For example, Fender and Lewrick (2016) argue that after accounting for differences in measurement of capital and risk-weighted assets over time,⁶⁵⁷ the BCBS 2010 study implies a lower optimal level for the common equity tier 1 capital ratio of around 8–11 percent. Miles, Yang, and Marcheggiano (2013)

⁶⁵⁵ See BCBS 2010 study.

⁶⁵⁶ See BCBS 2010 study.

⁶⁵⁷ See Ingo Fender & Ulf Lewrick, Monetary and Economic Department, BIS, *Adding it All Up: The Macroeconomic Impact of Basel III and Outstanding Reform Issues* (BIS, Working Paper No. 591, Nov. 2016) ("Fender and Lewrick (2016)"), <https://www.bis.org/publ/work591.pdf>.

⁶⁵⁰ This reflects the fact that the literature on optimal capital level focuses on the banking sector of an economy, not just the large banks.

apply a similar framework to data on global banks and find that the optimal capital level is higher, in the range of 16–20 percent.⁶⁵⁸ This result stems partly from their finding that increased capital would have a smaller adverse effect on interest rates, and thus economic activity, than the BCBS 2010 study estimates.

Conversely, Brooke et al. (2015) apply a similar framework and find that, after accounting for the benefits from improvements in the resolution framework, one would obtain a lower optimal capital level than in the BCBS 2010 study.⁶⁵⁹ This study has played a key role in informing the Bank of England's views on the optimal level of capital in the UK banking system.⁶⁶⁰ Their analysis suggests that the optimal capital level for tier 1 capital (rather than common equity tier 1 capital) ranges from 10–14 percent.⁶⁶¹ In comparison, the projected tier 1 capital in the U.S. banking system from the combined proposals would be about 14 percent, suggesting that the proposals could result in capital levels within the optimal range.

Firestone et al. (2019) apply the framework of the BCBS 2010 study to the U.S. banking system and find that the optimal capital level for tier 1 capital ranges from 13–26 percent.⁶⁶² In this case, the projected capital in the U.S. banking system would fall in the low end of the range. The wide range stems in part from uncertainty regarding the economic costs of financial crises, as the benefits of higher capital levels increase with the severity of the

financial crises that are averted by the increased capital.

Soederhuizen et al. (2023) build on this framework and study the optimal capital level in the Euro area.⁶⁶³ They use a more advanced model for the costs of increased bank capital levels and obtain an optimal level of common equity tier 1 capital relative to risk-weighted assets of 16–31 percent, higher than the level currently maintained by the U.S. banking system. Soederhuizen et al. (2023) also find that the optimal capital level differs across Euro member states. This heterogeneity, along with the range of optimal capital estimates in the papers in this section, underlines the uncertainty in the estimated optimal capital levels.

Jorda et al. (2021) challenge the underlying premise of the literature that follows from BCBS (2010) that higher capital levels reduce the probability of a financial crisis.⁶⁶⁴ Instead, they find that higher capital levels reduce the severity of a crisis by promoting a faster economic recovery but have no impact on the probability of a financial crisis. Accounting for their findings could result in different estimates of optimal capital levels than what is obtained in the studies discussed above.⁶⁶⁵

Admati and Hellwig (2024) provide another perspective on the level of optimal capital in the banking system and argue that it ought to be much higher than current capital levels.⁶⁶⁶ Their argument hinges on the ability of nonbanks to provide a substitute for bank credit, thus ameliorating the cost of higher capital requirements on bank lending. That said, such substitution of financial services away from banks towards nonbanks may pose other concerns, as discussed in section VIII.F.3.

3. General Equilibrium Models of Optimal Capital Levels

One limitation of the above studies is that the models they employ do not account for the optimizing behavior of

agents, a key theoretical underpinning of modern economics. As discussed below, recent developments in modeling of optimal capital levels have turned towards embedding optimizing behavior of agents, including households, non-financial businesses, and banks. Notably, the cost-benefit tradeoff examined in these models can differ from the tradeoff in the literature based on the BCBS 2010 study discussed above.⁶⁶⁷

Begenau (2020) reflects a new approach in this literature.⁶⁶⁸ In particular, this study argues that higher capital requirements can spur lending by reducing the incentives of banks to take on deposits, which results in a lower cost of deposits and potentially a lower overall cost of funding. In this model, households value the liquidity services provided by deposits, and higher capital requirements can lead to lower provision of those services. This study finds that the optimal capital requirement equals 12.4 percent of risky assets, close to the projected capital levels in the U.S. banking system.

Begenau and Landvoigt (2022) study optimal capital ratios in a setting with banks and unregulated nonbanks.⁶⁶⁹ In this setup, they find that higher capital requirements shift activity to the unregulated sector. However, the authors argue that such a shift can be optimal as it moves activity away from a banking sector that is supported by government guarantees. This study reports an optimal leverage ratio capital requirement of 16 percent, higher than the projected capital in the U.S. banking system.

Elenev et al. (2021) embed financial crises into an equilibrium macroeconomic model of households, non-financial businesses, and banks.⁶⁷⁰ In this model, higher capital requirements result in a smaller

⁶⁵⁸ See David Miles, Jing Yand, & Gilberto Marcheggiano, "Optimal Bank Capital," 123 *The Economic Journal* 1, 29 Table 10 (Mar. 2013) ("Miles, Yang and Marcheggiano (2013)"), <https://academic.oup.com/ej/article/123/567/1/5080596>.

⁶⁵⁹ See Martin Brooke, Oliver Bush, Robert Edwards, Jas Ellis, Bill Francis, Rashmi Harimohan, Katharine Neiss, and Caspar Siegart, *Bank of England, Measuring the Macroeconomic Costs and Benefits of Higher UK Bank Capital Requirements* (Bank of England, Financial Stability Paper No. 35, Dec. 2015) ("Brooke et al. (2015)"), <https://www.bankofengland.co.uk/-/media/boe/files/financial-stability-paper/2015/measuring-the-macroeconomic-costs-and-benefits-of.pdf>.

⁶⁶⁰ See Bank of England, "Financial Stability in Focus: The FPC's assessment of bank capital requirements", <https://www.bankofengland.co.uk/financial-stability-in-focus/2025/jsif-the-fpcs-assessment-of-bank-capital-requirements>.

⁶⁶¹ Tier 1 capital includes a broader set of instruments than common equity tier 1 capital. Thus, a banking organization will typically have a higher tier 1 capital ratio than a common equity tier 1 capital ratio.

⁶⁶² See Simon Firestone, Amy Lorenc, & Ben Ranish, "An Empirical Economic Assessment of the Costs and Benefits of Bank Capital in the United States," 101 *Federal Reserve Bank of St. Louis Review* 203, 203–30 (2019) ("Firestone et al. (2019)"), <https://doi.org/10.20955/r.101.203-30>.

⁶⁶³ See Beau Soederhuizen, Gerrit Hugo van Heuvelen, Rob Luginbuhl, & Bert van Stiphout-Kramer, Netherlands Bureau for Economic Policy Analysis (CPB), "Optimal Capital Ratios for Banks in the Euro Area," 69 *Journal of Financial Stability*, Art. No. 101164 (Dec. 2023) ("Soederhuizen et al. (2023)"), <https://doi.org/10.1016/j.jfs.2023.101164>.

⁶⁶⁴ See Oscar Jorda, Björn Richter, Moritz Schularick, and Alan Taylor, "Bank Capital Redux: Solvency, Liquidity, and Crisis," 88 *The Review of Economic Studies* 260, 260–268 (2021) ("Jorda et al. (2021)"), <https://doi.org/10.1093/restud/rdaa040>.

⁶⁶⁵ The analytical framework in Jorda et al. (2021) does not yield an estimate of the optimal level of bank capital. See Jorda et al. (2021).

⁶⁶⁶ See Anat Admati and Martin Hellwig, *The Bankers' New Clothes: What's Wrong with Banking and What to Do About It* (2024) ("Admati and Hellwig (2024)").

⁶⁶⁷ These models tend to be more complex than those based on the BCBS 2010 study, and their results are obtained via matching elements of the data to those implied by the model. As such, this literature tends to avoid framing findings in terms of a range and instead discusses robustness of the findings to modeling assumptions.

⁶⁶⁸ See Juliane Begenau, "Capital Requirements, Risk Choice, and Liquidity Provision in a Business-Cycle Model," 136 *Journal of Financial Economics* 355, 355–378 (May 2020) ("Begenau (2020)"), <https://doi.org/10.1016/j.jfineco.2019.10.004>.

⁶⁶⁹ Juliane Begenau and Tim Landvoigt, "Financial Regulation in a Quantitative Model of the Modern Banking System," 89 *The Review of Economic Studies* 1748, 1748–1784 (July 2022) ("Begenau and Landvoigt (2022)"), <https://doi.org/10.1093/restud/rdab088>.

⁶⁷⁰ Vadim Elenev, Tim Landvoigt & Stijn Van Nieuwerburgh, "A Macroeconomic Model With Financially Constrained Producers and Intermediaries," 89 *Econometrica* 1361, 1361–1418 (May 2021) ("Elenev et al. (2021)"), <https://doi.org/10.3982/ECTA16438>.

financial sector and thus a smaller economy. The calibrated model implies that welfare is maximized at a capital requirement of 6 percent of risky assets, well below current and projected requirements.

Begenau et al. (2025) examine bank capital requirements in the context of delayed accounting for loan-loss recognition.⁶⁷¹ In their model, optimal capital requirements are lower than current values. This decrease in optimal capital requirements arises in conjunction with an expedited loan loss recognition relative to current practices, which makes the banking system safer by ensuring timely accounting for non-performing loans.

Davyduik (2017) uses an equilibrium model to study how capital requirements vary over the business cycle and finds that a countercyclical capital requirement increases welfare.⁶⁷² According to the calibration in this model, the optimal level of the capital requirement fluctuates around 6 percent over the business cycle.

The agencies find that the decrease in the capital required in the U.S. banking system under the combined proposals would result in a level of banking organization capital that is reasonable, as informed by the literature based on the BCBS 2010 study, as well as the more recent studies based on the optimizing behavior of agents. Collectively, the studies surveyed indicate uncertainty about the true level of optimal capital requirements, providing a range of estimates that are roughly equivalent to between 5 and 31 percent of risk-weighted assets.⁶⁷³ Four of these 13 studies find optimal capital requirements substantially below the projected level of capital in the U.S. banking system under the proposal. Four studies find the projected capital levels approximately optimal and five of the studies would recommend higher levels of capital. Notably, more recent studies tend towards the lower end of the above range for optimal capital requirements, indicating the continuing evolution of this literature. However, there are certain limitations to applying

this literature to the proposal, as detailed in the following section.

In the event that the Board chooses to adopt the GSIB surcharge proposal or the agencies choose to adopt the proposals under consideration on separate timelines, the effect on the overall level of required capital in the banking system would be smaller than if the three proposals were adopted together. As such, viewed through the lens of the literature on optimal capital, the impact of each individual proposal would also remain within the optimal range and thus achieve a reasonable level of capital in the banking system.

4. Limitations of Applying the Academic Studies on Optimal Capital Levels To Evaluating the Proposals

The proposals would establish risk weights applicable to banking activities that align more closely with the risks of these activities, relative to the current standardized approach, and improve transparency and consistency of requirements relative to the advanced approaches framework. Part of the changes in the proposed capital requirements stem from these differences in risk weights.⁶⁷⁴ The literature on optimal capital levels, however, takes the assignment of risk weights as given and examines the optimal level of capital given equilibrium levels of safe and risky assets. As such, this literature may be less suitable for analyzing a change in capital requirements resulting from changes in risk weights, as opposed to a direct change in the required capital for a certain quantity of risky assets.

A related measurement challenge stems from the broad range of loss-absorbing instruments that banking organizations use to meet the different capital requirements. While there are a few exceptions, such as Brooke et al. (2015), many of the studies do not distinguish between these different capital instruments.⁶⁷⁵ This makes it challenging to determine which capital ratio is most applicable to mapping the results of a given study to the U.S. banking system.

As noted in section VII.C.1, the proposal would increase total risk-weighted assets applicable to trading-related activities by 31 percent while reducing total risk-weighted assets relating to lending by about 10 percent.⁶⁷⁶ The optimal capital level

literature, including the studies based on optimizing macroeconomic agents, primarily focuses on capitalizing for the risks posed by banks' loan portfolios. The literature neither considers the risk associated with trading activity nor the potential macroeconomic effect of changes in the provision of trading activity. This reduces the applicability of the optimal capital levels literature to the proposal, given the prominent role that capital markets play in the financing of economic activity in the United States.⁶⁷⁷

One additional limitation is that the optimal level of capital can differ across jurisdictions. For example, Stavrekeva (2020) finds that jurisdictions with a higher fiscal capacity may have a lower optimal capital level as the fiscal authorities may be better positioned to absorb shocks by bailing out the financial system.⁶⁷⁸ However, the agencies note that one function of the regulatory capital framework is to reduce the probability of a crisis and the need for extraordinary government support in the event of stress. Conversely, a small open economy may wish to have a higher capital level to reduce the likelihood of banking stress that subsequently triggers a sovereign debt crisis.⁶⁷⁹ Differences in the degree to which an economy uses a bank-based system of finance versus a market-based system may also affect the optimal level of capital in the banking system.

5. Differences Across U.S. Households

The literature on the optimal capital level typically considers macroeconomic benefits and costs through the lens of an economic agent that represents the household sector.⁶⁸⁰ As such, these models typically look past heterogeneity across U.S. households. However, the economic situation of different households may influence their costs and benefits from banking organization capital requirements.

impact of this increase in trading related risk-weighted activities.

⁶⁷⁷ See supra Figure VIII.4—Share of Credit to Non-Financial Private Sector Provided by Banks.

⁶⁷⁸ See Vania Stavrekeva, "Optimal Bank Regulation and Fiscal Capacity," 87 *The Review of Economic Studies* 1034, 1034–89 (Mar. 2020) ("Stavrekeva (2020)"), <https://doi.org/10.1093/restud/rdz012>.

⁶⁷⁹ Alter and Beyer (2014) provides an empirical analysis of spillovers between banks and sovereign debt. See Adrian Alter and Andreas Beyer, "The Dynamics of Spillover Effects During the European Sovereign Debt Turmoil," 42 *Journal of Banking & Finance* 134, 134–153 (May 2024) ("Alter and Beyer (2014)"), <https://doi.org/10.1016/j.jbankfin.2014.01.030>.

⁶⁸⁰ Such models are typically referred to as "representative agent" models.

⁶⁷¹ Juliane Begenau, Saki Bigio, Jeremy Majerovitz and Matias Vieyra, "A Q-Theory of Banks", forthcoming, *The Review of Economic Studies* ("Begenau et al. (2025)"), <https://doi.org/doi:10.1093/restud/rda035>.

⁶⁷² Tetiana Davyduik, *Dynamic Bank Capital Requirements* (Oct. 2017) ("Davyduik (2017)"), <https://dx.doi.org/10.2139/ssrn.3110800>.

⁶⁷³ See also Stephen Cecchetti, Jeremy Kress and Kermit Schoenholtz, "Basel Endgame: Bank Capital Requirements and the Future of International Standard Setting", 39(3) *Journal of Economic Perspectives*, 149–170. <https://doi.org/10.1257/jep.20241434>.

⁶⁷⁴ Capital requirements for large banking organizations would also change due to the companion proposal to reform the G–SIB surcharge.

⁶⁷⁵ See Brooke et al. (2015).

⁶⁷⁶ As discussed subsequently in section VIII.E, the changes to the GMS in the stress testing proposal would significantly offset the capital

Commenters on previous capital proposals have raised concerns that certain increased risk weights may increase costs and impede access to credit for members of disadvantaged communities. Economic theories link net worth to the cost of external finance.⁶⁸¹ Specifically, members of disadvantaged communities would likely have lower net worth and thus be more adversely affected by an increased cost of borrowing. For example, Fairlie et al. (2022) find that borrowers from certain disadvantaged communities face higher interest rates and exhibit more reluctance to seek bank debt.⁶⁸² The reduction in capital requirements stemming from the proposals may encourage banking organizations to introduce new banking products and expand the availability of products to more customers, facilitating financial inclusion.

Conversely, members of disadvantaged communities may be at higher risk of suffering losses during financial stress. For example, Bayer et al. (2016) find that members of such communities had higher rates of delinquency and default on their mortgage debt during the 2007–09 financial crisis.⁶⁸³ In addition, Contreras et al. (2023) show that bank failures can increase income inequality.⁶⁸⁴

Question 196: What alternative approaches, if any, should the agencies consider for assessing the macroeconomic benefits and costs of the changes in the level of required capital that would result from the proposals, and why?

⁶⁸¹ See Ben S. Bernanke and Mark Gertler, “Inside the Black Box: The Credit Channel of Monetary Policy Transmission” 9 *Journal of Economic Perspectives* 27, 27–48 (Fall 1995) (“Bernanke and Gertler (1995)”), <https://www.aeaweb.org/articles?id=10.1257/jep.9.4.27>; Ben S. Bernanke, Mark Gertler, and Simon Gilchrist, “The Financial Accelerator in a Quantitative Business Cycle Framework,” *Handbook of Macroeconomics*, Vol. 1, Ch. 21 (John B. Taylor & Michael Woodford eds., 1999) (“Bernanke et al. (1999)”), [https://doi.org/10.1016/S1574-0048\(99\)10034-X](https://doi.org/10.1016/S1574-0048(99)10034-X).

⁶⁸² See Robert Fairlie, Frank M. Fossen, Reid Johnsen, & Gentian Droboniku, “Were Small Businesses More Likely to Permanently Close in the Pandemic?”, 60 *Small Business Economics* 1613, 1613–1629 (2023) (“Fairlie et al. (2023)”), <https://doi.org/10.1007/s11187-022-00662-1>.

⁶⁸³ See Patrick Bayer, Fernando Ferreira, & Stephen L. Ross, “The Vulnerability of Minority Homeowners in the Housing Boom and Bust,” 8 *American Economic Journal: Economic Policy* 1, 1–27 (Feb. 2016) (“Bayer et al. (2016)”), <https://www.aeaweb.org/articles?id=10.1257/pol.20140074>.

⁶⁸⁴ Salvador Contreras, Amit Ghosh, & Iftekhar Hasan, “The Effect of Bank Failures on Small Business Loans and Income Inequality,” 146 *Journal of Banking & Finance*, Art. No. 106690 (Jan. 2023) (“Contreras et al. (2023)”), <https://doi.org/10.1016/j.jbankfin.2022.106690>.

6. Benefits From Improved Risks Measurement

The proposal’s changes to the measurement of credit risk, market risk, and operational risk aim to improve how regulatory capital ratios capture the underlying economic riskiness of covered banking organizations’ balance sheets and activities. Improving the measurement of key policy inputs and reducing complexity in the regulatory framework contributes to enhancing and consistency while avoiding potential deadweight losses in the banking sector associated with miscalibrated capital requirements.

While capital requirements figure prominently in banking organizations’ intermediation decisions, pinning down their optimal level to foster economic activity and to increase welfare is challenging. Deposit insurance is viewed in the literature as one of the rationales for the existence of capital requirements.⁶⁸⁵ The use of capital requirements to mitigate moral hazard induced by government guarantees and contribute to financial stability depends on appropriate calibration to avoid excessive risk-taking behavior by banking organizations.⁶⁸⁶ By improving the measurement of risks that banking organizations are subject to, the proposal contributes to avoiding potential deadweight losses resulting from the deviation of capital requirements from their socially optimal level.

Given the far-reaching effects of banking policies on the real economy,⁶⁸⁷ the proposal aims to reduce the unintended consequences of capital regulation by improving the measurement of risks to which covered banking organizations are exposed. For

⁶⁸⁵ John H. Kareken & Neil Wallace, “Deposit Insurance and Bank Regulation: A Partial-Equilibrium Exposition,” *The Journal of Business*, 51(3), 413–438 (July 1978) (“Kareken and Wallace (1978)”), <https://www.jstor.org/stable/2352275>; Skander J. Van den Heuvel, “The Welfare Cost of Bank Capital Requirements,” *The Journal of Monetary Economics*, 55(2), 298–320 (March 2008) (“Van den Heuvel (2008)”), <https://doi.org/10.1016/j.jmoneco.2007.12.001>.

⁶⁸⁶ Caterina Mendicino, Kalin Nikolov, Javier Suarez & Dominik Supera, “Optimal Dynamic Capital Requirements,” *The Journal of Money, Credit and Banking*, 50(6), 1271–297 (September 2018) (“Mendicino et al. (2018)”), <https://doi.org/10.1111/jmcb.12490>; Vadim Elenev, Tim Landvoigt & Stijn Van Nieuwerburgh, “A Macroeconomic Model With Financially Constrained Producers and Intermediaries,” *Econometrica*, 89(3), 1361–1418 (May 2021) (“Elenev et al. (2021)”), <https://doi.org/10.3982/ECTA16438>.

⁶⁸⁷ Jose M. Berrospide & Rochelle M. Edge, “Bank capital buffers and lending, firm financing and spending: What can we learn from five years of stress test results?”, *The Journal of Financial Intermediation*, 57 (January 2024) (“Berrospide and Edge (2024)”), <https://doi.org/10.1016/j.jfi.2023.101061>.

instance, migration of certain lending activity from depository institutions to nonbanks, as described in section VIII.A.6, may be mitigated by improving risk measurement inside of the banking sector.

Reducing complexity in the regulatory framework enhances transparency of capital requirements and supports market discipline. As financial innovation made the banking system more complex, financial regulation has been strengthened to preserve the safety and soundness of the banking sector.⁶⁸⁸ Increased regulatory burden and complexity stemming from this more restrictive environment may have contributed to the increase in noninterest expenses faced by covered banking organizations through higher compliance costs.⁶⁸⁹ Overly complex banking regulation could also contribute to systemic risk by incentivizing regulatory arbitrage and encouraging migration of activities toward nonbanks.⁶⁹⁰ By making the regulatory framework simpler, the proposal aims to reduce compliance burdens while preserving the financial stability benefits of banking regulation.

7. Microprudential Consequences of the Proposals

As discussed in section VII.B.1, the proposed revisions to the calculation of risk-weighted assets and the G–SIB surcharge are projected to reduce the capital requirements of Category I and II banking organizations by about 2.7%. This projected change is primarily from the GSIB surcharge proposal, while the proposed changes to the calculation of risk-weighted assets leaves capital requirements approximately unchanged. When combined with the effects of the proposed changes to stress test model

⁶⁸⁸ Richard J. Herring, “The Evolving Complexity of Capital Regulation,” *The Journal of Financial Services Research*, 53, 183–205 (April 2018) (“Herring (2018)”), <https://doi.org/10.1007/s10693-018-0295-8>.

⁶⁸⁹ Thomas L. Hogan & Scott Burns, “Has Dodd–Frank affected bank expenses?” *The Journal of Regulatory Economics*, 55, 214–236 (April 2019) (“Hogan and Burns (2019)”), <https://doi.org/10.1007/s11149-019-09379-8>; Adrien Alvero, Sakai Ando & Kairong Xiao, “Watch What They Do, Not What They Say: Estimating Regulatory Costs from Revealed Preferences,” *The Review of Financial Studies*, 36(6), 2224–2273 (June 2023) (“Alvero et al. (2023)”), <https://doi.org/10.1093/rfs/hhac089>; Jean-Edouard Colliard & Co-Pierre Georg, “Measuring regulatory complexity,” *The Journal of Financial Economics*, 174, 104186 (December 2025) (“Colliard and Georg (2025)”), <https://doi.org/10.1016/j.jfineco.2025.104186>.

⁶⁹⁰ Prasanna Gai, Malcolm Kemp, Antonio Sanchez Serrano & Isabel Schnabel, “Regulatory complexity and the quest for robust regulation,” *SUERF Policy Note*, 86 (July 2019) (“Gai et al. (2019)”), <https://www.suerf.org/publications/suerf-policy-notes-and-briefs/regulatory-complexity-and-the-quest-for-robust-regulation/>.

and scenarios, common equity tier 1 requirements for Category I and II banking organizations are projected to decline by a moderate 5.1%. Furthermore, the proposed changes to risk weights are expected to lower common equity tier 1 requirements for Category I and II depository institutions by about 5.3%.

These lower capital requirements could moderately reduce these banking organizations' ability to withstand financial stress, marginally increasing their risk of failure. Specifically, reducing capital requirements could increase the size and likelihood of losses, thereby shifting losses from shareholders to creditors and the Deposit Insurance Fund in the event that the FDIC is required to resolve the insured depository institution. Category I and II depository institutions remain subject to heightened supervisory and regulatory standards. Additionally, the parent GSIBs remain subject to resolution planning requirements, designed to facilitate rapid and orderly resolution under the U.S. Bankruptcy Code. The resolution plans of GSIBs envision a single-point-of entry strategy, under which parent GSIBs would enter resolution while material subsidiaries, including insured depository institutions, continue to operate on a going-concern basis and therefore would not enter FDIC receivership requiring the use of Deposit Insurance Fund resources. Finally, as the tier 1 leverage ratio is included in the pricing methodology for large banks, assessments paid by Category I and II depository institutions may increase if tier 1 capital declines as a result of the proposal, partially offsetting any additional losses to the Fund that might occur. While the combined proposals maintain a strong level of capital in the regulatory framework and the proposed changes are expected to support financial intermediation by covering banking organizations, these microprudential effects are a potential cost of the combined proposals.

D. Effects on Lending (Including Credit Cards, Residential Mortgages, and Business Lending)

Lending is a cornerstone of banking and an essential source of financing to households and businesses through which banking organizations fulfill their fundamental economic role of intermediating between savers and borrowers. For Category I and II banking organizations, lending encompasses a diverse range of products including consumer loans such as credit cards, auto loans, student loans, and personal loans; commercial loans to corporations,

small businesses, and financial institutions; as well as residential mortgages, exposures to GSEs, and commercial real estate loans. Lending supports economic growth by enabling capital formation, business expansion, and household wealth-building through homeownership and other forms of credit access. Given the importance of lending to the broader economy, this section analyzes the potential economic effects of the proposal on lending by Category I and II banking organizations.

The agencies provided the overall impact of the proposal on lending activity and the marginal effects of other proposals in section VII.C. In this section, the agencies examine specific lending segments—including credit cards, residential mortgages, and corporate loans to provide additional insights on the costs and benefits of the proposal for these segments.

1. Credit Cards

As explained in section IV.A.3.b, the proposal's impact on credit card exposures varies by borrower repayment history and credit line utilization. The current standardized approach applies a 100 percent risk weight to the drawn, on-balance sheet portion of all credit card exposures, while generally a zero percent credit conversion factor (CCF) would apply to the undrawn portion of the exposure. The proposal differs in three ways (see sections IV.A.2.d and IV.A.3). First, risk weights would vary by the obligor's repayment history: 45 percent for transactor exposures and 75 percent for non-transactor exposures (revolvers). Second, a 10 percent CCF would apply to the unutilized portion of all credit lines that are unconditionally cancelable commitments. Third, operational risk capital requirements would reflect interest-earning assets, net interest income, fee income, and fee expenses associated with credit cards.⁶⁹¹

The proposal's differential treatment of credit cards that are retail exposures reflects a more risk-sensitive approach compared with the current standardized approach's uniform 100 percent risk weight:

⁶⁹¹ As discussed in detail in section VII.D, operational risk capital requirements would result from interest-earning assets, net interest income, fee income, and fee expenses associated with credit cards. Based on the figures presented in Table VII.6 of section VII.D, the agencies estimate that operational risk capital requirements for credit card exposures, which are a subset of retail lending, would be equivalent to approximately 20 percentage points when expressed as an add-on to credit risk weights. This estimate reflects the ratio of operational risk RWAs to credit risk RWAs for retail exposures (\$172 billion/\$840 billion).

Non-transactor exposures: The proposal's impact depends on utilization rates. Accounts with lower utilization would generally face higher capital requirements because applying a 10 percent credit conversion factor to the large unused portion of the credit line, combined with operational risk-weighted assets, more than offsets the benefit of the reduced credit risk weight. Accounts with higher utilization may face lower capital requirements, as the reduced credit risk weight (75 percent compared with the current 100 percent) applied to the large drawn portion more than offsets the capitalization of the small unused portion, although operational-risk add-ons would partially offset this reduction.

Transactor exposures: Similarly, the proposal's impact varies significantly by utilization rates. Transactor exposures with lower utilization could still face higher capital requirements despite the reduced credit risk weight (45 percent compared with the current 100 percent), primarily because capitalizing their substantial unused commitments dominates the calculation. Accounts with higher utilization would benefit from lower capital requirements, as the substantially reduced credit risk weight more than offsets the capitalization of unused commitments and operational-risk add-ons.

The proposal would align capital requirements more closely with the underlying credit risk across borrower types and usage patterns. This risk-sensitive framework would provide incentives for banking organizations to differentiate among credit card exposures based on repayment behavior, enhancing the risk-responsiveness of regulatory capital requirements for retail exposures.

2. Residential Mortgages

The proposal includes several provisions that may impact mortgage lending activities, such as traditional originate-to-hold lending, originate-to-distribute lending, investing in mortgage-backed securities, funding nonbank mortgage lenders and servicers, and servicing of loans both held in portfolio and in mortgage-backed security pools. In this section, the agencies analyze how the proposal could affect mortgage activities.

The proposal would enhance risk sensitivity in the treatment of residential mortgage loans, whether originated by the banking organization or purchased from another lender. Under the current standardized approach, a prudently underwritten first lien residential mortgage on a property that is either owner-occupied or rented

generally receives a 50 percent risk weight; other mortgages receive a 100 percent risk weight. The proposal would assign risk weights to the former category (generally regulatory residential real estate exposures under the proposal) based on the LTV ratio of the mortgage, among other factors.⁶⁹²

To better understand which types of borrowers are more reliant on mortgages with high LTV ratios, the agencies conducted an analysis of Home Mortgage Disclosure Act (HMDA) data collected by the Federal Financial Institutions Examination Council (FFIEC) and the Consumer Financial Protection Bureau.⁶⁹³ The institutions reporting these data include the universe of depository and non-depository mortgage lenders that extend more than a minimal number of loans in any metro area. The data are at the applicant level, and the analysis focuses on originated first-lien purchase mortgages. The data include information about both the institutions that originated the loans and whether a loan was sold or securitized.⁶⁹⁴

⁶⁹² The proposal would also assign risk weights for residential mortgage exposures based on whether the residential real estate loan is dependent on cash flows from the property for repayment of the loan. For purposes of this analysis, the agencies have restricted the sample to primary residence loans (HMDA occupancy field = 1), excluding any investment properties from the sample.

⁶⁹³ Data represent the most comprehensive available source of loan-level information on U.S. mortgage market activity. Originally enacted by Congress in 1975 and implemented through Regulation C, HMDA requires many financial institutions to maintain, report, and publicly disclose detailed mortgage lending information. The dataset serves three primary purposes: (1) assessing whether lenders adequately serve their communities' housing needs, (2) providing public officials with data-driven insights for policy decisions, and (3) identifying potentially discriminatory lending patterns. To protect applicant and borrower privacy, the publicly available data are modified before release. See Consumer Financial Protection Bureau & FFIEC, "Home Mortgage Disclosure Act: HMDA Data Publication" (downloaded on October 1, 2025; most recent available loan data sets from Jan. to Oct. 2023) ("HMDA Data (2023)"), <https://ffiec.cfpb.gov/data-publication/2023>.

⁶⁹⁴ The data also include information on loan size, origination LTV ratio, borrower income and

The results of this analysis are presented below in Table VIII.4. The discussion of results to follow focuses mainly on Panel A. Panel B of Table VIII.4 reproduces the analysis using loan dollar volumes as opposed to loan counts, with broadly consistent results. The first column presents the total number of loans originated. The second column shows average LTV ratios at origination by borrower or loan type. Columns three through five present origination market shares by Category I and II banking organizations, other banking organizations (including credit unions solely for this purpose), and nonbank lenders, respectively. Column six shows the share of mortgages held in portfolio, meaning whole loans funded long-term on the balance sheet, by Category I and II banking organizations.⁶⁹⁵ The last column

race/ethnicity, and the income and racial composition of the borrower's neighborhood. While a version of the data is public, the analysis utilized a confidential version to better identify which loans were sold. See Consumer Financial Protection Bureau & FFIEC, "Home Mortgage Disclosure Act: Public HMDA—LAR Data Fields" (accessed on October 1, 2025), <https://ffiec.cfpb.gov/documentation/publications/loan-level-datasets/lar-data-fields>.

⁶⁹⁵ The agencies estimated borrower characteristics for loans purchased by Category I and II banking organizations from loan origination records. This was necessary as records of loan purchases by covered banking organizations from other lenders typically do not include borrower demographic data. This allows a breakdown of the share of whole loans held longer term on covered banking organization balance sheets in the second to last column. To estimate demographic data for purchased loans, the agencies sorted both originated and purchased loans into 96 bins based on three characteristics: loan-to-value ratio (LTV), census tract median income relative to the loan's MSA or MD median income, and the percentile of a loan's property value relative to other loans in the same MSA or MD. Specifically, loans were categorized using six LTV tranches (0 to 50 percent, greater than 50 to 60 percent, greater than 60 to 80 percent, greater than 80 to 90 percent, greater than 90 to 100 percent, and greater than 100 to 120 percent); four MSA-based income tranches (census tract income less than 0.5 times MSA/MD median income, 0.5 to less than 0.8 times, 0.8 to less than 1.2 times, and 1.2 times or greater); and four MSA-based home price tranches based on property value percentiles within each MSA or MD (0 to 25th percentile, greater than 25th to 50th percentile, greater than 50th to 75th percentile, and greater

applies the proposal's LTV-based risk weights to all originated loans extended to each borrower or loan type, as though they were all held on these banking organizations' balance sheets.⁶⁹⁶ These reflect credit risk-weighted assets only. The rows break down results by borrower income and loan type. Below, the agencies make comparisons incorporating implied operational risk-weighted assets.

The rows of the table break out the results by different borrower and loan types. Rows two and three divide mortgages into those taken by low-to-moderate income (LMI) and higher income borrowers. Rows four and five divide mortgages by loan size, specifically into jumbo (that is, those above the loan size limits set by the GSEs for their loan purchases and securitizations) and non-jumbo. Rows six and seven segment conventional loans from non-conventional, where the latter are loans available only to specific borrowers as specified by various sponsor agencies.⁶⁹⁷ These mortgages are frequently extended with ultra-low down payments and securitized into Ginnie Mae mortgage-backed securities.⁶⁹⁸

than 75th percentile). For originated loans in each bin, the agencies calculated the share that ended up funded as portfolio loans of Category I and II banking organizations. This share was then applied as the probability that purchased loans in the same bin would be funded as portfolio loans by these banking organizations. Additionally, all loans in the sample—both originated and purchased—were limited to first-lien, home-purchase loans for one-unit, owner-occupied, one- to four-family housing (excluding manufactured homes), and excluded open-end lines of credit and reverse mortgages.

⁶⁹⁶ This approach implicitly assumes that changes in risk weights affect all issuance, regardless of whether a particular loan will be held on balance sheet.

⁶⁹⁷ The sponsor agencies are predominantly the Federal Housing Administration, Department of Veterans Affairs, and the United States Department of Agriculture.

⁶⁹⁸ See Government National Mortgage Association (Ginnie Mae), "Programs and Products," https://www.ginniemae.gov/about_us/what_we_do/Pages/programs_products.aspx (accessed [1/6/2026]).

Table VIII.4: First Lien Purchase Mortgages

Panel A: Aggregated by Loan Count

			Origination Share				
	Mortgage s Originate d (000s) (1)	Avg LTV (2)	Cat I and II Banking Organizat ions (3)	Other Banking Organizat ions (4)	Non- banks (5)	Share Funded as Cat I and II Banking Organizatio n Portfolio Loans (6)	Avg Credit Risk Weigh t under propos al (7)
All borrowers	2,309	85%	4%	30%	65%	3%	41%
LMI borrowers	603	85%	3%	31%	66%	1%	42%
Non-LMI borrowers	1,706	85%	5%	30%	65%	4%	41%
Jumbo loan	100	78%	21%	48%	31%	27%	34%
Non-jumbo loan	2,209	85%	3%	30%	67%	2%	42%
Conventional loan	1,579	80%	6%	36%	58%	4%	37%
Non- conventional loan	730	96%	1%	18%	81%	0%	51%

Panel B: Aggregated by Loan Amount

	Origination Share						Avg Credit Risk Weight
	Mortgage Balance Originated (\$, bn)	Avg LTV	Cat I and II Banking Organizations	Other Banking Organizations	Non banks	Share Funded as Cat I and II Banking Organization Portfolio Loans	
	(1)	(2)	(3)	(4)	(5)	(6)	
All borrowers	867	85%	7%	31%	62%	7%	40%
LMI borrowers	130	87%	3%	27%	70%	1%	43%
Non-LMI borrowers	737	84%	8%	31%	61%	8%	40%
Jumbo loan	124	77%	25%	48%	27%	31%	33%
Non jumbo loan	743	86%	4%	28%	68%	3%	42%
Conventional loan	630	80%	9%	36%	55%	9%	36%
Non-conventional loan	238	96%	1%	17%	82%	0%	51%

Note: This table shows first lien purchase mortgages by loan count and loan amount for January

to October 2023. Source: HMDA Data Publication from Jan. to Oct. 2023 as collected by the

Consumer Financial Protection Bureau and FFIEC.⁶⁹⁹

Although Category I and II banking organizations extend a large number of mortgages, their market share is low both in absolute terms and particularly in comparison to their overall footprint in the banking sector. From Table VIII.4 Panel A, Category I and II banking organizations originate only 4 percent of mortgages and fund only 3 percent of mortgages as portfolio loans (as seen in row one of columns three and six), compared to the 30 percent for the other banking organizations (column four). As seen in row four in Panel A (or 7 percent relative to 31 percent by dollars of loan volume in Panel B), Category I and II banking organizations originate and fund a much larger share of jumbo loans. Comparing column two of rows two and three indicates that higher- and

lower-income borrowers obtain mortgages with similar LTV ratios on average.

The last column of Table VIII.4 shows the average credit risk weight that would apply to each segment of loans under the expanded risk-based approach. For example, in Panel A, the 42 percent average risk weight in row two of column seven for low-to-moderate income borrowers is calculated based on the distribution of LTV ratios for all mortgages extended to low-to-moderate income borrowers in the data, whether they were originated by Category I and II banking organizations, other banking organizations, or nonbanks.

To characterize the total impact of the proposal, the agencies also convert the operational risk-weighted assets attributable to these loans into an effective additional risk weight. More specifically, as described in section VII.D, the agencies estimate operational

risk-weighted assets based on exposures' contribution to each component of the operational risk business indicator. These estimated operational risk-weighted assets are then divided by the total balance sheet exposures in the residential mortgage market to determine the effective additional risk weight. This methodology yields an implied interest income operational risk weight add-on of around 4 percent on average across Category I and II banking organizations.⁷⁰⁰

In line with the decline in aggregate risk-weighted assets for residential mortgages under the proposal, estimated

⁶⁹⁹ See HMDA Data Publication, <https://ffiec.cfpb.gov/data-publication>. HMDA data are published with a significant delay. The data used in the analysis are the most recent data available at the time of this analysis.

⁷⁰⁰ As noted above for credit cards, the operational risk weight add-on does vary across Category I and II banking organizations and over time for the same organization depending on whether recent net interest margins are above or below the 2.25 percent ceiling. When below, the effective operational risk weight depends on the net interest margin of the particular activity, which for mortgages is relatively moderate.

effective risk weights, inclusive of operational risk, would be stable or falling for almost all types of mortgage borrowers relative to the 50 percent risk weight in the current standardized approach. For instance, for low-to-moderate income borrowers (second row), the total equivalent risk weight under the proposal would be 46 percent (42 percent from credit risk and 4 percent from operational risk). Therefore, effective risk weights would be lower than the 50 percent risk weight applicable under the current standardized approach for most types of borrowers. Jumbo loans would see the largest reduction, with average risk weights more than 10 percentage points lower than the current standardized approach. Non-conventional loans would see an increase in average risk weights. However, because these loans are for the most part not originated by Category I and II banking organizations, this change would have limited practical impact.

In addition to lowering average risk weights at origination for portfolio mortgages, the expanded risk-based approach would also include additional risk sensitivity relative to the current standardized approach as the LTV-based tables allow further decreases in risk weights over time as mortgages are paid down. That is, the proposal better accounts for amortization through reduced risk weights as mortgages migrate to lower LTV ratio buckets over time. These amortization provisions would support mortgage lending, particularly under the originate-to-hold model.

The agencies supervise banking organizations' mortgage underwriting in accordance with the Interagency Guidelines for Real Estate Lending.⁷⁰¹ These guidelines assist banking organizations in formulating and maintaining a real estate lending policy that satisfies supervisory expectations and is appropriate to the banking organization. For mortgages with an LTV ratio at or above 90 percent at origination, the guidelines recommend that banking organizations require appropriate credit enhancements, including private mortgage insurance or readily marketable collateral. Under both the current standardized approach and the proposed expanded risk-based approach, mortgages that do not meet the standards in the guidelines receive a 100 percent risk weight, while

prudently underwritten mortgages receive lower risk weights, which would vary by LTV ratio under the proposal. Therefore, the proposal would not lower risk weights for higher-risk mortgages.

Many banking organizations that would be subject to the expanded risk-based approach extend mortgages under an originate-to-distribute business model. The introduction of operational risk-weighted assets for these activities under the proposal could lead these banking organizations to reduce this activity if, for example, such requirements lead to higher funding costs and these banking organizations are unable to raise mortgage margins to compensate in what is a competitive market. In the originate-to-distribute business model, the banking organization underwrites a loan following the standards of the GSEs, Ginnie Mae sponsor agencies, or private label mortgage-backed securities issuers and sells the mortgage to a securitizer, holding it on balance sheet for a short period, often only a matter of weeks. Profits in this business line are largely attributable to the prices offered by mortgage-backed security investors, origination fees, and the valuation of the servicing rights generated by the origination and sale of the mortgage. Under the proposal, this noninterest income would generate operational risk-weighted assets. Fuster et al. (2013) develop a methodology to measure average originator profits and use it to produce a monthly series. Over the past 10 years, the measure has averaged 2.75 percent of originate-to-distribute loan volumes.⁷⁰² Although a lack of granular data on noninterest expenses prevents a precise quantification, the agencies expect residential real estate lending activities to generate about \$100 billion in aggregate operational risk-weighted assets at Category I and II banking organizations, with about \$26 billion of that attributable to noninterest income.⁷⁰³

Lax underwriting standards in the pre-financial crisis period resulted in

the GSEs requiring originating banking organizations to repurchase large quantities of non-performing mortgages.⁷⁰⁴ The risks posed to banking organizations by so-called putback requests, along with legal actions, including for potential fair lending violations, are risks of the originate-to-distribute business model. Even though these mortgages are only briefly held on balance sheet, they entail ongoing risk of operational losses throughout their term. Because risk weights on portfolio mortgages under the proposal would tend to be lower than under the current standardized approach while income from mortgage securitization activities would now generate an operational risk requirement, Category I and II banking organizations may tilt their mortgage exposures somewhat towards portfolio lending and away from originate-to-distribute lending, depending on the strength of this incentive.⁷⁰⁵

Banking organizations are significant funders of nonbank mortgage lenders via warehouse lines of credit.⁷⁰⁶ The impact of the proposal on warehouse lending depends on several factors, including the application of the securitization framework to the exposures. On the one hand, this lending could be affected by proposed changes to the risk weights for certain corporate borrowers and credit conversion factors for off-balance sheet commitments.⁷⁰⁷ To that end, the proposal's effects on warehouse lending could vary depending on the creditworthiness of the nonbank

⁷⁰⁴ See Laurie S. Goodman and Jun Zhu, "Reps and Warrants: Lessons from the GSEs Experience," 24 *Journal of Fixed Income* 29, 29–41 (June 2014) ("Goodman and Zhu (2014)"), <https://www.pm-research.com/content/iiifxinc/24/1/29>.

⁷⁰⁵ See section VII.D for a description of how operational risk-weighted assets are attributed across banking activities. Noninterest income associated with mortgage securitization activity is within items 14E through N of FR Y14Q Schedule G.

⁷⁰⁶ See Erica Xuewei Jiang, "Financing competitors: Shadow banks' funding and mortgage market competition," *The Review of Financial Studies* 36, no. 10 (2023): 3861–3905, <https://doi.org/10.1093/rfs/hhad031>.

⁷⁰⁷ The expanded risk-based approach would apply lower risk weights, relative to the current standardized approach, for investment grade corporate counterparties (65 percent vs. 100 percent). It would also apply a different treatment to commitments, where the standardized approach applies a 20 percent credit conversion factor to commitments with an original maturity of one year or less that are not unconditionally cancellable by the banking organization and a 50 percent credit conversion factor to commitments with an original maturity of more than one year that are not unconditionally cancellable by the banking organization. The expanded risk-based approach would apply a uniform 40 percent credit conversion factor to these exposures regardless of their maturity.

⁷⁰¹ See Interagency Guidelines for Real Estate Lending, 12 CFR part 34 subpart D app. A (OCC); Interagency Guidelines for Real Estate Lending Policies, 12 CFR part 208 app. C (Board); Interagency Guidelines for Real Estate Lending Policies, 12 CFR part 365 subpart A app. A (FDIC).

⁷⁰² See Andreas Fuster, Laurie Goodman, David Lucca, Laurel Madar, Linsey Molloy, & Paul Willen, "The Rising Gap Between Primary and Secondary Mortgage Rates," 19 *Federal Reserve Bank of New York Economic Policy Review* 17, 17–39 (Dec. 2013) ("Fuster et al. (2013)"), https://www.newyorkfed.org/research/epr/2013/execsum_fust.html. The Fuster et al. (2013) methodology remains valid under Basel III as it measures originator margins using observable market prices rather than regulatory models. The authors explicitly tested the framework's robustness to Basel III capital treatment changes (see Fuster et al. 2013, section 4.1, pp. 31–32).

⁷⁰³ See sections VII.C and VII.D for further discussion and detail on the attribution of risk-weighted assets by banking activity and for detail on the methodology, respectively.

borrowers and the structure of the lending arrangements. If warehouse lending counterparties qualify as investment-grade borrowers, they would receive more favorable risk weights under the proposal compared to non-investment-grade counterparties.

On the other hand, both under the current framework and the proposal, mortgage warehouse lending can be treated as a securitization exposure rather than a corporate exposure when the structure meets the relevant criteria—typically based on the level of overcollateralization and the use of special-purpose entities. Further, the proposed securitization framework would generally require less capital under the credit risk framework and so the proposal would likely continue to incentivize extension of credit by banking organization to mortgage warehouse lenders using such structures.

In a lender's decision to make a mortgage loan, the profitability from a mortgage servicing asset, which is generated when a mortgage is securitized, is part of the economic consideration. With performing loans, mortgage servicers collect borrowers' monthly payments and handle escrow for property tax and insurance payments. For non-performing loans, servicers must both work with borrowers to potentially amend payment plans and continue making tax and insurance payments and, in some cases, continue forwarding expected loan payments to mortgage-backed securities investors that, in the event of foreclosure, may not be recouped for some time.

Under the current standardized approach, Category I and II banking organizations must deduct MSAs from CET1 capital when they exceed 10 percent of CET1 capital individually or 15 percent in aggregate with other threshold items, with any non-deducted portions receiving a 250 percent risk weight. The proposal would eliminate this deduction requirement, instead applying a 250 percent risk weight to all MSAs.

The removal of capital deductions for mortgage servicing rights would incentivize Category I and II banking organizations to expand mortgage servicing activity. Eliminating the deduction requirement would significantly reduce the regulatory disincentives for maintaining such assets, which may contribute to a more active secondary market for mortgage servicing rights as banking organizations face fewer capital constraints when holding these assets.

While maintaining the 250 percent risk weight acknowledges MSAs' inherent risk due to interest rate sensitivity and complexity, the proposed treatment could alter capital allocation decisions. This would create opportunities for deployment of capital that would otherwise be restricted under the current framework; the agencies would continue monitoring MSA concentration and market value volatility during periods of economic stress.⁷⁰⁸

Taken together, the proposal would enhance risk sensitivity in residential mortgage lending by implementing more granular risk weights based on loan characteristics like LTV ratios and credit quality. The proposal is also expected to have a positive impact on the availability of mortgage credit relative to the current standardized approach. In part, the limited expected impact comes from Category I and II banking organizations originating fewer than 10 percent of residential mortgages and holding less than that as portfolio loans. The proposal would decrease funding costs for most portfolio lending operations undertaken by Category I and II banking organizations, by increasing risk sensitivity of capital requirements for mortgages compared to the current standardized approach. Category I and II banking organizations may consider these shifts in incentives among other factors when deciding their future participation in these activities.

3. Corporate Loans

The current standardized approach requires banking organizations to assign a 100 percent risk weight to all corporate loan exposures. Off-balance-sheet exposures, substantially consisting of unutilized portions of credit lines, are subject to requirements through credit conversion factors.

The application of credit conversion factors under the current standardized approach varies based on the nature and duration of the commitment. For commitments that are not unconditionally cancelable, the credit conversion factor depends on the original maturity: those with an original maturity of one year or less are assigned a 20 percent credit conversion factor, while those exceeding one year receive a 50 percent credit conversion factor. Commitments that are unconditionally cancellable receive a zero percent credit conversion factor.

The proposed expanded risk-based approach would enhance risk sensitivity

by allowing banking organizations to assign lower risk weights (65 percent versus current 100 percent) to loans to investment-grade corporate borrowers based on internal ratings. Further, the proposal would apply a 10 percent credit conversion factor to unconditionally cancellable commitments, and apply a flat 40 percent credit conversion factor to commitments that are not unconditionally cancellable regardless of maturity. As mentioned above, the proposal would also introduce operational risk-weighted assets attributed to the interest and fee income associated with loans and credit lines.

Applying differentiated risk weights to investment-grade and non-investment-grade exposures increases the risk sensitivity of the framework by distinguishing between varying exposure risks. Banking organizations can leverage their existing risk management frameworks through internal ratings systems for determining investment-grade status. This more granular risk assessment approach could better align capital with actual risk exposures.

Since differentiation would be based on individual organizations' internal credit risk models, there could be variability in requirements for similar risks. The proposal addresses this by setting expectations for investment-grade determinations when applying the 65 percent risk weight. Robust supervisory oversight would help ensure appropriate application of investment-grade criteria and prevent banking organizations from using this framework to grant lower risk weights to riskier loans.

The internal ratings systems used for determining investment-grade status undergo ongoing refinement and validation, helping ensure appropriate capital levels through different economic conditions. The agencies estimate a meaningful reduction in capital requirements for affected institutions, based on applying a 35 percentage point reduced risk weight to applicable investment-grade exposures.

As described in section VII.D.1.c, based on data from the special data collection, an estimated 53 percent of balance-sheet corporate exposure and 60 percent of off-balance-sheet corporate exposure is classified as investment-grade and would be risk-weighted at 65 percent under the proposal for Category I and II banking organizations. This expanded scope would likely result in a more efficient allocation of capital, with the potential for banks to pass some capital relief to borrowers in the form of reduced borrowing costs or

⁷⁰⁸ See the 2016 agencies report available at: <https://www.federalreserve.gov/publications/other-reports/files/effect-capital-rules-mortgage-servicing-assets-201606.pdf>.

increased credit availability for investment-grade corporations. The more targeted approach to risk weighting may encourage lending to financially sound corporations, supporting productive economic activity while still maintaining appropriate capital buffers against potential losses.

The proposed changes to credit conversion factors present a mixed impact on capital requirements for individual loans. The implementation of a flat 40 percent credit conversion factor for commitments that are not unconditionally cancellable would decrease capital requirements for longer-term commitments (previously at 50 percent) while increasing requirements for shorter-term commitments (previously at 20 percent). This change would likely encourage banks to provide more long-term credit compared with the current framework, potentially benefiting businesses seeking stable, longer-term financing arrangements. The standardization could also simplify regulatory compliance while providing incentives for longer-duration lending that may better match the funding needs of many corporate borrowers. The introduction of a 10 percent credit conversion factor for unconditionally cancellable commitments would increase capital requirements for these exposures, which currently receive a 0 percent factor. While this change better recognizes the inherent risk in such commitments, it could also lead to adjusted pricing or terms for certain credit products, particularly revolving credit facilities.

In sum, the proposed expanded risk-based approach represents an enhancement to the current standardized approach by improving risk sensitivity through differentiated treatment of corporate exposures based on creditworthiness. It also streamlines the approach to off-balance-sheet exposures and incorporates operational risk requirements. The agencies' analysis suggests that Category I and II banking organizations would experience a decrease in their overall capital requirements for these exposures, potentially leading to increased lending activity. The proposal also creates incentives for longer-term lending by equalizing credit conversion factors across maturity bands. These changes, implemented within the existing supervisory framework, aim to create a more risk-sensitive capital regime that supports economic activity.

E. Effects on Trading

This part of the economic analysis studies the potential effects of the

proposal on the trading businesses of banking organizations and the resulting potential effects on end users and markets. On a standalone basis, this proposal would raise the capital required for trading. Taken together with the proposals to change to the GSIB surcharge and supervisory stress test models, the combined impact is estimated to be a 9.2 percent increase in common equity tier 1 capital for Category I and II banking organizations (see table VII.7) and a small impact on non-Category I and II banking organizations (see discussion in section VII.A.1).

Trading activity exposes banking organizations to market risk, counterparty credit risk, CVA risk, and operational risk. This proposal makes changes to how each of these risks are capitalized. There are major revisions to the market risk framework which would affect incentives for banking organizations' hedging strategies and risk modelling methods. Proposed changes to the credit risk framework would somewhat reduce counterparty credit risk-weighted assets. CVA and operational risk-weighted assets would be required for many banking organizations, whereas these are currently not part of the standardized approach that generally determines capital requirements today.

The proposal would have different impacts on banking organizations depending on their size. Category I and II banking organizations are key participants in the capital markets and conduct the majority of trading among banking organizations. These banking organizations have diversified trading businesses, which can provide substantial diversification benefits even in stress periods. The proposed market risk framework intentionally limits the recognition of diversification across risk classes and adds a layer of conservatism for non-modellable risk factors. Due primarily to these two features, this proposal would increase market risk-weighted assets for Category I and II banking organizations by 20 percent (see table VII.2 in section VII.A). However, the cumulative effect inclusive of the GSIB surcharge proposal and stress test changes is projected to be a 5.8 percent decrease in the common equity tier 1 capital requirements associated with market risk (see table VII.4 in section VII.B.2). The reduction is largely due to changes to the global market shock that would reduce the liquidity horizons used to calibrate risk-factor shocks and offset the increase in market risk-weighted assets. This change to the global market shock would be expected

to increase banking organizations' incentives to participate in trading.

This proposal also makes significant changes to the frameworks for CVA and operational risk-weighted assets. These are currently explicitly included in the advanced approaches calculation, but not in the standardized approaches calculation which is most often the binding constraint. Under the proposal, all Category I and II banking organizations would be required to include them. The CVA and operational risk-weighted assets associated with trading activity can be seen in table VII.6. The impact due to their inclusion is significantly larger than the proposed changes in market risk-weighted assets. Overall risk-weighted assets for trading-related activities of Category I and II banking organizations would rise 30.9 percent (see table VII.5). Despite this significant increase in risk-weighted assets, when considering the other proposals, in particular the proposed changes to the global market shock, the combined impact on capital requirements would be a moderate 9.2 percent.

In contrast, this proposal will have a smaller impact on non-Category I and II banking organizations. Some of these have significant trading activity and must calculate market risk-weighted assets. The proposed changes to the market risk framework would result in a 39 percent decrease in market risk-weighted assets for non-Category I and II banking organizations.⁷⁰⁹ This decrease is likely attributable to increased recognition of credit and equity hedges in the proposal relative to the current standardized specific risk charge, which is highly conservative and typically used by relatively smaller banking organizations. However, a few non-Category I and II banking organizations also have substantial exposure to over-the-counter derivatives, and under the proposal they would begin to include CVA risk-weighted assets. Not every banking organization would be subject to both requirements, but in the aggregate they offset each other. Finally, some non-Category I and II banking organizations might elect to use the expanded risk-based approach, in which case they would be required to also calculate operational risk-weighted assets for trading activity.

Under the proposal, total risk-weighted assets related to trading activity by non-Category I and II

⁷⁰⁹ These impacts of changes to market and CVA risk-weighted assets for non-Category I and II banking organizations are not stated separately in section VII.A.1, but are calculated using the same underlying bank-specific impacts and methodology.

banking organizations would increase by 0.9 percent (see discussion in section VII.A.1). The proposed change to the GSIB surcharge does not affect these banking organizations. The impact of the proposed revisions to the supervisory stress is expected to be small since most non-Category I and II banking organizations are not subject to the global market shock.

The post-implementation change in trading-related capital requirements could be lower than these estimates as banking organizations could optimize requirements under the proposal, including by changing their trading activities and modeling approaches.

The agencies expect the proposal would increase the resilience of banking organizations by better aligning capital requirements with risk in several ways. Replacing the Value at Risk (VaR)-based measure of market risk with an expected shortfall-based measure better reflects the tail risk of extreme events, especially for portfolios with non-normal return distributions. Replacing the current uniform 10-day liquidity horizon with varying horizons would better account for market illiquidity during stress periods and the risk that difficult-to-trade positions may lose more value as they remain on balance sheets longer. The more conservative recognition of diversification within the proposed framework would aim to capture the risk that historical correlations between risk factors may not hold in stress periods. The inclusion of equities within the default risk capital requirement would account for the possibility of the value of an equity falling to zero.

Finally, the proposed framework would better address model risk relative to the current framework. The proposal would hold the internal models used by banking organizations to a higher standard by introducing new tests of model performance while explicitly recognizing that some risk factors are not modellable. In addition, the proposal's introduction of a standardized approach would offer a conservative alternative for banking organizations that choose not to use internal models and serves as a fallback method when internal models perform poorly.

The agencies expect that capital requirements under the proposed framework would be substantially less procyclical, which would help to preserve the availability of intermediation during periods of financial stress. The current market risk framework is more procyclical because current period VaR is a substantial component of capital requirements and

it generally rises during market stress, increasing market risk capital requirements and the cost of intermediation. The proposed market risk framework is calibrated based on historic stressed market conditions and, therefore, will tend to increase less under new stressed conditions, resulting in a less procyclical capital requirements.⁷¹⁰

The following sections focus on how capital requirements are likely to change on average across different trading activities, and how changes in capital requirements for trading activities would generally affect banking organizations, end users, and markets.

1. Changes in Capital Requirements Across Different Trading Activities

Because banking organizations engage in a broad range of trading activities, this section takes a high-level view of how general categories of trading activities would be affected under the proposal. The agencies expect substantial heterogeneity in the capital impacts across both banking organizations and trading activities. Different products and portfolios receive different treatments, which could lead to capital requirements rising for some banking organizations and falling for others depending on their trading portfolios. Capital impacts would also depend on banking organizations' use of models, both under the current framework and the proposal.

Broadly, the agencies expect that capital requirements would be relatively higher for products that are exposed to risk factors that are less liquid, lack transaction data, or have complex payoff structures. Highly liquid and simple products would likely receive relatively lower capital requirements. Portfolios that are diversified across risk classes would receive less recognition of diversification compared to the current framework, which does not limit recognition of diversification between risk classes. Cross-asset-class hedges would also receive less recognition, likely leading to increases in risk-weighted assets for trading strategies that make substantial use of them.

⁷¹⁰ While the structure of the proposed framework avoids direct procyclicality, some components might indirectly contribute a degree of procyclicality for banking organizations using the models-based method. Stressed market conditions could cause these banking organizations to fail backtests or the profit and loss attribution test, which could potentially increase the banking organization's backtesting multiplier or force some modeled desks to revert to the standardized approach (or add a surcharge). Such market conditions might also increase the number of non-modellable risk factors.

a. Illiquid Risk Factors

Products with illiquid risk factors would be particularly affected by the proposal's introduction of variable liquidity horizons. Under the current framework, banking organizations estimate their risk over a 10-day horizon, based on the assumption that they can trade or hedge the exposure within that time period (liquidity horizon). The proposal would introduce liquidity horizons that vary across risk factors and assign longer liquidity horizons to less liquid risk factors to better reflect the time needed to sell or hedge the exposure to such risk factors. These liquidity horizons are explicitly in the models-based measure and are implicitly used to calibrate risk weights in the standardized approach. Highly liquid risk factors, such as linear U.S. dollar interest rate risk exposure, would maintain a 10-day liquidity horizon, while less liquid risk factors, such as those reflecting volatility exposures, would have higher liquidity horizons that could reach a maximum of 120 days.

The most liquid risk factors, with 10-day liquidity horizons, are generally interest rates for major currencies, foreign exchange rates for major currency pairs, and large cap equities. Products whose valuations are primarily affected by these risk factors would likely see limited impact from the proposed liquidity horizon revisions.⁷¹¹ The least liquid risk factors are implied volatilities, credit spreads, and many commodity prices. Thus, products whose valuations depend heavily on these risk factors, for example volatility swaps, would likely see larger capital requirement increases.

b. Market Data Availability

Risk factors lacking sufficient reliable data on transaction prices would likely see an increase in capital requirements for banking organizations using the models-based approach due to the non-modellable risk factor framework.

Within the models-based approach, a risk factor is modellable if it passes a qualitative test of data quality and a quantitative test of whether there is sufficient data from traded prices. If a risk factor passes the qualitative test, but fails the quantitative test, it is a Type A non-modellable risk factor. Otherwise, the risk factor is a Type B non-modellable risk factor.

Non-modellable risk factors are capitalized by first computing standalone losses and then aggregating them based on a formula that imposes

⁷¹¹ Examples include vanilla interest rate and foreign exchange swaps as well as cash equities.

assumptions about the correlations of those risk factors. Type A non-modellable risk factors are included in the internal model capital charge, but are assumed to have zero correlation in the stressed expected shortfall to capture their inherently higher risks associated with model risk and illiquidity. Type B non-modellable risk factors are only included in the stressed expected shortfall, but are assumed to have a higher correlation of 0.36 with other Type B non-modellable risk factors. In most cases, non-modellable risk factors are expected to contribute to higher capital requirements.

The non-modellable risk factor framework would have the largest impact on asset markets for which there is limited trade data, whether due to market illiquidity or limited access to transaction details. The agencies expect that highly liquid products with easily-available data, such as large cap stocks, would not be materially affected. Less liquid products, such as certain fixed income products, would likely see a bigger impact. Products whose values are sensitive to illiquid parts of curves or surfaces, such as implied volatilities that are far away from current implied volatility, would also likely be more affected.

c. Specific Risk

The agencies expect that products with substantial exposures to specific risk would have reduced capital requirements, but only for banking organizations that currently use the standardized approach for calculating specific risk capital charges. Such organizations tend to be smaller. Specific risk accounts for risks that are not covered by systematic market factors, such as idiosyncratic equity or credit spread risk. The standardized approach for capturing specific risk in the current framework makes highly conservative assumptions that are not included in the proposed framework. In particular, the current standardized approach only recognizes the netting of idiosyncratic risk from the same issuer if the offsetting positions are in identical instruments. The proposal would recognize offsetting of risks to the same issuer across different issuances based on a correlation parameter that takes into account the issuer name, tenor differences, and curve basis risk. This change in the treatment of specific risk is likely one of the major reasons why non-Category I and II banking organizations that remain subject to market risk are projected to see market

risk-weighted assets decrease by 35 percent.⁷¹²

d. Operational Risk

Trading strategies with higher profits would likely see an increase in their capital requirements due to operational risk capital requirements. The noninterest component of operational risk capital requirements would depend on a formula that includes the absolute value of a measure that combines trading profits with profits from other sources. Typically, higher trading profits would increase operational risk capital requirements.

e. Risk Class Diversification

The reduced recognition of diversification across risk classes under the proposal would likely raise capital requirements for portfolios containing exposures to risk factors from multiple risk classes. Currently, the market risk framework does not restrict recognition of diversification across risk classes, which means that the current market risk capital requirement reflects that banking organization's estimated diversification benefit based on the empirical correlation it uses for different risk classes. The proposal would entirely eliminate recognition of diversification across risk classes in the standardized non-default capital requirement and reduce the diversification benefit in the models-based non-default capital requirement.⁷¹³ Reducing the recognition of diversification across risk classes would likely raise risk-weighted assets, which has been noted by Viegas de Carvalho, et al. (2024) for a representative portfolio under the models-based non-default capital requirement.⁷¹⁴ While the models-based

⁷¹² However, the proposed inclusion of CVA risk-weighted assets for banking organizations with over \$1 trillion in OTC derivatives will offset the reduction in market risk-weighted assets for many of the non-Category I and II banking organizations. As noted above, the impacts of changes to market and CVA risk-weighted assets for non-Category I and II banking organizations are not stated separately in section VII.A.1, but are calculated using the same underlying bank-specific impacts and methodology based on the special collection.

⁷¹³ Specifically, in the standardized non-default capital requirement, the sensitivities-based method capital requirements are simply added across risk classes, which implicitly assumes that losses across risk classes are perfectly correlated. In the models-based non-default capital requirement, the internally modelled capital calculation places a weight of 50 percent on a measure that assumes losses are perfectly correlated and 50 percent on a measure that is based on their empirical relationships.

⁷¹⁴ See Viegas de Carvalho, Paulo, et al. "The Impact of the Fundamental Review of the Trading Book: Evaluation on a Stylized Portfolio." *Journal of Risk*, 23 Jan. 2024, <https://doi.org/10.21314/jor.2023.014>.

non-default capital requirement would recognize greater diversification across risk classes than the standardized non-default capital requirement, both approaches would reduce recognition of diversification compared to the current market risk framework. This more conservative treatment of cross-risk-class diversification addresses the possibility that correlations between risk classes change between stress periods; one prominent example is how the correlation between nominal bonds and equities has changed signs over time.⁷¹⁵

f. Other Effects

There are many other changes within the proposal that would affect the market risk capital requirements for particular products. The residual risk add-on within the standardized non-default capital requirement would increase capital requirements associated with exotic positions and those with residual risk not captured by the sensitivities-based method.⁷¹⁶ The inclusion of equities in the default risk capital requirement might raise requirements associated with equities to capture risks associated with companies rapidly failing, although other changes, such as revisions to the treatment of specific risk, may counteract that increase. Within the models-based non-default capital requirement, the switch from VaR, which measures loss at a specific percentile, to expected shortfall, which measures expected loss beyond a specific percentile, would likely raise capital requirements for products with greater tail risk.

Changes to the standardized approach to counterparty credit risk would recognize diversification between derivative transactions and non-cleared repo-style transactions within a netting set when calculating exposure at default. These changes would reduce capital requirements associated with combining both types of transactions within a single netting set, such as engaging in Treasury repo and Treasury futures transactions with the same counterparty. There is limited empirical evidence on the magnitude of the change in capital requirements to expect with respect to these changes.

2. Impact on Banking Organizations

This section considers how changes in capital requirements for trading

⁷¹⁵ For empirical evidence on bond-stock comovements, see Campbell, John, et al. *Bond-Stock Comovements*. Working paper. 1 Oct. 2025. Accessible at www.nber.org/papers/w34323.

⁷¹⁶ Examples of exotic positions include those referencing longevity risk, weather, or natural disasters.

activities could affect the behavior of covered banking organizations. Because the proposal would better capture certain risks, the agencies expect that covered banking organizations would become more resilient. Banking organizations would also likely reduce the quantity of intermediation and raise fees for trading activities with increased capital requirements, and similarly increase the quantity and reduce the cost for trading activities with reduced capital requirements, although the magnitudes are uncertain. The agencies also expect that banking organizations would likely adjust their trading strategies to reduce capital requirement impacts, such as by hedging more risks or holding fewer positions. The agencies also expect that the reduced procyclicality of the proposed market risk capital requirements would lead to more stable provision of financial intermediation during market stress periods as compared to the current framework.

a. Supply of Intermediation Services

Increased capital requirements may lead banking organizations to reduce the scale of their trading activities or increase their fees, commissions, or bid-ask spreads—the costs they charge to their customers for intermediation services—although the magnitudes of any potential impact are difficult to estimate. Changes in the volume of trading and to its cost are intimately connected, as suggested by a standard supply-demand framework.

The intersection of supply and demand establishes the equilibrium price and quantity of intermediation for a particular type of trading. An increase in capital requirements would shift the supply curve upward, which would increase the cost of intermediation and reduce the quantity. A decrease in capital requirements would similarly reduce the cost of intermediation and increase the quantity. The magnitudes of quantity versus price changes would depend on the elasticities of supply and demand (that is, how responsive the quantity of intermediation is to changes in its price). There is limited empirical evidence on the magnitude of the impact of capital requirements on trading activity and it is difficult to obtain such an estimate.

Another consideration is that banking organizations are not the only companies engaging in these trading activities. To the extent that higher costs only apply to banking organizations, intermediation activity may flow outside the banking system. This effect on markets will be considered in section VIII.E.3.

b. Trading and Hedging Strategies

Another possible effect of the proposal is that banking organizations may switch to trading or modeling strategies that result in lower capital requirements. Some possible approaches include (1) changing hedging strategies, (2) changing the number of positions held directly, (3) improving their models or gathering additional data, and (4) increasing central clearing.

First, banking organizations may adjust hedging strategies in response to the proposed requirements. These adjustments could take many forms. For example, if a banking organization were leaving an exposure unhedged in the current framework and its standalone capital requirements would rise under the proposed framework, then the banking organization might use hedges to reduce the capital impact. To the extent that the proposed framework is more risk sensitive, banking organizations would have greater incentives to hedge economically meaningful risk exposures. Evidence from Lu and Wallen (2024) indicates that large dealer banking organizations are already hedging most market risk, suggesting that the scope for additional hedging may be limited.⁷¹⁷

Second, banking organizations may change how many positions they hold directly. For example, one approach to market making is to buy and sell products as needed by customers and to hold a product inventory plus any trade imbalances. Another approach is to directly match buyers and sellers together, which does not require the banking organization to hold any position. If capital requirements associated with holding inventory were to rise, a banking organization might start directly matching buyers and sellers more frequently or decide to limit the size of its inventory. Conversely, if capital requirements were to fall, a banking organization might increase the size of its inventory. Bessembinder et al. (2018) document how bank-affiliated dealers were less likely to hold customer order imbalances on their own balance sheets following the 2008 financial crisis relative to other dealers.⁷¹⁸ The evidence is consistent with post-crisis capital regulations affecting trading

inventories, although it is difficult to disentangle other effects.

Third, banking organizations using the models-based approach might respond to the proposed capital framework by gathering additional data to reduce the impacts of non-modellable risk factors. Gathering additional data could help a non-modellable risk factor to become modellable, which would generally reduce capital requirements. However, there are indications that there is reluctance among banking organizations to share data and that purchasing the data from vendors can be expensive, although greater adoption of internal models by banking organizations could mitigate these problems.⁷¹⁹

Fourth, banking organizations may centrally clear more of their derivatives. Such exposures are exempt from the CVA framework due to their substantially reduced risk profiles. Evidence from Canada, which has already implemented its version of the new market risk standards, indicates an increase in derivatives clearing.⁷²⁰ Increased clearing would have the benefit of reducing counterparty-related risks.

c. Stability

Banking organizations would likely provide more stable intermediation during market stress due to the reduced procyclicality of the proposed market risk framework. The inclusion of current period VaR within the current framework means that capital requirements are more likely to increase sharply during market stress, which can lead banking organizations to reduce their intermediation activity.⁷²¹ The proposed framework would instead rely on estimates of losses during past stressed conditions, which would reduce the likelihood of spikes in capital requirements. The agencies expect this change to lead to more stable

⁷¹⁹ See Wilkes, S. (2023, November 20). "FRTB managers face hard facts about risk factors". Available at Risk.net. <https://www.risk.net/regulation/7958192/frtb-managers-face-hard-facts-about-risk-factors>.

⁷²⁰ See Migliorato, L. (2024, March 13). "Canada's top dealers boost derivatives clearing as FRTB kicks in". Available at Risk.net. <https://www.risk.net/risk-quantum/7959098/canadas-top-dealers-boost-derivatives-clearing-as-frtb-kicks-in>.

⁷²¹ During the COVID-19 crash, banking organizations experienced simultaneous backtesting exceptions that, without intervention, would have increased their backtesting multipliers and raised market risk capital requirements by \$3.3 billion. See Abboud, Alice, Chris Anderson, Aaron Game, Diana Iercosan, Hulusi Inanoglu, and David Lynch (2021). "Banks' Backtesting Exceptions during the COVID-19 Crash: Causes and Consequences," FEDS Notes. Washington: Board of Governors of the Federal Reserve System, July 08, 2021, <https://doi.org/10.17016/2380-7172.2939>.

⁷¹⁷ See Wallen, Jonathan, and Lina Lu. "What Do Bank Trading Desks Do?" Working paper. November 6, 2024. Available at <https://doi.org/10.2139/ssrn.4898830>.

⁷¹⁸ See Bessembinder, Hendrik, et al. "Capital commitment and illiquidity in corporate bonds." *The Journal of Finance* 73.4 (2018): 1615–1661.

provision of intermediation during market stress.

d. Impacts on End Users

The proposal would likely change the cost of financial intermediation for end users, with effects that differ by the type of trading activity. Trading activities with increased capital requirements may become less profitable for banking organizations unless they can increase revenue by charging higher fees and commissions on transactions or by widening bid-ask spreads. Banking organizations often focus on return on equity as an essential measure of profitability.⁷²² Return on equity for trading is likely to decrease if risk-weighted assets increase, and the proposal is expected to increase overall risk-weighted assets for trading activities for Category I and II banking organizations, unless they adjust their portfolios, which would require changes in either trading or hedging strategies.

Some banking organizations may exit some markets or reduce the variety of their offerings if they cannot maintain an acceptable return on equity. It is widely accepted that banking organizations attempt to shift resources from activities with low capital efficiency towards activities with higher capital efficiency. However, Ding and Sickles (2018) document that return on equity for banking organizations has fluctuated significantly over time.⁷²³ Moreover, a survey conducted by Federal Reserve supervision staff of Category I banking organizations showed significant dispersion in the capital efficiency of different trading activities. This was true when comparing similar business lines at different banking organizations and when comparing different business lines within the same banking organization. The observation that less capital efficient business lines continue to operate suggests that banking organizations may not entirely abandon low capital efficiency trading activity.

The trading businesses of banking organizations serve a wide variety of clients, including commercial end users, institutional investors such as pension funds and insurance companies, governments, other banking

organizations, and nonbank financial organizations such as hedge funds. Banking organizations also serve households indirectly through securitization of loans and by supporting mutual funds and retail brokerages. Each type of trading customer has different intermediation needs. For example, commercial end users may be interested in accessing capital markets, and in hedging the foreign exchange or commodity price risk arising from their business and hedging interest rate risk on their debt. Any change in the cost or availability of these services may have a significant effect on the real economy.

The benefit to society from enabling hedging by commercial end users is difficult to ascertain, so the proposal's impacts from changing hedging behavior are difficult to estimate. Classic finance theory dating back to Modigliani and Miller holds that risk management does not increase firm value because it is irrelevant to a firm's shareholders who can themselves hedge by holding a diversified portfolio.⁷²⁴ Regardless, commercial firms themselves have a strong demand for hedging instruments. A number of theories have been proposed to explain this behavior. For example, Froot, Scharfstein and Stein (1993) suggest firms that manage risk reduce the chance of not being able to take advantage of growth opportunities.⁷²⁵ There is some empirical evidence that risk management increases firm value. Allayannis and Weston (2015) find that, among nonfinancial firms that are exposed to exchange rate risk from their foreign operations, the use of derivatives to hedge foreign currency risk increases firm value by 4 percent.⁷²⁶

The impact of the proposal on end users would differ depending on the type of customer relationships end users have with banking organizations of different sizes. The largest banking organizations offer a broad variety of intermediation services, including some that require sophisticated risk management. Category I and II banking organizations generally have well-hedged and diversified portfolios, but also have the capacity to warehouse the

risks that arise from their intermediation and are difficult to hedge. Mixon and Onur (2020) document how commodities swaps dealers, many of which are banking organizations,⁷²⁷ offer their customers bespoke contracts which they then hedge with standard, liquid instruments, leaving the dealer holding residual basis risk.⁷²⁸ Category I and II banking organizations tend to optimize their trading and hedging strategies and their risk management, including the models used to calculate required capital, to maximize return on capital while not exceeding their appetite for risk. Category I and II banking organizations serve the entire gamut of investment banking clients and are also market makers, generally in multiple markets.

In contrast, smaller banking organizations (those not in Categories I and II) are more likely to focus on a few lines of trading business. Customers may be commercial end users with whom the banking organization already has a lending relationship and provides other commercial banking services. For such banking organizations, trading strategy focuses on client facilitation. As a result, non-category I or II banking organizations are less likely to rely on sophisticated risk management and more likely to offer services for which the risks are straightforward to hedge. This also suggests that these banking organizations have generally invested less in risk models, and may intentionally compensate for this by erring on the side of conservatism when calculating required capital.

The introduction of a standardized approach for market risk capital requirements is likely to expand the intermediation services offered by non-Category I or II banking organizations for two reasons. First, the proposed standardized approach for market risk would reduce the regulatory compliance and operational costs of offering new products. The current rule requires banking organizations to receive regulatory approval for the models used in market risk capital calculations prior to trading a new product. This approval process takes time and involves overhead in ensuring that the risk models comply with the rule. Banking organizations that use the proposal's standardized approach would avoid this delay and overhead of regulatory pre-approval and may reduce other costs

⁷²² Pennacchi and Santos (2018) document banks' emphasis on return on equity and explore banks' motivation in preferring this metric.

⁷²³ See Ding, Dong, and Robin C. Sickles. "Frontier Efficiency, Capital Structure, and Portfolio Risk: An Empirical Analysis of U.S. Banks." *BRQ Business Research Quarterly*, vol. 21, no. 4, Oct. 2018, pp. 262–277. Ding and Sickles (2018) also find that banking organizations with lower operating costs also hold higher capital buffers above their minimums and take on more risk.

⁷²⁴ See Modigliani, Franco, and Merton H. Miller. "The Cost of Capital, Corporation Finance and the Theory of Investment." *The American Economic Review*, vol. 48, no. 3, June 1958, pp. 261–297.

⁷²⁵ See Froot, Kenneth A., David S. Scharfstein, and Jeremy C. Stein. "Risk management: Coordinating corporate investment and financing policies." *The Journal of Finance* 48.5 (1993): 1629–1658.

⁷²⁶ See Allayannis, George, and James P. Weston. "The use of foreign currency derivatives and firm market value." *The Review of Financial Studies* 14.1 (2001): 243–276.

⁷²⁷ See list of registered swaps dealers at <https://www.cftc.gov/LawRegulation/DoddFrankAct/registerswapdealer.html>.

⁷²⁸ See Mixon, Scott, and Esen Onur. "Risk appetite and intermediation by swap dealers." Available at SSRN 3566003 (2020).

associated with modelling risk.⁷²⁹ This may eliminate a current disincentive for accommodating customer requests for particular trading products that a banking organization does not already trade.

Second, the new standardized approach is likely to result in lower capital requirements for some types of trading activity of smaller banking organizations. The current rule requires internal models for general market risk but applies a standardized add-on unless a banking organization receives supervisory approval for their risk model's treatment of specific risk.⁷³⁰ Modelling specific risk is complex, and supervisors have set a high bar for model approval. As a result, while Category I and II banking organizations often have approved specific risk models, many other banking organizations with significant trading activity do not. The current standardized specific risk add-on is conservative. Moreover, it does not recognize any hedging benefit from offsetting credit exposures to the same obligor unless there is an exact match on the reference obligation.⁷³¹ This treatment encourages banking organizations that do not have specific risk approval to focus on agency and riskless principal trading, making back-to-back trades with customers offset by trades with other banking organizations. This allows banking organizations to facilitate access to capital markets for their relationship clients, but it constrains their market offerings to liquid, readily tradable products.

The proposal's standardized approach does not have separate treatments for general and specific risk. Both the sensitivities-based method and the

default risk capital requirement would apply risk weights to net exposures at the issuer level. For a banking organization currently applying the specific risk add-on, this recognition of netting at the issuer level rather than the issuance level may result in significantly lower risk-weighted assets for portfolios with risk that is economically small but not perfectly offset. Moreover, both the proposed sensitivities-based method and the default risk capital requirement would recognize some hedge benefit across exposures to different issuers in the same bucket, and the proposed sensitivities-based method would recognize some diversification between buckets.

Lower market risk-weighted assets, and the option to reduce operational and regulatory overhead by choosing the standardized approach for market risk, will likely increase the capital efficiency of non-Category I or II banking organizations, particularly for trading businesses in which the banking organization retains some specific risk. Examples include market making in less liquid corporate bonds and more bespoke customer facilitation. This may reduce a barrier to entry into new markets for some banking organizations. As such, customers of non-Category I or II banking organizations may find more choice of trading products for hedging credit spread risk and equity price risk.

An expected benefit of the proposal is that it would likely reduce costs and increase availability of intermediation during times of financial stress, relative to the current rule. This is for two reasons. First, distressed banking organizations may be unable or unwilling to undertake trading activity that adds risk. The proposal is intended to make banking organizations less likely to become distressed by more accurately reflecting their exposure to losses during extreme stress in their market risk capital requirement. Second, if the capital requirement for a given trading activity fluctuates over time, then banking organizations may be less willing to provide intermediation at times when the capital requirement is high or may charge more for intermediation to maintain an acceptable return on capital. Capital requirements under the proposal are based on through-the-cycle risk measures and should be less procyclical than the current rule, as capital requirements would not increase as much during financial downturns. With less cyclical fluctuation in capital requirements, the costs to end users should also fluctuate less.

3. Impacts on Markets

To understand how the proposal could affect market liquidity, it is informative to understand how markets reacted to the higher capital requirements that were implemented after the 2008 financial crisis.

Literature exploring the impact of post-2008 capital requirements on the corporate bond market generally shows limited impacts on bid-ask spreads, but also that customers waited longer before making transactions. The papers also indicate that dealers reduced their inventory imbalances and charged higher prices for providing immediate liquidity. Broadly, there is evidence that the cost of immediate liquidity rose in the corporate bond market and that bank-affiliated dealers reduced their willingness to bear inventory imbalances, although it is difficult to isolate how much is due to higher capital requirements compared to other factors.^{732 733}

⁷³² Dick-Nielsen and Rossi (2018) show that the cost of immediate trades, reflected by index trackers that must trade quickly after a bond falls out of an index, has risen more than twofold and Bao, et al. (2018) show greater costs from trading following bond rating downgrades. Furthermore, Bessembinder (2018) and Dick-Nielsen and Rossi (2018) provide evidence that bank-affiliated dealers reduced the extent of inventory imbalances that they accommodated. In more recent times, Anderson, et al. (2023) and Kargar, et al. (2021) show that dealers did not substantially change their net positions in corporate bonds during the COVID-related market turmoil around March 2020. See Trebbi, Francesco, and Kairong Xiao. "Regulation and market liquidity." *Management Science* 65.5 (2019): 1949–1968; Bessembinder, Hendrik, et al. "Capital commitment and illiquidity in corporate bonds." *The Journal of Finance* 73.4 (2018): 1615–1661; Dick-Nielsen, Jens, and Marco Rossi. "The cost of immediacy for corporate bonds." *The Review of Financial Studies* 32.1 (2019): 1–41; Bao, Jack, Maureen O'Hara, and Xing Alex Zhou. "The Volcker Rule and corporate bond market making in times of stress." *Journal of Financial Economics* 130.1 (2018): 95–113; Anderson, Christopher S., David C. McArthur, and Ke Wang. "Internal risk limits of dealers and corporate bond market making." *Journal of Banking & Finance* 147 (2023): 106653; and Kargar, Mahyar, et al. "Corporate bond liquidity during the COVID–19 crisis." *The Review of Financial Studies* 34.11 (2021): 5352–5401. Dick-Nielsen and Rossi (2018) show that the cost of immediate trades, reflected by index trackers that must trade quickly after a bond falls out of an index, has risen more than twofold and Bao, et al. (2018) show greater costs from trading following bond rating downgrades. Furthermore, Bessembinder (2018) and Dick-Nielsen and Rossi (2018) provide evidence that bank-affiliated dealers reduced the extent of inventory imbalances that they accommodated. In more recent times, Anderson, et al. (2023) and Kargar, et al. (2021) show that dealers did not substantially change their net positions in corporate bonds during the COVID-related market turmoil around March 2020. See Trebbi, Francesco, and Kairong Xiao. "Regulation and market liquidity." *Management Science* 65.5 (2019): 1949–1968; Bessembinder, Hendrik, et al. "Capital commitment and illiquidity in corporate bonds." *The Journal of Finance* 73.4 (2018): 1615–1661; Dick-Nielsen, Jens, and Marco Rossi. "The

Continued

⁷²⁹ Note that it is expected that banking organizations will continue to use internal models for their risk management, regardless of whether those models are used to calculate market risk capital requirements. See § _____.203 (c)(4) of the proposal, which requires daily monitoring of risk-management measurements including VaR. However, if banking organizations' internal risk management models are not the same as those used to calculate capital requirements, then banking organizations may invest fewer resources in their internal risk management models, which could mean reducing data quality, computational capacity, or quality of model risk management. For example, the generation of historical risk factor scenarios required for stressed-VaR can be particularly costly for products that a banking organization did not trade or products that did not exist during a banking organization's stress-VaR window.

⁷³⁰ Specific risk is the risk that is not attributable to broad market movements and includes event risk, default risk, and idiosyncratic risk.

⁷³¹ However, the current rule avoids double counting of the specific risk add-on for an exposure and its credit derivative hedge that does not meet the "same obligation" criterion but in which all or substantially all of the price risk has been hedged.

Wu (2024) specifically considers the impact of post-crisis capital regulations, which in the case of market risk are informally known as Basel 2.5.⁷³⁴ The paper argues that the size of the liquidity premium embedded within corporate bonds increased after the 2008 financial crisis.⁷³⁵ Wu (2024) shows that immediately after the release of the Basel 2.5 NPR in June 2012, there was an abrupt increase in the liquidity premium for more volatile bonds, which would likely receive higher capital requirements under Basel 2.5, compared to less volatile bonds. The paper estimates an approximately 0.3 percentage point difference in yield spreads between the most and least volatile bonds, controlling for other characteristics.

Extrapolating from evidence in the corporate bond market to potential broader impacts, higher capital requirements on certain products would likely incentivize banking organizations to hold smaller inventories and accommodate fewer imbalances, although magnitudes are unclear. There would likely be a reduction in banking organizations providing immediate liquidity (*i.e.*, entering into a trade with a customer immediately rather than waiting), although the magnitude would likely vary across markets. More illiquid products, such as corporate bonds, would likely see larger effects. Additionally, because market risk capital requirements are typically based on end-of-day inventories, accommodating intraday imbalances for more liquid products would likely not be as costly. Similarly, lower capital requirements on other products would likely incentivize banking organizations to accommodate more imbalances and provide greater immediate liquidity to their customers.

cost of immediacy for corporate bonds.” The Review of Financial Studies 32.1 (2019): 1–41; Bao, Jack, Maureen O’Hara, and Xing Alex Zhou. “The Volcker Rule and corporate bond market making in times of stress.” *Journal of*

⁷³³ Several papers, including Trebbi and Xiao (2017) and Bessembinder (2018), have documented that standard measures of market liquidity, such as bid-ask spreads, did not change substantially following the financial crisis or even improved relative to before. However, some literature argues that customers have shifted away from demanding immediate liquidity from dealers, which is more expensive, to instead being willing to wait longer before transacting, which is cheaper. In that case, it would be possible for average transaction costs to fall, even if the cost of immediate liquidity would have risen.

⁷³⁴ See Wu, Botao. “Increasing corporate bond liquidity premium and post-crisis regulations.” NYU Stern School of Business Working Paper (2020).

⁷³⁵ The liquidity premium is the component of a corporate bond’s yield that compensates investors for difficulty in transacting in that bond.

Another consideration is the migration of activity to nonbanks. Bessembinder (2018) provides evidence that nonbank-affiliated dealers expanded their intermediation in the corporate bond market as bank-affiliated dealers pulled back.⁷³⁶ This evidence suggests that nonbank-affiliated dealers might step in to mitigate reduced liquidity provision of bank-affiliated dealers in other markets as well.

There are both benefits and drawbacks to nonbanks potentially increasing intermediation if banking organizations pull back. One clear benefit is that nonbanks could mitigate any potential reductions in market liquidity. Also, given that nonbanks do not benefit from deposit insurance, a shift toward nonbanks might reduce costs to the government. One drawback is that nonbanks may take on excessive leverage or risk, in part due to lack of prudential regulation comparable to bank regulation. If important nonbank intermediaries were to fail during extreme stress, there could be substantial negative effects on financial stability and market liquidity, which could impose costs on the government and the economy.

Some aspects of the proposal could also have impacts on markets beyond the effects of a change in the average level of capital requirements.

First, the reduced procyclicality of capital requirements for banking organizations may encourage relatively more market liquidity during periods of stress. Both the proposed standardized and models-based approaches are substantially less sensitive to changes in current market conditions and are calibrated instead to historical periods of stress, in contrast to the current market risk framework that includes VaR based on current market data.

Second, the decrease in capital requirements for non-Category I and II banking organizations could potentially reduce their trading costs, which may encourage market making to be relatively less concentrated among the largest banking organizations. One of the key channels would be the removal of the standardized approach for specific risk, which tends to have a

⁷³⁶ Bessembinder (2018) show that only bank-affiliated dealers reduced the inventory imbalances they would accommodate, while the nonbank-affiliated dealers took on greater imbalances, although not enough to offset changes by the bank-affiliated dealers. However, it is difficult to disentangle the impacts of capital regulation from those of other regulations. Bao, et. al (2018) find limited difference in the inventory imbalances held by dealers passing the CCAR stress test compared to those not passing, they interpret as evidence of capital requirements not being a likely driver.

larger impact on smaller banking organizations.

Third, there may be greater use of central clearing for certain derivatives. As central clearing becomes more common, there could possibly be spillover effects whereby other market participants not directly affected by the proposal choose to centrally clear as well, which could potentially enhance the efficiency and stability of markets.

Fourth, if banking organizations hedge more in aggregate due to the proposed capital framework, some nonbank counterparties would likely have to take on that risk instead. While there is uncertainty over exactly how risk is distributed throughout the U.S. financial system, it is possible that entities such as pension funds, insurance companies, or investment funds would step in to purchase more of that risk from banking organizations. These could create new opportunities for such trading counterparties, but also potential avenues for financial instability outside the banking system.

To summarize, there would likely be heterogeneous effects on markets, depending on whether capital requirements would rise or fall for products in a given market under the proposal. The markets where the proposal would result in a larger increase in banking organization capital requirements would likely see banking organizations accommodating smaller inventory imbalances. Average transaction costs would not necessarily rise, but the cost of conducting immediate trades would likely rise. Nonbanks would likely step in to provide more intermediation, although growing reliance on nonbanks for market intermediation raises its own potential concerns. Similarly, the areas in which the proposal would result in a decrease in banking organization capital requirements would likely see larger inventory imbalances, lower costs of immediate trades, and a greater share of activity conducted by banking organizations. Various features of the proposal could also have other impacts on markets, such as reducing the procyclicality of intermediation and encouraging relatively more trading activity by smaller banking organizations.

F. Effect on Competitiveness

The proposed changes to risk-based capital requirements of the largest U.S. banking organizations could potentially affect competition of those banking organizations with international peers, smaller banking organizations in the United States, and nonbank financial entities. This section highlights the

anticipated potential effects expected to be the most economically important for the United States.

An overall moderate lowering of required capital for Category I and II banking organizations, moving closer in line with the requirements for internationally active foreign banks, could somewhat increase U.S. banking organizations' ability to compete for business internationally. Lower risk weights relative to the current standardized approach in certain lending areas could advantage covered banking organizations in attracting domestic customers, though other changes, like ending capital deduction for excess mortgage servicing assets, could also help them support smaller banking organizations through correspondence lending relationships, growing aggregate lending. At the same time, the concurrent standardized approach proposal and the option available to smaller banking organizations to use the expanded risk-based approach under this proposal would help ensure continued robust competition between domestic banking organizations. The proposal may induce some lower-risk traditional lending activities to flow back into the banking sector in a way that would enhance competition and financial stability in the United States. Finally, the analysis discusses how key lending areas could see improved pricing and service quality as increased competition reduces applicable interest rates, and how regulatory barriers to entry into the largest bank tiers would be reduced through a shift to lower, less complex, and more certain capital requirements.

1. On Internationally Active Banks

Benefits of the Basel framework include the promotion of global financial stability by strengthening the resilience of the global banking system and preventing a regulatory race-to-the-bottom for internationally active banks. International banking integration can increase competition, boosting productivity and growth, with particular importance for international trade and global liquidity management.⁷³⁷ The agencies project the combined impact of this proposal and the GSIB surcharge proposal to yield lower required capital levels on average and for most individual banking organizations subject to the rules. As detailed further below, internationally active banks from other jurisdictions are generally bound

by capital requirements based on a calculation of risk-weighted assets which rely heavily on internally modelled risk weights. While Category I and II banking organizations currently also compute risk weights for their exposures based on internal models, most of these organizations are bound by the U.S. standardized approach in most quarters, which generally sets higher, fixed risk weights to compensate for the reduced risk sensitivity of the approach.⁷³⁸ In practice, this means internationally active foreign banks are applying lower risk weights and have lower minimum capital requirements than their U.S. counterparts.⁷³⁹

The proposed expanded risk-based approach risk weights are generally calibrated at a lower level than the current standardized approach, and are more granular to enhance risk sensitivity, reducing incentives to disengage from relatively lower risk lending activities. While important, lower capital requirements are not the sole determinant of long-run profitability, as illustrated by return on equity at U.S. GSIBs following the 2007–09 global financial crisis which averaged around 5 to 6 percentage points higher than their counterparts in the Euro Area.⁷⁴⁰ That said, the lower requirements that proposed revisions to the GSIB surcharge would deliver, and that would remain within the generally accepted optimal level of capital, as discussed in section VIII.C, should promote the global competitiveness of internationally active U.S. banking organizations.

The BIS collects anonymized data on large, internationally active banks in Basel member jurisdictions. These data are analyzed and compiled in a semi-annual monitoring report that describes the average asset holdings and concomitant risk weight density, risk-weighted assets divided by exposure amounts, by exposure category. These reveal that the effective average risk weights used by foreign banks subject to the Basel standards as implemented in other jurisdictions are materially lower

than the risk weights that Category I and II banking organizations currently apply across several exposure categories. For example, for internationally active banks in all Basel jurisdictions at the end of 2024, average risk weight density for corporate exposures was around 56 percent and for retail exposures around 29 percent.⁷⁴¹ Category I and II banking organizations, when bound by the current standardized approach as is typically the case, apply 100 percent risk weights to both types of exposures. While the proposed risk weights in those exposure types would still exceed global averages, the downward calibrations would bring them much closer in line, reducing anti-competitive disparities with global competitors while still maintaining the comparatively stronger levels of capital at Category I and II banking organizations that have resulted in greater resilience relative to their global peers.

Increased competition in international banking can lower individual and systemic risk. Faia et al. (2021) develops a model of global banking competition that predicts cross-border expansion of banks into retail activities like lending and deposit-taking can actually lower individual risk taking and systemic risk through a competition driven compression of loan-deposit spreads. They find empirical evidence that supports this prediction using data from 2005 to 2014 on the foreign expansion, profit margins, and market and accounting risk metrics of 15 European G–SIBs headquartered in eight different countries.⁷⁴²

This proposal would obviate the need for U.S. banking organizations to internally model credit and operational risk for regulatory capital calculations, which could yield more certainty in capital requirements, which could support investment, lending, and trading activities through the economic cycle. As noted above, Category I and II banking organizations, in recent years, have been predominantly bound by standardized or leverage capital requirements. During the height of the shock from the COVID–19 pandemic beginning in early 2020, a number of these banking organizations became unexpectedly bound by rising modelled

⁷³⁸ See, e.g., Joasia E. Popwicz, “All top US banks below Collins floor,” *risk.net* (January 2022), available at: <https://www.risk.net/risk-quantum/7922981/all-top-us-banks-below-collins-floor>.

⁷³⁹ See Online Appendix of Elizabeth Duncan, Akos Horvath, Diana Iercosan, Bert Loudis, Alice Maddrey, Francis Martinez, Timothy Mooney, Ben Ranish, Ke Wang, Missaka Warusawitharana & Carlo Wix, “COVID–19 as a stress test: Assessing the bank regulatory framework,” *Journal of Financial Stability*, Volume 61, (2022), available at: <https://doi.org/10.1016/j.jfs.2022.101016>.

⁷⁴⁰ See Luca Di Vito, Natalia Fuentes, Natalia & Joao Matos Leite, “Understanding the profitability gap between euro area and US global systemically important banks,” ECB Occasional Paper, No. 327, (2023), available at: <https://doi.org/10.2866/51151>.

⁷⁴¹ See Basel Committee on Banking Supervision, “Basel III Monitoring Report,” (March 2025), available at: <https://www.bis.org/bcb/publ/d592.pdf>.

⁷⁴² See Ester Faia, Sébastien Laffitte, Maximilian Mayer, & Gianmarco Ottaviano, “Global banking: Endogenous competition and risk taking,” *European Economic Review*, Volume 133, 2021, available at: <https://doi.org/10.1016/j.euroecorev.2021.103661>.

⁷³⁷ See Claudia M. Buch & Linda S. Goldberg, “Global banking: Toward an assessment of benefits and costs,” *Annual Review of Financial Economics*, 12.1 (2020): 141–175, available at: <https://doi.org/10.1146/annurev-financial-021920-112021>.

capital requirements as expected defaults rose. Behn, Haselmann, and Wachtel (2016) exploit an upward shock to modelled capital requirements at German banks following the failure of Lehman Brothers in 2008 to show how unexpected swings in capital requirements can lead to a procyclical drag on lending.⁷⁴³ The proposed removal of modelling for credit and operational risk, and proposed changes to the modelling of market risk capital requirements, would reduce uncertainty in future capital requirements, particularly during times of stress, allowing Category I and II banking organizations to continue lending and market making during such periods.⁷⁴⁴

2. On Smaller Banks

As mentioned previously, Category I and II banking organizations are currently predominantly bound by the standardized approach that also applies to smaller banking organizations, while also being subject to additional buffer requirements. While these proposals are projected to lower aggregate capital requirements at Category I and II banking organizations, these requirements would still exceed those applied to smaller banking organizations. Further, Category I and II banking organizations would continue to have more stringent requirements relative to Category III and IV banking organizations, reflecting the former group's greater size, complexity, and systemic risk. On an exposure-by-exposure basis, the proposed revised capital requirements would sometimes be lower than those in the standardized approach, even inclusive of associated operational risk requirements. A number of factors help though to mitigate any concern that the proposal would create competitive inequity overall between Category I and II banking organizations and smaller banks. These include the companion standardized approach proposal, the proposed option for any banking organization to adopt the expanded risk-based approach as discussed in section II.A, the proposed operational risk requirements included in the expanded risk-based approach, and the differing nature of large and small banking organization business models. Smaller lenders could also benefit from potential

enhanced interest from the largest banking organizations in correspondent lending relationships, given the proposed reduction in risk weights in some lending areas under the expanded risk-based approach.

The proposal would address potential concerns around competitive imbalances by allowing banking organizations of any size to elect to use the expanded risk-based approach.

Broader concerns about impacts of the proposal on the competition between large and small banking organizations are diminished more generally by the differences in their typical business models. For one, Category I and II banking organizations tend to have significant trading operations, an area where smaller banking organizations do not participate. Second, smaller banking organizations tend to rely more heavily on relationship lending models that entail the cultivation of qualitative information about their customers' credit-worthiness and monitoring via geographic proximity. The largest banking organizations tend to engage in more transactional lending that relies heavily on data collection and verification for underwriting and that is backed by tangible collateral.⁷⁴⁵

Aspects of the proposal, as discussed in sections III and IV.A, may also indirectly support smaller banking organizations by increasing the attractiveness of correspondent lending models and other forms of loan participation agreements.⁷⁴⁶ Smaller lenders can cultivate customers via their superior local knowledge while turning to larger banking organizations for funding and for their facility with securitization markets.⁷⁴⁷ This could allow larger banking organizations to essentially downstream the reduced risk weights under the expanded risk-based approach in areas like real estate, retail, and corporate lending to the smaller banking organizations originating the loans. The proposed removal of the

mortgage servicing assets deduction treatment could also make mortgage lending relationships under these types of models more attractive, particularly for Ginnie Mae securitizations where lenders must pool together multiple loans themselves.

3. On Nonbank Financial Intermediaries

The proposal would likely drive expansion in bank lending that could partially reverse the ongoing migration of activity to the nonbank financial sector in a manner that could support financial stability. Heightened capital requirements have been identified as one factor in nonbanks' increased share of financial market activity. The proposal reduces requirements in certain areas, particularly for traditional lending activities such as mortgages and corporate loans, in a way that would support bank competitiveness relative to nonbanks. Given the greater willingness and capacity for lending that banks demonstrate during periods of stress, this could generate stability benefits.

The migration of activities from banking organizations to nonbanks has been a longstanding trend for the financial system. It can have heterogeneous effects on financial stability. Certain nonbanks operate with very low leverage and are well-positioned to manage large economic downturns.⁷⁴⁸ However, many nonbanks rely on fragile, confidence-sensitive sources of funding, partly from banking organizations, making them vulnerable during times of stress. Moreover, more resilient banking organizations are better positioned to lend in the face of economic downturns, in part compensating for the potential reduction in lending from more vulnerable nonbanks. Thus, the impact of migration on financial stability and lending over the business cycle is influenced by numerous factors, including the specific characteristics of the nonbanks that assume these activities and their interdependencies with banks.

a. Effects of Capital Regulations on Migration of Activity to Nonbanks

Capital regulation has been linked to the migration of activity to nonbanks, though the effects through the entire economic cycle are less certain. On the one hand, tighter regulations, including stricter capital requirements, might induce banking organizations to reduce

⁷⁴³ See Markus Behn, Rainer Haselmann, & Paul Wachtel, "Procyclical Capital Regulation and Lending," *The Journal of Finance*, Volume 71, Issue 2, April 2016, Pages 919–956, available at: <https://doi.org/10.1111/jofi.12368>.

⁷⁴⁴ See section VIII.E.2.c for discussion of the expected reduction in the procyclicality of requirements for trading activities resulting from this proposal.

⁷⁴⁵ See Allen N. Berger & Lamont K. Black, "Bank size, lending technologies, and small business finance," *Journal of Banking & Finance*, no. 35(3) (2011), <https://doi.org/10.1016/j.jbankfin.2010.09.004>.

⁷⁴⁶ See Michael Poprik, "Loan Participations: Lessons Learned During a Period of Economic Malaise," Federal Reserve Bank of Richmond Community and Regional Supervision (2013), <https://www.communitybankingconnections.org/articles/2013/q2/loan-participations>.

⁷⁴⁷ See Richard Stanton, Johan Walden, & Nancy Wallace, "The Industrial Organization of the US Residential Mortgage Market," *Annual Review of Financial Economics*, no. 6 (2014), available at: <https://doi.org/10.1146/annurev-financial-110613-034324> and David Benson, You Suk Kim, & Karen Pence, "Bank Aggregator Exit, Nonbank Entry, and Credit Supply in the Mortgage Industry," Working Paper (2023), <https://www.fdic.gov/system/files/2024-07/kim-paper.pdf>.

⁷⁴⁸ Anat Admati and Martin Hellwig, "The Bankers' New Clothes: What's Wrong with Banking and What to Do About It" Princeton University Press (2024) ("Admati and Hellwig (2024)"), <https://press.princeton.edu/books/paperback/9780691251707/the-bankers-new-clothes>.

their lending, creating opportunities for nonbanks to fill the gap. For example, Buchak et al. (2018) found that more stringent capital requirements and tighter regulations pushed mortgage origination to nonbanks, which expanded their mortgage origination market share.⁷⁴⁹ On the other hand, well-capitalized banking organizations are better positioned to extend credit, especially during times of economic stress.⁷⁵⁰ Buchak et al. (2018) note that resilient banking organizations, supported by robust regulatory frameworks, can act as stabilizing forces during crises where banking organizations with strong capital buffers can provide essential liquidity, supporting investment and economic recovery.⁷⁵¹

The differential effects of the proposal across business activities, as well as differences across nonbanks, may contribute to reversing the migration of some activities toward banking organizations. For example, the proposed lower risk weights for most mortgages may encourage banking organizations to hold more of these loans in their portfolios, while the proposed removal of the MSA deduction treatment may lead them to expand their originate-to-distribute lending operations. Conversely, the proposed increase in risk-weighted assets for market risk, as well as an increase in some credit conversion factors and operational risk-weighted assets attributed to the interest and fee income associated with credit lines, may incentivize some liquidity provision in financial markets to shift towards nonbanks.

b. Impact of Migration of Activity to Nonbanks on Financial Stability

The proposal's contribution to slowing or partially reversing the migration of financial activities toward nonbanks would have implications for financial stability. While some nonbanks are less leveraged than banking organizations, making them better positioned to absorb losses, they often rely on less stable sources of

funding compared to banks.⁷⁵² Besides, not all nonbank financial entities are equally prone to runs. Private equity funds manage long-term capital through funding structures that permit less frequent redemption and corporate bond mutual funds operate with little or no leverage. Some studies, though, argue that their fragile funding structures still make them vulnerable.⁷⁵³ Disorderly withdrawals have forced the closure of corporate bond mutual funds at Credit Suisse and Third Avenue Management,⁷⁵⁴ and it is common for private equity funds to face withdrawals when lock-up periods expire.⁷⁵⁵

In aggregate, by encouraging the migration of certain activities back towards banking organizations, the proposal is expected to support financial stability. Nonbanks are typically less regulated and are not subject to the same comprehensive federal prudential regulation and supervision as banking organizations. Gorton and Metrick (2012) argue that the lack of regulatory oversight makes nonbanks more vulnerable to runs and liquidity crises.⁷⁵⁶ Some of these risks are discussed further in the Federal Reserve Board's Financial Stability Report of April 2025.⁷⁵⁷ Nonbanks do

⁷⁵² Gorton and Metrick (2012); Erica Xuewei Jiang, Gregor Matvos, Tomasz Piskorski & Amit Seru, "Monetary Tightening and U.S. Bank Fragility in 2023: Mark-to-Market Losses and Uninsured Depositor Runs?" *Journal of Financial Economics*, 159, 103899 (September 2024) ("Jiang et al. (2024)"), <https://doi.org/10.1016/j.jfineco.2024.103899>.

⁷⁵³ Itay Goldstein, Hao Jiang & David T. Ng, "Investor Flows and Fragility in Corporate Bond Funds," *Journal of Financial Economics* 126(3), 592–613 (December 2017) ("Goldstein et al. (2017)"), <https://doi.org/10.1016/j.jfineco.2016.11.007>.

⁷⁵⁴ Jeffrey Ptak & Sarah Bush, "Third Avenue Focused Credit Abruptly Shuttered," *Morningstar* (December 2015) ("Ptak and Bush (2015)"), <https://www.morningstar.com/funds/third-avenue-focused-credit-abruptly-shuttered>; Tim McLaughlin, Ross Kerber & Svea Herbst-Bayliss, "Hidden in Plain Sight: Big Risks at Failed Third Avenue Fund Were Clear to Some," *Reuters* (December 2015) ("McLaughlin et al. (2015)"), <https://www.reuters.com/article/business/hidden-in-plain-sight-big-risks-at-failed-third-avenue-fund-were-clear-to-some-idUSKBN0U627V>.

⁷⁵⁵ As another example of U.S. government support of nonbanks in a period of stress, during the COVID-19 pandemic, the Federal Reserve established the Primary Market Corporate Credit Facility and the Secondary Market Corporate Credit Facility to alleviate stress in the corporate bond market. Before that, the Federal Reserve established several financial crisis era facilities including the Money Market Investor Funding Facility, the Asset-Backed Commercial Paper Money Market Mutual Fund Liquidity Facility, Commercial Paper Funding Facility, and the Term Asset-Backed Securities Loan Facility.

⁷⁵⁶ Gorton and Metrick (2012).

⁷⁵⁷ "Financial Stability Report," Board of Governors of the Federal Reserve System (April 2025), <https://www.federalreserve.gov/publications/files/financial-stability-report-20250425.pdf>.

not have access to the same protections as banking organizations through deposit insurance or other central bank facilities. Finally, nonbanks may amplify shocks during times of stress by reducing lending to a larger extent compared to banking organizations.⁷⁵⁸

4. On Consumer Welfare and Barriers to Entry

The proposal would generally lower risk weights, particularly for safer portfolios, while also enhancing the risk sensitivity of capital requirements. Doing so would likely encourage more lending, thereby heightening competition, with end users seeing the benefits in improved pricing and increased consumer surplus. While certain financial markets, like large corporate lending, are already quite competitive, others persist with pricing that includes significant markups above marginal cost.⁷⁵⁹ For example, in the mortgage space, Bhutta, Fuster, and Hizmo (2024) combine rate lock and loan offer data and find that borrowers with similar credit profiles see significant dispersion in the prices they pay for loans, which they link to lender market power. Importantly, they demonstrate through lender income and expense data and borrower surveys that more expensive loans are indicative of higher markups rather than better service.⁷⁶⁰

In addition to promoting activity at current Category I and II banking organizations, the proposals could also encourage growth in the number of banking organizations in these categories. More Category I and II banking organizations, rather than just a few that continually get bigger, could constitute a safer and more competitive financial landscape.

Besides dampening lending in general, overly complex, or uncertain, capital requirements can introduce barriers to entry that enshrine incumbents, reducing overall competition and incentivizing banking organizations that may pose systemic risk to bunch below the regulatory thresholds at which they would be

⁷⁵⁸ Inaki Aldasoro, Sebastian Doerr & Haonan Zhou, "Non-Bank Lending During Crises," Bureau of International Settlements, Working Paper No. 1074 (August 2025) ("Aldasoro et al. (2025)"), <https://www.bis.org/publ/work1074.pdf>.

⁷⁵⁹ See Thomas Flanagan, "The Value of Bank Lending," *Journal of Finance*, 80: 2017–2061 (May 2025), available at <https://doi.org/10.1111/jofi.13465>.

⁷⁶⁰ See Neil Bhutta, Andreas Fuster, & Aurel Hizmo, "Paying Too Much? Borrower Sophistication and Overpayment in the US Mortgage Market," *Federal Reserve Bank of Philadelphia Working Paper*, no. 24–11 (June 2024), available at: <https://doi.org/10.21799/frbp.wp.2024.11>.

⁷⁴⁹ Greg Buchak, Gregor Matvos, Tomasz Piskorski & Amit Seru, "Fintech, Regulatory Arbitrage, and the Rise of Shadow Banks," *Journal of Financial Economics*, 130(3), 453–483 (December 2018) ("Buchak et al. (2018)"), <https://doi.org/10.1016/j.jfineco.2018.03.011>.

⁷⁵⁰ Allen N. Berger & Christa H.S. Bouwman, "How Does Capital Affect Bank Performance During Financial Crises?" *Journal of Financial Economics*, 109(1), 146–176 (July 2013) ("Berger and Bouwman (2013)"), <https://doi.org/10.1016/j.jfineco.2013.02.008>; Admati and Hellwig (2024).

⁷⁵¹ Buchak et al. (2018).

formally recognized as such. While other jurisdictions have seen some churn in which institutions are systemically important enough to be deemed GSIBs, the eight U.S. bank holding companies identified as GSIBs by the Financial Stability Board in 2012 remain the only U.S. GSIBs today, and no additional Category II banking organizations have emerged following the creation of the current tier definitions.⁷⁶¹ The proposed rules, through a potential reduction in the overall level of required capital, removal of complexity and burden from the requirement to simultaneously internally model credit and operational risk, and increased certainty from a single set of risk-based requirements, should lessen the extent to which becoming a Category I or II banking organization may be seen as undesirable. While somewhat paradoxical, the growth and consolidation of some large regional banks into Category I or II banking organizations could actually provide more competition in the lending and trading markets that can only be contended by banking organizations of the largest scale.

Larger banking organizations can also reduce risk in some dimensions and temper local economic shocks through greater depositor base diversification.⁷⁶² Indicatively, Caglio, Dlugosz, and Rezende (2025) found, using confidential data on bank balance sheets, that during the period of heightened stress following the regional banking organizations failures of March 2023, GSIBs saw notable upticks in uninsured deposit flows, even relative to other large non-GSIB banks.⁷⁶³ That highlights the benefits to financial market stability of promoting the

emergence of competitors to the current Category I and II banking organizations. Importantly, should the proposed rule changes in these proposals lead more Category I or II banking organizations to emerge, they would become subject to key provisions around capital, augmented liquidity, detailed resolution planning, and enhanced supervisory oversight to formally allay concerns over whether such institutions were too big to fail.

Question 197: What, if any, alternative approaches should the agencies consider for assessing the proposal's effect on competitiveness, and why?

G. Conclusion

The agencies have conducted a thorough economic analysis of the proposal, examining its potential effects on the U.S. banking system and the broader economy. This assessment encompassed proposed changes in risk-weighted assets, capital requirements and their potential effects on lending and trading activities, market liquidity, and competition among financial institutions. The analysis suggests that the proposal would improve the measurement of various risks faced by banking organizations, increasing the risk sensitivity of the regulatory capital framework. Furthermore, the proposed changes to risk weights are broadly expected to support enhanced financial intermediation by covered banking organizations. The analysis also suggests that the cumulative change in capital under the combined proposals (or of each proposal on a standalone basis) is expected to maintain a level of capital that is within range of estimates for optimal capital in the U.S. banking system, and thus reasonable.

Furthermore, by aligning more closely with international standards, the proposed revisions to risk weights aim to enhance Category I and II banking organizations' global competitiveness without compromising their strong capital positions. Based on this economic analysis, the agencies conclude that the benefits of the proposal justify its costs. The agencies invite comment on all aspects of this economic analysis.

IX. Technical Amendments to the Capital Rule

The proposal would make certain technical corrections and clarifications to several provisions of the capital rule, as described below. Most of these proposed corrections or technical changes are self-explanatory, such as updates to terminology to align with the proposal, and would apply only to

banking organizations that would be subject to subpart E. In addition, there are several transition provisions and temporary provisions that have expired or no longer apply that the proposal would remove from the capital rule. The proposal would also make technical updates to various aspects of the capital rule to account for the proposed changes to subparts E and F of the capital rule related to the removal and replacement of the current internal model-based approaches for credit risk, operational risk, and market risk. Also, the proposal would make certain technical corrections to the rule to address errors, such as updating the numbering of footnotes in certain sections and correcting the definition of qualifying master netting agreement to include criteria that were originally included and inadvertently deleted. These revisions are not all applicable to each agency and would only apply to a given agency as appropriate.

In § ___.1, the proposal would clarify the application of notice and response procedures for reservation of authority actions, would clean up expired effective date provisions, and would clarify the when standards apply to banking organizations that change from one category to another. The proposal would introduce a severability provision to clarify the agencies' intent with respect to the ongoing effectiveness of the proposal in the event that any particular provision or application of the rule is stayed or determined to be invalid. The proposed severability provision reflects the agencies' view that invalidation of a particular provision or application of the capital rule would not render the entire regulation or regulatory scheme unworkable.

In § ___.2, the proposal would remove references to subpart E for purposes of the internal models approach in the definition of residential mortgage exposure and the treatment of residential mortgages managed as part of a segment of exposures with homogenous risk characteristics.

In § ___.2 of the Board's and the OCC's capital rule, the proposal would correct the definition of qualifying master netting agreement to put back certain paragraphs related to a walkaway clause. Under the 2013 capital rule,⁷⁶⁴ the definition of qualifying master netting agreement required that the agreement not contain a walkaway clause and that a banking organization must comply with certain operational requirements with respect to the agreement. When the Board and

⁷⁶¹ See "2025 List of Global Systemically Important Banks (G-SIBs)," (November 2025), available at: <https://www.fsb.org/2025/11/2025-list-of-global-systemically-important-banks-g-sibs/#g-sibs-2012-2025>. Some Category III banking organizations are approaching the Category II thresholds for either Total Assets or Cross-Jurisdictional Activity.

⁷⁶² See Sebastian Doerr, "Deposit Diversification and Funding Stability," (September 2025), available at: <http://dx.doi.org/10.2139/ssrn.4788627>. They leverage a gravity model of firm expansion trends away from their headquarters, along with the staggered repeal of interstate branching limitations across states, to assess the impact of exogenous increases in a bank's deposit-base geographical diversification. They find that it increases a bank's funding stability, through a greater reliance on insured demand deposits, and empowers banks to increase liquidity creation and better continue lending when exposed to a negative localized shock like a natural disaster.

⁷⁶³ See Cecilia Caglio, Jennifer Dlugosz, & Marcelo Rezende, "Flight to Safety in the Regional Bank Stress of 2023," SSRN Working Paper (February 25, 2025), available at: <https://doi.org/10.2139/ssrn.4457140>.

⁷⁶⁴ See 78 FR 62018 (Oct. 11, 2013).

OCC finalized the restrictions in the qualified financial contracts stay rule⁷⁶⁵ and made conforming amendments to the capital rule, certain paragraphs related to a walkaway clause in the definition of qualifying master netting agreement were removed in error. The Board and OCC propose to correct the error by inserting back these paragraphs.

In § _____.10(c)(2)(i) of the capital rule, the proposal would clarify in the definition of total leverage exposure that total leverage exposure amount could be reduced by any AACL for on-balance sheet assets. The capital rule defines total leverage exposure to include the carrying value of on-balance sheet assets without any adjustment for AACL. The definition of carrying value does not allow for the reduction in the on-balance sheet amount by any credit loss allowances, except for allowances related to AFS securities and purchased credit deteriorated assets. In the numerator of the supplementary leverage ratio, the AACL flows through earnings and is reflected in Tier 1 capital. To align the numerator and the denominator of the SLR, the proposed change would allow banking organizations to net the AACL from the denominator of the SLR.

The proposal would make a technical correction to § _____.10(c)(2)(ix) of the capital rule to clarify the treatment of a guarantee by a clearing member banking organization of the performance of a clearing member client on repo-style transaction that the clearing member client has with a central counterparty. Consistent with the treatment of such exposures under the risk-based framework, the proposal would require the clearing member banking organization to treat the guarantee of client performance on a repo-style transaction as a repo-style style transaction, just as it must treat such a guarantee of client performance on a derivative contract as a derivative contract.

Under the capital rule, § _____.300(a) covers the 2016 to 2018 transition for the capital conservation buffer and countercyclical capital buffer. § _____.300(c) covers the transition for non-qualifying capital instruments that expired in calendar year 2022. § _____.300(e) covers the transition for prompt corrective action. § _____.300(f) covers simplifications early adoption and has expired by its terms.⁷⁶⁶ § _____.300(g) of the capital rule covers SA-CCR transition and § _____.300(h) covers the default fund contribution

transition, both of which expired on January 1, 2022. The proposal would update the terminology in § _____.300(a) and (c) of the capital rule and would remove § _____.300(f) to (h).

§ _____.303 of the capital rule covers a temporary exclusion from total leverage exposure that ended March 31, 2021. Consistent with the community bank leverage ratio proposed rule, the proposal would remove § _____.304 of the capital rule, which covers temporary changes to the community bank leverage ratio framework that applied until December 31, 2021.⁷⁶⁷ The proposal would remove § _____.303 and § _____.304 of the capital rule. Similarly, § _____.12(a)(4) of the capital rule covers temporary relief for the community bank leverage ratio that applied until December 31, 2021, and would therefore be removed from the capital rule.

On November 12, 2025, the Financial Accounting Standards Board (FASB) issued Accounting Standards Update (ASU) 2025–08, “Financial Instruments—Credit Losses (Topic 326): Purchased Loans,” which amends the guidance on accounting for purchased loans. Upon adoption of ASU 2025–08, the population of acquired financial assets subject to the “gross-up approach” will be expanded to include purchased seasoned loans. The “gross-up approach” under U.S. GAAP requires a banking organization to record an allowance for credit losses on purchased credit deteriorated assets⁷⁶⁸ as well as purchased seasoned loans as of the date of acquisition with an offsetting gross-up adjustment to the purchase price of the assets or loans.

In the agencies’ final rule implementing the current expected credit losses (CECL) methodology in 2019 (CECL final rule), the agencies amended the capital rule to identify which allowance for credit losses under the new CECL accounting standard would be eligible for inclusion in a banking organization’s tier 2 capital.⁷⁶⁹ The CECL final rule addressed the treatment of allowance for credit losses related to purchase credit deteriorated assets. As ASU 2025–08 requires banking organizations to apply the gross approach to both purchase credit deteriorated assets and purchased seasoned loans, the agencies are proposing to apply the capital rule’s

treatment of allowance for credit losses on purchase credit deteriorated assets to allowance for credit losses on purchased seasoned loans. In particular, the proposal would modify the term adjusted allowance for credit losses (AACL) adopted in the CECL final rule to exclude credit loss allowances on purchased seasoned loans in addition to those on purchase credit deteriorated assets and available-for-sale (AFS) debt securities. A banking organization would continue to be able to include AACL in its tier 2 capital up to 1.25 percent of the banking organization’s total credit risk weighted assets. The proposal would also amend the definition of carrying value to require the carrying value of purchased seasoned loans to be calculated net of ACLs like the capital rule’s current treatment of PCD assets.

In defining AACL, the agencies intend to include only those ACLs that have been fully charged against earnings or retained earnings. Including in tier 2 capital ACLs that have not been charged against earnings would diminish the quality of regulatory capital. Since the initial ACL amount for a PSL recorded on a banking organization’s balance sheet would not be established through a charge to earnings, the agencies believe the treatment currently applied to the initial ACL for purchase credit deteriorated assets also would be appropriate for the ACL on purchased seasoned loans. Due to concerns of undue complexity and burden on banking organizations, the agencies are not proposing a bifurcated approach for the treatment of purchased seasoned loans whereby a banking organization could include post-acquisition ACLs on PSLs in tier 2 capital when the banking organization’s purchased seasoned loan balances exceed a materiality threshold. The agencies believe that requiring banking organizations to calculate the carrying value of purchased seasoned loans net of ACLs appropriately offsets the effects of excluding post-acquisition ACLs on PSLs in the calculation of regulatory capital. Therefore, the agencies are proposing to exclude the entire ACL on PSLs from AACL, even though post-acquisition increases in ACLs for PSLs would be established through a charge against earnings.

In addition, the agencies are proposing to amend the definitions of AACL and carrying value to provide the same treatment as purchase credit deteriorated assets to other assets that may in the future become subject to the gross approach following a change to GAAP by FASB.

The agencies are also proposing a technical amendment to the current

⁷⁶⁵ See 82 FR 42882 (Sept. 12, 2017).

⁷⁶⁶ See 84 FR 61804 (Nov. 13, 2019).

⁷⁶⁷ See 90 FR 55048 (Dec. 1, 2025).

⁷⁶⁸ Purchase credit deteriorated assets are acquired individual financial assets (or acquired groups of financial assets with shared risk characteristics) that, as of the date of acquisition and as determined by an acquirer’s assessment, have experienced a more-than-insignificant deterioration in credit quality since origination.

⁷⁶⁹ See 86 FR 4224 (Feb. 14, 2019).

capital rule to remove the definition of allowance for loan and lease losses (ALLL) from section _____.2 of the capital rule. The definition of ALLL in the current capital rule is no longer meaningful given the introduction and adoption of the current expected credit loss (CECL) methodology by the FSAB under ASU 2016–13, “Financial Instruments—Credit Losses (Topic 326).”

A. Additional OCC Technical Amendments

Definition of Financial Collateral

In § _____.2 of the OCC’s capital rule, the proposed rule would correct an error in the definition of financial collateral by changing the word “and” in paragraph (2) “in which the national bank and Federal Savings association has a perfected . . . [emphasis added]” to “or.” The proposed correction would clarify that this requirement in the definition of financial collateral applies to national banks or Federal Savings associations, as relevant.

B. Additional FDIC Technical Amendments

In addition to the joint technical amendments described above, the FDIC is proposing technical amendments to certain provisions of the capital rule in part 324 of the FDIC’s regulations. Specifically, the FDIC proposes to correct a spelling error in the definition of “financial institution” in § 324.2. The FDIC also proposes to merge the definition of “bank” into the definition of “FDIC-supervised institution” and to remove “bank” as a defined term in the FDIC’s capital rule. Additionally, the FDIC proposes to correct the footnote numbering in part 324 so that each section with any footnote would begin with footnote 1. This would affect the footnotes in §§ 324.2, 324.4, 324.11, 324.20, and 324.22.

The FDIC also proposes removing expired or obsolete provisions from various sections in part 324, including section 324.1(f), footnote 10 in § 324.4, § 324.10(b)(5), and § 324.10(d)(4).

Finally, the FDIC proposes amending §§ 324.401 and 324.403 of the prompt corrective action provisions of subpart H to remove outdated transitions and obsolete references to part 325, and to replace references to the advanced approaches consistent with the proposal.

X. Related Proposals and Proposed Amendments to Related Rules

A. Related Proposals

The agencies are also issuing a proposal that would modify certain

aspects of the capital requirements applicable to banking organizations not covered by the expanded risk-based approach. That proposal would revise the risk-based capital treatment of certain exposure categories under the standardized approach, focusing on improving the calibration and risk sensitivity of risk weights that are particularly material to lending activities. Consistent with this proposal, the standardized approach proposal would modify the definition of regulatory capital by removing the threshold-based deduction for mortgage servicing assets, including for banking organizations subject to the community bank leverage ratio framework. In addition, the standardized approach proposal would require Category III and IV banking organizations to recognize most elements of accumulated other comprehensive income in their regulatory capital.

The Board is separately issuing the GSIB surcharge proposal that would amend the Board’s framework under the capital rule for identifying and establishing risk-based surcharges for global systemically important bank holding companies (GSIBs). The GSIB surcharge proposal would also amend the FR Y–15, which is the source of inputs to the implementation of the GSIB framework under the capital rule. The proposal would modify certain coefficients used to calculate GSIB surcharges under method 2 of the GSIB surcharge framework and provide for annual adjustments of these coefficients going forward. The proposal would modify the measurement and weighting of the weighted short-term wholesale funding systemic indicator in method 2. For certain systemic indicators currently measured only as of a single date each year, the proposal would change to reporting of average values to reduce the effects of temporary changes to indicator values around measurement dates. The proposal would reduce cliff effects and enhance the sensitivity of the surcharge to changes in the method 2 score by calculating surcharges based on narrower score band ranges. To improve risk capture, the proposal would also make improvements to the measurement of some systemic indicators used in the GSIB surcharge framework and the framework for determining prudential standards for large banking organizations. The proposal would also make several additional amendments to the FR Y–15 to improve the consistency of data reporting and streamline the reporting process.

As discussed in section IV.A.3. of this **SUPPLEMENTARY INFORMATION**, the proposal would modify the credit

conversion factors applicable to large banking organizations. The proposal would introduce a 40 percent conversion factor for all conditional equity and credit commitments regardless of maturity, which would replace the current capital rule’s 20 percent and 50 percent conversion factors for conditional equity and credit commitments. The proposal would also introduce a 5 percent credit conversion for certain low-utilization retail exposures and a treatment for retail commitments with no pre-set limit. To account for this aspect of the proposal with the agencies supplementary leverage ratio framework, the supplementary leverage ratio framework would incorporate these conversion factors for banking organizations that are subject to the expanded risk-based approach to ensure alignment between the two frameworks.

Question 198: What modifications, if any, should the agencies consider to this proposal due to related proposals and why?

B. OCC Amendments

Lending Limits Rule

The OCC’s lending limit rule⁷⁷⁰ includes a definition of eligible credit derivative, which references the definition of eligible guarantee in the capital rule.⁷⁷¹ This proposed rule would revise the definition of eligible guarantee in 12 CFR part 3 to add a requirement that an eligible guarantee must be provided by an eligible guarantor, also as defined in 12 CFR part 3. To avoid imposing this additional requirement of an eligible guarantor for eligible credit derivatives, as defined for lending limit purposes, the OCC is proposing to revise the definition of eligible credit derivative in 12 CFR part 32 to scope out the new proposed requirement of an eligible guarantor.

C. Board Amendments

In connection with this proposal, the Board is proposing amendments to various regulations that reference the capital rule in order to make appropriate conforming amendments to reflect this proposal. For example, references to advanced approaches risk-weighted assets would be removed and replaced with expanded total risk-weighted assets, consistent with the proposal. Such conforming changes would be made to Regulation H (12 CFR part 208), Regulation Y (12 CFR part 225), Regulation LL (12 CFR part 238), and Regulation YY (12 CFR part 252). To the

⁷⁷⁰ 12 CFR part 32.

⁷⁷¹ See 12 CFR 32.2(m)(1).

extent that other Board rules rely on items determined under the capital rule, changes to the capital rule could impact the effective requirements of such other Board rules. In addition to these proposed amendments, as discussed elsewhere in this document, the proposal would amend Regulation Y, Regulation LL, and Regulation YY as appropriate to reflect the proposed stress capital buffer framework.

Question 199: What modifications, if any, should the Board consider to this proposal or to other Board rules indirectly affected by this proposal?

XI. Administrative Law Matters

A. Paperwork Reduction Act

Certain provisions of the proposal contain “collections of information” within the meaning of the Paperwork Reduction Act of 1995 (PRA). In accordance with the requirements of the PRA, the agencies may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The information collection requirements contained in this joint proposal have been submitted to OMB for review and approval by the OCC and FDIC under section 3507(d) of the PRA (44 U.S.C. 3507(d)) and section 1320.11 of OMB’s implementing regulations (5 CFR part 1320). The Board reviewed the proposal under the authority delegated to the Board by OMB.

The proposal contains revisions to current information collections subject to the PRA. To implement these requirements, the agencies would revise and extend for three years the (1) Reporting, Recordkeeping, and Disclosure Requirements Associated with Regulatory Capital Rules (OMB Nos. 1557–0318, 3064–0153, and 7100–0313) and (2) Reporting, Recordkeeping, and Disclosure Requirements Associated with Market Risk Capital Rules (OMB Nos. 1557–0247, 3064–0178, and 7100–0314). These information collections are also being revised by the standardized approach proposal. For ease of reference, the proposed revisions to these information collections by this proposal as well as the standardized approach proposal will be addressed in a separate **Federal Register** notice.

The Board would also revise and extend for three years the (1) Financial Statements for Holding Companies (FR Y–9; OMB No. 7100–0128), (2) the Capital Assessments and Stress Testing (FR Y–14A/Q/M; OMB No. 7100–0341), and (3) the Systemic Risk Report (FR Y–

15; OMB No. 7100–0352). The proposed revisions to these Board reports will be addressed in one or more separate **Federal Register** notices.

Finally, the agencies, under the auspices of the FFIEC, would also propose related revisions to (1) all versions of the Consolidated Reports of Condition and Income (Call Reports) (FFIEC 031, FFIEC 041, and FFIEC 051; OMB Nos. 1557–0081; 3064–0052, and 7100–0036), (2) the Regulatory Capital Reporting for Institutions Subject to the Advanced Capital Adequacy Framework (FFIEC 101; OMB Nos. 1557–0239, 3064–0159, and 7100–0319), and (3) the Market Risk Regulatory Report for Institutions Subject to the Market Risk Capital Rule (FFIEC 102; OMB Nos. 1557–0325, 3064–0199, and 7100–0365). The proposed revisions to these FFIEC reports will be addressed in one or more separate **Federal Register** notices.

B. Regulatory Flexibility Act OCC

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, requires an agency, in connection with a proposed rule, to prepare an Initial Regulatory Flexibility Analysis describing the impact of the rule on small entities (defined by the Small Business Administration (SBA) for purposes of the RFA to include commercial banks and savings institutions with total assets of \$850 million or less (NAICS Code: 522110) and \$47 million for trust companies (NAICS Code: 523991)) or to certify that the proposed rule would not have a significant economic impact on a substantial number of small entities. The OCC currently supervises approximately 609 small entities.⁷⁷²

The OCC estimates that the proposed rule would impact none of these small entities, as the scope of the rule only applies to large national banks and FSAs and their subsidiaries. Therefore, the OCC certifies that the proposed rule would not have a significant economic impact on a substantial number of small entities.

Board

The Board is providing an initial regulatory flexibility analysis with

⁷⁷² Consistent with the General Principles of Affiliation 13 CFR 121.103(a), OCC staff count the assets of affiliated financial institutions when determining whether to classify an OCC-supervised institution as a small entity. OCC staff use December 31, 2024, to determine size because a “financial institution’s assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year.” See footnote 8 of the U.S. Small Business Administration’s *Table of Size Standards*.

respect to this proposed rule. The Regulatory Flexibility Act⁷⁷³ (RFA) requires an agency to consider whether the rule it proposes will have a significant economic impact on a substantial number of small entities.⁷⁷⁴ In connection with a proposed rule, the RFA requires an agency to prepare and invite public comment on an initial regulatory flexibility analysis describing the impact of the rule on small entities, unless the agency certifies that the proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. An initial regulatory flexibility analysis must contain (1) a description of the reasons why action by the agency is being considered; (2) a succinct statement of the objectives of, and legal basis for, the proposed rule; (3) a description of, and, where feasible, an estimate of the number of small entities to which the proposed rule will apply; (4) a description of the projected reporting, recordkeeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities that will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; (5) an identification, to the extent practicable, of all relevant Federal rules which may duplicate, overlap with, or conflict with the proposed rule; and (6) a description of any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and minimize any significant economic impact of the proposed rule on small entities.⁷⁷⁵

The Board has considered the potential impact of the proposed rule on small entities in accordance with the RFA. Based on its analysis and for the reasons stated below, the Board believes that this proposed rule will not have a significant economic impact on a substantial number of small entities. Nevertheless, the Board is publishing and inviting comment on this initial regulatory flexibility analysis. The proposal would also make

⁷⁷³ 5 U.S.C. 601 *et seq.*

⁷⁷⁴ Under regulations issued by the U.S. Small Business Administration (SBA), a small entity includes a depository institution, bank holding company, or savings and loan holding company with total assets of \$850 million or less. See 13 CFR 121.201. Consistent with the SBA’s General Principles of Affiliation, the Board includes the assets of all domestic and foreign affiliates toward the applicable size threshold when determining whether to classify a particular entity as a small entity. See 13 CFR 121.103. As of the second quarter of 2025, there were approximately 2,796 small bank holding companies and approximately 157 small savings and loan holding companies, and approximately 443 small state member banks.

⁷⁷⁵ 5 U.S.C. 603(b)–(c).

corresponding changes to the Board's reporting forms.

As discussed in detail in sections I through X of this **SUPPLEMENTARY INFORMATION**, the proposed rule would substantially revise the capital requirements applicable to large banking organizations and to banking organizations with significant trading activity. The revisions set forth in the proposal would improve the calculation of risk-based capital requirements to better reflect the risks of these banking organizations' exposures, reduce the complexity of the framework, enhance the consistency of requirements across these banking organizations, change the definition of capital, amend certain dollar-based regulatory thresholds, and facilitate more effective supervisory and market assessments of capital adequacy. The revisions would include replacing current requirements that include the use of banking organizations' internal models for credit risk and operational risk with standardized approaches and replacing the current market risk and credit valuation adjustment risk requirements with revised approaches. Requirements under the proposal would generally be consistent with international capital standards issued by the Basel Committee.

Congress has authorized the agencies to establish risk-based capital requirements and standards for banking organizations subject to this proposal. Section 165 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act),⁷⁷⁶ as amended by section 401 of the Economic Growth, Regulatory Relief, and Consumer Protection Act,⁷⁷⁷ requires the Board to establish enhanced prudential standards that include risk-based capital requirements for bank holding companies with \$250 billion or more in total consolidated assets.⁷⁷⁸ The prompt

corrective action framework in section 38 of the Federal Deposit Insurance Act (FDI Act) requires the agencies to prescribe capital standards for insured depository institutions that include a risk-based capital requirement and provides that the agencies may establish any additional relevant capital measures to carry out the purpose of that section.⁷⁷⁹ Various other statutory authorities provide the agencies with broad discretionary authority to set capital requirements and standards for banking organizations supervised by the agencies, including national banking associations, state-chartered banks, savings associations, and depository institution holding companies.⁷⁸⁰

As discussed in more detail in section II of this **SUPPLEMENTARY INFORMATION**, the proposed rule would apply to Category I and II banking organizations, as well as to banking organizations with significant trading activity. Under the proposed rule, a banking organization with significant trading activity would include any banking organization with average aggregate trading assets and trading liabilities, excluding customer and proprietary broker-dealer reserve bank accounts, over the previous four calendar quarters equal to \$5 billion or more, or equal to 10 percent or more of total consolidated assets at quarter end as reported on the most recent quarterly regulatory report. Additionally, the proposal would allow other banking organizations to opt into the expanded risk-based approach. Banking organizations that choose this option would also be subject to the definition of capital that applies to Category I and II banking organizations. Accordingly, essentially all banking organizations to which the proposed rule would apply exceed the SBA's \$850 million total asset threshold, except for small entities that opt into the framework set out in the proposed rule. A small entity could choose not to opt into the framework set out in this proposal and would not be

required to make any changes to its current reporting, recordkeeping, or compliance systems in order to elect not to adopt this framework; the proposed rule, therefore, would not impose mandatory requirements or costs on any small entities.

As discussed in more detail in the Paperwork Reduction Act section, the proposed rule, once final, would require changes to the Consolidated Financial Statements for Holding Companies report (FR Y-9C) and the Capital Assessments and Stress Testing reports (FR Y-14A and FR Y-14Q).

The Board is aware of no other Federal rules that duplicate, overlap, or conflict with the proposed changes to the capital rule. The Board also is aware of no significant alternatives to the proposed rule that would accomplish the stated objectives of applicable statutes. Because the proposed rule generally would not apply to any small entities supervised by the Board, there are no alternatives that could minimize the impact of the proposed rule on small entities.

Therefore, the Board believes that the proposed rule would not have a significant economic impact on a substantial number of small entities supervised by the Board.

The Board welcomes comment on all aspects of its analysis. In particular, the Board requests that commenters describe the nature of any impact on small entities and provide empirical data to illustrate and support the extent of the impact.

FDIC

The Regulatory Flexibility Act (RFA) generally requires an agency, in connection with a proposed rulemaking, to prepare and make available for public comment an initial regulatory flexibility analysis that describes the impact of the proposed rule on small entities.⁷⁸¹ However, an initial regulatory flexibility analysis is not required if the agency certifies that the proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. The Small Business Administration (SBA) has defined "small entities" to include banking organizations with total assets of less than or equal to \$850 million.⁷⁸²

⁷⁸¹ 5 U.S.C. 601 *et seq.*

⁷⁸² The SBA defines a small banking organization as having \$850 million or less in assets, where an organization's "assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year." See 86 FR 69118 which amends 13 CFR 121.201, (effective December 19, 2022.). In its determination, the "SBA counts the receipts, employees, or other measure of size of the concern whose size is at issue and all of its domestic and foreign affiliates." See 13 CFR

⁷⁷⁶ Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111-203, 124 Stat. 1376 (2010).

⁷⁷⁷ Economic Growth, Regulatory Relief, and Consumer Protection Act, Public Law 115-174, 132 Stat. 1296 (2018).

⁷⁷⁸ See 12 U.S.C. 5365(a)(1), (b)(1)(A)(i). Section 165 of the Dodd-Frank Act also provides that the Board may apply any prudential standard established under section 165 to any bank holding company with \$100 billion or more in total consolidated assets to which the prudential standard does not otherwise apply, under certain circumstances. 12 U.S.C. 5365(a)(2)(C). Section 165, in relevant part, also applies to foreign banks or companies that are treated as a bank holding company for purposes of the Bank Holding Company Act. See 12 U.S.C. 3106(a), 5311(a)(1). See also section 401(g) of the Economic Growth, Regulatory Relief, and Consumer Protection Act (regarding the Board's authority to establish enhanced prudential standards for foreign banking organizations with total consolidated assets of \$100 billion or more). 12 U.S.C. 5365 note.

⁷⁷⁹ See 12 U.S.C. 1831o(c)(1)(A), (c)(1)(B)(i).

⁷⁸⁰ See 12 U.S.C. 93a (national banking associations); 12 U.S.C. 248(i), 324, 327, 329 (state member banks); 12 U.S.C. 1463 (savings associations); 12 U.S.C. 1467a(g)(1) (savings and loan holding companies); 12 U.S.C. 1844(b) (bank holding companies); 12 U.S.C. 3106 (certain U.S. operations of foreign banking organizations); 12 U.S.C. 3902(1)-(2), 3907(a), 3909(a), (c)(1)-(2) (depository institutions; affiliates of depository institutions, including holding companies; and certain U.S. operations of foreign banking organizations); 12 U.S.C. 5371 (insured depository institutions, depository institution holding companies, and nonbank financial companies supervised by the Board). Additional statutory authorities relevant to the agencies' capital rule can be found in the authority citations in the capital rule. See 12 CFR part 3 (OCC); 12 CFR part 217 (Board); 12 CFR part 324 (FDIC).

For the reasons described below, the FDIC certifies that the proposed rule would not have a significant economic impact on a substantial number of small entities.

As discussed in section IV, the proposed rule, if enacted, would revise the risk-based capital requirements applicable to Category I and II holding companies and their subsidiary Depository Institutions (DIs).⁷⁸³ Specifically, these banking organizations would be subject to a single set of risk-based capital ratio requirements based on the expanded risk-based approach, as defined in section III. According to Call Reports, there are 2,802 FDIC-supervised DIs that report risk-based capital.⁷⁸⁴ Of these, approximately 2,085 would be considered small entities for the purposes of the RFA.⁷⁸⁵ As of June 30, 2025, there were 9 top-tier U.S. depository institution holding companies and 22 U.S.-based depository institutions that report risk-based capital figures and are subject to Category I or II standards.⁷⁸⁶ As of June 30, 2025, the FDIC supervised one DI that is a subsidiary of a holding company subject to the Category I capital standards and no DIs that are subsidiaries of holding companies subject to the Category II capital standards.⁷⁸⁷ This FDIC-supervised DI is not considered a small entity for the purposes of the RFA because it is a subsidiary of a holding company with over \$850 million in total assets. Therefore, no FDIC-supervised small entities would be subject to the expanded risk-based approach should the proposed rule be enacted.

As discussed in section II.A, the proposed rule would allow any non-Category I or II covered banking organization to elect to use the expanded risk-based approach. Electing

the expanded risk-based approach would entail compliance with other requirements, notably the need to capitalize separately for operational risk and ineligibility to elect the AOCI filter for banking organizations below the Category IV threshold. Banking organizations electing to use the expanded risk-based approach would be required to fully implement its applicable provisions, including the capital, operational risk, recordkeeping, reporting, and disclosure elements. Further, they would be required to reflect most elements of AOCI in regulatory capital even if they subsequently change to the standardized approach.

Banking organizations that qualify as small entities have simpler business models with risk management and reporting systems designed for their size and activities. If they elect the requirements under the proposal, they may be required to set up, operate, maintain, and keep records on more granular systems that would not likely yield benefits that would warrant the additional costs to these small entities.

As mentioned, the agencies are concurrently publishing a separate proposal that revises the standardized approach risk-based capital requirements. Small entities that use the proposed standardized approach or elect to use the CBLR framework would avoid the expanded risk-based approach requirements designed for larger, more complex banking organizations.⁷⁸⁸

Under the scenario in which all three frameworks are finalized as proposed, the agencies believe that FDIC-supervised small entities are most likely to choose as their required capital framework either (1) the concurrently proposed revised standardized approach or (2) the recently proposed revised CBLR, as these two frameworks are better suited to the size and complexity of small entities than is the proposed expanded risk-based approach. For eligible small entities, the two options present a basic tradeoff between lower required capital under the proposed revised standardized approach and

simpler reporting requirements under proposed revised CBLR.⁷⁸⁹

For these reasons, the FDIC does not expect a substantial number of small entities to elect to use the proposed expanded risk-based approach.

Some effects of the proposal on small entities would occur regardless of whether the entities adopt the expanded-risk based approach. First, aspects of the proposal discussed in sections III and IV.A may indirectly support small entities by increasing the attractiveness of correspondent lending models and other forms of loan participation agreements.⁷⁹⁰ Smaller lenders can cultivate customers via their superior local knowledge while turning to larger banking organizations for funding and for their facility with securitization markets.⁷⁹¹ The proposed removal of the mortgage servicing assets deduction treatment would also make mortgage lending relationships under these types of models more attractive, particularly for Ginnie Mae securitizations where lenders must pool together multiple loans themselves. Second, the proposed reduction in capital requirements in the expanded risk-based approach, in principle, could have competitiveness impacts in certain lending markets that may indirectly affect small entities. However, the agencies designed this proposal and the standardized approach proposal concurrently, in part to mitigate potential competitiveness impacts on smaller banking organizations. Several changes in proposed risk weights applicable to Category I and II banking organizations through the expanded risk-based approach have corresponding changes to proposed risk weights applicable to smaller banking organizations (including small entities) through the standardized approach proposal. Therefore, the agencies believe indirect competitiveness effects on small entities generally would be

^{121.103.} Following these regulations, the FDIC uses a covered entity's affiliated and acquired assets, averaged over the preceding four quarters, to determine whether the covered entity is "small" for the purposes of RFA.

⁷⁸³ Covered banking organizations surpassing certain trading asset thresholds would also be subject to the proposal.

⁷⁸⁴ Call Reports data, June 30, 2025. The count of potential covered entities excludes six insured, domestic branches of foreign banks.

⁷⁸⁵ Call Reports data, June 30, 2025.

⁷⁸⁶ On November 1, 2019, the banking agencies established four risk-based categories in order to tailor requirements under the agencies' regulatory capital and liquidity rules to banking organizations with assets of \$100 billion or more (84 FR 59230). These Tailored Categories are defined in 12 CFR part 252 (84 FR 59032). The tailored holding company and depository institutions counts are based on June 2025 Call Reports, FR Y-9C data, and FR Y-15 data.

⁷⁸⁷ Counts are based on June 30, 2025 Call Reports, FR Y-9C data, and FR Y-15 data.

⁷⁸⁸ The CBLR criteria currently require a banking organization to have less than \$10 billion in total assets, meet a minimum required ratio of tangible equity capital to its average total consolidated assets of 9 percent, hold off-balance sheet exposures of 25 percent or less of total consolidated assets, and hold total trading assets plus trading liabilities of 5 percent or less of total consolidated assets. As of June 30, 2025, over 1,000 FDIC-supervised DI elect to use the CBLR framework. A recent proposal would reduce the required leverage ratio from 9 percent to 8 percent, and extend the grace period for an eligible banking organization that fails to meet the qualifying criteria after opting into the CBLR framework. 90 FR 55048 (Dec. 1, 2025).

⁷⁸⁹ See the Economic Impact section of the Regulatory Capital and Standardized Approach for Risk-weighted Assets Notice of Proposed Rulemaking for more information on small banking organizations' incentives to select between the standardized approach and the CBLR.

⁷⁹⁰ See Michael Poprik, "Loan Participations: Lessons Learned During a Period of Economic Malaise," *Federal Reserve Bank of Richmond Community and Regional Supervision* (2013), <https://www.communitybankingconnections.org/articles/2013/q2/loan-participations>.

⁷⁹¹ See Richard Stanton, Johan Walden, & Nancy Wallace, "The Industrial Organization of the US Residential Mortgage Market," *Annual Review of Financial Economics*, no. 6 (2014), available at: <https://doi.org/10.1146/annurev-financial-110613-034324> and David Benson, You Suk Kim, & Karen Pence, "Bank Aggregator Exit, Nonbank Entry, and Credit Supply in the Mortgage Industry," *Working Paper* (2023), <https://www.fdic.gov/system/files/2024-07/kim-paper.pdf>.

small. The agencies do not have the data necessary to estimate the magnitudes of these additional effects on small entities, but believe that these effects do not rise to a significant level for a substantial number of small entities.

For the reasons outlined above, the FDIC certifies that the proposed rule, if adopted, would not have a significant economic effect on a substantial number of small entities.

C. Plain Language

Section 722 of the Gramm-Leach Bliley Act⁷⁹² requires the Federal banking agencies⁷⁹³ to use plain language in all proposed and final rules published after January 1, 2000. The agencies have sought to present the proposal in a simple and straightforward manner and invite comments on the use of plain language and whether any part of the proposal could be more clearly stated. For example:

- Have the agencies presented the material in an organized manner that meets your needs? If not, how could this material be better organized?
- Are the requirements in the notice of proposed rulemaking clearly stated? If not, how could the proposed rule be more clearly stated?
- Does the proposed rule contain language that is not clear? If so, which language requires clarification?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the proposed rule easier to understand? If so, what changes to the format would make the proposed rule easier to understand?
- What else could the agencies do to make the proposed rule easier to understand?

D. Riegle Community Development and Regulatory Improvement Act of 1994

Pursuant to section 302(a) of the Riegle Community Development and Regulatory Improvement Act (RCDRIA),⁷⁹⁴ in determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on insured depository institutions, each Federal banking agency must consider, consistent with principles of safety and soundness and the public interest, any administrative burdens that such regulations would place on depository institutions, including small depository institutions,

and customers of depository institutions, as well as the benefits of such regulations. In addition, section 302(b) of RCDRIA requires new regulations and amendments to regulations that impose additional reporting, disclosures, or other new requirements on insured depository institutions generally to take effect on the first day of a calendar quarter that begins on or after the date on which the regulations are published in final form, with certain exceptions, including for good cause.⁷⁹⁵

The agencies note that comment on these matters has been solicited in other sections of this **SUPPLEMENTARY INFORMATION** section, and that the requirements of RCDRIA will be considered as part of the overall rulemaking process. In addition, the agencies also invite any other comments that further will inform the agencies' consideration of RCDRIA.

E. OCC Unfunded Mandates Reform Act of 1995 Determination

The OCC has analyzed the proposed rule under the factors in the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1532). Under this analysis, the OCC considered whether the proposed rule includes a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year, adjusted annually for inflation (currently \$187 million⁷⁹⁶).

To estimate the compliance costs of the proposal, OCC staff reviewed the new mandates that affect OCC-supervised banks, and then considered costs that may arise from compliance with these mandates, including the total hours needed per bank, on average, for systems development, data acquisition, data aggregation and reporting, calculation and verification, training, and risk management. Based on internal discussions with OCC subject matter experts, OCC staff estimate a one-time implementation cost of approximately \$110 million.⁷⁹⁷ Thus, the OCC

concludes that the expenditures imposed by the rule will be less than \$187 million. Accordingly, the UMRA does not require that a written statement accompany this rule.

F. Executive Orders 12866, 13563 and 14192

Executive Order 12866 (Regulatory Planning and Review)⁷⁹⁸ and Executive Order 13563 (Improving Regulation and Regulatory Review)⁷⁹⁹ direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This proposed rule was drafted and reviewed in accordance with Executive Order 12866 and Executive Order 13563. Within OMB, the Office of Information and Regulatory Affairs (OIRA) has determined that this rulemaking is 'an economically significant regulatory action' under section 3(f)(1) of Executive Order 12866. Accordingly, the draft rule was submitted to OIRA for review. As noted in other sections of the **SUPPLEMENTARY INFORMATION** of this document, the agencies have assessed the costs and benefits of this rulemaking and have made a reasoned determination that the benefits of this rulemaking justify its costs. The proposal, if finalized as proposed, is not expected to be an Executive Order 14192 regulatory action.

G. Providing Accountability Through Transparency Act of 2023

The Providing Accountability Through Transparency Act of 2023 (5 U.S.C. 553(b)(4)) requires that a notice of proposed rulemaking include the internet address of a summary of not more than 100 words in length of the proposed rule, in plain language, that shall be posted on the internet website under section 206(d) of the E-Government Act of 2002 (44 U.S.C. 3501 note).

In summary, the bank regulatory agencies request comment on a proposal to revise the risk-based capital requirements that apply to the largest, most internationally active firms to substantially simplify the framework, better align minimum requirements with risk, improve the consistency of requirements across U.S. firms, consider overlaps with the stress capital buffer requirement, and align requirements with international standards while ensuring the framework accounts for specific features of U.S. markets.

⁷⁹² Public Law 106–102, section 722, 113 Stat. 1338, 1471 (1999).

⁷⁹³ The Federal banking agencies are the OCC, Board, and FDIC.

⁷⁹⁴ 12 U.S.C. 4802(a).

⁷⁹⁵ 12 U.S.C. 4802.

⁷⁹⁶ OCC staff estimate the UMRA inflation adjustment using the change in the annual average of the U.S. GDP Implicit Price Deflator between 1995 and 2024, which are the most recent annual data available. According to Bureau of Economic Analysis data released on March 27, 2025, the deflator was 66.939 in 1995 and 125.230 in 2024, resulting in an inflation adjustment factor of 1.87 (125.230/66.939 = 1.87 rounded to the nearest hundredth, and \$100 million × 1.87 = \$187 million).

⁷⁹⁷ These compliance cost estimates are subject to considerable uncertainty. They should be interpreted as approximate, order-of-magnitude estimates rather than precise measures of the actual costs individual banks will incur.

⁷⁹⁸ E.O. 12866, 58 FR 51735 (Oct. 4, 1993).

⁷⁹⁹ E.O. 13563, 76 FR 3821 (Jan. 21, 2011).

The proposal and such a summary can be found at <https://www.regulations.gov> by searching for Docket ID OCC–2026–0265 and <https://occ.gov/topics/laws-and-regulations/occ-regulations/proposed-issuances/index-proposed-issuances.html>, <https://www.federalreserve.gov/supervisionreg/reglisting.htm>, and <https://www.fdic.gov/federal-register-publications>.

Text of Common Rule

Subpart E—Risk-Weighted Assets—Expanded Risk-Based Approach

§ _____.100 Purpose and Applicability

(a) *Purpose*. This subpart sets forth methodologies for determining expanded total risk-weighted assets for purposes of the expanded capital ratio calculations.

(b) *Applicability*.

(1) This subpart applies to any Category I [BANKING ORGANIZATION], any Category II [BANKING ORGANIZATION], and any [BANKING ORGANIZATION] that elects to use this subpart under § _____.10(b).

(2) The [AGENCY] may apply this subpart to any [BANKING ORGANIZATION] if the [AGENCY] deems it necessary or appropriate to ensure safe and sound banking practices.

(c) Notwithstanding any other provision of this section, a market risk [BANKING ORGANIZATION] must exclude from its calculation of risk-weighted assets under this subpart the risk-weighted asset amounts of all market risk covered positions, as defined in subpart F of this part (except foreign exchange positions that are not trading positions, OTC derivative positions, cleared transactions, and unsettled transactions).

§ _____.101 Definitions

(a) Terms that are set forth in § _____.2 and used in this subpart have the definitions assigned thereto in § _____.2 unless otherwise defined in paragraph (b) of this section.

(b) For purposes of this subpart, the following terms are defined as follows:

Acquisition, development, or construction (ADC) exposure means a loan secured by real estate for the purpose of acquiring, developing, or constructing residential or commercial real estate properties, as well as all land development loans, and all other land loans.

Bank exposure means an exposure to a depository institution, foreign bank, or credit union.

Dependent on the cash flows generated by the real estate means, for a real estate exposure, that the underwriting, at the time of origination, considers the cash flows generated by lease, rental, or sale of the real estate securing the loan as a source of repayment. For purposes of this definition, a residential mortgage exposure that is secured by the borrower's principal residence is deemed not dependent on the cash flows generated by the real estate.

Dividend income means all dividends received on securities not consolidated in the [BANKING ORGANIZATION]'s financial statements.

Grade A bank exposure means:

(1) A bank exposure for which the depository institution, foreign bank, or credit union is investment grade and whose most recent capital ratios meet or exceed the higher of:

(i) The minimum capital requirements and any additional amounts necessary to not be subject to limitations on distributions and discretionary bonus payments under capital rules established by the prudential supervisor of the depository institution, foreign bank, or credit union; and

(ii) If applicable, the capital ratio requirements for the well capitalized capital category under the regulations of the appropriate Federal banking agency implementing 12 U.S.C. 1831o or under similar regulations of the National Credit Union Administration.

(2) Notwithstanding paragraph (1) of this definition, an exposure is not a Grade A bank exposure if:

(i) The capital ratios for the depository institution, foreign bank, or credit union have not been publicly disclosed within the previous 6 months;

(ii) The external auditor of the depository institution, foreign bank, or credit union has issued an adverse audit opinion or has expressed substantial doubt about the ability of the depository institution, foreign bank, or credit union to continue as a going concern within the previous 12 months; or

(iii) For a foreign bank, the capital standards imposed by the home country supervisor on the foreign bank are not broadly consistent with the Capital Accord of the Basel Committee on Banking Supervision.

Grade B bank exposure means:

(1) A bank exposure that is not a Grade A bank exposure and for which the depository institution, foreign bank, or credit union is speculative grade or investment grade and whose most recent capital ratios meet or exceed the higher of:

(i) The minimum capital requirements under capital rules established by the

prudential supervisor of the depository institution, foreign bank, or credit union; and

(ii) If applicable, the capital ratio requirements for the adequately capitalized category under the regulations of the appropriate Federal banking agency implementing 12 U.S.C. 1831o or under similar regulations of the National Credit Union Administration.

(2) Notwithstanding paragraph (1) of this definition, an exposure to a depository institution, foreign bank, or credit union is not a Grade B bank exposure if:

(i) The capital ratios for the depository institution, foreign bank, or credit union have not been publicly disclosed within the previous 6 months;

(ii) The external auditor of the depository institution, foreign bank, or credit union has issued an adverse audit opinion or has expressed substantial doubt about the ability of the depository institution, foreign bank, or credit union to continue as a going concern within the previous 12 months; or

(iii) For a foreign bank, the capital standards imposed by the home country supervisor on the foreign bank are not broadly consistent with the Capital Accord of the Basel Committee on Banking Supervision.

Grade C bank exposure means a bank exposure for which the depository institution, foreign bank, or credit union does not qualify as a Grade A bank exposure or a Grade B bank exposure.

Interest-earning assets means the sum of all gross outstanding loans and leases, securities that pay interest, interest-bearing balances, Federal funds sold, and securities purchased under agreement to resell.

Investment management means asset management, wealth management and private banking, including professional management of mutual funds and institutional accounts, and professional portfolio management and advisory services for individuals.

Investment services means asset servicing (which include custody, fund services, securities lending, liquidity services, collateral management, and other asset servicing; as well as recording keeping services for 401K and employee benefit plans, but exclude funding or guarantee products offered to such clients), issuer services (which include corporate trust, shareowner services, depository receipts, and other issuer services), and other investment services (which include clearing and other investment services).

Noninterest expense for BI means other noninterest expense, based on the consolidated financial statements of the

[BANKING ORGANIZATION], excluding expenses that relate to non-financial services received by the [BANKING ORGANIZATION] and operational losses. Noninterest expense for BI does not include salaries and employee benefits, expenses of premises and fixed assets, goodwill impairment losses, or amortization expense and impairment losses for other intangible assets.

Non-lending treasury services means cash management, global payments, and deposit services (and excludes any lending or card activities).

Operational loss means all losses (excluding insurance or tax effects) resulting from an operational loss event, including any reduction in previously reported capital levels attributable to restatements or corrections of financial statements. Operational loss includes all expenses associated with an operational loss event except for opportunity costs, forgone revenue, and costs related to risk management and control enhancements implemented to prevent future operational losses. Operational loss does not include losses that are also credit losses and are related to exposures within the scope of the credit risk-weighted assets framework (except for retail credit card losses arising from non-contractual, third-party-initiated fraud, which are operational losses).

Operational loss event means an event that results in loss due to inadequate or failed internal processes, people, and systems or from external events. This includes legal loss events and restatements or corrections of financial statements that result in a reduction of capital relative to amounts previously reported. Losses with a common underlying trigger must be grouped into a single operational loss event. Operational loss events are classified according to the following seven operational loss event types:

(1) Internal fraud, which means the operational loss event type that comprises operational losses resulting from an act involving at least one internal party of a type intended to defraud, misappropriate property, or circumvent regulations, the law, or company policy excluding diversity and discrimination noncompliance events.

(2) External fraud, which means the operational loss event type that comprises operational losses resulting from an act by a third party of a type intended to defraud, misappropriate property, or circumvent the law. Retail credit card losses arising from non-contractual, third-party-initiated fraud (for example, identity theft) are external fraud operational losses.

(3) Employment practices and workplace safety, which means the operational loss event type that comprises operational losses resulting from an act inconsistent with employment, health, or safety laws or agreements, payment of personal injury claims, or payment arising from diversity and discrimination noncompliance events.

(4) Clients, products, and business practices, which means the operational loss event type that comprises operational losses resulting from the nature or design of a product or from an unintentional or negligent failure to meet a professional obligation to specific clients (including fiduciary and suitability requirements).

(5) Damage to physical assets, which means the operational loss event type that comprises operational losses resulting from the loss of or damage to physical assets from natural disaster or other events.

(6) Business disruption and system failures, which means the operational loss event type that comprises operational losses resulting from disruption of business or system failures, including hardware, software, telecommunications, utility outage or disruptions.

(7) Execution, delivery, and process management, which means the operational loss event type that comprises operational losses resulting from failed transaction processing or process management or losses arising from relations with trade counterparties and vendors.

Operational risk means the risk of loss resulting from inadequate or failed internal processes, people, and systems or from external events (including legal risk but excluding strategic risk).

Other real estate exposure means a real estate exposure that is not a regulatory commercial real estate exposure, a regulatory residential real estate exposure, a pre-sold construction loan, a statutory multifamily mortgage, an HVCRE exposure, or an ADC exposure.

Project finance exposure means a corporate exposure:

(1) For which the [BANKING ORGANIZATION] relies on the revenues generated by a single project, both as the source of repayment and as security for the loan;

(2) The exposure is to an entity that was created specifically to finance the project, operate the physical assets of the project, or do both; and

(3) The borrowing entity has an immaterial amount of assets, activities, or sources of income, apart from those related to the project being financed.

Project finance operational phase exposure means a project finance exposure where the project has positive net cash flow that is sufficient to support the debt service and expenses of the project and any other remaining contractual obligation, in accordance with the [BANKING ORGANIZATION]'s applicable loan underwriting criteria for permanent financings, and where the outstanding long-term debt on the project is declining.

Real estate exposure means an exposure that is neither a sovereign exposure nor an exposure to a PSE and that is:

- (1) A residential mortgage exposure;
- (2) An exposure that is primarily secured by collateral in the form of real estate;
- (3) A pre-sold construction loan;
- (4) A statutory multifamily mortgage;
- (5) An HVCRE exposure; or
- (6) An ADC exposure.

Regulatory commercial real estate exposure means a real estate exposure that is not a regulatory residential real estate exposure, an ADC exposure, a pre-sold construction loan, a statutory multifamily mortgage, or an HVCRE exposure, and that meets the following criteria:

- (1) The exposure must be primarily secured by fully completed real estate;
- (2) The [BANKING ORGANIZATION] holds a first priority security interest in the property that is legally enforceable in all relevant jurisdictions; provided that when the [BANKING ORGANIZATION] also holds a junior security interest in the same property and no other party holds an intervening security interest, the [BANKING ORGANIZATION] must treat the exposures as a single regulatory commercial real estate exposure;
- (3) The exposure is made in accordance with prudent underwriting standards, including standards relating to the loan amount as a percent of the value of the property;
- (4) During underwriting of the loan, the [BANKING ORGANIZATION] must have applied underwriting policies that took into account the ability of the borrower to repay in a timely manner based on clear and measurable underwriting standards that enable the [BANKING ORGANIZATION] to evaluate relevant credit factors;
- (5) The property must be valued in accordance with § _____.5; and
- (6) Involves a loan that has not been restructured or modified.

Regulatory residential real estate exposure means a real estate exposure that is a first-lien residential mortgage exposure, that is not an ADC exposure, a pre-sold construction loan, a statutory

multifamily mortgage, or an HVCRE exposure, and that meets the following criteria:

(1) The exposure:

- (i) Is secured by a property that is either owner-occupied or rented;
- (ii) Is made in accordance with prudent underwriting standards, including standards relating to the loan amount as a percent of the value of the property;
- (iii) Involves a loan, for which the [BANKING ORGANIZATION] applied underwriting policies that took into account the ability of the borrower to repay in a timely manner based on clear and measurable underwriting standards that enable the [BANKING ORGANIZATION] to evaluate these credit factors, during underwriting of the loan;
- (iv) Is secured by property that is valued in accordance with § _____.5; and
- (v) Involves a loan that has not been restructured or modified, provided that a loan modified or restructured solely pursuant to the U.S. Treasury's Home Affordable Mortgage Program is not modified or restructured for purposes of this section.

(2) When a [BANKING ORGANIZATION] holds the first-lien and junior-lien(s) mortgage exposure, and no other party holds an intervening lien, the [BANKING ORGANIZATION] must treat the exposures as a single regulatory residential real estate exposure.

Regulatory retail exposure means a retail exposure that meets both of the following criteria:

- (1) *Product criterion.* The exposure is a revolving credit or line of credit or a term loan or lease; and
- (2) *Aggregate limit.* The sum of the notional amount of the exposure and the notional amounts of all other retail exposures to the obligor and to its affiliates does not exceed \$1 million, as adjusted pursuant to § _____.4.

Retail exposure means an exposure that is not a real estate exposure and that meets the following criteria:

- (1) The exposure is to a natural person or persons, or
- (2) The exposure is to an SME and satisfies the criteria in paragraphs (1) through (2) of the definition of *regulatory retail exposure*.

Senior securitization exposure means a securitization exposure that has a first-priority claim on the cash flows from the underlying exposures. When determining whether a securitization exposure has a first-priority claim on the cash flows from the underlying exposures, a [BANKING ORGANIZATION] is not required to

consider amounts due under interest rate derivative, currency derivative, and servicer cash advance facility contracts; fees due; and other similar payments. Both the most senior commercial paper issued by an ABCP program and a liquidity facility that supports the ABCP program may be senior securitization exposures if the liquidity facility provider's right to reimbursement of the drawn amounts is senior to all claims on the cash flows from the underlying exposures except amounts due under interest rate derivative, currency derivative, and servicer cash advance facility contracts; fees due; and other similar payments.

Small or medium-sized entity (SME) means an entity in which the reported annual revenues or sales for the consolidated group of which the entity is a part are less than or equal to \$50 million, as adjusted pursuant to § _____.4, for the most recent fiscal year.

Subordinated exposure means an exposure that is a corporate exposure, a bank exposure, or an exposure to a GSE that is subordinated by its terms or separate intercreditor agreement to the general creditors of the obligor, including an exposure to preferred stock that is not an equity exposure.

Transactor exposure means a regulatory retail exposure that is a credit facility where the balance has been repaid in full at each scheduled repayment date for the previous 12 months or an overdraft facility where there has been no drawdown over the previous 12 months.

Total interest expense means interest expenses related to all financial liabilities and other interest expenses.

Total interest income means interest income from all financial assets and other interest income.

Risk-Weighted Assets for Credit Risk

§ _____.110 Calculation of Total Risk-Weighted Assets for General Credit Risk

(a) *General risk-weighting requirements.* A [BANKING ORGANIZATION] must apply risk weights to its exposures as follows:

(1) A [BANKING ORGANIZATION] must determine the exposure amount of each on-balance sheet exposure, each derivative contract, and each off-balance sheet commitment, trade and transaction-related contingency, guarantee, repo-style transaction, financial standby letter of credit, forward agreement, or other similar transaction that is not:

- (i) An unsettled transaction subject to § _____.117;
- (ii) A cleared transaction subject to § _____.116;

(iii) A default fund contribution subject to § _____.116;

(iv) A securitization exposure subject to §§ _____.130 through _____.134;

(v) An equity exposure (other than an equity derivative contract) subject to §§ _____.140 through _____.142.

(2) The [BANKING ORGANIZATION] must multiply each exposure amount by the risk weight appropriate to the exposure based on the exposure type or counterparty, eligible guarantor, or financial collateral to determine the risk-weighted asset amount for each exposure.

(b) *Total risk-weighted assets for general credit risk.* Total credit risk-weighted assets equals the sum of the risk-weighted asset amounts calculated under this section.

§ _____.111 General Risk Weights

(a) *Sovereign exposures—(1) Exposures to the U.S. government.* (i) Notwithstanding any other requirement in this subpart, a [BANKING ORGANIZATION] must assign a zero percent risk weight to:

(A) An exposure to the U.S. government, its central bank, or a U.S. government agency; and

(B) The portion of an exposure that is directly and unconditionally guaranteed by the U.S. government, its central bank, or a U.S. government agency. This includes a deposit or other exposure, or the portion of a deposit or other exposure, that is insured or otherwise unconditionally guaranteed by the FDIC or the National Credit Union Administration.

(ii) A [BANKING ORGANIZATION] must assign a 20 percent risk weight to the portion of an exposure that is conditionally guaranteed by the U.S. government, its central bank, or a U.S. government agency. This includes an exposure, or the portion of an exposure, that is conditionally guaranteed by the FDIC or the National Credit Union Administration.

(iii) A [BANKING ORGANIZATION] must assign a zero percent risk weight to a Paycheck Protection Program covered loan as defined in section 7(a)(36) of the Small Business Act (15 U.S.C. 636(a)(36)).

(2) *Other sovereign exposures.* In accordance with Table 1 to § _____.111, a [BANKING ORGANIZATION] must assign a risk weight to a sovereign exposure based on the CRC applicable to the sovereign or the sovereign's OECD membership status if there is no CRC applicable to the sovereign.

Table 1 to § __.111—Risk Weights for Sovereign Exposures

		Risk Weight (in percent)
CRC	0-1	0
	2	20
	3	50
	4-6	100
	7	150
OECD Member with No CRC		0
Non-OECD Member with No CRC		100
Sovereign Default		150

(3) *Certain sovereign exposures.* Notwithstanding paragraph (a)(2) of this section, a [BANKING ORGANIZATION] may assign to a sovereign exposure a risk weight that is lower than the applicable risk weight in Table 1 to § __.111 if:

- (i) The exposure is denominated in the sovereign's currency;
- (ii) The [BANKING ORGANIZATION] has at least an equivalent amount of liabilities in that currency; and
- (iii) The risk weight is not lower than the risk weight that the home country supervisor allows an organization engaged in the business of banking under its jurisdiction to assign to the same exposures to the sovereign.

(4) *Exposures to a non-OECD member sovereign with no CRC.* Except as provided in paragraphs (a)(3), (5) and (6) of this section, a [BANKING ORGANIZATION] must assign a 100 percent risk weight to an exposure to a sovereign if the sovereign does not have a CRC.

(5) *Exposures to an OECD member sovereign with no CRC.* Except as provided in paragraph (a)(6) of this section, a [BANKING ORGANIZATION] must assign a 0 percent risk weight to an exposure to a sovereign that is a member of the OECD if the sovereign does not have a CRC.

(6) *Sovereign default.* A [BANKING ORGANIZATION] must assign a 150 percent risk weight to a sovereign exposure immediately upon determining that an event of sovereign default has occurred, or if an event of sovereign default has occurred during the previous five years.

(b) *Specified supranational entities and multilateral development banks (MDBs).* A [BANKING ORGANIZATION] must assign a zero percent risk weight to exposures to a specified supranational entity or an MDB.

(c) *Exposures to GSEs.* (1) A [BANKING ORGANIZATION] must

assign a 20 percent risk weight to an exposure to a GSE that is not:

- (i) An equity exposure; or
- (ii) A subordinated exposure.

(2) A [BANKING ORGANIZATION] must assign a 150 percent risk weight to a subordinated exposure to a GSE, unless a different risk weight is provided under paragraph (c)(3) of this section.

(3) A [BANKING ORGANIZATION] must assign a 20 percent risk weight to a subordinated exposure to a Federal Home Loan Bank or the Federal Agricultural Mortgage Corporation (Farmer Mac).

(d) *Exposures to a depository institution, a foreign bank, or a credit union.* (1) A [BANKING ORGANIZATION] must assign a risk weight to a bank exposure in accordance with Table 2 of this section, unless otherwise provided under paragraph (d)(3) or (d)(4) of this section.

Table 2 to § __.111—Bank Exposures

Category of Bank Exposure	Grade A Bank Exposure		Grade B Bank Exposure	Grade C Bank Exposure
	Meeting the criteria in (d)(2)	Otherwise		
Base risk weight	30%	40%	75%	150%
Risk weight for a foreign bank exposure that is a self-liquidating, trade-related contingent item that arises from the movement of goods and that has a maturity of three months or less	20%	20%	50%	150%

(2) A [BANKING ORGANIZATION] must assign a 30 percent risk weight to a Grade A bank exposure for which the obligor is:

(i) A qualifying community banking organization (as defined in 12 CFR 3.12, 12 CFR 217.12, or 12 CFR 324.12, as applicable) that is subject to the community bank leverage ratio framework (as defined in 12 CFR 3.12, 12 CFR 217.12, or 12 CFR 324.12, as applicable); or

(ii) A depository institution, foreign bank, or credit union not described in paragraph (d)(2)(i) of this section and whose most recent capital ratios or net worth ratio, as applicable, meet or exceed the following:

(A) For a depository institution that is a Category I, II, or III banking organization, a common equity tier 1 capital ratio of 14 percent and a supplementary leverage ratio of 5 percent;

(B) For a depository institution not described in paragraph (d)(2)(i)(A) of this section, a common equity tier 1 capital ratio of 14 percent and a tier 1 leverage ratio of 5 percent;

(C) For a credit union, a net worth ratio of 9 percent; or

(D) For a foreign bank, a common equity tier 1 capital ratio of 14 percent and a leverage ratio of 5 percent, each under the capital requirements imposed by the home country supervisor on that foreign bank.

(3) Notwithstanding paragraphs (d)(1) and (2) of this section, a [BANKING

ORGANIZATION] must not assign a risk weight to an exposure to a foreign bank lower than the risk weight applicable to a sovereign exposure of the home country of the foreign bank unless:

(i) The exposure is in the local currency of the home country of the foreign bank;

(ii) For an exposure to a branch of the foreign bank in a foreign jurisdiction that is not the home country of the foreign bank, the exposure is in the local currency of the jurisdiction in which the foreign branch operates; or

(iii) The exposure is a self-liquidating, trade-related contingent item that arises from the movement of goods and that has a maturity of three months or less.

(4) Notwithstanding paragraph (d)(1), (d)(2), or (d)(3) of this section, a [BANKING ORGANIZATION] must assign:

(i) A risk weight under § __.141 to a bank exposure that is an equity exposure; and

(ii) A 150 percent risk weight to a bank exposure that is a subordinated exposure or an exposure to a covered debt instrument.

(e) *Exposures to public sector entities (PSEs)*—(1) *Exposures to U.S. PSEs.* (i) A [BANKING ORGANIZATION] must assign a 20 percent risk weight to a general obligation exposure of a PSE that is organized under the laws of the United States or any state or political subdivision thereof.

(ii) A [BANKING ORGANIZATION] must assign a 50 percent risk weight to a revenue obligation exposure of a PSE

that is organized under the laws of the United States or any state or political subdivision thereof.

(2) *Exposures to foreign PSEs.* (i) Except as provided in paragraphs (e)(1) and (3) of this section, a [BANKING ORGANIZATION] must assign a risk weight to a general obligation exposure to a PSE, in accordance with Table 3 to § __.111, based on the CRC that corresponds to the PSE's home country or the OECD membership status of the PSE's home country if there is no CRC applicable to the PSE's home country.

(ii) Except as provided in paragraphs (e)(1) and (e)(3) of this section, a [BANKING ORGANIZATION] must assign a risk weight to a revenue obligation exposure of a PSE, in accordance with Table 4 to § __.111, based on the CRC that corresponds to the PSE's home country; or the OECD membership status of the PSE's home country if there is no CRC applicable to the PSE's home country.

(3) A [BANKING ORGANIZATION] may assign a lower risk weight than would otherwise apply under Tables 3 or 4 to § __.111 to an exposure to a foreign PSE if:

(i) The PSE's home country supervisor allows banks under its jurisdiction to assign a lower risk weight to such exposures; and

(ii) The risk weight is not lower than the risk weight that corresponds to the PSE's home country in accordance with Table 1 to § __.111.

Table 3 to § __.111—Risk Weights for Non-U.S. PSE General Obligations

		Risk Weight (in percent)
CRC	0-1	20
	2	50
	3	100
	4-7	150
OECD Member with No CRC		20
Non-OECD Member with No CRC		100
Sovereign Default		150

Table 4 to § __.111—Risk Weights for non-U.S. PSE Revenue Obligations

		Risk Weight (in percent)
CRC	0-1	50
	2-3	100
	4-7	150
OECD Member with No CRC		50
Non-OECD Member with No CRC		100
Sovereign Default		150

(4) *Exposures to PSEs from an OECD member sovereign with no CRC.* (i) A [BANKING ORGANIZATION] must assign a 20 percent risk weight to a general obligation exposure to a PSE whose home country is an OECD member sovereign with no CRC.

(ii) A [BANKING ORGANIZATION] must assign a 50 percent risk weight to a revenue obligation exposure to a PSE whose home country is an OECD member sovereign with no CRC.

(5) Exposures to PSEs whose home country is not an OECD member sovereign with no CRC. A [BANKING ORGANIZATION] must assign a 100 percent risk weight to an exposure to a PSE whose home country is not a member of the OECD and does not have a CRC.

(6) A [BANKING ORGANIZATION] must assign a 150 percent risk weight to a PSE exposure immediately upon

determining that an event of sovereign default has occurred in a PSE's home country or if an event of sovereign default has occurred in the PSE's home country during the previous five years.

(f) *Real estate exposures—*(1) *Statutory multifamily mortgages.* A [BANKING ORGANIZATION] must assign a 50 percent risk weight to a statutory multifamily mortgage.

(2) *Pre-sold construction loans.* A [BANKING ORGANIZATION] must assign a 50 percent risk weight to a pre-sold construction loan, unless the purchase contract is cancelled, in which case a [BANKING ORGANIZATION] must assign a 100 percent risk weight.

(3) *High-volatility commercial real estate (HVCRE) exposures.* A [BANKING ORGANIZATION] must assign a 150 percent risk weight to an HVCRE exposure.

(4) *ADC exposures that are not HVCRE exposures.* A [BANKING ORGANIZATION] must assign a 100 percent risk weight to an ADC exposure that is not an HVCRE exposure.

(5) *Regulatory residential real estate exposure.* (i) A [BANKING ORGANIZATION] must assign a risk weight to a regulatory residential real estate exposure that is not dependent on the cash flows generated by the real estate based on the exposure's LTV ratio in accordance with Table 5 to § __.111.

(ii) A [BANKING ORGANIZATION] must assign a risk weight to a regulatory residential real estate exposure that is dependent on the cash flows generated by the real estate based on the exposure's LTV ratio in accordance with Table 6 to § __.111.

Table 5 to § __.111—Risk Weights for Regulatory Residential Real Estate Exposures Not Dependent on Real Estate Cash Flows

Risk weights for regulatory residential real estate exposures that are not dependent on the cash flows generated by the real estate						
	LTV ratio ≤ 50%	50% < LTV ratio ≤ 60%	60% < LTV ratio ≤ 80%	80% < LTV ratio ≤ 90%	90% < LTV ratio ≤ 100%	LTV ratio > 100%
Risk weight	20%	25%	30%	40%	50%	70%

Table 6 to § __.111—Risk Weights for Regulatory Residential Real Estate Exposures Dependent on Real Estate Cash Flows

Risk weights for regulatory residential real estate exposures that are dependent on the cash flows generated by the real estate						
	LTV ratio ≤ 50%	50% < LTV ratio ≤ 60%	60% < LTV ratio ≤ 80%	80% < LTV ratio ≤ 90%	90% < LTV ratio ≤ 100%	LTV ratio > 100%
Risk weight	30%	35%	45%	60%	75%	105%

(6) *Regulatory commercial real estate exposure.* (i) A [BANKING ORGANIZATION] must assign a risk weight to a regulatory commercial real estate exposure that is not dependent on the cash flows generated by the real estate based on the exposure's LTV and the risk weight applicable to the

borrower under this section, in accordance with Table 7 to § __.111, provided that if the [BANKING ORGANIZATION] cannot determine the risk weight applicable to the borrower under this section, the risk weight of the borrower is 100 percent.

(ii) A [BANKING ORGANIZATION] must assign a risk weight to a regulatory commercial real estate exposure that is dependent on the cash flows generated by the real estate based on the exposure's LTV in accordance with Table 8 to § __.111.

TABLE 7 TO § __.111—RISK WEIGHTS FOR REGULATORY COMMERCIAL REAL ESTATE EXPOSURES NOT DEPENDENT ON REAL ESTATE CASH FLOWS

Risk weight	LTV ratio ≤ 60%	LTV ratio > 60%
	Lesser of 60% or the risk-weight applicable to the borrower under this section	Risk weight applicable to the borrower under this section

Table 8 to § __.111—Risk Weights for Regulatory Commercial Real Estate Exposures Dependent on Real Estate Cash Flows

Risk weight	LTV ratio ≤ 60%	60% < LTV ratio ≤ 80%	LTV ratio > 80%
	70%	90%	110%

(7) *Other real estate exposures.* A [BANKING ORGANIZATION] must assign an other real estate exposure a 150 percent risk weight, unless the exposure is a residential mortgage

exposure that is not dependent on the cash flows generated by the real estate, which must be assigned a 100 percent risk weight.

(8) *Past due real estate exposures.* Notwithstanding any other provision of

this subpart, a [BANKING ORGANIZATION] must assign a 150 percent risk weight to a real estate exposure that is 90 days past due or on nonaccrual, unless the exposure is a

residential mortgage exposure that is not dependent on the cash flows generated by the real estate, which must be assigned a 100 percent risk weight.

(g) *Retail exposures.* A [BANKING ORGANIZATION] must assign a risk weight to a retail exposure according to the following:

(1) *Regulatory retail exposures—(i) Regulatory retail exposures that are not transactor exposures.* A [BANKING ORGANIZATION] must assign a 75 percent risk weight to a regulatory retail exposure that is not a transactor exposure.

(ii) *Transactor exposures.* A [BANKING ORGANIZATION] must assign a 45 percent risk weight to a transactor exposure.

(2) *Other retail exposures.* A [BANKING ORGANIZATION] must assign a 100 percent risk weight to retail exposures that are not regulatory retail exposures.

(h) *Corporate exposures.* A [BANKING ORGANIZATION] must assign a 100 percent risk weight to a corporate exposure unless the corporate exposure receives a different risk weight under paragraphs (h)(1) through (5) of this section.

(1) Unless the corporate exposure receives a different risk weight under paragraphs (h)(2) through (5) of this section, a [BANKING ORGANIZATION] may assign a 65 percent risk weight to a corporate exposure to a company that is investment grade, if the exposure is not a subordinated exposure. For the purposes of this paragraph (h)(1), a [BANKING ORGANIZATION] may determine that a company is investment grade only by relying on one or more internal credit risk rating systems that meet the requirements in paragraphs (h)(1)(i) through (v) of this section.

(i) The internal credit risk rating system must be used to inform material business and risk management decisions of the [BANKING ORGANIZATION], such as those related to accounting, regulatory reporting, risk management and measurement, loan loss reserve estimation, capital planning, loan pricing, or board decision making.

(ii) The internal credit risk rating system must define which obligor rating grades resulting from that system are considered to be investment grade, as that term is defined in § _____.2.

(iii) The internal credit risk rating system must:

(A) Assign accurate and timely obligor rating grades based on clearly defined criteria; and

(B) Assign a rating grade for each obligor at least annually and whenever the [BANKING ORGANIZATION] receives new material information

regarding the creditworthiness of the obligor.

(iv) The internal credit risk rating system does not solely rely on third-party assessments of credit risk and incorporates quantitative and qualitative factors relating to the historical and projected patterns of payment behaviors of similar obligors or products, financial situation and performance of each obligor, and any relevant developments that affect the investment grade determination.

(v) At least annually, the [BANKING ORGANIZATION] must validate the robustness, consistency, and reliability of the internal credit risk rating system, using data from at least one full credit cycle, and update the internal credit risk rating system to address any deficiencies exposed as part of the validation. As part of the validation required by this paragraph (h)(1)(v), the [BANKING ORGANIZATION] must:

(A) Evaluate whether the performance of obligors identified by the internal credit risk rating system as investment grade is consistent with the definition of investment grade in § _____.2, including by benchmarking the ratings resulting from the internal credit risk rating system with external information relating to the creditworthiness of obligors;

(B) Assess the reliability, accuracy, completeness, timeliness, and appropriateness of the data sources and other information used as part of the investment grade determinations;

(C) Incorporate available information, including information regarding the performance of companies that have ceased operations or that have been sold to a third party, that is reasonably expected to support a robust evaluation of the internal credit risk rating system;

(D) Ensure the validation process is independent of the internal credit risk rating system's development, implementation, and operation, or subject the validation process to an independent review of its adequacy and effectiveness;

(E) Incorporate default data covering at least the preceding five years, or a longer period as necessary to reflect at least one period of economic downturn conditions, provided that if the [BANKING ORGANIZATION] has relevant and material reference data that span a longer period of time, the [BANKING ORGANIZATION] must incorporate such data in its validation; and

(F) Not place undue weight on data from periods of favorable or benign economic conditions relative to periods of economic downturn conditions.

(2) Unless the corporate exposure receives a different risk weight under paragraphs (h)(3) through (5) of this section, a [BANKING ORGANIZATION] must assign a 100 percent risk weight to a corporate exposure that is for the purpose of acquiring or financing equipment or physical commodities where repayment of the exposure is dependent on the physical assets being financed or acquired.

(3) Unless the corporate exposure receives a different risk weight under paragraphs (h)(4) through (5) of this section, a [BANKING ORGANIZATION] must assign risk weights to certain project finance exposures as follows:

(i) A [BANKING ORGANIZATION] must assign a 100 percent risk weight to a project finance operational phase exposure, and

(ii) A [BANKING ORGANIZATION] must assign a 130 percent risk weight to a project finance exposure that is not a project finance operational phase exposure.

(4) Unless the corporate exposure receives a different risk weight under paragraph (h)(5) of this section, a [BANKING ORGANIZATION] must assign risk weights to certain exposures to a QCCP as follows:

(i) A [BANKING ORGANIZATION] must assign a 2 percent risk weight to an exposure to a QCCP arising from the [BANKING ORGANIZATION] posting cash collateral to the QCCP in connection with a cleared transaction that meets the requirements of § _____.116(b)(3)(i)(A) and a 4 percent risk weight to an exposure to a QCCP arising from the [BANKING ORGANIZATION] posting cash collateral to the QCCP in connection with a cleared transaction that meets the requirements of § _____.116(b)(3)(i)(B); and

(ii) A [BANKING ORGANIZATION] must assign a 2 percent risk weight to an exposure to a QCCP arising from the [BANKING ORGANIZATION] posting cash collateral to the QCCP in connection with a cleared transaction that meets the requirements of § _____.116(c)(3)(i).

(5) A [BANKING ORGANIZATION] must assign a 150 percent risk weight to a corporate exposure that is a subordinated exposure or an exposure to a covered debt instrument.

(i) *Past due exposures.* Notwithstanding any other provision of this subpart, a [BANKING ORGANIZATION] must assign a 150 percent risk weight to any exposure that is not a sovereign exposure or a real estate exposure and that is 90 days past due or on nonaccrual, provided that:

(1) A [BANKING ORGANIZATION] may assign a risk weight to the guaranteed portion of a past due exposure based on the risk weight that applies under § _____.120 if the guarantee or credit derivative meets the requirements of that section; and

(2) A [BANKING ORGANIZATION] may assign a risk weight to the collateralized portion of a past due exposure or the protected portion of a past due exposure covered by a prepaid credit protection arrangement based on the risk weight that applies under § _____.121 if the collateral or prepaid credit protection arrangement meets the requirements of that section.

(j) *Other assets.* (1)(i) A bank holding company or savings and loan holding company must assign a zero percent risk weight to cash owned and held in all offices of subsidiary depository institutions or in transit, and to gold bullion held in a subsidiary depository institution's own vaults, or held in another depository institution's vaults on an allocated basis, to the extent the gold bullion assets are offset by gold bullion liabilities.

(ii) A [BANKING ORGANIZATION] must assign a zero percent risk weight to cash owned and held in all offices of the [BANKING ORGANIZATION] or in transit; to gold bullion held in the [BANKING ORGANIZATION]'s own vaults or held in another depository institution's vaults on an allocated basis, to the extent the gold bullion assets are offset by gold bullion liabilities; and to exposures that arise from the settlement of cash transactions (such as equities, fixed income, spot foreign exchange and spot commodities) with a central counterparty where there is no assumption of ongoing counterparty credit risk by the central counterparty after settlement of the trade and associated default fund contributions.

(2) A [BANKING ORGANIZATION] must assign a 20 percent risk weight to cash items in the process of collection.

(3) A [BANKING ORGANIZATION] must assign a 100 percent risk weight to DTAs arising from temporary differences that the [BANKING ORGANIZATION] could realize through net operating loss carrybacks.

(4) A [BANKING ORGANIZATION] must assign a 250 percent risk weight to:

(i) MSAs; and

(ii) The portion of DTAs arising from temporary differences that the [BANKING ORGANIZATION] could not realize through net operating loss carrybacks to the extent such DTAs are not deducted from common equity tier 1 capital pursuant to § _____.22(d).

(5) A [BANKING ORGANIZATION] must assign a 100 percent risk weight to all assets not specifically assigned a different risk weight under this subpart and that are not deducted from tier 1 or tier 2 capital pursuant to § _____.22.

(6) Notwithstanding the requirements of this section, a [BANKING ORGANIZATION] may assign an asset that is not included in one of the categories provided in this section to the risk weight category applicable under the capital rules applicable to bank holding companies and savings and loan holding companies at 12 CFR part 217, provided that all of the following conditions apply:

(i) The [BANKING ORGANIZATION] is not authorized to hold the asset under applicable law other than debt previously contracted or similar authority; and

(ii) The risks associated with the asset are substantially similar to the risks of assets that are otherwise assigned to a risk weight category of less than 100 percent under this subpart.

(k) *Insurance assets*—(1) *Assets held in a separate account.* (i) A bank holding company or savings and loan holding company must risk-weight the individual assets held in a separate account that does not qualify as a non-guaranteed separate account as if the individual assets were held directly by the bank holding company or savings and loan holding company.

(ii) A bank holding company or savings and loan holding company must assign a zero percent risk weight to an asset that is held in a non-guaranteed separate account.

(2) *Policy loans.* A bank holding company or savings and loan holding company must assign a 20 percent risk weight to a policy loan.

§ _____.112 Off-Balance Sheet Exposures

(a) *General.* (1) A [BANKING ORGANIZATION] must calculate the exposure amount of an off-balance sheet exposure using the credit conversion factors (CCFs) in paragraph (b) of this section. In the case of commitments, a [BANKING ORGANIZATION] must calculate the exposure amount by multiplying the committed but undrawn amount of the commitment by the applicable CCF.

(2) Where a [BANKING ORGANIZATION] commits to provide a commitment, the [BANKING ORGANIZATION] may apply the lower of the two applicable CCFs.

(3) Where a [BANKING ORGANIZATION] provides a commitment structured as a syndication or participation, the [BANKING

ORGANIZATION] is only required to calculate the exposure amount for its pro rata share of the commitment.

(4) Where a [BANKING ORGANIZATION] provides a commitment, enters into a repurchase agreement, or provides a credit-enhancing representation and warranty, and such commitment, repurchase agreement, or credit-enhancing representation and warranty is not a securitization exposure, the exposure amount shall be no greater than the maximum contractual amount of the commitment, repurchase agreement, or credit-enhancing representation and warranty, as applicable.

(5) For purposes of this section, if a commitment that is a retail exposure does not have an express contractual maximum amount that can be drawn, the committed but undrawn amount of the commitment is equal to the highest total drawn amount over the period since the commitment was created or the prior 24 months, whichever period is shorter, minus the current drawn amount.

(6) For purposes of this subpart, with respect to a repurchase or reverse repurchase transaction, or a securities borrowing or securities lending transaction, a [BANKING ORGANIZATION] must reflect in expanded total risk-weighted assets either:

(i) The exposure amount under this section and the risk-weighted asset amount for securities or posted collateral, where the credit risk of the securities lent or posted as collateral remains with the [BANKING ORGANIZATION]; or

(ii) The exposure for counterparty credit risk according to §§ _____.113 through _____.115.

(b) *Credit conversion factors*—

(1) *10 percent CCF.* A [BANKING ORGANIZATION] must apply a 10 percent CCF to the unused portion of a commitment that is unconditionally cancelable by the [BANKING ORGANIZATION].

(2) *20 percent CCF.* A [BANKING ORGANIZATION] must apply a 20 percent CCF to the amount of self-liquidating trade-related contingent items that arise from the movement of goods, with an original maturity of one year or less.

(3) *40 percent CCF.* A [BANKING ORGANIZATION] must apply a 40 percent CCF to commitments, regardless of the maturity of the facility, unless they qualify for a lower or higher CCF.

(4) *50 percent CCF.* A [BANKING ORGANIZATION] must apply a 50 percent CCF to the amount of the following off-balance-sheet items and

other similar transactions, regardless of whether a lower CCF would otherwise apply under paragraphs (b)(1) through (3) of this section:

(i) Transaction-related contingent items, including performance bonds, bid bonds, warranties, and performance standby letters of credit; and

(ii) Note issuance facilities and revolving underwriting facilities.

(5) *100 percent CCF.* A [BANKING ORGANIZATION] must apply a 100 percent CCF to the amount of the following off-balance-sheet items and other similar transactions:

(i) Guarantees;

(ii) Repurchase agreements (the off-balance sheet component of which equals the sum of the current fair values of all positions the [BANKING ORGANIZATION] has sold subject to repurchase);

(iii) Credit-enhancing representations and warranties that are not securitization exposures;

(iv) Off-balance sheet securities lending transactions (the off-balance sheet component of which equals the sum of the current fair values of all positions the [BANKING ORGANIZATION] has lent under the transaction);

(v) Off-balance sheet securities borrowing transactions (the off-balance sheet component of which equals the sum of the current fair values of all non-cash positions the [BANKING

ORGANIZATION] has posted as collateral under the transaction);

(vi) Financial standby letters of credit; and

(vii) Forward agreements.

§ _____.113 Counterparty Credit Risk

(a) *General.* (1) To determine the exposure amount for transactions with counterparty credit risk, a [BANKING ORGANIZATION]:

(i) Must use the standardized approach for counterparty credit risk (SA-CCR) in § _____.114 for a derivative contract or netting set that only includes derivative contracts;

(ii) May use SA-CCR in § _____.114 for a netting set of transactions that are not cleared transactions and that are subject to a qualifying cross-product master netting agreement that includes one or more derivative contracts and one or more repo-style transactions, subject to paragraph (b) of this section; and

(iii) May use the collateral haircut approach in § _____.115 for a repo-style transaction, eligible margin loan, or a netting set of repo-style transactions or eligible margin loans.

(b) *Qualifying cross-product master netting agreements.* (1) For purposes of determining the exposure amount for a netting set of transactions subject to a qualifying cross-product master netting agreement under § _____.114, a [BANKING ORGANIZATION] may elect to treat any repo-style transaction that is not a cleared transaction subject to the

qualifying cross-product master netting agreement as a derivative contract.

(2) The exposure amount of a set of transactions subject to a qualifying cross-product master netting agreement for purposes of (b)(1), must be calculated as follows:

$$\text{Exposure Amount}_{NSCP} = (1 - MR_{NSCP}) * (\text{Exposure Amount}_{\text{repo-style transactions}} + \text{Exposure Amount}_{\text{derivatives}}) + MR_{NSCP} * \text{Extended SA-CCR Exposure Amount}$$

Where:

(i) *Exposure Amount_{repo-style transactions}* is the exposure amount for repo-style transactions in the netting set that is subject to a qualifying cross-product master netting agreement, calculated using the collateral haircut approach, under § _____.115;

(ii) *Exposure Amount_{derivatives}* is the exposure amount for derivatives in the netting set that is subject to a qualifying cross-product master netting agreement, calculated using the standardized approach for counterparty credit risk, under § _____.114;

(iii) *Extended SA-CCR Exposure Amount* is the exposure amount for both repo-style transactions and derivatives that are in the netting set that is subject to a qualifying cross-product master netting agreement, calculated using the standardized approach for counterparty credit risk, under § _____.114; and

(iv) *MR_{NSCP}* is the Maturity Ratio for a given netting set that is subject to a qualifying cross-product master netting agreement, calculated as follows:

$$MR_{NSCP} = \frac{\sum NAWM \text{ of the repo - style transactions}_i}{\max (\sum NAWM \text{ of the repo - style transactions}_i, \sum NAWM \text{ of the derivative transactions}_i)}$$

Where:

(A) $\sum NAWM \text{ of the repo-style transaction}_i$ is the notional average weighted maturity of all *i* repo-style transactions subject to the qualifying cross-product master netting agreement, subject to a minimum maturity of 10 business days and a maximum maturity of one year for purposes of this calculation.

(B) $\sum NAWM \text{ of the derivative transaction}_i$ is the notional average weighted maturity of all *i* derivative transactions subject to the qualifying cross-product master netting agreement subject to a minimum maturity of 10 business days and a maximum maturity of one year for purposes of this calculation.

§ _____.114 Derivative Contracts: Standardized Approach

(a)(1) *Exposure amount for derivative contracts.* A [BANKING ORGANIZATION] must determine the exposure amount for a derivative contract using the standardized approach for counterparty credit risk (SA-CCR) under this section. A [BANKING ORGANIZATION] may reduce the exposure amount calculated

according to this section by the credit valuation adjustment that the [BANKING ORGANIZATION] has recognized in its balance sheet valuation of any derivative contracts in the netting set. For purposes of paragraph (a) of this section, the credit valuation adjustment does not include any adjustments to common equity tier 1 capital attributable to changes in the fair value of the [BANKING ORGANIZATION]'s liabilities that are due to changes in its own credit risk since the inception of the transaction with the counterparty. A [BANKING ORGANIZATION] may determine the exposure amount for a repo-style transaction using the SA-CCR under this section, as provided in § _____.113(b), subject to paragraph (a)(2) of this section.

(2) *Exposure amount for repo-style transactions.* If a [BANKING ORGANIZATION] is using the SA-CCR for a repo-style transaction as described in § _____.113(b), the [BANKING

ORGANIZATION] must make the adjustments described in paragraphs (a)(2)(i) through (iii) of this section.

(i) For purposes of this section, the [BANKING ORGANIZATION] must:

(A) Treat a repo-style transaction that has multiple underlying instruments as separate repo-style transactions for each distinct underlying instrument;

(B) Treat a repo-style transaction with a debt instrument as the underlying instrument as either a credit derivative that references the underlying debt instrument or an interest rate derivative that references the interest rate of the underlying debt instrument, based on the primary risk factor of the repo-style transaction;

(C) Treat a repo-style transaction with an equity instrument as the underlying instrument as an equity derivative that references the underlying equity instrument;

(D) Not apply paragraph (d) of this section to a repo-style transaction with

an equity instrument as the underlying instrument; and

(E) Treat a repo-style transaction as a client-facing derivative transaction where the [BANKING ORGANIZATION] is either acting as a financial intermediary and enters into an offsetting transaction with a qualifying central counterparty (QCCP) or where the [BANKING ORGANIZATION] provides a guarantee on the performance of a client on a transaction between the client and a QCCP.

(ii) For purposes of the supervisory delta under paragraph (i)(3) of this section, a [BANKING ORGANIZATION] must use a supervisory delta of 1 for a repurchase transaction or a securities lending transaction, and must use a supervisory delta of -1 for a reverse repurchase transaction or a securities borrowing transaction;

(iii) For purposes of the maturity factor under paragraph (i)(4) of this section, MPOR cannot be less than five business days plus the periodicity of re-margining expressed in business days minus one business day.

(b) *Definitions.* For purposes of this section, the following definitions apply:

End date means the last date of the period referenced by an interest rate or credit derivative contract or, if the derivative contract references another instrument, by the underlying instrument, except as otherwise provided in this section.

Start date means the first date of the period referenced by an interest rate or credit derivative contract or, if the derivative contract references the value of another instrument, by underlying instrument, except as otherwise provided in this section.

Hedging set means:

(i) With respect to interest rate derivative contracts, all such contracts within a netting set that reference the same reference currency;

(ii) With respect to exchange rate derivative contracts, all such contracts within a netting set that reference the same currency pair;

(iii) With respect to credit derivative contract, all such contracts within a netting set;

(iv) With respect to equity derivative contracts, all such contracts within a netting set;

(v) With respect to a commodity derivative contract, all such contracts within a netting set that reference one of the following commodity categories: Energy, metal, agricultural, or other commodities;

(vi) With respect to basis derivative contracts, all such contracts within a netting set that reference the same pair

of risk factors and are denominated in the same currency; or

(vii) With respect to volatility derivative contracts, all such contracts within a netting set that reference one of interest rate, exchange rate, credit, equity, or commodity risk factors, separated according to the requirements under paragraphs (i) through (v) of this definition.

(viii) If the risk of a derivative contract materially depends on more than one of interest rate, exchange rate, credit, equity, or commodity risk factors, the [AGENCY] may require a [BANKING ORGANIZATION] to include the derivative contract in each appropriate hedging set under paragraphs (i) through (v) of this definition.

(c) *Credit derivatives.*

Notwithstanding paragraphs (a) and (b) of this section:

(1) A [BANKING ORGANIZATION] that purchases a credit derivative that is recognized under § _____.120 as a credit risk mitigant for an exposure that is not a market risk covered position under subpart F of this part is not required to calculate a separate counterparty credit risk capital requirement under this section so long as the [BANKING ORGANIZATION] does so consistently for all such credit derivatives and either includes all or excludes all such credit derivatives that are subject to a master netting agreement from any measure used to determine counterparty credit risk exposure to all relevant counterparties for risk-based capital purposes.

(2) A [BANKING ORGANIZATION] that is the protection provider in a credit derivative must treat the credit derivative as an exposure to the reference obligor and is not required to calculate a counterparty credit risk capital requirement for the credit derivative under this section, so long as it does so consistently for all such credit derivatives and either includes all or excludes all such credit derivatives that are subject to a master netting agreement from any measure used to determine counterparty credit risk exposure to all relevant counterparties for risk-based capital purposes (unless the [BANKING ORGANIZATION] is treating the credit derivative as a market risk covered position under subpart F of this part, in which case the [BANKING ORGANIZATION] must calculate a counterparty credit risk capital requirement under this section).

(d) *Equity derivatives.* A [BANKING ORGANIZATION] must treat an equity derivative contract as an equity exposure and compute a risk-weighted asset amount for the equity derivative

contract under §§ _____.140 through _____.142 (unless the [BANKING ORGANIZATION] is treating the contract as a market risk covered position under subpart F of this part). In addition, if the [BANKING ORGANIZATION] is treating the contract as a market risk covered position under subpart F of this part, the [BANKING ORGANIZATION] must also calculate a risk-based capital requirement for the counterparty credit risk of an equity derivative contract under this section. If the [BANKING ORGANIZATION] risk weights an equity derivative contract under §§ _____.140 through _____.142, the [BANKING ORGANIZATION] may choose not to hold risk-based capital against the counterparty credit risk of the equity derivative contract, as long as it does so for all such contracts. Where an equity derivative contract is subject to a qualified master netting agreement, a [BANKING ORGANIZATION] using §§ _____.140 through _____.142 must either include all or exclude all of the contracts from any measure used to determine counterparty credit risk exposure.

(e) *Exposure amount.* (1) The exposure amount of a netting set, as calculated under this section, is equal to 1.4 multiplied by the sum of the replacement cost of the netting set, as calculated under paragraph (f) of this section, and the potential future exposure of the netting set, as calculated under paragraph (g) of this section.

(2) Notwithstanding the requirements of paragraph (e)(1) of this section, the exposure amount of a netting set subject to a variation margin agreement, excluding a netting set that is subject to a variation margin agreement under which the counterparty to the variation margin agreement is not required to post variation margin, is equal to the lesser of the exposure amount of the netting set calculated under paragraph (e)(1) of this section and the exposure amount of the netting set calculated under paragraph (e)(1) of this section as if the netting set were not subject to a variation margin agreement.

(3) Notwithstanding the requirements of paragraph (e)(1) of this section, the exposure amount of a netting set that consists of only sold options in which the premiums have been fully paid by the counterparty to the options and where the options are not subject to a variation margin agreement is zero.

(4) Notwithstanding the requirements of paragraph (e)(1) of this section, the exposure amount of a netting set in which the counterparty is a commercial end-user is equal to the sum of replacement cost, as calculated under

paragraph (f) of this section, and the potential future exposure of the netting set, as calculated under paragraph (g) of this section.

(5) For purposes of the exposure amount calculated under paragraph (e)(1) of this section and all calculations that are part of that exposure amount, a [BANKING ORGANIZATION] may elect to treat a derivative contract that is a cleared transaction or a client-facing derivative transaction and that is not subject to a variation margin agreement as one that is subject to a variation margin agreement, if the derivative contract is subject to a requirement that the counterparties make daily cash payments to each other to account for changes in the fair value of the derivative contract and to reduce the net position of the contract to zero. If a [BANKING ORGANIZATION] makes an election under this paragraph (e)(5) for one derivative contract, it must treat all

other derivative contracts within the same netting set that are eligible for an election under this paragraph (e)(5) as derivative contracts that are subject to a variation margin agreement.

(6) For purposes of the exposure amount calculated under paragraph (e)(1) of this section and all calculations that are part of that exposure amount, a [BANKING ORGANIZATION] may elect to treat a credit derivative contract, equity derivative contract, or commodity derivative contract that references an index as if it were multiple derivative contracts each referencing one component of the index, provided that the derivative contract is not an option or a CDO tranche.

(7) For purposes of the exposure amount calculated under paragraph (e)(1) of this section and all calculations that are part of that exposure amount, with respect to a client-facing derivative transaction or netting set of client-facing

derivative transactions, a clearing member [BANKING ORGANIZATION] may multiply the standard supervisory haircuts applied for purposes of the net independent collateral amount and variation margin amount by the scaling factor of the square root of $\frac{1}{2}$ (which equals 0.707107). If the [BANKING ORGANIZATION] determines that a longer period is appropriate, the [BANKING ORGANIZATION] must use a larger scaling factor to adjust for a longer holding period as provided below by the formula in this paragraph. In addition, the [AGENCY] may require the [BANKING ORGANIZATION] to set a longer holding period if the [AGENCY] determines that a longer period is appropriate due to the nature, structure, or characteristics of the transaction or is commensurate with the risks associated with the transaction.

$$\text{Scaling factor} = \sqrt{H/10}$$

Where H = the holding period greater than or equal to five days

(f) *Replacement cost of a netting set—*
(1) *Netting set subject to a variation margin agreement under which the counterparty must post variation margin.* The replacement cost of a netting set subject to a variation margin agreement, excluding a netting set that is subject to a variation margin agreement under which the counterparty is not required to post variation margin, is the greater of:

(i) The sum of the fair values (after excluding any valuation adjustments) of the derivative contracts within the netting set less the sum of the net independent collateral amount and the variation margin amount applicable to such derivative contracts;

(ii) The sum of the variation margin threshold and the minimum transfer amount applicable to the derivative contracts within the netting set less the net independent collateral amount

applicable to such derivative contracts; or

(iii) Zero.

(2) *Netting sets not subject to a variation margin agreement under which the counterparty must post variation margin.* The replacement cost of a netting set that is not subject to a variation margin agreement under which the counterparty must post variation margin to the [BANKING ORGANIZATION] is the greater of:

(i) The sum of the fair values (after excluding any valuation adjustments) of the derivative contracts within the netting set less the sum of the net independent collateral amount and variation margin amount applicable to such derivative contracts; or

(ii) Zero.

(3) *Multiple netting sets subject to a single variation margin agreement.* Notwithstanding paragraphs (f)(1) and

(2) of this section, the replacement cost for multiple netting sets subject to a single variation margin agreement must be calculated according to paragraph (j)(1) of this section.

(4) *Netting set subject to multiple variation margin agreements or a hybrid netting set.* Notwithstanding paragraphs (f)(1) and (2) of this section, the replacement cost for a netting set subject to multiple variation margin agreements or a hybrid netting set must be calculated according to paragraph (k)(1) of this section.

(g) *Potential future exposure of a netting set.* The potential future exposure of a netting set is the product of the PFE multiplier and the aggregated amount.

(1) *PFE multiplier.* The PFE multiplier is calculated according to the following formula:

$$\text{PFE multiplier} = \min \left\{ 1; 0.05 + 0.95 * e^{\left(\frac{V-C}{1.9 * A} \right)} \right\}$$

Where:

V is the sum of the fair values (after excluding any valuation adjustments) of the derivative contracts within the netting set;

C is the sum of the net independent collateral amount and the variation margin amount applicable to the derivative contracts within the netting set; and

A is the aggregated amount of the netting set.

(2) *Aggregated amount.* The aggregated amount is the sum of all hedging set amounts, as calculated under paragraph (h) of this section, within a netting set.

(3) *Multiple netting sets subject to a single variation margin agreement.* Notwithstanding paragraphs (g)(1) and (2) of this section and when calculating

the potential future exposure for purposes of total leverage exposure under § _____.10(c)(2)(ii), the potential future exposure for multiple netting sets subject to a single variation margin agreement must be calculated according to paragraph (j)(2) of this section.

(4) *Netting set subject to multiple variation margin agreements or a hybrid*

netting set. Notwithstanding paragraphs (g)(1) and (2) of this section and when calculating the potential future exposure for purposes of total leverage exposure under § _____.10(c)(2)(ii), the potential future exposure for a netting set subject

to multiple variation margin agreements or a hybrid netting set must be calculated according to paragraph (k)(2) of this section.

(h) *Hedging set amount*—(1) *Interest rate derivative contracts.* To calculate the hedging set amount of an interest

rate derivative contract hedging set, a [BANKING ORGANIZATION] may use either of the formulas provided in paragraphs (h)(1)(i) and (ii) of this section:

(i) Formula 1 is as follows:

Hedging set amount

$$= [(AddOn_{TB1}^{IR})^2 + (AddOn_{TB2}^{IR})^2 + (AddOn_{TB3}^{IR})^2 + 1.4 * AddOn_{TB1}^{IR} * AddOn_{TB2}^{IR} + 1.4 * AddOn_{TB2}^{IR} * AddOn_{TB3}^{IR} + 0.6 * AddOn_{TB1}^{IR} * AddOn_{TB3}^{IR}]^{\frac{1}{2}}$$

(ii) Formula 2 is as follows:

$$Hedging\ set\ amount = |AddOn_{TB1}^{IR}| + |AddOn_{TB2}^{IR}| + |AddOn_{TB3}^{IR}|$$

Where in paragraphs (h)(1)(i) and (ii) of this section:

$AddOn_{TB1}^{IR}$ is the sum of the adjusted derivative contract amounts, as calculated under paragraph (i) of this section, within the hedging set with an end date of less than one year from the present date;

$AddOn_{TB2}^{IR}$ is the sum of the adjusted derivative contract amounts, as calculated under paragraph (i) of this section, within the hedging set with an end date of one to five years from the present date; and

$AddOn_{TB3}^{IR}$ is the sum of the adjusted derivative contract amounts, as calculated under paragraph (i) of this section, within the hedging set with an end date of more than five years from the present date.

(2) *Exchange rate derivative contracts.* For an exchange rate derivative contract hedging set, the hedging set amount equals the absolute value of the sum of the adjusted derivative contract

amounts, as calculated under paragraph (i) of this section, within the hedging set.

(3) *Credit derivative contracts and equity derivative contracts.* The hedging

set amount of a credit derivative contract hedging set or equity derivative contract hedging set within a netting set is calculated according to the following formula:

Hedging set amount

$$= \left[\left(\sum_{k=1}^K \rho_k * AddOn(Ref_k) \right)^2 + \sum_{k=1}^K (1 - (\rho_k)^2) * (AddOn(Ref_k))^2 \right]^{\frac{1}{2}}$$

Where:

k is each reference entity within the hedging set.

K is the number of reference entities within the hedging set.

AddOn (Ref_k) equals the sum of the adjusted derivative contract amounts, as determined under paragraph (i) of this section, for all derivative contracts

within the hedging set that reference entity k.
ρ_k equals the applicable supervisory correlation factor, as provided in Table 2 to § _____.114.

(4) *Commodity derivative contracts.* The hedging set amount of a commodity derivative contract hedging set within a netting set is calculated according to the following formula:

Hedging set amount

$$= \left[\left(\rho * \sum_{k=1}^K \text{AddOn}(\text{Type}_k) \right)^2 + (1 - (\rho)^2) * \sum_{k=1}^K (\text{AddOn}(\text{Type}_k))^2 \right]^{\frac{1}{2}}$$

Where:

k is each commodity type within the hedging set.

K is the number of commodity types within the hedging set.

AddOn (Type_k) equals the sum of the adjusted derivative contract amounts, as determined under paragraph (i) of this section, for all derivative contracts within the hedging set that reference commodity type.

ρ equals the applicable supervisory correlation factor, as provided in Table 2 to § _____.114.

(5) *Basis derivative contracts and volatility derivative contracts.*

Notwithstanding paragraphs (h)(1) through (4) of this section, a [BANKING ORGANIZATION] must calculate a

separate hedging set amount for each basis derivative contract hedging set and each volatility derivative contract hedging set. A [BANKING ORGANIZATION] must calculate such hedging set amounts using one of the formulas under paragraphs (h)(1) through (4) of this section that corresponds to the primary risk factor of the hedging set being calculated.

(i) *Adjusted derivative contract amount—(1) Summary.* To calculate the adjusted derivative contract amount of a derivative contract, a [BANKING ORGANIZATION] must determine the adjusted notional amount of the derivative contract, pursuant to paragraph (i)(2) of this section, and

multiply the adjusted notional amount by each of the supervisory delta adjustment, pursuant to paragraph (i)(3) of this section, the maturity factor, pursuant to paragraph (i)(4) of this section, and the applicable supervisory factor, as provided in Table 2 to § _____.114.

(2) *Adjusted notional amount.* (i)(A) For an interest rate derivative contract or a credit derivative contract, the adjusted notional amount equals the product of the notional amount of the derivative contract, as measured in U.S. dollars using the exchange rate on the date of the calculation, and the supervisory duration, as calculated by the following formula:

$$\text{Supervisory duration} = \max \left\{ \frac{e^{-0.05 * \left(\frac{S}{250} \right)} - e^{-0.05 * \left(\frac{E}{250} \right)}}{0.05}, 0.04 \right\}$$

Where:

S is the number of business days from the present day until the start date of the derivative contract, or zero if the start date has already passed; and

E is the number of business days from the present day until the end date of the derivative contract.

(B) For purposes of paragraph (i)(2)(i)(A) of this section:

(1) For an interest rate derivative contract or credit derivative contract that is a variable notional swap, the notional amount is equal to the time-weighted average of the contractual notional amounts of such a swap over the remaining life of the swap; and

(2) For an interest rate derivative contract or a credit derivative contract that is a leveraged swap, in which the notional amount of all legs of the derivative contract are divided by a factor and all rates of the derivative contract are multiplied by the same factor, the notional amount is equal to the notional amount of an equivalent unleveraged swap.

(ii)(A) For an exchange rate derivative contract, the adjusted notional amount is the notional amount of the non-U.S.

denominated currency leg of the derivative contract, as measured in U.S. dollars using the exchange rate on the date of the calculation. If both legs of the exchange rate derivative contract are denominated in currencies other than U.S. dollars, the adjusted notional amount of the derivative contract is the largest leg of the derivative contract, as measured in U.S. dollars using the exchange rate on the date of the calculation.

(B) Notwithstanding paragraph (i)(2)(ii)(A) of this section, for an exchange rate derivative contract with multiple exchanges of principal, the [BANKING ORGANIZATION] must set the adjusted notional amount of the derivative contract equal to the notional amount of the derivative contract multiplied by the number of exchanges of principal under the derivative contract.

(iii)(A) For an equity derivative contract or a commodity derivative contract, the adjusted notional amount is the product of the fair value of one unit of the reference instrument underlying the derivative contract and

the number of such units referenced by the derivative contract.

(B) Notwithstanding paragraph (i)(2)(iii)(A) of this section, when calculating the adjusted notional amount for an equity derivative contract or a commodity derivative contract that is a volatility derivative contract, the [BANKING ORGANIZATION] must replace the unit price with the underlying volatility referenced by the volatility derivative contract and replace the number of units with the notional amount of the volatility derivative contract.

(3) *Supervisory delta adjustment.* (i) For a derivative contract that is not an option contract or collateralized debt obligation tranche, the supervisory delta adjustment is 1 if the fair value of the derivative contract increases when the value of the primary risk factor increases and – 1 if the fair value of the derivative contract decreases when the value of the primary risk factor increases.

(ii)(A) For a derivative contract that is an option contract, the supervisory delta adjustment is determined by the

formulas in Table 1 to § ___.114, as applicable:

Table 1 to § __.114—Supervisory Delta Adjustment for Options Contracts

	Bought	Sold
Call Options	$\Phi \left(\frac{\ln \left(\frac{P + \lambda}{K + \lambda} \right) + 0.5 * \sigma^2 * T / 250}{\sigma * \sqrt{T / 250}} \right)$	$-\Phi \left(\frac{\ln \left(\frac{P + \lambda}{K + \lambda} \right) + 0.5 * \sigma^2 * T / 250}{\sigma * \sqrt{T / 250}} \right)$
Put Options	$-\Phi \left(\frac{\ln \left(\frac{P + \lambda}{K + \lambda} \right) + 0.5 * \sigma^2 * T / 250}{\sigma * \sqrt{T / 250}} \right)$	$\Phi \left(\frac{\ln \left(\frac{P + \lambda}{K + \lambda} \right) + 0.5 * \sigma^2 * T / 250}{\sigma * \sqrt{T / 250}} \right)$

(B) As used in the formulas in Table 1 § ___.114:

(1) ϕ is the standard normal cumulative distribution function;

(2) P equals the current fair value of the instrument or risk factor, as applicable, underlying the option;

(3) K equals the strike price of the option;

(4) T equals the number of business days until the latest contractual exercise date of the option;

(5) The same value of λ must be used for all option contracts that reference the same underlying risk factor or instrument or, in the case of interest rate option contracts, all interest rate option contracts that are denominated in the same currency. λ equals zero for all derivative contracts except those option contracts where it is possible for P to have negative values. For option contracts where it is possible for P to

have negative values, to determine the value of λ for a given risk factor or instrument, a [BANKING ORGANIZATION] must find the lowest value, L, of P and K of all option contracts that reference this risk factor or instrument or, in the case of interest rate option contracts, the lowest value, L, of P and K of all interest rate option contracts in a given currency, that the [BANKING ORGANIZATION] has with all counterparties. Then, λ is set as follows: when the underlying risk factor is an interest rate, $\lambda = \max\{-L + 0.1\%, 0\}$; otherwise, $\lambda = \max\{-1.1 \cdot L, 0\}$; and

(6) σ equals the supervisory option volatility, as provided in Table 2 to § ___.114.

(C) Notwithstanding paragraph (i)(3)(ii)(B)(5) of this section, a [BANKING ORGANIZATION] may, with the prior approval of the [AGENCY],

specify a value for λ in accordance with this paragraph for an option contract, other than an interest rate option contract described in paragraph (i)(3)(ii)(B)(5) of this section, if a different value for λ would be appropriate considering the range of values for the instrument or risk factor, as appropriate, underlying the option contract. A [BANKING ORGANIZATION] that specifies a value for λ in accordance with this paragraph for an option contract must assign the same value for λ to all option contracts with the same instrument or risk factor, as applicable, underlying the option that the [BANKING ORGANIZATION] has with all counterparties.

(iii)(A) For a derivative contract that is a collateralized debt obligation tranche, the supervisory delta adjustment is determined by the following formula:

$$\text{Supervisory delta adjustment} = \frac{15}{(1 + 14 * A) * (1 + 14 * D)}$$

(B) As used in the formula in paragraph (i)(3)(iii)(A) of this section:

(1) A is the attachment point, which equals the ratio of the notional amounts of all underlying exposures that are subordinated to the [BANKING ORGANIZATION]'s exposure to the total notional amount of all underlying exposures, expressed as a decimal value between zero and one;¹

(2) D is the detachment point, which equals one minus the ratio of the notional amounts of all underlying

exposures that are senior to the [BANKING ORGANIZATION]'s exposure to the total notional amount of all underlying exposures, expressed as a decimal value between zero and one; and

(3) The resulting amount is designated with a positive sign if the collateralized debt obligation tranche was used by the [BANKING ORGANIZATION] to purchase credit protection and is designated with a negative sign if the collateralized debt obligation tranche

was used by the [BANKING ORGANIZATION] to sell credit protection.

(4) *Maturity factor.* (i)(A) The maturity factor of a derivative contract that is subject to a variation margin agreement, excluding derivative contracts that are subject to a variation margin agreement under which the counterparty is not required to post variation margin, is determined by the following formula:

$$\text{Maturity factor} = \frac{3}{2} \sqrt{\frac{\text{MPOR}}{250}}$$

Where MPOR refers to the period from the most recent exchange of collateral covering a netting set of derivative contracts with a defaulting counterparty until the derivative contracts are closed out and the resulting market risk is re-hedged.

(B) Notwithstanding paragraph (i)(4)(i)(A) of this section:

(1) For a derivative contract that is not a client-facing derivative transaction, MPOR cannot be less than ten business days plus the periodicity of re-margining expressed in business days minus one business day;

(2) For a derivative contract that is a client-facing derivative transaction, MPOR cannot be less than five business days plus the periodicity of re-margining expressed in business days minus one business day; and

(3) For a derivative contract that is within a netting set that is composed of more than 5,000 derivative contracts that are not cleared transactions, or a netting set that contains one or more trades involving illiquid collateral or a derivative contract that cannot be easily replaced, MPOR cannot be less than twenty business days.

(4) Notwithstanding paragraphs (i)(4)(i)(A) and (B) of this section, for a netting set subject to more than two outstanding disputes over margin that lasted longer than the MPOR over the previous two quarters, the applicable floor is twice the amount provided in paragraphs (i)(4)(i)(A) and (B) of this section.

(ii) The maturity factor of a derivative contract that is not subject to a variation margin agreement, or derivative contracts under which the counterparty is not required to post variation margin, is determined by the following formula:

$$\text{Maturity factor} = \sqrt{\frac{\min\{M; 250\}}{250}}$$

Where M equals the greater of 10 business days and the remaining maturity of the contract, as measured in business days.

(iii) For purposes of paragraph (i)(4) of this section, if a [BANKING ORGANIZATION] has elected pursuant to paragraph (e)(5) of this section to treat a derivative contract that is a cleared transaction that is not subject to a variation margin agreement as one that is subject to a variation margin agreement, the [BANKING ORGANIZATION] must treat the derivative contract as subject to a variation margin agreement with maturity factor as determined according to paragraph (i)(4)(i) of this section, and daily settlement does not change the end date of the period referenced by the derivative contract.

(5) *Derivative contract as multiple effective derivative contracts.* A [BANKING ORGANIZATION] must separate a derivative contract into separate derivative contracts, according to the following rules:

(i) For an option where the counterparty pays a predetermined amount if the value of the underlying asset is above or below the strike price and nothing otherwise (binary option), the option must be treated as two separate options. For purposes of paragraph (i)(3)(ii) of this section, a binary option with strike price K must be represented as the combination of one bought European option and one sold European option of the same type as the original option (put or call) with the strike prices set equal to $0.95 * K$ and $1.05 * K$ so that the payoff of the binary option is reproduced exactly outside the region between the two strike prices. The absolute value of the sum of the adjusted derivative contract amounts of the bought and sold options is capped at the payoff amount of the binary option.

(ii) For a derivative contract that can be represented as a combination of standard option payoffs (such as collar, butterfly spread, calendar spread, straddle, and strangle), a [BANKING

ORGANIZATION] must treat each standard option component as a separate derivative contract.

(iii) For a derivative contract that includes multiple-payment options, (such as interest rate caps and floors), a [BANKING ORGANIZATION] may represent each payment option as a combination of effective single-payment options (such as interest rate caplets and floorlets).

(iv) A [BANKING ORGANIZATION] may not decompose linear derivative contracts (such as swaps) into components.

(j) *Multiple netting sets subject to a single variation margin agreement—(1) Calculating replacement cost.* Notwithstanding paragraph (f) of this section, a [BANKING ORGANIZATION] must assign a single replacement cost to multiple netting sets that are subject to a single variation margin agreement under which the counterparty must post variation margin, calculated according to the following formula:

Replacement Cost

$$\begin{aligned} &= \max \left\{ \sum_{NS} \max\{V_{NS}; 0\} - \max\{C_{MA}; 0\}; 0 \right\} \\ &+ \max \left\{ \sum_{NS} \min\{V_{NS}; 0\} - \min\{C_{MA}; 0\}; 0 \right\} \end{aligned}$$

Where:

NS is each netting set subject to the variation margin agreement MA;

V_{NS} is the sum of the fair values (after excluding any valuation adjustments) of the derivative contracts within the netting set NS; and

C_{MA} is the sum of the net independent collateral amount and the variation margin amount applicable to the derivative contracts within the netting sets subject to the single variation margin agreement.

(2) *Calculating potential future exposure.* Notwithstanding paragraph (g) of this section, a [BANKING ORGANIZATION] must assign a single potential future exposure to multiple netting sets that are subject to a single variation margin agreement under which the counterparty must post variation margin equal to the sum of the potential future exposure of each such netting set, each calculated according to paragraph (g) of this section as if such nettings sets were not subject to a variation margin agreement.

(k) *Netting set subject to multiple variation margin agreements or a hybrid netting set—(1) Calculating replacement cost.* To calculate replacement cost for either a netting set subject to multiple variation margin agreements under which the counterparty to each variation margin agreement must post

variation margin, or a netting set composed of at least one derivative contract subject to variation margin agreement under which the counterparty must post variation margin and at least one derivative contract that is not subject to such a variation margin agreement, the calculation for replacement cost is provided under paragraph (f)(1) of this section, except that the variation margin threshold equals the sum of the variation margin thresholds of all variation margin agreements within the netting set and the minimum transfer amount equals the sum of the minimum transfer amounts of all the variation margin agreements within the netting set.

(2) *Calculating potential future exposure.* (i) To calculate potential future exposure for a netting set subject to multiple variation margin agreements under which the counterparty to each variation margin agreement must post variation margin, or a netting set composed of at least one derivative contract subject to a variation margin agreement under which the counterparty to the derivative contract must post variation margin and at least one derivative contract that is not subject to such a variation margin agreement, a [BANKING ORGANIZATION] must divide the

netting set into sub-netting sets (as described in paragraph (k)(2)(ii) of this section) and calculate the aggregated amount for each sub-netting set. The aggregated amount for the netting set is calculated as the sum of the aggregated amounts for the sub-netting sets. The multiplier is calculated for the entire netting set.

(ii) For purposes of paragraph (k)(2)(i) of this section, the netting set must be divided into sub-netting sets as follows:

(A) All derivative contracts within the netting set that are not subject to a variation margin agreement or that are subject to a variation margin agreement under which the counterparty is not required to post variation margin form a single sub-netting set. The aggregated amount for this sub-netting set is calculated as if the netting set is not subject to a variation margin agreement.

(B) All derivative contracts within the netting set that are subject to variation margin agreements in which the counterparty must post variation margin and that share the same value of the MPOR form a single sub-netting set. The aggregated amount for this sub-netting set is calculated as if the netting set is subject to a variation margin agreement, using the MPOR value shared by the derivative contracts within the netting set.

Table 2 to § __.114—Supervisory Option Volatility, Supervisory Correlation Parameters, and Supervisory Factors for Derivative Contracts

Asset Class	Category	Type	Supervisory Option Volatility (Percent)	Supervisory Correlation Factor (Percent)	Supervisory Factor ¹ (Percent)
Interest rate	N/A	N/A	50	N/A	0.50
Exchange rate	N/A	N/A	15	N/A	4.0
Credit, single name	Investment grade	N/A	100	50	0.46
	Speculative grade	N/A	100	50	1.3
	Sub-speculative grade	N/A	100	50	6.0
Credit, index	Investment Grade	N/A	80	80	0.38
	Speculative Grade	N/A	80	80	1.06
Equity, single name	N/A	N/A	120	50	32
Equity, index	N/A	N/A	75	80	20
Commodity	Energy	Electricity	150	40	40
		Other	70	40	18
	Metals	N/A	70	40	18
	Agricultural	N/A	70	40	18
	Other	N/A	70	40	18

¹ The applicable supervisory factor for basis derivative contract hedging sets is equal to one-half of the supervisory factor provided in this table 2, and the applicable supervisory factor for volatility derivative contract hedging sets is equal to 5 times the supervisory factor provided in this table 2.

¹ In the case of a first-to-default credit derivative, there are no underlying exposures that are subordinated to the [BANKING ORGANIZATION]'s exposure. In the case of a second-or-subsequent-to-default credit derivative, the smallest (n-1) notional amounts of the underlying exposures are subordinated to the [BANKING ORGANIZATION]'s exposure.

§ __.115 Collateral Haircut Approach for Repo-Style Transactions and Eligible Margin Loans

(a) *Collateral haircut approach—Exposure amount for eligible margin loans and repo-style transactions.* A [BANKING ORGANIZATION] may recognize the credit risk mitigation benefits of financial collateral that

secures an eligible margin loan, repo-style transaction, or netting set of eligible margin loans or repo-style transactions, and of any collateral that secures a repo-style transaction that is included in the [BANKING ORGANIZATION]'s measure for market risk under subpart F of this part, by using the collateral haircut approach covered in paragraph (b) of this section.

(b) *Exposure amount calculation.* For purposes of the collateral haircut approach, a [BANKING ORGANIZATION] must determine the exposure amount for an eligible margin loan, repo-style transaction, or netting set of eligible margin loans or repo-style transactions according to the following formula:

$$E^* = \max \left\{ 0; \left(\sum_i E_i - \sum_i C_i \right) + \left(0.4 \times \text{net}_{\text{exposure}} \right) + \left(0.6 \times \frac{\text{gross}_{\text{exposure}}}{\sqrt{N}} \right) + \left(\sum_{fx} (E_{fx} \times H_{fx}) \right) \right\}$$

Where:

- (1) E^* is the exposure amount of the eligible margin loan, repo-style transaction, or netting set after credit risk mitigation;
- (2) E_i is the current fair value of the instrument, cash, or gold the [BANKING ORGANIZATION] has lent, sold subject to repurchase, or posted as collateral to the counterparty;

- (3) C_i is the current fair value of the instrument, cash, or gold the banking organization has borrowed, purchased subject to resale, or taken as collateral from the counterparty;
- (4) $\text{net}_{\text{exposure}} = |\sum_s E_s H_s|$;
- (5) $\text{gross}_{\text{exposure}} = \sum_s E_s |H_s|$;
- (6) E_s is the absolute value of the net position in a given instrument or in gold, where the net position in a given instrument or

gold equals the sum of the current fair values of the instrument or gold the [BANKING ORGANIZATION] has lent, sold subject to repurchase, or posted as collateral to the counterparty, minus the sum of the current fair values of that same instrument or gold the [BANKING ORGANIZATION] has borrowed, purchased subject to resale, or taken as collateral from the counterparty;

- (7) H_s is the haircut appropriate to E_s as described in Table 1 to § _____.115, as applicable. H_s has a positive sign if the instrument or gold is net lent, sold subject to repurchase, or posted as collateral to the counterparty; H_s has a negative sign if the instrument or gold is net borrowed, purchased subject to resale, or taken as collateral from the counterparty;
- (8) N is the number of instruments with a unique Committee on Uniform Securities Identification Procedures (CUSIP) designation or foreign equivalent that the [BANKING ORGANIZATION] lends, sells subject to repurchase, posts as collateral, borrows, purchases subject to resale, or takes as collateral in the eligible margin loan, repo-style transaction, or netting set, including all collateral that the [BANKING ORGANIZATION] elects to include within the credit risk mitigation framework, except that instruments where the value E_s is less than one tenth of the value of the largest E_s in the eligible margin loan, repo-style transaction, or netting set are not included in the count or gold, with any amount of gold given a value of one;
- (9) E_{fx} is the absolute value of the net position in each currency f_x different from the settlement currency;
- (10) H_{fx} is the haircut appropriate for currency mismatch of currency f_x .
- (c) *Market price volatility and currency mismatch haircuts.* (1) A [BANKING ORGANIZATION] must use the haircuts for market price volatility (H_s) in Table 1 to § _____.115, as adjusted in certain circumstances as provided in paragraphs (c)(3) through (5) of this section.

Table 1 to § __.115—Market Price Volatility Haircuts

Residual Maturity		Securities issued by a sovereign or an issuer described in § __.111(b) ¹ (percent)				Other investment-grade securities (percent)	
		Issuer risk weight of 0%	Issuer risk weight of 20% or 50%	Issuer risk weight of 100%	GSE exposures	Exposures other than GSE exposures or securitization exposures	Senior securitization exposures with risk weight <100%
Debt Securities	Less than or equal to 1 year	0.5	1.0	15.0	1.0	2.0	4.0
	Greater than 1 year and less than or equal to 3 years	2.0	3.0	15.0	4.0	4.0	12.0
	Greater than 3 years and less than or equal to 5 years					6.0	
	Greater than 5 years and less than or equal to 10 years	4.0	6.0	15.0	8.0	12.0	24.0
	Greater than 10 years					20.0	
	Main index equities (including convertible bonds) and gold					20.0	
	Other publicly traded equities and convertible bonds					30.0	
	Mutual funds and exchange traded funds	Highest haircut applicable to any security in which the fund can invest, unless the banking organization can apply the full look-through approach for equity investments in funds § __.142(b), in which case the banking organization may use a weighted average of haircuts applicable to the securities held by the fund.					
	Cash on deposit					0.0	
	Other exposure types ²					30.0	

¹ Includes a foreign PSE that receives a zero percent risk weight.

² Includes senior securitization exposures with a risk weight greater than or equal to 100 percent and sovereign exposures with a risk weight greater than 100 percent.

(2) For currency mismatches, a [BANKING ORGANIZATION] must use a haircut for foreign exchange rate volatility (H_{fx}) of 8 percent, as adjusted in certain circumstances under paragraphs (b)(3) and (4) of this section.

(3) For repo-style transactions, a [BANKING ORGANIZATION] may multiply the haircuts provided in paragraphs (b)(1) and (2) of this section by the square root of $\frac{1}{2}$ (which equals 0.707107).

(4) A [BANKING ORGANIZATION] must adjust the haircuts provided in paragraphs (c)(1) and (2) of this section upward on the basis of a holding period longer than ten business days for eligible margin loans or a holding period longer than five business days for repo-style transactions that are not cleared transactions under the following conditions. If the number of trades in a

netting set exceeds 5,000 at any time during a quarter, a [BANKING ORGANIZATION] must adjust the haircuts provided in paragraphs (c)(1) and (2) of this section upward on the basis of a holding period of twenty business days for the following quarter except in the calculation of exposure amount for purposes of § _____.116. If a netting set contains one or more trades involving illiquid collateral, a [BANKING ORGANIZATION] must adjust the haircuts provided in paragraphs (c)(1) and (2) of this section upward on the basis of a holding period

of twenty business days. If over the two previous quarters more than two margin disputes on a netting set have occurred that lasted longer than the holding period, then the [BANKING ORGANIZATION] must adjust the haircuts provided in paragraphs (c)(1) and (2) of this section upward for that netting set on the basis of a holding period that is at least two times the minimum holding period for that netting set. The [BANKING ORGANIZATION] must adjust the haircuts upward using the following formula:

$$H_a = H_s \sqrt{T_m/T_s}$$

Where:

- (i) T_m equals a holding period of longer than 10 business days for eligible margin loans or longer than 5 business days for repo-style transactions;
- (ii) H_s equals the market price volatility haircut provided in Table 1 to § _____.115 or to the foreign exchange rate volatility haircut provided in paragraph (c)(2) of this section; and
- (iii) T_s equals 10 business days for eligible margin loans or 5 business days for repo-style transactions.

(5) If the instruments a [BANKING ORGANIZATION] has lent, sold subject to repurchase, or posted as collateral do not meet the definition of financial collateral, the [BANKING ORGANIZATION] must use a 30 percent haircut for market price volatility (H_s).

§ _____.116 Cleared Transactions

(a) *General requirements*—(1) *Clearing member clients*. A [BANKING ORGANIZATION] that is a clearing member client must use the methodologies described in paragraph (b) of this section to calculate risk-weighted assets for a cleared transaction.

(2) *Clearing members*. A [BANKING ORGANIZATION] that is a clearing member must use the methodologies described in paragraph (c) of this section to calculate its risk-weighted assets for a cleared transaction and paragraph (d) of this section to calculate its risk-weighted assets for its default fund contribution to a CCP.

(b) *Clearing member client [BANKING ORGANIZATIONS]*—(1) *Risk-weighted assets for cleared transactions*. (i) To determine the risk-weighted asset amount for a cleared transaction, a [BANKING ORGANIZATION] that is a clearing member client must multiply the trade exposure amount for the cleared transaction, calculated in

accordance with paragraph (b)(2) of this section, by the risk weight appropriate for the cleared transaction, determined in accordance with paragraph (b)(3) of this section.

(ii) A clearing member client [BANKING ORGANIZATION]'s total risk-weighted assets for cleared transactions is the sum of the risk-weighted asset amounts for all of its cleared transactions.

(2) *Trade exposure amount*. (i) For a cleared transaction that is a derivative contract or a netting set of derivative contracts, trade exposure amount equals the exposure amount for the derivative contract or netting set of derivative contracts calculated using § _____.114, plus the fair value of the collateral posted by the clearing member client [BANKING ORGANIZATION] and held by the CCP, clearing member, or custodian in a manner that is not bankruptcy remote.

(ii) For a cleared transaction that is a repo-style transaction or netting set of repo-style transactions, trade exposure amount equals the exposure amount for the repo-style transaction calculated using § _____.115, plus the fair value of the collateral posted by the clearing member client [BANKING ORGANIZATION] and held by the CCP, clearing member, or custodian in a manner that is not bankruptcy remote.

(3) *Cleared transaction risk weights*.

(i) For a cleared transaction with a QCCP, a clearing member client [BANKING ORGANIZATION] must apply a risk weight of:

(A) Two percent if the collateral posted by the [BANKING ORGANIZATION] to the QCCP or clearing member is subject to an arrangement that prevents any loss to the clearing member client [BANKING ORGANIZATION] due to the joint default or a concurrent insolvency,

liquidation, or receivership proceeding of the clearing member and any other clearing member clients of the clearing member; and the clearing member client [BANKING ORGANIZATION] has conducted sufficient legal review to conclude with a well-founded basis (and maintains sufficient written documentation of that legal review) that in the event of a legal challenge (including one resulting from an event of default or from liquidation, insolvency, or receivership proceedings) the relevant court and administrative authorities would find the arrangements to be legal, valid, binding, and enforceable under the law of the relevant jurisdictions; or

(B) Four percent, if the requirements of paragraph (b)(3)(i)(A) of this section are not met.

(ii) For a cleared transaction with a CCP that is not a QCCP, a clearing member client [BANKING ORGANIZATION] must apply the risk weight applicable to the CCP under § _____.111.

(4) *Collateral*. (i) Notwithstanding any other requirement of this section, collateral posted by a clearing member client [BANKING ORGANIZATION] that is held by a custodian (in its capacity as a custodian) in a manner that is bankruptcy remote from the CCP, clearing member, and other clearing member clients of the clearing member, is not subject to a capital requirement under this section.

(ii) A clearing member client [BANKING ORGANIZATION] must calculate a risk-weighted asset amount for any collateral provided to a CCP, clearing member or a custodian in connection with a cleared transaction in accordance with requirements under subpart E or F of this part, as applicable.

(c) *Clearing member [BANKING ORGANIZATION]*—(1) *Risk-weighted*

assets for cleared transactions. (i) To determine the risk-weighted asset amount for a cleared transaction, a clearing member [BANKING ORGANIZATION] must multiply the trade exposure amount for the cleared transaction, calculated in accordance with paragraph (c)(2) of this section by the risk weight appropriate for the cleared transaction, determined in accordance with paragraph (c)(3) of this section.

(ii) A clearing member [BANKING ORGANIZATION]'s total risk-weighted assets for cleared transactions is the sum of the risk-weighted asset amounts for all of its cleared transactions.

(2) *Trade exposure amount.* A clearing member [BANKING ORGANIZATION] must calculate its trade exposure amount for a cleared transaction as follows:

(i) For a cleared transaction that is a derivative contract or a netting set of derivative contracts, trade exposure amount equals the exposure amount for the derivative contract or netting set of derivative contracts calculated using § _____.114, plus the fair value of the collateral posted by the clearing member [BANKING ORGANIZATION] and held by the CCP in a manner that is not bankruptcy remote.

(ii) For a cleared transaction that is a repo-style transaction or netting set of repo-style transactions, trade exposure amount equals the exposure amount for the repo-style transaction calculated using the methodology set forth in § _____.115, plus the fair value of the collateral posted by the clearing member [BANKING ORGANIZATION] and held by the CCP in a manner that is not bankruptcy remote.

(3) *Cleared transaction risk weights.* (i) A clearing member [BANKING

ORGANIZATION] must apply a risk weight of 2 percent to the trade exposure amount for a cleared transaction with a QCCP.

(ii) For a cleared transaction with a CCP that is not a QCCP, a clearing member [BANKING ORGANIZATION] must apply the risk weight applicable to the CCP according to § _____.111.

(iii) Notwithstanding paragraphs (c)(3)(i) and (ii) of this section, a clearing member [BANKING ORGANIZATION] may apply a risk weight of zero percent to the trade exposure amount for a cleared transaction with a QCCP where the clearing member [BANKING ORGANIZATION] is acting as a financial intermediary on behalf of a clearing member client, the transaction offsets another transaction that satisfies the requirements set forth in § _____.3(a), and the clearing member [BANKING ORGANIZATION] is not obligated to reimburse the clearing member client in the event of the QCCP default.

(4) *Collateral.* (i) Notwithstanding any other requirement of this section, collateral posted by a clearing member [BANKING ORGANIZATION] that is held by a custodian in a manner that is bankruptcy remote from the CCP is not subject to a capital requirement under this section.

(ii) A clearing member [BANKING ORGANIZATION] must calculate a risk-weighted asset amount for any collateral provided to a CCP, clearing member or a custodian in connection with a cleared transaction in accordance with requirements under subparts E or F of this part, as applicable.

(d) *Default fund contributions—*(1) *General requirement.* A clearing member [BANKING ORGANIZATION] must determine the risk-weighted asset

amount for a default fund contribution to a CCP at least quarterly, or more frequently if, in the opinion of the [BANKING ORGANIZATION] or the [AGENCY], there is a material change in the financial condition of the CCP. The total risk-weighted assets for default fund contributions of a clearing member [BANKING ORGANIZATION] is the sum of the [BANKING ORGANIZATION]'s risk-weighted assets for all of its default fund contributions to all CCPs of which the [BANKING ORGANIZATION] is a clearing member.

(2) *Risk-weighted asset amount for default fund contributions to nonqualifying CCPs.* A clearing member [BANKING ORGANIZATION]'s risk-weighted asset amount for default fund contributions to CCPs that are not QCCPs equals the sum of such default fund contributions multiplied by 1,250 percent, or an amount determined by the [AGENCY], based on factors such as size, structure, and membership characteristics of the CCP and riskiness of its transactions, in cases where such default fund contributions may be unlimited.

(3) *Risk-weighted asset amount for default fund contributions to QCCPs.* A clearing member [BANKING ORGANIZATION]'s risk-weighted asset amount for default fund contributions to QCCPs equals the sum of its capital requirement, KCM for each QCCP, as calculated under the methodology set forth in paragraph (d)(4) of this section, multiplied by 12.5.

(4) *Capital requirement for default fund contributions to a QCCP.* A clearing member [BANKING ORGANIZATION]'s capital requirement for its default fund contribution to a QCCP (KCM) is equal to:

$$K_{CM} = \max \left\{ K_{CCP} * \left(\frac{DF^{pref}}{DF_{CCP} + DF_{CCPCM}^{pref}} \right); 0.16 \text{ percent} * DF^{pref} \right\}$$

Where:

K_{CCP} is the hypothetical capital requirement of the QCCP, as determined under paragraph (d)(5) of this section;

DF^{pref} is the prefunded default fund contribution of the clearing member [BANKING ORGANIZATION] to the QCCP;

DF_{CCP}^{pref} is the QCCP's own prefunded amounts that are contributed to the default waterfall and are junior or *pari passu*

with prefunded default fund contributions of clearing members of the CCP; and

DF_{CCPCM}^{pref} is the total prefunded default fund contributions from clearing members of the QCCP to the QCCP.

(5) *Hypothetical capital requirement of a QCCP.* Where a QCCP has provided its KCCP, a [BANKING ORGANIZATION] must rely on such disclosed figure instead of calculating

KCCP under this paragraph (d)(5), unless the [BANKING ORGANIZATION] determines that a more conservative figure is appropriate based on the nature, structure, or characteristics of the QCCP. The hypothetical capital requirement of a QCCP (K_{CCP}), as determined by the [BANKING ORGANIZATION], is equal to:

$$K_{CCP} = \sum_{CM_i} EA_i * 1.6 \text{ percent}$$

Where:

CM_i is each clearing member of the QCCP; and

EA_i is the exposure amount of the QCCP to each clearing member of the QCCP to the QCCP, as determined under paragraph (d)(6) of this section.

(6) *Exposure amount of a QCCP to a clearing member.* (i) The exposure amount of a QCCP to a clearing member is equal to the sum of the exposure amount for derivative contracts determined under paragraph (d)(6)(ii) of this section and the exposure amount for repo-style transactions determined under paragraph (d)(6)(iii) of this section.

(ii) With respect to any derivative contracts between the QCCP and the clearing member and any guarantees that the clearing member has provided to the QCCP with respect to performance of a clearing member client on a derivative contract, the exposure amount is equal to the exposure amount of the QCCP to the clearing member for all such derivative contracts and guaranteed derivative contracts calculated under SA-CCR in § _____.114 (or, with respect to a QCCP located outside the United States, under a substantially identical methodology in effect in the jurisdiction) using a value of 10 business days for purposes of § _____.114(i)(4), provided that for this calculation, in place of the net independent collateral amount, the calculation must include the fair value amount of the independent collateral, as adjusted by the market price volatility haircut under Table 1 to § _____.115, as applicable, posted to the QCCP by the clearing member, including collateral posted on behalf of a client of the clearing member in connection with a derivative contract for which the clearing member has provided guarantees to the QCCP, plus the amount of the prefunded default fund contribution, as adjusted by the market price volatility haircut under Table 1 to § _____.115, as applicable, plus the amount of the prefunded default fund contribution of the clearing member to the QCCP.

(iii) With respect to any repo-style transactions between the clearing member and the QCCP that are cleared transactions, exposure amount (EA) is equal to:

$$EA = \max \{EBRMI - IM_i - DFi; 0\}$$

Where:

$EBRMI$ is the exposure amount of the QCCP to each clearing member for all repo-style transactions between the QCCP and the clearing member, as determined under § _____.115 and without recognition of the initial margin collateral posted by the clearing member to the QCCP with respect to the repo-style transactions or the prefunded default fund contribution of the clearing member institution to the QCCP;

IM_i is the initial margin collateral posted by each clearing member to the QCCP with respect to the repo-style transactions; and

DF_i is the prefunded default fund contribution of each clearing member to the QCCP that is not already deducted in paragraph (d)(6)(ii) of this section.

(iv) Exposure amount must be calculated separately for each clearing member's sub-client accounts and sub-house account (*i.e.*, for the clearing member's proprietary activities). If the clearing member's collateral and its client's collateral are held in the same default fund contribution account, then the exposure amount of that account is the sum of the exposure amount for the client-related transactions within the account and the exposure amount of the house-related transactions within the account. For purposes of determining such exposure amounts, the independent collateral of the clearing member and its client must be allocated in proportion to the respective total amount of independent collateral posted by the clearing member to the QCCP.

(v) If any account or sub-account contains both derivative contracts and repo-style transactions, the exposure amount of that account is the sum of the exposure amount for the derivative contracts within the account and the exposure amount of the repo-style transactions within the account. If independent collateral is held for an account containing both derivative contracts and repo-style transactions, then such collateral must be allocated to the derivative contracts and repo-style transactions in proportion to the respective product specific exposure amounts, calculated, excluding the effects of collateral, according to § _____.115 for repo-style transactions and to § _____.114 for derivative contracts.

(vi) Notwithstanding any other provision of paragraph (d) of this section, with the prior approval of the [AGENCY], a [BANKING ORGANIZATION] may determine the risk-weighted asset amount for a default

fund contribution to a QCCP according to § _____.35(d)(3)(i) through (iii).

§ _____.117 Unsettled Transactions

(a) *Definitions.* For purposes of this section:

(1) *Delivery-versus-payment (DvP) transaction* means a securities or commodities transaction in which the buyer is obligated to make payment only if the seller has made delivery of the securities or commodities and the seller is obligated to deliver the securities or commodities only if the buyer has made payment.

(2) *Payment-versus-payment (PvP) transaction* means a foreign exchange transaction in which each counterparty is obligated to make a final transfer of one or more currencies only if the other counterparty has made a final transfer of one or more currencies.

(3) A transaction has a normal settlement period if the contractual settlement period for the transaction is equal to or less than the market standard for the instrument underlying the transaction and equal to or less than five business days.

(4) Positive current exposure of a [BANKING ORGANIZATION] for a transaction is the difference between the transaction value at the agreed settlement price and the current market price of the transaction, if the difference results in a credit exposure of the [BANKING ORGANIZATION] to the counterparty.

(b) *Scope.* This section applies to all transactions involving securities, foreign exchange instruments, and commodities that have a risk of delayed settlement or delivery. This section does not apply to:

(1) Cleared transactions that are marked-to-market daily and subject to daily receipt and payment of variation margin;

(2) Repo-style transactions, including unsettled repo-style transactions;

(3) One-way cash payments on OTC derivative contracts; or

(4) Transactions with a contractual settlement period that is longer than the normal settlement period (which are treated as OTC derivative contracts).

(c) *System-wide failures.* In the case of a system-wide failure of a settlement, clearing system or central counterparty, the [AGENCY] may waive risk-based capital requirements for unsettled and failed transactions until the situation is rectified.

(d) *Delivery-versus-payment (DvP) and payment-versus-payment (PvP)*

transactions. A [BANKING ORGANIZATION] must hold risk-based capital against any DvP or PvP transaction with a normal settlement period if the [BANKING ORGANIZATION]'s counterparty has

not made delivery or payment within five business days after the settlement date. The [BANKING ORGANIZATION] must determine its risk-weighted asset amount for such a transaction by multiplying the positive current

exposure of the transaction for the [BANKING ORGANIZATION] by the appropriate risk weight in Table 1 to § __.117.

Table 1 to § __.117—Risk Weights for Unsettled DvP and PvP Transactions

Number of business days after contractual settlement date	Risk weight to be applied to positive current exposure (in percent)
From 5 to 15	100.0
From 16 to 30	625.0
From 31 to 45	937.5
46 or more	1,250.0

(e) *Non-DvP/non-PvP (non-delivery-versus-payment/non-payment-versus-payment) transactions.* (1) A [BANKING ORGANIZATION] must hold risk-based capital against any non-DvP/non-PvP transaction with a normal settlement period if the [BANKING ORGANIZATION] has delivered cash, securities, commodities, or currencies to its counterparty but has not received its corresponding deliverables by the end of the same business day. The [BANKING ORGANIZATION] must continue to hold risk-based capital against the transaction until the [BANKING ORGANIZATION] has received its corresponding deliverables.

(2) From the business day after the [BANKING ORGANIZATION] has made its delivery until five business days after the counterparty delivery is due, the [BANKING ORGANIZATION] must calculate the risk-weighted asset amount for the transaction by treating the current fair value of the deliverables owed to the [BANKING ORGANIZATION] as an exposure to the counterparty and using the applicable counterparty risk weight under this subpart.

(3) If the [BANKING ORGANIZATION] has not received its deliverables by the fifth business day after counterparty delivery was due, the [BANKING ORGANIZATION] must assign a 1,250 percent risk weight to the current fair value of the deliverables owed to the [BANKING ORGANIZATION].

(f) *Total risk-weighted assets for unsettled transactions.* Total risk-weighted assets for unsettled transactions is the sum of the risk-weighted asset amounts of all DvP, PvP, and non-DvP/non-PvP transactions.

Credit Risk Mitigation

§ __.120 Guarantees and Credit Derivatives: Substitution Approach

(a) Scope—(1) A [BANKING ORGANIZATION] may recognize the credit risk mitigation benefits of an eligible guarantee or eligible credit derivative that is not an nth-to-default credit derivative by substituting the risk weight associated with the protection provider for the risk weight assigned to an exposure, as provided under this section.

(2) This section applies to exposures for which:

(i) Credit risk is fully covered by an eligible guarantee or eligible credit derivative; or

(ii) Credit risk is covered on a pro rata basis (that is, on a basis in which the [BANKING ORGANIZATION] and the protection provider share losses proportionately) by an eligible guarantee or eligible credit derivative.

(3) Exposures on which there is a tranching of credit risk (reflecting at least two different levels of seniority) generally are securitization exposures subject to §§ __.130 through __.134.

(4) If multiple eligible guarantees or eligible credit derivatives cover a single exposure described in this section, a [BANKING ORGANIZATION] may treat the hedged exposure as multiple separate exposures, each covered by a single eligible guarantee or eligible credit derivative, and may calculate a separate risk-weighted asset amount for each separate exposure as described in paragraph (c) of this section.

(5) If a single eligible guarantee or eligible credit derivative covers multiple hedged exposures described in paragraph (a)(2) of this section, a

[BANKING ORGANIZATION] must treat each hedged exposure as covered by a separate eligible guarantee or eligible credit derivative and must calculate a separate risk-weighted asset amount for each exposure as described in paragraph (c) of this section.

(b) *Rules of recognition.* (1) A [BANKING ORGANIZATION] may only recognize the credit risk mitigation benefits of eligible guarantees and eligible credit derivatives that are not nth-to-default credit derivatives.

(2) A [BANKING ORGANIZATION] may only recognize the credit risk mitigation benefits of an eligible credit derivative to hedge an exposure that is different from the credit derivative's reference exposure used for determining the derivative's cash settlement value, deliverable obligation, or occurrence of a credit event if:

(i) The reference exposure ranks *pari passu* with, or is subordinated to, the hedged exposure;

(ii) The reference exposure and the hedged exposure are to the same legal entity; and

(iii) Legally enforceable cross-default or cross-acceleration clauses are in place to ensure payments under the credit derivative are triggered when the obligated party of the hedged exposure fails to pay under the terms of the hedged exposure.

(c) *Substitution approach*—(1) *Full coverage.* If an eligible guarantee or eligible credit derivative meets the conditions in paragraphs (a) and (b) of this section and the protection amount (P) of the guarantee or credit derivative is greater than or equal to the exposure amount of the hedged exposure, a [BANKING ORGANIZATION] may recognize the guarantee or credit

derivative in determining the risk-weighted asset amount for the hedged exposure by substituting the risk weight applicable to the guarantor or credit derivative protection provider under this subpart for the risk weight assigned to the exposure.

(2) *Partial coverage.* If an eligible guarantee or eligible credit derivative meets the conditions in paragraphs (a) and (b) of this section and the protection amount (P) of the guarantee or credit derivative is less than the exposure amount of the hedged exposure, the [BANKING ORGANIZATION] must treat the hedged exposure as two separate exposures (protected and unprotected) in order to recognize the credit risk mitigation benefit of the guarantee or credit derivative.

(i) The [BANKING ORGANIZATION] may calculate the risk-weighted asset amount for the protected exposure under this subpart E, where the applicable risk weight is the risk weight applicable to the guarantor or credit derivative protection provider.

(ii) The [BANKING ORGANIZATION] must calculate the risk-weighted asset amount for the unprotected exposure under this subpart E, where the applicable risk weight is that of the unprotected portion of the hedged exposure.

(iii) The treatment provided in this section is applicable when the credit risk of an exposure is covered on a partial pro rata basis and may be applicable when an adjustment is made to the effective notional amount of the guarantee or credit derivative under paragraph (d), (e), or (f) of this section.

(d) *Maturity mismatch adjustment.* (1) A [BANKING ORGANIZATION] that recognizes an eligible guarantee or eligible credit derivative in determining the risk-weighted asset amount for a hedged exposure must adjust the effective notional amount of the credit risk mitigant to reflect any maturity mismatch between the hedged exposure and the credit risk mitigant.

(2) A maturity mismatch occurs when the residual maturity of a credit risk mitigant is less than that of the hedged exposure(s).

(3) The residual maturity of a hedged exposure is the longest possible remaining time before the obligated party of the hedged exposure is scheduled to fulfil its obligation on the hedged exposure. If a credit risk mitigant has embedded options that may reduce its term, the [BANKING ORGANIZATION] (protection purchaser) must adjust the residual

maturity of the credit risk mitigant. If a call is at the discretion of the protection provider, the residual maturity of the credit risk mitigant is at the first call date. If the call is at the discretion of the [BANKING ORGANIZATION] (protection purchaser), but the terms of the arrangement at origination of the credit risk mitigant contain a positive incentive for the [BANKING ORGANIZATION] to call the transaction before contractual maturity, the remaining time to the first call date is the residual maturity of the credit risk mitigant.

(4) A credit risk mitigant with a maturity mismatch may be recognized only if its original maturity is greater than or equal to one year and its residual maturity is greater than three months.

(5) When a maturity mismatch exists, the [BANKING ORGANIZATION] must apply the following adjustment to reduce the effective notional amount of the credit risk mitigant:

$$P_m = E \times (t - 0.25) / (T - 0.25),$$

where:

- (i) P_m = effective notional amount of the credit risk mitigant, adjusted for maturity mismatch;
- (ii) E = effective notional amount of the credit risk mitigant;
- (iii) t = the lesser of T or the residual maturity of the credit risk mitigant, expressed in years; and
- (iv) T = the lesser of five or the residual maturity of the hedged exposure, expressed in years.

(e) *Adjustment for credit derivatives without restructuring as a credit event.*

(1) If a [BANKING ORGANIZATION] recognizes an eligible credit derivative that does not include as a credit event a restructuring of the hedged exposure involving forgiveness or postponement of principal, interest, or fees that results in a credit loss event (that is, a charge-off, specific provision, or other similar debit to the profit and loss account), the [BANKING ORGANIZATION] must apply the adjustment in paragraph (e)(2) of this section to reduce the effective notional amount of the credit derivative unless:

(i) The terms of the hedged exposure and the reference exposure, if different from the hedged exposure, allow the maturity, principal, coupon, currency, or seniority status of the exposure to be amended outside of receivership, insolvency, liquidation, or similar proceeding only by unanimous consent of all parties, and

(ii) The [BANKING ORGANIZATION] has conducted sufficient legal review to

conclude with a well-founded basis (and maintains sufficient written documentation of that legal review) that the hedged exposure is subject to the U.S. Bankruptcy Code, the Federal Deposit Insurance Act, or a domestic or foreign insolvency regime with similar features that allow for a company to liquidate, reorganize, or restructure and provides for an orderly settlement of creditor claims.

(2) The [BANKING ORGANIZATION] must apply the following adjustment to reduce the effective notional amount of any eligible credit derivative that is subject to adjustment under paragraph (e)(1) of this section:

$$Pr = P_m \times 0.60,$$

where:

- (i) Pr = effective notional amount of the credit risk mitigant, adjusted for lack of restructuring event (and maturity mismatch, if applicable); and
- (ii) P_m = effective notional amount of the credit risk mitigant (adjusted for maturity mismatch, if applicable).

(f) *Currency mismatch adjustment.* (1) If a [BANKING ORGANIZATION] recognizes an eligible guarantee or eligible credit derivative that is denominated in a currency different from that in which the hedged exposure is denominated, the [BANKING ORGANIZATION] must apply the following formula to the effective notional amount of the guarantee or credit derivative:

$$P_c = Pr \times (1 - H_{FX}),$$

where:

- (i) P_c = effective notional amount of the credit risk mitigant, adjusted for currency mismatch (and maturity mismatch and lack of restructuring event, if applicable);
- (ii) Pr = effective notional amount of the credit risk mitigant (adjusted for maturity mismatch and lack of restructuring event, if applicable); and
- (iii) H_{FX} = haircut appropriate for the currency mismatch between the credit risk mitigant and the hedged exposure, as determined under paragraphs (f)(2) through (3) of this section.

(2) Subject to paragraph (f)(3) of this section, a [BANKING ORGANIZATION] must set H_{FX} equal to eight percent.

(3) A [BANKING ORGANIZATION] must increase H_{FX} as determined under paragraph (f)(2) of this section if the [BANKING ORGANIZATION] revalues the guarantee or credit derivative less frequently than once every 10 business days using the following formula:

$H_{FX} = 8\% \times \sqrt{\frac{T_M}{10}}$, where T_M equals the greater of 10 or the number of business days between revaluations.

§ _____.121 Collateralized Transactions and Prepaid Credit Protection Arrangements

(a) *Financial Collateral.* To recognize the risk-mitigating effects of financial collateral, a [BANKING ORGANIZATION] may use the simple approach in paragraph (b) of this section for any exposure for which the [BANKING ORGANIZATION] does not use §§ _____.113 through _____.115 to calculate the exposure amount for counterparty credit risk. A [BANKING ORGANIZATION] must use the same approach to recognize the risk-mitigating effects of financial collateral for similar exposures or transactions.

(b) *The simple approach—(1) General requirements.* To qualify for the simple approach under this paragraph (b), the financial collateral must meet the following requirements:

(i) The collateral must be revalued at least every six months;

(ii) The legal mechanism by which financial collateral is pledged or transferred must be enforceable in the relevant jurisdictions and ensure that the [BANKING ORGANIZATION] has the contractual right, as applicable to the characteristics of the financial collateral and exposure, to liquidate or take legal possession of the financial collateral, setoff amounts owed to the obligor against amounts owed to the [BANKING ORGANIZATION] and close out any transaction giving rise to the secured exposure, in a timely manner, in the event of the default, insolvency or bankruptcy (or one or more otherwise-defined credit events set out in the transaction documentation) of the obligor;

(iii) If the financial collateral has been pledged or transferred by a party other than the obligor of the secured exposure, the bankruptcy or insolvency of the pledgor or transferor must not terminate or impair the enforceability of the legal mechanism that establishes the [BANKING ORGANIZATION]'s rights in respect of the financial collateral; and

(iv) The [BANKING ORGANIZATION] must be able to reasonably demonstrate the ability to protect and enforce its rights in respect of any financial collateral.

(2) *Risk weight substitution.* (i) A [BANKING ORGANIZATION] may apply a risk weight to the portion of an exposure that is secured by financial collateral that meets the requirements of paragraph (b) of this section, up to the

protection amount of the financial collateral as adjusted by paragraph (d) of this section, based on the risk weight assigned to the collateral under this subpart. For repurchase agreements, reverse repurchase agreements, and securities lending and borrowing transactions, the collateral is the instruments, gold, and cash the [BANKING ORGANIZATION] has borrowed, purchased subject to resale, or taken as collateral from the counterparty under the transaction. Except as provided in paragraph (b)(3) of this section, the risk weight assigned to the portion of the exposure secured by financial collateral may not be less than 20 percent.

(ii) A [BANKING ORGANIZATION] must apply a risk weight to the amount of an exposure in excess of the protection amount of financial collateral securing the exposure based on the risk weight applicable to the exposure under this subpart.

(3) *Exceptions to the 20 percent risk weight floor and other requirements.* Notwithstanding paragraph (b)(2)(i) of this section, a [BANKING ORGANIZATION] may assign a zero percent risk weight up to the protection amount of the financial collateral where:

(i) The financial collateral is cash on deposit; or

(ii) The financial collateral is an exposure to a sovereign that qualifies for a zero percent risk weight under § _____.111, and the [BANKING ORGANIZATION] has discounted the fair value of the collateral by 20 percent.

(c) *Eligible prepaid credit protection arrangements.* (1) *Scope.* A [BANKING ORGANIZATION] may recognize the credit risk mitigation benefits of an eligible prepaid credit protection arrangement as provided under this paragraph.

(2) *Application.* This paragraph applies to exposures, including securitization exposures, for which:

(i) Credit risk is fully covered by an eligible prepaid credit protection arrangement; or

(ii) Credit risk is covered on a pro rata basis (that is, on a basis in which the [BANKING ORGANIZATION] and the protection provider share losses proportionately) by an eligible prepaid credit protection arrangement.

(3) *Tranching of credit risk.* Exposures on which there is a tranching of credit risk (reflecting at least two different levels of seniority) generally are

securitization exposures subject to § _____.130 through _____.134.

(4) *Multiple eligible prepaid credit protection arrangements.* If multiple eligible prepaid credit protection arrangements cover a single exposure, a [BANKING ORGANIZATION] may treat the hedged exposure as multiple separate exposures each covered by a single eligible credit protection arrangement and may calculate a separate risk-weighted asset amount for each separate exposure as described in paragraph (c)(6) of this section.

(5) *Single eligible credit protection arrangements.* If a single eligible credit protection arrangement covers multiple hedged exposures, a [BANKING ORGANIZATION] must treat each hedged exposure as covered by a separate eligible credit protection arrangement and must calculate a separate risk-weighted asset amount for each exposure as described in paragraph (c)(6) of this section.

(6) *Prepaid credit protection arrangements—The substitution approach.* (i) *Full coverage.* If an eligible prepaid credit protection arrangement meets the conditions in paragraphs (c)(1) through (5) of this section and the protection amount (P) of the prepaid credit protection arrangement is greater than or equal to the exposure amount of the reference exposure, a [BANKING ORGANIZATION] may assign a zero percent risk weight to the reference exposure.

(ii) *Partial coverage.* If an eligible prepaid credit protection arrangement meets the conditions in paragraphs (c)(1) through (5) of this section and the protection amount (P) of the prepaid credit protection arrangement is less than the exposure amount of the reference exposure, the [BANKING ORGANIZATION] must treat the reference exposure as two separate exposures (protected and unprotected) in order to recognize the credit risk mitigation benefit of the prepaid credit protection arrangement.

(A) The [BANKING ORGANIZATION] may apply a risk-weight of zero percent for the protected exposure.

(B) The [BANKING ORGANIZATION] must calculate the risk-weighted asset amount for the unprotected exposure under this subpart E, where the applicable risk weight is that of the unprotected portion of the reference exposure.

(C) The treatment provided in this section is applicable when the credit risk of a reference exposure is covered on a partial pro rata basis and may be applicable when an adjustment is made to the effective notional amount of the prepaid credit protection arrangement under paragraph (d) of this section.

(d) *Required adjustments—(1)*

Maturity mismatch adjustment. (i) A [BANKING ORGANIZATION] that recognizes the credit risk mitigation benefits of financial collateral under paragraph (b) of this section or of an eligible prepaid credit protection arrangement under paragraph (c) of this section must adjust the amount of credit risk mitigation recognized to reflect any maturity mismatch.

(ii) A maturity mismatch occurs when:

(A) The residual maturity of the legal mechanism by which financial collateral is pledged is less than that of the secured exposure(s); or

(B) The residual maturity of an eligible prepaid credit protection arrangement is less than that of the reference exposure.

(iii) The residual maturity of a secured exposure under paragraph (b) of this section or a reference exposure under paragraph (c) of this section is the longest possible remaining time before the obligated party of the secured exposure or reference exposure is scheduled to fulfil its obligation on the exposure. For purposes of this paragraph (d)(1)(iii):

(A) For an eligible prepaid credit protection arrangement, if the terms of the arrangement include embedded options that may reduce its term, the [BANKING ORGANIZATION] (protection purchaser) must adjust the residual maturity. If a call is at the discretion of the protection provider, the residual maturity is at the first call date. If the call is at the discretion of the [BANKING ORGANIZATION] (protection purchaser), but the terms of the arrangement at origination contain a positive incentive for the [BANKING ORGANIZATION] to cancel the

arrangement before contractual maturity, the remaining time to the first call date is the residual maturity.

(B) For financial collateral that is not cash on deposit at the [BANKING ORGANIZATION], but including cash held for the [BANKING ORGANIZATION] by a third-party custodian or trustee, the residual maturity of any amount of such financial collateral is the earliest date on which the [BANKING ORGANIZATION]'s rights in respect of such amount of financial collateral may be terminated without the pledgor being subject to a contemporaneous requirement to pledge additional financial collateral. For financial collateral that is cash on deposit at the [BANKING ORGANIZATION], the residual maturity of any amount of such cash collateral is the earliest date on which a depositor may withdraw such amount, notwithstanding any notice requirements or early withdrawal fees or penalties.

(iv) The credit risk mitigation benefits of financial collateral or an eligible prepaid credit protection arrangement with a maturity mismatch may be recognized only if the original maturity of the legal mechanism by which financial collateral is pledged or the eligible prepaid credit protection arrangement is greater than or equal to one year and its residual maturity is greater than three months.

(v) When a maturity mismatch exists, the [BANKING ORGANIZATION] must apply the following adjustment to reduce the protection amount:

$$P_m = E \times (t - 0.25) / (T - 0.25),$$

where:

(A) P_m = fair value of the financial collateral or effective notional amount of the eligible prepaid credit protection arrangement, adjusted for maturity mismatch;

(B) E = fair value of the financial collateral or effective notional amount of the eligible prepaid credit protection arrangement;

(C) t = the lesser of T or the residual maturity of the arrangement, expressed in years; and

(D) T = the lesser of five or the residual maturity of the secured exposure or reference exposure, expressed in years.

(2) *Currency mismatch adjustment.* (i) If a [BANKING ORGANIZATION] recognizes the credit risk mitigation benefits of financial collateral under paragraph (b) of this section or of an eligible prepaid credit protection arrangement under paragraph (c) of this section that is denominated in a currency different from that in which the secured or reference exposure is denominated, the [BANKING ORGANIZATION] must apply the following formula to the fair value of the financial collateral or the effective notional amount of the eligible prepaid credit protection arrangement:

$$P_c = P_r \times (1 - H_{FX}),$$

where:

(A) P_c = fair value of the financial collateral or the effective notional amount of the eligible prepaid credit protection arrangement, adjusted for currency mismatch (and maturity mismatch, if applicable);

(B) P_r = fair value of the financial collateral or the effective notional amount of the eligible prepaid credit protection arrangement (adjusted for maturity mismatch, if applicable); and

(C) H_{FX} = haircut appropriate for the currency mismatch between the financial collateral and the secured exposure or the eligible prepaid credit protection arrangement and the reference exposure, as determined under paragraphs (d)(2)(ii) through (iii) of this section.

(ii) Subject to paragraph (d)(2)(iii) of this section, a [BANKING ORGANIZATION] must set H_{FX} equal to eight percent.

(iii) A [BANKING ORGANIZATION] must increase H_{FX} as determined under paragraph (d)(2)(ii) of this section if the [BANKING ORGANIZATION] revalues the financial collateral or eligible prepaid credit protection arrangement less frequently than once every 10 business days using the following formula:

$$H_{FX} = 8\% \times \sqrt{\frac{T_M}{10}}, \text{ where } T_M \text{ equals the greater of 10 or the number of business days}$$

between revaluations.

Risk-Weighted Assets for Securitization Exposures

§ _____.130 Operational Criteria for Recognizing the Transfer of Risk.

(a) *Operational criteria for traditional securitizations.* A [BANKING ORGANIZATION] that transfers exposures it has originated or purchased to a third party in connection with a traditional securitization may exclude the exposures from the calculation of its risk-weighted assets only if each condition in this section is satisfied. A [BANKING ORGANIZATION] that meets these conditions must hold risk-based capital against any credit risk it retains in connection with the securitization. A [BANKING ORGANIZATION] that fails to meet these conditions must hold risk-based capital against the transferred exposures as if they had not been securitized and must deduct from common equity tier 1 capital any after-tax gain-on-sale resulting from the transaction and any portion of a CEIO strip that does not constitute after-tax gain-on-sale. If the transferred exposures are in connection with a resecuritization and all of the conditions in this paragraph (a) are satisfied, the [BANKING ORGANIZATION] must exclude the exposures from the calculation of its risk-weighted assets and must hold risk-based capital against any credit risk it retains in connection with the resecuritization. The conditions are:

(1) The exposures are not reported on the [BANKING ORGANIZATION]'s consolidated balance sheet under GAAP;

(2) The [BANKING ORGANIZATION] has transferred to one or more third parties credit risk associated with the underlying exposures;

(3) Any clean-up calls relating to the securitization are eligible clean-up calls; and

(4) The securitization does not:

(i) Include one or more underlying exposures in which the borrower is permitted to vary the drawn amount within an agreed limit under a line of credit; and

(ii) Contain an early amortization provision.

(b) *Operational criteria for synthetic securitizations.* For synthetic securitizations, a [BANKING ORGANIZATION] may recognize for risk-based capital purposes the use of a credit risk mitigant to hedge underlying exposures only if each condition in this paragraph (b) is satisfied. A [BANKING ORGANIZATION] that meets these conditions must hold risk-based capital against any credit risk of the exposures it retains in connection with the

synthetic securitization. A [BANKING ORGANIZATION] that fails to meet these conditions or chooses not to recognize the credit risk mitigant for purposes of this section must instead hold risk-based capital against the underlying exposures as if they had not been synthetically securitized. If the synthetic securitization is a resecuritization and all of the conditions in this paragraph (b) are satisfied, the [BANKING ORGANIZATION] must exclude the underlying securitization exposures from the calculation of its risk-weighted assets and must hold risk-based capital against any credit risk it retains in connection with the resecuritization. The conditions are:

(1) The credit risk mitigant is:

(i) Financial collateral;

(ii) A guarantee that meets all criteria as set forth in the definition of *eligible guarantee* in § _____.2, except for the criteria in paragraph (3) of that definition;

(iii) A credit derivative that is not an nth-to-default credit derivative and that meets all criteria as set forth in the definition of *eligible credit derivative* in § _____.2, except for the criteria in paragraph (3) of the definition of *eligible guarantee* in § _____.2; or

(iv) A prepaid credit protection arrangement that meets all criteria as set forth in the definition of *eligible prepaid credit protection arrangement* in § _____.2, except for the criteria in paragraph (3) of that definition.

(2) The [BANKING ORGANIZATION] transfers credit risk associated with the underlying exposures to one or more third parties, and the terms and conditions in the credit risk mitigants employed do not include provisions that:

(i) Allow for the termination of the credit protection due to deterioration in the credit quality of the underlying exposures;

(ii) Require the [BANKING ORGANIZATION] to alter or replace the underlying exposures to improve the credit quality of the underlying exposures;

(iii) Increase the [BANKING ORGANIZATION]'s cost of credit protection in response to deterioration in the credit quality of the underlying exposures;

(iv) Increase the yield payable to parties other than the [BANKING ORGANIZATION] in response to a deterioration in the credit quality of the underlying exposures; or

(v) Provide for increases in a retained first loss position or credit enhancement provided by the [BANKING ORGANIZATION] after the inception of the securitization;

(3) The [BANKING ORGANIZATION] obtains a well-reasoned opinion from legal counsel that confirms the enforceability of the credit risk mitigant in all relevant jurisdictions;

(4) Any clean-up calls relating to the securitization are eligible clean-up calls;

(5) No synthetic excess spread is permitted within the synthetic securitization;

(6) Any applicable minimum payment threshold for the credit risk mitigant is consistent with standard market practice; and

(7) The securitization does not:

(i) Include one or more underlying exposures in which the borrower is permitted to vary the drawn amount within an agreed limit under a line of credit; and

(ii) Contain an early amortization provision.

(c) *Due diligence requirements for securitization exposures.* (1) Except for exposures that are deducted from common equity tier 1 capital and exposures subject to § _____.132(h), if a [BANKING ORGANIZATION] is unable to demonstrate to the satisfaction of the [AGENCY] a comprehensive understanding of the features of a securitization exposure that would materially affect the performance of the exposure, the [BANKING ORGANIZATION] must assign the securitization exposure a risk weight of 1,250 percent. The [BANKING ORGANIZATION]'s analysis must be commensurate with the complexity of the securitization exposure and the materiality of the exposure in relation to its capital.

(2) A [BANKING ORGANIZATION] must demonstrate its comprehensive understanding of a securitization exposure under paragraph (c)(1) of this section, for each securitization exposure by:

(i) Conducting an analysis of the risk characteristics of a securitization exposure prior to acquiring the exposure and documenting such analysis within 3 business days after acquiring the exposure, considering:

(A) Structural features of the securitization that would materially impact the performance of the exposure, for example, the contractual cash flow waterfall, waterfall-related triggers, credit enhancements, liquidity enhancements, fair value triggers, the performance of organizations that service the exposure, and deal-specific definitions of default;

(B) Relevant information regarding—
(1) The performance the underlying credit exposure(s), for example, the percentage of loans 30, 60, and 90 days past due; default rates; prepayment

rates; loans in foreclosure; property types; occupancy; average credit score or other measures of creditworthiness; average LTV ratio; and industry and geographic diversification data on the underlying exposure(s); and

(2) For resecuritization exposures, in addition to the information described in paragraph (c)(2)(i)(B)(1) of this section, performance information on the underlying securitization exposures, which may include the issuer name and credit quality, and the characteristics and performance of the exposures underlying the securitization exposures; and

(C) Relevant market data of the securitization, for example, bid-ask spread, most recent sales price and historic price volatility, trading volume, implied market rating, and size, depth and concentration level of the market for the securitization; and

(ii) On an on-going basis (no less frequently than quarterly), evaluating, reviewing, and updating as appropriate the analysis required under paragraph (c)(1) of this section for each securitization exposure.

§ _____.131 Exposure Amount of a Securitization Exposure

(a) *On-balance sheet securitization exposure.* The exposure amount of an on-balance sheet securitization exposure (excluding a repo-style transaction, eligible margin loan, OTC derivative contract that is not a credit derivative, or cleared transaction that is not a credit derivative) is equal to the [BANKING ORGANIZATION]'s carrying value of the exposure. For a credit derivative, a [BANKING ORGANIZATION] must apply § _____.132(i) or (j), as applicable.

(b) *Off-balance sheet securitization exposure.* Except as provided in § _____.132(h), the exposure amount of an off-balance sheet securitization exposure that is not a repo-style transaction, eligible margin loan, OTC derivative contract (other than a credit derivative), or cleared transaction (other than a credit derivative) is the notional amount of the exposure. For an off-balance sheet securitization exposure to an ABCP program, such as an eligible ABCP liquidity facility, the notional amount may be reduced to the maximum potential amount that the [BANKING ORGANIZATION] could be required to fund given the ABCP program's current underlying assets (calculated without regard to the current credit quality of those assets).

(c) *Repo-style transaction, eligible margin loan, OTC derivative contract that is not a credit derivative, or cleared transaction that is not a credit derivative.* The exposure amount of a

securitization exposure that is a repo-style transaction, eligible margin loan, or OTC derivative contract (other than a credit derivative) is the exposure amount as calculated in accordance with §§ _____.113 through _____.115 or § _____.112, as applicable, and the exposure amount of a securitization exposure that is a cleared transaction that is not a credit derivative is the exposure amount as calculated in § _____.116.

§ _____.132 Risk-Weighted Assets for Securitization Exposures

(a) *General approach.* Except as provided elsewhere in this section and in § _____.130:

(1) A [BANKING ORGANIZATION] may, subject to the limitation under paragraph (e) of this section, apply the securitization standardized approach (SEC-SA) in § _____.133 to the exposure if the exposure meets the following requirements:

(i) The [BANKING ORGANIZATION] has accurate information on A , D , W , and K_G (as defined in § _____.133) for the exposure. Data used to assign the parameters described in this paragraph (a)(1)(i) must be the most currently available data. If the contracts governing the underlying exposures of the securitization require payments on a monthly or quarterly basis, the data used to assign the parameters described in this paragraph (a)(1)(i) must be no more than 91 calendar days old.

(ii) The [BANKING ORGANIZATION] has accurate information regarding whether the exposure is a resecuritization exposure.

(2) If the securitization exposure is an interest rate derivative contract, an exchange rate derivative contract, or a cash collateral account related to an interest rate or exchange rate derivative contract, the [BANKING ORGANIZATION] must assign a risk weight to the exposure equal to the risk weight of a securitization exposure that is *pari passu* to the interest rate derivative contract or exchange rate derivative contract or, if such an exposure does not exist, the risk weight of any subordinate securitization exposure.

(3) If the [BANKING ORGANIZATION] cannot apply, or chooses not to apply, the securitization standardized approach in § _____.133, the [BANKING ORGANIZATION] must apply a 1,250 percent risk weight to the exposure.

(b) *Total risk-weighted assets for securitization exposures.* A [BANKING ORGANIZATION]'s total risk-weighted assets for securitization exposures equals the sum of the risk-weighted

asset amount for securitization exposures that the [BANKING ORGANIZATION] risk weights under §§ _____.132 through _____.134, as applicable.

(c) *After-tax gain-on-sale resulting from a securitization.* Notwithstanding any other provision of this subpart, a [BANKING ORGANIZATION] must deduct from common equity tier 1 capital any after-tax gain-on-sale resulting from a securitization as well as the portion of a CEIO that does not constitute an after-tax gain-on sale.

(d) *Overlapping exposures.* (1) If a [BANKING ORGANIZATION] has multiple securitization exposures that provide duplicative coverage of the underlying exposures of a securitization (such as when a [BANKING ORGANIZATION] provides a program-wide credit enhancement and multiple pool-specific liquidity facilities to an ABCP program), the [BANKING ORGANIZATION] is not required to hold duplicative risk-based capital against the overlapping position. Instead, the [BANKING ORGANIZATION] may apply to the overlapping position the applicable risk-based capital treatment that results in the highest risk-based capital requirement.

(2) If a [BANKING ORGANIZATION] has two or more securitization exposures that partially overlap with each other, the [BANKING ORGANIZATION] may treat the exposures as overlapping and apply the treatment under paragraph (d)(1). For purposes of such a treatment under this paragraph (d)(2), the [BANKING ORGANIZATION] must include in expanded total risk-weighted assets the risk-weighted asset amount for a hypothetical securitization exposure that would fully overlap with all of the partially overlapping exposures.

(3) If a [BANKING ORGANIZATION] has a securitization exposure under this subpart that is an overlapping exposure with a securitization exposure that is a market risk covered position under subpart F of this part, the [BANKING ORGANIZATION] may assign to the overlapping securitization exposure the applicable risk-based capital treatment under either this subpart or subpart F, whichever results in the highest risk-based capital requirement.

(e) *Implicit support.* If a [BANKING ORGANIZATION] provides support to a securitization in excess of the [BANKING ORGANIZATION]'s contractual obligation to provide credit support to the securitization:

(1) The [BANKING ORGANIZATION] must calculate a risk-weighted asset amount for underlying exposures

associated with the securitization as if the exposures had not been securitized and must deduct from common equity tier 1 capital any after-tax gain-on-sale resulting from the securitization and any portion of a CEIO strip that does not constitute after-tax gain-on-sale; and

(2) The [BANKING ORGANIZATION] must disclose publicly:

(i) That it has provided implicit support to the securitization; and

(ii) The risk-based capital impact to the [BANKING ORGANIZATION] of providing such implicit support.

(f) *Undrawn portion of a servicer cash advance facility.* (1) Notwithstanding any other provision of this subpart, a [BANKING ORGANIZATION] that is a servicer under an eligible servicer cash advance facility is not required to hold risk-based capital against potential future cash advance payments that it may be required to provide under the contract governing the facility.

(2) For a [BANKING ORGANIZATION] that acts as a servicer, the exposure amount for a servicer cash advance facility that is not an eligible servicer cash advance facility is equal to the amount of all potential future cash advance payments that the [BANKING ORGANIZATION] may be contractually required to provide during the subsequent 12-month period under the contract governing the facility.

(g) *Interest-only mortgage-backed securities.* Notwithstanding any other provision of this subpart, the risk weight for a non-credit-enhancing interest-only mortgage-backed security may not be less than 100 percent.

(h) *Small-business loans and leases on personal property transferred with retained contractual exposure.* (1) Regardless of any other provision of this subpart, a [BANKING ORGANIZATION] that has transferred small-business loans and leases on personal property (small-business obligations) with recourse must include in risk-weighted assets only its contractual exposure to the small-business obligations if all the following conditions are met:

(i) The transaction must be treated as a sale under GAAP;

(ii) The [BANKING ORGANIZATION] establishes and maintains, pursuant to GAAP, a non-capital reserve sufficient to meet the [BANKING ORGANIZATION]'s reasonably estimated liability under the contractual obligation;

(iii) The small-business obligations are to businesses that meet the criteria for a small-business concern established by the Small Business Administration under section 3(a) of the Small Business Act (15 U.S.C. 632 *et seq.*); and

(iv) The [BANKING ORGANIZATION] is well capitalized for purposes of the Prompt Corrective Action framework (12 U.S.C. 1831o). For purposes of determining whether a [BANKING ORGANIZATION] is well capitalized for purposes of this paragraph (h), the [BANKING ORGANIZATION]'s capital ratios must be calculated without regard to the capital treatment for transfers of small-business obligations with recourse specified in paragraph (h)(1) of this section.

(2) The total outstanding amount of contractual exposure retained by a [BANKING ORGANIZATION] on transfers of small-business obligations receiving the capital treatment specified in paragraph (h)(1) of this section cannot exceed 15 percent of the [BANKING ORGANIZATION]'s total capital.

(3) If a [BANKING ORGANIZATION] ceases to be well capitalized, or exceeds the 15 percent capital limitation provided in paragraph (h)(2) of this section, the capital treatment specified in paragraph (h)(1) of this section will continue to apply to any transfers of small-business obligations with retained contractual exposure that occurred during the time that the [BANKING ORGANIZATION] was well capitalized and did not exceed the capital limit.

(4) The risk-based capital ratios of the [BANKING ORGANIZATION] must be calculated without regard to the capital treatment for transfers of small-business obligations specified in paragraph (h)(1) of this section for purposes of:

(i) Determining whether a [BANKING ORGANIZATION] is adequately capitalized, undercapitalized, significantly undercapitalized, or critically undercapitalized under the [AGENCY]'s prompt corrective action regulations; and

(ii) Reclassifying a well-capitalized [BANKING ORGANIZATION] to adequately capitalized and requiring an adequately capitalized [BANKING ORGANIZATION] to comply with certain mandatory or discretionary supervisory actions as if the [BANKING ORGANIZATION] were in the next lower prompt-corrective-action category.

(i) *Nth-to-default credit derivatives—(1) Protection provider.* A [BANKING ORGANIZATION] providing protection through a first-to-default or second-or-later-to-default derivative is subject to capital requirements on such instruments under this paragraph (i)(1).

(i) *First-to-default.* For first-to-default derivatives, a [BANKING ORGANIZATION] must aggregate by simple summation the risk weights of the assets covered up to a maximum of

1,250 percent and multiply by the nominal amount of the protection provided by the credit derivative to obtain the risk-weighted asset amount.

(ii) *Nth-to-default.* For second-or-later-to-default derivatives, in aggregating the risk weights, a [BANKING ORGANIZATION] may exclude the asset with the lowest risk-weighted amount from the risk-weighted capital calculation. This risk-based capital treatment applies for nth-to-default derivatives for which the n-1 assets with the lowest risk-weighted amounts can be excluded from the risk-weighted capital calculation.

(2) *Protection purchaser.* A [BANKING ORGANIZATION] is not permitted to recognize purchased protection in the form of an nth-to-default credit derivative as a credit risk mitigant. A [BANKING ORGANIZATION] must calculate the counterparty credit risk of a purchased nth-to-default credit derivative under §§ _____.113 through _____.114.

(j) *Guarantees, credit derivatives other than nth-to-default credit derivatives, and prepaid credit protection arrangements—(1) Protection provider.* For a guarantee, credit derivative (other than an nth-to-default credit derivative), or prepaid credit protection arrangement provided by a [BANKING ORGANIZATION] that covers the full amount or a pro rata share of a securitization exposure's principal and interest, the [BANKING ORGANIZATION] must risk-weight the guarantee, credit derivative, or prepaid credit protection arrangement under paragraph (a) of this section as if it held the portion of the securitization exposure covered by the guarantee, credit derivative, or prepaid credit protection arrangement.

(2) *Protection purchaser.* (i) A [BANKING ORGANIZATION] that purchases a credit derivative (other than an nth-to-default credit derivative) that is recognized under § _____.134 as a credit risk mitigant (including via recognized collateral) is not required to compute a separate counterparty credit risk capital requirement under §§ _____.113 through _____.114.

(ii) If a [BANKING ORGANIZATION] cannot, or chooses not to, recognize protection purchased in the form of a credit derivative as a credit risk mitigant under § _____.134, the [BANKING ORGANIZATION] must determine the exposure amount of the credit derivative under § _____.114.

(A) If the [BANKING ORGANIZATION] purchases credit protection from a counterparty the activities of which are limited to those appropriate for the specific purpose of

holding the underlying exposures of a securitization, the [BANKING ORGANIZATION] must determine the risk weight for the exposure according to § _____.111.

(B) If the [BANKING ORGANIZATION] purchases credit protection from a counterparty the activities of which are limited to those appropriate for the specific purpose of holding the underlying exposures of a securitization, the [BANKING ORGANIZATION] must determine the risk weight for the exposure according to this section.

(k) *Look-through approach.* (1) Subject to paragraph (k)(2) of this section, a [BANKING ORGANIZATION] may assign a risk weight to a senior securitization exposure that is not a resecuritization exposure equal to the greater of:

(i) The weighted-average risk weight, calculated without reference to, or use

of, the risk weight under § _____.141(b)(3)(iii), of all the underlying exposures where the weight for each exposure in the weighted-average calculation is determined by the unpaid principal amount of the exposure; and

(ii) 15 percent.

(2) A [BANKING ORGANIZATION] may assign a risk weight under this paragraph (k) only if the [BANKING ORGANIZATION] has knowledge of the composition of all of the underlying exposures.

(l) *NPL securitization.*

Notwithstanding any other provision of this subpart except for paragraph (e) of this section:

(1) If the nonrefundable purchase price discount for the NPL securitization is greater than or equal to 50 percent of the outstanding balance of the pool of exposures at inception of the transaction, the risk weight for a senior

securitization exposure to an NPL securitization is 100 percent.

(2) If the [BANKING ORGANIZATION] is an originating [BANKING ORGANIZATION] with respect to the NPL securitization, the [BANKING ORGANIZATION] may hold risk-based capital against the transferred exposures as if they had not been securitized and must deduct from common equity tier 1 capital any after-tax gain-on-sale resulting from the transaction and any portion of a CEIO that does not constitute an after-tax gain-on-sale.

§ _____.133 Securitization standardized approach (SEC-SA)

(a) *In general.* The risk weight assigned to a securitization exposure, or portion of a securitization exposure, is calculated according to the following formula:

$$RW_{SEC-SA} = \begin{cases} \max(RW_{FLOOR}, 1,250\% \cdot K_A), & K_A \leq A \\ \max\left(RW_{FLOOR}, \left(\frac{K_A - A}{D - A}\right) \cdot 1,250\% + \left(\frac{D - K_A}{D - A}\right) \cdot 1,250\% \cdot K_{SEC-SA}\right), & A < K_A < D \\ 1,250\%, & D \leq K_A \end{cases}$$

Where:

- (1) K_A is calculated under paragraph (b) of this section;
- (2) A (attachment point) equals the greater of zero and the ratio, expressed as a decimal value between zero and one, of the current dollar amount of underlying exposures that are subordinated to the exposure of the [BANKING ORGANIZATION] to the current dollar amount of the underlying exposures, as adjusted in accordance with paragraph (a)(6) of this section;
- (3) D (detachment point) equals the greater of zero and the sum of parameter A and the ratio, expressed as a decimal value between zero and one, of the current dollar amount of the securitization exposures that are *pari passu* with the exposure (that is, have equal seniority with respect to credit risk) to the current dollar amount of the underlying exposures, as adjusted in accordance with paragraph (a)(6) of this section;
- (4) RW_{FLOOR} equals 100 percent for resecuritization exposures and NPL securitization exposures and 15 percent for all other securitization exposures; and
- (5) K_{SEC-SA} is calculated according to the following formula:

$$K_{SEC-SA} = \frac{e^{a \cdot u} - e^{a \cdot l}}{a \cdot (u - l)}$$

Where:

(i) α equals

$$-\frac{1}{p \cdot K_A}$$

(as K_A is defined in this paragraph (a)), where p equals 1.5 for a resecuritization exposure and 0.5 for all other securitization exposures;

(ii) μ equals $D - K_A$ (as D and K_A are defined in paragraph (a) of this section);

(iii) l equals $\max(A - K_A, 0)$ (as A and K_A are defined in paragraph (a) of this section); and

(iv) e equals the base of the natural logarithm.

(6) A [BANKING ORGANIZATION] must include in the calculation of and the funded portion of any reserve account funded by the accumulated cash flows from the underlying exposures that is subordinated to the [BANKING ORGANIZATION]'s securitization exposure. Interest rate derivative contracts, exchange rate derivative contracts, and cash collateral accounts related to these contracts must not be included in the calculation of and . If the securitization exposure includes a nonrefundable purchase price discount, the nonrefundable purchase price discount must be

included in the numerator and denominator of and A and D .

(b) *Calculation of K_A .* K_A is calculated under this paragraph (b) according to the following formula:

$$K_A = (1 - W) \cdot K_G + (W \cdot 0.5)$$

Where:

- (1) W equals the ratio, expressed as a decimal value between zero and one, of the sum of the dollar amounts of any underlying exposures of the securitization that are not securitization exposures and that meet any of the criteria in paragraphs (b)(1)(i) through (vii) of this section to the outstanding balance of all underlying exposures:
 - (i) Ninety days or more past due;
 - (ii) Subject to a bankruptcy or insolvency proceeding;
 - (iii) In the process of foreclosure;
 - (iv) Held as real estate owned;
 - (v) Has contractually deferred payments for 90 days or more, other than principal or interest payments deferred on:
- (A) Federally guaranteed student loans, in accordance with the terms of those guarantee programs; or
- (B) Consumer loans, including non-federally-guaranteed student loans, provided that such payments are deferred pursuant to provisions included in the contract at the time funds are disbursed that provide for period(s) of deferral that are not initiated

- based on changes in the creditworthiness of the borrower; or
- (vi) Is in default; and
- (vii) Notwithstanding paragraphs (1)(i) through (vi) of this paragraph, an exposure that is directly and unconditionally guaranteed by the U.S. Government, its central bank, or a U.S. Government agency may be excluded from the calculation of W up to the amount of the guarantee; and
- (2) K_G equals the weighted average (with unpaid principal used as the weight for each credit exposure and fair value used for each equity exposure) total capital requirement, expressed as a decimal value between zero and one, of the underlying exposures calculated using this subpart E (that is, an average risk weight of 100 percent represents a value of K_G equal to 0.08), as adjusted in accordance with this paragraph (b)(2). For purposes of K_G , the determination of the capital requirement associated with an underlying exposure that is an equity exposure cannot use the risk weight under § _____.141(b)(3)(iii). For interest rate derivative contracts and exchange rate derivative contracts, the positive current exposure times the risk weight of the counterparty multiplied by 0.08 must be included in the numerator of K_G but must be excluded from the denominator of K_G .

§ _____.134 Recognition of Credit Risk Mitigants for Securitization Exposures

(a) *General.* (1) An originating [BANKING ORGANIZATION] that has obtained a credit risk mitigant to hedge its exposure to a synthetic or traditional securitization that satisfies the operational criteria provided in § _____.130 may recognize the credit risk mitigant under § _____.120 or § _____.121, but only as provided in this section.

(2) An investing [BANKING ORGANIZATION] that has obtained a credit risk mitigant to hedge a securitization exposure may recognize the credit risk mitigant under § _____.120 or § _____.121, but only as provided in this section.

(3) If the recognized credit risk mitigant hedges a portion of the [BANKING ORGANIZATION]'s securitization exposure, the [BANKING ORGANIZATION] must calculate its capital requirements for the hedged and unhedged portions of the exposure separately. For each unhedged portion, the [BANKING ORGANIZATION] must calculate capital requirements according to § _____.131 and § _____.132. For each hedged portion, the [BANKING ORGANIZATION] may recognize the credit risk mitigant under § _____.120 or § _____.121, but only as provided in this section.

(4) When a [BANKING ORGANIZATION] purchases or sells credit protection on a portion of a senior

tranche, the lower-priority portion, whether hedged or unhedged, must be considered a non-senior securitization exposure.

(b) *Mismatches.* A [BANKING ORGANIZATION] must make any applicable adjustment to the protection amount as required in §§ _____.120 or _____.121 for any hedged securitization exposure. In the context of a synthetic securitization, when a credit risk mitigant described in § _____.130(b)(1)(ii) through (iv) covers multiple hedged exposures that have different residual maturities, the [BANKING ORGANIZATION] must use the longest residual maturity of any of the hedged exposures as the residual maturity of all hedged exposures.

Risk-Weighted Assets for Equity Exposures

§ _____.140 Introduction and Exposure Measurement

(a) *General.* (1) *Calculation of risk-weighted asset amounts.* To calculate its risk-weighted asset amounts for equity exposures that are not equity exposures in investment funds, a [BANKING ORGANIZATION] must use the approach provided in § _____.141. A [BANKING ORGANIZATION] must use the approaches provided in § _____.142 to calculate its risk-weighted asset amounts for other equity exposures as provided in § _____.142.

(2) *Separate accounts.* A [BANKING ORGANIZATION] must treat an investment in a separate account (as defined in § _____.2) as if it were an equity exposure subject to § _____.142.

(3) *Stable value protection.*—(i) *Stable value protection* means a contract where the provider of the contract is obligated to pay:

(A) The policy owner of a separate account an amount equal to the shortfall between the fair value and cost basis of the separate account when the policy owner of the separate account surrenders the policy; or

(B) The beneficiary of the contract an amount equal to the shortfall between the fair value and book value of a specified portfolio of assets.

(ii) A [BANKING ORGANIZATION] that purchases stable value protection on its investment in a separate account must treat the portion of the carrying value of its investment in the separate account attributable to the stable value protection as an exposure to the provider of the protection and the remaining portion of the carrying value of its separate account as an equity exposure subject to § _____.142.

(iii) A [BANKING ORGANIZATION] that provides stable value protection

must treat the exposure as an equity derivative with an adjusted carrying value determined as the sum of paragraphs (b)(1) and (2) of this section.

(b) *Adjusted carrying value.* For purposes of §§ _____.140 through _____.142, the adjusted carrying value of an equity exposure is:

(1) For the on-balance sheet component of an equity exposure, the [BANKING ORGANIZATION]'s carrying value of the exposure;

(2) For the off-balance sheet component of an equity exposure that is not an equity commitment, the effective notional principal amount of the exposure, the size of which is equivalent to a hypothetical on-balance sheet position in the underlying equity instrument that would evidence the same change in fair value (measured in dollars) given a small change in the price of the underlying equity instrument, minus the adjusted carrying value of the on-balance sheet component of the exposure as calculated in paragraph (b)(1) of this section; and

(3) For a commitment to acquire an equity exposure (an equity commitment), the effective notional principal amount of the exposure is multiplied by the following conversion factors (CFs):

(i) Conditional equity commitments receive a 40 percent conversion factor.

(ii) Unconditional equity commitments receive a 100 percent conversion factor.

§ _____.141 Simple Risk-Weight Approach (SRWA)

(a) *General.* A [BANKING ORGANIZATION]'s total risk-weighted assets for equity exposures equals the sum of the risk-weighted asset amounts for each of the [BANKING ORGANIZATION]'s equity exposures that are not equity exposures subject to § _____.142, as determined under this section, and the risk-weighted asset amounts for each of the [BANKING ORGANIZATION]'s equity exposures subject to § _____.142, as determined under § _____.142.

(b) *Computation for individual equity exposures.* A [BANKING ORGANIZATION] must determine the risk-weighted asset amount for an equity exposure that is not an equity exposure subject to § _____.142 by multiplying the adjusted carrying value of the exposure or the effective portion and ineffective portion of a hedge pair (as defined in paragraph (c) of this section) by the lowest applicable risk weight in this paragraph (b).

(1) *Zero percent risk weight equity exposures.* An equity exposure to a

sovereign, a specified supranational entity, an MDB, and any other entity whose credit exposures receive a zero percent risk weight under § _____.111 may be assigned a zero percent risk weight.

(2) *20 percent risk weight equity exposures.* An equity exposure to a PSE, Federal Home Loan Bank, or the Federal Agricultural Mortgage Corporation (Farmer Mac) must be assigned a 20 percent risk weight.

(3) *100 percent risk weight.* The equity exposures set forth in this paragraph (b)(3) must be assigned a 100 percent risk weight:

(i) An equity exposure that qualifies as a community development investment under section 24 (Eleventh) of the National Bank Act, excluding equity exposures to an unconsolidated small business investment company and equity exposures held through a consolidated small business investment company described in section 302 of the Small Business Investment Act.

(ii) The effective portion of a hedge pair; and

(iii) Equity exposures, excluding significant investments in the capital of an unconsolidated institution in the form of common stock and exposures to an investment firm that would meet the definition of a traditional securitization were it not for the [AGENCY]'s application of paragraph (8) of that definition in § _____.2 and has greater than immaterial leverage, to the extent that the aggregate adjusted carrying value of the exposures does not exceed 10 percent of the [BANKING ORGANIZATION]'s total capital.

(A) To compute the aggregate adjusted carrying value of a [BANKING ORGANIZATION]'s equity exposures for purposes of this section, the [BANKING ORGANIZATION] may exclude equity exposures described in (b)(1), (2), (3)(i), (3)(ii), and (3)(iii) of this section, the equity exposure in a hedge pair with the smaller adjusted carrying value, and a proportion of each equity exposure to an investment fund equal to the proportion of the assets of the investment fund that are not equity exposures or that meet the criterion of paragraph (b)(3)(i) of this section. If a [BANKING ORGANIZATION] does not know the actual holdings of the investment fund, the [BANKING ORGANIZATION] may calculate the proportion of the assets of the fund that are not equity exposures based on the terms of the prospectus, partnership agreement, or similar contract that defines the fund's permissible investments. If the sum of the investment limits for all exposure classes within the fund exceeds 100

percent, the [BANKING ORGANIZATION] must assume for purposes of this section that the investment fund invests to the maximum extent possible in equity exposures.

(B) When determining which of a [BANKING ORGANIZATION]'s equity exposures qualifies for a 100 percent risk weight under this section, a [BANKING ORGANIZATION] first must include equity exposures to unconsolidated small business investment companies or held through consolidated small business investment companies described in section 302 of the Small Business Investment Act, then must include publicly traded equity exposures (including those held indirectly through investment funds), and then must include non-publicly traded equity exposures (including those held indirectly through investment funds).

(4) *250 percent risk weight.* Significant investments in the capital of unconsolidated financial institutions in the form of common stock that are not deducted from capital pursuant to § _____.22(d)(2) must be assigned a 250 percent risk weight.

(5) *300 percent risk weight.* An equity exposure that is publicly traded (other than an equity exposure described in paragraph (b)(7) of this section and including the ineffective portion of a hedge pair) must be assigned a 300 percent risk weight.

(6) *400 percent risk weight.* An equity exposure that is not publicly traded and is not described in paragraph (b)(7) of this section must be assigned a 400 percent risk weight.

(7) *600 percent risk weight.* An equity exposure to an investment firm must be assigned a 600 percent risk weight, provided that the investment firm:

(i) Would meet the definition of a traditional securitization were it not for the application of paragraph (8) of that definition; and

(ii) Has greater than immaterial leverage.

(c) *Hedge transactions—*

(1) *Hedge pair.* A hedge pair comprises two equity exposures that form an effective hedge so long as each equity exposure is publicly traded or has a return that is primarily based on a publicly traded equity exposure.

(2) *Effective hedge.* Two equity exposures form an effective hedge if the exposures either have the same remaining maturity or each has a remaining maturity of at least three months; the hedge relationship is formally documented in a prospective manner (that is, before the [BANKING ORGANIZATION] acquires at least one

of the equity exposures); the documentation specifies the measure of effectiveness (E) the [BANKING ORGANIZATION] will use for the hedge relationship throughout the life of the transaction; and the hedge relationship has an E greater than or equal to 0.8. A [BANKING ORGANIZATION] must measure E at least quarterly and must use one of three alternative measures of E as set forth in this paragraph (c)(2).

(i) Under the dollar-offset method of measuring effectiveness, the [BANKING ORGANIZATION] must determine the ratio of value change (RVC). The RVC is the ratio of the cumulative sum of the changes in value of one equity exposure to the cumulative sum of the changes in the value of the other equity exposure. If RVC is positive, the hedge is not effective and E equals 0. If RVC is negative and greater than or equal to -1 (that is, between zero and -1), then E equals the absolute value of RVC. If RVC is negative and less than -1 , then E equals 2 plus RVC.

(ii) Under the variability-reduction method of measuring effectiveness:

$$E = 1 - \frac{\sum_{t=1}^T (X_t - X_{t-1})^2}{\sum_{t=1}^T (A_t - A_{t-1})^2}$$

Where:

(A) $X_t = A_t - B_t$

(B) A_t = the value at time t of one exposure in a hedge pair;

(C) B_t = the value at time t of the other exposure in a hedge pair;

(iii) Under the regression method of measuring effectiveness, E equals the coefficient of determination of a regression in which the change in value of one exposure in a hedge pair is the dependent variable and the change in value of the other exposure in a hedge pair is the independent variable. However, if the estimated regression coefficient is positive, then E equals zero.

(3) The effective portion of a hedge pair is E multiplied by the greater of the adjusted carrying values of the equity exposures forming a hedge pair.

(4) The ineffective portion of a hedge pair is $(1-E)$ multiplied by the greater of the adjusted carrying values of the equity exposures forming a hedge pair.

§ _____.142 Equity Exposures to Investment Funds

(a) *Available approaches.*

(1) Unless the exposure meets the requirements for a community development equity exposure in § _____.141(b)(3)(i), a [BANKING ORGANIZATION] must determine the risk-weighted asset amount of an equity exposure to an investment fund under the full look-through approach

described in paragraph (b) of this section, the simple look-through approach described in paragraph (c), or the alternative modified look-through approach described in paragraph (d) of this section, provided, however, that the minimum risk weight that may be assigned to an equity exposure under this section is 20 percent.

(2) The risk-weighted asset amount of an equity exposure to an investment fund that meets the requirements for a community development equity exposure in § _____.141(b)(3)(i) is its adjusted carrying value.

(3) If an equity exposure to an investment fund is part of a hedge pair and the [BANKING ORGANIZATION] does not use the full look-through approach, the [BANKING ORGANIZATION] must use the ineffective portion of the hedge pair as determined under § _____.141(b)(4)(i) as the adjusted carrying value for the equity exposure to the investment fund. The risk-weighted asset amount of the effective portion of the hedge pair is equal to its adjusted carrying value.

(b) *Full look-through approach.* A [BANKING ORGANIZATION] that is able to calculate a risk-weighted asset amount for its proportional ownership share of each exposure held by the investment fund (as calculated under this subpart E of this part as if the proportional ownership share of each exposure were held directly by the [BANKING ORGANIZATION]) may set the risk-weighted asset amount of the [BANKING ORGANIZATION]'s exposure to the fund equal to the product of:

(1) The aggregate risk-weighted asset amounts of the exposures held by the fund as if they were held directly by the [BANKING ORGANIZATION]; and

(2) The [BANKING ORGANIZATION]'s proportional ownership share of the fund.

(c) *Simple modified look-through approach.* Under the simple modified look-through approach, the risk-weighted asset amount for a [BANKING ORGANIZATION]'s equity exposure to an investment fund equals the adjusted carrying value of the equity exposure multiplied by the highest risk weight that applies to any exposure the fund is permitted to hold under its prospectus, partnership agreement, or similar contract that defines the fund's permissible investments (excluding derivative contracts that are used for hedging rather than speculative purposes and that do not constitute a material portion of the fund's exposures).

(d) *Alternative modified look-through approach.* Under the alternative

modified look-through approach, a [BANKING ORGANIZATION] may assign the adjusted carrying value of an equity exposure to an investment fund on a pro rata basis to different risk weight categories under this subpart based on the investment limits in the fund's prospectus, partnership agreement, or similar contract that defines the fund's permissible investments. The risk-weighted asset amount for the [BANKING ORGANIZATION]'s equity exposure to the investment fund equals the sum of each portion of the adjusted carrying value assigned to an exposure type multiplied by the applicable risk weight under this subpart. If the sum of the investment limits for all exposure types within the fund exceeds 100 percent, the [BANKING ORGANIZATION] must assume that the fund invests to the maximum extent permitted under its investment limits in the exposure type with the highest applicable risk weight under this subpart and continues to make investments in order of the exposure type with the next highest risk weight under this subpart until the maximum total investment level is reached. If more than one exposure type applies to an exposure, the [BANKING ORGANIZATION] must use the highest applicable risk weight. A [BANKING ORGANIZATION] may exclude derivative contracts held by the fund that are used for hedging rather than for speculative purposes and do not constitute a material portion of the fund's exposures.

Risk-Weighted Assets for Operational Risk

§ _____.150 Operational Risk Capital

(a) *Risk-weighted assets for operational risk.* Risk-weighted assets for operational risk equals the product of the business indicator component, as calculated pursuant to paragraph (b) of this section, multiplied by 12.5.

(b) *Business indicator component.* A [BANKING ORGANIZATION]'s business indicator component is calculated as follows:

(1) If the [BANKING ORGANIZATION]'s business indicator is less than or equal to \$1 billion, as adjusted pursuant to § _____.4, the business indicator component equals the product of the business indicator and 0.12.

(2) If the [BANKING ORGANIZATION]'s business indicator is greater than \$1 billion, as adjusted pursuant to § _____.4, and less than or equal to \$30 billion, as adjusted pursuant to § _____.4, the business indicator component equals \$120

million, as adjusted pursuant to § _____.4, plus the product of:

(i) The business indicator less \$1 billion, as adjusted pursuant to § _____.4; and

(ii) 0.15.

(3) If the [BANKING ORGANIZATION]'s business indicator is greater than \$30 billion, as adjusted pursuant to § _____.4, the business indicator component equals \$4.47 billion, as adjusted pursuant to § _____.4 plus the product of:

(i) The business indicator less \$30 billion, as adjusted pursuant to § _____.4; and

(ii) 0.18.

(c) *Business indicator.*

(1) A [BANKING ORGANIZATION]'s business indicator equals the sum of the interest, lease, and dividend component and the noninterest component.

(i) The interest, lease, and dividend component is calculated using the following formula:

Interest, lease, and dividend component = $\min(\text{Avg3y}(\text{Abs}(\text{total interest income} - \text{total interest expense})), 0.0225 * \text{Avg3y}(\text{interest earning assets})) + \text{Avg3y}(\text{dividend income})$

where Avg3y refers to the three-year average of the expression in parenthesis; Abs refers to the absolute value of the expression in parenthesis; and total interest income, total interest expense, interest earning assets, and dividend income are the amounts determined in accordance with paragraph (c)(2) of this section.

(ii) The noninterest component is calculated using the following formula:

Noninterest component = $\text{Avg3y}(\text{Abs}(\text{total noninterest income} + \text{realized gains (losses) on held-to-maturity securities} + \text{realized gains (losses) on available-for-sale debt securities} - \text{noninterest expense for BI} - 0.7 * (\text{total noninterest income from investment management, investment services, and non-lending treasury services} - \text{noninterest expense for BI from investment management, investment services, and non-lending treasury services})) + \text{total operational losses})$

where Avg3y refers to the three-year average of the expression in parenthesis; Abs refers to the absolute value of the expression in parenthesis; and total noninterest income, realized gains (losses) on held-to-maturity securities, realized gains (losses) on available-for-sale debt securities, noninterest expense for BI, total noninterest income from investment management, investment services, and non-lending treasury

services, noninterest expense for BI from investment management, investment services, and non-lending treasury services, and total operational losses are the amounts determined in accordance with paragraph (c)(2) of this section.

(2) For purposes of paragraph (c)(1) of this section, to calculate the three-year average of the Abs(total interest income – total interest expense), dividend income, Abs(total noninterest income + realized gains (losses) on held-to-maturity securities + realized gains (losses) on available-for-sale debt securities – noninterest expense for BI – 0.7*(total noninterest income from investment management, investment services, and non-lending treasury services – noninterest expense for BI from investment management, investment services, and non-lending treasury services)), and total operational losses, a [BANKING ORGANIZATION] must calculate the average of the values of each of these items for each of the three most recent preceding four-calendar-quarter periods. The total operational losses for a four-calendar quarter period equals the sum of all operational losses for each quarter in that period. To calculate the three-year average of interest-earning assets, a [BANKING ORGANIZATION] must divide by 12 the sum of the quarter-end values of interest-earning assets over each of the previous 12 quarters. For purposes of the calculations in this paragraph, the amounts used must be based on the consolidated financial statements of the [BANKING ORGANIZATION].

(3) For purposes of paragraph (c)(1) of this section, a [BANKING ORGANIZATION] must exclude loss provisions and reversals of provisions, except for those relating to operational loss events, from the calculation of the business indicator.

(4) For purposes of paragraph (c)(1) of this section, a [BANKING ORGANIZATION] must reflect three full years of data for entities that were acquired by or merged with the [BANKING ORGANIZATION], including for any period prior to the acquisition or merger, in the [BANKING ORGANIZATION]'s business indicator.

(5) With the prior approval of the [AGENCY], a [BANKING ORGANIZATION] may exclude from the calculation of its business indicator any interest income, interest expense, dividend income, interest-earning assets, noninterest income, realized gains (losses) on held-to-maturity securities, realized gains (losses) on available-for-sale debt securities, noninterest expense for BI, noninterest

income from investment management, investment services, and non-lending treasury services, noninterest expense for BI from investment management, investment services, and non-lending treasury services, and operational losses associated with an activity if the [BANKING ORGANIZATION] has ceased to directly or indirectly conduct the activity. Approval by the [AGENCY] requires a demonstration that the activity does not carry legacy legal exposure.

(d) *Operational risk management and operational loss event data collection processes.*

(1) A [BANKING ORGANIZATION] must:

(i) Have an operational risk management function that:

(A) Is independent of business line management; and

(B) Is responsible for designing, implementing, and overseeing the [BANKING ORGANIZATION]'s internal loss event data collection processes as specified in paragraph (d)(2) of this section and for overseeing the processes that implement paragraph (d)(1)(ii);

(ii) Report operational loss events and other relevant operational risk information to business unit management, senior management, and the board of directors (or a designated committee of the board).

(2) A [BANKING ORGANIZATION] must have operational loss event data collection processes that meet the following requirements:

(i) The processes must produce operational loss event data that satisfies the following criteria:

(A) Operational loss event data must be comprehensive and capture all operational loss events that resulted in operational losses equal to or higher than \$20,000, as adjusted pursuant to § _____.4, (before any recoveries are taken into account) from all activities and exposures of the [BANKING ORGANIZATION];

(B) Operational loss event data must include operational loss event data relative to entities that have been acquired by or merged with the [BANKING ORGANIZATION] for ten full years, including for any period prior to the acquisition or merger during the ten-year period; and

(C) Operational loss event data must include gross operational loss amounts, recovery amounts, the date when the event occurred or began (occurrence date), the date when the [BANKING ORGANIZATION] became aware of the event (discovery date), and the date (or dates) when losses or recoveries related to the event were recognized in the [BANKING ORGANIZATION]'s profit

and loss accounts (accounting date). The [BANKING ORGANIZATION] must be able to map its operational loss event data into the seven operational loss event type categories. In addition, the [BANKING ORGANIZATION] must collect descriptive information about the drivers of operational loss events.

(ii) Procedures for the identification and collection of internal loss event data must be documented.

(iii) The [BANKING ORGANIZATION] must have processes to independently review the comprehensiveness and accuracy of operational loss event data.

(iv) The [BANKING ORGANIZATION] must subject the procedures in paragraph (d)(2)(ii) of this section and the processes in (d)(2)(iii) of this section to regular independent reviews by internal or external audit functions.

Disclosures

§ _____.160 Purpose and Scope

Sections _____.160 through _____.162 establish public disclosure requirements related to the capital requirements for a [BANKING ORGANIZATION] that calculates expanded total risk-weighted assets pursuant to this subpart E, unless the [BANKING ORGANIZATION] is a consolidated subsidiary of a bank holding company, savings and loan holding company, or depository institution that is subject to these disclosure requirements, or a subsidiary of a non-U.S. banking organization that is subject to comparable public disclosure requirements in its home jurisdiction.

§ _____.161 Disclosure Requirements

(a) A [BANKING ORGANIZATION] described in § _____.160 must provide timely public disclosures each calendar quarter of the information in the applicable tables in § _____.162, except as provided in paragraph (d) of this section. If a significant change occurs to the information required to be reported in the applicable tables in § _____.162 or to the [BANKING ORGANIZATION]'s financial condition as reported on the Call Report, for a bank; FR Y–9C, for a bank holding company or savings and loan holding company; or FFIEC 101, as applicable, then a brief discussion of this change and its likely impact must be disclosed as soon as practicable thereafter. Qualitative disclosures that typically do not change each quarter (for example, a general summary of the [BANKING ORGANIZATION]'s risk management objectives and policies, reporting system, and definitions) may be disclosed annually after the end of the fourth calendar quarter, provided

that any significant changes are disclosed in the interim. The [BANKING ORGANIZATION]'s management may provide all of the disclosures required by § ___.162 in one place on the [BANKING ORGANIZATION]'s public website or may provide the disclosures in more than one public financial report or other regulatory report. If the [BANKING ORGANIZATION] does not provide all of the disclosures as required by § ___.162 in one place on the [BANKING ORGANIZATION]'s public website, the [BANKING ORGANIZATION] must provide a summary table specifically indicating the location(s) of all such disclosures on the [BANKING ORGANIZATION]'s public website.

(b) A [BANKING ORGANIZATION] described in § ___.160 must have a formal disclosure policy approved by the board of directors that addresses its approach for determining the disclosures it makes. The policy must address the associated internal controls and disclosure controls and procedures. The board of directors and senior

management are responsible for establishing and maintaining an effective internal control structure over financial reporting, including the disclosures required by this subpart, and must ensure that appropriate review of the disclosures takes place. One or more senior officers of the [BANKING ORGANIZATION] must attest that the disclosures meet the requirements of this subpart.

(c) If a [BANKING ORGANIZATION] described in § ___.160 reasonably concludes that specific commercial or financial information that it would otherwise be required to disclose under this section would be exempt from disclosure by the [AGENCY] under the Freedom of Information Act (5 U.S.C. 552), then the [BANKING ORGANIZATION] is not required to disclose that specific information pursuant to this section. However, the [BANKING ORGANIZATION] must disclose more general information about the subject matter of the requirement, together with the fact that, and the

reason why, the specific items of information have not been disclosed.

(d) A [BANKING ORGANIZATION] described in § ___.160 is required to make the disclosures in Table 4 of § ___.162 only if the [BANKING ORGANIZATION] is subject to § ___.11(b).

§ ___.162 Disclosures by [BANKING ORGANIZATION] Described in § ___.160

(a) *General disclosures.* Except as provided in § ___.161, a [BANKING ORGANIZATION] described in § ___.160 must make the disclosures described in Tables 1 through 13 to § ___.162. The [BANKING ORGANIZATION] must make these disclosures publicly available for each of the last twelve quarters, or such shorter period beginning in the quarter in which the [BANKING ORGANIZATION] becomes subject to subpart E of this part.

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Table 1 to § ___.162—Scope of Application

Table 1 to § ___.162—Scope of Application

Qualitative Disclosures	(a)	The name of the top corporate entity in the group to which subpart E of this part applies.
	(b)	A brief description of the differences in the basis for consolidating entities ¹ for accounting and regulatory purposes, with a description of those entities:
		(1) That are fully consolidated;
		(2) That are deconsolidated and deducted from total capital;
		(3) For which the total capital requirement is deducted; and
		(4) That are neither consolidated nor deducted (for example, where the investment in the entity is assigned a risk weight in accordance with this subpart).
	(c)	Any restrictions, or other major impediments, on transfer of funds or total capital within the group.
	(d)	The aggregate amount of surplus capital of insurance subsidiaries included in the total capital of the consolidated group.

¹ Entities include securities, insurance, and other financial subsidiaries; commercial subsidiaries (where permitted); and significant minority equity investments in insurance, financial, and commercial entities.

Table 2 to § ___.162—Capital Structure

Qualitative Disclosures	(a)	Summary information on the terms and conditions of the main features of all regulatory capital instruments.

Table 3 to § __.162—Capital Adequacy

Qualitative disclosures	(a)	A summary discussion of the [BANKING ORGANIZATION]'s approach to assessing the adequacy of its capital to support current and future activities.

Table 4 to § __.162—Countercyclical Capital Buffer

Qualitative disclosures	(a)	The [BANKING ORGANIZATION] must publicly disclose the geographic breakdown of its private sector credit exposures used in the calculation of the countercyclical capital buffer.

(b) *Risk management-related disclosure requirements.* (1) The [BANKING ORGANIZATION] must describe its risk management objectives and policies for the organization overall, in particular:

(i) How the business model determines and interacts with the overall risk profile (for example, the key risks related to the business model and how each of these risks is reflected and described in the risk disclosures) and how this risk profile aligns with the parameters of the risk tolerance approved by the [BANKING ORGANIZATION]'s board of directors;

(ii) The risk governance structure, including: responsibilities attributed throughout the [BANKING ORGANIZATION] (for example, oversight and delegation of authority; breakdown of responsibilities by type of risk, business unit, etc.); and relationships between the structures involved in risk management processes

(for example, board of directors, executive management, separate risk committee, risk management structure, compliance function, internal audit function);

(iii) Channels to communicate, define, and enforce the risk culture within the [BANKING ORGANIZATION] (for example, code of conduct; manuals containing operating limits or procedures to treat violations or breaches of risk thresholds; procedures to raise and share risk issues between business lines and risk functions);

(iv) The scope and nature of risk reporting and/or measurement systems;

(v) Description of the process of risk information reporting provided to the board and senior management, in particular the scope and main content of reporting on risk exposure;

(vi) Qualitative information on stress testing (for example, portfolios subject to stress testing, scenarios adopted and

methodologies used, and use of stress testing in risk management); and

(vii) The strategies and processes to manage, hedge, and mitigate risks that arise from the [BANKING ORGANIZATION]'s business model, and the processes for monitoring the continuing effectiveness of hedges and mitigants.

(2) For each separate risk area that is the subject of Tables 5 through 13 to § __.162, the [BANKING ORGANIZATION] must describe its risk management objectives and policies, including:

(i) The strategies and processes;

(ii) The structure and organization of the relevant risk management function;

(iii) The scope and nature of risk reporting and/or measurement systems; and

(iv) Policies for hedging and/or mitigating risk and strategies and processes for monitoring the continuing effectiveness of hedges/mitigants.

Table 5 to § __.162¹—Credit Risk: General Disclosures

Qualitative Disclosures	(a)	The general qualitative disclosure requirement with respect to credit risk (excluding counterparty credit risk disclosed in accordance with Table 6), including the:
		(1) Policy for determining past due or delinquency status;
		(2) Policy for placing loans on nonaccrual;
		(3) Policy for returning loans to accrual status;
		(4) Definition of and policy for identifying impaired loans (for financial accounting purposes);
		(5) Description of the methodology that the [BANKING ORGANIZATION] uses to estimate its adjusted allowance for credit losses, as applicable, including statistical methods used where applicable;
		(6) Policy for charging-off uncollectible amounts; and
		(7) Discussion of the [BANKING ORGANIZATION]'s credit risk management policy.
	(b)	The [BANKING ORGANIZATION] must describe its risk management objectives and policies for credit risk, focusing in particular on:
		(1) How the business model translates into the components of the [BANKING ORGANIZATION]'s credit risk profile;
		(2) Criteria and approach used for defining credit risk management policy and for setting credit risk limits;
		(3) Structure and organization of the credit risk management and control function;
		(4) Relationships between the credit risk management, risk control, compliance, and internal audit functions; and
		(5) Scope and main content of the reporting on credit risk exposure and on the credit risk management function to executive management and the board of directors.

¹Table 5 does not cover equity exposures, which should be reported in table 9.

Table 6 to § __.162—General Disclosure for Counterparty Credit Risk-Related Exposures

Qualitative Disclosures	The general qualitative disclosure requirement with respect to OTC (a) derivatives, eligible margin loans, and repo-style transactions, including a discussion of: (1) The methodology used to assign economic capital and credit limits for counterparty credit exposures; (2) Policies for securing collateral, valuing and managing collateral, and establishing credit reserves; (3) The primary types of collateral taken; (4) The policies with respect to wrong-way risk exposures; and (5) The impact of the amount of collateral the [BANKING ORGANIZATION] would have to provide given a deterioration in the [BANKING ORGANIZATION]'s own creditworthiness. (b) The [BANKING ORGANIZATION] must provide risk management objectives and policies related to counterparty credit risk, including: (1) The method used to assign the operating limits defined in terms of internal capital for counterparty credit exposures and for CCP exposures; (2) Policies relating to guarantees and other risk mitigants and assessments concerning counterparty risk, including exposures towards CCPs; (3) Policies with respect to wrong-way risk exposures; and (4) The impact in terms of the amount of collateral that the bank would be required to provide given a credit rating downgrade.

Table 7 to § __.162—Credit Risk Mitigation^{1,2}

Qualitative Disclosures	(a) The general qualitative disclosure requirement with respect to credit risk mitigation, including: (1) Policies and processes for, and an indication of the extent to which the [BANKING ORGANIZATION] uses, on- or off-balance sheet netting; (2) Policies and processes for collateral valuation and management; (3) A description of the main types of collateral taken by the [BANKING ORGANIZATION]; (4) Information about (market or credit) risk concentrations with respect to credit risk mitigation; and (5) A meaningful breakdown of its credit derivative, guarantee, and prepaid credit protection arrangement providers, including a breakdown by rating class or by type of counterparty (e.g., banks, other financial institutions, non-financial institutions).

¹ At a minimum, a [BANKING ORGANIZATION] must provide the disclosures in Table 7 in relation to credit risk mitigation that has been recognized for the purposes of reducing capital requirements under this subpart. Where relevant, a [BANKING ORGANIZATION] is encouraged to give further information about mitigants that have not been recognized for that purpose.

² Credit derivatives and eligible prepaid credit protection arrangements that are treated, for the purposes of this subpart, as synthetic securitization exposures should be excluded from the credit risk mitigation disclosures and included within those relating to securitization (Table 8 to § __.162).

Table 8 to § __.162—Securitization

Qualitative Disclosures	(a) The general qualitative disclosure requirement with respect to a securitization (including synthetic securitizations), including a discussion of: (1) The [BANKING ORGANIZATION]'s objectives for securitizing assets, including the extent to which these activities transfer credit risk of the underlying exposures away from the [BANKING ORGANIZATION] to other entities and including the type of risks assumed and retained with resecuritization activity;¹ (2) The nature of the risks (e.g., liquidity risk) inherent in the securitized assets; (3) The roles played by the [BANKING ORGANIZATION] in the securitization process² and an indication of the extent of the [BANKING ORGANIZATION]'s involvement in each of them; (4) The processes in place to monitor changes in the credit and market risk of securitization exposures, including how those processes differ for resecuritization exposures; (5) The [BANKING ORGANIZATION]'s policy for mitigating the credit risk retained through securitization and resecuritization exposures; and (6) The risk-based capital approaches that the [BANKING ORGANIZATION] follows for its securitization exposures including the type of securitization exposure to which each approach applies. (b) A list of: (1) The type of traditional securitizations that the [BANKING ORGANIZATION], as sponsor, uses to securitize third-party exposures. The [BANKING ORGANIZATION] must indicate whether it has exposure to these SPEs, either on- or off-balance sheet; (2) Entities to which the [BANKING ORGANIZATION] provides implicit support and the associated capital impact for each of them (as required in § __.130(e)); and (3) Affiliated entities: (i) That the [BANKING ORGANIZATION] manages or advises; and (ii) That invest either in the securitization exposures that the [BANKING ORGANIZATION] has securitized or in traditional securitizations that the [BANKING ORGANIZATION] sponsors.³ (c) Summary of the [BANKING ORGANIZATION]'s accounting policies for securitization activities, including: (1) Whether the transactions are treated as sales or financings; (2) Recognition of gain-on-sale; (3) Methods and key assumptions applied in valuing retained or purchased interests; (4) Changes in methods and key assumptions from the previous period for valuing retained interests and impact of the changes; (5) Treatment of synthetic securitizations; (6) How exposures intended to be securitized are valued and whether they are recorded under subpart E of this part; and

(7) Policies for recognizing liabilities on the balance sheet for arrangements that could require the [BANKING ORGANIZATION] to provide financial support for securitized assets.

(d) If a [BANKING ORGANIZATION] provides support to a securitization as described in section __.132(e), disclosure indicating:

(1) That it has provided implicit support to the securitization; and

(2) The risk-based capital impact to the [BANKING ORGANIZATION] of providing such implicit support.

¹The [BANKING ORGANIZATION] should describe the structure of resecuritizations in which it participates; this description should be provided for the main categories of resecuritization products in which the [BANKING ORGANIZATION] is active.

²For example, these roles may include originator, investor, servicer, provider of credit enhancement, sponsor, liquidity provider, or swap provider.

³Such affiliated entities may include, for example, money market funds, to be listed individually, and personal and private trusts, to be noted collectively.

Table 9 to § __.162—Equities Not Subject to Subpart F of This Part

Qualitative Disclosures (a) The general qualitative disclosure requirement with respect to equity risk for equities not subject to subpart F of this part, including:

- (1) Differentiation between holdings on which capital gains are expected and those taken under other objectives including for relationship and strategic reasons; and
- (2) Discussion of important policies covering the valuation of and accounting for equity holdings not subject to subpart F of this part. This includes the accounting techniques and valuation methodologies used, including key assumptions and practices affecting valuation as well as significant changes in these practices.

Table 10 to § __.162—Interest Rate Risk for Non-Trading Activities

Qualitative disclosures (a) The general qualitative disclosure requirement, including the nature of interest rate risk for non-trading activities and key assumptions, including assumptions regarding loan prepayments and behavior of non-maturity deposits, and frequency of measurement of interest rate risk for non-trading activities.

Table 11 to § __.162—Additional Disclosure Related to the Credit Quality of Assets

Qualitative Disclosures	The [BANKING ORGANIZATION] must provide the following disclosures: The scope of exposures that qualify as “past due” for accounting purposes and the (a) differences, if any, between the scope of exposures treated as past due for accounting and those treated as past due for regulatory capital purposes. The scope of exposures that qualify as past due exposures under section __.111(h)(5)(i) of this part or past due real estate exposures under section __.111(f)(8) of this part that (b) are not exposures for which credit losses are measured under ASC Topic 326 and for which the [BANKING ORGANIZATION] has recorded a partial write-off/write-down. The scope of exposures that qualify as “loan modification to borrowers experiencing financial difficulty” for accounting purposes and the differences, if any, between the scope (c) of exposures treated as “past due exposures” or “past due real estate exposures” due to the [BANKING ORGANIZATION] having agreed to a distressed restructuring of the exposure for regulatory capital purposes.

Table 12 to § __.162—General Qualitative Information on a [BANKING ORGANIZATION]’S Operational Risk Framework

Qualitative Disclosures	The [BANKING ORGANIZATION] must describe: (a) Its policies, frameworks, and guidelines for the management of operational risk; (b) The structure and organization of its operational risk management and control function; (c) The systems and data used to calculate the operational risk capital requirement; (d) The scope and context of its reporting framework on operational risk to executive management and to the board of directors; and — The risk mitigation and risk transfer used in the management of operational risk. This (e) includes mitigation by policy, including the policies on risk culture, risk appetite, and — outsourcing, and by the establishment of controls.

(c) *Regulatory capital instrument and other instruments eligible for total loss absorbing capacity (TLAC) disclosures.* (1) A [BANKING ORGANIZATION] described in § __.160 must provide a description of the main features of its regulatory capital instruments, in accordance with Table 13 to § __.162. If the [BANKING ORGANIZATION] issues or repays a capital instrument, or in the event of a redemption, conversion, write down, or other material change in the nature of an existing instrument, but in no event less frequently than semiannually, the

[BANKING ORGANIZATION] must update the disclosures provided in accordance with Table 13 of this section. A [BANKING ORGANIZATION] also must disclose the full terms and conditions of all instruments included in regulatory capital.

(2) In addition to the disclosure requirement in § __.162(c)(1), a [BANKING ORGANIZATION] that is a global systemically important BHC also must provide a description of the main features of each eligible debt security, as defined in 12 CFR 252.61, that the [BANKING ORGANIZATION] has

issued and outstanding, in accordance with Table 13 to § __.162. If the global systemically important BHC issues or repays an eligible debt security, or in the event of a redemption, conversion, write down, or other material change in the nature of an existing instrument, but in no event less frequently than semiannually, the global systemically important BHC must update the disclosures provided in accordance with Table 13 to § __.162. A global systemically important BHC also must disclose the full terms and conditions of all eligible debt securities.

Table 13 to § __.162—Main Features of Regulatory Capital Instruments and of Other TLAC-Eligible Instruments

Qualitative Disclosures	(a) For each regulatory capital instrument and any other instrument that is an eligible debt security as defined in 12 CFR 252.61, the [BANKING ORGANIZATION] must provide the following information: (1) The issuer's legal entity. (2) The unique identifier. (3) The governing law(s) of the instrument. (4) The regulatory capital treatment. (5) The level(s) within the [BANKING ORGANIZATION] at which the instrument is included in capital. (6) The instrument type. (7) The amount recognized in regulatory capital. (8) The par value of the instrument. (9) The accounting classification as debt or equity. (10) The original date of issuance. (11) Whether perpetual or dated. (12) The original maturity date. (13) Whether an issuer call option subject to prior supervisory approval exists. (14) For an instrument with an issuer call option: (i) the first date of call if the instrument has a call option on a specific date (day, month, and year); (ii) the instrument has a tax and/or regulatory event call; and (iii) the redemption price. (15) Whether there are subsequent call option dates and, if so, their frequency. (16) Whether the coupon or dividend is fixed over the life of the instrument, floating over the life of the instrument, currently fixed but will move to a floating rate in the future, or currently floating but will move to a fixed rate in the future. (17) The coupon rate of the instrument and any related index that the coupon or dividend rate references. (18) Whether the non-payment of a coupon or dividend on the instrument prohibits the payment of dividends on common shares. (19) Whether the issuer has full, partial, or no discretion over whether a coupon or dividend is paid. (20) Whether there is a step-up or other incentive to redeem. (21) Whether the dividends or coupons are cumulative or non-cumulative. (22) Whether the instrument is convertible or non-convertible. (23) If the instrument is convertible, the conditions under which the instrument will convert, including point of non-viability. Where one or more authorities have the ability to trigger conversion, the authorities should be listed. For each of the authorities, state whether the legal basis for the authority to trigger conversion is provided by the terms of the contract of the instrument (a contractual approach) or statutory means (a statutory approach). (24) If the instrument is convertible, whether the instrument will: (i) always convert fully; (ii) may convert fully or partially; or (iii) will always convert partially.

- (25) If the instrument is convertible, the rate of conversion into the more loss-absorbent instrument.
- (26) If the instrument is convertible, whether conversion is mandatory or optional.
- (27) If the instrument is convertible, the instrument type into which it is convertible.
- (28) If the instrument is convertible, the issuer of the instrument into which it converts.
- (29) Whether a write-down feature exists.
- (30) If there is a write-down feature, the trigger at which write-down occurs, including point of non-viability. Where one or more authorities have the ability to trigger write-down, the authorities should be listed. For each of the authorities it should be stated whether the legal basis for the authority to trigger conversion is provided by the terms of the contract of the instrument or statutory means.
- (31) If there is a write-down feature, for each write-down trigger separately, whether the instrument will: (i) always be written down fully; (ii) may be written down partially; or (iii) will always be written down partially.
- (32) If there is a write-down feature, whether the write-down is permanent or temporary.
- (33) For instruments that have a temporary write-down, a description of the writeup mechanism.
- (34) The type of subordination.
- (35) A description of the position in subordination hierarchy in liquidation, including by specifying the instrument type immediately senior to instrument in the insolvency creditor hierarchy of the legal entity concerned.

*Subpart F—Risk-Weighted Assets—
Market Risk and Credit Valuation
Adjustment (CVA)*

§ _____.201 Purpose, Applicability, and Reservations of Authority.

(a) *Purpose.* This subpart establishes risk-based capital requirements in a manner that:

(1) For [BANKING ORGANIZATIONS] with significant exposure to market risk, provides methods for these [BANKING ORGANIZATIONS] to calculate their standardized measure for market risk and, if applicable, their models-based measure for market risk, and establishes public disclosure requirements; and

(2) For [BANKING ORGANIZATIONS] with significant exposure to CVA risk, provides methods for these [BANKING ORGANIZATIONS] to calculate their basic measure for CVA risk and, if applicable, their standardized measure for CVA risk, and establishes public disclosure requirements.

(b) *Applicability*—(1) *Market risk.* The market risk capital requirements and related reporting and public disclosure requirements specified in §§ _____.203 through _____.217 apply to a [BANKING ORGANIZATION] that meets one or more of the standards in this paragraph (b)(1):

(i) The [BANKING ORGANIZATION] is a depository institution holding company that is either a Category I

[BANKING ORGANIZATION] or a Category II [BANKING ORGANIZATION]; or

(ii) The [BANKING ORGANIZATION] has aggregate trading assets and trading liabilities, excluding customer and proprietary broker-dealer reserve bank accounts, equal to:

(A) 10 percent or more of quarter-end total assets as reported on the most recent quarterly [REGULATORY REPORT]; or

(B) \$5 billion, [as adjusted pursuant to § _____.4], or more, on average for the four most recent quarters as reported in the [BANKING ORGANIZATION]'s [REGULATORY REPORT]s.

(2) *CVA risk.* The CVA risk-based capital requirements specified in §§ _____.220 through _____.225 and related reporting and public disclosure requirements specified in § _____.217 apply to any [BANKING ORGANIZATION] that is:

(i) A depository institution holding company that is a Category I [BANKING ORGANIZATION] or a Category II [BANKING ORGANIZATION];

(ii) A depository institution subsidiary of an institution described in paragraph (b)(2)(i) of this section where such subsidiary is subject to the market risk framework pursuant to § _____.201(b)(1); or

(iii) A [BANKING ORGANIZATION] that is subject to the market risk framework pursuant to § _____.201(b)(1) and engages in OTC derivative contracts

with an aggregate gross notional value, as reported on the [BANKING ORGANIZATION]'s [REGULATORY REPORT]s of \$1 trillion[, as adjusted pursuant to 12 CFR 217.4,] or more on average for the prior four quarters.

(3) *Initial applicability.* A [BANKING ORGANIZATION] must satisfy the requirements of this subpart beginning [on the first day of] the quarter after a [BANKING ORGANIZATION] meets the criteria of paragraph (b)(1) or (b)(2) of this section, as applicable.

(4) *Monitoring of trading assets and liabilities.* A [BANKING ORGANIZATION] must monitor (i) its aggregate trading assets and trading liabilities to determine the applicability of this subpart F in accordance with paragraph (b)(1) of this section; and (ii) the aggregate gross notional value of the OTC derivative contracts the [BANKING ORGANIZATION] engages in to determine the applicability of this subpart F in accordance with paragraph (b)(2) of this section.

(5) *Ongoing applicability.* (i) A [BANKING ORGANIZATION] that is subject to the market risk capital requirements and related reporting and public disclosure requirements of this subpart F shall remain subject to those requirements unless and until it does not meet any of the standards in paragraph (b)(1) of this section, applying the adjusted thresholds specified in paragraph (b)(1)(ii)(B) of this section effective on the date of comparison.

(ii) A [BANKING ORGANIZATION] that is subject to the CVA risk-based capital requirements and related reporting and public disclosure requirements of this subpart F shall remain subject to those requirements unless and until it does not meet any of the standards in paragraph (b)(2) of this section, applying the adjusted thresholds specified in paragraph (b)(2)(iii) of this section effective on the date of comparison.

(6) *Exclusions.* The [AGENCY] may exclude a [BANKING ORGANIZATION] that meets one or more of the standards of paragraph (b)(1) of this section or in paragraph (b)(2) of this section from application of §§ _____.203 through _____.217 or §§ _____.220 through _____.225 if the [AGENCY] determines that the exclusion is appropriate based on the level of market risk or level of CVA risk, respectively, of the [BANKING ORGANIZATION] and is consistent with safe and sound banking practices.

(7) *Data availability.* A [BANKING ORGANIZATION] that does not have four quarters of aggregate data on trading assets and trading liabilities (excluding customer and proprietary broker-dealer reserve bank accounts) or gross notional value of OTC derivatives must calculate the average in paragraph (b)(1)(ii) or paragraph (b)(2)(iii) of this section, respectively, by averaging as much data as the [BANKING ORGANIZATION] has available, unless the [AGENCY] notifies the [BANKING ORGANIZATION] in writing to use an alternative method.

(c) *Reservations of authority.* (1) The [AGENCY] may apply §§ _____.203 through _____.217 or §§ _____.220 through _____.225 to any [BANKING ORGANIZATION] if the [AGENCY] deems it necessary or appropriate because of the level of market risk or CVA risk, respectively, of the [BANKING ORGANIZATION] or to ensure safe and sound banking practices.

(2) The [AGENCY] may require a [BANKING ORGANIZATION] to hold an amount of capital greater than otherwise required under this subpart F if the [AGENCY] determines that the [BANKING ORGANIZATION]'s capital requirement for market risk or CVA risk as calculated under this subpart F is not commensurate with the market risk or the CVA risk of the [BANKING ORGANIZATION]'s market risk covered positions or CVA risk covered positions, respectively.

(3) If the [AGENCY] determines that the risk-based capital requirement calculated under this subpart F by the [BANKING ORGANIZATION] for one or

more market risk covered positions or CVA risk covered positions or categories of such positions is not commensurate with the risks associated with those market risk covered positions or CVA risk covered positions or categories of such positions, the [AGENCY] may require the [BANKING ORGANIZATION] to assign a different risk-based capital requirement to the market risk covered positions or CVA risk covered positions or categories of such positions that more accurately reflects the risk of the market risk covered positions or CVA risk covered positions or categories of such positions.

(4) The [AGENCY] may also require a [BANKING ORGANIZATION] to calculate market risk capital requirements for specific positions or categories of positions under this subpart F instead of risk-based capital requirements under subpart D or subpart E of this part, as applicable; or to calculate risk-based capital requirements for specific exposures or categories of exposures under subpart D or subpart E of this part, as applicable, instead of market risk capital requirements under this subpart F, as appropriate, to more accurately reflect the risks of the positions or exposures. In such cases, the [AGENCY] may alternatively require a [BANKING ORGANIZATION] to apply the capital add-ons for re-designations as described in § _____.204(f).

(5) The [AGENCY] may require a [BANKING ORGANIZATION] that calculates the models-based measure for market risk to modify the methodology or observation period used to measure market risk.

(d) In making determinations under paragraphs (b)(6), (b)(7), and (c)(1) through (5) of this section, the [AGENCY] will apply notice and response procedures generally in the same manner as the notice and response procedures set forth in [12 CFR 3.404, 263.202, and 324.5(c)]. Nothing in this subpart F limits the authority of the [AGENCY] 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 capital levels, or violations of law.

§ _____.202 Definitions

(a) Terms set forth in § _____.2 and used in this subpart F have the definitions assigned thereto in § _____.2.

(b) For the purposes of this subpart F, the following terms are defined as follows:

Actual profit and loss means the actual profit and loss derived from the daily trading activity for market risk

covered positions. Intraday trading and net interest income must be included; valuation adjustments for which separate regulatory capital requirements have been otherwise specified, fees, reserves, and commissions must be excluded.

Backtesting means the comparison of a [BANKING ORGANIZATION]'s daily actual profit and loss and hypothetical profit and loss with the VaR-based measure as described in §§ _____.204(g) and _____.213(b).

Basic CVA hedge means an eligible CVA hedge that is included in the basic CVA approach capital requirement under the standardized measure for CVA risk, pursuant to § _____.221(c)(3).

Basic CVA risk covered position means a CVA risk covered position that is included in the basic CVA approach capital requirement, pursuant to § _____.221(c)(2).

Cash equity position means an equity position that is not a derivative contract.

Commodity position means a market risk covered position for which price risk arises from changes in the price of one or more commodities.

Commodity risk means the risk of loss that could arise from changes in underlying commodity risk factors.

Corporate position means a market risk covered position that is a corporate exposure.

Correlation trading position means:

(1) Except as provided in paragraph (2) of this definition:

(i) A securitization position for which all or substantially all of the value of the underlying exposures reference the credit exposures to single name companies for which a two-way market exists, or on commonly traded indices based on such exposures, for which a two-way market exists; or

(ii) A position that is not a securitization position and that hedges a position described in paragraph (1)(i) of this definition.

(2) Notwithstanding paragraph (1) of this definition, a correlation trading position does not include:

(i) A rescritization position;

(ii) A derivative of a securitization position that does not provide a pro rata share in the proceeds of a securitization tranche; or

(iii) A securitization position for which the underlying assets or reference exposures are retail exposures, residential mortgage exposures, or commercial mortgage exposures.

Counterparty credit spread risk means the risk of loss resulting from a change in the credit spread of a counterparty that results in an increase in CVA.

Covered bond means a bond issued by a financial institution that satisfies all of

the criteria in paragraphs (1) through (6) of this definition from inception through its remaining maturity:

(1) The bond is subject to a specific regulatory regime under the law of the jurisdiction governing the bond that is designed to protect bond holders;

(2) The bond has a pool of underlying assets consisting exclusively of:

(i) Claims on, or guaranteed by, sovereigns, their central banks, PSEs, or MDBs;

(ii) Claims secured by first lien residential mortgages that would qualify for a 55 percent or lower risk weight under subpart E of this part; or

(iii) Claims secured by commercial real estate that would qualify for a 100 percent or lower risk weight under subpart E of this part and have a loan-to-value ratio of 60 percent or lower; and

(3) If the pool of underlying assets has any claims described in paragraphs (2)(ii) or (2)(iii) of this definition, then, for purposes of calculating the loan-to-value ratios for these assets:

(i) The collateral is valued at or less than the current fair market value under which the property could be sold under private contract between a willing seller and an arm's-length buyer on the date of valuation;

(ii) The issuing financial institution monitors the value of the collateral regularly and at least once per year; and

(iii) A qualified professional evaluates the property when information indicates that the value of the collateral may have declined materially relative to general market prices or when a credit event, such as a default, occurs;

(4) The nominal value of the pool of assets assigned to the bond exceeds the bond's nominal outstanding value by at least 10 percent;

(5) If the law governing the bond does not provide for the requirement in paragraph (4) of this definition, then the issuing financial institution discloses publicly on a regular basis that the issuing financial institution in practice meets the requirement in paragraph (4) of this definition; and

(6) The proceeds deriving from the bond are invested by law in assets that, during the entire duration of the bond—

(i) Are capable of covering claims attached to the bond; and

(ii) In the event of the failure of the issuer, would be used on a priority basis for the payment of principal and accrued interest.

Credit spread risk means the risk of loss that could arise from changes in underlying credit spread risk factors.

Credit valuation adjustment (CVA) means the fair value adjustment to reflect counterparty credit risk in the valuation of derivative contracts.

Cross-currency basis means the basis spread added to the associated reference rate of the non-USD leg or non-EUR leg of a cross-currency basis swap.

Currency union means an agreement by treaty among countries or territorial entities, under which the members agree to use a single currency, where the currency used is described in § _____.209(b)(1)(iv).

Curvature risk means the incremental risk of loss of a market risk covered position that is not captured by the delta capital requirement arising from changes in the value of an option or embedded option and is measured based on two stress scenarios (curvature scenarios) involving an upward shock and a downward shock to each prescribed curvature risk factor.

Customer and proprietary broker-dealer reserve bank accounts means segregated accounts established by a subsidiary of a [BANKING ORGANIZATION] that fulfill the requirements of 17 CFR 240.15c3-3 or 17 CFR 1.20.

CVA hedge means a transaction that a [BANKING ORGANIZATION] enters into with a third party or an internal trading desk and manages for the purpose of mitigating CVA risk.

CVA risk means the risk of loss due to an increase in CVA resulting from the deterioration in the creditworthiness of a counterparty perceived by the market or changes in the exposure of CVA risk covered positions.

CVA risk covered position means a position that is a derivative contract that is not a cleared transaction or a client-facing derivative transaction, provided that a position that is an eligible credit derivative the credit risk mitigation benefits of which are recognized under § _____.36 or § _____.120, as applicable, may be excluded from being a CVA risk covered position.

Default risk means the risk of loss on a non-securitization debt or equity position or a securitization position that could result from the failure of an obligor to make timely payments of principal or interest on its debt obligations, and the risk of loss that could result from bankruptcy, insolvency, or similar proceeding.

Default risk position means a market risk covered position, including a defaulted market risk covered position, that is subject to default risk.

Delta risk means the risk of loss that could result from changes in the value of a position due to small changes in underlying risk factors. Delta risk is measured based on the sensitivities of a position to prescribed delta risk factors, which are specified in §§ _____.207 and _____.208 for purposes of calculating the

sensitivities-based capital requirement and §§ _____.224 and _____.225 for purposes of calculating the standardized CVA approach capital requirement.

Eligible CVA hedge. (1) Except as provided in paragraph (2) of this definition, *eligible CVA hedge* means a CVA hedge with an external party or a CVA hedge that is the CVA segment of an internal risk transfer that:

(i) For purposes of calculating the basic CVA approach capital requirement, is a CVA hedge of counterparty credit spread risk, specifically:

(A) An index credit default swap (CDS); or

(B) A single-name CDS or a single-name contingent CDS that:

(1) References the counterparty directly; or

(2) References an affiliate of the counterparty; or

(3) References an entity that belongs to the same sector and region as the counterparty.

(ii) For purposes of calculating the standardized CVA approach capital requirement, can include:

(A) Instruments that hedge variability of the counterparty credit spread component of CVA risk; and

(B) Instruments that hedge the exposure component of CVA risk.

(2) Notwithstanding paragraph (1) of this definition, an eligible CVA hedge does not include:

(i) A CVA hedge that is not a whole transaction;

(ii) A securitization position;

(iii) A correlation trading position; and

(iv) A CVA hedge at a [BANKING ORGANIZATION] that is not required to apply the CVA risk-based capital requirements, pursuant to § _____.201(b)(2).

Emerging market economy means a country or territorial entity that is not a liquid market economy.

Equity position means a market risk covered position that is not a securitization position or a correlation trading position and that has a value that reacts primarily to changes in equity prices.

Equity risk means the risk of loss that could arise from changes in underlying equity risk factors.

Equity repo rate means the equity repurchase agreement rate.

Exotic exposure means an underlying exposure that is not in scope of any of the risk classes under the sensitivities-based capital requirement or is not captured by the default risk capital requirement, which includes, but is not limited to, longevity risk, weather risk, and natural disaster risk.

Expected shortfall (ES) means a measure of the average of all potential losses exceeding the VaR at a given confidence level and over a specified horizon, as specified in § _____.215.

Exposure model means a CVA exposure model used by the [BANKING ORGANIZATION] for financial reporting purposes or such a CVA exposure model that has been adjusted to satisfy the requirements of this subpart F.

Foreign exchange risk means the risk of loss that could arise from changes in underlying foreign exchange risk factors.

Foreign exchange position means a position for which price risk arises from changes in foreign exchange rates.

GSE debt means an exposure to a GSE that is not an equity exposure or exposure to a subordinated debt instrument issued by a GSE.

Hedge means a position or positions that offset all, or substantially all, of the price risk of another position or positions.

Hybrid instrument means an instrument that has characteristics in common with both debt and equity instruments, including traditional convertible bonds.

Hypothetical profit and loss means the change in the value of the market risk covered positions that would have occurred due to changes in the market data at end of current day if the end-of-previous-day market risk covered positions remained unchanged. Valuation adjustments that are updated daily must be included, unless the [BANKING ORGANIZATION] has received approval from the [AGENCY] to exclude them. Valuation adjustments for which separate regulatory capital requirements have been otherwise specified, commissions, fees, reserves, net interest income, and intraday trading must be excluded.

Idiosyncratic risk means the risk of loss in the value of a position that arises from changes in risk factors unique to the issuer.

Idiosyncratic risk factor means categories of risk factors that present idiosyncratic risk.

Interest rate risk means the risk of loss that could arise from changes in underlying interest rate risk factors.

Internal risk management model means a valuation model that the independent risk control unit within the [BANKING ORGANIZATION] uses to report market risks and risk-theoretical profits and losses to senior management.

Internal risk transfer means a transfer, executed through internal derivatives trades:

(1) Of credit risk or interest rate risk arising from an exposure capitalized under subpart D or subpart E of this part to a trading desk under this subpart F; or

(2) Of CVA risk from a CVA desk (or the functional equivalent if a [BANKING ORGANIZATION] does not have any CVA desks) to a trading desk under this subpart F.

Large market cap means a market capitalization equal to or greater than \$2 billion, [as adjusted pursuant to § _____.4].

Liquid market economy means:

(1) A country or territorial entity that, based on an annual review, the [BANKING ORGANIZATION] has determined meets all of the following criteria:

(i) The country or territorial entity has at least \$10,000 in gross domestic product per capita in current prices;

(ii) The country or territorial entity has at least \$95 billion in total market capitalization of all domestic stock markets;

(iii) The country or territorial entity has export diversification such that no single sector or commodity comprises more than 50 percent of the country or territorial entity's total annual exports;

(iv) The country or territorial entity does not impose material controls on liquidation of direct investment; and

(v) The country or territorial entity does not have sovereign entities, public sector entities, or sovereign-controlled enterprises subject to sanctions by the U.S. Office of Foreign Assets Control.

(2) A country or territorial entity that is in a currency union with at least one country or territorial entity that meets the criteria in paragraph (1) of this definition.

Liquidity horizon means the time required to exit or hedge a market risk covered position without materially affecting market prices in stressed market conditions.

Look-through approach means an approach in which a [BANKING ORGANIZATION] treats a market risk covered position that has multiple underlying exposures, such as an index instrument, multi-underlying option, an equity position in an investment fund, or a correlation trading position, as if the underlying exposures were held directly by the [BANKING ORGANIZATION].

Market capitalization means the aggregate value of all outstanding publicly traded shares issued by a company and its affiliates as determined by multiplying each share price by the number of outstanding shares.

Market risk means the risk of loss that could result from market movements,

such as changes in the level of interest rates, credit spreads, equity prices, foreign exchange rates, or commodity prices.

Market risk covered position. (1) Except as provided in paragraph (2) of this definition, *market risk covered position* means the following positions:

(i) A trading asset or trading liability (whether on- or off-balance sheet),⁸⁰⁰ as reported on [REGULATORY REPORT], that is a trading position, a position that is held for the purpose of regular dealing or making a market in securities or in other instruments, or hedges another market risk covered position and that is free of any restrictive covenants on its tradability or where the [BANKING ORGANIZATION] is able to hedge the material risk elements of the position in a two-way market;⁸⁰¹ and

(ii) The following positions, regardless of whether the position is a trading asset or trading liability, and hedges of such positions:

(A) A foreign exchange position or commodity position, excluding:

(1) A CVA hedge; and

(2) Any structural position in a foreign currency that the [BANKING ORGANIZATION] chooses to exclude with prior approval from the [AGENCY];

(B) A publicly traded equity position that is not excluded from being a market risk covered position by paragraph (2)(iv) of this definition;

(C) An equity position in an investment fund that is not excluded from being a market risk covered position by paragraph (2)(vi) of this definition;

(D) A net short risk position of \$20 million, [as adjusted pursuant to § _____.4], or more;

(E) An embedded derivative on instruments issued by the [BANKING ORGANIZATION] that relates to the [BANKING ORGANIZATION]'s credit or equity risk that the [BANKING ORGANIZATION] either:

(1) Bifurcates for accounting purposes; or

(2) Elects the fair value option for purposes of financial reporting;

(F) With prior approval from the [AGENCY], an entire instrument with an embedded derivative issued by the [BANKING ORGANIZATION] that relates to credit or equity risk, for which the [BANKING ORGANIZATION] elects the fair value option for purposes of financial reporting;

⁸⁰⁰ Securities subject to repurchase and lending agreements are included as if they are still owned by the lender.

⁸⁰¹ A position that hedges a trading position must be within the scope of the [BANKING ORGANIZATION]'s hedging strategy as described in § _____.203(a)(2).

(G) The trading desk segment of an eligible internal risk transfer of credit risk as described in § _____.205(g)(1)(i);

(H) The trading desk segment of an eligible internal risk transfer of interest rate risk as described in § _____.205(g)(1)(ii);

(I) A position arising from a transaction between a trading desk and an external party conducted as part of an internal risk transfer that meets the criteria described in § _____.205(g);

(J) The trading desk segment of an eligible internal risk transfer of CVA risk as described in § _____.205(g); and

(K) Instruments resulting from securities underwriting commitments, where the securities are expected to be purchased by the [BANKING ORGANIZATION] on the settlement date but are not securities expected to be purchased by the [BANKING ORGANIZATION] for held to maturity (HTM) or available for sale (AFS) purposes.

(2) Notwithstanding paragraph (1) of this definition, a market risk covered position does not include:

(i) An intangible asset, including a servicing asset;

(ii) A hedge of a trading position that the [AGENCY] determines to be outside the scope of the [BANKING ORGANIZATION]'s trading and hedging strategy required in § _____.203(a)(2);

(iii) An instrument that, in form or substance, acts as a liquidity facility that provides support to asset-backed commercial paper;

(iv) A publicly traded equity position with restrictions on tradability;

(v) A non-publicly traded equity position that is not an equity position in an investment fund;

(vi) An equity position in an investment fund that does not meet at least one of the two following criteria:

(A) The [BANKING ORGANIZATION] has access to the investment fund's prospectus, partnership agreement, or similar contract that defines the fund's permissible investments and investment limits and is able to use the look-through approach to calculate market risk capital requirements for its proportional ownership share of each exposure held by the investment fund; or

(B) The [BANKING ORGANIZATION] has access to the investment fund's prospectus, partnership agreement, or similar contract that defines the fund's permissible investments and investment limits and obtains daily price quotes for the investment fund;

(vii) Any position a [BANKING ORGANIZATION] holds with the intent to securitize;

(viii) Real estate directly held by the [BANKING ORGANIZATION] or an affiliate;

(ix) A derivative instrument or an exposure to a fund that has material exposure to the instrument types described in paragraphs (2)(i) through (viii) of this definition as underlying assets;

(x) An equity position arising from a deferred compensation plan, or bank owned life insurance or corporate owned life insurance owned by an affiliate of [BANKING ORGANIZATION] that is consistent with the requirements of [Volcker Rule § _____.10(c)(7)];

(xi) A significant investment in the capital of unconsolidated financial institutions in the form of common stock that is not deducted from capital pursuant to § _____.22(d)(2), as applicable;

(xii) An instrument held for the purpose of hedging a particular risk of a position in the types of instruments described in paragraphs (2)(i) through (xi) of this definition;

(xiii) A CVA hedge;

(xiv) An equity position in an investment fund that the [BANKING ORGANIZATION] or an affiliate organizes and offers, which the [BANKING ORGANIZATION] acquired for the purpose of providing such fund with sufficient initial equity for investment to permit the fund to attract unaffiliated investors and which the [BANKING ORGANIZATION] has held for fewer than five years from the date on which the investment adviser or similar entity to the fund begins making investments pursuant to the written investment strategy for the fund; and

(xv) Hedges that are effective hedges, pursuant to the treatment in § _____.52(c) or § _____.141(c), as applicable.

Mid-prime RMBS means a security that references underlying exposures that consist primarily of residential mortgages that is not a prime RMBS or a sub-prime RMBS.

Model-eligible position means a market risk covered position on a model-eligible trading desk that is not a model-ineligible position.

Model-eligible trading desk means a trading desk (including a notional trading desk) that received approval of the [AGENCY] to be a model-eligible trading desk pursuant to § _____.212(b)(2) and continues to remain a model-eligible trading desk.

Model-ineligible position means an equity position in an investment fund where the [BANKING ORGANIZATION] is not able to identify the underlying positions held by an investment fund on a quarterly basis, a securitization

position, or a correlation trading position.

Model-ineligible trading desk means a trading desk that is not a model-eligible trading desk.

Modellable risk factor means a risk factor that satisfies both the risk factor qualitative test in § _____.214(b)(2) and the risk factor quantitative test in § _____.214(b)(3), consistent with § _____.214(b)(1).

Net short risk position means a position that is calculated by comparing the notional amounts of a [BANKING ORGANIZATION]'s long and short positions for a given exposure, provided that the notional amounts of the short position exceed the notional amounts of the long position and that the position is:⁸⁰²

(1) From a credit derivative that the [BANKING ORGANIZATION] recognizes as a guarantee for risk-weighted asset amount calculation purposes under subpart D or subpart E of this part and other exposures recognized under subpart D or subpart E of this part;

(2) Arises under subpart D or subpart E of this part from the credit risk segment of an internal risk transfer described in § _____.205(g)(1)(i) that the [BANKING ORGANIZATION] recognizes as a guarantee for risk-weighted asset amount calculation purposes under subpart D or subpart E of this part; and

(3) An equity position or a credit position that arises under subpart D or subpart E of this part that is not referenced in paragraph (1) or (2) of this definition provided that:

(i) For a [BANKING ORGANIZATION] that hedges at the single name level, the notional amounts of the positions are compared at the name or obligor level; and

(ii) For a [BANKING ORGANIZATION] that hedges at the portfolio level using indices, the notional amounts of the positions are compared at the portfolio level.

Non-modellable risk factor means a type A non-modellable risk factor or a type B non-modellable risk factor.

Non-securitization position means a market risk covered position that is not a securitization position or a correlation trading position and that has a value that reacts primarily to changes in interest rates or credit spreads.

Non-securitization debt or equity position means a non-securitization

⁸⁰² For equity derivatives, the notional long and short positions are based on the adjusted notional amount, which is the product of the current price of one unit of the stock (for example, a share of equity) and the number of units referenced by the trade.

position or an equity position that is subject to default risk.

Notional trading desk means a trading desk created for regulatory capital purposes to account for market risk covered positions arising under subpart D or subpart E of this part, such as net short risk positions, embedded derivatives on instruments issued by the [BANKING ORGANIZATION] that relate to credit or equity risk that the [BANKING ORGANIZATION] either bifurcates for accounting purposes or elects the fair value option for purposes of financial reporting, instruments with an embedded derivative issued by the [BANKING ORGANIZATION] that relate to credit or equity risk, for which the [BANKING ORGANIZATION] elects the fair value option for purposes of financial reporting, and foreign exchange positions and commodity positions. Notional trading desks are not required to fulfill the requirements set forth in § _____.203(b)(2) and (c).

Pension fund means:

(1) An employee benefit plan (as defined in 29 U.S.C. 1002(3)) that is not exempt from ERISA, under 29 U.S.C. 1003(b), and that complies with the tax deferral qualification requirements provided in the Internal Revenue Code;

(2) 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

(3) A fund for employee benefit plans subject to ERISA that is exempt from the definition of an investment company under section 3(c)(11) of the Investment Company Act (15 U.S.C. 80a-1 *et seq.*).

Pricing model means:

(1) A valuation model used for financial reporting such as models used in reporting actual profits and losses; or

(2) A valuation model used for internal risk management.

Prime RMBS means a security that references underlying exposures that consist primarily of qualified residential mortgages as defined under 12 CFR 244.13(a).

Profit and loss attribution (PLA) means a method for assessing the robustness of a [BANKING ORGANIZATION]'s internal models used to calculate the ES-based measure in § _____.215(b) by comparing the risk-theoretical profit and loss predicted by the internal models with the hypothetical profit and loss.

PSE position means a market risk covered position that is an exposure to a public sector entity (PSE).

P-value means the probability, when using the VaR-based measure for purposes of backtesting, of observing a profit that is less than, or a loss that is

greater than, the profit or loss that actually occurred on a given date.

Real price means:

(1) A price at which the [BANKING ORGANIZATION] has executed a transaction;

(2) A price provided by a regulated exchange, a qualifying central counterparty, a sovereign entity, or a specified supranational entities and multilateral development banks (MDBs);

(3) A verifiable price for an actual transaction between other arm's-length parties or a bona fide competitive bid or offer by a party transacting at arm's length either made to or received by the [BANKING ORGANIZATION] itself or obtained from a third-party provider, provided that, for any transaction, bid, or offer obtained from a third-party provider:

(i) The transaction, bid, or offer has been processed through a third-party provider; or

(ii) The third-party provider agrees to provide evidence of the transaction, bid, or offer to the [BANKING ORGANIZATION] upon request.

Reference credit spread risk means the risk of loss that could arise from changes in the underlying credit spread risk factors that drive the exposure component of CVA risk.

Resecuritization position means a market risk covered position that is a resecuritization exposure.

Residential mortgage-backed security (RMBS) means a prime RMBS, mid-prime RMBS, or sub-prime RMBS.

Risk class means:

(1) For the purpose of calculating the sensitivities-based capital requirement, one of the classes specified in § _____.206(a)(1);

(2) For the purpose of calculating the models-based non-default capital requirement, one of the following: interest rate risk, equity risk, foreign exchange risk, commodity risk, credit risk, and any other risk class established by the agency; and

(3) For the purpose of calculating the standardized CVA approach capital requirement, one of the classes relevant to the capital requirement specified in § _____.224.

Risk factor means underlying variables, such as market rates and prices that affect the value of a market risk covered position or a CVA risk covered position. For purposes of calculating the sensitivities-based capital requirement, the risk factors are specified in § _____.208. For purposes of calculating the standardized CVA approach capital requirement, the risk factors are specified in § _____.225.

Risk-theoretical profit and loss means the daily trading desk-level profit and

loss on the end-of-previous-day market risk covered positions generated by the [BANKING ORGANIZATION]'s internal risk management models. The risk-theoretical profit and loss must take into account all risk factors, including non-modellable risk factors that can be included in the [BANKING ORGANIZATION]'s internal risk management models.

Securitization position means a market risk covered position that is a securitization exposure.

Securitization position non-CTP means a securitization position other than a correlation trading position.

Small market cap means a market capitalization of less than \$2 billion, as adjusted pursuant to § _____.4.

Sovereign position means a market risk covered position that is a sovereign exposure.

Standardized CVA hedge means a CVA hedge that is an eligible CVA hedge that:

(1) Is not a basic CVA hedge; and
(2) Is included in the standardized CVA approach capital requirement.

Standardized CVA risk covered position means a CVA risk covered position that is not a basic CVA risk covered position.

Structural position in a foreign currency means a position that is not a trading position and that is:

(1) Subordinated debt, equity, or minority interest in a consolidated subsidiary that is denominated in a foreign currency;

(2) Capital assigned to foreign branches that is denominated in a foreign currency;

(3) A position related to an unconsolidated subsidiary or another item that is denominated in a foreign currency and that is deducted from the [BANKING ORGANIZATION]'s tier 1 or tier 2 capital; or

(4) A position designed to hedge a [BANKING ORGANIZATION]'s capital ratios or earnings against the effect on paragraph (1), (2), or (3) of this definition of adverse exchange rate movements.

Sub-prime RMBS means a security that references underlying exposures consisting primarily of higher-priced mortgage loans as defined in 12 CFR 1026.35, high-cost mortgages as defined in 12 CFR 1026.32, or both.

Systematic risk means the risk of loss that could arise from changes in risk factors that represent broad market movements and that are not specific to an issue or issuer.

Systematic risk factors means categories of risk factors that present systematic risk, such as economy, region, and sector.

Term repo-style transaction means a repo-style transaction that has an original maturity in excess of one business day.

Time effects means the effects on the profit and loss solely due to the passage of time.

Trading desk means a unit of organization of a [BANKING ORGANIZATION] that purchases or sells market risk covered positions that is:

(1) Structured by the [BANKING ORGANIZATION] to implement a well-defined business strategy;

(2) Organized to ensure appropriate setting, monitoring, and management review of the desk's trading and hedging limits and strategies; and

(3) Characterized by a clearly defined unit of organization that:

(i) Engages in coordinated trading activity with a unified approach to the key elements described in § _____.203(b)(2) and (c);

(ii) Operates subject to a common and calibrated set of risk metrics, risk levels, and joint trading limits;

(iii) Submits compliance reports and other information as a unit for monitoring by management; and

(iv) Books its trades together.

Trading position means a position that is held by a [BANKING ORGANIZATION] for the purpose of short-term resale or with the intent of benefiting from actual or expected short-term price movements, or to lock in arbitrage profits.

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.

Type A non-modellable risk factor means a risk factor that satisfies the risk factor qualitative test in § _____.214(b)(2) but not the risk factor quantitative test in § _____.214(b)(3), consistent with § _____.214(b)(1).

Type B non-modellable risk factor means a risk factor that is not a modellable risk factor or a type A non-modellable risk factor, consistent with § _____.214(b)(1).

Value-at-Risk (VaR) means the estimate of the maximum amount that the value of one or more market risk covered positions could decline due to market price or rate movements during a fixed holding period within a stated confidence interval.

Vega risk means the risk of loss that could arise from changes in the value of a position due to changes in the

volatility of the underlying exposure. Vega risk is measured based on the sensitivities of a position to prescribed vega risk factors as specified in §§ _____.207 and _____.208 for purposes of calculating the sensitivities-based capital requirement and §§ _____.224 and _____.225 for purposes of calculating the standardized CVA approach capital requirement.

§ _____.203 General Requirements for Market Risk

(a) Market risk covered positions—(1) Identification of market risk covered positions. A [BANKING ORGANIZATION] must have clearly defined policies and procedures for determining its market risk covered positions, which the [BANKING ORGANIZATION] must update at least annually. These policies and procedures must include:

(i) Identification of trading assets and trading liabilities that are trading positions and of trading positions that are correlation trading positions;

(ii) Identification of trading assets and trading liabilities that are positions held for the purpose of regular dealing or making a market in securities or other instruments;

(iii) Identification of equity positions in an investment fund that are market risk covered positions;

(iv) Identification of positions that are market risk covered positions, regardless of whether the position is a trading asset or trading liability, including net short risk positions (and the calculation of such positions), eligible internal risk transfer positions as described in § _____.205(g), embedded derivatives on instruments issued by the [BANKING ORGANIZATION] that relate to credit or equity risk that the [BANKING ORGANIZATION] either bifurcates for accounting purposes or elects the fair value option for purposes of financial reporting, and instruments with an embedded derivative issued by the [BANKING ORGANIZATION] that relate to credit or equity risk, for which the [BANKING ORGANIZATION] elects the fair value option for purposes of financial reporting;

(v) Consideration of the extent to which a position, or a hedge of its material risks, can be marked-to-market daily by reference to a two-way market;

(vi) Consideration of possible impairments to the liquidity of a position or its hedge;

(vii) Identification of positions that must be excluded from market risk covered positions; and

(viii) A process for determining whether a position needs to be re-designated after its initial identification

as a market risk covered position or otherwise, which must include re-designation restrictions and a description of the events or circumstances under which a [BANKING ORGANIZATION] would consider a re-designation, a process for identifying such events or circumstances, and a process for obtaining senior management approval and for notifying the [AGENCY] of material re-designations.

(2) *Market risk trading and hedging strategies.* A [BANKING ORGANIZATION] must have clearly defined trading and hedging strategies for its market risk covered positions that are approved by senior management of the [BANKING ORGANIZATION].

(i) The trading strategy must articulate the expected holding period of, and the market risk associated with, each portfolio of market risk covered positions.

(ii) The hedging strategy must articulate for each portfolio of market risk covered positions the level of market risk that the [BANKING ORGANIZATION] is willing to accept and must detail the instruments, techniques, and strategies that the [BANKING ORGANIZATION] will use to hedge the risk of the portfolio.

(b) *Trading desks—(1) Trading desk structure.* A [BANKING ORGANIZATION] must define its trading desk structure. That structure must include:

(i) Definition of each trading desk;

(ii) Identification of model-eligible trading desks, consistent with § _____.212(b);

(iii) Identification of model-ineligible trading desks used in both the standardized measure for market risk and the models-based measure for market risk (as applicable);

(iv) Identification of trading desks that are used for internal risk transfers (as applicable); and

(v) Identification of notional trading desks (as applicable).

(2) *Trading desk policies.* For each trading desk that is not a notional trading desk, a [BANKING ORGANIZATION] must have a clearly defined policy that is approved by senior management of the [BANKING ORGANIZATION] and describes the general strategy of the trading desk, the risk and position limits established for the trading desk, and the internal controls and governance structure established to oversee the risk-taking activities of the trading desk, and that includes, at a minimum:

(i) A written description of the general strategy of the trading desk that addresses the economics of the business

strategy, the primary activities, and the trading and hedging strategies of the trading desk;

(ii) A clearly defined trading strategy for the trading desk's market risk covered positions, approved by senior management of the [BANKING ORGANIZATION], which details the types of market risk covered positions purchased and sold by the trading desk; indicates which of these are the main types of market risk covered positions purchased and sold by the trading desk; and articulates the expected holding period of, and the market risk associated with, each portfolio of market risk covered positions held by the trading desk;

(iii) A clearly defined hedging strategy for the trading desk's market risk covered positions, approved by senior management of the [BANKING ORGANIZATION], which articulates for each trading desk the level of market risk the [BANKING ORGANIZATION] is willing to accept and details the instruments, techniques, and strategies that the trading desk will use to hedge the risk of the portfolio; and

(iv) A business strategy that includes regular reports on the revenue, costs, and market risk capital requirements of the trading desk.

(c) *Active management of market risk covered positions.* A [BANKING ORGANIZATION] must have clearly defined policies and procedures describing the internal controls, ongoing monitoring, management, and authorization procedures, including escalation procedures, for actively managing all market risk covered positions. At a minimum, these policies and procedures must identify the key groups and personnel responsible for overseeing the activities of the [BANKING ORGANIZATION]'s trading desks that are not notional trading desks and require:

(1) Determining the fair value of the market risk covered positions on a daily basis;

(2) Ongoing assessment of the ability of trading desks to hedge market risk covered positions and portfolio risks and of the extent of market liquidity;

(3) Establishment by each trading desk of clear trading limits with well-defined trader mandates and articulation of why the risk factors used to establish the limits appropriately reflect the general strategy of the trading desk;

(4) Establishment and daily monitoring by trading desks of the following risk-management measurements:

(i) Trading limits, usage, and remediation of breaches;

(ii) Sensitivities to risk factors;

(iii) VaR and expected shortfall (as applicable);

(iv) Backtesting and p-values at the trading desk level and at the aggregate level for all model-eligible trading desks (as applicable);

(v) Comprehensive profit and loss attribution (as applicable); and

(vi) Market risk covered positions and transaction volumes;

(5) Establishment and daily monitoring by a risk control unit independent of the trading business unit of the risk-management measurements listed in paragraph (c)(4) of this section;

(6) Strategy to appropriately mitigate risks when stress tests reveal particular vulnerabilities to a given set of circumstances;

(7) Daily monitoring by senior management of information described in paragraphs (c)(1) through (4) of this section;

(8) Reassessment of established limits on market risk covered positions, performed by senior management annually or more frequently; and

(9) Assessments of the quality of market inputs to the valuation process, the soundness of key assumptions, the reliability of parameter estimation in pricing models, and the stability and accuracy of model calibration under alternative market scenarios, performed by qualified personnel annually or more frequently.

(d) *Stress testing.* (1) A [BANKING ORGANIZATION] must stress test its market risk covered positions at the aggregate level and on each trading desk at a frequency appropriate to manage risk, but in no case less frequently than quarterly. The stress tests must take into account concentration risk (including but not limited to concentrations in single issuers, industries, sectors, or markets), illiquidity under stressed market conditions, and risks arising from the [BANKING ORGANIZATION]'s trading activities that may not be adequately captured in the standardized measure for market risk or in the models-based measure for market risk, as applicable.

(2) The results of the stress testing must be reviewed by the [BANKING ORGANIZATION]'s senior management when available, and reflected in the policies and limits set by the [BANKING ORGANIZATION]'s management and its board of directors (or a committee thereof).

(e) *Control and oversight.* (1) A [BANKING ORGANIZATION] must have in place internal market risk management systems and processes for identifying, measuring, monitoring, and

managing market risk that are conceptually sound.

(2) A [BANKING ORGANIZATION] must have a risk control unit that is responsible for the design and implementation of the [BANKING ORGANIZATION]'s market risk management system and that reports directly to senior management and is independent from the business trading units.

(3) A [BANKING ORGANIZATION] must have an internal audit function independent of business line management that at least annually assesses the effectiveness of the controls supporting the [BANKING ORGANIZATION]'s market risk measurement systems, including the activities of the business trading units and independent risk control unit, the initial designation of positions as market risk covered positions and any re-designations of positions, compliance with policies and procedures, and the calculation of the [BANKING ORGANIZATION]'s measures for market risk under this subpart F, including the mapping of risk factors to liquidity horizons, as applicable. At least annually, the internal audit function must report its findings to the [BANKING ORGANIZATION]'s board of directors (or a committee thereof).

(f) *Valuation of market risk covered positions.* A [BANKING ORGANIZATION] must have a process for the prudent valuation of its market risk covered positions that includes policies and procedures on the valuation of its market risk covered positions, determining the fair value of its market risk covered positions, independent price verification, and independent validation of the valuation models and valuation adjustments or reserves.

(g) *Internal assessment of capital adequacy.* A [BANKING ORGANIZATION] must have a rigorous process for assessing its overall capital adequacy in relation to its market risk. The assessment must take into account risks that may not be captured fully by the standardized measure for market risk or in the models-based measure for market risk, including concentration and liquidity risk under stressed market conditions.

(h) *Due diligence requirements for securitization positions.* (1) A [BANKING ORGANIZATION] must demonstrate to the satisfaction of the [AGENCY] a comprehensive understanding of the features of a securitization position that would materially affect the performance of the position. The [BANKING ORGANIZATION]'s analysis must be

commensurate with the complexity of the securitization position and the materiality of the position in relation to its regulatory capital under this part.

(2) A [BANKING ORGANIZATION] must demonstrate its comprehensive understanding of a securitization position under this paragraph (h), for each securitization position by:

(i) Conducting an analysis of the risk characteristics of a securitization position prior to acquiring the exposure and documenting such analysis promptly after acquiring the exposure, considering:

(A) Structural features of the securitization that would materially impact the performance of the exposure, which may include the contractual cash flow waterfall, waterfall-related triggers, credit enhancements, liquidity enhancements, fair value triggers, the performance of organizations that service the exposure, and deal-specific definitions of default;

(B) Relevant information regarding—

(1) The performance of the underlying credit exposure(s) by exposure amount, which may include the percentage of loans 30, 60, and 90 days past due; default rates; prepayment rates; loans in foreclosure; property types; occupancy; average credit score or other measures of creditworthiness; average loan-to-value ratio; and industry and geographic diversification data on the underlying exposure(s); and

(2) For resecuritization positions, performance information on the underlying securitization exposures by exposure amount, which may include the issuer name and credit quality, and the characteristics and performance of the exposures underlying the securitization exposures, in addition to the information described in paragraph (h)(2)(i)(B)(1) of this section; and

(C) Relevant market data of the securitization, which may include bid-ask spreads, most recent sales price and historical price volatility, trading volume, implied market rating, and size, depth and concentration level of the market for the securitization; and

(ii) On an ongoing basis (not less frequently than quarterly), evaluating and updating as appropriate the analysis required under this section for each securitization position.

(i) *Documentation.* (1) A [BANKING ORGANIZATION] must adequately document all material aspects of its identification, management, and valuation of market risk covered positions, including internal risk transfers and any re-designations of its positions, including market risk covered positions; its control, oversight and

review processes; and its internal assessment of capital adequacy.

(2) A [BANKING ORGANIZATION] must adequately document its trading desk structure and must document policies describing how each trading desk satisfies the applicable requirements in this section.

(3) A [BANKING ORGANIZATION] that calculates the models-based measure for market risk must adequately document all material aspects of its internal models, including validation and review processes and results and an explanation of the empirical techniques used to measure market risk.

(4) A [BANKING ORGANIZATION] that calculates the models-based measure for market risk must document policies and procedures around processes related to:

(i) The risk factor qualitative and quantitative tests, including the description of the mapping of real price observations to risk factors, as described in §§ _____.214(b)(2) and (3);

(ii) Data alignment of hypothetical profit and loss and risk-theoretical profit and loss time series used in PLA testing as described in § _____.213(c)(1); and

(iii) The assignment of risk factors to liquidity horizons as described in § _____.215(b)(1) and any empirical correlations recognized with respect to risk classes.

§ _____.204 Measure for Market Risk

(a) *General requirements.* (1) A [BANKING ORGANIZATION] must calculate its measure for market risk as the standardized measure for market risk in accordance with paragraph (b) of this section, unless the [BANKING ORGANIZATION] has one or more model-eligible trading desks, in which case the [BANKING ORGANIZATION] must calculate its measure for market risk as the models-based measure for market risk in accordance with paragraph (c) of this section. A [BANKING ORGANIZATION] must calculate the standardized measure for market risk at least weekly and must calculate the models-based measure for market risk daily.

(2) Notwithstanding paragraph (a)(1) of this section, when a [BANKING ORGANIZATION] is required to calculate market risk capital for a trading desk on a stand-alone basis, the [BANKING ORGANIZATION] must calculate its measure for market risk as the sum of:

(i) The primary measure, calculated by applying the provisions of paragraph (a)(1) of this section to all market risk covered positions that are not included in a stand-alone measure for market risk

in paragraph (a)(2)(ii) of this section; and

(ii) The stand-alone measure for each trading desk that is required to calculate market risk capital on a stand-alone basis, calculated by applying the provisions of paragraph (a)(1) of this section to the positions on that trading desk as if those positions were the entire portfolio of market risk covered positions.

(b) *Standardized measure for market risk.* The standardized measure for market risk equals the sum of the standardized non-default capital requirement as defined in this paragraph (b), the default risk capital requirement as defined in paragraph (d) of this section, the fallback capital requirement as defined in paragraphs (e)(1) and (2) of this section, and the capital add-ons for re-designations as defined in paragraph (f) of this section. The standardized non-default capital requirement equals the sum of the sensitivities-based capital requirement and the residual risk add-on as defined under this paragraph (b).

(1) *Sensitivities-based capital requirement.* A [BANKING ORGANIZATION]'s sensitivities-based capital requirement equals the sensitivities-based capital requirement, as calculated in accordance with §§ _____.206 through _____.209 for market risk covered positions.

(2) *Residual risk add-on.* A [BANKING ORGANIZATION]'s residual risk add-on equals any residual risk add-on that is required under § _____.211(a) and calculated in accordance with § _____.211(c) for market risk covered positions.

(c) *Models-based measure for market risk.* The models-based measure for market risk equals:

$$\text{Models-based measure for market risk} = \text{NDCR} + \text{DRC} + \text{fallback capital requirement} + \text{capital add-on for redesignations}$$

Where:

(1) NDCR is the non-default capital requirement under the models-based measure and is calculated as follows, except that, with supervisory approval, the non-default capital requirement under the models-based measure can instead be equal to $SA_{all\ desks}$:

$$NDCR = IMA_{G,A} + (SA_{all\ desks} - SA_{G,A})$$

Where:

(i) $IMA_{G,A}$ is the models-based non-default capital requirement calculated for model-eligible positions on model-eligible trading desks and is calculated as follows:

$$IMA_{G,A} = \max((IMCC_{t-1} + SES_{t-1}), ((m_c \times IMCC_{average}) + SES_{average})) + PLA_{add-on}$$

Where:

- (A) *IMCC* is the internally modelled capital calculation, which is the aggregate capital measure for modellable risk factors and type A non-modellable risk factors based on the weighted average of the constrained and unconstrained ES-based measures and calculated in accordance with § _____.215(c) for the most recent outcome, denoted as $t - 1$, and for the average of the previous 60 business days, denoted as *average*;
- (B) *SES* is the stressed expected shortfall, which is the aggregate capital measure for non-modellable risk factors, calculated in accordance with § _____.215(d) for the most recent outcome, denoted as $t - 1$, and for the average of the previous 60 business days, denoted as *average*;
- (C) The capital multiplier m_c equals 1.5 unless otherwise specified in paragraph (g) of this section; and
- (D) *PLA add-on* equals any PLA add-on that is required under § _____.212(b)(2)(ii)(D), § _____.212(b)(4), or § _____.213(c)(3)(iii) and is calculated in accordance with § _____.213(c)(4);
- (ii) *SA_{all desks}* equals the standardized non-default capital requirement as defined in paragraph (b) of this section for market risk covered positions on all trading desks;
- (iii) *SA_{G,A}* equals the standardized non-default capital requirement as defined in paragraph (b) of this section for model-eligible positions on model-eligible trading desks;
- (2) *DRC* is the *default risk capital requirement* as defined in paragraph (d) of this section;
- (3) *Fallback capital requirement* is defined in paragraph (e) of this section; and
- (4) *Capital add-on for redesignations* is defined in paragraph (f) of this section.
- (d) *Default risk capital requirement.* A [BANKING ORGANIZATION]'s default risk capital requirement equals the sum of the default risk capital requirements for non-securitization debt or equity positions, correlation trading positions, and securitization positions non-CTP, as calculated in accordance with § _____.210 for market risk covered positions.
- (e) *Fallback capital requirement—*(1) *Calculation of the fallback capital requirement.* Unless the [BANKING ORGANIZATION] receives prior approval of the [AGENCY] to use alternative techniques that appropriately measure the market risk associated with those market risk covered positions, a [BANKING ORGANIZATION]'s fallback capital requirement equals the sum of:
 - (i) The standardized non-default capital requirement and the default risk capital requirement for any market risk covered positions described by paragraph (e)(3)(ii)(A) for which the [BANKING ORGANIZATION] is able to calculate all parts of those capital requirements; and
 - (ii) The sum of the absolute value of the fair values of all other market risk covered positions that must be included in the fallback capital requirement in accordance with paragraphs (e)(2)(ii) and (e)(3)(ii) of this section, respectively.
- (2) *Standardized measure for market risk—*(i) *Market risk covered positions excluded from certain calculations.* Notwithstanding paragraph (b) of this section, for a [BANKING ORGANIZATION] that calculates the standardized measure for market risk, if for any reason, a [BANKING ORGANIZATION] is unable to calculate the sensitivities-based capital requirement or the default risk capital requirement for a market risk covered position, that position must be excluded from the calculation of the standardized non-default capital requirement and the default risk capital requirement.
- (ii) *Market risk covered positions included in the fallback capital requirement.* A [BANKING ORGANIZATION] that calculates the standardized measure for market risk must include all market risk covered positions excluded under paragraph (e)(2)(i) of this section in the calculation of the fallback capital requirement.
- (3) *Models-based measure for market risk—*(i) *Market risk covered positions excluded from certain calculations.* Notwithstanding paragraph (c) of this section, for a [BANKING ORGANIZATION] that calculates the models-based measure for market risk: in cases where, for any reason, a [BANKING ORGANIZATION] is unable to calculate any portion of *SA_{all desks}*, *IMA_{G,A}*, *SA_{G,A}*, *SA_i* as part of the calculation of the *PLA add-on*, or the default risk capital requirement for a market risk covered position subject to that calculation, that market risk covered position must be excluded from the calculation of *IMA_{G,A}*, *SA_{all desks}*, *SA_{G,A}*, *SA_i*, and the default risk capital requirement, unless the [BANKING ORGANIZATION] receives prior approval from the [AGENCY].
- (ii) *Market risk covered positions included in the fallback capital requirement.* A [BANKING ORGANIZATION] that calculates the models-based measure for market risk must include the following market risk covered positions in the calculation of the fallback capital requirement:
 - (A) All model-eligible positions excluded from the calculation of *IMA_{G,A}* under paragraph (e)(3)(i) of this section; and
 - (B) All market risk covered positions excluded from the calculation of *SA_{all desks}* under paragraph (e)(3)(i) of this section; and
 - (C) All market risk covered positions excluded from the default risk capital requirement under paragraph (e)(3)(i) of this section.
- (f) *Capital add-ons for re-designations.*
 - (1) After the initial designation of an exposure to be capitalized under subpart D or subpart E of this part or a position to be capitalized as a market risk covered position under this subpart F, a [BANKING ORGANIZATION] may make a re-designation if:
 - (i) The [BANKING ORGANIZATION] receives prior approval of senior management and documents the re-designation; and
 - (ii) The [BANKING ORGANIZATION] sends notification within 30 days of any material re-designation to the [AGENCY].
 - (2) For each re-designation, a [BANKING ORGANIZATION] must calculate its capital add-on for re-designation following the provisions below.
 - (i) For the calculation of Expanded Total Risk-Weighted Assets, the capital add-on for re-designation is the higher of zero and the total capital requirement under subpart E of this part and under this subpart F before the re-designation minus the total capital requirement under subpart E of this part and under this subpart after the re-designation.
 - (ii) For the calculation of Standardized Total Risk-Weighted Assets, the capital add-on for re-designation is the higher of zero and the total capital requirement under subpart D of this part and under this subpart F before the re-designation minus the total capital requirement under subpart D of this part and under this subpart after the re-designation.
 - (iii) The capital add-on for re-designation must initially be calculated at the time of the re-designation.
 - (iv) The capital add-on for re-designation may decrease over time, proportionate to the decrease in the balance sheet value of the position from the time of re-designation.
 - (v) Notwithstanding paragraphs (f)(2)(i) through (iv) of this section, with

- prior notification to the [AGENCY], no capital add-on for re-designation is required if the re-designation is due to circumstances that are outside of the [BANKING ORGANIZATION]'s control, including any re-designation required for accounting purposes or a change in the characteristics of the exposure or position that would change its qualification as a market risk covered position.
- (3) Any re-designation is irrevocable unless the [BANKING ORGANIZATION] receives approval of the [AGENCY].
- (g) *Aggregate trading portfolio backtesting and capital multiplier.*
- (1) Beginning on the business day a [BANKING ORGANIZATION] begins calculating the models-based measure for market risk, the [BANKING ORGANIZATION] must generate backtesting data by separately comparing each business day's aggregate actual profit and loss for transactions on model-eligible trading desks and aggregate hypothetical profit and loss for transactions on model-eligible trading desks with the corresponding aggregate VaR-based measures for that business day calibrated to a one-day holding period and at a one-tail, 99.0th percent confidence level for market risk covered positions on model-eligible trading desks, subject to § _____.212(b)(1)(iii)(B) of this part. Time effects must be treated in a consistent manner in the hypothetical profit and loss used for backtesting.
- (i) An exception for actual profit and loss occurs when the aggregate actual loss exceeds the corresponding aggregate VaR-based measure. An exception for hypothetical profit and loss occurs when the aggregate hypothetical loss exceeds the corresponding VaR-based measure.
- (ii) If either the business day's actual or hypothetical profit and loss is not available or impossible to compute for a particular day, an exception for actual profit and loss or for hypothetical profit and loss, respectively, occurs. If the VaR-based measure for a business day is not available or impossible to compute for a particular day, exceptions for actual profit and loss and for hypothetical profit and loss occur. No exception occurs if the unavailability or impossibility is related to an official holiday.
- (iii) With approval of the [AGENCY], a [BANKING ORGANIZATION] may consider an exception not to have occurred if:
- (A) The [BANKING ORGANIZATION] can demonstrate that the exception is due to technical issues that are unrelated to the [BANKING ORGANIZATION]'s internal models;
- (B) The [BANKING ORGANIZATION] can demonstrate that one or more non-modellable risk factors caused the relevant loss, and the portion of the aggregate stressed expected shortfall, as described in paragraph (c)(2)(ii) of this section, that can be attributed to these non-modellable risk factors for that business day exceeds the difference between the [BANKING ORGANIZATION]'s VaR-based measure and the actual or hypothetical loss for that business day; or
- (C) The [BANKING ORGANIZATION] can demonstrate that one or more model-ineligible positions caused the relevant loss, and the portion of the aggregate non-default capital requirement under the models-based measure, as described in paragraph (c)(2)(ii) of this section, that can be attributed to these model-ineligible positions for that business day exceeds the difference between the [BANKING ORGANIZATION]'s VaR-based measure and the actual or hypothetical loss for that business day.
- (2) A [BANKING ORGANIZATION] must specify the scope of its model-eligible trading desks for the purposes of this paragraph (g) by determining which trading desks are model-eligible trading desks and taking into consideration any changes to the model eligibility status of trading desks as soon as practicable. A [BANKING ORGANIZATION] must use this scope of model-eligible trading desks for the purposes of this paragraph (g) unless the [AGENCY] notifies the [BANKING ORGANIZATION] in writing that a different scope of model-eligible trading desks must be used.
- (3) A [BANKING ORGANIZATION] that calculates the models-based measure for market risk must conduct aggregate trading portfolio backtesting on a quarterly basis. In order to conduct aggregate trading portfolio backtesting, a [BANKING ORGANIZATION] must count the number of exceptions that have occurred over the most recent 250 business days, provided that in the first year that the [BANKING ORGANIZATION] begins backtesting, the [BANKING ORGANIZATION] must count the number of exceptions that have occurred since the date that the [BANKING ORGANIZATION] began backtesting. A [BANKING ORGANIZATION] must count exceptions for aggregate actual profit and loss separately from exceptions for aggregate hypothetical profit and loss. The overall number of exceptions is the greater of the number of exceptions for aggregate actual profit and loss and the number of exceptions for aggregate hypothetical profit and loss.
- (4) A [BANKING ORGANIZATION] must use the multiplication factor in Table 1 to § _____.204 that corresponds to the overall number of exceptions identified in paragraph (g)(3) of this section to determine the multiplication factor for the models-based non-default capital requirement under paragraph (c)(2)(iii) of this section until the [BANKING ORGANIZATION] conducts aggregate trading portfolio backtesting for the next quarter, unless the [AGENCY] notifies the [BANKING ORGANIZATION] in writing that a different adjustment or other action is appropriate.

Table 1 to § __.204—Backtesting Capital Multiplier (m_c)

Number of exceptions	Multiplication factor
0	1.50
1	1.50
2	1.50
3	1.50
4	1.50
5	1.70
6	1.76
7	1.83
8	1.88
9	1.92
10 or more	2.00

(h) *Maximum loss.* Notwithstanding any other paragraph of this section, a [BANKING ORGANIZATION] may cap the market risk capital requirements of a market risk covered position at the maximum loss of that market risk covered position.

§ __.205 Treatment of Certain Market Risk Covered Positions and Term Repo-Style Transactions the [BANKING ORGANIZATION] Elects To Include in Market Risk: Net Short Risk Positions; Defaulted and Distressed Positions; Hybrid Instruments; Index Instruments and Multi-Underlying Options; Equity Positions in an Investment Fund; Certain Term Repo-Style Transactions; and Internal Risk Transfers.

(a) *Net short risk positions.* A [BANKING ORGANIZATION] must calculate its net short risk positions on a quarterly basis.

(b) *Treatment of defaulted and distressed market risk covered positions.*

(1) For purposes of calculating the default risk capital requirement, a [BANKING ORGANIZATION] must include defaulted market risk covered positions. Notwithstanding § __.204, a [BANKING ORGANIZATION] is not required to include defaulted and distressed market risk covered positions in the standardized non-default capital requirement or the models-based non-default capital requirement.

(2) A [BANKING ORGANIZATION] may treat a distressed position as a defaulted position for the purpose of calculating market risk capital requirements.

(c) *Treatment of hybrid instruments that are market risk covered positions.* For purposes of calculating the standardized non-default capital requirement, a [BANKING

ORGANIZATION] must assign risk sensitivities of hybrid instruments into the applicable risk classes such as interest rate, credit spread, and equity risk for calculating the delta, vega, and curvature capital requirements. For the default risk capital requirement, a [BANKING ORGANIZATION] must decompose a hybrid instrument into a non-securitization position and an equity position and calculate the default risk capital requirement for each position respectively.

(d) *Index instruments and multi-underlying options.* For a market risk covered position that is an index instrument or a multi-underlying option, the [BANKING ORGANIZATION] must apply:

(1) For purposes of calculating the standardized non-default capital requirement,

(i) One of the following approaches to calculate the delta capital requirement and the curvature capital requirement:

(A) The look-through approach; or

(B) The single-sensitivity approach, whereby a single sensitivity is calculated to the index and assigned to the relevant bucket in § __.209, in accordance with:

(1) For an equity or credit index where at least 75 percent of the market or notional value, respectively, of the underlying constituents, taking into account the weightings of such index, relate to the same sector, the sensitivity must be assigned to the corresponding sector bucket, otherwise the sensitivity must be mapped to an index bucket;

(2) For an equity index that is not described in paragraph (d)(1)(i)(B)(1) of this section, if at least 75 percent of the market value of the constituents in the index, taking into account the weightings of such index, is invested in

large market cap and liquid market economy, then the sensitivity must be assigned to bucket 12 in Table 8 to § __.209; otherwise, the sensitivity must be assigned to bucket 13 in Table 8 to § __.209;

(3) For a credit index that is not described in paragraph (d)(1)(i)(B)(1) of this section, if at least 75 percent of the notional value of the constituents in the index taking into account the weightings of such index, is invested in investment grade positions, the sensitivity must be assigned to bucket 19 in Table 3 to § __.209; otherwise, the sensitivity must be assigned to bucket 20 in Table 3 to § __.209;

(4) For an index that is not described in paragraphs (d)(1)(i)(B)(1) through (3) of this section, the [BANKING ORGANIZATION] must allocate the index proportionately to the relevant risk classes following the methodology in paragraphs (d)(1)(i)(B)(1) through (3) of this section;

(5) For credit indices, the [BANKING ORGANIZATION] may calculate the delta sensitivity for interest rate risk specified in § __.207(b)(1) or the delta sensitivity for any credit spread risk specified in § __.207(b)(2) as delta sensitivity for equity risk specified in § __.207(b)(3) multiplied by effective duration; and

(6) For options on credit indices, the [BANKING ORGANIZATION] must calculate curvature capital requirement specified in § __.206(d) for interest rate risk and credit spread risk for non-securitization positions using the risk weights specified in § __.209(d) multiplied by the duration of the fund; and

(ii) One of the following approaches to calculate the vega capital requirement:

(A) The look-through approach;
 (B) For an index, the vega capital requirement with respect to the implied volatility based on the appropriate sector specific bucket or index bucket, which is the same sector specific bucket or index bucket used to calculate the delta capital requirement and the curvature capital requirement in paragraph (d)(1)(i)(B) of this section if the [BANKING ORGANIZATION] calculates the delta capital requirement and the curvature capital requirement under paragraph (d)(1)(i)(B) of this section; or

(C) For a multi-underlying option, the vega capital requirement based on the implied volatility of the option; and

(2) For purposes of calculating the models-based non-default capital requirement, one of the following approaches:

(i) The look-through approach;
 (ii) The hypothetical portfolio approach, consistent with paragraph (e)(3)(ii) of this section; or
 (iii) After receiving prior approval of the [AGENCY], an alternative modelling approach; and

(3) For purposes of calculating the default risk capital requirement, one of the following approaches:

(i) The look-through approach provided that a [BANKING ORGANIZATION] must set the gross default exposure assigned to a single name, referenced by the instrument, equal to the difference between the value of the instrument assuming only the single name defaults and assuming the LGD for the single name is the appropriate LGD specified in § _____.210(b)(1)(iv) and the value of the instrument assuming none of the single names referenced by the instrument default;

(ii) A single exposure mapped to an appropriate bucket, provided that the index or option substantially meets the criteria for that bucket; or

(iii) A single sub-speculative exposure.

(e) *Treatment of equity positions in an investment fund.* For an equity position in an investment fund that is a market risk covered position, the [BANKING ORGANIZATION] must apply the following provisions.

(1) A [BANKING ORGANIZATION] must determine whether it is able to use the look-through approach to calculate market risk capital requirements for its proportional ownership share of all or a portion of the underlying positions in the fund. If a [BANKING ORGANIZATION] is able to use the look-through approach to calculate market capital requirements for only a portion of the underlying positions in

the fund, the [BANKING ORGANIZATION] must treat the equity position in the investment fund as two separate market risk covered positions: one market risk covered position for which the [BANKING ORGANIZATION] is able to apply the look-through approach and one market risk covered position for which the [BANKING ORGANIZATION] is not able to apply the look-through approach, with each position representing the proportional amount of the original position corresponding to the portion of the investment fund that the [BANKING ORGANIZATION] is able to use the look-through approach or not able to use the look-through approach, respectively.

(2) With respect to a position subject to this paragraph (e) for which the [BANKING ORGANIZATION] is able to use the look-through approach to calculate market risk capital requirements, the [BANKING ORGANIZATION] must apply the treatment specified in paragraph (d) of this section.

(3) With respect to a position subject to this paragraph (e) for which the [BANKING ORGANIZATION] is not able to use the look-through approach to calculate market risk capital requirements, the [BANKING ORGANIZATION] must apply one of the following three methods in paragraphs (e)(3)(i) through (e)(3)(iii) of this section, provided that the [BANKING ORGANIZATION] must not include such market risk covered positions in the calculation of the models-based non-default capital requirement:

(i) *Tracked index method.* For an investment fund that closely tracks an index benchmark, the [BANKING ORGANIZATION] treats the investment fund as the tracked index and calculates the standardized non-default capital requirement by applying the treatment specified in paragraphs (d)(1)(i)(B) and (d)(1)(ii)(B) of this section, and the default risk capital requirement by applying the treatment specified in paragraph (d)(3) of this section.

(ii) *Hypothetical portfolio approach.* The [BANKING ORGANIZATION] decomposes the investment fund into a hypothetical portfolio for the standardized non-default capital requirement and the default risk capital requirement, provided that the hypothetical portfolio either:

(A) Assumes the fund invests to the maximum extent permitted under the fund's investment limits in the exposure types subject to the highest applicable risk weights, provided that if more than one risk weight can be applied to a given exposure, the maximum risk

weight applicable must be used, that cause the fund to be fully invested; or

(B) Is based on the most recent quarterly disclosure of the investment fund's holdings of underlying positions.

(iii) *Backstop fund method.* (A) For purposes of calculating the standardized non-default capital requirement, a [BANKING ORGANIZATION] may allocate the equity position in an investment fund to the other sector bucket 11 in Table 8 to § _____.209. If an investment fund's investment mandate permits the investment fund to maintain exposure types as described in § _____.211(a), the [BANKING ORGANIZATION] must apply the residual risk add-on to the portion of the fund permitted to be invested in such exposure types, assuming the fund would invest in such exposure types to the maximum extent permitted under the mandate.

(B) For purposes of calculating the default risk capital requirement, the [BANKING ORGANIZATION] must calculate the default risk capital requirement based on either:

(1) A hypothetical portfolio, as described in paragraph (e)(3)(ii) of this section; or

(2) A single sub-speculative equity exposure.

(f) *Term repo-style transactions that the [BANKING ORGANIZATION] elects to include in market risk.* A [BANKING ORGANIZATION] may elect to include a term repo-style transaction in market risk, provided that the [BANKING ORGANIZATION]:

(1) Includes all such term repo-style transactions consistently over time;

(2) Marks the transaction to market;

(3) Captures the market price risk and the issuer-default risk of the transaction by:

(i) Including the risk factor sensitivity to each applicable risk factor pursuant to § _____.208; and

(ii) Calculating the default risk capital requirement under § _____.210 using:

(A) For the calculation of Expanded Total Risk-Weighted Assets, the exposure amount that would apply to the transaction under §§ _____.113 through _____.115 multiplied by 8 percent; or

(B) For the calculation of Standardized Total Risk-Weighted Assets, the collateral haircut approach that would apply to the transaction under § _____.37(c) multiplied by 8 percent;

(4) Recognizes:

(i) For the calculation of Expanded Total Risk-Weighted Assets, the credit risk mitigation benefits of collateral pursuant to § _____.115; or

(ii) For the calculation of Standardized Total Risk-Weighted

Assets, the credit risk mitigation benefits of collateral pursuant to § _____.37(c); and

(5) Treats the term repo-style transactions the [BANKING ORGANIZATION] elects to include in market risk as market risk covered positions for the purposes of calculations under this part.

(g) *Internal risk transfers.* (1) A [BANKING ORGANIZATION] that is subject to the market risk capital requirements in this subpart F may recognize the risk mitigation benefits of an external hedge under subpart D or subpart E of this part if the internal risk transfer meets the applicable criteria in this paragraph (g).

(i) *Credit risk.* A [BANKING ORGANIZATION] may capitalize under subpart D or subpart E of this part the leg of an eligible internal risk transfer to hedge credit risk transferred by the trading desk to another unit within the [BANKING ORGANIZATION].

(A) For credit risk, an eligible internal risk transfer means an internal risk transfer for which:

(1) The documentation of the internal risk transfer identifies the exposure under subpart D or subpart E of this part that is being hedged and its source(s) of credit risk;

(2) The terms of the internal risk transfer, aside from amount, are identical to the terms of the external hedge of credit risk at trade initiation; and

(3) The external hedge meets the requirements of § _____.36 or § _____.120, as applicable.

(B) If the amount of the internal risk transfer exceeds the exposure being hedged under subpart D or subpart E of this part, the [BANKING ORGANIZATION] must treat the amount equal to the exposure being hedged under subpart D or subpart E of this part as an eligible internal risk transfer, and the excess amount as a separate internal risk transfer that is not an eligible internal risk transfer, which must be capitalized as a net short credit position.

(ii) *Interest rate risk.* A [BANKING ORGANIZATION] may capitalize the trading desk segment of an eligible internal risk transfer as a market risk covered position. For interest rate risk, an eligible internal risk transfer means an internal risk transfer:

(A) For which the documentation of the internal risk transfer identifies the exposure being hedged and its source(s) of interest rate risk;

(B) If the position is on a dedicated notional trading desk, that desk calculates market risk capital on a

stand-alone basis, pursuant to § _____.204(a)(2)(ii); and

(C) Is executed on a trading desk that the [BANKING ORGANIZATION] has established for conducting internal risk transfers to hedge interest rate risk and that has received approval from the [AGENCY] to execute such internal risk transfers to hedge interest rate risk.

(2) *CVA risk.* A [BANKING ORGANIZATION] that is subject to the market risk capital requirements and CVA risk-based capital requirements in this subpart F may hedge CVA risk arising from a derivative contract through internal CVA hedges executed with the [BANKING ORGANIZATION]'s trading desk, using an eligible internal risk transfer.

(i) The [BANKING ORGANIZATION] may consider the internal risk transfer of CVA risk to be an eligible internal risk transfer, if the following requirements are satisfied:

(A) The CVA segment of the transaction is an eligible CVA hedge; and

(B) The documentation of the internal risk transfer of CVA risk identifies the CVA risk being hedged and the source(s) of such risk.

(ii) The [BANKING ORGANIZATION] must designate a CVA desk or the functional equivalent to manage internal risk transfers of CVA risk to the [BANKING ORGANIZATION]'s trading desks.

§ _____.206 Sensitivities-Based Capital Requirement

(a) Overview of the calculation. A [BANKING ORGANIZATION] must follow the steps below to calculate the sensitivities-based capital requirement:

(1) The [BANKING ORGANIZATION] must identify the market risks in each of its portfolios of market risk covered positions and include the relevant risk classes in its calculation of the sensitivities-based capital requirement. The risk classes are:

- (i) Interest rate risk;
- (ii) Credit spread risk for non-securitization positions;
- (iii) Credit spread risk for correlation trading positions;
- (iv) Credit spread risk for securitization positions non-CTP;
- (v) Equity risk;
- (vi) Commodity risk; and
- (vii) Foreign exchange risk.

(2) For each market risk covered position, a [BANKING ORGANIZATION] must identify all of the relevant risk factors as described in § _____.208 for which it will calculate sensitivities for delta risk and vega risk as described in § _____.207 and curvature scenarios for curvature risk as described

in both paragraph (d) of this section and in § _____.207. A [BANKING ORGANIZATION] must also identify the corresponding buckets related to these risk factors as described in § _____.209.

(3) To calculate risk-weighted sensitivities a [BANKING ORGANIZATION] must aggregate the delta sensitivities and vega sensitivities, respectively, for each risk factor across all market risk covered positions and apply the corresponding risk weights as described in § _____.209(b) and (c). To calculate the net curvature risk position, a [BANKING ORGANIZATION] must aggregate the incremental loss beyond the delta capital requirement by applying an upward and downward shock to each risk factor in accordance with paragraph (d)(1) of this section.

(4) For each bucket, a [BANKING ORGANIZATION] must calculate a bucket-level risk position separately for delta risk and vega risk by aggregating the risk-weighted sensitivities across risk factors with common characteristics as described in paragraphs (b)(2) and (c)(2) of this section. Similarly, for curvature risk, a [BANKING ORGANIZATION] must calculate a bucket-level risk position for each bucket by aggregating the net curvature risk positions within each bucket as described in paragraph (d)(2) of this section.

(5) To calculate the risk class-level capital requirement a [BANKING ORGANIZATION] must aggregate the bucket-level risk positions for each risk class for delta risk, vega risk, and curvature risk (separately) under three correlation scenarios in accordance with paragraphs (b)(3), (c)(3), and (d)(3) of this section. For each risk class, the risk class-level capital requirement is the sum of the delta capital requirement, the vega capital requirement and the curvature capital requirement for the respective correlation scenario.

(i) The delta capital requirement is described in paragraph (b) of this section.

(ii) The vega capital requirement is described in paragraph (c) of this section.

(iii) The curvature capital requirement is described in paragraph (d) of this section.

(iv) The correlation scenarios are provided in paragraph (e) of this section and § _____.209.

(6) To calculate the sensitivities-based capital requirement, a [BANKING ORGANIZATION] must sum the risk class-level capital requirements for each risk class under each correlation scenario. The sensitivities-based capital requirement equals the largest capital

requirement produced under the three correlation scenarios.

(b) *Delta capital requirement.* For each risk class, a [BANKING ORGANIZATION] must calculate the delta capital requirement for all of its market risk covered positions, except for market risk covered positions whose value at any point in time exclusively depends on an exotic exposure. To calculate the delta capital requirement, for each risk class, a [BANKING ORGANIZATION] must calculate its market risk covered positions' delta sensitivities in accordance with § _____.207 to the relevant risk factors specified in § _____.208, multiply the

sensitivities by the corresponding risk weights specified in paragraph § _____.209(b), and aggregate the resulting risk-weighted delta sensitivities in accordance with the following:

(1) *Weighted sensitivity calculation.* For each risk factor, a [BANKING ORGANIZATION] must calculate the delta sensitivity as described in § _____.207. A [BANKING ORGANIZATION] must net the delta sensitivities of a risk factor k , irrespective of the market risk covered positions from which they derive, to produce a net delta sensitivity, s_k , across all market risk covered positions. The

risk-weighted delta sensitivity, WS_k , equals the product of the net sensitivity, s_k , and the corresponding risk weight specified in paragraph § _____.209(b).

(2) *Within bucket aggregation.* For each bucket, b , specified in paragraph § _____.209(b), a [BANKING ORGANIZATION] must calculate the delta bucket-level risk position, K_b , by aggregating the risk-weighted delta sensitivities of all risk factors that are within the same bucket, using the correlation parameter ρ_{kl} as specified in §§ _____.206(e) and _____.209(b), as follows:

$$K_b = \sqrt{\max\left(\left(\sum_k WS_k^2 + \sum_k \sum_{k \neq l} \rho_{kl} WS_k WS_l\right), 0\right)}.$$

(3) *Across bucket aggregation.* A [BANKING ORGANIZATION] must calculate the delta capital requirement for each risk class by aggregating the

delta bucket-level risk positions across all of the buckets within the risk class, using the cross-bucket correlation parameter γ_{bc} as specified in

§§ _____.206(e) and _____.209(b), as follows:

$$\text{delta capital requirement}_{(\text{risk class})} = \sqrt{\sum_b K_b^2 + \sum_b \sum_{b \neq c} \gamma_{bc} S_b S_c}.$$

Where:

- (i) $S_b = \sum_k WS_k$ for all risk factors in bucket b and $S_c = \sum_k WS_k$ for all risk factors in bucket c ; and
- (ii) If S_b and S_c produce a negative number for the overall sum of

$$\sum_b K_b^2$$

$\sum_b \sum_{b \neq c} \gamma_{bc} S_b S_c$, the [BANKING ORGANIZATION] must calculate the delta capital requirement using an alternative specification, whereby:

(A) $S_b = \max(\min(\sum_k WS_k K_b), -K_b)$ for all risk factors in bucket b ; and

(B) $S_c = \max(\min(\sum_k WS_k K_c), -K_c)$ for all risk factors in bucket c .

(c) *Vega capital requirement.* For each risk class, a [BANKING ORGANIZATION] must calculate the vega capital requirement for market risk covered positions that are options or are positions with embedded optionality,

including positions with material prepayment risk. Callable and puttable bonds that are priced based on yield to maturity are not required to estimate vega capital requirement. To calculate the vega capital requirement, for each risk class, a [BANKING ORGANIZATION] must calculate its market risk covered positions' vega sensitivities in accordance with § _____.207 to the relevant risk factors specified in § _____.208, multiply the sensitivities by the corresponding risk weights specified in § _____.209(c), and aggregate the resulting risk-weighted sensitivities for vega risk in accordance with the following:

(1) *Weighted sensitivity calculation.* For each risk factor, a [BANKING ORGANIZATION] must calculate the vega sensitivity as described in § _____.207(c). A [BANKING

ORGANIZATION] must net the vega sensitivities of a risk factor k , irrespective of the market risk covered positions from which they derive, to produce a net vega sensitivity, s_k , across all market risk covered positions. The risk-weighted vega sensitivity, WS_k , equals the product of the net sensitivity s_k and the corresponding risk weight specified in § _____.209(c).

(2) *Within bucket aggregation.* Unless otherwise specified in § _____.209(c), for each bucket, b , specified in § _____.209(c), a [BANKING ORGANIZATION] must calculate the vega bucket-level risk position, K_b , by aggregating the risk-weighted vega sensitivities of all risk factors that are within the same bucket, using the correlation parameter, ρ_{kl} , as specified in §§ _____.206(e) and _____.209(c), as follows:

$$K_b = \sqrt{\max\left(\left(\sum_k WS_k^2 + \sum_k \sum_{k \neq l} \rho_{kl} WS_k WS_l\right), 0\right)}.$$

(3) *Across bucket aggregation.* A [BANKING ORGANIZATION] must calculate the vega capital requirement for each risk class by aggregating the

vega bucket-level risk positions across all of the buckets within the risk class, using the cross-bucket correlation parameter, γ_{bc} , specified in

§§ _____.206(e) and _____.209(c), as follows:

$$\text{vega capital requirement}_{(\text{risk class})} = \sqrt{\sum_b K_b^2 + \sum_b \sum_{c \neq b} \gamma_{bc} S_b S_c}.$$

Where:

- (i) $S_b = \sum_k WS_k$ for all risk factors in bucket b and $S_c = \sum_k WS_k$ for all risk factors in bucket c ; and
- (ii) If S_b and S_c produce a negative number for the overall sum of $\sigma_b K_b^2 + \sum_b \sum_{c \neq b} \gamma_{bc} S_b S_c$, the [BANKING ORGANIZATION] must calculate the vega capital requirement using an alternative specification, whereby:
 - (A) $S_b = \max(\min(\sigma_k WS_k, K_b), -K_b)$ for all risk factors in bucket b ; and
 - (B) $S_c = \max(\min(\sigma_k WS_k, K_c), -K_c)$ for all risk factors in bucket c .

(d) *Curvature capital requirement.* For each risk class, a [BANKING ORGANIZATION] must calculate the

curvature capital requirement by applying an upward shock and a downward shock to each risk factor and calculate the incremental loss in excess of that already captured by the delta capital requirement for all market risk covered positions that are options or positions with embedded optionality, including positions with material prepayment risk, using the approach in paragraph (d)(1) of this section and in accordance with §§ _____.207 and _____.209(d). A [BANKING ORGANIZATION] may, on a trading desk by trading desk basis, choose to include market risk covered positions

without optionality in the calculation of its curvature capital requirement, provided that the [BANKING ORGANIZATION] does so consistently through time.

(1) *Curvature risk position calculation.* For each market risk covered position for which the curvature capital requirement is calculated, an upward shock and a downward shock must be applied to risk factor, k . The size of the shock, *i.e.*, the risk weight, is specified in § _____.209(d). The net curvature risk position for the portfolio is calculated as,

$$CVR_k^+ = - \sum_i \left(V_i(x_k^{RW(\text{Curvature})^+}) - V_i(x_k) - (RW_k^{\text{Curvature}} \times s_{ik}) \right)$$

$$CVR_k^- = - \sum_i \left(V_i(x_k^{RW(\text{Curvature})^-}) - V_i(x_k) + (RW_k^{\text{Curvature}} \times s_{ik}) \right)$$

Where:

- (i) i is a market risk covered position subject to curvature risk for risk factor k ;
- (ii) x_k is the current level of risk factor k ;
- (iii) $V_i(x_k)$ is the value of market risk covered position i at the current level of risk factor k ;
- (iv) $V_i(x_k(RW(\text{curvature})^+))$ and $V_i(RW(\text{curvature})^-)$ denote the value of market risk covered position i after x_k is shifted (*i.e.*, “shocked”) upward and downward, respectively;
- (v) $RW_k(\text{curvature})$ is the risk weight for curvature risk for factor k and market risk covered position i ; and
- (vi) s_{ik} is the delta sensitivity of market risk covered position i with respect to curvature risk factor k , such that:

(A) For the following risk classes, s_{ik} is the delta sensitivity of market risk covered position i :

- (1) Foreign exchange risk; and
- (2) Equity risk;

(B) For the following risk classes, s_{ik} is the sum of the delta sensitivities to all tenors of the relevant curve of market risk covered position i with respect to curvature risk factor k :

- (1) Interest rate risk;
- (2) Credit spread risk for non-securitization positions;
- (3) Credit spread risk for correlation trading positions;
- (4) Credit spread risk for securitization positions non-CTP; and

(5) Commodity risk; and

(C) The delta sensitivity s_{ik} must be the delta sensitivity described in § _____.207 used in calculating the delta capital requirement.

(2) *Within bucket aggregation.* Unless otherwise specified in § _____.209(d), for each bucket specified in § _____.209(d), a [BANKING ORGANIZATION] must calculate a curvature bucket-level risk position by aggregating the net curvature risk positions within the bucket using the correlation parameter, γ_{kl} , as specified in §§ _____.206(e) and _____.209(d) as follows:

$$K_b = \max(K^+_b, K^-_b)$$

$$\text{where } \begin{cases} K_b^+ = \sqrt{\max \left(\left(\sum_k \max(CVR_k^+, 0)^2 + \sum_{l \neq k} \sum_k \rho_{kl} CVR_k^+ CVR_l^+ \psi(CVR_k^+, CVR_l^+) \right), 0 \right)} \\ K_b^- = \sqrt{\max \left(\left(\sum_k \max(CVR_k^-, 0)^2 + \sum_{l \neq k} \sum_k \rho_{kl} CVR_k^- CVR_l^- \psi(CVR_k^-, CVR_l^-) \right), 0 \right)} \end{cases};$$

and

(i) The bucket-level capital requirement, K_b , is calculated as the greater of the capital requirement under the upward scenario, K_b^+ , or the capital requirement under the downward scenario, K_b^- ; and

(ii) In the specific case where $K_b^+ = K_b^-$, if $\sum_k CVR_k^+ > \sum_k CVR_k^-$, the upward

scenario is selected, otherwise the

downward scenario is selected; and
(iii) $\Psi(CVR_k, CVR_l) = 0$ if CVR_k and CVR_l both have negative signs; and $\Psi(CVR_k, CVR_l) = 1$ otherwise.

(3) *Across bucket aggregation.* A [BANKING ORGANIZATION] must calculate the curvature capital requirement for each risk class by

aggregating the curvature bucket-level risk positions across buckets within each risk class, using the prescribed cross-bucket correlation parameter, as specified in §§ _____.206(e) and _____.209(d), as follows:

*curvature capital requirement*_(risk class)

$$= \sqrt{\max \left(\left(\sum_b K_b^2 + \sum_{c \neq b} \sum_b \gamma_{bc} S_b S_c \psi(S_b, S_c) \right), 0 \right)}$$

Where:

- (i) $S_b = \sum_k CVR_k^+$ for all risk factors in bucket b when the upward scenario has been selected for bucket b , and $S_b = \sum_k CVR_k^-$ otherwise; and
(ii) $\Psi(S_b, S_c) = 0$, if S_b and S_c both have negative signs, and $\Psi(S_b, S_c) = 1$ otherwise.

(e) *Correlation scenarios.* A [BANKING ORGANIZATION] must

repeat the aggregation of the bucket-level risk positions and risk class-level capital requirements for delta risk, vega risk, and curvature risk for three different values of the correlation parameters (correlation between risk factors within a bucket) and (correlation across buckets within a risk class) as specified below:

(1) For the medium correlation scenario, the correlation parameters and specified in § _____.209 apply;

(2) For the high correlation scenario, the specified correlation parameters and are uniformly multiplied by 1.25, with and subject to a cap at 100 percent; and

(3) For the low correlation scenario, the specified correlation parameters and are replaced by,

$$\rho_{kl}^{low} = \max((2 \times \rho_{kl}) - 100\%, 75\% \times \rho_{kl}), \text{ and}$$

$$\gamma_{bc}^{low} = \max((2 \times \gamma_{bc}) - 100\%, 75\% \times \gamma_{bc}).$$

§ _____.207 Sensitivities-Based Capital Requirement: Calculation of Delta Sensitivities, Vega Sensitivities and Curvature Scenarios

(a) *General requirements.* For purposes of calculating the delta capital requirement, the vega capital requirement, and the curvature capital requirement, a [BANKING ORGANIZATION] must calculate the delta sensitivities, vega sensitivities, and curvature scenarios in accordance with the requirements set forth in this section.

(1) To calculate delta sensitivities, a [BANKING ORGANIZATION] must use

the sensitivity definitions for delta risk as provided in paragraph (b) of this section.

(2) To calculate its vega sensitivities, a [BANKING ORGANIZATION] must use the sensitivity definitions for vega risk as provided in paragraph (c) of this section.

(3) A [BANKING ORGANIZATION] must calculate delta sensitivities, vega sensitivities, and curvature scenarios based on pricing models.

(4) For each risk factor as provided in § _____.208, a [BANKING ORGANIZATION] must calculate the delta sensitivities, vega sensitivities,

and curvature scenarios as the change in the value of a market risk covered position as a result of applying a specified shift to each risk factor, assuming all other relevant risk factors are held at the current level. In cases where applying this assumption is ambiguous, a [BANKING ORGANIZATION] must perform the calculation consistently with the models specified in paragraph (a)(3) of this section. With prior approval from the [AGENCY], a [BANKING ORGANIZATION] may calculate delta sensitivities, vega sensitivities, and

curvature scenarios using an alternative basis.

(5) When calculating delta sensitivities for market risk covered positions that are options or positions with embedded options, a [BANKING ORGANIZATION] must use one of the following assumptions:

(i) The dynamics of the implied volatility are such that when the price of the underlying changes, the implied volatility of an option or a market risk covered position with an embedded option will remain unchanged for any given moneyness (sticky delta rule); or

(ii) When the price of the underlying changes, the implied volatility of an option or a market risk covered position with an embedded option will remain unchanged for any given strike price (sticky strike rule); or

(iii) With prior approval from the [AGENCY], another assumption.

(6) The curvature scenarios and sensitivities to the delta risk factors for credit spread risk for securitization positions non-CTP (as specified in § _____.208(d)) must be calculated with respect to the spread of the tranche rather than the spread of the underlying position.

(7) The curvature scenarios and sensitivities to the delta risk factors for credit spread risk for correlation trading positions (as specified in § _____.208(e)) must be computed with respect to the underlying names of the securitization position or nth-to-default position.

(8) A [BANKING ORGANIZATION] must calculate the delta sensitivities, vega sensitivities, and curvature scenarios for each risk class in the reporting currency of the [BANKING

ORGANIZATION], except for the foreign exchange risk class where, with prior approval of the [AGENCY], the [BANKING ORGANIZATION] may calculate sensitivities and curvature scenarios relative to a base currency instead of the reporting currency as specified in § _____.208(h).

(9) A [BANKING ORGANIZATION] must calculate all sensitivities ignoring the impact of CVA on fair values.

(b) *Sensitivity definitions for delta risk*—(1) *Interest rate risk*. The delta sensitivity for interest rate risk is calculated by changing the interest rate at tenor of the relevant interest rate curve in a given currency by one basis point (0.0001 in absolute terms) and dividing the resulting change in the value of the market risk covered position, by 0.0001 as follows:

$$S_{k,r_t} = \frac{V_i(r_t + 0.0001, cs_t) - V_i(r_t, cs_t)}{0.0001}$$

Where:

- (i) k is a given risk factor;
- (ii) i is a given market risk covered position;
- (iii) r_t is the interest rate curve at tenor t ;
- (iv) cs_t is the credit spread curve at tenor t ; and

(v) V_i is the value of the market risk covered position as a function of the interest rate curve and credit spread curve.

(2) *Credit spread risk*. The delta sensitivity for credit spread risk for non-securitization positions, credit spread risk for securitization positions non-CTP, and credit spread risk for

correlation trading positions is calculated by changing the relevant credit spread at tenor by one basis point (0.0001 in absolute terms) and dividing the resulting change in the value of the market risk covered position, by 0.0001 as follows:

$$S_{k,cs_t} = \frac{V_i(r_t, cs_t + 0.0001) - V_i(r_t, cs_t)}{0.0001}$$

Where:

- (i) k is a given risk factor;
- (ii) i is a given market risk covered position;
- (iii) r_t is the interest rate curve at tenor t ;
- (iv) cs_t is the credit spread curve at tenor t ; and

(v) V_i is the value of the market risk covered position as a function of the interest rate curve and credit spread curve.

(3) *Equity risk*. A [BANKING ORGANIZATION] must calculate the delta sensitivity for equity risk using the equity spot price and the equity repo rate as follows:

(i) A [BANKING ORGANIZATION] must calculate the delta sensitivity for equity spot price by changing the relevant equity spot price by one percentage point (0.01 in relative terms) and dividing the resulting change in the value of the market risk covered position, by 0.01 as follows:

$$S_k = \frac{V_i(1.01 EQ_k) - V_i(EQ_k)}{0.01}$$

Where:

- (A) k is a given equity;
- (B) i is a given market risk covered position;
- (C) EQ_k is the value of equity k ; and
- (D) V_i is the value of market risk covered position as a function of the price of equity k .

(ii) A [BANKING ORGANIZATION] must calculate the delta sensitivity for equity repo rate by applying a parallel shift to the equity repo rate term structure by one basis point (0.0001 in absolute terms) and dividing the

resulting change in the value of the market risk covered position, V_i , by 0.0001 as follows:

$$S_k = \frac{V_i(RTS_k + 0.0001) - V_i(RTS_k)}{0.0001}$$

Where:

- (A) k is a given equity;
- (B) RTS_k is the repo term structure of equity k ; and

(C) V_i is the value of market risk covered position as a function of the repo term structure of equity k .

(4) *Commodity risk.* A [BANKING ORGANIZATION] must calculate the delta sensitivity for commodity risk by

changing the relevant commodity spot price by one percentage point (0.01 in relative terms) and dividing the resulting change in the value of the market risk covered position (V_i) by 0.01 as follows:

$$S_k = \frac{V_i(1.01 CTY_k) - V_i(CTY_k)}{0.01}$$

Where:

- (i) k is a given commodity;
- (ii) CTY_k is the exchange rate between a given currency and a [BANKING ORGANIZATION]'s reporting currency or base currency, as applicable, where the foreign exchange spot rate is the current market price of one unit of another currency expressed in the units of the [BANKING ORGANIZATION]'s
- (iii) V_i is the value of market risk covered position as a function of the spot price of commodity k :

(5) *Foreign exchange risk.* A [BANKING ORGANIZATION] must calculate the delta sensitivity for foreign exchange risk by changing the relevant exchange rate by one percentage point

(0.01 in relative terms) and dividing the resulting change in the value of the market risk covered position, V_i , by 0.01 as follows:

$$S_k = \frac{V_i(1.01 FX_k) - V_i(FX_k)}{0.01}$$

Where:

- (i) k is a given currency;
- (ii) FX_k is the exchange rate between a given currency and a [BANKING ORGANIZATION]'s reporting currency or base currency, as applicable, where the foreign exchange spot rate is the current market price of one unit of another currency expressed in the units of the [BANKING ORGANIZATION]'s
- (iii) V_i is the value of market risk covered position as a function of the exchange rate k .

reporting currency or base currency, as applicable; and

(iii) V_i is the value of market risk covered position as a function of the exchange rate k .

(c) *Sensitivity definitions for vega risk.* (1) A [BANKING ORGANIZATION] must calculate the vega sensitivity to a given risk factor (provided in § _____.208)

by multiplying vega by the volatility of the option as follows:

$$S_k = \text{vega} \times \text{volatility}$$

Where:

- (i) *vega* is defined as the change in the value of the option V_i as a result of a small amount of change to the volatility σ_i , which can be represented as

$$\frac{\partial V_i}{\partial \sigma_i}$$

and

- (ii) *Volatility* is defined as either the implied volatility or at-the-money volatility of the option, depending on which is used by the models used to calculate vega sensitivity to determine the intrinsic value of volatility in the price of the option.

(2) For interest rate risk, a [BANKING ORGANIZATION] must map the implied volatility of the option to one or more tenors specified in the risk factors definitions in § _____.208(b)(2).

(3) A [BANKING ORGANIZATION] must assign market risk covered positions that are options or positions with embedded options that do not have a maturity to the longest prescribed maturity tenor.

(4) A [BANKING ORGANIZATION] must map market risk covered positions that are options or positions with embedded options that do not have a strike price, that have multiple strike prices, or are barrier options, to the

strike prices and maturities used for models used to calculate vega sensitivity to value these positions.

§ _____.208 Sensitivities-Based Capital Requirement: Risk Factor Definitions

(a) For purposes of calculating the sensitivities-based capital requirement, a [BANKING ORGANIZATION] must identify all of the relevant risk factors in accordance with the requirements in this section for its market risk covered positions. Where specified, a [BANKING ORGANIZATION] must use the tenors or maturities specified in this section and assign risk factors and corresponding sensitivities to specified tenors or maturities by linear interpolation or a method that is most consistent with the pricing functions used by the internal risk management models.

(b) *Risk factors for interest rate risk—*
(1) *Delta risk factors for interest rate*

risk. The delta risk factors for interest rate risk are defined for each currency and consist of interest rate risk factors as well as inflation rate risk factors and cross-currency basis risk factors, as applicable.

(i) For each currency, the delta risk factors for interest rate risk are defined along two dimensions:

(A) An interest rate curve, for the currency, in which interest rate-sensitive market risk covered positions are denominated; and

(B) Tenor: 0.25 years, 0.5 years, 1 year, 2 years, 3 years, 5 years, 10 years, 15 years, 20 years, and 30 years.

(ii) For each currency (each interest rate risk bucket), a [BANKING ORGANIZATION] must calculate, in addition to paragraph (b)(1)(i) of this section, separate delta sensitivities for each of the following delta risk factors, as applicable:

(A) *Inflation rate risk factors.* Inflation rate risk factors apply to any market risk

covered position whose cash flows are functionally dependent on a measure of inflation (inflation positions). Inflation rate risk factors must be based on the market-implied inflation rates for each currency where term structure is not recognized. All inflation rate risk for a given currency must be aggregated as the sum of the delta sensitivities to the inflation rate risk factors of all inflation positions.

(B) *Cross-currency basis risk factors.* The delta risk factors for interest rate risk include one of two possible cross-currency basis risk factors for each currency where term structure is not recognized. The two cross-currency basis risk factors are basis of each currency over USD or basis of each currency over EUR. Cross-currency bases that do not relate to either basis over USD or basis over EUR must be computed either on “basis over USD” or “basis over EUR,” but not both.

(2) *Vega risk factors for interest rate risk.* The vega risk factors for interest rate risk are defined for each currency and consist of:

(i) The implied volatilities of inflation rate risk-sensitive options as defined along paragraph (b)(2)(iii)(A) of this section;

(ii) The implied volatilities of cross-currency basis risk-sensitive options as defined along paragraph (b)(2)(iii)(A) of this section; and

(iii) The implied volatilities of interest rate risk-sensitive options as defined along paragraphs (b)(2)(iii)(A) and (B) of this section.

(A) The maturity of the option: 0.5 years, 1 year, 3 years, 5 years, and 10 years; and

(B) The residual maturity of the underlying instrument at the expiry date of the option: 0.5 years, 1 year, 3 years, 5 years, and 10 years.

(3) *Curvature risk factors for interest rate risk.* The curvature risk factors for interest rate risk are defined along one dimension, the relevant interest rate curve, per currency, where term structure is not recognized. To calculate curvature scenarios, a [BANKING ORGANIZATION] must shift all tenors provided in paragraph (b)(1)(i)(B) of this section, in parallel. There is no curvature capital requirement for inflation risk and cross-currency basis risks.

(c) *Risk factors for credit spread risk for non-securitization positions—(1) Delta risk factors for credit spread risk for non-securitization positions.* The delta risk factors for credit spread risk for non-securitization positions are defined along two dimensions:

(i) The issuer credit spread curve; and

(ii) Tenor: 0.5 years, 1 year, 3 years, 5 years, and 10 years.

(2) *Vega risk factors for credit spread risk for non-securitization positions.* For each credit spread curve, the vega risk factors for credit spread risk for non-securitization positions are the implied volatilities of options as defined along one dimension for the maturity of the option: 0.5 years, 1 year, 3 years, 5 years, and 10 years.

(3) *Curvature risk factors for credit spread risk for non-securitization positions.* The curvature risk factors for credit spread risk for non-securitization positions are defined along the relevant issuer credit spread curves. For purposes of calculating curvature scenarios, a [BANKING ORGANIZATION] must ignore the bond-CDS basis and treat the bond-inferred spread curve of an issuer and the CDS-inferred spread curve of that same issuer as a single spread curve. To calculate curvature scenarios, a [BANKING ORGANIZATION] must shift all tenors provided in paragraph (c)(1)(ii) of this section, in parallel.

(d) *Risk factors for credit spread risk for securitization positions non-CTP—*

(1) *Delta risk factors for credit spread risk for securitization positions non-CTP.* The delta risk factors for credit spread risk for securitization positions non-CTP are defined along two dimensions:

(i) The tranche credit spread curve; and

(ii) Tenor of the tranche: 0.5 years, 1 year, 3 years, 5 years, and 10 years.

(2) *Vega risk factors for credit spread risk for securitization positions non-CTP.* For each tranche credit spread curve, the vega risk factors for credit spread risk for securitization positions non-CTP are the implied volatilities of options as defined along one dimension for the maturity of the option: 0.5 years, 1 year, 3 years, 5 years, and 10 years.

(3) *Curvature risk factors for credit spread risk for securitization positions non-CTP.* The curvature risk factors for credit spread risk for securitization positions non-CTP are defined along one dimension, the relevant tranche credit spread curves. For purposes of calculating curvature scenarios, a [BANKING ORGANIZATION] must ignore the bond-CDS basis and treat the bond-inferred spread curve of a tranche and the CDS-inferred spread curve of that same tranche as a single spread curve. To calculate curvature scenarios, a [BANKING ORGANIZATION] must shift all tenors provided in paragraph (d)(1)(ii) of this section in parallel.

(e) *Risk factors for credit spread risk for correlation trading positions—(1) Delta risk factors for credit spread risk*

for correlation trading positions. The delta risk factors for credit spread risk for correlation trading positions are defined along two dimensions:

(i) The underlying credit spread curve; and

(ii) Tenor of the underlying name: 0.5 years, 1 year, 3 years, 5 years, and 10 years.

(2) *Vega risk factors for credit spread risk for correlation trading positions.* For each underlying credit spread curve, the vega risk factors for the credit spread risk for correlation trading positions are the implied volatilities of options as defined along one dimension for the maturity of the option: 0.5 years, 1 year, 3 years, 5 years, and 10 years.

(3) *Curvature risk factors for credit spread risk for correlation trading positions.* The curvature risk factors for credit spread risk for correlation trading positions are defined along one dimension, the relevant underlying credit spread curves. For purposes of calculating curvature scenarios, a [BANKING ORGANIZATION] must disregard the bond-CDS basis and treat the bond-inferred spread curve of a given name in an index and the CDS-inferred spread curve of that same underlying name as a single spread curve. To calculate curvature scenarios, a [BANKING ORGANIZATION] must shift all tenors provided in paragraph (e)(1)(ii) of this section in parallel.

(f) *Risk factors for equity risk—(1) Delta risk factors for equity risk.* The delta risk factors for equity risk are defined for each issuer and consist of equity spot prices and equity repo rates, as appropriate.

(2) *Vega risk factors for equity risk.* The vega risk factors for equity risk are defined for each issuer and consist of the implied volatilities of the spot prices of equity risk-sensitive options as defined along the maturity of the option: 0.5 years, 1 year, 3 years, 5 years, and 10 years.

(3) *Curvature risk factors for equity risk.* The curvature risk factors for equity risk are defined for each issuer and consist of all equity spot prices. There are no curvature risk factors for equity repo rates.

(g) *Risk factors for commodity risk—(1) Delta risk factors for commodity risk.* The delta risk factors for commodity risk are all commodity spot prices or forward prices and are defined along two dimensions for each commodity:

(i) The contracted delivery location of the commodity; and

(ii) Remaining maturity of the contract: 0 years, 0.25 years, 0.5 years, 1 year, 2 years, 3 years, 5 years, 10 years, 15 years, 20 years, and 30 years.

(2) *Vega risk factors for commodity risk.* The vega risk factors for commodity risk are the implied volatilities of commodity-sensitive options as defined along one dimension for each commodity, the maturity of the option: 0.5 years, 1 year, 3 years, 5 years, and 10 years.

(3) *Curvature risk factors for commodity risk.* The curvature risk factors for commodity risk are defined along one dimension per commodity, the constructed curve per commodity spot prices or forward prices, consistent with the delta risk factor, where term structure is not recognized. For the calculation of sensitivities, all tenors provided in paragraph (g)(1)(ii) of this section, are to be shifted in parallel.

(h) *Risk factors for foreign exchange risk—(1) Delta risk factors for foreign exchange risk.* The delta risk factors for foreign exchange risk are all the exchange rates between the currency in which a market risk covered position is denominated and the reporting currency.

(i) For market risk covered positions that reference an exchange rate between a pair of non-reporting currencies, the delta risk factors for foreign exchange risk are all the exchange rates between:

(A) The reporting currency; and

(B) The currency in which a market risk covered position is denominated and any other currencies referenced by the market risk covered position.

(ii) Alternatively, a [BANKING ORGANIZATION] may calculate delta risk factors for foreign exchange risk relative to a base currency instead of the reporting currency if approved by the [AGENCY]. In such case a [BANKING ORGANIZATION] must account for the foreign exchange risk against the base currency and the foreign exchange risk

between the reporting currency and the base currency (*i.e.*, translation risk). The resulting foreign exchange risk calculated relative to the base currency must be converted to the capital requirements in the reporting currency using the spot reporting/base exchange rate reflecting the foreign exchange risk between the base currency and the reporting currency.

(A) To use this alternative, a [BANKING ORGANIZATION] may only consider a single currency as its base currency; and

(B) A [BANKING ORGANIZATION] must demonstrate to the [AGENCY] that calculating foreign exchange risk relative to its base currency provides an appropriate risk representation of the [BANKING ORGANIZATION]'s market risk covered positions and that the translation risk between the base currency and the reporting currency is addressed.

(2) *Vega risk factors for foreign exchange risk.* The vega risk factors for foreign exchange risk-sensitive options are the implied volatility of options that reference exchange rates between currency pairs defined along the maturity of the option: 0.5 years, 1 year, 3 years, 5 years, and 10 years.

(3) *Curvature risk factors for foreign exchange risk.* The curvature risk factors for foreign exchange risk are all the exchange rates between the currency in which a market risk covered position is denominated and the reporting currency.

(i) For market risk covered positions that reference an exchange rate between a pair of non-reporting currencies, the curvature risk factors for foreign exchange risk are all the exchange rates between:

(A) The reporting currency; and

(B) The currency in which a market risk covered position is denominated and any other currencies referenced by the market risk covered position.

(ii) If the [BANKING ORGANIZATION] has received prior approval of the [AGENCY] to use the base currency approach in paragraph (h)(1)(ii) of this section, curvature risk factors for foreign exchange risk must be calculated relative to the base currency instead of the reporting currency, and then converted to the capital requirements in the reporting currency using the spot reporting/base exchange rate.

§ ___.209 Sensitivities-Based Method: Definitions of Buckets, Risk Weights and Correlation Parameters

(a) For the purpose of calculating the sensitivities-based capital requirement, a [BANKING ORGANIZATION] must identify all of the relevant buckets, corresponding risk weights and correlation parameters for each risk class as provided in paragraph (b) of this section (delta capital requirement), paragraph (c) of this section (vega capital requirement), and paragraph (d) of this section (curvature capital requirement), for its market risk covered positions.

(b) *Delta capital requirement—(1) Delta buckets, risk weights, and correlations for interest rate risk.* (i) A [BANKING ORGANIZATION] must establish a separate interest rate risk bucket for each currency.

(ii) For calculating risk-weighted delta sensitivities, the risk weights for each tenor of an interest rate curve are set out in Table 1 to § ___.209.

Table 1 to § ___.209—Delta Risk Weights for Interest Rate Risk

Tenor	0.25 year	0.5 year	1 year	2 year	3 year
Risk weight	1.7%	1.7%	1.6%	1.3%	1.2%
Tenor	5 year	10 year	15 year	20 year	30 year
Risk weight	1.1%	1.1%	1.1%	1.1%	1.1%

(iii) The risk weight for inflation rate risk factors and cross-currency basis risk factors equals 1.6 percent.

(iv) For United States Dollar, Australian Dollar, Canadian Dollar, Euro, Japanese Yen, Swedish Krona, and United Kingdom Pound, and any other

currencies specified by the [AGENCY], a [BANKING ORGANIZATION] may divide the risk weights in paragraphs (b)(1)(ii) and (iii) of this section by $\sqrt{2}$.

(v) For purposes of aggregating risk-weighted delta sensitivities of interest rate risk within a bucket as specified in § ___.206(b)(2), a [BANKING ORGANIZATION] must use the following correlation parameters:

(A) The correlation parameter ρ_{kl} between risk-weighted delta sensitivities WS_k and WS_l within the same bucket, with the same tenor but different interest rate curves equals 99.9 percent.

(B) The correlation parameter ρ_{kl} between risk-weighted delta sensitivities WS_k and WS_l within the same bucket, with different tenors and the same interest rate curve are set out in Table 2 to § ___.209.

Table 2 to § ___.209—Interest Rate Risk Correlation Parameter (ρ_{kl}) within the Same Bucket, with Different Tenors and the Same Interest Rate Curve

	0.25 year	0.5 year	1 year	2 year	3 year	5 year	10 year	15 year	20 year	30 year
0.25 year	100.0%	97.0%	91.4%	81.1%	71.9%	56.6%	40.0%	40.0%	40.0%	40.0%
0.5 year		100.0%	97.0%	91.4%	86.1%	76.3%	56.6%	41.9%	40.0%	40.0%
1 year			100.0%	97.0%	94.2%	88.7%	76.3%	65.7%	56.6%	41.9%
2 year				100.0%	98.5%	95.6%	88.7%	82.3%	76.3%	65.7%
3 year					100.0%	98.0%	93.2%	88.7%	84.4%	76.3%
5 year						100.0%	97.0%	94.2%	91.4%	86.1%
10 year							100.0%	98.5%	97.0%	94.2%
15 year								100.0%	99.0%	97.0%
20 year									100.0%	98.5%
30 year										100.0%

(C) The correlation parameter ρ_{kl} between risk-weighted delta sensitivities WS_k and WS_l within the same bucket, with different tenors and different interest rate curves equals the correlation parameter ρ_{kl} specified in Table 2 to § ___.209 multiplied by 99.9 percent.

(D) The correlation parameter ρ_{kl} between risk-weighted delta sensitivities WS_k and WS_l to different inflation curves within the same bucket equals 99.9 percent.

(E) The correlation parameter ρ_{kl} between a risk-weighted delta sensitivity WS_k to the inflation curve and a risk weighted delta sensitivity WS_l to a given tenor of the relevant interest rate curve equals 40 percent.

(F) The correlation parameter ρ_{kl} equals zero percent between risk-

weighted delta sensitivity WS_k to a cross-currency basis curve and a risk weighted delta sensitivity WS_l to each of the following curves:

- (1) A given tenor of the relevant interest rate curve;
- (2) The inflation curve; and
- (3) Any other cross-currency basis curve.

(vi) For purposes of aggregating delta bucket-level risk positions across buckets within the interest rate risk class as specified in § ___.206(b)(3), the cross-bucket correlation parameter Y_{bc} equals 50 percent.

(2) *Delta buckets, risk weights, and correlations for credit spread risk for non-securitizations.* (i) For credit spread risk for non-securitizations, a [BANKING ORGANIZATION] must establish buckets along two dimensions,

credit quality and sector, as set out in Table 3 to § ___.209. In assigning a delta sensitivity to a sector, a [BANKING ORGANIZATION] must follow market convention. A [BANKING ORGANIZATION] must assign each delta sensitivity to one and only one of the sector buckets in Table 3 to § ___.209. Delta sensitivities that a [BANKING ORGANIZATION] cannot assign to a sector must be assigned to the other sector, bucket 18 in Table 3 to § ___.209.

(ii) For calculating risk weighted delta sensitivities for credit spread risk for non-securitizations, a [BANKING ORGANIZATION] must use the risk weights in Table 3 to § ___.209. The risk weights are the same for all tenors within a bucket.

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Table 3 to § __.209—Delta Buckets and Risk Weights for Credit Spread Risk for Non-Securitizations

Bucket number	Credit quality category	Sector	Risk weight
1	Investment grade	Sovereign exposures, MDBs, and specified supranational entities	0.5%
2		PSEs, government-backed non-financials, GSE debt, education, and public administration	1.0%
3		Financials including government-backed financials and real estate activities	5.0%
4		Basic materials, energy, industrials, agriculture, manufacturing, and mining and quarrying	3.0%
5		Consumer goods and services, transportation and storage, and administrative and support service activities	3.0%
6		Technology and telecommunications	2.0%
7		Health care, utilities, and professional and technical activities	1.5%
8		Covered bonds	1.5%
9	Speculative grade	Sovereign exposures, MDBs, and specified supranational entities	3.0%
10	Speculative grade and sub-speculative grade	PSEs, government-backed non-financials, education, and public administration	4.0%
11		Financials including government-backed financials and real estate activities	12.0%
12		Basic materials, energy, industrials, agriculture, manufacturing, and mining and quarrying	7.0%
13		Consumer goods and services, transportation and storage, and administrative and support service activities	8.5%
14		Technology and telecommunications	5.5%
15		Health care, utilities, and professional and technical activities	5.0%
16		Covered bonds	2.5%
17	Sub-speculative grade	Sovereign exposures, MDBs, and specified supranational entities	7.0%
18	Other sector		12.0%

19	Investment grade indices	1.5%
20	Speculative grade and sub-speculative grade indices	5.0%

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(iii) For purposes of aggregating risk weighted delta sensitivities of credit spread risk for non-securitizations

within a bucket as specified in § _____.206(b)(2), a [BANKING ORGANIZATION] must use the following correlation parameters:

(A) For buckets 1 to 17, the correlation parameter ρ_{kl} between risk weighted delta sensitivities WS_k and WS_l equals:

$$\rho_{kl} = \rho_{kl}^{(name)} \times \rho_{kl}^{(tenor)} \times \rho_{kl}^{(basis)}$$

Where:

(1) $\rho_{kl}^{(name)}$ equals 100 percent if the two names of the delta sensitivities to risk factors k and l are identical, and 35 percent otherwise;

(2) $\rho_{kl}^{(tenor)}$ equals 100 percent if the two tenors of the delta sensitivities to risk factors k and l are identical, and 65 percent otherwise; and

(3) $\rho_{kl}^{(basis)}$ equals 100 percent if the two delta sensitivities are related to the same curve, and 99.9 percent otherwise.

(B) For bucket 18, the risk delta bucket level risk position equals the sum of the absolute values of the risk weighted delta sensitivities allocated to this bucket,

$$K_{b(\text{other bucket})} = \sum_k |WS_k|.$$

(C) For buckets 19 and 20, the correlation parameter ρ_{kl} between risk

weighted delta sensitivities WS_k and WS_l equals:

$$\rho_{kl} = \rho_{kl}^{(name)} \times \rho_{kl}^{(tenor)} \times \rho_{kl}^{(basis)}$$

Where:

(1) $\rho_{kl}^{(name)}$ equals 100 percent if the two names of the delta sensitivities to risk factors k and l are identical, and 80 percent otherwise;

(2) $\rho_{kl}^{(tenor)}$ equals 100 percent if the two tenors of the delta sensitivities to risk factors k and l are identical, and 65 percent otherwise; and

(3) $\rho_{kl}^{(basis)}$ equals 100 percent if the two delta sensitivities are related to the same curves, and 99.9 percent otherwise.

(iv) For purposes of aggregating delta bucket-level risk positions across buckets within the credit spread risk for non-

securitizations risk class as specified in § _____.206(b)(3), a [BANKING

ORGANIZATION] must calculate the cross-bucket correlation parameter γ_{bc} as follows:

$$\gamma_{bc} = \gamma_{bc}^{(credit\ quality)} \times \gamma_{bc}^{(sector)}$$

Where:

(A) $\gamma_{bc}^{(credit\ quality)}$ equals 50 percent where the two buckets b and c are both in the set of buckets 1 to 17, and have a different credit quality category, where speculative and sub-speculative grade is treated as one credit quality category; $\gamma_{bc}^{(credit\ quality)}$ equals 100 percent otherwise; and

(B) $\gamma_{bc}^{(sector)}$ equals 100 percent if the two buckets belong to the same sector, and the specified values set out in Table 4 to § __.209 otherwise.

TABLE 4 TO § __.209—Credit spread risk for non-securitizations correlation parameter $\gamma_{bc}^{(sector)}$ where the buckets do not belong to the same sector

Bucket	1, 9, or 17	2 or 10	3 or 11	4 or 12	5 or 13	6 or 14	7 or 15	8 or 16	18	19	20
1, 9, or 17		75%	10%	20%	25%	20%	15%	10%	0%	45%	45%
2 or 10			5%	15%	20%	15%	10%	10%	0%	45%	45%
3 or 11				5%	15%	20%	5%	20%	0%	45%	45%
4 or 12					20%	25%	5%	5%	0%	45%	45%
5 or 13						25%	5%	15%	0%	45%	45%
6 or 14							5%	20%	0%	45%	45%
7 or 15								5%	0%	45%	45%
8 or 16									0%	45%	45%
18										0%	0%
19											75%
20											

(3) *Delta buckets, risk weights, and correlations for credit spread risk for correlation trading positions.* (i) For credit spread risk for correlation trading positions, a [BANKING ORGANIZATION] must establish buckets along two dimensions, credit quality and sector as set out in Table 5

to § __.209. In assigning a delta sensitivity to a sector, a [BANKING ORGANIZATION] must follow market convention. A [BANKING ORGANIZATION] must assign each delta sensitivity to one and only one of the sector buckets in Table 5 to § __.209. Delta sensitivities that a

[BANKING ORGANIZATION] cannot assign to a sector must be assigned to the other sector, bucket 16 in Table 5 to § __.209.

(ii) For calculating risk weighted delta sensitivities for credit spread risk for correlation trading positions, a [BANKING ORGANIZATION] must use

the risk weights in Table 5 to § ___.209. The risk weights are the same for all tenors within a bucket.

Table 5 to § ___.209—Delta Buckets and Risk Weights for Credit Spread Risk for Correlation Trading Positions

Bucket number	Credit quality category	Sector	Risk weight
1	Investment grade	Sovereign exposures, MDBs, and specified supranational entities	4.0%
2		PSEs, government-backed non-financials, GSE debt, education, and public administration	4.0%
3		Financials including government-backed financials	8.0%
4		Basic materials, energy, industrials, agriculture, manufacturing, and mining and quarrying	5.0%
5		Consumer goods and services, transportation and storage, and administrative and support service activities	4.0%
6		Technology and telecommunications	3.0%
7		Health care, utilities, and professional and technical activities	2.0%
8	Speculative grade	Sovereign exposures, MDBs, and specified supranational entities	13.0%
9	Speculative grade and sub-speculative grade	PSEs, government-backed non-financials, education, and public administration	13.0%
10		Financials including government-backed financials	16.0%
11		Basic materials, energy, industrials, agriculture, manufacturing, and mining and quarrying	10.0%
12		Consumer goods and services, transportation and storage, and administrative and support service activities	12.0%
13		Technology and telecommunications	12.0%
14		Health care, utilities, and professional and technical activities	12.0%
15	Sub-speculative grade	Sovereign exposures, MDBs, and specified supranational entities	16.0%
16	Other sector		13.0%

(iii) For purposes of aggregating risk weighted delta sensitivities of credit spread risk for correlation trading positions within a bucket as specified in

§ ___.206(b)(2), a [BANKING ORGANIZATION] must use the following correlation parameters:

(A) For buckets 1 to 15, the correlation parameter ρ_{kl} between risk weighted delta sensitivities WS_k and WS_l equals:

$$\rho_{kl} = \rho_{kl}^{(name)} \times \rho_{kl}^{(tenor)} \times \rho_{kl}^{(basis)}$$

Where:

(1) $\rho_{kl}^{(name)}$ equals 100 percent if the two names of delta sensitivities to risk factors k and l are identical, and 35 percent otherwise;

(2) $\rho_{kl}^{(tenor)}$ equals 100 percent if the two tenors of the delta sensitivities to risk factors k and l are identical, and 65 percent otherwise; and

(3) $\rho_{kl}^{(basis)}$ equals 100 percent if the two delta sensitivities are related to same curve, and 99 percent otherwise.

(B) For bucket 16, the delta bucket-level risk position equals the sum of the absolute values of the risk weighted delta sensitivities allocated to this bucket,

$$K_{b(\text{other bucket})} = \sum_k |WS_k|.$$

(C) For purposes of aggregating delta bucket-level risk positions across buckets within the credit spread risk for correlation trading positions risk class

as specified in § __.206(b)(3), a [BANKING ORGANIZATION] must calculate the cross-bucket correlation parameter Y_{bc} as follows:

$$Y_{bc} = \gamma_{bc}^{(credit\ quality)} \times \gamma_{bc}^{(sector)}$$

Where:

(1) $\gamma_{bc}^{(credit\ quality)}$ equals 50 percent where the two buckets b and c are both in buckets 1 to 16 and have a different credit quality category, where speculative and sub-speculative grade is treated as one credit quality category; $\gamma_{bc}^{(credit\ quality)}$ equals 100 percent otherwise; and

(2) $\gamma_{bc}^{(sector)}$ equals 100 percent if the two buckets belong to the same sector, and the specified values set out in Table 6 to § __.209 otherwise.

TABLE 6 to § __.209—Credit spread risk for correlation trading positions correlation parameter $\gamma_{bc}^{(sector)}$ where the buckets do not belong to the same sector

Bucket	1, 8, or 15	2 or 9	3 or 10	4 or 11	5 or 12	6 or 13	7 or 14	16
1, 8, or 15		75%	10%	20%	25%	20%	15%	0%
2 or 9			5%	15%	20%	15%	10%	0%
3 or 10				5%	15%	20%	5%	0%
4 or 11					20%	25%	5%	0%
5 or 12						25%	5%	0%
6 or 13							5%	0%
7 or 14								0%
16								

(4) *Delta buckets, risk weights, and correlations for credit spread risk for securitization positions non-CTP.* (i) For credit spread risk for securitization positions non-CTP, a [BANKING ORGANIZATION] must establish buckets along two dimensions, credit quality and sector, as set out in Table 7 to § _____.209. In assigning a delta

sensitivity to a credit quality, a [BANKING ORGANIZATION] must take into account the structural features of the securitization position non-CTP. In assigning a delta sensitivity to a sector, a [BANKING ORGANIZATION] must follow market convention. Delta sensitivities of any tranche that a [BANKING ORGANIZATION] cannot

assign to a sector must be assigned to the other sector bucket.

(ii) For calculating risk weighted delta sensitivities for credit spread risk for securitization positions non-CTP, a [BANKING ORGANIZATION] must use the risk weights in Table 7 to § _____.209.

TABLE 7 TO § __.209—DELTA Buckets and Risk Weights for Credit Spread Risk for Securitization Positions Non-CTP

Bucket number	Credit quality category	Sector	Risk weight
1	Senior investment grade	Prime RMBS	0.90%
2		Mid-prime RMBS	1.50%
3		Sub-prime RMBS	2.00%
4		Commercial mortgage-backed securities	2.00%
5		Asset-backed securities – Student loans	0.80%
6		Asset-backed securities – Credit cards and personal loans	1.20%
7		Asset-backed securities – Auto and dealer floorplan	1.20%
8		Collateralized loan obligation non-CTP	1.40%
9	Non-senior investment grade	Prime RMBS	1.13%
10		Mid-prime RMBS	1.88%
11		Sub-prime RMBS	2.50%
12		Commercial mortgage-backed securities	2.50%
13		Asset-backed securities – Student loans	1.00%
14		Asset-backed securities – Credit cards and personal loans	1.50%
15		Asset-backed securities – Auto and dealer floorplan	1.50%
16		Collateralized loan obligation non-CTP	1.75%
17	Speculative and sub-speculative grade	Prime RMBS	1.58%
18		Mid-prime RMBS	2.63%
19		Sub-prime RMBS	3.50%
20		Commercial mortgage-backed securities	3.50%
21		Asset-backed securities – Student loans	1.40%
22		Asset-backed securities – Credit cards and personal loans	2.10%
23		Asset-backed securities – Auto and dealer floorplan	2.10%
24		Collateralized loan obligation non-CTP	2.45%
25	Other sector		3.50%

(iii) For purposes of aggregating risk weighted delta sensitivities of credit spread risk for securitization positions non-CTP within a bucket as specified in

§ __.206(b)(2), a [BANKING ORGANIZATION] must use the following correlation parameters:

(A) For buckets 1 through 24, the correlation parameter ρ_{kl} between risk weighted delta sensitivities WS_k and WS_l , equals:

$$\rho_{kl} = \rho_{kl}^{(tranche)} \times \rho_{kl}^{(tenor)} \times \rho_{kl}^{(basis)}$$

Where:

(1) $\rho_{kl}^{(tranche)}$ equals 100 percent where the two delta sensitivities to risk factors k and l

are within the same bucket and related to the same tranche, with more than 80 percent overlap in notional terms and 40 percent otherwise;

(2) $\rho_{kl}^{(tenor)}$ equals 100 percent if the two tenors of the delta sensitivities to risk factors k

and l are identical, and 80 percent otherwise; and

(3) $\rho_{kl}^{(basis)}$ equals 100 percent if the two delta sensitivities reference the same curve, and

99.9 percent otherwise.

(B) For bucket 25, the delta bucket-level risk position equals the sum of the absolute values of the risk weighted delta sensitivities allocated to this bucket,

$$K_{b(\text{other bucket})} = \sum_k |WS_k|.$$

(iv) For purposes of aggregating delta bucket-level risk positions across buckets within the credit spread risk for securitization positions non-CTP risk class as specified in § _____.206(b)(3), the cross-bucket correlation parameter equals zero percent.

(5) *Delta buckets, risk weights, and correlations for equity risk.* (i) For equity

risk, a [BANKING ORGANIZATION] must establish buckets along three dimensions, market capitalization, economy and sector as set out in Table 8 to § _____.209. To assign a delta sensitivity to an economy, a [BANKING ORGANIZATION], at least annually, must review and update the countries and territorial entities that satisfy the requirements of a liquid market economy using the most recent economic data available. To assign a delta sensitivity to a sector, a [BANKING ORGANIZATION] must follow market convention by using classifications that are commonly used in the market for grouping issuers by industry sector. A [BANKING

ORGANIZATION] must assign each issuer to one of the sector buckets and must assign all issuers from the same industry to the same sector. Delta sensitivities of any equity issuer that a [BANKING ORGANIZATION] cannot assign to a sector must be assigned to the other sector. For multinational, multi-sector equity issuers, the allocation to a particular bucket must be done according to the most material economy and sector in which the issuer operates.

(ii) For calculating risk weighted delta sensitivities for equity risk, a [BANKING ORGANIZATION] must use the risk weights in Table 8 to § _____.209.

Table 8 to § __.209—Delta Buckets and Risk Weights for Equity Risk

Bucket number	Market cap	Economy	Sector	Risk weight for equity spot price	Risk weight for equity repo rate
1	Large market cap	Emerging market economy	Consumer goods and services, transportation and storage, administrative and support service activities, healthcare, and utilities	55%	0.55%
2			Telecommunications and industrials	60%	0.60%
3			Basic materials, energy, agriculture, manufacturing, and mining and quarrying	45%	0.45%
4			Financials including government-backed financials, real estate activities, and technology	55%	0.55%
5		Liquid market economy	Consumer goods and services, transportation and storage, administrative and support service activities, healthcare, and utilities	30%	0.30%
6			Telecommunications and industrials	35%	0.35%
7			Basic materials, energy, agriculture, manufacturing, and mining and quarrying	40%	0.40%
8			Financials including government-backed financials, real estate activities, and technology	50%	0.50%
9	Small market cap	Emerging market economy	All sectors described under bucket numbers 1, 2, 3 and 4	70%	0.70%
10		Liquid market economy	All sectors described under bucket numbers 5, 6, 7 and 8	50%	0.50%
11	Other sector			70%	0.70%
12	Equity indices that are both large market cap and liquid market economy (non-sector specific)			15%	0.15%
13	Other equity indices (non-sector specific)			25%	0.25%

(iii) For purposes of aggregating risk weighted delta sensitivities of equity risk within a bucket as specified in § __.206(b)(2), a [BANKING

ORGANIZATION] must use the following correlation parameters:

(A) For buckets 1 through 10 and 12 through 13, the correlation parameter p_{kl}

between two risk weighted delta sensitivities WS_k and WS_l is as follows:

(1) p_{kl} equals 99.9 percent, where one delta sensitivity is to an equity spot

price and the other delta sensitivity is to an equity repo rate, and both are related to the same equity issuer;

(2) Where both delta sensitivities are to equity spot prices, or both delta sensitivities are to equity repo rates, p_{kl} equals:

(i) 15 percent between delta sensitivities assigned to buckets 1, 2, 3, and 4 of Table 8 to § _____.209 (large market cap, emerging market economy);

(ii) 25 percent between delta sensitivities assigned to buckets 5, 6, 7,

or 8 of Table 8 to § _____.209 (large market cap, liquid market economy);

(iii) 7.5 percent between delta sensitivities assigned to bucket 9 of Table 8 to § _____.209 (small market cap, emerging market economy);

(iv) 12.5 percent between delta sensitivities assigned to bucket 10 of Table 8 to § _____.209 (small market cap, liquid market economy); and

(v) 80 percent between delta sensitivities assigned to buckets 12 or 13 of Table 8 to § _____.209 (either index bucket); and

(3) Where one delta sensitivity is to an equity spot price and the other delta sensitivity is to an equity repo rate, and each delta sensitivity is related to a different equity issuer, the applicable correlation parameter equals p_{kl} , as defined in paragraph (b)(5)(iii)(A)(2) of this section, multiplied by 99.9 percent; and

(B) For bucket 11, the delta bucket-level risk position equals the sum of the absolute values of the risk weighted delta sensitivities allocated to this bucket,

$$K_{b(\text{other bucket})} = \sum_k |WS_k|.$$

(iv) For purposes of aggregating delta bucket-level risk positions across buckets within the equity risk class as specified in § _____.206(b)(3), the cross-bucket correlation parameter y_{bc} equals:

(A) 15 percent if bucket b and bucket c fall within buckets 1 to 10 of Table 8 to § _____.209;

(B) Zero percent if either of bucket b and bucket c is bucket 11 of Table 8 to § _____.209;

(C) 75 percent if bucket b and bucket c are buckets 12 and 13 of Table 8 to § _____.209 (*i.e.*, one is bucket 12 and one is bucket 13); and

(D) 45 percent otherwise.

(6) *Delta buckets, risk weights, and correlations for commodity risk.*

(i) For commodity risk, a [BANKING ORGANIZATION] must establish buckets for each commodity type as set out in Table 9 to § _____.209. A [BANKING ORGANIZATION] must

assign each contract to one of the commodity buckets and must assign all contracts with the same underlying commodity to the same bucket. Delta sensitivities of any contract that a [BANKING ORGANIZATION] cannot assign to a commodity type must be assigned to the other commodity bucket.

(ii) For calculating risk weighted delta sensitivities for commodity risk, a [BANKING ORGANIZATION] must use the risk weights in Table 9 to § _____.209.

Table 9 TO § __.209—Delta Buckets and Risk Weights for Commodity Risk

Bucket number	Commodity bucket	Examples of commodities allocated to each commodity bucket (non-exhaustive)	Risk weight
1	Energy - solid combustibles	Coal, charcoal, wood pellets, and nuclear fuel	30%
2	Energy - liquid combustibles	Light-sweet crude oil, heavy crude oil, West Texas Intermediate (WTI) crude, Brent crude, etc. (i.e., various types of crude oil) Bioethanol, biodiesel, etc. (i.e., various biofuels) Propane, ethane, gasoline, methanol, butane, etc. (i.e., various petrochemicals) Jet fuel, kerosene, gasoil, fuel oil, naphtha, heating oil, diesel, etc. (i.e., various refined fuels)	35%
3	Energy - carbon trading	Certified emissions reductions, in-delivery month EU allowance, Regional Greenhouse Gas Initiative CO2 allowance, renewable energy certificates, etc. (i.e., various carbon trading emissions)	60%
4	Freight	Capesize, Panamax, Handysize, Supramax, etc. (i.e., various types of dry-bulk route) Suezmax, Aframax, very large crude carriers (i.e., various liquid-bulk/gas shipping route)	80%
5	Metals – non-precious	Aluminum, copper, lead, nickel, tin, zinc, etc. (i.e., various basic metals) Steel billet, steel wire, steel coil, steel scrap, steel rebar, iron ore, tungsten, vanadium, titanium, tantalum, etc. (i.e., steel raw materials) Cobalt, manganese, molybdenum, etc. (i.e., various minor metals)	40%
6	Gaseous combustibles and electricity	Natural gas and liquefied natural gas Spot electricity, day-ahead electricity, peak electricity, off-peak electricity, etc. (i.e., various electricity types)	45%
7	Precious metals (including gold)	Gold, silver, platinum and palladium	20%
8	Grains and oilseed	Corn, wheat, soybean seed, soybean oil, soybean meal, oats, palm oil, canola, barley, rapeseed seed, rapeseed oil, rapeseed meal, red bean, sorghum, coconut oil, olive oil, peanut oil, sunflower oil, and rice	35%
9	Livestock and dairy	Live cattle, feeder cattle, hog, poultry, lamb, fish, shrimp, milk, whey, eggs, butter, and cheese	25%
10	Forestry and agriculturals	Cocoa, arabica coffee, robusta coffee, tea, citrus juice, orange juice, potatoes, sugar, cotton, wool, lumber, pulp, and rubber	35%
11	Other commodity	Potash, fertilizer, phosphate rocks, etc. (i.e., various industrial materials) Rare earths, terephthalic acid, flat glass	50%
12	Commodity index		30%

(iii) For purposes of aggregating risk weighted delta sensitivities of

commodity risk within a bucket as specified in § __.206(b)(2), a

[BANKING ORGANIZATION] must use the following correlation parameters:

(A) For buckets 1 through 12, the correlation parameter ρ_{kl} between two

risk weighted delta sensitivities WS_k and WS_l equals:

$$\rho_{kl} = \rho_{kl}^{(cty)} \times \rho_{kl}^{(tenor)} \times \rho_{kl}^{(basis)}$$

Where:

(1) $\rho_{kl}^{(cty)}$ equals 100 percent where the two delta sensitivities to risk factors k and l are identical, and the intra-bucket correlation parameters set out in Table 10 to § __.209 otherwise;

(2) $\rho_{kl}^{(tenor)}$ equals 100 percent if the two tenors of the delta sensitivities to risk factors k and l are identical, and 99 percent otherwise; and

(3) $\rho_{kl}^{(basis)}$ equals 100 percent if the two delta sensitivities are identical in the delivery location of a commodity, and 99.9 percent otherwise.

Table 10 to § __.209—Commodity Risk Correlation Parameter $\rho_{kl}^{(cty)}$ for Intra-Bucket Correlations

Bucket number	Commodity bucket	Correlation ($\rho_{kl}^{(cty)}$)
1	Energy – Solid combustibles	55%
2	Energy – Liquid combustibles	95%
3	Energy – Carbon trading	40%
4	Freight	80%
5	Metals – non-precious	60%
6	Gaseous combustibles and electricity	65%
7	Precious metals (including gold)	55%
8	Grains and oilseed	45%
9	Livestock and dairy	15%
10	Forestry and other agriculturals	40%
11	Other commodity	15%
12	Commodity index	50%

(iv) For purposes of aggregating delta bucket-level risk positions across buckets within the commodity risk class as specified in § __.206(b)(3), the cross-bucket correlation parameter y_{bc} equals:

(A) 20 percent if bucket b and bucket c fall within buckets 1 to 10 or 12 of Table 10 to § __.209; and

(B) Zero percent if either bucket b or bucket c is bucket number 11 of Table 10 to § __.209.

(7) *Delta buckets, risk weights, and correlations for foreign exchange risk.* (i)

For foreign exchange risk, a [BANKING ORGANIZATION] must establish buckets for each exchange rate between the currency in which a market risk covered position is denominated and the reporting currency (or alternative base currency).

(ii) For calculating risk weighted delta sensitivities for foreign exchange risk, a [BANKING ORGANIZATION] must apply a risk weight equal to 15 percent, except for any currency pair formed by the following list of currencies, a [BANKING ORGANIZATION] may

divide the above risk weight by the $\sqrt{2}$: United States Dollar, Australian Dollar, Brazilian Real, Canadian Dollar, Chinese Yuan, Euro, Hong Kong Dollar, Indian Rupee, Japanese Yen, Mexican Peso, New Zealand Dollar, Norwegian Krone, Singapore Dollar, South African Rand, South Korean Won, Swedish Krona, Swiss Franc, Turkish Lira, United Kingdom Pound, and any additional currencies specified by the [AGENCY].

(iii) For purposes of aggregating delta bucket-level risk positions across buckets within the foreign exchange risk

class, the cross-bucket correlation parameter γ_{bc} equals 60 percent.

(c) *Vega capital requirement*—(1) *Vega buckets.* For each risk class, a [BANKING ORGANIZATION] must use the same buckets as specified in paragraph (b) of this section for the calculation of the vega capital requirement.

(2) *Vega risk weights.* For calculating risk weighted sensitivities for vega risk as described in § ___.206(c)(1), a [BANKING ORGANIZATION] must use the corresponding risk weight for each risk class specified in Table 11 to § ___.209.

(i) Equity risk (large market cap and indices) applies to vega risk factors that

correspond to buckets 1 to 8, 12 and 13 of Table 8 to § ___.209.

(ii) Equity risk (small market cap and other sector) applies to vega risk factors that correspond to buckets 9 to 11 of Table 8 to § ___.209.

Table 11 to § ___.209—Vega Risk Weights		
	Risk class	Risk weights
1	Interest rate risk	100%
2	Credit spread risk for non-securitizations	100%
3	Credit spread risk for correlation trading positions	100%
4	Credit spread risk for securitization positions non-CTP	100%
5	Equity risk (large market cap and indices)	77.78%
6	Equity risk (small market cap and other sector)	100%
7	Commodity risk	100%
8	Foreign exchange risk	100%

(3) *Vega correlation parameters.* For purposes of aggregating risk weighted vega sensitivities within a bucket as

specified in § ___.206(c)(2) a [BANKING ORGANIZATION] must use the following correlation parameters:

(i) For interest rate risk, where tenor is a dimension of the risk factor, correlation parameter ρ_{kl} equals:

$$\rho_{kl} = \min \left(\left(\rho_{kl}^{(option\ maturity)} \times \rho_{kl}^{(underlying\ maturity)} \right), 1 \right)$$

Where:

(A) $\rho_{kl}^{(option\ maturity)}$ equals $e^{-\alpha \times \frac{|T_k - T_l|}{\min\{T_k, T_l\}}}$, with α set at 1 percent and T_k (respectively

T_l) denoting the maturity of the option from which the vega sensitivity VR_k (VR_l) is derived, expressed as a number of years; and

(B) $\rho_{kl}^{(underlying\ maturity)}$ equals $e^{-\alpha \times \frac{|T_k^U - T_l^U|}{\min\{T_k^U, T_l^U\}}}$, with α set at 1 percent and T_k^U

(respectively T_l^U) denoting the maturity of the underlying of the option from which the

sensitivity VR_k (VR_l) is derived, expressed as a number of years after the maturity of the option.

(ii) Except as noted in paragraph (c)(3)(iii) of this section, for purposes of aggregating risk weighted vega sensitivities within a bucket of:

(A) Interest rate risk, where term structure is not recognized (inflation rate risk factors and cross-currency basis risk factors); and

(B) The other risk classes (numbered 2 through 8 in Table 11 to § _____.209), the correlation parameter ρ_{kl} equals:

$$\rho_{kl} = \min \left(\left(\rho_{kl}^{(delta)} \times \rho_{kl}^{(option\ maturity)} \right), 1 \right)$$

Where:

(A) $\rho_{kl}^{(option\ maturity)}$ equals $e^{-\alpha \times \frac{|T_k - T_l|}{\min\{T_k, T_l\}}}$, with α set at 1 percent and T_k (respectively

T_l) denoting the maturity of the option from which the vega sensitivity VR_k (VR_l) is derived, expressed as a number of years; and

(2) $\rho_{kl}^{(delta)}$ equals the correlation between the delta risk factors that correspond to vega risk factors k and l . For instance, if k is the vega risk factor from equity option X and l is the vega risk factor from equity option Y then $\rho_{kl}^{(delta)}$ is the delta correlation applicable between X and Y . Specifically:

(i) For the risk classes of credit spread risk for non-securitization positions and credit spread risk for correlation trading positions, the vega risk correlation parameter, $\rho_{kl}^{(delta)}$, equals the corresponding delta correlation parameter, $\rho_{kl}^{(name)}$, as specified in paragraphs

(b)(2)(iii)(A)(I) and (b)(3)(iii)(A)(I) of this section, respectively;

(ii) For the risk class of credit spread risk for securitization positions non-CTP, the vega

risk correlation parameter, $\rho_{kl}^{(\text{delta})}$, equals the corresponding delta correlation parameter,

$\rho_{kl}^{(\text{tranche})}$, as specified in paragraph (b)(4)(iii)(A)(I) of this section; and

(iii) For the risk class of commodity risk, the vega risk correlation parameter, $\rho_{kl}^{(\text{delta})}$,

equals the corresponding delta correlation parameter, $\rho_{kl}^{(\text{cty})}$, as specified in paragraph

(b)(6)(iii)(A)(I) of this section.

(iii) For purposes of aggregating risk weighted vega sensitivities within the other sector buckets (for credit spread risk for non-securitizations, bucket 18 in Table 3 to § _____.209, for credit spread risk for correlation trading positions, bucket 16 in Table 5 to § _____.209, for credit spread risk for securitization positions non-CTP, bucket 25 in Table 7 to § _____.209, and for equity risk, bucket 11 in Table 8 to § _____.209), the vega bucket-level risk position equals the sum of the absolute values of the risk weighted vega sensitivities allocated to this bucket.

(iv) For purposes of aggregating vega bucket-level risk positions across different buckets within a risk class as specified in § _____.206(c)(3), a [BANKING ORGANIZATION] must use the same cross-bucket correlation parameters γ_{bc} as specified for delta risk in paragraph (b) of this section.

(d) *The curvature capital requirement*—(1) *Curvature buckets*. For each risk class, a [BANKING ORGANIZATION] must use the same buckets as specified in paragraph (b) of this section for the calculation of the curvature capital requirement.

(2) *Curvature risk weights*. (i) For calculating the net curvature risk position CVR_k , as described in § _____.206(d)(1), for the risk classes of

foreign exchange risk and equity risk, the curvature risk weight that represents a shock to risk factor k is a relative shift equal to the delta risk weight corresponding to risk factor k .

(A) For options that do not reference a [BANKING ORGANIZATION]'s reporting currency or base currency as an underlying exposure, a [BANKING ORGANIZATION] may divide the net curvature risk positions CVR_k^+ and CVR_k^- for foreign exchange risk by a scalar of 1.5.

(B) A [BANKING ORGANIZATION] may apply the scalar of 1.5 consistently to all market risk covered positions subject to foreign exchange risk, provided curvature scenarios are calculated for all currencies, including curvature scenarios calculated by shocking the reporting currency (or base currency where used) relative to all other currencies.

(ii) For calculating the net curvature risk position CVR_k , as described in § _____.206(d)(1), for the risk classes below, the curvature risk weight corresponding to risk factor k is the consistent, relative shock to all tenor points for each curve based on the highest prescribed delta risk weight for each bucket:

(A) Interest rate risk;

(B) Credit spread risk for non-securitization positions;

(C) Credit spread risk for correlation trading positions;

(D) Credit spread risk for securitization positions non-CTP; and

(E) Commodity risk.

(iii) A [BANKING ORGANIZATION] may floor credit spreads at zero in cases where applying the delta risk weight described in paragraph (d)(2)(ii) of this section results in negative credit spreads for the credit spread risk classes referenced in paragraphs (d)(2)(ii)(B) through (D) of this section.

(3) *Curvature correlation parameters*. For purposes of aggregating the net curvature risk positions within a bucket as described in § _____.206(d)(2), a [BANKING ORGANIZATION] must use the following correlation parameters:

(i) Except as noted in paragraph (d)(3)(vi) of this section, for the risk class of interest rate risk, the curvature risk correlation parameter, ρ_{kl} , equals 99.8 percent where risk factors k and l relate to different interest rate curves and 100 percent otherwise;

(ii) Except as noted in paragraph (d)(3)(vi) of this section, for the risk classes of credit spread risk for non-securitization positions and credit spread risk for correlation trading positions, the curvature risk correlation parameter, ρ_{kl} , equals the corresponding delta correlation parameter,

$$\rho_{kl}^{(\text{name})}$$

as specified in paragraphs (b)(2)(iii)(A)(1) and (b)(3)(iii)(A)(1) of this section, respectively, squared.

(iii) Except as noted in paragraph (d)(3)(vi) of this section, for the risk class of credit spread risk for securitization positions non-CTP, the

curvature risk correlation parameter, ρ_{kl} , equals the corresponding delta correlation parameter,

$$\rho_{kl}^{(tranche)} :$$

as specified in paragraph (b)(4)(iii)(A) of this section, squared;

(iv) Except as noted in paragraph (d)(3)(vi) of this section, for the risk class of commodity risk, the curvature

risk correlation parameter, ρ_{kl} , equals the corresponding delta correlation parameter,

$$\rho_{kl}^{(cty)}$$

as specified in paragraph (b)(6)(iii)(A)(1) of this section, squared;

(v) Except as noted in paragraph (d)(3)(vi) of this section, for the risk class of equity risk, the curvature risk correlation parameter equals the corresponding delta correlation parameters, ρ_{kl} , as specified in

paragraph (b)(5)(iii)(A)(2) of this section, squared;

(vi) For purposes of aggregating the net curvature risk positions within the other sector buckets (for credit spread risk for non-securitizations, bucket 18 in Table 3 to § _____.209, for credit spread risk for correlation trading positions,

bucket 16 in Table 5 to § _____.209, for credit spread risk for securitization positions non-CTP, bucket 25 in Table 7 to § _____.209, and for equity risk, bucket 11 in Table 8 to § _____.209), the curvature bucket-level risk position equals:

$$K_{b(\text{other bucket})} = \max \left(\sum_k \max(CVR_k^+, 0), \sum_k \max(CVR_k^-, 0) \right).$$

(4) For purposes of aggregating curvature bucket-level risk positions across buckets within each risk class as specified in § _____.206(d)(3), a [BANKING ORGANIZATION] must calculate the cross-bucket correlation parameters γ_{bc} for curvature risk by squaring the corresponding delta correlation parameters γ_{bc} .

(5) In applying the high and low correlations scenarios in § _____.206(e), a [BANKING ORGANIZATION] must calculate the curvature capital requirements by applying the correlation parameters ρ_{kl} as calculated in paragraph (d)(3) of this section and the cross-bucket correlation parameter γ_{bc} as calculated in paragraph (d)(4) of this section.

§ _____.210 Default Risk Capital Requirement

(a) *Overview of the default risk capital requirements.* (1) A [BANKING ORGANIZATION] must calculate default risk capital requirements for its default risk positions across the following default risk categories:

(i) Non-securitization debt or equity positions, other than U.S. sovereign exposures, specified supranational entities, or MDBs;

(ii) Securitization positions non-CTP; and

(iii) Correlation trading positions.

(2) For each default risk category, the default risk capital requirement must be calculated as follows:

(i) Assign each default risk position to one of the prescribed buckets.

(ii) Calculate the gross default exposure for each default risk position.

(iii) Calculate obligor-level net default exposure by offsetting, where permissible, the gross default exposure amounts of long and short default risk positions.

(A) To account for defaults within the one-year capital horizon, a [BANKING ORGANIZATION] must scale the gross default exposures for default risk positions of maturity less than one year, and their hedges, by the corresponding fraction of a year. The maturity weighting applied to the gross default exposure for any default risk position with a maturity of less than three months (such as short-term lending) must be floored at three months. No scaling is applied to the gross default exposures for default risk positions with maturities of one year or greater.

(1) A [BANKING ORGANIZATION] may assign unhedged cash equity positions to a maturity of either three months or one year. For cash equity positions that hedge derivative contracts, a [BANKING ORGANIZATION] may assign the same maturity to the cash equity position as the maturity of the derivative contract it hedges.

(2) For derivative transactions, eligibility for offsetting treatment is determined by the maturity of the

derivative contract, not the maturity of the underlying. In the case where a default risk position can be delivered into a derivative contract that it hedges in fulfillment of the contract, a [BANKING ORGANIZATION] may align the maturity of the default risk position with the derivative contract it hedges to permit full offsetting.

(B) A [BANKING ORGANIZATION] may offset gross default exposures of different maturities that meet the offsetting criterion specified for the default risk category as follows:

(1) Gross default exposures with maturities longer than the one-year capital horizon may be fully offset;

(2) Gross default exposures with a mix of long and short exposures where some maturities are less than the one-year capital horizon must be weighted by the ratio of each gross default exposure's maturity relative to the one-year capital horizon. In the case where long and short gross default exposures both have maturities under the one-year capital horizon, scaling must be applied to both the long and short gross default exposure.

(iv) Within a bucket, a [BANKING ORGANIZATION] must:

(A) Calculate a hedge benefit ratio (HBR) to recognize hedging between long and short net default exposures within a bucket as follows:

$$HBR = \frac{\sum \text{net default exposure}_{(long)}}{\sum \text{net default exposure}_{(long)} + \sum |\text{net default exposure}_{(short)}|}$$

Where:

(1) *Net default exposure_(long)* equals the aggregate net long default exposure, calculated as the simple sum of the net long default exposures across obligors;

(2) *Net default exposure_(short)* equals the aggregate net short default exposure, calculated as the simple sum of the net short default exposures across obligors.

(B) Assign risk weights to the obligor-level net default exposures using the corresponding risk weights specified for the default risk category; and

(C) Generate bucket-level default risk capital requirements by aggregating risk weighted obligor-level net default exposures according to the specified aggregation formulas in paragraphs (b)(3)(ii), (c)(3)(iii) and (d)(3)(iv) of this section.

(v) The default risk capital requirement for non-securitization debt and equity positions or securitization positions non-CTP equals the sum of the bucket-level default risk capital requirements.

(3) The default risk capital requirement for correlation trading positions must be calculated in accordance with the aggregation formula in paragraph (d)(3)(v) of this section, provided that such positions may be decomposed into single positions, applying the appropriate loss given default rates and risk weights for non-securitization debt or equity positions, specified below.

(4) A [BANKING ORGANIZATION] may not recognize any diversification benefits across default risk categories. The overall default risk capital requirement is the sum of the default risk capital requirement for each default risk category.

(b) *Default risk capital requirement for non-securitization debt or equity positions*—(1) *Gross default exposure*.

(i) A [BANKING ORGANIZATION] must calculate the gross default exposure for each non-securitization debt or equity position.

(ii) A [BANKING ORGANIZATION] must determine the long and short

direction of a gross default exposure with respect to whether there would be a loss (long) or a gain (short) in the event of a default.

(iii) A [BANKING ORGANIZATION] must calculate the gross default exposure based on the loss given default (LGD) rate, notional amount (or face value) and the cumulative profit and loss (P&L) already realized on the non-securitization position, as follows:

Gross default exposure_(long) = $\max((LGD \text{ rate} \times \text{national amount} + P\&L), 0)$,

Gross default exposure_(short) = $\max((LGD \text{ rate} \times \text{national amount} + P\&L), 0)$,

(iv) A [BANKING ORGANIZATION] must assign LGD rates to non-securitization debt or equity positions as follows:

(A) 100 percent for equity, non-senior debt and defaulted positions;

(B) 75 percent for senior debt, unless a lower LGD is assigned;

(C) 75 percent for GSE debt issued, but not guaranteed, by GSEs;

(D) 50 percent for positions in a PSE that is organized under the laws of the United States or any state or political subdivision thereof;

(E) 25 percent for GSE debt guaranteed by GSEs;

(F) 25 percent for covered bonds; and

(G) Zero percent if the value of the non-securitization debt or equity position is not linked to the recovery rate of the defaulter.

(v) For credit derivatives, a [BANKING ORGANIZATION] must use the LGD rate of the reference exposure.

(vi) A [BANKING ORGANIZATION] must reflect the notional amount of a non-securitization debt or equity position that gives rise to a long (short) gross default exposure as a positive (negative) value and the loss (gain) as a negative (positive) value. If the contractual or legal terms of the derivative contract allow for the unwinding of the instrument, with no exposure to default risk, the gross default exposure equals zero.

(vii) For all non-securitization debt or equity positions, the notional amount equals the amount of the non-securitization debt or equity position relative to which the loss of principal is calculated. For a call option on a non-securitization position, the notional amount to be used in the gross default exposure calculation is zero.

(2) *Net default exposure*. To calculate the net default exposure to an obligor, a [BANKING ORGANIZATION] must sum the maturity-weighted default exposures to the issuer and in doing so, may offset long and short gross default exposures to the same obligor, provided the short gross default exposures have the same or lower seniority relative to the long gross default exposures. In determining whether a market risk covered position that has an eligible guarantee is an exposure to the underlying obligor or an exposure to the eligible guarantor, the credit risk mitigation requirements set out in § _____.36 and § _____.120 apply. For purposes of this section, GSEs may be considered eligible guarantors and each GSE must be considered a separate obligor, provided that a [BANKING ORGANIZATION] may fully offset long and short gross default exposures to Uniform Mortgage-Backed Securities that are issued by two different obligors.

(3) *Calculation of the default risk capital requirement for non-securitization debt or equity positions*.

(i) To calculate the default risk capital requirement for non-securitization debt or equity positions, a [BANKING ORGANIZATION] must assign each non-securitization debt or equity position to one of four buckets:

(A) Non-U.S. sovereign exposures;

(B) PSE and GSE debt positions;

(C) Corporate positions; and

(D) Defaulted positions.

(ii) A [BANKING ORGANIZATION] must calculate the bucket-level default risk capital requirement, DRC_b , for each bucket, b , for non-securitization debt or equity positions as follows:

$$DRC_b = \max \left(\left(\left(\sum_{i \in long} RW_i \times net\ default\ exposure_i \right) - HBR \times \left(\sum_{i \in short} RW_i \times |net\ default\ exposure_i| \right) \right), 0 \right)$$

Where:

i refers to a non-securitization debt or equity position belonging to bucket b and the

corresponding risk weights, RW_i , are set out in Table 1 to § __.210:

Table 1 to § __.210—Default Risk Weights for Non-Securitization Debt or Equity Positions by Credit Quality Category

Bucket	Credit quality category		
	Investment grade	Speculative grade	Sub-speculative grade
Non-U.S. sovereign positions	0.6%	22.0%	50.0%
PSE and GSE debt positions	2.1%	22.0%	50.0%
Corporate positions	4.1%	22.0%	50.0%
Defaulted positions	100%		

(iii) The default risk capital requirement for non-securitization debt or equity positions equals the sum of the four bucket-level default risk capital requirements.

(c) *Default risk capital requirement for securitization positions non-CTP*—(1) *Gross default exposure*. A [BANKING ORGANIZATION] must determine the gross default exposure for each securitization position non-CTP using the approach for non-securitization debt or equity positions in paragraphs (b)(1)(i) and (ii) of this section, treating each securitization position non-CTP as a non-securitization debt or equity position. The gross default exposure for a securitization position non-CTP equals the position's market value.

(2) *Net default exposure*. (i) A [BANKING ORGANIZATION] may offset long and short securitization positions non-CTP if the positions have the same underlying asset pools and belong to the same tranche.

(ii) A [BANKING ORGANIZATION] may offset long and short securitization positions non-CTP with one or more long and short non-securitization

positions by decomposing the exposures of the non-tranched index instruments. To recognize offsetting for securitization positions non-CTP, a [BANKING ORGANIZATION] must sum the equivalent underlying assets of the decomposed non-tranche index instruments to the equivalent replicating tranches that span the entire capital structure of the securitized instrument. Non-securitization positions that are recognized as offsetting in this way must be excluded from the calculation of the default risk capital requirement for non-securitization debt or equity positions under paragraph (b) of this section.

(iii) Securitization positions non-CTP that can be replicated through decomposition may offset. Specifically, if a collection of long securitization positions non-CTP can be replicated by a collection of short securitization positions non-CTP, then the long and short securitization positions non-CTP may offset.

(3) *Calculation of the default risk capital requirement for securitization positions non-CTP*. (i) To calculate the

default risk capital requirement for securitization positions non-CTP, a [BANKING ORGANIZATION] must assign each securitization position non-CTP to one of the following buckets:

(A) Corporate positions;
(B) Asset class buckets defined along two dimensions:

(1) Asset class: asset-backed commercial paper, auto loans/leases, RMBS, credit cards, commercial mortgage-backed securities, collateralized loan obligations, collateralized debt obligations squared, small and medium enterprises, student loans, other retail, and other wholesale; and

(2) Region: Asia, Europe, North America, and other.

(ii) When assigning securitization positions non-CTP to a bucket, a [BANKING ORGANIZATION] must rely on market convention for classifying securitization positions non-CTP by asset class and region of the underlying assets. In addition, a [BANKING ORGANIZATION] must assign:

(A) Each securitization position non-CTP to exactly one bucket and must

assign all securitization positions non-CTP with underlying exposures in the same asset class and region to the same bucket;

(B) Any securitization position non-CTP that is not a corporate position and

that a [BANKING ORGANIZATION] cannot assign to a specific asset class or region, must be assigned to one of the “other” buckets.

(iii) A [BANKING ORGANIZATION] must calculate the bucket-level default

risk capital requirement, for each DRC_b , bucket, b , for securitization positions non-CTP as follows:

$$DRC_b = \max \left(\left(\left(\sum_{i \in \text{long}} RW_i \times \text{net default exposure}_i \right) - HBR \times \left(\sum_{i \in \text{short}} RW_i \times |\text{net default exposure}_i| \right) \right), 0 \right)$$

Where:

(A) i refers to a securitization position non-CTP belonging to bucket b ;

(B) HBR equals the hedge benefit ratio specified in paragraph (a)(3)(i) of this section; and

(C) RW_i equals:

- (1) For the calculation of Expanded Total Risk-Weighted Assets, the corresponding risk weight that would apply to the securitization exposure under § _____.132 or § _____.133 multiplied by 8 percent; or
- (2) For the calculation of Standardized Total Risk-Weighted Assets, the corresponding risk weight that would apply to the securitization exposure under § _____. 42,

§ _____.43, or § _____.44 multiplied by 8 percent.

- (3) Provided that a [BANKING ORGANIZATION] may cap the default risk capital requirement for an individual cash securitization position non-CTP at its fair value.

(iv) The default risk capital requirement for securitization positions non-CTP equals the sum of the bucket-level default risk capital requirements.

(d) *Default risk capital requirement for correlation trading positions*—(1) *Gross default exposure*. (i) A [BANKING ORGANIZATION] must determine the

gross default exposure for each correlation trading position using the approach for non-securitization debt or equity positions in paragraphs (b)(1)(i) and (ii) of this section, including the determination of the direction (long or short) of the correlation trading position, provided that the gross default exposure for a correlation trading position is its market value.

(ii) A [BANKING ORGANIZATION] must treat a Nth-to-default position as a tranching position with attachment and detachment points calculated as:

$$\text{Attachment point} = \frac{(N-1)}{\text{Total names}},$$

$$\text{Detachment point} = \frac{N}{\text{Total names}}.$$

Where:

“total names” is the total number of single names in the underlying basket or pool.

(2) *Net default exposure*. (i) A [BANKING ORGANIZATION] may recognize offsetting for correlation trading positions that are otherwise identical, except for maturity, including index tranches of the same series.

(ii) A [BANKING ORGANIZATION] may offset combinations of long gross default exposures and combinations of short gross default exposures of tranches that are perfect replications of non-tranching correlation trading positions.

(iii) A [BANKING ORGANIZATION] may offset long and short gross default exposures of the types of exposures listed in paragraphs (d)(2)(i) and (ii)

through decomposition of a correlation trading position, including an equivalent exposure that arises from decomposition, provided that the long and short gross default exposures are otherwise equivalent except for a residual component and that a [BANKING ORGANIZATION] must account for the residual exposure in the calculation of the net default exposure.

(iv) A [BANKING ORGANIZATION] may offset long and short gross default exposures of different tranches of the same index and series through replication and decomposition, if the residual component has the attachment and detachment point nested with the original tranche or the combination of tranches. A [BANKING

ORGANIZATION] must account for the residual component of the unhedged tranche.

(3) *Calculation of the default risk capital requirement for correlation trading positions*. (i) To calculate the default risk capital requirement for a correlation trading position, a [BANKING ORGANIZATION] must assign each index to a bucket of its own.

(ii) A [BANKING ORGANIZATION] must assign a bespoke correlation trading position that is substantially similar to an index to the bucket corresponding to the index. A [BANKING ORGANIZATION] must assign each bespoke correlation trading position that is not substantially similar to an index to a bucket of its own.

(iii) For a non-securitization position that hedges a correlation trading position, a [BANKING ORGANIZATION] must assign such

position and the related correlation trading position to the same bucket.
(iv) A [BANKING ORGANIZATION] must calculate the bucket-level default

risk capital requirement, DRC_b , for each bucket, b , for correlation trading positions as follows:

$$DRC_b = \left(\sum_{i \in long} RW_i \times net\ default\ exposure_i \right) - HBR_{CTP} \times \left(\sum_{i \in short} RW_i \times |net\ default\ exposure_i| \right)$$

Where:

- (A) i refers to a correlation trading position belonging to bucket b .
(B) HBR_{CTP} equals the hedge benefit ratio specified in paragraph (a)(2)(iv)(A) of this section, but calculated using the combined long and short net default exposures across all indices in the correlation trading position default risk category.
(C) The summation of risk-weighted net default exposures in the formula spans all exposures relating to the index.
(D) RW_i equals:

- (1) For tranching correlation trading positions:
(i) For the calculation of Expanded Total Risk-Weighted Assets, the corresponding risk weight that would apply to the securitization exposure under § _____.132 or § _____.133 multiplied by 8 percent; or
(ii) For the calculation of Standardized Total Risk-Weighted Assets, the corresponding risk weight that would apply to the securitization exposure under § _____.42, § _____.43, or § _____.44 multiplied by 8 percent.
(2) For non-tranched hedges of correlation trading positions or decomposed single

name exposures, the same loss given default rates and risk weights as for non-securitization debt or equity positions, provided that such hedges or decomposed single exposures must be excluded from the calculation of the default risk capital requirement for non-securitization debt or equity positions.

(v) A [BANKING ORGANIZATION] must calculate the default risk capital requirement for correlation trading positions by aggregating the bucket-level capital requirements as follows:

$$DRC_{CTP} = \max \left(\sum_b (\max(DRC_b, 0) + 0.5 \times \min(DRC_b, 0)), 0 \right).$$

§ _____.211 Residual Risk Add-On

(a) *Included positions.* A [BANKING ORGANIZATION] must calculate the residual risk add-on for all market risk covered positions identified as follows:

(1) Market risk covered positions that have an exotic exposure.

(2) Market risk covered positions that are:

(i) Correlation trading positions with three or more underlying exposures, except for market risk covered positions that are hedges of correlation trading positions;

(ii) Subject to the curvature capital requirement, but are not market risk covered positions without optionality that a [BANKING ORGANIZATION] chooses to include in the calculation of its curvature capital requirement as described under § _____.206(d), or subject to the vega capital requirements and have pay-offs that cannot be replicated as a finite linear combination of vanilla options or the underlying instrument;

(iii) Options or positions with embedded options that do not have a maturity; and

(iv) Options or positions with embedded options that do not have a

strike price or barrier, or that have multiple strike prices or barriers;

(3) The portion of the exposure amount resulting from an equity position in an investment fund required to be included in the residual risk add-on under § _____.205(e)(3)(iii); and

(4) Any other market risk covered positions that the [AGENCY] determines must be subject to the residual risk add-on in order to capture the material risks of the position.

(b) *Excluded positions.* (1) Notwithstanding paragraph (a)(2) of this section, a [BANKING ORGANIZATION] may exclude the following market risk covered positions from the residual risk add-on:

(i) Market risk covered position that are listed;

(ii) Market risk covered position that are eligible to be cleared by a CCP or QCCP; and

(iii) Market risk covered position that are options without path dependent pay-offs or with two or fewer underlyings.

(2) Notwithstanding paragraphs (a)(1) and (2) of this section, a [BANKING ORGANIZATION] may exclude the

following market risk covered positions from the residual risk add-on:

(i) In the case where a market risk covered position is a transaction that exactly matches that with a third-party transaction (back-to-back transactions), both transactions;

(ii) In the case where a market risk covered position can be delivered into a derivative contract that it hedges in fulfillment of the contract, both the market risk covered position and the derivative contract;

(iii) Securities issued or guaranteed by the U.S. government or GSE debt;

(iv) Any market risk covered position that is subject to the fallback capital requirement;

(v) Internal transactions between two trading desks, if only one trading desk is a model-eligible trading desk; and

(vi) Any other market risk covered positions that the [AGENCY] determines are not required to be subject to the residual risk add-on because the material risks are sufficiently capitalized under this subpart F.

(c) *Calculation of the residual risk add-on.* (1) The residual risk add-on equals the sum of the gross effective notional amounts of market risk covered

positions identified in paragraph (a) of this section, multiplied by the prescribed risk weight as set out as follows:

(i) The risk weight for market risk covered positions identified in paragraph (a)(1) of this section is 1.0 percent.

(ii) The risk weight for market risk covered positions identified in paragraph (a)(2) of this section is 0.1 percent.

(2) For purposes of calculating the residual risk add-on, the gross effective notional amount means the notional amount as a [BANKING ORGANIZATION] reports in the most recent Call Report or FR Y–9C.

Models-Based Non-Default Capital Requirement

§ _____.212 Operational Requirements for the Models-Based Measure for Market Risk

(a) *General requirements.* In order to calculate the models-based measure for market risk, a [BANKING ORGANIZATION] must:

(1) Have at least one model-eligible trading desk; and

(2) Receive prior approval from the [AGENCY] of the [BANKING ORGANIZATION]'s trading desk structure.

(b) *Trading desk identification and approval process—*(1) *Identification of trading desks.* A [BANKING ORGANIZATION] must identify a trading desk for which the [BANKING ORGANIZATION] will seek approval to be a model-eligible trading desk and in making this identification must:

(i) Consider whether having the trading desk be a model-eligible trading desk would better reflect the market risk of the market risk covered positions on the trading desk;

(ii) Exclude any trading desk that includes more than de minimis amounts of model-ineligible positions; and

(iii) For any trading desk that includes de minimis amounts of model-ineligible positions:

(A) Not consider model-ineligible positions on model-eligible trading desks to be model-eligible positions for the calculations in § _____.215; and

(B) Exclude model-ineligible positions on model-eligible trading desks from aggregate trading portfolio backtesting, under § _____.204(g), and the relevant trading desks' backtesting and PLA-testing, under § _____.213, unless the [BANKING ORGANIZATION] receives approval from the [AGENCY] to include such positions for backtesting and PLA-testing purposes.

(2) *Approval process for trading desks.* A [BANKING ORGANIZATION]

must receive prior approval of the [AGENCY] for a trading desk to be a model-eligible trading desk. To receive such approval, a [BANKING ORGANIZATION] must:

(i) Receive approval by [AGENCY] of the internal models to be used by the trading desk pursuant to § _____.212(c); and

(ii) Comply with one of the following:

(A) Provide at least 250 business days of trading desk level backtesting and, beginning [THREE YEARS AFTER EFFECTIVE DATE], PLA test results for the trading desk to the [AGENCY];

(B) Provide at least 125 business days of trading desk level backtesting and, beginning [THREE YEARS AFTER EFFECTIVE DATE], PLA test results for the trading desk to the [AGENCY] and demonstrate to the satisfaction of the [AGENCY] that the internal models will be able to meet the backtesting and, beginning [THREE YEARS AFTER EFFECTIVE DATE], PLA testing on an ongoing basis;

(C) Demonstrate that the trading desk consists of similar market risk covered positions to another trading desk of the [BANKING ORGANIZATION], which has been approved by the [AGENCY] and has provided at least 250 business days of trading desk level backtesting and, beginning [THREE YEARS AFTER EFFECTIVE DATE], PLA test results to the [AGENCY]; or

(D) Beginning [THREE YEARS AFTER EFFECTIVE DATE], subject the trading desk to the PLA add-on until the trading desk provides at least 250 business days of trading desk-level backtesting and PLA test results, produces results in the PLA test green zone, and passes trading desk-level backtesting.

(3) *Changes to trading desk structure.* (i) A [BANKING ORGANIZATION] must receive prior approval from the [AGENCY] before the [BANKING ORGANIZATION] implements any change to its trading desk structure that would result in a material change in the [BANKING ORGANIZATION]'s market risk capital requirements for a portfolio of market risk covered positions.

(ii) A [BANKING ORGANIZATION] must promptly notify the [AGENCY] when the [BANKING ORGANIZATION] makes any change to its trading desk structure that would result in a non-material change in the [BANKING ORGANIZATION]'s market risk capital requirements for a portfolio of market risk covered positions.

(4) The [AGENCY] may rescind its approval of a model-eligible trading desk or subject such trading desk to the PLA add-on if the [AGENCY] determines that the trading desk no longer complies with any of the

applicable requirements of this subpart F, provided that the trading desk may not be subjected to the PLA add-on if the approval for a stressed expected shortfall methodology used by the trading desk was rescinded. A model-eligible trading desk that becomes subject to the PLA add-on under this paragraph (b)(4) shall remain subject to the PLA add-on until the [AGENCY] determines that the trading desk is no longer subject to the PLA add-on under this paragraph (b)(4).

(c) *Approval of internal models and stressed expected shortfall methodologies—*(1) *Initial approval.* A [BANKING ORGANIZATION] must receive prior approval of the [AGENCY] to use an internal model for the ES-based measure in § _____.215(b), and the stressed expected shortfall methodologies in § _____.215(d). To receive [AGENCY] approval of an internal model or methodology, a [BANKING ORGANIZATION] must demonstrate:

(i) The internal model properly measures all the material risks of the market risk covered positions to which it is applied;

(ii) The internal model has been properly validated, consistent with paragraph (d)(3) of this section;

(iii) The level of sophistication of the internal model or methodology is commensurate with the complexity and amount of its market risk covered positions; and

(iv) The internal model or methodology meets the applicable requirements of this subpart F.

(2) *Changes to internal models and stressed expected shortfall methodologies.* (i) A [BANKING ORGANIZATION] must receive prior approval from the [AGENCY] before the [BANKING ORGANIZATION] implements any change to an approved model, including any change to its modelling assumptions, that would result in a material change in the [BANKING ORGANIZATION]'s ES-based measure for a trading desk, the [BANKING ORGANIZATION]'s IMCC, or the [BANKING ORGANIZATION]'s stressed expected shortfall.

(ii) A [BANKING ORGANIZATION] must promptly notify the [AGENCY] when the [BANKING ORGANIZATION] makes any change to an approved model, including any change to its modelling assumptions, that would result in a non-material change in the [BANKING ORGANIZATION]'s ES-based measure for a trading desk, the [BANKING ORGANIZATION]'s IMCC, or the [BANKING ORGANIZATION]'s stressed expected shortfall.

(3) If the [AGENCY] determines that the [BANKING ORGANIZATION] no longer complies with this subpart F or that the [BANKING ORGANIZATION]'s internal models or methodologies fail to accurately reflect the risks of any of the [BANKING ORGANIZATION]'s market risk covered positions, the [AGENCY] may rescind its approval of an internal model or methodology previously approved under paragraph (c)(1) of this section, or impose the PLA add-on on the trading desk using the internal model for the ES-based measure pursuant to paragraph (b)(4) of this section. When approval for an internal model or methodology is rescinded, any trading desk that had used that internal model or methodology must be a model-eligible trading desk.

(d) *Review, risk management, and validation.* (1) A [BANKING ORGANIZATION] must, no less frequently than annually, review its internal models in light of developments in financial markets and modeling technologies, and enhance those internal models as appropriate to ensure that they continue to meet the [AGENCY]'s standards for model approval and employ risk measurement methodologies that are the most appropriate for the [BANKING ORGANIZATION]'s market risk covered positions.

(2) A [BANKING ORGANIZATION] must integrate the internal models used for calculating the ES-based measure in § _____.215(b) into its daily risk management process.

(3) A [BANKING ORGANIZATION] must validate its internal models initially and on an ongoing basis. A [BANKING ORGANIZATION] must revalidate its internal models when it makes any material changes to the models or when there have been significant structural changes in the market or changes in the composition of the [BANKING ORGANIZATION]'s market risk covered positions that might lead to the [BANKING ORGANIZATION]'s internal models to be no longer adequate. The [BANKING ORGANIZATION]'s validation process must be independent of the internal models' development, implementation, and operation, or the validation process must be subjected to an independent review of its adequacy and effectiveness. Validation must include:

(i) An evaluation of the conceptual soundness of the internal models;

(ii) An evaluation that the internal models adequately reflect all material risks and that assumptions are appropriate and do not underestimate risk;

(iii) An ongoing monitoring process that includes verification of processes and the comparison of the [BANKING ORGANIZATION]'s model outputs with relevant internal and external data sources or estimation techniques;

(iv) An outcomes analysis process that includes backtesting and PLA testing at the trading desk level; and

(v) Backtesting conducted at the aggregate level for all model-eligible trading desks.

(e) *Supervisory action for model-eligible trading desks.* If required by the [AGENCY], a [BANKING ORGANIZATION] that has one or more model-eligible trading desks must calculate the standardized measure for market risk for one or more specified model-eligible trading desks as if that trading desk were a stand-alone regulatory portfolio, as directed by the [AGENCY].

§ _____.213 Trading Desk-Level Backtesting and PLA Testing

(a) A model-eligible trading desk must conduct backtesting as described in paragraph (b) of this section and PLA testing as described in paragraph (c) of this section at the trading desk level on a quarterly basis.

(b) *Trading desk-level backtesting requirements.* (1) Beginning on the business day a trading desk becomes a model-eligible trading desk, the [BANKING ORGANIZATION] must generate backtesting data by separately comparing each business day's actual profit and loss and hypothetical profit and loss with the corresponding VaR-based measure calculated by the [BANKING ORGANIZATION]'s internal models for that business day, at both the 97.5th percentile and the 99.0th percentile one-tail confidence levels at the trading desk level. Time effects must be treated in a consistent manner in the hypothetical profit and loss used for backtesting.

(i) An exception for actual profit and loss at either percentile occurs when the actual loss of the model-eligible trading desk exceeds the corresponding VaR-based measure calculated at that percentile. An exception for hypothetical profit and loss at either percentile occurs when the hypothetical loss of the model-eligible trading desk exceeds the corresponding VaR-based measure calculated at that percentile.

(ii) If either the business day's actual or hypothetical profit and loss is not available or the [BANKING ORGANIZATION] is unable to compute the business day's actual or hypothetical profit and loss, an exception for actual profit and loss or for hypothetical profit and loss, respectively, at each percentile

occurs. If the VaR-based measure for a business day is not available or the [BANKING ORGANIZATION] is unable to compute the VaR-based measure for a particular business day, exceptions for actual profit and loss and for hypothetical profit and loss at each percentile occur. No exception will occur if the unavailability or inability is related to an official holiday.

(iii) With approval of the [AGENCY], a [BANKING ORGANIZATION] may consider an exception not to have occurred if:

(A) The [BANKING ORGANIZATION] can demonstrate that the exception is due to technical issues that are unrelated to the [BANKING ORGANIZATION]'s internal models; or

(B) The [BANKING ORGANIZATION] can demonstrate that one or more non-modellable risk factors caused the relevant loss, and the portion of the stressed expected shortfall, as defined in § _____.204(c)(2)(ii), that can be attributed to these non-modellable risk factors on that business day exceeds the difference between the [BANKING ORGANIZATION]'s VaR-based measure and the actual or hypothetical loss for that business day.

(2) In order to conduct backtesting, a [BANKING ORGANIZATION] must count the number of exceptions over the most recent 250 business days. A [BANKING ORGANIZATION] must count exceptions for actual profit and loss at each percentile separately from exceptions for hypothetical profit and loss.

(3) If any given model-eligible trading desk experiences either more than 12 exceptions for actual profit and loss or 12 exceptions for hypothetical profit and loss at the 99.0th percentile, or 30 exceptions for actual profit and loss or 30 exceptions for hypothetical profit and loss at the 97.5th percentile in the most recent 250 business day period, then the trading desk becomes a model-eligible trading desk, upon the completion of the [AGENCY]'s quarterly review of the relevant backtesting data.

(4) Notwithstanding paragraphs (b)(2) and (3) of this section, in cases where a model-eligible trading desk is approved pursuant to § _____.212(b)(2)(ii)(B), (C) or (D):

(i) The model-eligible trading desk that has fewer than 250 business days of backtesting data available must use all available backtesting data; and

(ii) The [BANKING ORGANIZATION] must prorate the number of allowable exceptions under paragraph (b)(3) of this section by the number of business days for which backtesting data are available for the model-eligible trading desk.

(5) A trading desk that becomes a model-ineligible trading desk under paragraph (b)(3) of this section becomes a model-eligible trading desk when:

(i) The trading desk experiences less than or equal to 12 exceptions for actual profit and loss and 12 exceptions for hypothetical profit and loss at the 99.0th percentile, and 30 exceptions for actual profit and loss and 30 exceptions for hypothetical profit and loss at the 97.5th percentile in the most recent 250 business day period and, beginning [THREE YEARS AFTER EFFECTIVE DATE], the trading desk produces results in the PLA test green zone or PLA test amber zone; or

(ii) The [BANKING ORGANIZATION] receives approval of the [AGENCY].

(c) *Trading desk level PLA test requirements*—(1) *General requirements*. At the trading desk level, the [BANKING ORGANIZATION] must compare each of its most recent 250 business days' hypothetical profit and loss with the corresponding daily risk-theoretical profit and loss. Time effects must be treated in a consistent manner in the hypothetical profit and loss and the risk-theoretical profit and loss.

(i) For the purpose of PLA testing, the [BANKING ORGANIZATION] may align risk-theoretical profit and loss input data for its risk factors with the data used in hypothetical profit and loss, where the [BANKING ORGANIZATION] is able to demonstrate that hypothetical profit and loss input data can be used

appropriately for risk-theoretical profit and loss purposes.

(ii) The [BANKING ORGANIZATION] may adjust risk-theoretical profit and loss input data when the input data for a given risk factor that is included in both the risk-theoretical profit and loss and the hypothetical profit and loss differs due to different market data sources, time fixing of market data sources, or transformations of market data into input data suitable for the risk factors of the underlying valuation engines. When transforming input data into a format that can be applied to the risk factors used in internal risk management models, the [BANKING ORGANIZATION] must demonstrate that no differences in the risk factors or in the valuation models have been omitted.

(iii) The [BANKING ORGANIZATION] must be able to assess the effect that input data alignments would have on the risk-theoretical profit and loss. The [BANKING ORGANIZATION] must be able to compare the risk-theoretical profit and loss based on the hypothetical profit and loss aligned market data with the risk-theoretical profit and loss based on market data without alignment. This comparison must be performed when designing or changing the input data alignment process or at the request of the [AGENCY].

(2) *PLA test metric*. (i) A [BANKING ORGANIZATION] must calculate the Kolmogorov-Smirnov metric in this

paragraph (c)(2) at the trading desk level, using the most recent 250 business days of the risk-theoretical profit and loss and the hypothetical profit and loss.

(ii) A [BANKING ORGANIZATION] must calculate the empirical cumulative distribution function of the risk-theoretical profit and loss where, for any value of risk-theoretical profit and loss, the empirical cumulative distribution is the product of 0.004 and the number of risk-theoretical profit and loss observations that are less than or equal to the specified risk-theoretical profit and loss.

(iii) A [BANKING ORGANIZATION] must calculate the empirical cumulative distribution function of hypothetical profit and loss where, for any value of hypothetical profit and loss, the empirical cumulative distribution is the product of 0.004 and the number of hypothetical profit and loss observations that are less than or equal to the specified hypothetical profit and loss.

(iv) A [BANKING ORGANIZATION] must calculate the Kolmogorov-Smirnov metric as the largest absolute difference observed between these two empirical cumulative distribution functions at any profit and loss value.

(3) *PLA test evaluation*. (i) A [BANKING ORGANIZATION] must identify the PLA test zone of the trading desk's PLA test results as set out in Table 1 to § __.213.

Table 1 to § __.213—PLA Test Zones

PLA test zone	Kolmogorov-Smirnov (KS) metric
Green zone	$KS < 0.09$
Amber zone	$0.09 \leq KS \leq 0.12$
Red zone	$KS > 0.12$

(ii) Notwithstanding paragraph (c)(3)(i) of this section, the [AGENCY] may determine that a [BANKING ORGANIZATION] must identify the PLA test zone of a trading desk's PLA test results as a different PLA test zone.

(iii) Beginning [THREE YEARS AFTER EFFECTIVE DATE], upon the completion of the quarterly review of the relevant PLA test data, a trading desk that produces results in the PLA test amber zone, pursuant to paragraph (c)(3)(i) or (c)(3)(ii) of this section, is subject to the PLA add-on.

(iv) Beginning [THREE YEARS AFTER EFFECTIVE DATE], upon the completion of the quarterly review of the relevant PLA test data, a trading desk that produces results in the PLA test red zone, pursuant to paragraph (c)(3)(i) or (c)(3)(ii) of this section, is a model-ineligible trading desk.

(v) A trading desk that becomes a model-ineligible trading desk under paragraph (c)(3)(iv) of this section will become a model-eligible trading desk when:

(A) The trading desk produces results in the PLA test green zone or PLA test

amber zone; and in the most recent 250 business day period, the trading desk experiences less than or equal to 12 backtesting exceptions for actual profit and loss and 12 exceptions for hypothetical profit and loss at the 99.0th percentile, or less than or equal to 30 backtesting exceptions for actual profit and loss and 30 backtesting exceptions for hypothetical profit and loss at the 97.5th percentile; or

(B) The [BANKING ORGANIZATION] receives approval of the [AGENCY].

(4) *PLA add-on*. The PLA add-on, if required under paragraph (c)(3)(iii) of

this section, § _____.212(b)(2)(ii)(D), or § _____.212(b)(4), equals:

$PLA\ add-on = k$

$$\times \max \left(\left(SA_{G,A} \right. \right. \\ \left. \left. - \max \left((IMCC_{t-1} + SES_{t-1}), \left((m_c \times IMCC_{average}) + SES_{average} \right) \right) \right), 0 \right)$$

where,

(i) $k = 0.5 \times \frac{\sum_{i \in A} SA_i}{\sum_{i \in G,A} SA_i}$; where

- (A) SA_i denotes the standardized non-default capital requirement for market risk covered positions on trading desk, i ;
- (B) $\sum_{i \in A} SA_i$ equals the sum of the standardized non-default capital requirement, calculated separately, for each trading desk i that is subject to the PLA add-on; and
- (C) $\sum_{i \in G,A} SA_i$ equals the sum of the standardized non-default capital requirement, calculated separately, for each model-eligible trading desk i (including trading desks subject to the PLA add-on); and
- (ii) All other terms have the meaning specified in § _____.204(c)(2).

§ _____.214 Risk Factor Identification

(a) *Identification of risk factors.* A [BANKING ORGANIZATION] must identify an appropriate set of risk factors to be used for purposes of calculating the internally modelled capital calculation, $IMCC$, and the stressed expected shortfall, SES , subject to the requirements below:

(1) The set of risk factors must be sufficient to represent the risks inherent in the market risk covered positions held by model-eligible trading desks;

(2) The [BANKING ORGANIZATION] must include all risk factors included in the [BANKING ORGANIZATION]'s internal risk management models or models used in reporting actual profits and losses; and

(3) The [BANKING ORGANIZATION] must include all risk factors that are specified in § _____.208 for each corresponding risk class, unless the [BANKING ORGANIZATION] is able to support the omission of specific risk classes to the satisfaction of the [AGENCY].

(b) *Risk factor eligibility tests.* (1) *Conduct of tests and classification of risk factors.* A [BANKING

ORGANIZATION] must classify each risk factor according to the risk factor qualitative test specified in paragraph (b)(2) of this section and the risk factor quantitative test specified in paragraph (b)(3) of this section as follows:

(i) A risk factor that passes both the risk factor quantitative test and the risk factor qualitative test is a modellable risk factor;

(ii) A risk factor that passes the risk factor qualitative test but fails the risk factor quantitative test is a type A non-modellable risk factor; and

(iii) A risk factor that is not a modellable risk factor or a type A non-modellable risk factor is a type B non-modellable risk factor.

(2) *Risk factor qualitative test.* To pass the risk factor qualitative test, the data that a [BANKING ORGANIZATION] uses to calculate the models-based non-default capital requirement corresponding to a risk factor must be consistent with each of the standards in this paragraph (b)(2).

(i) The data must allow the internal models used to calculate the ES-based measure to capture both idiosyncratic risk and systematic risk, if applicable.

(ii) The data must allow the internal models used to calculate the ES-based measure to reflect volatility and correlation of risk factors of market risk covered positions.

(iii) The data must be reflective of prices observed or quoted in the market. Where data used are not derived from real price observations, the [BANKING ORGANIZATION] must be able to demonstrate that the data used are reasonably representative of real price observations.

(iv) The data must be updated at a sufficient frequency to adequately

reflect the performance of the risk factor, and at a minimum on a weekly basis. Where the [BANKING ORGANIZATION] uses regressions to estimate risk factor parameters, these must be re-estimated on a regular basis. The [BANKING ORGANIZATION] must have clear policies and procedures for backfilling and gap-filling missing data and for updating the sources of data used.

(v) The data to determine the liquidity horizon-adjusted ES-based measure must be reflective of market prices observed or quoted in the period of stress specified in § _____.215(b)(5). The data should be sourced directly from the historical period whenever possible. The [BANKING ORGANIZATION] must empirically justify any instances where the market prices used in the period of stress are different from the market prices actually observed during that period. In cases where market risk covered positions that are currently traded did not exist during a period of significant financial stress, the [BANKING ORGANIZATION] must demonstrate that the prices used match changes in prices or spreads of similar instruments during the stress period.

(vi) The data may include proxies provided the [BANKING ORGANIZATION] can demonstrate to the satisfaction of the [AGENCY] that the proxies are appropriate and that the following standards are satisfied:

(A) There is sufficient evidence demonstrating the appropriateness of the proxies, such as an appropriate track record for their representation of a market risk covered position;

(B) The proxies have sufficiently similar characteristics to the

transactions they represent in terms of volatility level and correlations; and

(C) The proxies are appropriate for the region, credit spread, quality and type of instrument they are intended to represent.

(vii) The [AGENCY] has not determined that the data is unsuitable to calibrate the [BANKING ORGANIZATION]'s ES-based measure.

(3) *Risk factor quantitative test.* To conduct the risk factor quantitative test, a [BANKING ORGANIZATION] must identify real price observations that meet the requirements set forth in paragraph (b)(3)(i) and allocate each real price observation into a bucket for a risk factor, as specified in paragraph (b)(3)(ii). To pass the risk factor quantitative test, a [BANKING ORGANIZATION] must identify real price observations in the bucket corresponding to the risk factor over the prior 12 months equal to or greater than the minimum number of real price observations specified in paragraph (b)(3)(iii).

(i) *Requirements for real price observations.*

(A) A real price is representative of a risk factor provided it can be used by the [BANKING ORGANIZATION] to inform the value of the risk factor.

(B) The [BANKING ORGANIZATION] must not count more than one real price observation in a single day.

(C) When a [BANKING ORGANIZATION] uses real prices from a third-party provider:

(1) The third-party provider must provide a minimum necessary set of identifier information to enable the [BANKING ORGANIZATION] to map real prices observed to risk factors;

(2) The third-party provider that is not a U.S. Government agency, an exchange, or a QCCP must be subject to an audit regarding the validity of its pricing

information and the results and reports of this audit must be made public or available on request to the [BANKING ORGANIZATION], provided that if the audit of a third-party provider is not satisfactory to the [AGENCY], the data from the third-party provider may not be used for purposes of the risk factor quantitative test; and

(3) When the real price observations are provided with a time lag, the period used for the risk factor quantitative test may differ from the period used to calibrate the [BANKING ORGANIZATION]'s ES-based measure, provided that the difference is no greater than one month.

(ii) *Bucketing approaches.* For the risk factor quantitative test, a [BANKING ORGANIZATION] must allocate real price observations into buckets corresponding to risk factors and must count all real price observations allocated to a bucket in order to establish whether the risk factors in the bucket pass the risk factor quantitative test. To allocate real price observations into buckets, the [BANKING ORGANIZATION] must group risk factors on a curve or surface level. Real price observations may be mapped to more than one risk factor. Each bucket may be defined by using either of the bucketing approaches specified in this paragraph (b)(3)(ii).

(A) *Own bucketing approach.* Under this approach, each bucket must include only one risk factor. Each risk factor must correspond to a risk factor included in the risk-theoretical profit and loss of the [BANKING ORGANIZATION].

(B) *Standard bucketing approach.* Under this approach, the [BANKING ORGANIZATION] must use the standard buckets as set out as follows:

(1) For interest rate, foreign exchange and commodity risk factors with a

single maturity dimension (excluding implied volatilities), (t , where t is measured in years), the buckets corresponding to the t values in row (A) of Table 1 to § _____.214 must be used.

(2) For interest rate, foreign exchange and commodity risk factors with several maturity dimensions (excluding implied volatilities) (δ , where δ is measured in years), the buckets corresponding to the δ values in row (B) of Table 1 to § _____.214 must be used.

(3) Credit spread and equity risk factors with one or several maturity dimensions (excluding implied volatilities) (δ , where δ is measured in years), the buckets corresponding to the δ values in row (C) of Table 1 to § _____.214 must be used.

(4) For any risk factors with one or several strike dimensions (the probability that an option is “in the money” at maturity, δ), the buckets corresponding to the δ values in row (D) of Table 1 to § _____.214 must be used.

(5) For expiry and strike dimensions of implied volatility risk factors (excluding those of interest rate swaptions), only the buckets corresponding to the t or δ values in rows (C) and (D), respectively, of Table 1 to § _____.214 must be used.

(6) For maturity, expiry and strike dimensions of implied volatility risk factors from options on swaps, only the buckets corresponding to the t or δ values in row (B), (C) and (D), respectively, of Table 1 to § _____.214 must be used.

(7) For options markets where alternative definitions of moneyness are customary, a [BANKING ORGANIZATION] must convert the standard buckets to the market-standard convention using the [BANKING ORGANIZATION]'s own pricing models.

Table 1 To § __.214—Standard Bucketing Approach: Standard Buckets

Row	Bucket								
	1	2	3	4	5	6	7	8	9
(A)	$0 \leq t < 0.75$	$0.75 \leq t < 1.5$	$1.5 \leq t < 4.0$	$4 \leq t < 7$	$7 \leq t < 12$	$12 \leq t < 18$	$18 \leq t < 25$	$25 \leq t < 35$	$35 \leq t < \infty$
(B)	$0 \leq t < 0.75$	$0.75 \leq t < 4.0$	$4 \leq t < 10$	$10 \leq t < 18$	$18 \leq t < 30$	$30 \leq t < \infty$			
(C)	$0 \leq t < 1.50$	$1.5 \leq t < 3.5$	$3.5 \leq t < 7.5$	$7.5 \leq t < 15$	$15 \leq t < \infty$				
(D)	$0 \leq \delta < 0.05$	$0.05 \leq \delta < 0.3$	$0.3 \leq \delta < 0.7$	$0.7 \leq \delta < 0.95$	$0.95 \leq \delta < 1.00$				

(C) For purposes of the risk factor quantitative test, a real price observation must be counted in a single bucket based on the maturity or based on the probability that an option is “in the money” at maturity associated with the position, provided that real price observations that have been identified within the prior 12 months must be either:

- (1) Counted in the maturity bucket to which they were initially allocated; or
- (2) Re-allocated to the shorter maturity bucket that reflects the market risk covered position’s remaining maturity.

(D) A [BANKING ORGANIZATION] may decompose risks associated with credit or equity indices into systematic risk factors within its internal models designed to capture market-wide movements for a given economy, region or sector.

(iii) *Minimum sufficient number of real price observations.*

(A) The minimum sufficient number of real price observations is 24 if the

liquidity horizon is 10 or 20 days, and 16 otherwise.

(B) Notwithstanding other provisions of this paragraph (b)(3), for new issuances, the observation period for the risk factor quantitative test may begin on the issuance date and the number of real price observations required to pass the risk factor quantitative test may be prorated until 12 months after the issuance date.

(c) *Calibration.* The [BANKING ORGANIZATION] must choose the most appropriate data for modellable risk factors and type A non-modellable risk factors to calibrate the ES-based measure. For the calibration of the ES-based measure, the [BANKING ORGANIZATION] may use different data than the data used to pass the risk factor quantitative test.

§ __.215 The Models-Based Non-Default Capital Requirement

(a) A [BANKING ORGANIZATION] that calculates the models-based non-

default capital requirement must calculate the ES-based measure, the internally modelled capital calculation, *IMCC*, and the stressed expected shortfall, *SES*, in accordance with this section.

(b) *ES-based measure.* Any internal model used by a [BANKING ORGANIZATION] to calculate the ES-based measure must meet the following minimum requirements.

(1) The ES-based measure must be computed for each business day at the trading desk level, at the aggregate level, and on the aggregate for each risk class for all model-eligible trading desks.

(2) The ES-based measure must be calculated using a one-tail, 97.5th percentile confidence level.

(3) A liquidity horizon-adjusted ES-based measure must be calculated from an ES-based measure at a base liquidity horizon of 10 days, with scaling applied to this base horizon result as specified below:

$$ES = \sqrt{\left(ES_T(P)\right)^2 + \sum_{j \geq 2} \left(ES_T(P, j) \sqrt{\frac{(LH_j - LH_{j-1})}{T}}\right)^2}$$

Where:

- (i) *ES* is the liquidity horizon-adjusted ES-based measure;
- (ii) *T* is the length of the base liquidity horizon, 10 days;

- (iii) $ES_T(P)$ is *ES* at base liquidity horizon *T* of a portfolio with market risk covered positions *P*;
- (iv) $ES_T(P, j)$ is the at base liquidity horizon *T* of a portfolio with market risk covered positions *T* for all risk factors whose liquidity horizon is at least as long as the

- liquidity horizon corresponding to the index value *j*, LH_j as specified in Table 1 to § __.215;
- (v) LH_j is the liquidity horizon corresponding to the index value, *j*, specified in Table 1 to § __.215.

Table 1 to § .215—Liquidity Horizons, j

<i>j</i>	<i>LH_j (lengths in days)</i>
1	10
2	20
3	40
4	60
5	120

(4) The time series of changes in risk factors over the base liquidity horizon *T* may be calculated using observations of price differentials from overlapping 10-day periods, provided, a [BANKING ORGANIZATION] must not scale up from a shorter horizon.

(5) *Stress period.* A [BANKING ORGANIZATION] must identify a 12-month period of stress over the observation horizon in which the [BANKING ORGANIZATION]'s model-eligible positions would experience the largest loss, pursuant to policies and procedures approved by the [AGENCY]. Such policies and procedures must:

(i) Base the identification of the period of stress using either the full set of risk factors or a reduced set of risk factors;

(ii) Provide that when using a reduced set of risk factors to identify the period

of stress the [BANKING ORGANIZATION] must:

(A) Specify a reduced set of risk factors for which there is a sufficiently long history of observations that meet requirements of the risk factor qualitative test specified in § .214(b)(2) and for which:

(1) The [BANKING ORGANIZATION] uses data that are reflective of market prices observed or quoted in the historical stress period used by the expected shortfall model and sourced from the historical stress period, when possible;

(2) Where the market prices used for the historical stress period in the expected shortfall calculation differ from the market prices actually observed for that period, the [BANKING ORGANIZATION] empirically justifies the selection of the stress period; and

(3) For model-eligible positions that did not exist during the historical stress period, the [BANKING ORGANIZATION] demonstrates that the prices used match changes in the prices or spreads of instruments that traded during that period and that are similar to the model-eligible positions;

(B) Update the reduced set of risk factors whenever the [BANKING ORGANIZATION] updates its 12-month period of stress; and

(C) Ensure that the variation of the full ES-based measure explained by the ES-based measure for the reduced set of risk factors over the previous 60 business days is at least 75 percent, where, on date *t*, the variation explained equals

$$1 - \frac{\sum_{h=t-60}^{t-1} (ES_{F,C,h} - ES_{R,C,h})^2}{\sum_{h=t-60}^{t-1} (ES_{F,C,h} - \text{Mean}(ES_{F,C}))^2}$$

Where:

- (1) $ES_{F,C,h}$ is the liquidity horizon-adjusted ES-based measure based on the most recent 12-month observation period (the current ES-based measure) using the full set of risk factors calculated at date *h*, which ranges from one day prior to date *t* to 60 days prior to date *t*;
- (2) $ES_{R,C,h}$ is the current liquidity horizon-adjusted ES-based measure using the reduced set of risk factors calculated at date *h*, which ranges from one day prior to date *t* to 60 days prior to date *t*; and
- (3) $\text{Mean}(ES_{F,C})$ is the mean of $ES_{F,C}$ over the previous 60 business days.

(iii) Consider 12-month periods going back to, at a minimum, 2007;

(iv) Equally weight observations within the 12-month period; and

(v) Provide for updating, as appropriate, the 12-month stressed period at least quarterly, or whenever there are material changes in the risk factors in the portfolio.

(6) *Liquidity horizon-adjusted ES-based measure.* A [BANKING ORGANIZATION] must calibrate the liquidity horizon-adjusted ES-based measure to a period of stress for its entire portfolio of model-eligible positions using one of the two approaches set forth in this paragraph (b)(6).

(i) *Direct approach.* A [BANKING ORGANIZATION] using the direct approach must use the full set of risk factors to calculate the liquidity horizon-adjusted ES-based measure,

provided a [BANKING ORGANIZATION] may use proxies to fill in data on missing risk factors in accordance with § .214(b)(2)(vi).

(ii) *Indirect approach.* A [BANKING ORGANIZATION] using the indirect approach must follow the steps below to calculate the liquidity horizon-adjusted ES-based measure:

(A) Calculate a liquidity horizon-adjusted ES-based measure in accordance with paragraph (b)(3) of this section;

(B) Convert the three types of liquidity horizon-adjusted ES-based measures defined below into one liquidity horizon-adjusted ES-based measure, as follows:

$$ES = ES_{R,S} \cdot \max \left(1, \frac{ES_{F,C}}{ES_{R,C}} \right)$$

Where:

- (1) $ES_{R,C}$ is the liquidity horizon-adjusted ES-based measure for the [BANKING ORGANIZATION]'s model-eligible positions using the reduced set of risk factors calculated based on the 12-month period of stress;
- (2) $ES_{F,C}$ is the liquidity horizon-adjusted ES-based measure based on the most recent 12-month observation period (the current ES-based measure) using the full set of risk factors; and
- (3) $ES_{R,C}$ is the liquidity horizon-adjusted ES-based measure for the [BANKING ORGANIZATION]'s model-eligible positions using the reduced set of risk factors.

(7) *Input data.* A [BANKING ORGANIZATION] must update its input data for internal models used to calculate the ES-based measure no less frequently than quarterly and reassess its input data whenever market prices are subject to material changes. This updating process must be flexible enough to allow for updates when warranted by material changes in market prices.

(8) *Risk capture.* Internal models used to calculate the ES-based measure must address non-linearities, as well as correlation and relevant basis risks, such as basis risk between credit default swaps and bonds.

(9) *Empirical correlations.* A [BANKING ORGANIZATION] may recognize empirical correlations within risk classes. Empirical correlations across risk classes are constrained by the aggregation scheme as described in paragraph (c) of this section.

(10) *Options.* With respect to options, a [BANKING ORGANIZATION]'s internal models used to calculate the ES-based measure must:

(i) Capture the risks associated with options, including non-linear price characteristics, within each of the risk classes;

(ii) Have a set of risk factors that captures the volatilities of the underlying rates and prices of options; and

(iii) Model the volatility surface across both strike price and maturity.

(11) *Assignment of liquidity horizons.* At a minimum on a quarterly basis, a [BANKING ORGANIZATION] must map each of its risk factors to one of the risk factor categories and corresponding liquidity horizons, n , in Table 2 to § _____.215 and must assign a liquidity horizon of 10, 20, 40, 60, or 120 days to each of its risk factors, in accordance with the requirements of this paragraph (b)(11).

(i) A [BANKING ORGANIZATION] must assign a liquidity horizon to a risk factor on a particular trading desk, which must be greater than or equal to the minimum liquidity horizon corresponding to the value, n , for the risk factor category in Table 2 to § _____.215, unless otherwise specified in paragraphs (b)(11)(ii) and (iii) of this section.

(ii) If the maturity of a market risk covered position is shorter than the respective liquidity horizon, n , of the risk factor category as set forth in Table 2 to § _____.215, the minimum liquidity horizon is the next longer liquidity horizon, n , from the maturity of the market risk covered position.

(iii) The minimum liquidity horizon for credit and equity indices and other similar multi-underlying instruments must be the shortest liquidity horizon, n , that is equal to or longer than the weighted average of the liquidity horizons of the underlyings, calculated by multiplying the respective liquidity horizon, n , of the risk factor category as set forth in Table 2 to § _____.215 of each individual underlying by its weight in the index and summing the weighted liquidity horizons across all underlyings.

¹ Any currency pair formed by the following list of currencies: United States Dollar, Australian Dollar, Brazilian Real, Canadian Dollar, Chinese Yuan, Euro, Hong Kong Dollar, Indian Rupee,

Japanese Yen, Mexican Peso, New Zealand Dollar, Norwegian Krone, Singapore Dollar, South African Rand, South Korean Won, Swedish Krona, Swiss Franc, Turkish Lira, United Kingdom Pound, and

any additional currencies specified by the [AGENCY] under § _____.209(b)(7)(ii).

Table 2 to § __.215—Liquidity Horizon n by Risk Factor Category

Risk factor category	n	Risk factor category	n
Interest rate and inflation: United States Dollar, Australian Dollar, Canadian Dollar, Euro, Japanese Yen, Swedish Krona, and United Kingdom Pound and the domestic currency of a [BANKING ORGANIZATION]	10	Equity (small market cap): volatility	60
Interest rate and inflation: unspecified currencies	20	Equity: other types	60
Interest rate: volatility	60	Foreign exchange rate: specified currency pairs ¹	10
Interest rate: other types	60	Foreign exchange rate: currency pairs	20
Credit spread: sovereign exposures, MDBs, and specified supranational entities (investment grade)	20	Foreign exchange: volatility	40
Credit spread: sovereign exposures, MDBs, and specified supranational entities (speculative grade and sub- speculative grade)	40	Foreign exchange: other types	40
Credit spread: GSE debt	40		
Credit spread: corporate positions (investment grade)	40	Energy and carbon emissions trading price	20
Credit spread: corporate positions (speculative grade and sub-speculative grade)	60	Precious metals and non-ferrous metals price	20
Credit spread: volatility	120	Other commodities	60
Credit spread: other types	120	Energy and carbon emissions trading price: volatility	60
Equity (large market cap or index)	10	Precious metals and non-ferrous metals price: volatility	60
Equity (small market cap)	20	Other commodities: volatility	120
Equity (large market cap or index): volatility	20	Commodity: other types	120

(c) *Internally modelled capital calculation.* A [BANKING ORGANIZATION] must calculate an internally modelled capital calculation,

IMCC, on each business day in accordance with the below:
(1) For all model-eligible trading desks, a [BANKING ORGANIZATION] must include in its internal models used to calculate the aggregate liquidity

horizon-adjusted ES-based measure all modellable risk factors and type A non-modellable risk factors.
(2) The [BANKING ORGANIZATION] must calculate its aggregate liquidity horizon-adjusted ES-based measure,

$IMCC(C)$, using the liquidity horizon-adjusted ES-based measure specified in paragraph (b) of this section, with no supervisory constraints on cross-risk class correlations.

(3) The [BANKING ORGANIZATION] must also calculate a series of partial liquidity horizon-adjusted ES-based measures (with risk factors of all other

risk classes held constant) for each risk class using the liquidity horizon-adjusted ES-based measure specified in paragraph (b) of this section. These partial, non-diversifiable liquidity horizon-adjusted ES-based measures, $IMCC(C_i)$, must be summed to provide an aggregated risk class ES-based

measure. The stress period used to calculate $IMCC(C)$ and $IMCC(C_i)$ must be the same.

(4) The internally modelled capital calculation, $IMCC$, must be calculated as the weighted average of the constrained and unconstrained ES-based measures as follows:

$$IMCC = \omega(IMCC(C)) + (1 - \omega) \left(\sum_i IMCC(C_i) \right)$$

Where:

- (i) w equals 0.5;
- (ii) i is the index of risk classes, which are the following: interest rate risk, credit spread risk, equity risk, commodity risk and foreign exchange risk;
- (iii) $IMCC(C)$ equals the aggregate liquidity horizon-adjusted ES-based measure specified in paragraph (c)(2) of this section; and
- (iv) $IMCC(C_i)$ equals the partial liquidity horizon-adjusted ES-based measure specified in paragraph (c)(3) of this section for risk class i .

(d) *Stressed expected shortfall.* (1)

General. A [BANKING ORGANIZATION] must calculate a stressed expected shortfall, SES , that meets the following requirements:

(i) The [BANKING ORGANIZATION] must calculate a capital measure for each non-modellable risk factor using a stress scenario that is calibrated to be at least as conservative as the ES-based measure, as described in paragraph (b),

used for the internally modelled capital calculation, as described in paragraph (c), provided that:

(A) To determine the applicable stress scenario, the [BANKING ORGANIZATION] must select a common 12-month period of stress for all non-modellable risk factors in the same risk class,

(B) In determining the stress scenario, a [BANKING ORGANIZATION] may use proxies, provided the proxies meet the standards in § _____.214(b)(2)(vi),

(C) Methodologies used to calculate any stressed expected shortfall must address non-linearities, as well as correlation and relevant basis risks, such as basis risk between credit default swaps and bonds; and

(D) For each non-modellable risk factor, the liquidity horizon of the stress scenario must be the greater of (1) the risk factor's liquidity horizon assigned

pursuant to paragraph (b)(1) of this section and (2) 20 days; and

(E) When the [BANKING ORGANIZATION] cannot determine a stress scenario capital measure for any risk factor under paragraph (d)(1)(i) of this section, the [BANKING ORGANIZATION] must use the scenario capital requirement that produces the maximum possible loss for each risk factor as the stress scenario capital requirement, for purposes of calculating the stressed expected shortfall.

(ii) Notwithstanding paragraph (d)(i) of this section, with approval of the [AGENCY], a [BANKING ORGANIZATION] also may use an alternative approach to determine the stress scenario.

(2) *Stressed expected shortfall calculation.* A [BANKING ORGANIZATION] must calculate the stressed expected shortfall, SES , for all non-modellable risk factors, as follows:

$$SES = \sqrt{\left(\sum_{k=1}^K SES_{NM,k}^2 \right) + \left((1 - \rho_b) \sum_{j=1}^J SES_{NM,j}^2 + \rho_b \left(\sum_{j=1}^J SES_{NM,j} \right)^2 \right)}$$

Where:

- (i) $SES_{NM,k}$ is the stress scenario capital measure for the type A non-modellable risk factor k ;
- (ii) K is the number of type A non-modellable risk factors;
- (iii) ρ_b is 0.36;
- (iv) $SES_{NM,j}$ is the stress scenario capital measure for the type B non-modellable risk factor j ; and
- (v) J is the number of type B non-modellable risk factors.

§ _____.216 [RESERVED]

§ _____.217 Market Risk Reporting and Disclosures

(a) *Scope.* Paragraphs (b) through (f) of this section apply to [BANKING ORGANIZATIONS] subject to the market risk capital requirements as described in § _____.201(b)(1) and paragraphs (b) through (e) and (g) of this section apply to [BANKING ORGANIZATIONS] subject to the CVA risk-based capital requirements as described in § _____.201(b)(2), provided that a [BANKING ORGANIZATION] that is a consolidated subsidiary of a bank

holding company, a covered savings and loan holding company that is a banking organization as defined in 12 CFR 238.2, or a depository institution that is subject to these requirements or of a non-U.S. banking organization that is subject to comparable public disclosure requirements in its home jurisdiction is not required to make the disclosures required by paragraphs (f) or (g) of this section.

(b) *Timing.* A [BANKING ORGANIZATION] must make the reports and disclosures described herein beginning on [THE FIRST DATE OF THE QUARTER THE RULE TAKES

EFFECT]. A [BANKING ORGANIZATION] must make timely public reports and disclosures each calendar quarter. If a significant change occurs, such that the most recent reporting amounts are no longer reflective of the [BANKING ORGANIZATION]'s capital adequacy and risk profile, then a brief discussion of this change and its likely impact must be provided in a public disclosure as soon as practicable thereafter. Qualitative disclosures that typically do not change each quarter may be disclosed annually, provided any significant changes are disclosed in the interim.

(c) *Reporting and disclosure policy.* The [BANKING ORGANIZATION] must have a formal reporting and disclosure policy approved by the board of directors that addresses the [BANKING ORGANIZATION]'s approach for determining its market risk and CVA risk reports and disclosures. The policy must address the associated internal controls and reporting and disclosure controls and procedures. The board of directors and senior management must ensure that appropriate verification of the reports and disclosures takes place and that effective internal controls and reporting and disclosure controls and procedures are maintained. One or more senior officers of the [BANKING ORGANIZATION] must attest that the reports and disclosures meet the requirements of this subpart F, and the board of directors and senior management are responsible for establishing and maintaining an effective internal control structure over financial reporting, including the reports and disclosures required by this section.

(d) *Proprietary and confidential information.* If a [BANKING ORGANIZATION] reasonably believes that reporting or disclosure of specific commercial or financial information would materially prejudice its position by making public certain information that is either proprietary or confidential in nature, the [BANKING ORGANIZATION] is not required to publicly report or disclose these specific items, but must report or disclose more general information about the subject matter of the requirement, together with the fact that, and the reason why, the specific items of information have not been disclosed.

(e) *Location.* The [BANKING ORGANIZATION] must either provide all of the public reports and disclosures required by this section in one place on the [BANKING ORGANIZATION]'s public website or provide the reporting and disclosures in more than one public

financial report or other public regulatory reports, provided that the [BANKING ORGANIZATION] publicly provides a summary table specifically indicating the location(s) of all such reporting and disclosures.

(f) *Market risk disclosures and reports—(1) Quarterly public disclosures.* A [BANKING ORGANIZATION] must disclose publicly the following information at least quarterly:

(i) The aggregate amount of on-balance sheet and off-balance sheet securitization positions by exposure type;

(ii) The soundness criteria on which the [BANKING ORGANIZATION]'s internal capital adequacy assessment is based and a description of each methodology used to achieve a capital adequacy assessment that is consistent with the required soundness criteria, including, for a [BANKING ORGANIZATION] that calculates the models-based measure for market risk, for categories of non-modellable risk factors;

(iii) The aggregate amount of correlation trading positions; and

(iv) For a [BANKING ORGANIZATION] that calculates the models-based measure for market risk, a comparison of VaR-based estimates with actual gains or losses experienced by the [BANKING ORGANIZATION] for each material portfolio of market risk covered positions, including an analysis of important outliers.

(2) *Annual public disclosures.* A [BANKING ORGANIZATION] must provide timely public disclosures of the following information at least annually:

(i) A description of the structure and organization of the market risk management system, including a description of the market risk governance structure established to implement the strategies and processes of the [BANKING ORGANIZATION] described in this paragraph (f);

(ii) A description of the policies and processes for determining whether a position is designated as a market risk covered position and the risk management policies for monitoring market risk covered positions;

(iii) The composition of material portfolios of market risk covered positions;

(iv) A description of the scope and nature of risk reporting and/or measurement systems and the strategies and processes implemented by the [BANKING ORGANIZATION] to identify, measure, monitor and control the [BANKING ORGANIZATION]'s market risks, including policies for hedging;

(v) A description of the trading desk structure and the types of market risk covered positions included on the trading desks or in trading desk categories, which must include:

(A) A description of the model-eligible trading desks for which a [BANKING ORGANIZATION] calculates the models-based non-default capital requirement; and

(B) Any changes in the scope of model-ineligible trading desks and the market risk covered positions on those trading desks.

(vi) The [BANKING ORGANIZATION]'s valuation policies, procedures, and methodologies for each material portfolio of market risk covered positions including, for securitization positions, the methods and key assumptions used for valuing such securitization positions, any significant changes since the last reporting period, and the impact of such change;

(vii) The characteristics of the internal models used for purposes of calculating the models-based measure for market risk and the specific approaches used in the validation of these models. For the models-based non-default capital requirement, this must include a general description of the model(s) used to calculate the ES-based measure in § _____.215(b), the frequency by which data is updated, and a description of the calculation based on current and stressed observations.

(viii) A description of the approaches used for validating and evaluating the accuracy of internal models and modeling processes for purposes of this subpart F;

(ix) For each market risk category (that is, interest rate risk, credit spread risk, equity risk, foreign exchange risk, and commodity risk), a description of the stress tests applied to the market risk covered positions subject to the category;

(x) The results of the comparison of the [BANKING ORGANIZATION]'s internal estimates for purposes of this subpart F with actual outcomes during a sample period not used in model development;

(xi) A description of the [BANKING ORGANIZATION]'s processes for monitoring changes in the credit and market risk of securitization positions, including how those processes differ for res securitization positions; and

(xii) A description of the [BANKING ORGANIZATION]'s policy governing the use of credit risk mitigation to mitigate the risks of securitization positions and res securitization positions.

(3) *Public reports.* A [BANKING ORGANIZATION] subject to the market risk capital requirements as described in

§ ___.201(b)(1) must provide, in the manner and form prescribed by the [AGENCY], a public report of its measure for market risk, on a quarterly basis. A [BANKING ORGANIZATION] must report additional information and reports as the [AGENCY] may require.

(4) *Confidential supervisory reports.*

(i) A [BANKING ORGANIZATION] that calculates the models-based measure for market risk must provide to the [AGENCY], in the manner and form prescribed by the [AGENCY], a confidential supervisory report of backtesting and PLA testing information, on a quarterly basis.

(ii) A [BANKING ORGANIZATION] must report to the [AGENCY] the following information at the aggregate level for all model-eligible trading desks for each business day over the previous 500 business days, or all available business days, if 500 business days are not available, with no more than a 20-day lag:

(A) Daily VaR-based measures calibrated to the 99.0th percentile as described in § ___.204(g)(1);

(B) Daily ES-based measure calculated in accordance with § ___.215(b) calibrated at the 97.5th percentile;

(C) The actual profit and loss;

(D) The hypothetical profit and loss;

and

(E) The p-value of the profit or loss on each day, which is the probability of observing a profit that is less than, or a loss that is greater than, the amount reported for purposes of paragraph (f)(4)(ii)(C) of this section based on the model used to calculate the VaR-based measure described in paragraph (f)(4)(ii)(A) of this section.

(iii) A [BANKING ORGANIZATION] must report to the [AGENCY] the following information for each trading desk for each business day over the previous 500 business days, or all available business days, if 500 business days are not available, with no more than a 20-day lag:

(A) Daily VaR-based measures for the trading desk calibrated at both the 97.5th percentile and the 99.0th percentile as described in § ___.213(b)(1);

(B) Daily ES-based measure calculated in accordance with § ___.215(b) calibrated at the 97.5th percentile;

(C) The actual profit and loss;

(D) The hypothetical profit and loss;

(E) Risk-theoretical profit and loss; and

(F) The p-values of the profit or loss on each day (that is, the probability of observing a profit that is less than, or a loss that is greater than, the amount reported for purposes of paragraph (f)(4)(iii)(C) of this section based on the model used to calculate the VaR-based measure described in paragraph (f)(4)(iii)(A) of this section).

(g) *CVA risk disclosures and reports—*
(1) *Risk management-related disclosure requirements.* Except as provided in paragraphs (a) and (d) of this section, a [BANKING ORGANIZATION] subject to the CVA risk-based capital requirements as described in § ___.201(b)(2) must make the disclosures described in Tables 1 and 2 to § ___.217. The [BANKING ORGANIZATION] must make these disclosures publicly available for each of the last twelve quarters, or such shorter period beginning in the quarter in which the [BANKING ORGANIZATION] becomes subject to subpart F of this part.

Table 1 to § __.217—General Qualitative Disclosure Requirements Related To CVA

Qualitative Disclosures	The [BANKING ORGANIZATION] must describe its risk management objectives and policies for CVA risk as follows:
	(a) An explanation and/or a description of the [BANKING ORGANIZATION]'s processes implemented to identify, measure, monitor and control the [BANKING ORGANIZATION]'s CVA risks, including policies for hedging CVA risk and the processes for monitoring the continuing effectiveness of hedges.

Table 2 to § __.217—Qualitative Disclosures for Banks Using the SA-CVA

Qualitative Disclosures	The [BANKING ORGANIZATION] must provide the following information on its CVA risk management framework:
	(a) A description of the [BANKING ORGANIZATION]'s CVA risk management framework.
	(b) A description of how senior management is involved in the CVA risk management framework.
	An overview of the governance of the CVA risk management framework (e.g.,
	(c) documentation, independent risk control unit, independent review, independence of the data acquisition from the lines of business).

CVA Risk-Based Capital Requirements
§ ___.220 General Requirements for CVA Risk

(a) *Identification of CVA risk covered positions and eligible CVA hedges.* A [BANKING ORGANIZATION] must:

(1) Identify all CVA risk covered positions and all transactions that hedge or are intended to hedge CVA risk;

(2) Identify all eligible CVA hedges and ineligible CVA hedges; and

(3) For a [BANKING ORGANIZATION] that has approval to

use the standardized measure for CVA risk, identify all eligible CVA hedges for the purposes of calculating the basic CVA approach capital requirement and all eligible CVA hedges for the purpose of calculating the standardized CVA approach capital requirement.

(b) *CVA hedging policy.* A [BANKING ORGANIZATION] that hedges its CVA risk must have a clearly defined hedging policy for CVA risk that is reviewed and approved by senior management at least annually. The hedging policy must quantify the level of CVA risk that the [BANKING ORGANIZATION] is willing to accept and must detail the instruments, techniques, and strategies that the [BANKING ORGANIZATION] will use to hedge CVA risk.

(c) *Documentation.* A [BANKING ORGANIZATION] must have policies and procedures for determining its CVA risk-based capital requirement. A [BANKING ORGANIZATION] must adequately document all material aspects of its identification and management of CVA risk covered positions and eligible CVA hedges, and control, oversight, and review processes. A [BANKING ORGANIZATION] that calculates the standardized measure for CVA risk must adequately document:

- (1) Policies and procedures of the CVA desk, or similar dedicated function, and the independent risk control unit;
- (2) The internal auditing process;
- (3) The internal policies, controls, and procedures concerning the [BANKING ORGANIZATION]'s CVA calculations for financial reporting purposes;
- (4) The initial and ongoing validation of the [BANKING ORGANIZATION]'s models used for calculating regulatory CVA under § ___.224(d), including exposure models; and
- (5) The [BANKING ORGANIZATION]'s process to assess the performance of models used for calculating regulatory CVA under § ___.224(d), including exposure models, and implement remedies.

§ ___.221 Measure for CVA Risk

(a) *General requirements.* A [BANKING ORGANIZATION] must calculate its measure for CVA risk as the basic measure for CVA risk in accordance with paragraph (b) of this section, unless the [BANKING ORGANIZATION] has prior approval of the [AGENCY] and chooses to calculate its measure for CVA risk as the standardized measure for CVA risk in accordance with paragraph (c) of this section.

(b) *Basic measure for CVA risk.* The basic measure for CVA risk equals the basic CVA approach capital requirement as provided in § ___.222 for all CVA risk covered positions and eligible CVA hedges, plus any additional capital requirement for CVA risk established by the [AGENCY] pursuant to § ___.201(c).

(c) *Standardized measure for CVA risk.* The standardized measure for CVA risk equals the sum of the standardized CVA approach capital requirement as provided in paragraph (c)(1) of this section for all standardized CVA risk covered positions and standardized CVA hedges, the basic CVA approach capital requirement as provided in § ___.222 for all basic CVA risk covered positions and basic CVA hedges, and any additional capital requirement for CVA risk established by the [AGENCY] pursuant to § ___.201(c).

(1) The standardized CVA approach capital requirement equals the sum of the CVA delta capital requirement and the CVA vega capital requirement as calculated in accordance with § ___.224.

(2) A [BANKING ORGANIZATION] that has received approval from the [AGENCY] to use the standardized measure for CVA risk must include the following CVA risk covered positions as basic CVA risk covered positions to be

included in the calculation of the basic CVA approach capital requirement:

(i) Any CVA risk covered position that the [AGENCY] specifies must be included in the basic CVA approach capital requirement pursuant to § ___.223(a)(1);

(ii) Any CVA risk covered position in a netting set that the [BANKING ORGANIZATION] chooses to exclude from the calculation of the standardized CVA approach capital requirement; and

(iii) Any CVA risk covered position in a partial netting set designated for inclusion in the basic CVA approach.

(3) A [BANKING ORGANIZATION] that has received approval from the [AGENCY] to use the standardized measure for CVA risk must include the following eligible CVA hedges as basic CVA hedges to be included in the calculation of the basic CVA approach capital requirement:

(i) Any eligible CVA hedge that the [AGENCY] specifies must be included in the basic CVA approach capital requirement pursuant to § ___.223(a)(1); and

(ii) Any CVA hedge that is an eligible CVA hedge for purposes of calculating the basic CVA approach capital requirement that the [BANKING ORGANIZATION] chooses to include in the basic CVA approach capital requirement.

§ ___.222 Basic CVA Approach

(a) *Basic CVA approach capital requirement.* The basic CVA approach capital requirement equals K_{basic} , which is calculated as follows:

$$K_{basic} = 0.65 \cdot (\beta \cdot K_{unhedged} + (1 - \beta) \cdot K_{hedged})$$

Where:

- (1) The parameter, β , equals 0.25;
- (2) $K_{unhedged}$ is calculated as follows:

$$K_{unhedged} = \sqrt{\left(\rho \cdot \sum_c SCVA_c\right)^2 + (1 - \rho^2) \cdot \sum_c SCVA_c^2}$$

Where:

- (i) The correlation parameter, ρ , equals 50 percent;

(ii) $\sum_c ()$ refers to a summation across all counterparties, c , of CVA risk covered positions;

(iii) $SCVA_c$ is equal to:

$$SCVA_c = \frac{1}{\alpha} \cdot RW_c \cdot \sum_{NS} (M_{NS} \cdot EAD_{NS} \cdot DF_{NS})$$

Where:

(A) α equals:

- (1) 1 for counterparties for which the [BANKING ORGANIZATION]

calculates exposure amount under § ___.114(e)(4); and

- (2) 1.4 for all other counterparties.
- (B) $\Sigma_{NS}(\)$ refers to a summation across all netting sets with the counterparty;
- (C) M_{NS} is the effective maturity for the netting set, NS , measured in years, calculated as the weighted-average remaining maturity of the individual CVA risk covered positions within the netting set, with the weight of each individual position equal to the notional amount of the position divided by the aggregate notional amount of all positions in the netting set;
- (D) EAD_{NS} is the EAD of the netting set, NS , which must be determined using the same methodology it uses to calculate the exposure amount for counterparty credit risk for its OTC derivative contracts under § _____.34 or §§ _____.113 through _____.114, as applicable;

(E) DF_{NS} is a discount factor equal to $\frac{1-e^{-0.05 \cdot M_{NS}}}{0.05 \cdot M_{NS}}$; and

- (F) RW_c is the risk weight for counterparty c , based on the sector and credit quality of the counterparty, as specified in Table 1 to § _____.222.

Table 1 to § _____.222—Supervisory Risk Weights, RW_c

Sector of counterparty	Credit quality of counterparty		
	Investment grade	Speculative grade / sub-speculative grade	
Sovereign exposures, MDBs, and specified supranational entities	0.5%	3.0%	7.0%
PSEs, government-backed non-financials, GSEs, education, and public administration	1.0%	4.0%	
Financials, including government-backed financials	5.0%	12.0%	
Basic materials, energy, industrials, agriculture, manufacturing, and mining and quarrying	3.0%	7.0%	
Consumer goods and services, transportation and storage, and administrative and support service activities	3.0%	8.5%	
Technology and telecommunications	2.0%	5.5%	
Health care, utilities, and professional and technical activities	1.5%	5.0%	
Other sector	5.0%	12.0%	

- (3) K_{hedged} is calculated as follows:

$$K_{hedged} = \sqrt{\left(\rho \cdot \sum_c (SCVA_c - SNH_c) - IH\right)^2 + (1 - \rho^2) \cdot \sum_c (SCVA_c - SNH_c)^2 + \sum_c HMA_c}$$

Where:

- (i) The correlation parameter, ρ , is defined in paragraph (a)(2)(i) of this section;
- (ii) $\Sigma_c(\)$ refers to a summation across all counterparties, c , of CVA risk covered positions, $SCVA_c$, as defined in paragraph (a)(2)(iii) of this section;
- (iii) SNH_c is calculated as follows:

$$SNH_c = \sum_{h \in c} (r_{hc} \cdot RW_h \cdot M_h^{SN} \cdot B_h^{SN} \cdot DF_h^{SN})$$

Where:

(A) $\sum_{h \in c} ()$ refers to a summation across all single-name eligible CVA hedges, h , that the [BANKING ORGANIZATION] uses to hedge the CVA risk of counterparty, c ;

(B) r_{hc} is the correlation between the credit spread of counterparty, c , and the credit spread of a single-name hedge, h , of counterparty, c , as specified in Table 2 to § _____.222;

(C) RW_h is the risk weight of single-name hedge, h , as prescribed in Table 1 to § _____.222, for the sector and credit quality of the reference name of the hedge;

(D) M_h^{SN} is the remaining maturity of single-name hedge, h , measured in years;

(E) B_h^{SN} is the notional amount of single-name hedge, h , provided that, for single-name contingent CDS, the notional amount is determined by the current market value of the reference portfolio or instrument; and

(F) DF_h^{SN} is the discount factor and is calculated as $\frac{1 - e^{(-0.05 \cdot M_h^{SN})}}{0.05 \cdot M_h^{SN}}$.

Table 2 to § _____.222—Correlations Between Credit Spread of Counterparty, c , and a Single-Name Hedge, h

Single-name hedge, h , of counterparty, c	Value of r_{hc}
References counterparty, c , directly	100%
References an affiliate of counterparty, c	80%
References an entity that belongs to the same sector and region as the counterparty, c	50%

(iv) IH is calculated as follows:

$$IH = \sum_i (RW_i \cdot M_i^{ind} \cdot B_i^{ind} \cdot DF_i^{ind})$$

Where:

(A) $\sum_i ()$ refers to a summation across all eligible CVA hedges that are index hedges, i , that the [BANKING ORGANIZATION] uses to hedge CVA risk;

(B) RW_i is the risk weight of the index hedge, i , as follows:

(1) For an index hedge where all index constituents belong to the same sector and are of the same credit quality, the value in Table 1 to § _____.222 corresponding to that sector and credit quality, multiplied by 0.7; or

(2) For an index spanning multiple sectors or with a mixture of investment grade constituents and other grade constituents, the notional-weighted average of the risk weights from Table 1 to § _____.222 corresponding to the sectors and credit qualities of the constituents, multiplied by 0.7;

(C) M_i^{ind} is the remaining maturity of the index hedge, i , measured in years;

(D) B_i^{ind} is the notional amount of the index hedge, i ; and

(E) DF_i^{ind} is the discount factor and is calculated as $\frac{1 - e^{(-0.05 \cdot M_i^{ind})}}{0.05 \cdot M_i^{ind}}$; and

(v) HMA_c is calculated as follows where all terms have the same definitions

as set out in paragraph (a)(3)(iii) of this section:

$$HMA_c = \sum_{h \in c} \left((1 - r_{hc}^2) \cdot (RW_h \cdot M_h^{SN} \cdot B_h^{SN} \cdot DF_h^{SN})^2 \right)$$

(b) [Reserved]

§ _____.223 Requirements for the Standardized Measure for CVA Risk

(a) *Eligibility requirements.* (1) A [BANKING ORGANIZATION] must receive approval of the [AGENCY] prior to using the standardized measure for CVA risk for calculating CVA capital requirements. Such approval may specify certain CVA risk covered positions and eligible CVA hedges that must be included in the calculation of the basic CVA approach capital requirement. In order to be eligible to use the standardized measure for CVA risk, a [BANKING ORGANIZATION] must meet the following requirements:

(i) A [BANKING ORGANIZATION] must be able to calculate, on at least a monthly basis, regulatory CVA and CVA sensitivities to market risk factors and counterparty credit spreads specified in § _____.224 and § _____.225;

(ii) A [BANKING ORGANIZATION] must have a CVA desk, or a similar dedicated function, responsible for CVA risk management and hedging consistent with the [BANKING ORGANIZATION]'s policies and procedures;

(iii) A [BANKING ORGANIZATION] must determine the EAD for derivative contracts using the standardized approach for counterparty credit risk as specified in § _____.114; and

(iv) A [BANKING ORGANIZATION] must meet all of the requirements listed in paragraph (b) of this section and the requirements in § _____.220(c) on an ongoing basis.

(2) The [AGENCY] may rescind its approval of the use of the standardized measure for CVA risk (in whole or in part), if the [AGENCY] determines that the model no longer complies with this subpart or fails to reflect accurately the CVA risk of the [BANKING

ORGANIZATION]'s CVA risk covered positions.

(3) The [AGENCY] may specify that one or more CVA risk covered positions or one or more eligible CVA hedges must be included in the basic CVA approach capital requirement or prescribe an alternative capital requirement, if the [AGENCY] determines that the [BANKING ORGANIZATION]'s implementation of the standardized CVA approach capital requirement no longer complies with this subpart F or fails to reflect accurately the CVA risk.

(b) *Ongoing requirements.* (1) Exposure models used in the calculation of regulatory CVA under § _____.224(d) must be part of a CVA risk management framework that includes the identification, measurement, management, approval, and internal reporting of CVA risk.

(2) Senior management must have oversight of the risk control process.

(3) A [BANKING ORGANIZATION] must have an independent risk control unit that is responsible for the effective initial and ongoing validation (no less than annual) of the models used for calculating regulatory CVA under § _____.224(d), including exposure models. This unit must be independent from the business unit that evaluates counterparties and sets limits, a [BANKING ORGANIZATION]'s trading desks, and the CVA desk, or similar dedicated function, and must report directly to senior management of the [BANKING ORGANIZATION].

(4) A [BANKING ORGANIZATION] must document the process for initial and ongoing validation of its models used for calculating regulatory CVA under § _____.224(d), including exposure models, which must recreate the analysis, to a level of detail that would enable a third party to understand how the models operate, their limitations,

and their key assumptions. This documentation must set out the minimum frequency (no less than annual) with which ongoing validation will be conducted as well as other circumstances (such as a sudden change in market behavior) under which additional validation must be conducted more frequently. In addition, the documentation must sufficiently describe how the validation is conducted with respect to data flows and portfolios, what analyses are used, and how representative counterparty portfolios are constructed.

(5) A [BANKING ORGANIZATION] must test the pricing models used to calculate exposure for given paths of market risk factors against appropriate independent benchmarks for a wide range of market states as part of the initial and ongoing model validation process. A [BANKING ORGANIZATION]'s pricing models for options must account for the non-linearity of option value with respect to market risk factors.

(6) An independent review of the overall CVA risk management process must be conducted as part of the [BANKING ORGANIZATION]'s own regular internal auditing process. This review must include both the activities of the CVA desk, or similar dedicated function, and of the independent risk control unit.

(7) A [BANKING ORGANIZATION] must define criteria on which to assess the exposure models and their inputs and have a written policy in place to describe the process to assess the performance of exposure models and remedy unacceptable performance.

(8) A [BANKING ORGANIZATION]'s exposure models must capture transaction-specific information in order to aggregate exposures at the level of the netting set. A [BANKING ORGANIZATION] must verify that

transactions are assigned to the appropriate netting set within the model.

(9) A [BANKING ORGANIZATION]'s exposure models must reflect transaction terms and specifications accurately. The terms and specifications must reside in a secure database that is subject to formal and periodic audit no less than annually. The transmission of transaction terms and specifications data to the exposure model must also be subject to internal audit, and formal reconciliation processes must be in place between the internal model and source data systems to verify on an ongoing basis that transaction terms and specifications are being reflected correctly or at least conservatively.

(10) A [BANKING ORGANIZATION] must acquire current and historical market data that are either independent of the lines of business or validated independently from the lines of business and be compliant with applicable accounting standards. The data must be input into the exposure models in a timely and complete fashion, and maintained in a secure database subject to formal and periodic audit. A [BANKING ORGANIZATION]

must also have a well-developed data integrity process to handle the data of erroneous and anomalous observations. In the case where an exposure model relies on proxy market data, a [BANKING ORGANIZATION] must set internal policies to identify suitable proxies and the [BANKING ORGANIZATION] must demonstrate empirically on an ongoing basis that the proxy provides a conservative representation of the underlying risk under adverse market conditions.

§ ___.224 Calculation of the Standardized CVA Approach

(a) *General.* A [BANKING ORGANIZATION] must calculate the CVA delta capital requirement pursuant to paragraph (b) of this section and the CVA vega capital requirement pursuant to paragraph (c) of this section, in both cases for all standardized CVA risk covered positions and for the market value of all standardized CVA hedges, in accordance with the requirements set forth below.

(1) For each standardized CVA risk covered position and standardized CVA hedge, a [BANKING ORGANIZATION] must identify all of the relevant risk

factors as described in § ___.225 for which it will calculate sensitivities for delta risk and vega risk as described in paragraphs (b) and (c) of this section. A [BANKING ORGANIZATION] must also identify the corresponding buckets related to these risk factors as described in § ___.225.

(2) A [BANKING ORGANIZATION] must assign a standardized CVA hedge that mitigates credit spread delta risk either to the counterparty credit spread risk class or to the reference credit spread risk class.

(b) *CVA delta capital requirement.* (1) General. The CVA delta capital requirement equals the sum of the risk class-level CVA delta capital requirements calculated pursuant to paragraph (b)(4) of this section for each of the following six risk classes:

- (i) Interest rate risk;
- (ii) Foreign exchange risk;
- (iii) Counterparty credit spread risk;
- (iv) Reference credit spread risk;
- (v) Equity risk; and
- (vi) Commodity risk.

(2) *Net weighted sensitivity calculation.* For each risk factor, k , specified in § ___.225(a), a [BANKING ORGANIZATION] must:

(i) Calculate the CVA delta sensitivity of aggregate regulatory CVA to the risk factor,

S_k^{CVA} , and the CVA delta sensitivity of the aggregate market value of standardized CVA hedges

to the risk factor, S_k^{Hdg} , pursuant to paragraph (e) of this section.

(ii) Calculate the weighted CVA delta sensitivity to the risk factor, WS_k^{CVA} , and the

weighted hedge delta sensitivity to the risk factor, WS_k^{Hdg} , by multiplying S_k^{CVA} and S_k^{Hdg} ,

respectively, by the corresponding risk weight, RW_k , specified in § ___.225(a):

$$WS_k^{CVA} = RW_k \cdot S_k^{CVA}$$

$$WS_k^{Hdg} = RW_k \cdot S_k^{Hdg}$$

(iii) Calculate the net weighted delta sensitivity, WS_k , by subtracting the weighted hedge

delta sensitivity, WS_k^{Hdg} , from the weighted CVA delta sensitivity, WS_k^{CVA} :

$$WS_k = WS_k^{CVA} - WS_k^{Hdg}$$

(3) *Within bucket aggregation.* For each bucket, b , as provided in

§ ___.225(a), a [BANKING ORGANIZATION] must calculate the

bucket-level CVA delta capital requirement, k_b , by aggregating the net

weighted delta sensitivities for each risk factor in a bucket, b , using the buckets and correlation parameters, ρ_{kl} , applicable to each risk class as specified in § _____.225(a), as follows:

$$K_b = \sqrt{\sum_{k \in b} WS_k^2 + \sum_{k \in b} \sum_{l \in b, l \neq k} (\rho_{kl} \cdot WS_k \cdot WS_l) + R \cdot \sum_{k \in b} (WS_k^{Hdg})^2}$$

Where:
 R is the hedging disallowance parameter equal to 0.01.

(4) *Across bucket aggregation.* A [BANKING ORGANIZATION] must

calculate the risk class-level CVA delta capital requirement, K , by aggregating the bucket-level CVA delta capital requirements, K_b , for each bucket in the risk class using the correlation

parameters, γ_{bc} , applicable to each risk class as specified in § _____.225(a), as follows:

$$K = m_{CVA} \cdot \sqrt{\sum_b K_b^2 + \sum_b \sum_{c \neq b} (\gamma_{bc} \cdot S_b \cdot S_c)}$$

Where:

(i) S_b is defined for bucket, b , as:

$$S_b = \max \left(\min \left(\sum_{k \in b} WS_k, K_b \right), -K_b \right)$$

(ii) S_c is defined for bucket c as:

$$S_c = \max \left(\min \left(\sum_{k \in c} WS_k, K_c \right), -K_c \right)$$

(iii) The multiplier, m_{CVA} , equals 1, unless the [AGENCY] notifies the [BANKING ORGANIZATION] in writing that a different value must be used. The [AGENCY] may increase a [BANKING ORGANIZATION]'s multiplier if it determines that the [BANKING ORGANIZATION]'s CVA model risk warrants it.

(c) *CVA vega capital requirement.* (1) *General.* The CVA vega capital requirement equals the sum of the risk class-level CVA vega capital requirements calculated pursuant to paragraph (c)(4) of this section for each of the following five risk classes:

(i) Interest rate risk;

(ii) Foreign exchange risk;
 (iii) Reference credit spread risk;
 (iv) Equity risk; and
 (v) Commodity risk.

(2) *Net weighted sensitivity calculation.* For each risk factor, k , specified in § _____.225(b), a [BANKING ORGANIZATION] must:

(i) Calculate the CVA vega sensitivity of aggregate regulatory CVA to the risk factor, S_k^{CVA} , and the CVA vega sensitivity of the aggregate market value of standardized CVA hedges to the risk factor, S_k^{Hdg} , pursuant to paragraph (e) of this section.

(ii) Calculate the weighted CVA vega sensitivity to the risk factor, WS_k^{CVA} , and the weighted hedge vega sensitivity to the risk factor, WS_k^{Hdg} , by multiplying S_k^{CVA} and S_k^{Hdg} , respectively, by the corresponding risk weight, RW_k , specified in § __.225(b):

$$WS_k^{CVA} = RW_k \cdot S_k^{CVA}$$

$$WS_k^{Hdg} = RW_k \cdot S_k^{Hdg}$$

(iii) Calculate the net weighted vega sensitivity, WS_k , by subtracting the weighted hedge vega sensitivity, WS_k^{Hdg} , from the weighted CVA vega sensitivity, WS_k^{CVA} :

$$WS_k = WS_k^{CVA} - WS_k^{Hdg}$$

(3) *Within bucket aggregation.* For each bucket, b , as provided in § __.225(b), a [BANKING ORGANIZATION] must calculate the

bucket-level CVA vega capital requirement, K_b , by aggregating the net weighted vega sensitivities for each risk factor in a bucket, b , using the buckets

and correlation parameters, ρ_{kl} , applicable to each risk class as specified in § __.225(b), as follows:

$$K_b = \sqrt{\sum_{k \in b} WS_k^2 + \sum_{k \in b} \sum_{l \in b, l \neq k} (\rho_{kl} \cdot WS_k \cdot WS_l) + R \sum_{k \in b} (WS_k^{Hdg})^2}$$

Where:

R is the hedging disallowance parameter equal to 0.01.

(4) *Across bucket aggregation.* A [BANKING ORGANIZATION] must

calculate the risk class-level CVA vega capital requirement, K , by aggregating the bucket-level CVA vega capital requirements, K_b , for each bucket in the risk class using the correlation

parameters, Y_{bc} , applicable to each risk class as specified in § __.225(b), as follows:

$$K = m_{CVA} \cdot \sqrt{\sum_b K_b^2 + \sum_b \sum_{c \neq b} (Y_{bc} \cdot S_b \cdot S_c)}$$

Where:

(i) S_b is defined for bucket b as:
 $S_b = \max(\min(\sum_k \epsilon_b WS_k, K_b), -K_b)$

(ii) S_c is defined for bucket c as:
 $S_c = \max(\min(\sum_k \epsilon_c WS_k, K_c), -K_c)$

(iii) The multiplier, m_{CVA} , equals 1, unless the [AGENCY] notifies the [BANKING ORGANIZATION] in writing that a different value must be used. The [AGENCY] may increase a [BANKING

ORGANIZATION]'s multiplier if it determines that the [BANKING ORGANIZATION]'s CVA model risk warrants it.

(d) *Calculation of regulatory CVA.* A [BANKING ORGANIZATION] must calculate aggregate regulatory CVA as the sum of regulatory CVA for each counterparty.

(1) A [BANKING ORGANIZATION] must calculate regulatory CVA at the

counterparty level as the expected loss resulting from default of the counterparty and assuming non-default of the [BANKING ORGANIZATION]. In expressing the regulatory CVA, non-zero losses must have a positive sign.

(2) The calculation of regulatory CVA must be based, at a minimum, on the following inputs, consistent with the requirements of this paragraph (d) of this section:

(i) Term structure of market-implied probability of default;

(ii) Market-consensus expected loss-given-default; and

(iii) Simulated paths of discounted future exposure.

(3) The term structure of market-implied probability of default must be estimated from credit spreads observed in the markets. For counterparties whose credit is not actively traded (illiquid counterparties), the market-implied probability of default must be estimated from proxy credit spreads, estimated for such counterparties according to the following requirements:

(i) A [BANKING ORGANIZATION] must estimate the credit spread curves of illiquid counterparties from credit spreads observed in the markets of the counterparty's liquid peers via an algorithm that is based, at a minimum, on the following inputs:

(A) A measure of credit quality;

(B) Industry; and

(C) Region;

(ii) A [BANKING ORGANIZATION] may map an illiquid counterparty to a single liquid reference name if the [BANKING ORGANIZATION] demonstrates to the [AGENCY] that such mapping is appropriate; and

(iii) When no credit spread of any of the counterparty's peers is available due to the counterparty's specific type, a [BANKING ORGANIZATION] may use an estimate of credit risk to proxy the spread of an illiquid counterparty; provided that where a [BANKING ORGANIZATION] uses historical probabilities of default as part of this assessment, the resulting spread must relate to credit markets and cannot be based on historical probabilities of default alone.

(4) The market-consensus expected loss-given-default value must be the same as the one used to calculate the market-implied probability of default from credit spreads unless the seniority of the exposure resulting from CVA risk covered positions differs from the seniority of senior unsecured bonds.

(5) The simulated paths of discounted future exposure are produced by pricing all standardized CVA risk covered positions with the counterparty along simulated paths of relevant market risk factors and discounting the prices to today using risk-free interest rates along the path.

(6) All market risk factors material for the transactions with a counterparty must be simulated as stochastic processes for an appropriate number of paths defined on an appropriate set of future time points extending to the maturity of the longest transaction.

(7) For transactions with a significant level of dependence between exposure and the counterparty's credit quality, a [BANKING ORGANIZATION] must account for this dependence in regulatory CVA calculations.

(8) For margined counterparties, only financial collateral that qualifies for inclusion in the net independent collateral amount or variation margin amount under §§ _____.113 through _____.114 may be recognized as a risk mitigant.

(9) For margined counterparties, the simulated paths of discounted future exposure must capture the effects of margining collateral that is recognized as a risk mitigant along each exposure path. All of the relevant contractual features such as the nature of the margin agreement (unilateral vs bilateral), the frequency of margin calls, the type of collateral, thresholds, independent amounts, initial margins, and minimum transfer amounts must be appropriately captured by the exposure model. To determine collateral available to a [BANKING ORGANIZATION] at a given exposure measurement time point, the exposure model must assume that the counterparty will not post or return any collateral within a certain time period immediately prior to that time point, the margin period of risk (MPoR). For all standardized CVA risk covered positions, the MPoR must not be less than 9 + N business days. For purposes of this paragraph (d)(9), N is the re-margining period specified in the margin agreement.

(10) A [BANKING ORGANIZATION] must obtain the simulated paths of discounted future exposure using the same CVA exposure models used by the [BANKING ORGANIZATION] for financial reporting purposes, adjusted to meet the requirements of this section. For purposes of this section, a [BANKING ORGANIZATION] must use the same model calibration process, market data, and transaction data as the [BANKING ORGANIZATION] uses in its CVA calculations for financial reporting purposes, adjusted to meet the requirements of this calculation.

(11) A [BANKING ORGANIZATION]'s generation of market risk factor paths underlying the exposure models must satisfy the following requirements:

(i) Drifts of risk factors must be consistent with a risk-neutral probability measure and a [BANKING ORGANIZATION] may not calibrate drifts of risk factors on a historical basis;

(ii) A [BANKING ORGANIZATION] must calibrate the volatilities and correlations of market risk factors to market data; provided that, where sufficient data from a liquid derivatives

market does not exist, a [BANKING ORGANIZATION] may calibrate volatilities and correlations of market risk factors on a historical basis; and

(iii) The distribution of modelled risk factors must adequately account for the possible non-normality of the distribution of exposures.

(12) For purposes of the calculation of the regulatory CVA, a [BANKING ORGANIZATION] must recognize netting in the same manner as used by the [BANKING ORGANIZATION] for financial reporting purposes.

(e) *CVA Sensitivities*. For purposes of calculating the CVA delta capital requirement and the CVA vega capital requirement, a [BANKING ORGANIZATION] must calculate the CVA delta sensitivities and CVA vega sensitivities in accordance with the requirements set forth below.

(1) *Reference value*. For purposes of calculating the CVA delta sensitivity or CVA vega sensitivity of aggregate regulatory CVA to a risk factor, , the reference value is the aggregate regulatory CVA of all standardized CVA risk covered positions. For purposes of calculating the CVA delta sensitivity or CVA vega sensitivity of aggregate market value of standardized CVA hedges to a risk factor, , the reference value is the aggregate market value of all standardized CVA hedges.

(2) *CVA delta sensitivities definitions*—(i) *Interest rate risk*. (A) For currencies specified in § _____.225(a)(1)(ii), a [BANKING ORGANIZATION] must calculate the CVA delta sensitivity to each delta risk factor by changing the risk-free yield for a given tenor for all curves in a given currency by 0.0001 and dividing the resulting change in the reference value by 0.0001. A [BANKING ORGANIZATION] must measure the delta sensitivity to the inflation rate by changing the inflation rate by 0.0001 and dividing the resulting change in the reference value by 0.0001.

(B) For currencies not specified in § _____.225(a)(1)(ii), a [BANKING ORGANIZATION] must measure the CVA delta sensitivity to each delta risk factor by applying a parallel shift to all risk-free yield curves in a given currency by 0.0001 and dividing the resulting change in the reference value by 0.0001. A [BANKING ORGANIZATION] must measure the delta sensitivity to the inflation rate by changing the inflation rate by 0.0001 and dividing the resulting change in the reference value by 0.0001.

(ii) *Foreign exchange risk*. A [BANKING ORGANIZATION] must measure the CVA delta sensitivity to each delta risk factor by multiplying the

current value of the exchange rate between the [BANKING ORGANIZATION]'s reporting currency and the other currency (*i.e.*, the value of one unit of another currency expressed in units of the reporting currency) by 1.01 and dividing the resulting change in the reference value by 0.01. For transactions that reference an exchange rate between a pair of non-reporting currencies, a [BANKING ORGANIZATION] must measure the CVA delta sensitivities to the foreign exchange spot rate between the [BANKING ORGANIZATION]'s reporting currency and each of the referenced non-reporting currencies.

(iii) *Counterparty credit spread risk.* For each entity and each tenor point, a [BANKING ORGANIZATION] must measure the CVA delta sensitivity to each delta risk factor for counterparty credit risk by shifting the relevant credit spread by 0.0001 and dividing the resulting change in the reference value by 0.0001.

(iv) *Reference credit spread risk.* A [BANKING ORGANIZATION] must measure the CVA delta sensitivity to each delta risk factor for reference credit spread risk by simultaneously shifting all of the credit spreads for all tenors of all reference names in the bucket by 0.0001 and dividing the resulting change in the reference value by 0.0001.

(v) *Equity risk.* A [BANKING ORGANIZATION] must measure the CVA delta sensitivity to each delta risk factor for equity risk by multiplying the current values of all of the equity spot prices for all reference names in the bucket by 1.01 and dividing the resulting change in the reference value by 0.01.

(vi) *Commodity risk.* A [BANKING ORGANIZATION] must measure the CVA delta sensitivities to each delta risk factor for commodity risk by multiplying the current values of all of the spot prices of all commodities in the bucket by 1.01 and dividing the resulting change in the reference value by 0.01.

(3) *CVA vega sensitivities definitions—(i) Interest rate risk.* A [BANKING ORGANIZATION] must measure the CVA vega sensitivity to each vega risk factor by multiplying the current values of all interest rate or inflation rate volatilities, respectively, by 1.01 and dividing the resulting change in the reference value by 0.01.

(ii) *Foreign exchange risk.* A [BANKING ORGANIZATION] must measure the CVA vega sensitivity to each vega risk factor for foreign exchange risk by multiplying the current values of all volatilities for a given exchange rate between the

[BANKING ORGANIZATION]'s reporting currency and another currency by 1.01 and dividing the resulting change in the reference value by 0.01.

For transactions that reference an exchange rate between a pair of non-reporting currencies, a [BANKING ORGANIZATION] must measure the volatilities of the foreign exchange spot rates between the [BANKING ORGANIZATION]'s reporting currency and each of the referenced non-reporting currencies.

(iii) *Reference credit spread risk.* A [BANKING ORGANIZATION] must measure the CVA vega sensitivity to each vega risk factor for reference credit spread risk by multiplying the current values of the volatilities of all credit spreads of all tenors for all reference names in the bucket by 1.01 and dividing the resulting change in the reference values by 0.01.

(iv) *Equity risk.* A [BANKING ORGANIZATION] must measure the CVA vega sensitivity to each risk factor for equity risk by multiplying the current values of the volatilities for all reference names in the bucket by 1.01 and dividing the resulting change in the reference value by 0.01.

(v) *Commodity risk.* A [BANKING ORGANIZATION] must measure the CVA vega sensitivity to each vega risk factor for commodity risk by multiplying the current values of the volatilities for all commodities in the bucket by 1.01 and dividing the resulting change in the reference value by 0.01.

(4) Notwithstanding paragraphs (e)(2) and (3) of this section, a [BANKING ORGANIZATION] may use smaller values of risk factor changes than what is specified in paragraphs (e)(2) and (3) of this section if doing so is consistent with internal risk management calculations.

(5) When CVA vega sensitivities are calculated, the volatility shift must apply to both types of volatilities that appear in exposure models:

(i) Volatilities used for generating risk factor paths; and

(ii) Volatilities used for pricing options.

(6) In cases where a standardized CVA risk covered position or a standardized CVA hedge references an index, the sensitivities of the aggregate regulatory CVA or the market value of the eligible CVA hedge to all risk factors upon which the value of the index depends must be calculated. The sensitivity of the aggregate regulatory CVA or the market value of the standardized CVA hedge to risk factor, , must be calculated by applying the shift of risk factor, , to all index constituents that depend on

this risk factor and recalculating the aggregate regulatory CVA or the market value of the standardized CVA hedge.

(7) Notwithstanding paragraph (e)(6) of this section, for credit and equity indices:

(i) For the risk classes of counterparty credit spread risk, reference credit spread risk, and equity risk, a [BANKING ORGANIZATION] may choose to introduce a set of additional risk factors that directly correspond to the indices (index risk factors);

(ii) If a [BANKING ORGANIZATION] chooses to introduce such additional risk factors, a [BANKING ORGANIZATION] must calculate CVA sensitivities to the index risk factors in addition to sensitivities to the other index risk factors; and

(iii) For a standardized CVA risk covered position or a standardized CVA hedge whose underlying is an index, its contribution to sensitivities to the index constituents is replaced with its contribution to a single sensitivity to the underlying index, provided that:

(A) For equity indices where at least 75 percent of market value of the constituents of the index, taking into account the weightings of the constituents, are mapped to the same sector, the entire index must be mapped to that sector and treated as a single-name sensitivity in that bucket;

(B) For credit indices where at least 75 percent of notional value of the constituents of the index, taking into account the weightings of the constituents, are mapped to the same sector, the entire index must be mapped to that sector and treated as a single-name sensitivity in that bucket; and

(C) In all other cases, the sensitivity must be mapped to the applicable index bucket.

§ _____.225 Standardized CVA Approach: Definitions of Buckets, Risk Factors, Risk Weights, and Correlation Parameters

(a) *CVA delta capital requirement—(1) Interest rate risk—(i) Delta buckets for interest rate risk.* A [BANKING ORGANIZATION] must establish a separate interest rate risk bucket for each currency.

(ii) For the purposes of this section, specified currencies mean United States Dollar, Australian Dollar, Canadian Dollar, Euro, Japanese Yen, Swedish Krona, and United Kingdom Pound, and any additional currencies specified by the [AGENCY].

(A) *Delta risk factors for interest rate risk, specified currencies.* The delta risk factors for interest rate risk for the specified currencies are the absolute changes of the inflation rate and of the

risk-free yields for the following five tenors: 1 year, 2 years, 5 years, 10 years, and 30 years.

(B) *Delta risk weights for interest rate risk, specified currencies.* The delta risk weights, RW_k , for interest rate risk for

the specified *currencies* are set out in Table 1 to § __.225.

Table 1 to § __.225—Delta Risk Weights for Interest Rate Risk (Specified Currencies)

Risk factor	Risk free yields					Inflation
	1 year	2 years	5 years	10 years	30 years	
Risk weight	1.11%	0.93%	0.74%	0.74%	0.74%	1.11%

(C) *Delta within-bucket correlation parameter for interest rate risk,*

specified currencies. The correlation parameters, ρ_{kl} , related to the specified

currencies are set out in Table 2 to § __.225.

Table 2 to § __.225—Delta Correlation Parameters, ρ_{kl} , for Interest Rate Risk (Specified Currencies)

	1 year	2 years	5 years	10 years	30 years	Inflation
1 year	100%	91%	72%	55%	31%	40%
2 years		100%	87%	72%	45%	40%
5 years			100%	91%	68%	40%
10 years				100%	83%	40%
30 years					100%	40%
Inflation						100%

(iii) For currencies not specified in paragraph (a)(2)(ii) of this section:

(A) *Delta risk factors for interest rate risk, other currencies.* The delta risk factors for interest rate risk equal the absolute change of the inflation rate and the parallel shift of the entire risk-free yield curve for a given currency;

(B) *Delta risk weights for interest rate risk, other currencies.* The delta risk weights, RW_k , for both the risk-free yield curve and the inflation rate equal 1.58 percent; and

(C) *Delta within-bucket correlation parameter for interest rate risk, other currencies.* The correlation parameter, ρ_{kl} , between the risk-free yield curve and the inflation rate equals 40 percent.

(iv) *Delta cross-bucket correlation parameter for interest rate risk.* The delta cross-bucket correlation parameter, γ_{bc} , 50 percent for all currency pairs.

(2) *Foreign exchange risk—(i) Delta buckets for foreign exchange risk.* A [BANKING ORGANIZATION] must establish a separate delta foreign exchange risk bucket for each currency, except for a [BANKING ORGANIZATION]'s own reporting currency.

(ii) *Delta risk factors for foreign exchange risk.* The delta risk factors for foreign exchange risk equal the relative change of the foreign exchange spot rate between a given currency and a [BANKING ORGANIZATION]'s reporting currency or base currency, where the foreign exchange spot rate is the current market price of one unit of another currency expressed in the units of the [BANKING ORGANIZATION]'s reporting currency or base currency.

(iii) *Delta risk weights for foreign exchange risk.* The delta risk weights, RW_k , for foreign exchange risk for all exchange rates between the [BANKING ORGANIZATION]'s reporting currency or base currency and another currency equal 11 percent.

(iv) *Delta cross-bucket correlation parameter for foreign exchange risk.* The delta cross-bucket correlation parameter, γ_{bc} , equals 60 percent for all currency pairs.

(3) *Counterparty credit spread risk—(i) Delta buckets for counterparty credit spread risk.* Delta buckets for counterparty credit spread risk are set out in Table 3 to § __.225. Delta buckets 1 to 7 represent the non-index risk factors and bucket 8 is available for

the optional treatment of indices. Under the optional treatment of indices, only standardized CVA hedges of counterparty credit spread risk and reference indices can be assigned to bucket 8, whereas buckets 1 to 7 must be used for calculations of CVA delta sensitivities for standardized CVA risk covered positions and all single-name and all non-index hedges. For any CVA index hedge assigned to buckets 1 to 7, the sensitivity of the hedge to each index constituent must be calculated as described in § __.224(e)(6).

(ii) *Delta risk factors for counterparty credit spread risk.* The delta risk factors for counterparty credit spread risk equal the absolute shifts of credit spreads of individual entities (counterparties and reference names for counterparty credit spread hedges) and indices (under the optional treatment of indices) for the following tenors: 0.5 years, 1 year, 3 years, 5 years, and 10 years.

(iii) *Delta risk weights for counterparty credit spread risk.* The delta risk weights, RW_k , for counterparty credit spread risk are set out in Table 3 to § __.225. The same risk weight for a given bucket and given credit quality applies to all tenors.

Table 3 to § __.225—Delta Buckets and Risk Weights for Counterparty Credit Spread Risk

Bucket number	Sector	Risk Weights		
		Investment grade names	Speculative grade names	Sub-speculative grade names
1	(a) Sovereign exposures, MDBs, and specified supranational entities	0.5%	3.0%	7.0%
	(b) PSEs, government-backed non-financials, GSE debt, and education and public administration	1.0%	4.0%	
	(c) Government-backed financials	5.0%	12.0%	
2	Financials	5.0%	12.0%	
3	Basic materials, energy, industrials, agriculture, manufacturing, and mining and quarrying	3.0%	7.0%	
4	Consumer goods and services, transportation and storage, and administrative and support service activities	3.0%	8.5%	
5	Technology and telecommunications	2.0%	5.5%	
6	Health care, utilities, and professional and technical activities	1.5%	5.0%	
7	Other sector	5.0%	12.0%	
8	Indices	1.5%	5.0%	

(iv) *Delta within-bucket correlation parameters, ρ_{kl} , for counterparty credit spread risk.* The delta correlation parameters, ρ_{kl} , for counterpart credit spread risk must be defined as follows:

(A) For buckets 1 through 7 of Table 3 to § __.225, a [BANKING ORGANIZATION] must calculate the correlation parameter, ρ_{kl} , between two weighted sensitivities WS_k and WS_l as follows:

$$\rho_{kl} = \rho_{kl}^{(tenor)} \cdot \rho_{kl}^{(name)} \cdot \rho_{kl}^{(quality)}$$

where,

(1) $\rho_{kl}^{(tenor)}$ equals 100 percent if the two tenors are the same, and 90 percent otherwise;

(2) $\rho_{kl}^{(name)}$ equals 100 percent if the two names are the same, 90 percent if the two names are distinct but are affiliates, and 50 percent otherwise; and

(3) $\rho_{kl}^{(quality)}$ equals 100 percent if the credit quality of the two names is the same (where speculative and sub-speculative grade is treated as one credit quality category), and 80 percent otherwise.

(B) For bucket 8 of Table 3 to § _____.225, a [BANKING ORGANIZATION] must calculate the

correlation parameter, , between two weighted sensitivities and as follows:

$$\rho_{kl} = \rho_{kl}^{(tenor)} \cdot \rho_{kl}^{(name)} \cdot \rho_{kl}^{(quality)}$$

where,

(1) $\rho_{kl}^{(tenor)}$ equals 100 percent if the two tenors are the same, and 90 percent otherwise;

(2) $\rho_{kl}^{(name)}$ equals 100 percent if the two indices are the same and of the same series, 90 percent if the two indices are the same but of distinct series, and 80 percent otherwise; and

(3) $\rho_{kl}^{(quality)}$ equals 100 percent if the credit quality of the two indices is the same (where speculative and sub-speculative grade is treated as one credit quality category), and 80 percent otherwise.

(v) *Delta cross-bucket correlation parameters for counterparty credit*

spread risk. The delta cross-bucket correlation parameters, , for

counterparty credit spread risk are set out in Table 4 to § _____.225.

Table 4 to § __.225—Delta Cross-Bucket Correlations for Counterparty Credit Spread
Delta Risk

Bucket number	1	2	3	4	5	6	7	8
1	100%	10%	20%	25%	20%	15%	0%	70%
2		100%	5%	15%	20%	5%	0%	70%
3			100%	20%	25%	5%	0%	70%
4				100%	25%	5%	0%	70%
5					100%	5%	0%	70%
6						100%	0%	70%
7							100%	0%
8								100%

(4) *Reference credit spread risk*—(i) *Delta buckets for reference credit spread risk.* Delta buckets for reference credit spread risk are set out in Table 5 to § __.225.

(ii) *Delta risk factors for reference credit spread risk.* The delta risk factor for reference credit spread risk equals the simultaneous absolute shift of all credit spreads for all tenors of all reference names in the bucket.

(iii) *Delta risk weights for reference credit spread risk.* The delta risk weights, RW_k , for reference credit spread risk are set out in Table 5 to § __.225.

Table 5 to § __.225—Delta and Vega Buckets and Delta Risk Weights for Reference Credit Spread Risk

Bucket number	Credit quality	Sector	Delta risk weights
1	Investment grade	Sovereign exposures, MDBs, and specified supranational entities	0.5%
2		PSEs, government-backed non-financials, GSE debt, and education and public administration	1.0%
3		Financials including government-backed financials and real estate activities	5.0%
4		Basic materials, energy, industrials, agriculture, manufacturing, and mining and quarrying	3.0%
5		Consumer goods and services, transportation and storage, and administrative and support service activities	3.0%
6		Technology and telecommunications	2.0%
7		Health care, utilities, and professional and technical activities	1.5%
8	Speculative grade	Sovereign exposures, MDBs, and specified supranational entities	3.0%
	Sub-speculative grade		7.0%
9	Speculative grade and sub-speculative grade	PSEs, government-backed non-financials, GSE debt, and education and public administration	4.0%
10		Financials including government-backed financials and real estate activities	12.0%
11		Basic materials, energy, industrials, agriculture, manufacturing, and mining and quarrying	7.0%
12		Consumer goods and services, transportation and storage, and administrative and support service activities	8.5%
13		Technology and telecommunications	5.5%
14		Health care, utilities, and professional and technical activities	5.0%
15		Other sector	12.0%
16	Investment grade	Indices	1.5%
17	Speculative grade and sub-speculative grade	Indices	5.0%

(iv) *Delta cross-bucket correlation parameters for reference credit spread risk.* The delta cross-bucket correlation

parameter, γ_{bc} , for reference credit spread risk equals:

(A) The cross-bucket correlation parameters, γ_{bc} , between buckets of the

same credit quality (where speculative and sub-speculative grade is treated as one credit quality category) are set out in Table 6 to § __.225.

Table 6 to § __.225—Delta and Vega Cross-Bucket Correlations for Reference Credit Spread Risk (Same Credit Quality)

Bucket number	1 or 8	2 or 9	3 or 10	4 or 11	5 or 12	6 or 13	7 or 14	15	16	17
1 or 8	100%	75%	10%	20%	25%	20%	15%	0%	45%	45%
2 or 9		100%	5%	15%	20%	15%	10%	0%	45%	45%
3 or 10			100%	5%	15%	20%	5%	0%	45%	45%
4 or 11				100%	20%	25%	5%	0%	45%	45%
5 or 12					100%	25%	5%	0%	45%	45%
6 or 13						100%	5%	0%	45%	45%
7 or 14							100%	0%	45%	45%
15								100%	0%	0%
16									100%	75%
17										100%

(B) The cross-bucket correlation parameters, γ_{bc} , between buckets 1 to 14 of different credit quality (where speculative and sub-speculative grade is treated as one credit quality category), are set out in Table 7 to § __.225.

Table 7 to § __.225—Delta and Vega Cross-Bucket Correlations for Reference Credit Spread Risk (Different Credit Quality)

Bucket number	1 or 8	2 or 9	3 or 10	4 or 11	5 or 12	6 or 13	7 or 14
1 or 8	50.0%	37.5%	5.0%	10.0%	12.5%	10.0%	7.5%
2 or 9		50.0%	2.5%	7.5%	10.0%	7.5%	5.0%
3 or 10			50.0%	2.5%	7.5%	10.0%	2.5%
4 or 11				50.0%	10.0%	12.5%	2.5%
5 or 12					50.0%	12.5%	2.5%
6 or 13						50.0%	2.5%
7 or 14							50.0%

(5) *Equity risk*—(i) *Delta buckets for equity risk*. For equity risk, a [BANKING ORGANIZATION] must establish buckets along three dimensions: the reference entity's market capitalization, economy and sector as set out in Table 8 to § __.225. To assign a delta sensitivity to an economy, a [BANKING ORGANIZATION], at least annually, must review and update the countries and territorial entities that satisfy the

requirements of a liquid market economy using the most recent economic data available. To assign a delta sensitivity to a sector, a [BANKING ORGANIZATION] must follow market convention by using classifications that are commonly used in the market for grouping issuers by industry sector. A [BANKING ORGANIZATION] must assign each issuer to one of the sector buckets and

must assign all issuers from the same industry to the same sector. Delta sensitivities of any equity issuer that a [BANKING ORGANIZATION] cannot assign to a sector must be assigned to the other sector. For multinational, multi-sector equity issuers, the allocation to a particular bucket must be done according to the most material economy and sector in which the issuer operates.

Table 8 to § __.225—Delta and Vega Buckets and Delta Risk Weights for Equity Risk

Bucket number	Size	Economy	Sector	Delta risk weight
1	Large market cap	Emerging market economies	Consumer goods and services, transportation and storage, administrative and support service activities, healthcare, and utilities	55%
2			Telecommunications and industrials	60%
3			Basic materials, energy, agriculture, manufacturing, and mining and quarrying	45%
4			Financials including government-backed financials, real estate activities, and technology	55%
5		Liquid market economies	Consumer goods and services, transportation and storage, administrative and support service activities, healthcare, and utilities	30%
6			Telecommunications and industrials	35%
7			Basic materials, energy, agriculture, manufacturing, and mining and quarrying	40%
8			Financials including government-backed financials, real estate activities, and technology	50%
9	Small market cap	Emerging market economies	All sectors described under bucket numbers 1, 2, 3, and 4	70%
10		Liquid market economies	All sectors described under bucket numbers 5, 6, 7, and 8	50%
11	Other sector			70%
12	Large market cap and liquid market economies		Indices	15%
13	Other		Indices	25%

(ii) *Delta risk factors for equity risk.* The delta risk factor for equity risk equals the simultaneous relative shift of all equity spot prices for all reference entities in the bucket.

(iii) *Delta risk weights for equity risk.* The delta risk weights, RW_k , for equity risk are set out in Table 8 to § __.225.

(iv) *Delta cross-bucket correlation parameters for equity risk.* The delta cross-bucket correlation parameter, γ_{bc} , for equity risk equals 15 percent for all

cross-bucket pairs in Table 8 to § __.225 assigned to bucket numbers 1 to 10 and zero percent for all cross-bucket pairs that include bucket 11. The cross-bucket correlation between buckets 12 and 13 in Table 8 to § __.225 equals 75 percent and the cross-bucket correlation between buckets 12 or 13 and any of the buckets 1 through 10 equals 45 percent.

(6) *Commodity risk—(i) Delta buckets for commodity risk.* Delta buckets for

commodity risk are set out in Table 9 § __.225.

(ii) *Delta risk factors for commodity risk.* The delta risk factor for commodity risk equals the simultaneous relative shift of all of the commodity spot prices for all commodities in the bucket.

(iii) *Delta risk weights for commodity risk.* The delta risk weights, RW_k , for commodity risk are set out in Table 9 to § __.225.

Table 9 to § __.225—Delta and Vega Buckets and Delta Risk Weights for Commodity Risk

Bucket number	Commodity group	Examples	Delta risk weight
1	Energy – Solid combustibles	Coal, charcoal, wood pellets, and nuclear fuel	30%
2	Energy – Liquid combustibles	Crude oil (such as Light-sweet, heavy, West Texas Intermediate, and Brent); biofuels (such as bioethanol and biodiesel); petrochemicals (such as propane, ethane, gasoline, methanol, and butane); and refined fuels (such as jet fuel, kerosene, gasoil, fuel oil, naphtha, and heating oil and diesel)	35%
3	Energy – Carbon trading	Carbon emissions trading (such as certified emissions reductions, in-delivery month EU allowance, Regional Greenhouse Gas Initiative CO2 allowance, and renewable energy certificates)	60%
4	Freight	Dry-bulk route (such as Capesize, Panamax, Handysize, and Supramax); and liquid-bulk/gas shipping route (such as Suczmax, Aframax, and very large crude carriers)	80%
5	Metals – non-precious	Base metal (such as aluminum, copper, lead, nickel, tin, and zinc); steel raw materials (such as steel billet, steel wire, steel coil, steel scrap and steel rebar, iron ore, tungsten, vanadium, titanium, and tantalum); and minor metals (such as cobalt, manganese, molybdenum)	40%
6	Gaseous combustibles and electricity	Natural gas and liquefied natural gas; and electricity (such as spot, day-ahead, peak, and off-peak)	45%
7	Precious metals (including gold)	Gold, silver, platinum, and palladium	20%
8	Grains and oilseed	Corn; wheat; soybean (such as soybean seed, soybean oil and soybean meal); oats; palm oil; canola; barley; rapeseed (such as rapeseed seed, rapeseed oil, and rapeseed meal); red bean, sorghum; coconut oil; olive oil; peanut oil; sunflower oil; and rice	35%
9	Livestock and dairy	Cattle (such live and feeder), hog, poultry, lamb, fish, shrimp, and dairy (such as milk, whey, eggs, butter, and cheese)	25%
10	Forestry and other agriculturals	Cocoa; coffee (such as arabica and robusta); tea; citrus and orange juice; potatoes; sugar; cotton; wool; lumber and pulp; and rubber	35%
11	Other commodity	Industrial minerals (such as potash, fertilizer, and phosphate rocks), rare earths, terephthalic acid, and flat glass	50%
12	Commodity Index		30%

(iv) *Delta cross-bucket correlation parameters for commodity risk.* The

delta cross-bucket correlation, γ_{bc} , for commodity risk equals 20 percent for all

cross-bucket pairs in Table 9 to § __.225 assigned to bucket numbers 1

to 10 or 12 and zero percent for all cross-bucket pairs that include bucket 11.

(b) *CVA vega capital requirement*—(1) *Interest rate risk.*

(i) *Vega buckets for interest rate risk.* A [BANKING ORGANIZATION] must establish a separate vega interest rate risk bucket for each currency.

(ii) *Vega risk factors for interest rate risk.* The vega risk factors for interest rate risk for all currencies equal a simultaneous relative change of all inflation rate volatilities for each currency and a simultaneous relative change of all interest rate volatilities for each currency.

(iii) *Vega risk weights for interest rate risk.* The vega risk weights, RW_k , for interest rate risk equal 100 percent.

(iv) *Vega within-bucket correlation parameters for interest rate risk.* The vega within-bucket correlation parameter, ρ_{kl} , for interest rate risk equals 40 percent.

(v) *Vega cross-bucket correlation parameter for interest rate risk.* The vega cross-bucket correlation parameter, γ_{bc} , for interest rate risk equals 50 percent for all currency pairs.

(2) *Foreign exchange risk*—(i) *Vega buckets for foreign exchange risk.* A [BANKING ORGANIZATION] must establish a separate vega foreign exchange risk bucket for each currency, except for a [BANKING ORGANIZATION]'s own reporting currency.

(ii) *Vega risk factors for foreign exchange risk.* The vega risk factors for foreign exchange risk equal the simultaneous, relative change of all volatilities for the exchange rate between a [BANKING ORGANIZATION]'s reporting currency or base currency and each other currency.

(iii) *Vega risk weights for foreign exchange risk.* The vega risk weights, , for foreign exchange risk equal 100 percent.

(iv) *Vega cross-bucket correlation parameter for foreign exchange risk.* The vega cross-bucket correlation parameter, , for foreign exchange risk equals 60 percent for all currency pairs.

(3) *Reference credit spread risk*—(i) *Vega buckets for reference credit spread risk.* Vega buckets for reference credit spread risk are set out in Table 5 § _____.225.

(ii) *Vega risk factors for reference credit spread risk.* The vega risk factors for reference credit spread risk equal the simultaneous relative shift of the volatilities of all credit spreads of all tenors for all reference names in the bucket.

(iii) *Vega risk weights for reference credit spread risk.* The vega risk weights, , for reference credit spread risk equal 100 percent.

(iv) *Vega cross-bucket correlation parameters for reference credit spread risk.* The vega cross-bucket correlation parameter, , for reference credit spread risk is defined in the same manner as the delta cross-bucket correlation parameter for reference credit spread risk, pursuant to paragraph (a)(4)(iv) of this section.

(4) *Equity risk*—(i) *Vega buckets for equity risk.* The vega buckets for equity risk are defined in the same manner as the delta buckets for equity risk, pursuant to paragraph (a)(5)(i) of this section.

(ii) *Vega risk factors for equity risk.* The vega risk factor for equity risk equals the simultaneous relative shift of the volatilities for all reference entities in the bucket.

(iii) *Vega risk weights for equity risk.* The vega risk weights, , for equity risk equal 78 percent for large market cap buckets and 100 percent otherwise.

(iv) *Vega cross-bucket correlation parameters for equity risk.* The vega cross-bucket correlation parameter, , for equity risk equals 15 percent for all cross-bucket pairs within Table 8 to § _____.225 that fall within bucket numbers 1 to 10 and zero percent for all cross-bucket pairs that include bucket 11. The cross-bucket correlation between buckets 12 and 13, in Table 8 to § _____.225, is set at 75 percent and the cross-bucket correlation between buckets 12 or 13 and any of the buckets 1 to 10 is 45 percent.

(5) *Commodity risk*—(i) *Vega buckets for commodity risk.* The vega buckets for commodity risk are defined in the same manner as the delta buckets for commodity risk, pursuant to paragraph (a)(6)(i) of this section.

(ii) *Vega risk factors for commodity risk.* The vega risk factor for commodity risk equals the simultaneous relative shift of the volatilities for all commodities in the bucket.

(iii) *Vega risk weights for commodity risk.* The vega risk weights for commodity risk are 100 percent.

(iv) *Vega cross-bucket correlation parameters for commodity risk.* The vega cross-bucket correlation parameter, , for commodity risk equals 20 percent for all cross-bucket pairs in Table 9 to § _____.225 that fall within bucket numbers 1 to 10 or 12 and zero percent for all cross-bucket pairs that include bucket 11.

End of Common Rule.

List of Subjects

12 CFR Part 3

Administrative practice and procedure, Banks, banking, Federal Reserve System, Investments, National banks, Reporting and recordkeeping requirements, Savings association.

12 CFR Part 6

Federal Reserve System, National banks, Penalties.

12 CFR Part 32

National banks, Reporting and recordkeeping requirements, Savings Associations.

12 CFR Part 208

Confidential business information, Crime, Currency, Federal Reserve System, Mortgages, Reporting and recordkeeping requirements, Securities.

12 CFR Part 217

Administrative practice and procedure, Banks, banking, Capital, Federal Reserve System, Holding companies.

12 CFR Part 225

Administrative practice and procedure, Banks, banking, Federal Reserve System, Holding companies, Reporting and recordkeeping requirements, Securities.

12 CFR Part 238

Administrative practice and procedure, Banks, banking, Federal Reserve System, Holding companies, Reporting and recordkeeping requirements, Securities.

12 CFR Part 252

Administrative practice and procedure, Banks, banking, Credit, Federal Reserve System, Holding companies, Investments, Qualified financial contracts, Reporting and recordkeeping requirements, Securities.

12 CFR Part 324

Administrative practice and procedure, Banks, Banking, Capital adequacy, Reporting and recordkeeping requirements, Savings associations, State non-member banks.

Adoption of Common Rule

The proposed adoption of the common rule by the agencies, as modified by the agency-specific text, is set forth below:

DEPARTMENT OF THE TREASURY**Office of the Comptroller of the Currency****12 CFR Chapter I****Authority and Issuance**

For the reasons set forth in the common preamble, the OCC proposes to amend parts 3, 6, and 32 of chapter I of title 12 of the Code of Federal Regulations as follows:

PART 3—CAPITAL ADEQUACY STANDARDS

- 1. The authority citation for part 3 continues to read as follows:

Authority: 12 U.S.C. 93a, 161, 1462, 1462a, 1463, 1464, 1818, 1828(n), 1828 note, 1831n note, 1835, 3907, 3909, 5412(b)(2)(B), and Pub. L. 116–136, 134 Stat. 281.

- 2. In § 3.1, revise paragraphs (c)(3)(ii), (c)(4)(i) and (iii), and (f), and add paragraph (g) to read as follows:

§ 3.1 Purpose, applicability, reservations of authority, and timing.

* * * * *

(c) * * *

(3) * * *

(i) Each national bank or Federal savings association subject to subpart D of this part must use the methodologies in subpart D (and subpart F of this part if the national bank or Federal savings association meets the trading activity threshold to be a market risk national bank or Federal savings association) to calculate standardized total risk-weighted assets.

(ii) Each national bank or Federal savings association subject to subpart E of this part must use the methodologies in subpart E (and subpart F of this part if the national bank or Federal savings association meets the trading activity threshold to be a market risk national bank or Federal savings association) to calculate expanded total risk-weighted assets.

(4) * * *

(i) Except for a national bank or Federal savings association subject to subpart E of this part, each national bank or Federal savings association with total consolidated assets of \$50 billion or more must make the public disclosures described in subpart D of this part.

* * * * *

(iii) Each national bank or Federal savings association subject to subpart E of this part must make the public disclosures described in subpart E of this part.

* * * * *

(f) *Transitions and timing.*—(1) *Transitions.* Notwithstanding any other

provision of this part, a national bank or Federal savings association must make any adjustments provided in subpart G of this part for purposes of implementing this part.

(2) *Timing.* A national bank or Federal savings association that changes from one category to another category, or that changes from having no category to having a category, must comply with the requirements of its category in this part, including applicable transition provisions of the requirements in this part, no later than on the first day of the second quarter following the change in the national bank's or Federal savings association's category.

(g) *Severability.* If any provision of this part, or the application thereof to any person or circumstances, is held invalid, such invalidity shall not affect the validity of other provisions or the application of such provision to other persons or circumstances that can be given effect without the invalid provision or application.

- 3. In § 3.2:

- a. Revise the definition of “Adjusted allowances for credit losses (AACL)”;
- b. Remove the definitions for “Advanced approaches national bank or Federal savings association”, “Advanced approaches total risk-weighted assets”, “Advanced market risk-weighted assets”, and “Allowances for loan and lease losses (ALLL)”;
- c. Revise the definition for “Carrying value”;
- d. Add, in alphabetical order, the definition for “Category I national bank or Federal savings association”;
- e. Revise the definitions for “Category II national bank or Federal savings association” and “Category III national bank or Federal savings association”;
- f. Add, in alphabetical order, the definition for “Category IV national bank or Federal savings association”;
- g. Revise footnote 3 to the definition for “Cleared transaction”;
- h. Revise the definition for “Commitment”;
- i. Revise the definition for “Corporate exposure”;
- j. Remove the definition for “Credit-risk-weighted assets”;
- k. Add, in alphabetical order, the definition for “CVA risk-weighted assets”;
- l. Add, in alphabetical, order the definition for “Dependent on the cash flows generated by the real estate”;
- m. Revise the definition for “Effective notional amount”;
- n. Revise the definition for “Eligible clean-up call”;
- o. Remove the definition for “Eligible credit reserves”;
- p. Revise the definition for “Eligible guarantee”;

■ q. Add, in alphabetical order, the definition for “Eligible prepaid credit protection arrangement”;

■ r. Add, in alphabetical, order the definition for “Expanded total risk-weighted assets”;

■ s. Remove the definition for “Expected credit loss (ECL)”;

■ t. Revise the definition for “Exposure amount”;

■ u. Revise paragraph (4)(i)(A) in the definition of “Financial institution”;

■ v. Revise the definition for “Market risk national bank or Federal savings association”;

■ w. Add, in alphabetical, order the definition for “Market risk-weighted assets”;

■ x. Revise the definitions for “Net independent collateral amount” and “Netting set”;

■ y. Add, in alphabetical order, the definitions for “Non-performing loan securitization (NPL securitization)” and “Nonrefundable purchase price discount (NRPPD)”;

■ z. Revise the definition for “Non-significant investment in the capital of an unconsolidated financial institution”;

■ aa. Add, in alphabetical, order the definition for “Prepaid credit protection arrangement”;

■ bb. Revise the definition for “Protection amount (P)”;

■ cc. Add, in alphabetical order, the definition of “Qualifying cross-product master netting agreement”;

■ dd. Revise paragraphs (3) and (4) of the definition for “Qualifying master netting agreement”;

■ ee. In the definition of “Residential mortgage exposure”;

■ i. Remove paragraph (2);

■ ii. Redesignate paragraphs (1)(i) and (1)(ii) as paragraphs (1) and (2), respectively; and

■ iii. In paragraph (2) (as redesignated), remove the words “family; and” and add, in their place, the word “family.”;

■ ff. Remove the definition for “Securitization special purpose entity (securitization SPE)”;

■ gg. Revise the definition for “Significant investment in the capital of an unconsolidated financial institution”;

■ hh. Remove the definition for “Specific wrong-way risk”;

■ ii. Add, in alphabetical order, the definition of “Specified supranational entity”;

■ jj. Revise the definitions for “Speculative grade” and “Standardized market risk-weighted assets”;

■ kk. Revise the definitions for “Standardized total risk-weighted assets”, “Sub-speculative grade”, and “Synthetic securitization”;

- ll. Add, in alphabetical order, the definition for “Synthetic excess spread”;
- mm. Add, in alphabetical order, the definition for “Total credit risk-weighted assets”;
- nn. Revise the definition for “Traditional securitization”;
- oo. Remove the definition for “Value-at-risk (VaR)”;
- pp. Revise the definition for “Variation margin amount”; and
- qq. Remove the definition for “Unconditionally cancelable”.

The additions and revisions read as follows:

§ 3.2 Definitions

* * * * *

Adjusted allowances for credit losses (AACL) means valuation allowances that have been established through a charge against earnings or retained earnings for expected credit losses on financial assets measured at amortized cost and a lessor’s net investment in leases that have been established to reduce the amortized cost basis of the assets to amounts expected to be collected as determined in accordance with GAAP. For purposes of this part, adjusted allowances for credit losses include allowances for expected credit losses on off-balance sheet credit exposures not accounted for as insurance as determined in accordance with GAAP. Adjusted allowances for credit losses exclude allocated transfer risk reserves and allowances created that reflect credit losses on purchased credit deteriorated assets, purchased seasoned loans, assets required to record an allowance for credit losses through a gross-up adjustment to the purchase price of the asset, and available-for-sale debt securities.

* * * * *

Carrying value means, with respect to an asset, the value of the asset on the balance sheet of the national bank or Federal savings association as determined in accordance with GAAP. For all assets other than available-for-sale debt securities, purchased credit deteriorated assets, purchased seasoned loans, or assets required to record an allowance for credit losses through a gross-up adjustment to the purchase price of the asset, the carrying value is not reduced by any associated credit loss allowance that is determined in accordance with GAAP.

* * * * *

Category I national bank or Federal savings association means a national bank or Federal savings association that is a subsidiary of a global systemically important BHC, as defined pursuant to 12 CFR 252.5.

Category II national bank or Federal savings association means a national bank or Federal savings association that is not a subsidiary of a global systemically important BHC, as defined pursuant to 12 CFR 252.5, and that:

(1) Is a subsidiary of a Category II banking organization, as defined pursuant to 12 CFR 252.5 or 12 CFR 238.10, as applicable; or

(2)(i) Has total consolidated assets, calculated based on the average of the national bank’s or Federal savings association’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 national bank or Federal savings association 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

(ii)(A) Has total consolidated assets, calculated based on the average of the national bank’s or Federal savings association’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 national bank or Federal savings association has not filed the Call Report for each of the four most recent quarters, total consolidated assets is based on its total consolidated assets, as reported on the Call Report, for the most recent quarter or average of the most recent quarters, as applicable; and

(B) Has 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.

(3) After meeting the criteria in paragraph (2) of this definition, a national bank or Federal savings association continues to be a Category II national bank or Federal savings association until the national bank or Federal savings association has:

(i) Less than \$700 billion in total consolidated assets, as reported on the Call Report, for each of the four most recent calendar quarters; and

(ii) (A) 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) Less than \$100 billion in total consolidated assets, as reported on the Call Report, for each of the four most recent calendar quarters.

* * * * *

Category III national bank or Federal savings association means a national bank or Federal savings association that is not a Category II national bank or Federal savings association, and that:

(1) Is a subsidiary of a Category III banking organization, as defined pursuant to 12 CFR 252.5 or 12 CFR 238.10, as applicable; or

(2)(i) Has total consolidated assets, calculated based on the average of the national bank’s or Federal savings association’s total consolidated assets for the four most recent calendar quarters as reported on the Call Report, equal to \$250 billion or more. If the national bank or Federal savings association 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 average of the most recent quarters, as applicable; or

(ii)(A) Has total consolidated assets, calculated based on the average of the national bank’s or Federal savings association’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 is calculated based on its total consolidated assets, as reported on the Call Report, for the most recent quarter or average of the most recent quarters, as applicable; and

(B) Has at least one of the following in paragraphs (2)(ii)(B)(1) through (3) of this definition, each calculated as the average of the four most recent calendar quarters, or if the national bank or Federal savings association has not filed each applicable reporting form for each of the four most recent calendar quarters, for the most recent quarter or quarters, as applicable:

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

(2) Off-balance sheet exposure equal to \$75 billion or more. Off-balance sheet exposure is a national bank’s or Federal savings association’s total exposure, calculated in accordance with the instructions to the Call Report or

equivalent reporting form, minus the total consolidated assets of the national bank or Federal savings association, as reported on the Call Report; or

(3) 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 paragraph (2)(ii) of this definition, a national bank or Federal savings association continues to be a Category III national bank or Federal savings association until the national bank or Federal savings association:

(A) Has:

(1) Less than \$250 billion in total consolidated assets, as reported on the Call Report, for each of the four most recent calendar quarters;

(2) 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) 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; and

(4) Less than \$75 billion in off-balance sheet exposure for each of the four most recent calendar quarters. Off-balance sheet exposure is a national bank's or Federal savings association's total exposure, calculated in accordance with the instructions to the FR Y-15 or equivalent reporting form, minus the total consolidated assets of the national bank or Federal savings association, as reported on the Call Report; 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 Category II national bank or Federal savings association.

* * * * *

Category IV national bank or Federal savings association means a national bank or Federal savings association that is not a Category II national bank or Federal savings association, or a Category III national bank or Federal savings association and that:

(1) Is a subsidiary of a Category IV banking organization, as defined pursuant to 12 CFR 252.5 or 12 CFR 238.10, as applicable; or

(2) Has total consolidated assets, calculated based on the average of the national bank's or Federal savings association's total consolidated assets for the four most recent calendar

quarters as reported on the Call Report, of \$100 billion or more. If the national bank or Federal savings association has not filed the Call Report for each of the four most recent calendar quarters, total consolidated assets is calculated based on the average of its total consolidated assets, as reported on the Call Report, for the most recent quarter(s) available.

(3) After meeting the criterion in paragraph (4)(iii) of this definition, a national bank or Federal savings association continues to be a Category IV national bank or Federal savings association until it:

(i) 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

(ii) Is a Category II national bank or Federal savings association or Category III national bank or Federal savings association.

* * * * *

Cleared transaction * * *

(2) * *³

* * * * *

Commitment means a contractual arrangement under which a national bank or Federal savings association and an obligor agree to terms applicable to one or more future extensions of credit, purchases of assets, or issuances of credit substitutes by the national bank or Federal savings association, whether or not such arrangement is unconditionally cancelable. A commitment is unconditionally cancelable if, by its terms, it either: (a) provides that a national bank or Federal savings association is not obligated to extend credit, purchase assets, or issue credit substitutes; or (b) permits a national bank or Federal savings association, at any time, with or without cause, to refuse to extend credit, purchase assets, or issue credit substitutes under the arrangement (to the extent permitted under applicable law).

* * * * *

Corporate exposure means an exposure to a company that is not:

(1) An exposure to a sovereign, a specified supranational entity, a multilateral development bank (MDB), a depository institution, a foreign bank, or a credit union, a public sector entity (PSE);

(2) An exposure to a Government-Sponsored Enterprises (GSE);

(3) For purposes of subpart D of this part, a residential mortgage exposure;

(4) A pre-sold construction loan;

(5) A statutory multifamily mortgage;

(6) A high volatility commercial real estate (HVCRE) exposure;

(7) A cleared transaction;

(8) A default fund contribution;

(9) A securitization exposure;

(10) An equity exposure;

(11) An unsettled transaction;

(12) A policy loan;

(13) A separate account;

(14) A Paycheck Protection Program covered loan as defined in section 7(a)(36) or (37) of the Small Business Act (15 U.S.C. 636(a)(36)–(37));

(15) For purposes of subpart E of this part, a real estate exposure, as defined in § 3.101 of this part; or

(16) For purposes of subpart E of this part, a retail exposure as defined in § 3.101 of this part.

* * * * *

CVA risk-weighted assets means the measure for CVA risk calculated under § 3.221(a) multiplied by 12.5.

* * * * *

Dependent on the cash flows

generated by the real estate means, for a real estate exposure, the underwriting, at the time of origination, includes the cash flows generated by lease, rental, or sale of the real estate securing the loan as a source of repayment. For purposes of this definition, a residential mortgage exposure that is secured by the borrower's principal residence is deemed not dependent on the cash flows generated by the real estate.

* * * * *

Effective notional amount means for an eligible guarantee, eligible credit derivative, or eligible prepaid credit protection arrangement, the lesser of the contractual notional amount of the credit risk mitigant and the exposure amount of the hedged exposure, multiplied by the percentage coverage of the credit risk mitigant.

* * * * *

Eligible clean-up call means a clean-up call that:

(1) Is exercisable solely at the discretion of the originating national bank or Federal savings association or servicer;

(2) Is not structured to avoid allocating losses to securitization exposures held by investors or otherwise structured to provide credit enhancement to the securitization; and

(3) Is only exercisable:

(i) For a traditional securitization, when 10 percent or less of the principal amount of the underlying exposures or securitization exposures (determined as of the inception of the securitization) is outstanding;

(ii) For a synthetic securitization, when 10 percent or less of the principal amount of the reference portfolio of underlying exposures (determined as of the inception of the securitization) is outstanding;

(iii) Upon the occurrence of a regulatory event that significantly changes the risk-weighted asset amount for the securitization exposure under this part; or

(iv) Upon the occurrence of a tax event that significantly changes the tax treatment of the securitization exposure under applicable tax laws.

* * * * *

Eligible guarantee means a guarantee that:

(1) Is written;

(2) Is either:

(i) Unconditional, or

(ii) A contingent obligation of the U.S. government or its agencies, the enforceability of which is dependent upon some affirmative action on the part of the beneficiary of the guarantee or a third party (for example, meeting servicing requirements);

(3) Covers all or a pro rata portion of all contractual payments of the obligated party on the reference exposure;

(4) Gives the beneficiary a direct claim against the protection provider;

(5) Is not unilaterally cancelable by the protection provider for reasons other than the breach of the contract by the beneficiary;

(6) Except for a guarantee by a sovereign, is legally enforceable against the protection provider in a jurisdiction where the protection provider has sufficient assets against which a judgment may be attached and enforced;

(7) Requires the protection provider to make payment to the beneficiary on the occurrence of a default (as defined in the guarantee) of the obligated party on the reference exposure in a timely manner without the beneficiary first having to take legal actions to pursue the obligor for payment;

(8) Does not increase the beneficiary's cost of credit protection on the guarantee in response to deterioration in the credit quality of the reference exposure;

(9) Is not provided by an affiliate of the national bank or Federal savings association, unless the affiliate is an insured depository institution, foreign bank, securities broker or dealer, or insurance company that:

(i) Does not control the national bank or Federal savings association; and

(ii) Is subject to consolidated supervision and regulation comparable to that imposed on depository institutions, U.S. securities broker-dealers, or U.S. insurance companies (as the case may be); and

(10) Is provided by an eligible guarantor.

* * * * *

Eligible prepaid credit protection arrangement means a prepaid credit protection arrangement that:

(1) Is written;

(2) Is unconditional;

(3) Covers all or a pro rata portion of all contractual payments due to be paid on the reference exposure or reference exposures;

(4) Provides that the amount and timing of payments due from the protection purchaser to the protection provider are incorporated into the arrangement and the arrangement only allows these terms to change in the event of a breach of the arrangement by the protection purchaser;

(5) Provides that entry of the protection provider into receivership, insolvency, liquidation, conservatorship, or similar proceeding does not change the amounts or timing of payments due to be paid by the protection purchaser under the arrangement;

(6) Is legally valid and enforceable under applicable law of the relevant jurisdictions;

(7) Upon a failure by the obligor on the one or more reference exposures to make a contractually required payment, or the occurrence of other credit events as described in the arrangement, allows the protection purchaser promptly to reduce the outstanding balance of the initial principal amount due to the protection provider by the loss of the protection purchaser on the reference exposures without input from the protection provider; and

(8) Does not increase the protection purchaser's cost of credit protection in response to deterioration in the credit quality of any of the reference exposures.

* * * * *

Expanded total risk-weighted assets means:

(1) The sum of:

(i) Total credit risk-weighted assets;

(ii) Total risk-weighted assets for equity exposures as calculated under §§ 3.141 and 3.142;

(iii) Risk-weighted assets for operational risk as calculated under § 3.150;

(iv) Market risk-weighted assets, if applicable; and

(v) CVA risk-weighted assets, if applicable; minus

(vi) Any amount of the national bank's or Federal savings association's adjusted allowance for credit losses that is not included in tier 2 capital and any amount of allocated transfer risk reserves.

* * * * *

Exposure amount means:

(1) For the on-balance sheet component of an exposure (other than an available-for-sale or held-to-maturity security, if the national bank or Federal savings association has made an AOCI opt-out election (as defined in § 3.22(b)(2)); a derivative contract; a repo-style transaction or an eligible margin loan for which the national bank or Federal savings association determines the exposure amount under § 3.37, §§ 3.113 through 3.115 or § 3.121, as applicable; a cleared transaction; a default fund contribution; or a securitization exposure), the national bank's or Federal savings association's carrying value of the exposure.

(2) For a security (that is not a securitization exposure, equity exposure, or preferred stock classified as an equity security under GAAP) classified as available-for-sale or held-to-maturity if the national bank or Federal savings association has made an AOCI opt-out election (as defined in § 3.22(b)(2)), the national bank's or Federal savings association's carrying value (including net accrued but unpaid interest and fees) for the exposure less any net unrealized gains on the exposure and plus any net unrealized losses on the exposure.

(3) For available-for-sale preferred stock classified as an equity security under GAAP if the national bank or Federal savings association has made an AOCI opt-out election (as defined in § 3.22(b)(2)), the national bank's or Federal savings association's carrying value of the exposure less any net unrealized gains on the exposure that are reflected in such carrying value but excluded from the national bank's or Federal savings association's regulatory capital components.

(4) For the off-balance sheet component of an exposure (other than a derivative contract; a repo-style transaction or an eligible margin loan for which the national bank or Federal savings association calculates the exposure amount under § 3.37 or § 3.121, as applicable; a cleared transaction; a default fund contribution; or a securitization exposure), the notional amount of the off-balance sheet component multiplied by the appropriate credit conversion factor (CCF) in § 3.33 or § 3.112, as applicable.

(5) For an exposure that is a derivative contract (other than a cleared transaction), the exposure amount determined under § 3.34 or §§ 3.113 through 3.114, as applicable.

(6) For an exposure that is a cleared transaction, the exposure amount determined under § 3.35 or § 3.116, as applicable.

(7) For an exposure that is an eligible margin loan or repo-style transaction (other than a cleared transaction) for which the bank calculates the exposure amount as provided in § 3.37 or §§ 3.113 through 3.115, as applicable, the exposure amount determined under § 3.37 or §§ 3.113 through 3.115, as applicable.

(8) For an exposure that is a securitization exposure, the exposure amount determined under § 3.42 or § 3.131, as applicable.

* * * * *

Financial institution means:

* * * * *

(4) * * *

(i) * * *

(A) An investment in GAAP equity instruments of the company with an adjusted carrying value or exposure amount equal to or greater than \$10 million, as adjusted pursuant to § 3.4; or

* * * * *

Market risk national bank or Federal savings association means a national bank or Federal savings association that is described in § 3.201(b)(1).

* * * * *

Market risk-weighted assets means the measure for market risk calculated pursuant to § 3.204(a) multiplied by 12.5.

* * * * *

Net independent collateral amount means the fair value amount of the independent collateral, as adjusted by the haircuts under § 3.121(c)(2)(iii), as applicable, that a counterparty to a netting set has posted to a national bank or Federal savings association less the fair value amount of the independent collateral, as adjusted by the haircuts under § 3.121(c)(2)(iii), as applicable, posted by the national bank or Federal savings association to the counterparty, excluding such amounts held in a bankruptcy-remote manner or posted to a QCCP and held in conformance with the operational requirements in § 3.3.

* * * * *

Netting set means: a group of transactions with a single counterparty that are subject to a qualifying master netting agreement. For derivative contracts, netting set also includes a single derivative contract between a national bank or Federal savings association and a single counterparty.

* * * * *

Non-performing loan securitization (NPL securitization) means a traditional securitization, that is not a resecuritization, where parameter W (as defined in § 3.133(b)(1)) for the underlying exposures is greater than or equal to 90 percent at the origination

cut-off date and at any subsequent date on which exposures are added to or removed from the pool of underlying exposures due to replenishment or restructuring.

Nonrefundable purchase price discount (NRPPD) means the difference between the outstanding principal balance of the underlying exposures at the time of sale and the price at which these exposures are sold by the originator to a company the activities of which are limited to those appropriate for the specific purpose of holding the underlying exposures of a securitization, when neither originator nor the original lender are reimbursed for this difference. In cases where the originator underwrites tranches of an NPL securitization for subsequent sale, the NRPPD may include the differences between the outstanding principal balance of the underlying exposures at the time of sale and the price at which all of the tranches are first sold to unrelated third parties. For any given piece of a securitization tranche, only its initial sale from the originator to investors is taken into account in the determination of NRPPD. The purchase prices of subsequent re-sales of a securitization tranche are not considered.

* * * * *

Non-significant investment in the capital of an unconsolidated financial institution means an investment by a national bank or Federal savings association subject to subpart E of this part in the capital of an unconsolidated financial institution where the national bank or Federal savings association owns 10 percent or less of the issued and outstanding common stock of the unconsolidated financial institution.

* * * * *

Prepaid credit protection arrangement means a contractual arrangement under which a protection purchaser transfers the credit risk of one or more reference exposures to a protection provider where:

(1) The protection provider pays an initial principal amount in cash to the protection purchaser at the inception of the transaction; and

(2) The protection purchaser is obligated to repay the initial principal amount to the protection provider on or before the maturity date of the transaction, less any losses that the protection purchaser realizes or otherwise recognizes due to nonpayment of all contractual payments due to be paid on the reference exposure or reference exposures by the obligors.

* * * * *

Protection amount (P) means, with respect to an exposure hedged by an eligible guarantee, eligible credit derivative, or eligible prepaid credit protection arrangement, or secured by financial collateral, the effective notional amount of the guarantee, credit derivative, or prepaid credit protection arrangement, or the fair value of the financial collateral, reduced to reflect any currency mismatch, maturity mismatch, or lack of restructuring coverage (as provided in §§ 3.36–3.37 or §§ 3.120–3.121, as appropriate).

* * * * *

Qualifying cross-product master netting agreement means a qualifying master netting agreement that provides for termination and close-out netting across multiple types of financial transactions or qualifying master netting agreements in the event of a counterparty's default, provided that the underlying financial transactions are derivative contracts or repo-style transactions that are not cleared transactions. In order to treat an agreement as a qualifying cross-product master netting agreement, a national bank or Federal savings association must comply with the requirements of § 3.3(c) of this part with respect to that agreement.

* * * * *

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

* * * * *

(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, a national bank or Federal savings association must comply with the requirements of § 3.3(d) with respect to that agreement.

* * * * *

Significant investment in the capital of an unconsolidated financial institution means an investment by a national bank or Federal savings association subject to subpart E of this part in the capital of an unconsolidated financial institution where the national bank or Federal savings association owns more than 10 percent of the issued and outstanding common stock of the unconsolidated financial institution.

* * * * *

Specified supranational entity means the Bank for International Settlements, the European Central Bank, the European Commission, the International Monetary Fund, the European Stability Mechanism, or the European Financial Stability Facility.

* * * * *

Speculative grade means that the entity to which the national bank or Federal savings association is exposed through a loan or security, or the reference entity with respect to a credit derivative, has adequate capacity to meet financial commitments in the near term, but is vulnerable to adverse economic conditions, such that should economic conditions deteriorate, the issuer or the reference entity would present an elevated default risk.

* * * * *

Standardized market risk-weighted assets means the standardized measure for market risk calculated under § 3.204(b) multiplied by 12.5.

* * * * *

Standardized total risk-weighted assets means:

(1) The sum of:

(i) Total risk-weighted assets for general credit risk as calculated under § 3.31;

(ii) Total risk-weighted assets for cleared transactions and default fund contributions as calculated under § 3.35;

(iii) Total risk-weighted assets for unsettled transactions as calculated under § 3.38;

(iv) Total risk-weighted assets for securitization exposures as calculated under § 3.42;

(v) Total risk-weighted assets for equity exposures as calculated under § 3.52 and § 3.53; and

(vi) For a market risk national bank or federal savings association only, market risk-weighted assets; less

(2) Any amount of the national bank's or Federal savings association's adjusted allowance for credit losses, as applicable, that is not included in tier 2 capital and any amount of "allocated transfer risk reserves."

* * * * *

Sub-speculative grade means that the entity to which the national bank or Federal savings association is exposed through a loan or security, or the reference entity with respect to a credit derivative, depends on favorable economic conditions to meet its financial commitments, such that should such economic conditions deteriorate the issuer or the reference entity likely would default on its financial commitments.

* * * * *

Synthetic securitization means a transaction in which:

(1) All or a portion of the credit risk of one or more underlying exposures is retained or transferred to one or more third parties through the use of one or more credit derivatives, or guarantees (other than a guarantee that transfers only the credit risk of an individual retail exposure) or prepaid credit protection arrangements;

(2) The credit risk associated with the underlying exposures has been separated into at least two tranches reflecting different levels of seniority;

(3) Performance of the securitization exposures depends solely upon the performance of the underlying exposures; and

(4) All or substantially all of the underlying exposures are financial exposures with credit risk (such as loans, commitments, credit derivatives, guarantees, receivables, asset-backed securities, mortgage-backed securities, other debt securities, or equity securities).

* * * * *

Total credit risk-weighted assets means the sum of:

(1) Total risk-weighted assets for general credit risk as calculated under § 3.110;

(2) Total risk-weighted assets for cleared transactions and default fund contributions as calculated under § 3.116;

(3) Total risk-weighted assets for unsettled transactions as calculated under § 3.117; and

(4) Total risk-weighted assets for securitization exposures as calculated under § 3.132.

* * * * *

Traditional securitization means a transaction in which:

(1) All or a portion of the credit or equity risk of one or more underlying exposures is transferred to one or more third parties other than through the use of credit derivatives, guarantees, or prepaid credit protection arrangements;

(2) The credit risk associated with the underlying exposures has been separated into at least two tranches reflecting different levels of seniority;

(3) Performance of the securitization exposures depends solely upon the performance of the underlying exposures;

(4) All or substantially all of the underlying exposures are financial exposures (such as loans, commitments, credit derivatives, guarantees, receivables, asset-backed securities, mortgage-backed securities, other debt securities, or equity securities);

(5) The underlying exposures are not owned by an operating company;

(6) The underlying exposures are not owned by a small business investment company defined in section 302 of the Small Business Investment Act;

(7) The underlying exposures are not owned by a firm an investment in which qualifies as a community development investment under section 24(Eleventh) of the National Bank Act;

(8) The OCC may determine that a transaction in which the underlying exposures are owned by an investment firm that exercises substantially unfettered control over the size and composition of its assets, liabilities, and off-balance sheet exposures is not a traditional securitization based on the transaction's leverage, risk profile, or economic substance;

(9) The OCC may deem a transaction that meets the definition of a traditional securitization, notwithstanding paragraph (5), (6), or (7) of this definition, to be a traditional securitization based on the transaction's leverage, risk profile, or economic substance; and

(10) The transaction is not:

(i) An investment fund;

(ii) A collective investment fund (as defined in 12 CFR 9.18 (national banks), 12 CFR 151.40 (Federal saving associations));

(iii) An employee benefit plan (as defined in paragraphs (3) and (32) of section 3 of ERISA), 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;

(iv) A synthetic exposure to the capital of a financial institution to the extent deducted from capital under § 3.22; or

(v) Registered with the SEC under the Investment Company Act of 1940 (15 U.S.C. 80a-1) or foreign equivalents thereof.

* * * * *

Variation margin amount means the fair value amount of the variation margin, as adjusted by the standard supervisory haircuts under § 3.121(c)(2)(iii), as applicable, that a counterparty to a netting set has posted to a national bank or Federal savings association less the fair value amount of the variation margin, as adjusted by the standard supervisory haircuts under § 3.121(c)(2)(iii), as applicable, posted by the national bank or Federal savings association to the counterparty.

* * * * *

Footnotes—3.2

³ For the standardized approach treatment of these exposures, see § 3.34(e) (OTC derivative contracts) or § 3.37(c) (repo-style transactions). For the treatment of these exposures under subpart E, see § 3.113.

* * * * *

■ 4. In § 3.3, revise paragraph (c) to read as follows:

§ 3.3 Operational requirements for counterparty credit risk.

* * * * *

(c) *Qualifying cross-product master netting agreement.* In order to recognize an agreement as a qualifying cross-product master netting agreement as defined in § 3.2, a national bank or Federal savings association must obtain a written legal opinion verifying the validity and enforceability of the agreement under applicable law of the relevant jurisdictions if the counterparty fails to perform upon an event of default, including upon receivership, insolvency, liquidation, or similar proceeding.

* * * * *

■ 5. Add a new section § 3.4 to read as follows:

§ 3.4 Threshold Indexing.

(a) *Methodology.* The dollar thresholds specified in paragraph (c) of this section shall be adjusted by multiplying the baseline threshold values specified in paragraph (c) of this section by one plus the cumulative percent change in the non-seasonally adjusted Consumer Price Index for Urban Wage Earners and Clerical Workers, measured from the effective date of this rule, as further described in paragraph (b) of this section, and shall be rounded in accordance with paragraph (d) of this section.

(b) *Frequency.* (1) *In general—biennial adjustments.* Except as otherwise provided in paragraph (b)(2) and (b)(3) of this section, the adjustments described in paragraph (a) of this section shall be effective on October 1 following each consecutive two year period ending August 30, and using the non-seasonally adjusted Consumer Price Index for Urban Wage Earners and Clerical Workers as of August 30 of that year.

(2) *Off-year adjustments.* In the event that the OCC determines, during a year where no adjustment would be made under paragraph (b)(1), that the non-seasonally adjusted Consumer Price Index for Urban Wage Earners and Clerical Workers, measured over the twelve month period ending August 30 of that year, is such that an adjustment under this section would be appropriate for that year, the OCC may make an

adjustment under this section for that year.

(3) *Periods of negative inflation.* Notwithstanding paragraph (b)(1) or (b)(2) of this section, if an adjustment of dollar thresholds using the cumulative percent change of the non-seasonally adjusted Consumer Price Index for Urban Wage Earners and Clerical Workers from the effective date of this rule or the most recent adjustment, as applicable, would not result in an increase from the current dollar thresholds, no adjustment will be made pursuant to paragraph (a) of this section.

(c) *Specified thresholds.* The thresholds in the following sections shall be adjusted in accordance with paragraph (a) of this section relative to the baseline threshold values as specified below.

(1) § 3.2, definition of Financial institution, paragraph (4)(i)(A), baseline threshold value \$10 million;

(2) § 3.101, definition of Regulatory retail exposure, paragraph (2), baseline threshold value \$1 million;

(3) § 3.101, definition of Small or medium-sized entity (SME), baseline threshold value \$50 million;

(4) § 3.150(b)(1), baseline threshold value \$1 billion;

(5) § 3.150(b)(2), baseline threshold values \$1 billion, \$30 billion, and \$120 million;

(6) § 3.150(b)(2)(i), baseline threshold value \$1 billion;

(7) § 3.150(b)(3), baseline threshold values \$30 billion and \$4.47 billion

(8) § 3.150(b)(3)(i), baseline threshold value \$30 billion;

(9) § 3.150(d)(2)(i)(A), baseline threshold value \$20,000;

(10) § 3.201(b)(1)(ii)(B), baseline threshold value \$5 billion;

(11) § 3.201(b)(2)(ii), baseline threshold value \$1 trillion;

(12) § 3.202 “Large market cap”, baseline threshold value \$2 billion;

(13) § 3.202, “Market risk covered position” (1)(ii)(D), baseline value \$20 million;

(14) § 3.202, “Small market cap”, baseline threshold value \$2 billion.

(d) *Rounding.* When adjusting thresholds under this section, each threshold shall be rounded based on the size of the threshold (e.g., thousands, millions, billions) to the nearest number with two significant digits.

(e) *Effective date of threshold adjustments.* The OCC shall announce the thresholds adjusted in accordance with this section by publication in the **Federal Register**. Such adjusted thresholds shall be effective on October 1 of the year during which an adjustment is made.

(f) *Failure to publish in the Federal Register.* In the event, for any reason,

the thresholds adjusted in accordance with this section are not published in the **Federal Register** in a year in which an adjustment is made under this section, the thresholds specified in paragraph (c) of this section will adjust as provided in this section and be effective on October 1, notwithstanding the lack of publication in the **Federal Register**.

* * * * *

■ 6. Add a new section § 3.5 to read as follows:

§ 3.5 Calculation of loan-to-value (LTV) ratio.

(a) *Loan-to-Value ratio.* The loan-to-value (LTV) ratio must be calculated as the extension of credit divided by the value of the property.

(b) *Extension of credit.* For purposes of a LTV ratio calculated under this section, the extension of credit is equal to the total outstanding amount of the loan including any undrawn committed amount of the loan.

(c) *Value of the property.* (1) For purposes of a LTV ratio calculated under this section, the value of the property is the market value of all real estate properties securing or being improved by the extension of credit plus the amount of any readily marketable collateral and other acceptable collateral, as defined in 12 CFR part 34, appendix A to subpart D, that secures the extension of credit, subject to the following:

(i) For exposures subject to 12 CFR part 34, subpart C, the market value of property is a valuation that meets all requirements of that rule.

(ii) For exposures not subject to 12 CFR part 34, subpart C:

(A) The market value of real estate must be obtained from an independent valuation of the property using prudently conservative valuation criteria;

(B) The valuation must be done independently from the national bank's or Federal savings association's origination and underwriting process, and

(C) To ensure that the market value of the real estate is determined in a prudently conservative manner, the valuation must exclude expectations of price increases and must be adjusted downward to take into account the potential for the current market price to be significantly above the value that would be sustainable over the life of the loan.

(2) In the case where the exposure finances the purchase of the property, the value of the property is the lower of the market value obtained under

paragraph (c)(1)(i) or (ii), as applicable, and the actual acquisition cost.

(3) The value of the property must be measured at the time of origination, except in the following circumstances:

(i) The OCC requires a national bank or Federal savings association to revise the value of the property downward;

(ii) The value of the property must be adjusted downward due to an extraordinary event that results in a permanent reduction of the property value; or

(iii) The value of the property may be increased to reflect modifications made to the property that increase the market value, as determined according to the requirements in paragraphs (c)(1)(i) or (ii) of this section.

(4) Readily marketable collateral and other acceptable collateral, as defined in 12 CFR part 34, appendix A to subpart D, must be appropriately discounted by the national bank or Federal savings association consistent with the national bank's or Federal savings association's usual practices for making loans secured by such collateral.

* * * * *

■ 7. In § 3.10:

■ a. Revise paragraph (a)(1)(v);

■ b. Revise paragraph (b);

■ c. Revise paragraph (c);

■ d. Revise paragraph (d) introductory text; and

■ e. Revise paragraph (d)(3)(ii).

The revisions read as follows:

§ 3.10 Minimum capital requirements.

(a) * * *

(1) * * *

(v) For a Category I national bank or Federal savings association, a Category II national bank or Federal Savings association, and a Category III national bank or Federal savings association, a supplementary leverage ratio of 3 percent.

* * * * *

(b) *Standardized capital ratio calculations.* For a national bank or Federal savings association that is not a Category I national bank or Federal savings association or a Category II national bank or Federal savings association:

(1) *Common equity tier 1 capital ratio.* The national bank's or Federal savings association's common equity tier 1 capital ratio is the ratio of the national bank's or Federal savings association's common equity tier 1 capital to selected total risk-weighted assets;

(2) *Tier 1 capital ratio.* The national bank's or Federal savings association's tier 1 capital ratio is the ratio of the national bank's or Federal savings association's tier 1 capital to selected total risk-weighted assets;

(3) *Total capital ratio.* The national bank's or Federal savings association's total capital ratio is the ratio of the national bank's or Federal savings association's total capital to selected total risk-weighted assets; and

(4) *Leverage ratio.* The national bank's or Federal savings association's leverage ratio is the ratio of the national bank's or Federal savings association's tier 1 capital to the national bank's or Federal savings association's average total consolidated assets as reported on the national bank's or Federal savings association's Call Report, minus amounts deducted from tier 1 capital under § 3.22(a), (c) and (d).

(5) *Selected total risk-weighted assets.* A national bank's or Federal savings association's selected total risk-weighted assets is either the national bank's or Federal savings association's standardized total risk-weighted assets or expanded total risk-weighted assets, as selected by the national bank or Federal savings association. A national bank or Federal savings association may change its choice for selected total risk-weighted assets by providing the OCC with prior notice of the change at least four full calendar quarters before the calendar quarter in which the change will take effect.

(c) *Supplementary leverage ratio.* (1) The supplementary leverage ratio of a Category I national bank or Federal savings association, a Category II national bank or Federal Savings association, or a Category III national bank or Federal savings association is the ratio of its tier 1 capital to total leverage exposure. Total leverage exposure is calculated as the sum of:

(i) The mean of the on-balance sheet assets calculated as of each day of the reporting quarter; and

(ii) The mean of the off-balance sheet exposures calculated as of the last day of each of the most recent three months, minus the applicable deductions under § 3.22(a), (c), and (d).

(2) For purposes of this part, total leverage exposure means the sum of the items described in paragraphs (c)(2)(i) through (viii) of this section, as adjusted pursuant to paragraph (c)(2)(ix) of this section for a clearing member national bank or Federal savings association and paragraph (c)(2)(x) of this section for a custody bank:

(i) The balance sheet carrying value of all of the national bank's or Federal savings association's on-balance sheet assets, net of adjusted allowances for credit losses, plus the value of securities sold under a repurchase transaction or a securities lending transaction that qualifies for sales treatment under GAAP, less amounts deducted from tier

1 capital under § 3.22(a), (c), and (d), less the value of securities received in security-for-security repo-style transactions, where the national bank or Federal savings association acts as a securities lender and includes the securities received in its on-balance sheet assets but has not sold or re-hypothecated the securities received, and, for a national bank or Federal savings association that uses the Standardized approach for counterparty credit risk (SA-CCR) § 3.114 for its standardized total risk-weighted assets or expanded total risk-weighted assets, less the fair value of any derivative contracts;

(ii) (A) For a national bank or Federal savings association that uses the current exposure methodology under § 3.34(b) for its standardized total risk-weighted assets, the potential future credit exposure (PFE) for each derivative contract or each single-product netting set of derivative contracts (including a cleared transaction except as provided in paragraph (c)(2)(ix) of this section and, at the discretion of the national bank or Federal savings association, excluding a forward agreement treated as a derivative contract that is part of a repurchase or reverse repurchase or a securities borrowing or lending transaction that qualifies for sales treatment under GAAP), to which the national bank or Federal savings association is a counterparty as determined under § 3.34, but without regard to § 3.34(c), provided that:

(1) A national bank or Federal savings association may choose to exclude the PFE of all credit derivatives or other similar instruments through which it provides credit protection when calculating the PFE under § 3.34, but without regard to § 3.34(c), provided that it does not adjust the net-to-gross ratio (NGR); and

(2) A national bank or Federal savings association that chooses to exclude the PFE of credit derivatives or other similar instruments through which it provides credit protection pursuant to paragraph (c)(2)(ii)(A) of this section must do so consistently over time for the calculation of the PFE for all such instruments; or

(B) (1) For a national bank or Federal savings association that uses SA-CCR under § 3.114 for its standardized total risk-weighted assets or expanded total risk-weighted assets, the PFE under SA-CCR for each derivative contract or single product netting set to which the national bank or Federal savings association is a counterparty (including cleared transactions except as provided in paragraph (c)(2)(ix) of this section and, at the discretion of the national

bank or Federal savings association, excluding a forward agreement treated as a derivative contract that is part of a repurchase or reverse repurchase or a securities borrowing or lending transaction that qualifies for sales treatment under GAAP), as determined under § 3.114(g), in which the term C in § 3.114(g)(1) equals zero, and, for any counterparty that is not a commercial end-user, multiplied by 1.4. For purposes of this paragraph (c)(2)(ii)(A), a national bank or Federal savings association may set the value of the term C in § 3.114(g)(1) equal to the amount of collateral posted by a clearing member client of the national bank or Federal savings association in connection with the client-facing derivative transactions within the netting set; and

(2) A national bank or Federal savings association may choose to exclude the PFE of all credit derivatives or other similar instruments through which it provides credit protection when calculating the PFE under § 3.114, provided that it does so consistently over time for the calculation of the PFE for all such instruments;

(iii)(A)(1) For a national bank or Federal savings association that uses the current exposure methodology under § 3.34(b) for its standardized total risk-weighted assets, the amount of cash collateral that is received from a counterparty to a derivative contract and that has offset the mark-to-fair value of the derivative asset, or cash collateral that is posted to a counterparty to a derivative contract and that has reduced the national bank's or Federal savings association's on-balance sheet assets, unless such cash collateral is all or part of variation margin that satisfies the conditions in paragraphs (c)(2)(iii)(C) through (G) of this section; and

(2) The variation margin is used to reduce the current credit exposure of the derivative contract, calculated as described in § 3.34(b), and not the PFE; and

(3) For the purpose of the calculation of the NGR described in § 3.34(b)(2)(ii)(B), variation margin described in paragraph (c)(2)(iii)(A)(2) of this section may not reduce the net current credit exposure or the gross current credit exposure; or

(B)(1) For a national bank or Federal savings association that uses Standardized approach for derivative contracts under § 3.114 for its standardized total risk-weighted assets or expanded total risk-weighted assets, the replacement cost under § 3.114 of each derivative contract or single product netting set of derivative contracts to which the national bank or Federal savings association is a

counterparty, calculated according to the following formula, and, for any counterparty that is not a commercial end-user, multiplied by 1.4:

$$\text{Replacement Cost} = \max\{V - \text{CVM}_r + \text{CVM}_p; 0\}$$

Where:

V equals the fair value for each derivative contract or each netting set of derivative contracts (including a cleared transaction except as provided in paragraph (c)(2)(ix) of this section and, at the discretion of the national bank or Federal savings association, excluding a forward agreement treated as a derivative contract that is part of a repurchase or reverse repurchase or a securities borrowing or lending transaction that qualifies for sales treatment under GAAP);

CVM_r equals the amount of cash collateral received from a counterparty to a derivative contract and that satisfies the conditions in paragraphs (c)(2)(iii)(C) through (G) of this section, or, in the case of a client-facing derivative transaction, the amount of collateral received from the clearing member client; and

CVM_p equals the amount of cash collateral that is posted to a counterparty to a derivative contract and that has not offset the fair value of the derivative contract and that satisfies the conditions in paragraphs (c)(2)(iii)(C) through (G) of this section, or, in the case of a client-facing derivative transaction, the amount of collateral posted to the clearing member client;

(2) Notwithstanding paragraph (c)(2)(iii)(A)(1) of this section, where multiple netting sets are subject to a single variation margin agreement, a national bank or Federal savings association must apply the formula for replacement cost provided in § 3.114(j)(1), in which the term CMA may only include cash collateral that satisfies the conditions in paragraphs (c)(2)(iii)(C) through (G) of this section; and

(3) For purposes of paragraph (c)(2)(iii)(A)(1) of this section, a national bank or Federal savings association must treat a derivative contract that references an index as if it were multiple derivative contracts each referencing one component of the index if the national bank or Federal savings association elected to treat the derivative contract as multiple derivative contracts under § 3.114(e)(6);

(C) For derivative contracts that are not cleared through a QCCP, the cash collateral received by the recipient counterparty is not segregated (by law, regulation, or an agreement with the counterparty);

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

(E) The variation margin transferred under the derivative contract or the governing rules of the CCP or QCCP for a cleared transaction is the full amount that is necessary to fully extinguish the net current credit exposure to the counterparty of the derivative contracts, subject to the threshold and minimum transfer amounts applicable to the counterparty under the terms of the derivative contract or the governing rules for a cleared transaction;

(F) The variation margin is in the form of cash in the same currency as the currency of settlement set forth in the derivative contract, provided that for the purposes of this paragraph (c)(2)(iii)(F), currency of settlement means any currency for settlement specified in the governing qualifying master netting agreement and the credit support annex to the qualifying master netting agreement, or in the governing rules for a cleared transaction; and

(G) The derivative contract and the variation margin are governed by a qualifying master netting agreement between the legal entities that are the counterparties to the derivative contract or by the governing rules for a cleared transaction, and the qualifying master netting agreement or the governing rules for a cleared transaction must explicitly stipulate that the counterparties agree to settle any payment obligations on a net basis, taking into account any variation margin received or provided under the contract if a credit event involving either counterparty occurs;

(iv) The effective notional principal amount (that is, the apparent or stated notional principal amount multiplied by any multiplier in the derivative contract) of a credit derivative, or other similar instrument, through which the national bank or Federal savings association provides credit protection, provided that:

(A) The national bank or Federal savings association may reduce the effective notional principal amount of the credit derivative by the amount of any reduction in the mark-to-fair value of the credit derivative if the reduction is recognized in common equity tier 1 capital;

(B) The national bank or Federal savings association may reduce the effective notional principal amount of the credit derivative by the effective notional principal amount of a purchased credit derivative or other similar instrument, provided that the remaining maturity of the purchased credit derivative is equal to or greater than the remaining maturity of the credit derivative through which the national bank or Federal savings

association provides credit protection and that:

(1) With respect to a credit derivative that references a single exposure, the reference exposure of the purchased credit derivative is to the same legal entity and ranks *pari passu* with, or is junior to, the reference exposure of the credit derivative through which the national bank or Federal savings association provides credit protection; or

(2) With respect to a credit derivative that references multiple exposures, the reference exposures of the purchased credit derivative are to the same legal entities and rank *pari passu* with the reference exposures of the credit derivative through which the national bank or Federal savings association provides credit protection, and the level of seniority of the purchased credit derivative ranks *pari passu* to the level of seniority of the credit derivative through which the national bank or Federal savings association provides credit protection;

(3) Where a national bank or Federal savings association has reduced the effective notional principal amount of a credit derivative through which the national bank or Federal savings association provides credit protection in accordance with paragraph (c)(2)(iv)(A) of this section, the national bank or Federal savings association must also reduce the effective notional principal amount of a purchased credit derivative used to offset the credit derivative through which the national bank or Federal savings association provides credit protection, by the amount of any increase in the mark-to-fair value of the purchased credit derivative that is recognized in common equity tier 1 capital; and

(4) Where the national bank or Federal savings association purchases credit protection through a total return swap and records the net payments received on a credit derivative through which the national bank or Federal savings association provides credit protection in net income, but does not record offsetting deterioration in the mark-to-fair value of the credit derivative through which the national bank or Federal savings association provides credit protection in net income (either through reductions in fair value or by additions to reserves), the national bank or Federal savings association may not use the purchased credit protection to offset the effective notional principal amount of the related credit derivative through which the national bank or Federal savings association provides credit protection;

(v) Where a national bank or Federal savings association acting as a principal has more than one repo-style transaction with the same counterparty and has offset the gross value of receivables due from a counterparty under reverse repurchase transactions by the gross value of payables under repurchase transactions due to the same counterparty, the gross value of receivables associated with the repo-style transactions less any on-balance sheet receivables amount associated with these repo-style transactions included under paragraph (c)(2)(i) of this section, unless the following criteria are met:

(A) The offsetting transactions have the same explicit final settlement date under their governing agreements;

(B) The right to offset the amount owed to the counterparty with the amount owed by the counterparty is legally enforceable in the normal course of business and in the event of receivership, insolvency, liquidation, or similar proceeding; and

(C) Under the governing agreements, the counterparties intend to settle net, settle simultaneously, or settle according to a process that is the functional equivalent of net settlement, (that is, the cash flows of the transactions are equivalent, in effect, to a single net amount on the settlement date), where both transactions are settled through the same settlement system, the settlement arrangements are supported by cash or intraday credit facilities intended to ensure that settlement of both transactions will occur by the end of the business day, and the settlement of the underlying securities does not interfere with the net cash settlement;

(vi) The counterparty credit risk of a repo-style transaction, including where the national bank or Federal savings association acts as an agent for a repo-style transaction and indemnifies the customer with respect to the performance of the customer's counterparty in an amount limited to the difference between the fair value of the security or cash its customer has lent and the fair value of the collateral the borrower has provided, calculated as follows:

(A) If the transaction is not subject to a qualifying master netting agreement, the counterparty credit risk (E^*) for transactions with a counterparty must be calculated on a transaction by transaction basis, such that each transaction i is treated as its own netting set, in accordance with the following formula, where E_i is the fair value of the instruments, gold, or cash that the national bank or Federal savings

association has lent, sold subject to repurchase, or provided as collateral to the counterparty, and C_i is the fair value of the instruments, gold, or cash that the national bank or Federal savings association has borrowed, purchased subject to resale, or received as collateral from the counterparty:

$E_i^* = \max \{0, [E_i - C_i]\}$; and

(B) If the transaction is subject to a qualifying master netting agreement, the counterparty credit risk (E^*) must be calculated as the greater of zero and the total fair value of the instruments, gold, or cash that the national bank or Federal savings association has lent, sold subject to repurchase or provided as collateral to a counterparty for all transactions included in the qualifying master netting agreement ($\sum E_i$), less the total fair value of the instruments, gold, or cash that the national bank or Federal savings association borrowed, purchased subject to resale or received as collateral from the counterparty for those transactions ($\sum C_i$), in accordance with the following formula:

$E^* = \max \{0, [\sum E_i - \sum C_i]\}$

(vii) If a national bank or Federal savings association acting as an agent for a repo-style transaction provides a guarantee to a customer of the security or cash its customer has lent or borrowed with respect to the performance of the customer's counterparty and the guarantee is not limited to the difference between the fair value of the security or cash its customer has lent and the fair value of the collateral the borrower has provided, the amount of the guarantee that is greater than the difference between the fair value of the security or cash its customer has lent and the value of the collateral the borrower has provided;

(viii) The credit equivalent amount of all off-balance sheet exposures of the national bank or Federal savings association, excluding repo-style transactions, repurchase or reverse repurchase or securities borrowing or lending transactions that qualify for sales treatment under GAAP, and derivative transactions, determined using:

(A) For a national bank or Federal savings association that elects to calculate its standardized total risk-weighted assets under § 3.10(b), the applicable credit conversion factor under § 3.33(b), provided, however, that the minimum credit conversion factor that may be assigned to an off-balance sheet exposure under this paragraph is 10 percent; or

(B) For a national bank or Federal savings association that elects to

calculate its expanded total risk-weighted assets under § 3.10(b), a Category I national bank or Federal savings association, or a Category II national bank or Federal savings association, the applicable credit conversion factor under § 3.112(b), provided, however, that the minimum credit conversion factor that may be assigned to an off-balance sheet exposure under this paragraph is 10 percent; and

(ix) For a national bank or Federal savings association that is a clearing member:

(A) A clearing member national bank or Federal savings association that guarantees the performance of a clearing member client with respect to a cleared transaction must treat its exposure to the clearing member client as a derivative contract or repo-style transaction, as applicable, for purposes of determining its total leverage exposure;

(B) A clearing member national bank or Federal savings association that guarantees the performance of a CCP with respect to a transaction cleared on behalf of a clearing member client must treat its exposure to the CCP as a derivative contract or repo-style transaction, as applicable, for purposes of determining its total leverage exposure;

(C) A clearing member national bank or Federal savings association that does not guarantee the performance of a CCP with respect to a transaction cleared on behalf of a clearing member client may exclude its exposure to the CCP for purposes of determining its total leverage exposure;

(D) A national bank or Federal savings association that is a clearing member may exclude from its total leverage exposure the effective notional principal amount of credit protection sold through a credit derivative contract, or other similar instrument, that it clears on behalf of a clearing member client through a CCP as calculated in accordance with paragraph (c)(2)(iv) of this section;

(E) Notwithstanding paragraphs (c)(2)(ix)(A) through (C) of this section, a national bank or Federal savings association may exclude from its total leverage exposure a clearing member's exposure to a clearing member client for a derivative contract if the clearing member client and the clearing member are affiliates and consolidated for financial reporting purposes on the national bank's or Federal savings association's balance sheet; and

(F) Notwithstanding paragraph (c)(2)(ix)(A), a national bank or Federal savings association that has elected

under § 3.113(c) to treat any repo-style transactions subject to a qualifying cross-product master netting agreement as derivative contracts must treat any such repo-style transactions as a derivative contract for purposes of this paragraph (c).

(x) A custody bank shall exclude from its total leverage exposure the lesser of:

(A) The amount of funds that the custody bank has on deposit at a qualifying central bank; and

(B) The amount of funds in deposit accounts at the custody bank that are linked to fiduciary or custodial and safekeeping accounts at the custody bank. For purposes of this paragraph (c)(2)(x), a deposit account is linked to a fiduciary or custodial and safekeeping account if the deposit account is provided to a client that maintains a fiduciary or custodial and safekeeping account with the custody bank and the deposit account is used to facilitate the administration of the fiduciary or custodial and safekeeping account.

(d) *Expanded capital ratio calculations.* A Category I national bank or Federal savings association, or a Category II national bank or Federal savings association that elects to use expanded total risk-weighted assets for purposes of § 3.10(a)(5) must determine its regulatory capital ratios as described in paragraphs (d)(1) through (4) of this section.

(1) *Common equity tier 1 capital ratio.* The national bank's or Federal savings association's common equity tier 1 capital ratio is the ratio of the national bank's or Federal savings association's common equity tier 1 capital to expanded total risk-weighted assets;

(2) *Tier 1 capital ratio.* The national bank's or Federal savings association's tier 1 capital ratio is the ratio of the national bank's or Federal savings association's tier 1 capital to expanded total risk-weighted assets;

(3) *Total capital ratio.* The national bank's or Federal savings association's total capital ratio is the ratio of the national bank's or Federal savings association's total capital to expanded total risk-weighted assets; and

(4) *Leverage ratio.* The national bank's or Federal savings association's leverage ratio is the ratio of the national bank's or Federal savings association's tier 1 capital to the national bank's or Federal savings association's average total consolidated assets as reported on the national bank's or Federal savings association's Call Report, minus amounts deducted from tier 1 capital under § 3.22(a), (c) and (d).

* * * * *

■ 8. In § 3.11, revise paragraphs (a)(2)(iv), (b)(1), (b)(1)(ii), and (b)(1)(iii) to read as follows:

§ 3.11 Capital conservation buffer and countercyclical capital buffer amount.

* * * * *

(a) * * *

(2) * * *

(iv) Private sector credit exposure.

Private sector credit exposure means an exposure to a company or an individual that is not an exposure to a sovereign, a specified supranational entity, a MDB, a PSE, or a GSE.

* * * * *

(b) * * *

(1) *General.* A Category I or Category II national bank or Federal savings association, and a Category III national bank or Federal savings association, must calculate a countercyclical capital buffer amount in accordance with paragraphs (b)(1)(i) through (iv) of this section for purposes of determining its maximum payout ratio under Table 1 to this section.

(i) * * *

(ii) *Amount.* A Category I or Category II national bank or Federal savings association, and a Category III national bank or Federal savings association, has a countercyclical capital buffer amount determined by calculating the weighted average of the countercyclical capital buffer amounts established for the national jurisdictions where the national bank's or Federal savings association's private sector credit exposures are located, as specified in paragraphs (b)(2) and (3) of this section.

(iii) *Weighting.* The weight assigned to a jurisdiction's countercyclical capital buffer amount is calculated by dividing the total risk-weighted assets for the national bank's or Federal savings association's private sector credit exposures located in the jurisdiction by the total risk-weighted assets for all of the national bank's or Federal savings association's private sector credit exposures. The methodology a national bank or Federal savings association uses for determining risk-weighted assets for purposes of this paragraph (b) must be the methodology that determines its risk-based capital ratios under § 3.10. Notwithstanding the previous sentence, the risk-weighted asset amount for a private sector credit exposure that is a covered position under subpart F of this part is its standardized default risk capital requirement as determined under § 3.210 multiplied by 12.5.

* * * * *

■ 9. In § 3.12, revise paragraph (a)(2) and remove paragraph (a)(4).

The revision reads as follows:

§ 3.12 Community bank leverage ratio framework.

(a) * * *

(2) For purposes of this section, a qualifying community banking organization means a national bank or Federal savings association that is not a Category I national bank or Federal savings association, or a Category II national bank or savings association, and that satisfies all of the following criteria:

* * * * *

■ 10. In § 3.20, revise paragraphs (c)(1)(xiv) and (d)(1)(xi) and (d)(3) to read as follows:

§ 3.20 Capital components and eligibility criteria for regulatory capital instruments.

* * * * *

(c) * * *

(1) * * *

(xiv) For a Category I national bank or Federal savings association, or a Category II national bank or Federal savings association, or a national bank or Federal savings association that uses expanded total risk-weighted assets for purposes of § 3.10(a)(5), the governing agreement, offering circular, or prospectus of an instrument issued after the date upon which the national bank or Federal savings association becomes a Category I national bank or Federal savings association, or a Category II national bank or Federal savings association, or a national bank or Federal savings association that uses expanded total risk-weighted assets for purposes of § 3.10(a)(5), must disclose that the holders of the instrument may be fully subordinated to interests held by the U.S. government in the event that the national bank or Federal savings association enters into a receivership, insolvency, liquidation, or similar proceeding.

* * * * *

(d) * * *

(1) * * *

(xi) For a Category I national bank or Federal savings association, a Category II national bank or Federal savings association, or a national bank or Federal savings association that uses expanded total risk-weighted assets for purposes of § 3.10(a)(5), the governing agreement, offering circular, or prospectus of an instrument issued after the date on which the national bank or Federal savings association becomes a Category I national bank or Federal savings association, or a Category II national bank or Federal savings association, or a national bank or Federal savings association that uses expanded total risk-weighted assets for purposes of § 3.10(a)(5), must disclose that the holders of the instrument may

be fully subordinated to interests held by the U.S. government in the event that the national bank or Federal savings association enters into a receivership, insolvency, liquidation, or similar proceeding.

* * * * *

(3) AACL up to 1.25 percent of a national bank's or Federal savings association's standardized total risk-weighted assets or total credit risk-weighted assets, as applicable, not including any amount of AACL (and excluding, in the case of a market risk national bank or Federal savings association, its market risk weighted assets).

* * * * *

■ 11. In § 3.21:

■ a. In paragraph (a)(1), remove the words “an advanced approaches national bank or Federal savings association” and add in their place the words “Category I national bank or Federal savings association, Category II national bank or Federal savings association, or national bank or Federal savings association that uses expanded total risk-weighted assets for purposes of § 3.10(a)(5)”;

■ b. Revise paragraph (b):

The revision reads as follows:

§ 3.21 Minority interest.

* * * * *

(b)(1) *Applicability.* For purposes of § 3.20, a Category I national bank or Federal savings association, a Category II national bank or Federal savings association or a national bank or Federal savings association that uses expanded total risk-weighted assets for purposes of § 3.10(a)(5), is subject to the minority interest limitations in this paragraph (b) if:

(i) A consolidated subsidiary of the national bank or Federal savings association has issued regulatory capital that is not owned by the national bank or federal savings association; and

(ii) For each relevant regulatory capital ratio of the consolidated subsidiary, the ratio exceeds the sum of the subsidiary's minimum regulatory capital requirements plus its capital conservation buffer.

(2) *Difference in capital adequacy standards at the subsidiary level.* For purposes of the minority interest calculations in this section, if the consolidated subsidiary issuing the capital is not subject to capital adequacy standards similar to those of the national bank or Federal savings association, the national bank or Federal savings association must assume that the capital adequacy standards of the national bank or Federal savings association apply to the subsidiary.

(3) *Common equity tier 1 minority interest includable in the common equity tier 1 capital of the national bank or Federal savings association.* For each consolidated subsidiary of a national bank or Federal savings association, the amount of common equity tier 1 minority interest the national bank or Federal savings association may include in common equity tier 1 capital is equal to:

(i) The common equity tier 1 minority interest of the subsidiary; minus

(ii) The percentage of the subsidiary's common equity tier 1 capital that is not owned by the national bank or Federal savings association, multiplied by the difference between the common equity tier 1 capital of the subsidiary and the lower of:

(A) The amount of common equity tier 1 capital the subsidiary must hold, or would be required to hold pursuant to this paragraph (b), to avoid restrictions on distributions and discretionary bonus payments under § 3.11 or equivalent standards established by the subsidiary's home country supervisor; or

(B)(1) The expanded total risk-weighted assets of the national bank or Federal savings association that relate to the subsidiary multiplied by

(2) The common equity tier 1 capital ratio the subsidiary must maintain to avoid restrictions on distributions and discretionary bonus payments under § 3.11 or equivalent standards established by the subsidiary's home country supervisor.

(4) *Tier 1 minority interest includable in the tier 1 capital of the national bank or Federal savings association.* For each consolidated subsidiary of the national bank or Federal savings association, the amount of tier 1 minority interest the national bank or Federal savings association may include in tier 1 capital is equal to:

(i) The tier 1 minority interest of the subsidiary; minus

(ii) The percentage of the subsidiary's tier 1 capital that is not owned by the national bank or Federal savings association multiplied by the difference between the tier 1 capital of the subsidiary and the lower of:

(A) The amount of tier 1 capital the subsidiary must hold, or would be required to hold pursuant to this paragraph (b), to avoid restrictions on distributions and discretionary bonus payments under § 3.11 or equivalent standards established by the subsidiary's home country supervisor, or

(B)(1) The expanded total risk-weighted assets of the national bank or

Federal savings association that relate to the subsidiary multiplied by

(2) The tier 1 capital ratio the subsidiary must maintain to avoid restrictions on distributions and discretionary bonus payments under § 3.11 or equivalent standards established by the subsidiary's home country supervisor.

(5) *Total capital minority interest includable in the total capital of the national bank or Federal savings association.* For each consolidated subsidiary of the national bank or Federal savings association, the amount of total capital minority interest the national bank or Federal savings association may include in total capital is equal to:

(i) The total capital minority interest of the subsidiary; minus

(ii) The percentage of the subsidiary's total capital that is not owned by the national bank or Federal savings association multiplied by the difference between the total capital of the subsidiary and the lower of:

(A) The amount of total capital the subsidiary must hold, or would be required to hold pursuant to this paragraph (b), to avoid restrictions on distributions and discretionary bonus payments under § 3.11 or equivalent standards established by the subsidiary's home country supervisor, or

(B) (1) The expanded total risk-weighted assets of the national bank or Federal savings association that relate to the subsidiary multiplied by

(2) The total capital ratio the subsidiary must maintain to avoid restrictions on distributions and discretionary bonus payments under § 3.11 or equivalent standards established by the subsidiary's home country supervisor.

* * * * *

■ 12. In § 3.22:

■ a. Revise paragraphs (a)(1) and (a)(4);
■ b. Remove paragraph (a)(6);
■ c. Redesignate paragraph (a)(7) as new paragraph (a)(6), and redesignate paragraph (a)(8) and the new paragraph (a)(7);

■ d. In paragraph (b)(2)(i) and (b)(2)(iv), remove the words “an advanced approaches national bank or Federal savings association” and add in their place the words “a Category I national bank or Federal savings association, a Category II national bank or Federal savings association, or a national bank or Federal savings association that uses expanded total risk-weighted assets for purposes of § 3.10(a)(5),”;

■ e. Revise paragraph (b)(2)(ii);

■ f. In paragraph (b)(2)(iii) and (b)(2)(iv), remove the words “an advanced

approaches national bank or Federal savings association” and add in their place the words “a Category I national bank or Federal savings association or a Category II national bank or Federal savings association or a national bank or Federal savings association that uses expanded total risk-weighted assets for purposes of § 3.10(a)(5)”;

■ g. In footnote 21, in paragraph (b)(2)(iii), remove the words “12 CFR part 225 (Board); 12 CFR part 325, and 12 CFR part 390” and add in their place “12 CFR part 217 (Board); and 12 CFR part 325 (FDIC)”;

■ h. In footnote 22, in paragraph (b)(2)(iv)(A), remove the words “12 CFR part 225 (Board); 12 CFR part 325, and 12 CFR part 390” and add in their place “12 CFR part 217 (Board); and 12 CFR part 325 (FDIC)”;

■ i. In footnote 23, in paragraph (c), remove the words “ALLL or AACL, as applicable,” and add in its places “AACL”;

■ j. Revise paragraphs (c)(2);

■ k. In paragraph (c)(4), remove the words “an advanced approaches national bank or Federal savings association” and replace them with a Category I national bank or Federal savings association or a Category II national bank or Federal savings association that uses expanded total risk-weighted assets for purposes of § 3.10(a)(5);

■ l. Revise paragraphs (c)(5)(i) through (iv);

■ m. Revise paragraphs (c)(6);

■ n. Revise paragraph (d)(1).

■ o. Remove and reserve paragraph (d)(1)(iii);

■ p. Revise paragraph (d)(2);

■ q. Revise paragraph (f); and

■ r. Revise paragraph (g).

The revisions read as follows:

§ 3.22 Regulatory capital adjustments and deductions.

(a) * * *

(1) * * *

(ii) For a national bank or Federal savings association subject to subpart E of this part, goodwill that is embedded in the valuation of a significant investment in the capital of an unconsolidated financial institution in the form of common stock (and that is reflected in the consolidated financial statements of the national bank or Federal savings association), in accordance with paragraph (d) of this section;

* * * * *

(4)(i) Any gain-on-sale in connection with a securitization exposure; and

(ii) For a Category I national bank or Federal savings association or a

Category II national bank or Federal savings association or a national bank or Federal savings association that uses expanded total risk-weighted assets for purposes of § 3.10(a)(5), the portion of any CEO that does not constitute an after-tax gain-on-sale;

* * * * *

(b) * * *

(2) * * *

(i) A national bank or Federal savings association that is not a Category I national bank or Federal savings association, or a Category II national bank or Federal savings association, or a national bank or Federal savings association that uses expanded total risk-weighted assets for purposes of § 3.10(a)(5), may make a one-time election to opt out of the requirement to include all components of AOCI (with the exception of accumulated net gains and losses on cash flow hedges related to items that are not fair-valued on the balance sheet) in common equity tier 1 capital (AOCI opt-out election). A national bank or Federal savings association that makes an AOCI opt-out election in accordance with this paragraph (b)(2) must adjust common equity tier 1 capital as follows:

(A) Subtract any net unrealized gains and add any net unrealized losses on available-for-sale securities;

(B) Subtract any accumulated net gains and add any accumulated net losses on cash flow hedges;

(C) Subtract any amounts recorded in AOCI attributed to defined benefit postretirement plans resulting from the initial and subsequent application of the relevant GAAP standards that pertain to such plans (excluding, at the national bank's or Federal savings association's option, the portion relating to pension assets deducted under paragraph (a)(5) of this section); and

(D) Subtract any net unrealized gains and add any net unrealized losses on held-to-maturity securities that are included in AOCI.

(ii) A national bank or Federal savings association that is not a Category I national bank or Federal savings association, a Category II national bank or Federal savings association, or a national bank or Federal savings association that uses expanded total risk-weighted assets for purposes of § 3.10(a)(5) must make its AOCI opt-out election in the Call Report, during the first reporting period after the national bank or Federal savings association is required to comply with subpart A of this part. If the national bank or Federal savings association was previously a Category I national bank or Federal savings association, a Category II

national bank or Federal savings association, or a national bank or Federal savings association that used expanded total risk-weighted assets for purposes of § 3.10(a)(5), the national bank or Federal savings association may not make an AOCI opt-out election under this paragraph (b)(2)(ii).

* * * * *

* * * * *

(c) * * * 23

(1) Investment in the national bank's or Federal savings association's own capital or covered debt instruments. A national bank or Federal savings association must deduct an investment in the national bank's or Federal savings association's own capital instruments; and a Category I national bank or Federal savings association, a Category II national bank or Federal savings association, and a national bank or Federal savings association that uses expanded total risk-weighted assets for purposes of § 3.10(a)(5) also must deduct an investment in the national bank's or Federal savings association's own covered debt instruments, as follows:

* * * * *

(iv) A Category I national bank or Federal savings association or a Category II national bank or Federal savings association or a national bank or Federal savings association that uses expanded total risk-weighted assets for purposes of § 3.10(a)(5) must deduct an investment in the institution's own covered debt instruments from its tier 2 capital elements, as applicable. If the national bank or Federal savings association does not have a sufficient amount of tier 2 capital to effect this deduction, the national bank or Federal savings association must deduct the shortfall amount from the next higher (that is, more subordinated) component of regulatory capital.

* * * * *

(2) Corresponding deduction approach. For purposes of subpart C of this part, the corresponding deduction approach is the methodology used for the deductions from regulatory capital related to reciprocal cross holdings (as described in paragraph (c)(3) of this section), investments in the capital of unconsolidated financial institutions for a national bank or Federal savings association that is not a Category I national bank or Federal savings association, or a Category II national bank or Federal savings association, or a national bank or Federal savings association that uses expanded total risk-weighted assets for purposes of § 3.10(a)(5) (as described in paragraph

(c)(4) of this section), non-significant investments in the capital of unconsolidated financial institutions for a Category I national bank or Federal savings association, or a Category II national bank or Federal savings association, or a national bank or Federal savings association that uses expanded total risk-weighted assets for purposes of § 3.10(a)(5) (as described in paragraph (c)(5) of this section), and non-common stock significant investments in the capital of unconsolidated financial institutions for a Category I national bank or Federal savings association or a Category II national bank or Federal savings association that uses expanded total risk-weighted assets for purposes of § 3.10(a)(5) (as described in paragraph (c)(6) of this section). Under the corresponding deduction approach, a national bank or Federal savings association must make deductions from the component of capital for which the underlying instrument would qualify if it were issued by the national bank or Federal savings association itself, as described in paragraphs (c)(2)(i) through (iii) of this section. If the national bank or Federal savings association does not have a sufficient amount of a specific component of capital to effect the required deduction, the shortfall must be deducted according to paragraph (f) of this section.

* * * * *

(ii) * * *

(D) For a Category I national bank or Federal savings association or a Category II national bank or Federal savings association or a national bank or Federal savings association that uses expanded total risk-weighted assets for purposes of § 3.10(a)(5), a tier 2 capital instrument if it is a covered debt instrument.

* * * * *

(3) * * *

(ii) A Category I national bank or Federal savings association or a Category II national bank or Federal savings association or a national bank or Federal savings association that uses expanded total risk-weighted assets for purposes of § 3.10(a)(5) must deduct an investment in any covered debt instrument that the institution holds reciprocally with another financial institution, where such reciprocal cross holdings result from a formal or informal arrangement to swap, exchange, or otherwise intend to hold each other's capital or covered debt instruments, by applying the corresponding deduction approach in paragraph (c)(2) of this section.

(4) Investments in the capital of unconsolidated financial institutions. A national bank or Federal savings association that is not a Category I national bank or Federal savings association or a Category II national bank or Federal savings association or a national bank or Federal savings association that uses expanded total risk-weighted assets for purposes of § 3.10(a)(5) must deduct its investments in the capital of unconsolidated financial institutions (as defined in § 3.2) that exceed 25 percent of the sum of the national bank or Federal savings association's common equity tier 1 capital elements minus all deductions from and adjustments to common equity tier 1 capital elements required under paragraphs (a) through (c)(3) of this section by applying the corresponding deduction approach in paragraph (c)(2) of this section.²⁴ The deductions described in this section are net of associated DTLs in accordance with paragraph (e) of this section. In addition, with the prior written approval of the OCC, a national bank or Federal savings association that underwrites a failed underwriting, for the period of time stipulated by the OCC, is not required to deduct an investment in the capital of an unconsolidated financial institution pursuant to this paragraph (c) to the extent the investment is related to the failed underwriting.²⁵

(5) * * *

(i) A Category I national bank or Federal savings association or a Category II national bank or Federal savings association or a national bank or Federal savings association that uses expanded total risk-weighted assets for purposes of § 3.10(a)(5) must deduct its non-significant investments in the capital of unconsolidated financial institutions (as defined in § 3.2) that, in the aggregate and together with any investment in a covered debt instrument (as defined in § 3.2) issued by a financial institution in which the national bank or Federal savings association does not have a significant investment in the capital of the unconsolidated financial institution (as defined in § 3.2), exceeds 10 percent of the sum of the national bank's or Federal savings association's common equity tier 1 capital elements minus all deductions from and adjustments to common equity tier 1 capital elements required under paragraphs (a) through (c)(3) of this section (the 10 percent threshold for non-significant investments) by applying the corresponding deduction approach in paragraph (c)(2) of this section.²⁶ The deductions described in this paragraph

are net of associated DTLs in accordance with paragraph (e) of this section. In addition, with the prior written approval of the OCC, a Category I national bank or Federal savings association or a Category II national bank or Federal savings association or a national bank or Federal savings association that uses expanded total risk-weighted assets for purposes of § 3.10(a)(5) that underwrites a failed underwriting, for the period of time stipulated by the OCC, is not required to deduct from capital a non-significant investment in the capital of an unconsolidated financial institution or an investment in a covered debt instrument pursuant to this paragraph (c)(5) to the extent the investment is related to the failed underwriting.²⁷ For any calculation under this paragraph (c)(5)(i), a Category I national bank or Federal savings association or a Category II national bank or Federal savings association or a national bank or Federal savings association that uses expanded total risk-weighted assets for purposes of § 3.10(a)(5) may exclude the amount of an investment in a covered debt instrument under paragraph (c)(5)(iii) or (iv) of this section, as applicable.

(ii) For a Category I national bank or Federal savings association or a Category II national bank or Federal savings association or a national bank or Federal savings association that uses expanded total risk-weighted assets for purposes of § 3.10(a)(5), the amount to be deducted under this paragraph (c)(5) from a specific capital component is equal to:

(A) The national bank's or Federal savings association's aggregate non-significant investments in the capital of an unconsolidated financial institution and, if applicable, any investments in a covered debt instrument subject to deduction under this paragraph (c)(5), exceeding the 10 percent threshold for non-significant investments, multiplied by

(B) The ratio of the national bank's or Federal savings association's aggregate non-significant investments in the capital of an unconsolidated financial institution (in the form of such capital component) to the national bank's or Federal savings association's total non-significant investments in unconsolidated financial institutions, with an investment in a covered debt instrument being treated as tier 2 capital for this purpose.

(iii) For purposes of applying the deduction under paragraph (c)(5)(i) of this section, a Category II national bank or Federal savings association, or a national bank or Federal savings

association that uses expanded total risk-weighted assets for purposes of § 3.10(a)(5), may exclude from the deduction the amount of the national bank's or Federal savings association's gross long position, in accordance with § 3.22(h)(2), in investments in covered debt instruments issued by financial institutions in which the national bank or Federal savings association does not have a significant investment in the capital of the unconsolidated financial institutions up to an amount equal to 5 percent of the sum of the national bank's or Federal savings association's common equity tier 1 capital elements minus all deductions from and adjustments to common equity tier 1 capital elements required under paragraphs (a) through (c)(3) of this section, net of associated DTLs in accordance with paragraph (e) of this section.

(iv) Prior to applying the deduction under paragraph (c)(5)(i) of this section:

(A) A Category I national bank or Federal savings association may designate any investment in a covered debt instrument as an excluded covered debt instrument, as defined in § 3.2.

(B) A Category I national bank or Federal savings association must deduct, according to the corresponding deduction approach in paragraph (c)(2) of this section, its gross long position, calculated in accordance with paragraph (h)(2) of this section, in a covered debt instrument that was originally designated as an excluded covered debt instrument, in accordance with paragraph (c)(5)(iv)(A) of this section, but no longer qualifies as an excluded covered debt instrument.

(C) A Category I national bank or Federal savings association must deduct according to the corresponding deduction approach in paragraph (c)(2) of this section the amount of its gross long position, calculated in accordance with paragraph (h)(2) of this section, in a direct or indirect investment in a covered debt instrument that was originally designated as an excluded covered debt instrument, in accordance with paragraph (c)(5)(iv)(A) of this section, and has been held for more than thirty business days.

(D) A Category I national bank or Federal savings association must deduct according to the corresponding deduction approach in paragraph (c)(2) of this section its gross long position, calculated in accordance with paragraph (h)(2) of this section, of its aggregate position in excluded covered debt instruments that exceeds 5 percent of the sum of the national bank's or Federal savings association's common equity tier 1 capital elements minus all

deductions from and adjustments to common equity tier 1 capital elements required under paragraphs (a) through (c)(3) of this section, net of associated DTLs in accordance with paragraph (e) of this section.

(6) Significant investments in the capital of unconsolidated financial institutions that are not in the form of common stock. If a Category I national bank or Federal savings association, or a Category II national bank or Federal savings association, or a national bank or Federal savings association that uses expanded total risk-weighted assets for purposes of § 3.10(a)(5) has a significant investment in the capital of an unconsolidated financial institution, the national bank or Federal savings association must deduct from capital any such investment issued by the unconsolidated financial institution that is held by the national bank or Federal savings association other than an investment in the form of common stock, as well as any investment in a covered debt instrument issued by the unconsolidated financial institution, by applying the corresponding deduction approach in paragraph (c)(2) of this section.²⁸ The deductions described in this section are net of associated DTLs in accordance with paragraph (e) of this section. In addition, with the prior written approval of the OCC, for the period of time stipulated by the OCC, a Category I national bank or Federal savings association or a Category II national bank or Federal savings association or a national bank or Federal savings association that uses expanded total risk-weighted assets for purposes of § 3.10(a)(5) that underwrites a failed underwriting is not required to deduct the significant investment in the capital of an unconsolidated financial institution or an investment in a covered debt instrument pursuant to this paragraph (c)(6) if such investment is related to such failed underwriting.

* * * * *

(d) *Certain DTAs subject to common equity tier 1 capital deduction thresholds.*

(1) A national bank or Federal savings association that is not a Category I national bank or Federal savings association, or a Category II national bank or Federal savings association, or a national bank or Federal savings association that uses expanded total risk-weighted assets for purposes of § 3.10(a)(5) must make deductions from regulatory capital as described in this paragraph (d)(1).

* * * * *

(2) A Category I national bank or Federal savings association, or a

Category II national bank or Federal savings association, or a national bank or Federal savings association that uses expanded total risk-weighted assets for purposes of § 3.10(a)(5) must make deductions from regulatory capital as described in this paragraph (d)(2).

(i) A Category I national bank or Federal savings association, or a Category II national bank or Federal savings association, or a national bank or Federal savings association that uses expanded total risk-weighted assets for purposes of § 3.10(a)(5) must deduct from common equity tier 1 capital elements the amount of each of the items set forth in this paragraph (d)(2) that, individually, exceeds 10 percent of the sum of the national bank's or Federal savings association's common equity tier 1 capital elements, less adjustments to and deductions from common equity tier 1 capital required under paragraphs (a) through (c) of this section (the 10 percent common equity tier 1 capital deduction threshold).

(A) DTAs arising from temporary differences that the national bank or Federal savings association could not realize through net operating loss carrybacks, net of any related valuation allowances and net of DTLs, in accordance with paragraph (e) of this section. A Category I national bank or Federal savings association or a Category II national bank or Federal savings association or a national bank or Federal savings association that uses expanded total risk-weighted assets for purposes of § 3.10(a)(5) is not required to deduct from the sum of its common equity tier 1 capital elements DTAs (net of any related valuation allowances and net of DTLs, in accordance with § 3.22(e)) arising from timing differences that the national bank or Federal savings association could realize through net operating loss carrybacks. The national bank or Federal savings association must risk weight these assets at 100 percent. For a national bank or Federal savings association that is a member of a consolidated group for tax purposes, the amount of DTAs that could be realized through net operating loss carrybacks may not exceed the amount that the national bank or Federal savings association could reasonably expect to have refunded by its parent holding company.

(B) Significant investments in the capital of unconsolidated financial institutions in the form of common stock, net of associated DTLs in accordance with paragraph (e) of this section.³⁰ Significant investments in the capital of unconsolidated financial institutions in the form of common stock subject to the 10 percent common

equity tier 1 capital deduction threshold may be reduced by any goodwill embedded in the valuation of such investments deducted by the national bank or Federal savings association pursuant to paragraph (a)(1) of this section. In addition, with the prior written approval of the OCC, for the period of time stipulated by the OCC, a Category I national bank or Federal savings association, or a Category II national bank or Federal savings association, or a national bank or Federal savings association that uses expanded total risk-weighted assets for purposes of § 3.10(a)(5) that underwrites a failed underwriting is not required to deduct a significant investment in the capital of an unconsolidated financial institution in the form of common stock pursuant to this paragraph (d)(2) if such investment is related to such failed underwriting.

(ii) A Category I national bank or Federal savings association, or a Category II national bank or Federal savings association, or a national bank or Federal savings association that uses expanded total risk-weighted assets for purposes of § 3.10(a)(5) must deduct from common equity tier 1 capital elements the items listed in paragraph (d)(2)(i) of this section that are not deducted as a result of the application of the 10 percent common equity tier 1 capital deduction threshold, and that, in aggregate, exceed 17.65 percent of the sum of the national bank's or Federal savings association's common equity tier 1 capital elements, minus adjustments to and deductions from common equity tier 1 capital required under paragraphs (a) through (c) of this section, minus the items listed in paragraph (d)(2)(i) of this section (the 15 percent common equity tier 1 capital deduction threshold). Any goodwill that has been deducted under paragraph (a)(1) of this section can be excluded from the significant investments in the capital of unconsolidated financial institutions in the form of common stock.³¹

(iii) For purposes of calculating the amount of DTAs subject to the 10 and 15 percent common equity tier 1 capital deduction thresholds, a Category I national bank or Federal savings association or a Category II national bank or Federal savings association or a national bank or Federal savings association that uses expanded total risk-weighted assets for purposes of § 3.10(a)(5) may exclude DTAs and DTLs relating to adjustments made to common equity tier 1 capital under paragraph (b) of this section. A Category I national bank or Federal savings association or a Category II national

bank or Federal savings association or a national bank or Federal savings association that uses expanded total risk-weighted assets for purposes of § 3.10(a)(5) that elects to exclude DTAs relating to adjustments under paragraph (b) of this section also must exclude DTLs and must do so consistently in all future calculations. A Category I national bank or Federal savings association or a Category II national bank or Federal savings association or a national bank or Federal savings association that uses expanded total risk-weighted assets for purposes of § 3.10(a)(5) may change its exclusion preference only after obtaining the prior approval of the OCC.

* * * * *

(f) *Insufficient amounts of a specific regulatory capital component to effect deductions.* Under the corresponding deduction approach, if a national bank or Federal savings association does not have a sufficient amount of a specific component of capital to effect the full amount of any deduction from capital required under paragraph (d) of this section, the national bank or Federal savings association must deduct the shortfall amount from the next higher (that is, more subordinated) component of regulatory capital. Any investment by a Category I national bank or Federal savings association, or a Category II national bank or Federal savings association, or a national bank or Federal savings association that uses expanded total risk-weighted assets for purposes of § 3.10(a)(5) in a covered debt instrument must be treated as an investment in the tier 2 capital for purposes of this paragraph (f). Notwithstanding any other provision of this section, a qualifying community banking organization (as defined in § 3.12) that has elected to use the community bank leverage ratio framework pursuant to § 3.12 is not required to deduct any shortfall of tier 2 capital from its additional tier 1 capital or common equity tier 1 capital.

(g) *Treatment of assets that are deducted.* A national bank or Federal savings association must exclude from standardized total risk-weighted assets and, as applicable, expanded total risk-weighted assets any item that is required to be deducted from regulatory capital.

* * * * *

Footnotes—3.22

* * * * *

²³ The national bank or Federal savings association must calculate amounts deducted under paragraphs (c) through (f) of this section after it calculates the amount of

AACL includable in tier 2 capital under § 3.20(d)(3).

²⁴ With the prior written approval of the OCC, for the period of time stipulated by the OCC, a national bank or Federal savings association is not required to deduct a non-significant investment in the capital instrument of an unconsolidated financial institution or an investment in a covered debt instrument pursuant to this paragraph if the financial institution is in distress and if such investment is made for the purpose of providing financial support to the financial institution, as determined by the OCC.

²⁵ Any non-significant investments in the capital of an unconsolidated financial institution that is not required to be deducted under this paragraph (c)(4) or otherwise under this section must be assigned the appropriate risk weight under subparts D, E, or F of this part, as applicable.

²⁶ With the prior written approval of the OCC, for the period of time stipulated by the OCC, a Category I national bank or Federal savings association or a Category II national bank or Federal savings association that uses expanded total risk-weighted assets for purposes of § 3.10(a)(5) is not required to deduct a non-significant investment in the capital of an unconsolidated financial institution or an investment in a covered debt instrument pursuant to this paragraph if the financial institution is in distress and if such investment is made for the purpose of providing financial support to the financial institution, as determined by the OCC.

²⁷ Any non-significant investment in the capital of an unconsolidated financial institution or any investment in a covered debt instrument that is not required to be deducted under this paragraph (c)(5) or otherwise under this section must be assigned the appropriate risk weight under subparts D, E, or F of this part, as applicable.

²⁸ With prior written approval of the OCC, for the period of time stipulated by the OCC, a Category I national bank or Federal savings association or a Category II national bank or Federal savings association that uses expanded total risk-weighted assets for purposes of § 3.10(a)(5) is not required to deduct a significant investment in the capital of an unconsolidated financial institution, including an investment in a covered debt instrument, under this paragraph (c)(6) or otherwise under this section if such investment is made for the purpose of providing financial support to the financial institution as determined by the OCC.

* * * * *

³⁰ With the prior written approval of the OCC, for the period of time stipulated by the OCC, a Category I national bank or Federal savings association or a Category II national bank or Federal savings association that uses expanded total risk-weighted assets for purposes of § 3.10(a)(5) is not required to deduct a significant investment in the capital instrument of an unconsolidated financial institution in distress in the form of common stock pursuant to this section if such investment is made for the purpose of providing financial support to the financial institution as determined by the OCC.

³¹ The amount of the items in paragraph (d)(2) of this section that is not deducted from common equity tier 1 capital pursuant to this section must be included in the risk-weighted assets of the Category I national bank or Federal savings association or the Category II national bank or Federal savings association that uses expanded total risk-weighted assets for purposes of § 3.10(a)(5) and assigned the appropriate risk weight for the investment under subpart E of this part for purposes of expanded total risk-weighted assets.

* * * * *

■ 13. In § 3.30

■ a. Revise paragraph (a);

■ b. In paragraph (b), remove the words “covered positions” and add in their place the words “market risk covered positions”.

The revisions read as follows:

§ 3.30 Applicability.

(a) This subpart sets forth methodologies for determining standardized total risk-weighted assets. This subpart applies to any national bank or Federal savings association that elects to use this subpart under § 3.10(b).

* * * * *

■ 14. In § 3.34, revise paragraph (a) to read as follows:

§ 3.34 Derivative contracts.

(a) *Exposure amount for derivative contracts.* A national bank or Federal savings association must use the current exposure methodology (CEM) described in paragraph (b) of this section to calculate the exposure amount for all its OTC derivative contracts, unless the national bank or Federal savings association makes the election provided in paragraph (a)(2) of this section.

(2) A national bank or Federal savings association that is not subject to subpart E of this part may elect to calculate the exposure amount for all its OTC derivative contracts under the standardized approach for counterparty credit risk (SA-CCR) in § 3.114 by notifying the OCC, rather than calculating the exposure amount for all its derivative contracts using CEM. A national bank or Federal savings association that elects under this paragraph (a)(1)(ii) to calculate the exposure amount for its OTC derivative contracts under SA-CCR must apply the treatment of cleared transactions under § 3.116 to its derivative contracts that are cleared transactions and to all default fund contributions associated with such derivative contracts, rather than applying § 3.35. A national bank or Federal savings association that is not subject to subpart E of this part must use the same methodology to calculate the

exposure amount for all its derivative contracts and, if a national bank or Federal savings association has elected to use SA-CCR under this paragraph (a)(1)(ii), the national bank or Federal savings association may change its election only with prior approval of the OCC.

* * * * *

■ 15. Revise § 3.35(a)(3) to read as follows:

§ 3.35 Cleared transactions.

(a) * * *

(3) Alternate requirements.

Notwithstanding any other provision of this section, a national bank or Federal savings association that has elected to use SA-CCR under § 3.34(a), must apply § 3.116 to its derivative contracts that are cleared transactions rather than this section.

* * * * *

§ 3.37 [Amended]

■ 16. In § 3.37, revise paragraph (c)(1) to read as follows:

(c) *Collateral haircut approach*—(1) General. A national bank or Federal savings association may recognize the credit risk mitigation benefits of financial collateral that secures an eligible margin loan, repo-style transaction, collateralized derivative contract, or single-product netting set of such transactions, and of any collateral that secures a repo-style transaction that is included in the national bank's or Federal savings association's measure for market risk under subpart F of this part by using the collateral haircut approach in this section. A national bank or Federal savings association may use the standard supervisory haircuts in paragraph (c)(3) of this section or, with prior written approval of the OCC, its own estimates of haircuts according to paragraph (c)(4) of this section.

* * * * *

■ 17. Revise § 3.61 to read as follows:

§ 3.61 Purpose and scope.

Sections 3.61 through 3.63 of this subpart establish public disclosure requirements related to the capital requirements described in subpart B of this part for a national bank or Federal savings association with total consolidated assets of \$50 billion or more as reported on the national bank's or Federal savings association's most recent year-end Call Report that is not a national bank or Federal savings association subject to subpart E of this part. A national bank or Federal savings association with total consolidated assets of \$50 billion or more as reported on the national bank's or Federal savings association's most recent year-

end Call Report that is not subject to subpart E of this part must comply with § 3.62 unless it is a consolidated subsidiary of a bank holding company, savings and loan holding company, or depository institution that is subject to the disclosure requirements of § 3.62 or a subsidiary of a non-U.S. banking organization that is subject to comparable public disclosure requirements in its home jurisdiction. For purposes of this section, total

consolidated assets are determined based on the average of the national bank's or Federal savings association's total consolidated assets in the four most recent quarters as reported on the Call Report or the average of the national bank or Federal savings association's total consolidated assets in the most recent consecutive quarters as reported quarterly on the national bank's or Federal savings association's Call Report if the national bank or

Federal savings association has not filed such a report for each of the most recent four quarters.

■ 18. In § 3.63:

■ a. In Table 3, revise entry (c); and

■ b. Remove paragraphs (d) and (e);

The revision reads as follows:

§ 3.63 Disclosures by national banks and Federal savings associations described in § 3.61.

* * * * *

Table 3 to § 3.63—Capital Adequacy

TABLE 3 TO § 3.63—CAPITAL ADEQUACY

*	*	*	*	*	*
			(c)	Market risk-weighted assets as calculated under subpart F of this part 3.	
*	*	*	*	*	*

* * * * *

■ 19. Subparts E and F are amended as follows:

Subparts E and F [Amended]

■ a. Remove subparts E and F and replace with subparts E and F as set forth at the end of the common preamble;

■ b. Remove “[AGENCY]” and add “OCC” in its place wherever it appears;

■ c. Remove “[BANKING ORGANIZATION]” and add “national bank or Federal savings association” in its place wherever it appears;

■ d. Remove “[BANKING ORGANIZATIONS]” and add “national banks or Federal savings associations” in its place wherever it appears;

■ e. Remove “[BANKING ORGANIZATION]’s” and add “national bank’s or Federal savings association’s” in its place, wherever it appears;

■ f. Remove “[REAL ESTATE LENDING GUIDELINES]” and add “12 CFR part 34, appendix A to subpart D” in its place wherever it appears; and

■ g. Remove “[APPRAISAL RULE]” and add “12 CFR part 34, subpart C” in its place wherever it appears.

■ 20. In § 3.111:

■ a. Remove paragraph (j)(1)(i);

■ b. Redesignate paragraph (j)(1)(ii) as paragraph (j)(1); and

■ c. Remove paragraph (k).

■ 21. In § 3.300:

■ a. Revise paragraph (a);

■ b. Remove paragraphs (b), (c), and (d);

■ c. Redesignate paragraph (e) as paragraph (b); and

■ d. Remove paragraphs (f), (g), and (h).

The revision reads as follows:

§ 3.300 Transitions.

(a) *Transition adjustments* for AOCI. Beginning [January 1, 2027], a national bank or Federal savings association that uses expanded total risk-weighted assets

for purposes of § 3.10(a)(5) that had made an AOCI opt-out election under § 3.22(b)(2) effective [December 31, 2026] must subtract from the sum of its common equity tier 1 elements, before making deductions required under § 3.22(c) or (d), the AOCI adjustment amount multiplied by the percentage provided in Table 1 to § 3.300.

The transition AOCI adjustment amount is the sum of:

(1) Net unrealized gains or losses on available-for-sale debt securities, plus

(2) Accumulated net gains or losses on cash flow hedges, plus

(3) Any amounts recorded in AOCI attributed to defined benefit postretirement plans resulting from the initial and subsequent application of the relevant GAAP standards that pertain to such plans, plus

(4) Net unrealized holding gains or losses on held-to-maturity securities that are included in AOCI.

TABLE 1 TO § 3.300

Transition AOCI adjustment	
Transition period	Percentage applicable to transition AOCI adjustment amount
January 1, 2027 to December 31, 2027	100
January 1, 2028 to December 31, 2028	80
January 1, 2029 to December 31, 2029	60
January 1, 2030 to December 31, 2030	40
January 1, 2031 to December 31, 2031	20
January 1, 2032 and thereafter	0

* * * * *

■ 22. Remove and reserve § 3.301

■ 23. In § 3.302, remove the words “advanced approaches total risk-weighted assets” and add in their place

the words “expanded total risk-weighted assets”.

■ 24. Remove and reserve §§ 3.303 and 3.304.

■ 25. In § 3.305, remove the words “advanced approaches total risk-

weighted assets” and add in their place the words “expanded total risk-weighted assets”.

PART 6—PROMPT CORRECTIVE ACTION

■ 26. The authority citation for part 6 continues to read as follows:

Authority: 12 U.S.C. 93a, 1831o, 5412(b)(2)(B).

■ 27. In § 6.2:

■ a. Remove the definition for “Advanced approaches national bank or advanced approaches Federal savings association”;

■ b. Add, in alphabetical order, the definition for Category I national bank or Federal savings association;

■ c. Add, in alphabetical order, the definition for Category II national bank or Federal savings association;

■ d. Add, in alphabetical order, the definition for Category III national bank or Federal savings association;

■ e. Add, in alphabetical order, the definition for “National bank or Federal savings association subject to part 3, subpart E of this chapter”; and

■ f. Revise the definition for “Total risk-weighted assets”.

The addition and revision read as follows:

§ 6.2 Definitions.

* * * * *

Category I national bank or Federal savings association means a bank that is a Category I Board-regulated institution as defined in 12 CFR 3.2.

Category II national bank or Federal savings association means a bank that is a Category II Board-regulated institution as defined in 12 CFR 3.2.

Category III national bank or Federal savings association means a bank that is a Category III Board-regulated institution as defined in 12 CFR 3.2.

* * * * *

National bank or Federal savings association subject to part 3, subpart E of this chapter means a bank that is subject to part 3, subpart E of this chapter.

* * * * *

Total risk-weighted assets means standardized total risk-weighted assets, and for a national bank or Federal savings association subject to part 3, subpart E of this chapter, also includes expanded risk-weighted assets, as defined in § 3.2 of this chapter.

* * * * *

■ 28. In § 6.4, revise paragraphs (a)(1)(iv)(B), (b)(2)(iv)(B), and (b)(3)(iv)(B) to read as follows:

§ 6.4 Capital measures and capital categories.

(a) * * *

(1) * * *

(iv) * * *

(B) With respect to a Category I national bank or Federal savings association or a Category II national bank or Federal savings association; and

* * * * *

(b) * * *

(2) * * *

(iv) * * *

(B) With respect to a Category I national bank or Federal savings association, a Category II national bank or Federal savings association, or a Category III national bank or Federal savings association, the national bank or Federal savings association has a supplementary leverage ratio of 3.0 percent or greater;

* * * * *

(3) * * *

(iv) * * *

(B) With respect to a Category I national bank or Federal savings association, a Category II national bank or Federal savings association, or a Category III national bank or Federal savings association, the national bank or Federal savings association has a supplementary leverage ratio of less than 3.0 percent.

* * * * *

PART 32—LENDING LIMITS

■ 29. The authority citation for part 32 continues to read as follows:

Authority: 12 U.S.C. 1 *et seq.*, 12 U.S.C. 84, 93a, 1462a, 1463, 1464(u), 5412(b)(2)(B), and 15 U.S.C. 1639h.

■ 30. In § 32.2, remove the designations for paragraphs (a) through (ee) and arrange the definitions in alphabetical order and in the definition for “Eligible credit derivative”, revise paragraph (1).

The revision reads as follows:

§ 32.2 Definitions

* * * * *

Eligible credit derivative * * *

(1) The derivative contract meets the requirements of paragraphs (1) through (9) of an eligible guarantee, as defined in § 3.2 of this chapter, and has been confirmed by the protection purchaser and the protection provider;

* * * * *

Board of Governors of the Federal Reserve System

12 CFR Chapter II

Authority and Issuance

For the reasons set forth in the common preamble, the Board of Governors of the Federal Reserve System proposes to amend chapter II of title 12 of the Code of Federal Regulations as follows:

PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM (REGULATION H)

■ 31. The authority citation for part 208 continues to read as follows:

Authority: 12 U.S.C. 24, 36, 92a, 93a, 248(a), 248(c), 321–338a, 371d, 461, 481–486, 601, 611, 1814, 1816, 1817(a)(3), 1817(a)(12), 1818, 1820(d)(9), 1833(j), 1828(o), 1831, 1831o, 1831p-1, 1831r-1, 1831w, 1831x, 1835a, 1882, 2901–2907, 3105, 3310, 3331–3351, 3905–3909, 5371, and 5371 note; 15 U.S.C. 78b, 78l(b), 78l(i), 78o-4(c)(5), 78q, 78q-1, 78w, 1681s, 1681w, 6801, and 6805; 31 U.S.C. 5318; 42 U.S.C. 4012a, 4104a, 4104b, 4106, and 4128.

Subpart D—Prompt Corrective Action

■ 32. Revise § 208.41 to read as follows:

§ 208.41 Definitions for purposes of this subpart.

For purposes of this subpart, except as modified in this section or unless the context otherwise requires, the terms used have the same meanings as set forth in section 38 and section 3 of the FDI Act. As used in this subpart:

Bank means an insured depository institution as defined in section 3 of the FDI Act (12 U.S.C. 1813).

Category I bank means a bank that is a Category I Board-regulated institution as defined in 12 CFR 217.2.

Category II bank means a bank that is a Category II Board-regulated institution as defined in 12 CFR 217.2.

Category III bank means a bank that is a Category III Board-regulated institution as defined in 12 CFR 217.2.

Common equity tier 1 capital means the amount of capital as defined in § 217.2 of this chapter.

Common equity tier 1 risk-based capital ratio means the ratio of common equity tier 1 capital to total risk-weighted assets, as calculated in accordance with § 217.10(b) or § 217.10(d) of this chapter, as applicable.

Control—(1) Control has the same meaning assigned to it in section 2 of the Bank Holding Company Act (12 U.S.C. 1841), and the term controlled shall be construed consistently with the term control.

(2) *Exclusion for fiduciary ownership.* No insured depository institution or company controls another insured depository institution or company by virtue of its ownership or control of shares in a fiduciary capacity. Shares shall not be deemed to have been acquired in a fiduciary capacity if the acquiring insured depository institution or company has sole discretionary authority to exercise voting rights with respect to the shares.

(3) *Exclusion for debts previously contracted.* No insured depository institution or company controls another insured depository institution or company by virtue of its ownership or control of shares acquired in securing or collecting a debt previously contracted in good faith, until two years after the date of acquisition. The two-year period may be extended at the discretion of the appropriate Federal banking agency for up to three one-year periods.

Controlling person means any person having control of an insured depository institution and any company controlled by that person.

Global systemically important BHC has the same meaning as in § 217.2 of this chapter.

Leverage ratio means the ratio of tier 1 capital to average total consolidated assets, as calculated in accordance with § 217.10 of this chapter.

Management fee means any payment of money or provision of any other thing of value to a company or individual for the provision of management services or advice to the bank, or related overhead expenses, including payments related to supervisory, executive, managerial, or policy making functions, other than compensation to an individual in the individual's capacity as an officer or employee of the bank.

Supplementary leverage ratio means the ratio of tier 1 capital to total leverage exposure, as calculated in accordance with § 217.10 of this chapter.

Tangible equity means the amount of tier 1 capital, plus the amount of outstanding perpetual preferred stock (including related surplus) not included in tier 1 capital.

Tier 1 capital means the amount of capital as defined in § 217.20 of this chapter.

Tier 1 risk-based capital ratio means the ratio of tier 1 capital to total risk-weighted assets, as calculated in accordance with § 217.10(b) or § 217.10(d) of this chapter, as applicable.

Total assets means quarterly average total assets as reported in a bank's Call Report, minus items deducted from tier 1 capital. At its discretion the Federal Reserve may calculate total assets using a bank's period-end assets rather than quarterly average assets.

Total leverage exposure means the total leverage exposure as defined in § 217.10(c)(2) of this chapter.

Total risk-based capital ratio means the ratio of total capital to total risk-weighted assets, as calculated in accordance with § 217.10(b) or § 217.10(d) of this chapter, as applicable.

Total risk-weighted assets means standardized total risk-weighted assets or expanded total risk-weighted assets, each as defined in § 217.2 of this chapter.

Subpart D [Amended]

■ 33. In § 208.43, remove the words “an advanced approaches bank or bank that is a Category III Board-regulated institution (as defined in § 217.2 of this chapter)” wherever they appear and add in their place the words “a Category I bank, Category II bank, or Category III bank.”

Subpart G—Financial Subsidiaries of State Member Banks

■ 34. In § 208.73:

■ a. Revise paragraph (a) introductory text;

■ b. Remove paragraph (b); and

■ c. Redesignate paragraphs (c) through (f) as (b) through (e), respectively.

The revision reads as follows:

§ 208.73 What additional provisions are applicable to state member banks with financial subsidiaries?

(a) *Capital requirements.* A state member bank that controls or holds an interest in a financial subsidiary must comply with the rules set forth in § 217.22(a)(7) of Regulation Q (12 CFR 217.22(a)(7)) in determining its compliance with applicable regulatory capital standards (including the well capitalized standard of § 208.71(a)(1)).

* * * * *

■ 35. In Appendix C, revise footnote 2 to read as follows:

Appendix C to Part 208—Interagency Guidelines for Real Estate Lending Policies

* * * * *

² The term “total capital” refers to that term as defined in 12 CFR part 3, 12 CFR part 217, or 12 CFR part 324, as applicable.

PART 217—CAPITAL ADEQUACY OF BANK HOLDING COMPANIES, SAVINGS AND LOAN HOLDING COMPANIES, AND STATE MEMBER BANKS (REGULATION Q)

■ 36. The authority citation for part 217 reads as follows:

Authority: 12 U.S.C. 248(a), 321–338a, 481–486, 1462a, 1467a, 1818, 1828, 1831n, 1831o, 1831p-1, 1831w, 1835, 1844(b), 1851, 3904, 3906–3909, 4808, 5365, 5368, 5371, and 5371 note, and sec. 4012, Pub. L. 116–136, 134 Stat. 281.

■ 37. Revise subparts E and F of part 217 as set forth at the end of the common preamble.

■ 38. In part 217, subparts E and F:

■ a. Remove “[AGENCY]” and add “Board” in its place wherever it appears;

■ b. Remove “[BANKING ORGANIZATION]” and add “Board-regulated institution” in its place wherever it appears; and

■ c. Remove “_____” and add “217.” in its place wherever it appears.

Subpart A—General Provisions

■ 39. In § 217.1:

■ a. Revise paragraph (c)(4);

■ b. Add paragraph (c)(6);

■ c. Revise paragraphs (e) and (f); and

■ d. Add paragraph (h).

The addition and revision read as follows:

§ 217.1 Purpose, applicability, reservations of authority, and timing.

* * * * *

(c) * * *

(4) *Risk-weighted assets.* Each Board-regulated institution must calculate either standardized total risk-weighted assets or expanded total risk-weighted assets, as necessary to satisfy the requirements of § 217.10(b) or (d), as applicable.

* * * * *

(6) *Transitions.* Notwithstanding any other provision of this part, a Board-regulated institution must make any adjustments provided in subpart G of this part for purposes of implementing this part.

* * * * *

(e) *Notice and response procedures.* In making a determination under this part, unless more specifically provided for, the Board will apply notice and response procedures in the same manner and to the same extent as the notice and response procedures in 12 CFR 263.202.

(f) *Timing.* A Board-regulated institution that changes from one category of Board-regulated institution to another of such categories, or that changes from having no category of Board-regulated institution to having a such category, must comply with the requirements of its category in this part, including applicable transition provisions of the requirements in this part, no later than on the first day of the second quarter following the change in the company's category.

* * * * *

(h) *Severability.* If any provision of this part, or the application thereof to any person or circumstances, is held invalid, such invalidity shall not affect the validity of other provisions or the application of such provision to other persons or circumstances that can be

given effect without the invalid provision or application.

* * * * *

■ 40. In § 217.2:

- a. Revise the definition of “Adjusted allowances for credit losses (AACL)”;
- b. Remove the definitions for “Advanced approaches Board-regulated institution”, “Advanced approaches total risk-weighted assets”, and “Advanced market risk-weighted assets”;
- c. Remove the definition of “Allowances for loan and lease losses (ALLL)”;
- d. Revise the definition for “Carrying value”;
- e. Add, in alphabetical order, the definition for “Category I Board-regulated institution”;
- f. In the definition for “Category II Board-regulated institution”:
- i. Remove paragraph (3);
- ii. Redesignate paragraph (4) as paragraph (3);
- iii. Revise newly redesignated paragraph (3)(i);
- iv. In newly redesignated paragraph (3)(iii) introductory text, remove the words “paragraph (4)(i) of this section” and add, in their place, the words “paragraph (3)(ii) of this definition”;
- g. In the definition of “Category III Board-regulated institution”:
- i. Remove paragraph (3);
- ii. Redesignate paragraph (4) as paragraph (3);
- iii. Revise newly redesignated paragraph (3) introductory text;
- iv. Revise newly redesignated paragraph (3)(i); and
- vi. In newly redesignated paragraph (3)(iv) introductory text, remove the words “paragraph (4)(ii) of this definition” and add, in their place, the words “paragraph (3)(ii) of this definition”;
- h. Add, in alphabetical order, the definition for “Category IV Board-regulated institution”;
- i. Revise footnote 3 to paragraph (2) of the definition for “Cleared transaction.”
- j. Revise the definition for “Commitment”;
- k. Revise the definition for “Corporate exposure”;
- l. Remove the definition for “Credit-risk-weighted assets”;
- m. Add, in alphabetical order, the definitions for “CVA risk-weighted assets” and “Dependent on the cash flows generated by the real estate”;
- n. Revise the definitions for “Effective notional amount” and “Eligible clean-up call”;
- o. Remove the definition for “Eligible credit reserves”;
- p. Revise the definition for “Eligible guarantee”;

- q. Add, in alphabetical order, the definitions for “Eligible prepaid credit protection arrangement” and “Expanded total risk-weighted assets”;
- r. Remove the definition for “Expected credit loss (ECL)”;
- s. Revise the definition for “Exposure amount”;
- t. Revise paragraph (4)(i)(A) in the definition of “Financial institution”;
- u. Revise the definition of “Market risk Board-regulated institution”;
- v. Add, in alphabetical order, the definition for “Market risk-weighted assets”;
- w. Revise the definitions for “Net independent collateral amount” and “Netting set”;
- x. Add, in alphabetical order, the definitions for “Non-performing loan securitization (NPL securitization)” and “Nonrefundable purchase price discount (NRPPD)”;
- y. Revise the definition for “Non-significant investment in the capital of an unconsolidated financial institution”;
- z. Add, in alphabetical order, the definition for “Prepaid credit protection arrangement”;
- aa. Revise the definition for “Protection amount (P)”;
- bb. Add, in alphabetical order, the definition for “Qualifying Cross Product Master Netting Agreement”;
- cc. Revise paragraphs (3) and (4) of the definition for “Qualifying master netting agreement”;
- dd. In the definition of “Residential mortgage exposure”:
- i. Remove paragraph (2);
- ii. Redesignate paragraphs (1)(i) and (1)(ii) as paragraphs (1) and (2), respectively; and
- iii. In newly redesignated paragraph (2), remove the words “family; and” and add, in their place, the word “family.”;
- ee. Remove the definition for “Securitization special purpose entity (securitization SPE)”;
- ff. Revise the definition for “Significant investment in the capital of an unconsolidated financial institution”;
- gg. Remove the definition for “Specific wrong-way risk”;
- hh. Add, in alphabetical order, the definition for “Specified supranational entity”;
- ii. Revise the definitions for “Speculative grade”, “Standardized market risk-weighted assets”, “Standardized total risk-weighted assets” and “Sub-speculative grade”;
- jj. Add, in alphabetical order, the definition for “Synthetic excess spread”;
- kk. Revise the definition for “Synthetic securitization”;

- ll. Add, in alphabetical order, the definition for “Total credit risk-weighted assets”;

- mm. Revise the definition for “Traditional securitization”;

- nn. Remove the definition for “Value-at-risk (VaR)”;

- oo. Revise the definition for “Variation margin amount”; and

- pp. Remove the definition of “Unconditionally cancelable”.

The additions and revisions read as follows:

§ 217.2 Definitions.

* * * * *

Adjusted allowances for credit losses (AACL) means valuation allowances that have been established through a charge against earnings or retained earnings for expected credit losses on financial assets measured at amortized cost and a lessor’s net investment in leases that have been established to reduce the amortized cost basis of the assets to amounts expected to be collected as determined in accordance with GAAP. For purposes of this part, adjusted allowances for credit losses include allowances for expected credit losses on off-balance sheet credit exposures not accounted for as insurance as determined in accordance with GAAP. Adjusted allowances for credit losses exclude allocated transfer risk reserves and allowances created that reflect credit losses on purchased credit deteriorated assets, purchased seasoned loans, assets required to record an allowance for credit losses through a gross-up adjustment to the purchase price of the asset, and available-for-sale debt securities.

* * * * *

Carrying value means, with respect to an asset, the value of the asset on the balance sheet of the Board-regulated institution as determined in accordance with GAAP. For all assets other than available-for-sale debt securities, purchased credit deteriorated assets, purchased seasoned loans, or assets required to record an allowance for credit losses through a gross-up adjustment to the purchase price of the asset, the carrying value is not reduced by any associated credit loss allowance that is determined in accordance with GAAP.

Category I Board-regulated institution means:

(1) A global systemically important BHC; or

(2) A state member bank that is a subsidiary of a global systemically important BHC.

* * * * *

Category II Board-regulated institution means:

* * * * *

(3) * * *

(i) Is a subsidiary of a Category II banking organization, as defined pursuant to § 252.5 of this chapter or § 238.10 of this chapter, as applicable; or

* * * * *

Category III Board-regulated institution means:

* * * * *

(3) A state member bank that is not a Category II Board-regulated institution and that:

(i) Is a subsidiary of a Category III banking organization, as defined pursuant to § 252.5 of this chapter or § 238.10 of this chapter, as applicable; or

* * * * *

Category IV Board-regulated institution means:

(1) A depository institution holding company that is identified as a Category IV banking organization pursuant to § 252.5 of this chapter or § 238.10 of this chapter, as applicable;

(2) A U.S. intermediate holding company that is identified as a Category IV banking organization pursuant to § 252.5 of this chapter;

(3) A state member bank that is not a Category II Board-regulated institution or Category III Board-regulated institution and that:

(i) Is a subsidiary of a Category IV banking organization, as defined pursuant to § 252.5 of this chapter or § 238.10 of this chapter, as applicable; or

(ii) 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 of \$100 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 consecutive quarters, as applicable.

(iii) After meeting the criterion in paragraph (3)(ii) of this definition, a state member bank continues to be a Category IV Board-regulated institution until the state member bank:

(A) 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

(B) Is a Category II or Category III Board-regulated institution.

* * * * *

*Cleared transaction * * **

(2) * * * 3

³ For the standardized approach treatment of these exposures, see § 217.34(e) (OTC derivative contracts) or § 217.37(c) (repo-style transactions). For the expanded risk-based treatment of these exposures, see § 217.113.

* * * * *

Commitment means a contractual arrangement, under which a Board-regulated institution and an obligor agree to terms applicable to one or more future extensions of credit, purchases of assets, or issuances of credit substitutes by the Board-regulated institution, whether or not such arrangement is unconditionally cancelable. A commitment is unconditionally cancelable if, by its terms, it either: (a) provides that a Board-regulated institution is not obligated to extend credit, purchase assets, or issue credit substitutes; or (b) permits a Board-regulated institution, at any time, with or without cause, to refuse to extend credit, purchase assets, or issue credit substitutes under the arrangement (to the extent permitted under applicable law).

* * * * *

Corporate exposure means an exposure to a company that is not:

(1) An exposure to a sovereign, a specified supranational entity, a multilateral development bank (MDB), a depository institution, a foreign bank, or a credit union, a public sector entity (PSE);

(2) An exposure to a government-sponsored enterprise (GSE);

(3) For purposes of subpart D of this part, a residential mortgage exposure;

(4) A pre-sold construction loan;

(5) A statutory multifamily mortgage;

(6) A high volatility commercial real estate (HVCRE) exposure;

(7) A cleared transaction;

(8) A default fund contribution;

(9) A securitization exposure;

(10) An equity exposure;

(11) An unsettled transaction;

(12) A policy loan;

(13) A separate account;

(14) A Paycheck Protection Program covered loan as defined in section 7(a)(36) or (37) of the Small Business Act (15 U.S.C. 636(a)(36)–(37));

(15) For purposes of subpart E of this part, a real estate exposure, as defined in § 217.101; or

(16) For purposes of subpart E of this part, a retail exposure as defined in § 217.101.

* * * * *

CVA risk-weighted assets means the measure for CVA risk calculated under § 217.221(a) multiplied by 12.5.

* * * * *

Dependent on the cash flows generated by the real estate means, for a real estate exposure, the underwriting, at the time of origination, includes the cash flows generated by lease, rental, or sale of the real estate securing the loan as a source of repayment. For purposes of this definition, a residential mortgage exposure that is secured by the borrower's principal residence is deemed not dependent on the cash flows generated by the real estate.

* * * * *

Effective notional amount means for an eligible guarantee, eligible credit derivative, or eligible prepaid credit protection arrangement, the lesser of the contractual notional amount of the credit risk mitigant and the exposure amount of the hedged exposure, multiplied by the percentage coverage of the credit risk mitigant.

* * * * *

Eligible clean-up call means a clean-up call that:

(1) Is exercisable solely at the discretion of the originating Board-regulated institution or servicer;

(2) Is not structured to avoid allocating losses to securitization exposures held by investors or otherwise structured to provide credit enhancement to the securitization; and

(3) Is only exercisable:

(i) For a traditional securitization, when 10 percent or less of the principal amount of the underlying exposures or securitization exposures (determined as of the inception of the securitization) is outstanding;

(ii) For a synthetic securitization, when 10 percent or less of the principal amount of the reference portfolio of underlying exposures (determined as of the inception of the securitization) is outstanding;

(iii) Upon the occurrence of a regulatory event that significantly changes the risk-weighted asset amount for the securitization exposure under this part; or

(iv) Upon the occurrence of a tax event that significantly changes the tax treatment of the securitization exposure under applicable tax laws.

* * * * *

Eligible guarantee means a guarantee that:

(1) Is written;

(2) Is either:

(i) Unconditional, or

(ii) A contingent obligation of the U.S. government or its agencies, the enforceability of which is dependent

upon some affirmative action on the part of the beneficiary of the guarantee or a third party (for example, meeting servicing requirements);

(3) Covers all or a pro rata portion of all contractual payments of the obligated party on the reference exposure;

(4) Gives the beneficiary a direct claim against the protection provider;

(5) Is not unilaterally cancelable by the protection provider for reasons other than the breach of the contract by the beneficiary;

(6) Except for a guarantee by a sovereign, is legally enforceable against the protection provider in a jurisdiction where the protection provider has sufficient assets against which a judgment may be attached and enforced;

(7) Requires the protection provider to make payment to the beneficiary on the occurrence of a default (as defined in the guarantee) of the obligated party on the reference exposure in a timely manner without the beneficiary first having to take legal actions to pursue the obligor for payment;

(8) Does not increase the beneficiary's cost of credit protection on the guarantee in response to deterioration in the credit quality of the reference exposure;

(9) Is not provided by an affiliate of the Board-regulated institution, unless the affiliate is an insured depository institution, foreign bank, securities broker or dealer, or insurance company that:

(i) Does not control the Board-regulated institution; and

(ii) Is subject to consolidated supervision and regulation comparable to that imposed on depository institutions, U.S. securities broker-dealers, or U.S. insurance companies (as the case may be); and

(10) Is provided by an eligible guarantor.

* * * * *

Eligible prepaid credit protection arrangement means a prepaid credit protection arrangement that:

(1) Is written;

(2) Is unconditional;

(3) Covers all or a pro rata portion of all contractual payments due to be paid on the reference exposure or reference exposures;

(4) Provides that the amount and timing of payments due from the protection purchaser to the protection provider are incorporated into the arrangement and the arrangement only allows these terms to change in the event of a breach of the arrangement by the protection purchaser;

(5) Provides that entry of the protection provider into receivership,

insolvency, liquidation, conservatorship, or similar proceeding does not change the amounts or timing of payments due to be paid by the protection purchaser under the arrangement;

(6) Is legally valid and enforceable under applicable law of the relevant jurisdictions;

(7) Upon a failure by the obligor on the one or more reference exposures to make a contractually required payment, or the occurrence of other credit events as described in the arrangement, allows the protection purchaser promptly to reduce the outstanding balance of the initial principal amount due to the protection provider by the loss of the protection purchaser on the reference exposures without input from the protection provider; and

(8) Does not increase the protection purchaser's cost of credit protection in response to deterioration in the credit quality of any of the reference exposures.

* * * * *

Expanded total risk-weighted assets means the sum of:

(1) Total credit risk-weighted assets;

(2) Total risk-weighted assets for equity exposures as calculated under § 217.141 and 217.142;

(3) Risk-weighted assets for operational risk as calculated under § 217.150;

(4) Market risk-weighted assets, if applicable; and

(5) CVA risk-weighted assets, if applicable; minus

(6) Any amount of the Board-regulated institution's adjusted allowance for credit losses that is not included in tier 2 capital and any amount of allocated transfer risk reserves.

* * * * *

Exposure amount means:

(1) For the on-balance sheet component of an exposure (other than an available-for-sale or held-to-maturity security, if the Board-regulated institution has made an AOCI opt-out election (as defined in § 217.22(b)(2)); a derivative contract; a repo-style transaction or an eligible margin loan for which the Board-regulated institution determines the exposure amount under § 217.37, §§ 217.113 through 217.115, or § 217.121, as applicable; a cleared transaction; a default fund contribution; or a securitization exposure), the Board-regulated institution's carrying value of the exposure.

(2) For a security (that is not a securitization exposure, equity exposure, or preferred stock classified as

an equity security under GAAP) classified as available-for-sale or held-to-maturity if the Board-regulated institution has made an AOCI opt-out election (as defined in § 217.22(b)(2)), the Board-regulated institution's carrying value (including net accrued but unpaid interest and fees) for the exposure less any net unrealized gains on the exposure and plus any net unrealized losses on the exposure.

(3) For available-for-sale preferred stock classified as an equity security under GAAP if the Board-regulated institution has made an AOCI opt-out election (as defined in § 217.22(b)(2)), the Board-regulated institution's carrying value of the exposure less any net unrealized gains on the exposure that are reflected in such carrying value but excluded from the Board-regulated institution's regulatory capital components.

(4) For the off-balance sheet component of an exposure (other than a derivative contract; a repo-style transaction or an eligible margin loan for which the Board-regulated institution calculates the exposure amount under § 217.37 or § 217.121, as applicable; a cleared transaction; a default fund contribution; or a securitization exposure), the notional amount of the off-balance sheet component multiplied by the appropriate credit conversion factor (CCF) in § 217.33 or § 217.112, as applicable.

(5) For an exposure that is a derivative contract (other than a cleared transaction), the exposure amount determined under § 217.34 or §§ 217.113 through 217.114, as applicable.

(6) For an exposure that is a cleared transaction, the exposure amount determined under § 217.35 or § 217.116, as applicable.

(7) For an exposure that is an eligible margin loan or repo-style transaction (other than a cleared transaction) for which the bank calculates the exposure amount as provided in § 217.37 or §§ 217.113 through 217.115, as applicable, the exposure amount determined under § 217.37 or §§ 217.113 through 217.115, as applicable.

(8) For an exposure that is a securitization exposure, the exposure amount determined under § 217.42 or § 217.131, as applicable.

* * * * *

Financial institution means:

* * * * *

(4) * * *

(i) * * *

(A) An investment in GAAP equity instruments of the company with an

adjusted carrying value or exposure amount equal to or greater than \$10 million, as adjusted pursuant to § 217.4; or

* * * * *

Market risk Board-regulated institution means a Board-regulated institution that is described in § 217.201(b)(1).

Market risk-weighted assets means the measure for market risk calculated pursuant to § 217.204(a) multiplied by 12.5.

* * * * *

Net independent collateral amount means the fair value amount of the independent collateral, as adjusted by the haircuts under § 217.121(c)(2)(iii), as applicable, that a counterparty to a netting set has posted to a Board-regulated institution less the fair value amount of the independent collateral, as adjusted by the haircuts under § 217.121(c)(2)(iii), as applicable, posted by the Board-regulated institution to the counterparty, excluding such amounts held in a bankruptcy-remote manner or posted to a QCCP and held in conformance with the operational requirements in § 217.3.

Netting set means a group of transactions with a single counterparty that are subject to a qualifying master netting agreement. For derivative contracts, netting set also includes a single derivative contract between a Board-regulated institution and a single counterparty.

* * * * *

Non-performing loan securitization (NPL securitization) means a traditional securitization, that is not a resecuritization, where parameter W (as defined in § 217.133(b)(1)) for the underlying exposures is greater than or equal to 90 percent at the origination cut-off date and at any subsequent date on which exposures are added to or removed from the pool of underlying exposures due to replenishment or restructuring.

Nonrefundable purchase price discount (NRPPD) means the difference between the outstanding principal balance of the underlying exposures at the time of sale and the price at which these exposures are sold by the originator to a company the activities of which are limited to those appropriate for the specific purpose of holding the underlying exposures of a securitization, when neither originator nor the original lender are reimbursed for this difference. In cases where the originator underwrites tranches of an NPL securitization for subsequent sale, the NRPPD may include the differences between the outstanding principal

balance of the underlying exposures at the time of sale and the price at which all of the tranches are first sold to unrelated third parties. For any given piece of a securitization tranche, only its initial sale from the originator to investors is taken into account in the determination of NRPPD. The purchase prices of subsequent re-sales of a securitization tranche are not considered.

Non-significant investment in the capital of an unconsolidated financial institution means an investment by a Category I Board-regulated institution or a Category II Board-regulated institution in the capital of an unconsolidated financial institution where the Category I Board-regulated institution or Category II Board-regulated institution owns 10 percent or less of the issued and outstanding common stock of the unconsolidated financial institution.

* * * * *

Prepaid credit protection arrangement means a contractual arrangement under which a protection purchaser transfers the credit risk of one or more reference exposures to a protection provider where:

(1) The protection provider pays an initial principal amount in cash to the protection purchaser at the inception of the transaction; and

(2) The protection purchaser is obligated to repay the initial principal amount to the protection provider on or before the maturity date of the transaction, less any losses that the protection purchaser realizes or otherwise recognizes due to nonpayment of all contractual payments due to be paid on the reference exposure or reference exposures by the obligors.

* * * * *

Protection amount (P) means, with respect to an exposure hedged by an eligible guarantee, eligible credit derivative, or eligible prepaid credit protection arrangement, or secured by financial collateral, the effective notional amount of the guarantee, credit derivative, or prepaid credit protection arrangement, or the fair value of the financial collateral, reduced to reflect any currency mismatch, maturity mismatch, or lack of restructuring coverage (as provided in § 217.36–217.37 or § 217.120–121, as applicable).

* * * * *

Qualifying cross-product master netting agreement means a qualifying master netting agreement that provides for termination and close-out netting across multiple types of financial transactions or qualifying master netting agreements in the event of a counterparty's default, provided that the

underlying financial transactions are derivative contracts or repo-style transactions that are not cleared transactions. In order to treat an agreement as a qualifying cross-product master netting agreement, a Board-regulated institution must comply with the requirements of § 217.3(c) of this part with respect to that agreement.

* * * * *

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

* * *

(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, a Board-regulated institution must comply with the requirements of § 217.3(d) with respect to that agreement.

* * * * *

Significant investment in the capital of an unconsolidated financial institution means an investment by a Category I Board-regulated institution or a Category II Board-regulated institution in the capital of an unconsolidated financial institution where the Category I Board-regulated institution or a Category II Board-regulated institution owns more than 10 percent of the issued and outstanding common stock of the unconsolidated financial institution.

* * * * *

Specified supranational entity means the Bank for International Settlements, the European Central Bank, the European Commission, the International Monetary Fund, the European Stability Mechanism, or the European Financial Stability Facility.

* * * * *

Speculative grade means that the entity to which the Board-regulated institution is exposed through a loan or security, or the reference entity with respect to a credit derivative, has adequate capacity to meet financial commitments in the near term, but is vulnerable to adverse economic conditions, such that should economic conditions deteriorate, the issuer or the reference entity would present an elevated default risk.

Standardized market risk-weighted assets means the standardized measure for market risk calculated under § 217.204(b) multiplied by 12.5.

Standardized total risk-weighted assets means:

(1) The sum of:

(i) Total risk-weighted assets for general credit risk as calculated under § 217.31;

(ii) Total risk-weighted assets for cleared transactions and default fund contributions as calculated under § 217.35;

(iii) Total risk-weighted assets for unsettled transactions as calculated under § 217.38;

(iv) Total risk-weighted assets for securitization exposures as calculated under § 217.42;

(v) Total risk-weighted assets for equity exposures as calculated under § 217.52 and § 217.53; and

(vi) For a market risk Board-regulated institution only, market risk-weighted assets; less

(2) Any amount of the Board-regulated institution's adjusted allowance for credit losses that is not included in tier 2 capital and any amount of allocated transfer risk reserves.

* * * * *

Sub-speculative grade means that the entity to which the Board-regulated institution is exposed through a loan or security, or the reference entity with respect to a credit derivative, depends on favorable economic conditions to meet its financial commitments, such that should such economic conditions deteriorate the issuer or the reference entity likely would default on its financial commitments.

* * * * *

Synthetic securitization means a transaction in which:

(1) All or a portion of the credit risk of one or more underlying exposures is retained or transferred to one or more third parties through the use of one or more credit derivatives, guarantees (other than a guarantee that transfers only the credit risk of an individual retail exposure), or prepaid credit protection arrangements;

(2) The credit risk associated with the underlying exposures has been separated into at least two tranches reflecting different levels of seniority;

(3) Performance of the securitization exposures depends solely upon the performance of the underlying exposures; and

(4) All or substantially all of the underlying exposures are financial exposures (such as loans, commitments, credit derivatives, guarantees, receivables, asset-backed securities, mortgage-backed securities, other debt securities, or equity securities).

* * * * *

Total credit risk-weighted assets means the sum of:

(1) Total risk-weighted assets for general credit risk as calculated under § 217.110;

(2) Total risk-weighted assets for cleared transactions and default fund contributions as calculated under § 217.116;

(3) Total risk-weighted assets for unsettled transactions as calculated under § 217.117; and

(4) Total risk-weighted assets for securitization exposures as calculated under § 217.132.

* * * * *

Traditional securitization means a transaction in which:

(1) All or a portion of the credit or equity risk of one or more underlying exposures is transferred to one or more third parties other than through the use of credit derivatives, guarantees, or prepaid credit protection arrangements;

(2) The credit risk associated with the underlying exposures has been separated into at least two tranches reflecting different levels of seniority;

(3) Performance of the securitization exposures depends solely upon the performance of the underlying exposures;

(4) All or substantially all of the underlying exposures are financial exposures (such as loans, commitments, credit derivatives, guarantees, receivables, asset-backed securities, mortgage-backed securities, other debt securities, or equity securities);

(5) The underlying exposures are not owned by an operating company;

(6) The underlying exposures are not owned by a small business investment company defined in section 302 of the Small Business Investment Act;

(7) The underlying exposures are not owned by a firm an investment in which qualifies as a community development investment under section 24(Eleventh) of the National Bank Act;

(8) The Board may determine that a transaction in which the underlying exposures are owned by an investment firm that exercises substantially unfettered control over the size and composition of its assets, liabilities, and off-balance sheet exposures is not a traditional securitization based on the transaction's leverage, risk profile, or economic substance;

(9) The Board may deem a transaction that meets the definition of a traditional securitization, notwithstanding paragraph (5), (6), or (7) of this definition, to be a traditional securitization based on the transaction's leverage, risk profile, or economic substance; and

(10) The transaction is not:

(i) An investment fund;

(ii) A collective investment fund (as defined in 12 CFR 208.34);

(iii) An employee benefit plan (as defined in paragraphs (3) and (32) of section 3 of ERISA), 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;

(iv) A synthetic exposure to the capital of a financial institution to the extent deducted from capital under § 217.22; or

(v) Registered with the SEC under the Investment Company Act of 1940 (15 U.S.C. 80a-1) or foreign equivalents thereof.

* * * * *

Variation margin amount means the fair value amount of the variation margin, as adjusted by the standard supervisory haircuts under § 217.121(c)(2)(iii), as applicable, that a counterparty to a netting set has posted to a Board-regulated institution less the fair value amount of the variation margin, as adjusted by the standard supervisory haircuts under § 217.121(c)(2)(iii), as applicable, posted by the Board-regulated institution to the counterparty.

* * * * *

■ 41. In § 217.3, revise paragraph (c) to read as follows:

§ 217.3 Operational requirements for counterparty credit risk.

* * * * *

(c) *Qualifying cross-product master netting agreement.* In order to recognize an agreement as a qualifying cross-product master netting agreement as defined in § 217.2, a Board-regulated institution must obtain a written legal opinion verifying the validity and enforceability of the agreement under applicable law of the relevant jurisdictions if the counterparty fails to perform upon an event of default, including upon receivership, insolvency, liquidation, or similar proceeding

* * * * *

■ 42. Add a new section § 217.4 to read as follows:

§ 217.4 Threshold Indexing.

(a) *Methodology.* The dollar thresholds specified in paragraph (c) of this section shall be adjusted by multiplying the baseline threshold values specified in paragraph (c) of this section by one plus the cumulative percent change in the non-seasonally

adjusted Consumer Price Index for Urban Wage Earners and Clerical Workers, measured from the effective date of this rule, as further described in paragraph (b) of this section, and shall be rounded in accordance with paragraph (d) of this section.

(b) *Frequency.* (1) *In general—biennial adjustments.* Except as otherwise provided in paragraph (b)(2) and (b)(3) of this section, the adjustments described in paragraph (a) of this section shall be effective on October 1 following each consecutive two year period ending August 30, and using the non-seasonally adjusted Consumer Price Index for Urban Wage Earners and Clerical Workers as of August 30 of that year.

(2) *Off-year adjustments.* In the event that the Board determines, during a year where no adjustment would be made under paragraph (b)(1), that the non-seasonally adjusted Consumer Price Index for Urban Wage Earners and Clerical Workers, measured over the twelve month period ending August 30 of that year, is such that an adjustment under this section would be appropriate for that year, the Board may make an adjustment under this section for that year.

(3) *Periods of negative inflation.* Notwithstanding paragraph (b)(1) or (b)(2) of this section, if an adjustment of dollar thresholds using the cumulative percent change of the non-seasonally adjusted Consumer Price Index for Urban Wage Earners and Clerical Workers from the effective date of this rule or the most recent adjustment, as applicable, would not result in an increase from the current dollar thresholds, no adjustment will be made pursuant to paragraph (a) of this section.

(c) *Specified thresholds.* The thresholds in the following sections shall be adjusted in accordance with paragraph (a) of this section relative to the baseline threshold values as specified below.

(1) § 217.2, definition of Financial institution, paragraph (4)(i)(A), baseline threshold value \$10 million;

(2) § 217.101, definition of Regulatory retail exposure, paragraph (2), baseline threshold value \$1 million;

(3) § 217.101, definition of Small or medium-sized entity (SME), baseline threshold value \$50 million;

(4) § 217.150(b)(1), baseline threshold value \$1 billion;

(5) § 217.150(b)(2), baseline threshold values \$1 billion, \$30 billion, and \$120 million;

(6) § 217.150(b)(2)(i), baseline threshold value \$1 billion;

(7) § 217.150(b)(3), baseline threshold values \$30 billion and \$4.47 billion

(8) § 217.150(b)(3)(i), baseline threshold value \$30 billion;

(9) § 217.150(d)(2)(i)(A), baseline threshold value \$20,000;

(10) § 217.201(b)(1)(ii)(B), baseline threshold value \$5 billion;

(11) § 217.201(b)(2)(ii), baseline threshold value \$1 trillion;

(12) § 217.202 “Large market cap”, baseline threshold value \$2 billion;

(13) § 217.202, “Market risk covered position” (1)(ii)(D), baseline value \$20 million;

(14) § 217.202, “Small market cap”, baseline threshold value \$2 billion.

(d) *Rounding.* When adjusting thresholds under this section, each threshold shall be rounded based on the size of the threshold (e.g., thousands, millions, billions) to the nearest number with two significant digits.

(e) *Effective date of threshold adjustments.* The [AGENCY] shall announce the thresholds adjusted in accordance with this section by publication in the **Federal Register**. Such adjusted thresholds shall be effective on October 1 of the year during which an adjustment is made.

(f) *Failure to publish in the Federal Register.* In the event, for any reason, the thresholds adjusted in accordance with this section are not published in the **Federal Register** in a year in which an adjustment is made under this section, the thresholds specified in paragraph (c) of this section will adjust as provided in this section and be effective on October 1, notwithstanding the lack of publication in the **Federal Register**.

* * * * *

■ 43. Add § 217.5 “Calculation of loan-to-value (LTV) ratio.”

The addition reads as follows:

§ 217.5 Calculation of loan-to-value (LTV) ratio.

(a) *Loan-to-Value ratio.* The loan-to-value (LTV) ratio must be calculated as the extension of credit divided by the value of the property.

(b) *Extension of credit.* For purposes of a LTV ratio calculated under this section, the extension of credit is equal to the total outstanding amount of the loan including any undrawn committed amount of the loan.

(c) *Value of the property.* (1) For purposes of a LTV ratio calculated under this section, the value of the property is the market value of all real estate properties securing or being improved by the extension of credit plus the amount of any readily marketable collateral and other acceptable collateral, as defined in 12 CFR part 208, appendix C, that secures the

extension of credit, subject to the following:

(i) For exposures subject to 12 CFR 208 subpart E or 12 CFR 225 subpart G, as applicable, the market value of property is a valuation that meets all requirements of that rule.

(ii) For exposures not subject to 12 CFR 208 subpart E or 12 CFR 225 subpart G, as applicable:

(A) The market value of real estate must be obtained from an independent valuation of the property using prudently conservative valuation criteria;

(B) The valuation must be done independently from the [BANKING ORGANIZATION]’s origination and underwriting process, and

(C) To ensure that the market value of the real estate is determined in a prudently conservative manner, the valuation must exclude expectations of price increases and must be adjusted downward to account for the potential for the current market price to be significantly above the value that would be sustainable over the life of the loan.

(2) In the case where the exposure includes the financing to purchase the property, the value of the property is the lower of the market value obtained under paragraph (c)(1)(i) or (c)(1)(ii) of this section, as applicable, and the actual acquisition cost.

(3) The value of the property must be measured at the time of origination, except in the following circumstances:

(i) The [AGENCY] requires a [BANKING ORGANIZATION] to revise the value of the property downward;

(ii) The value of the property must be adjusted downward due to an extraordinary event that results in a permanent reduction of the property value; or

(iii) The value of the property may be increased to reflect modifications made to the property that increase the market value, as determined according to the requirements in paragraphs (c)(1)(i) or (ii) of this section.

(4) Readily marketable collateral and other acceptable collateral, as defined in 12 CFR part 208, appendix C, must be appropriately discounted by the [BANKING ORGANIZATION] consistent with the [BANKING ORGANIZATION]’s usual practices for making loans secured by such collateral.

Subpart B—Capital Ratio Requirements and Buffers

■ 44. In § 217.10:

■ a. Revise paragraph (a)(1)(v);

■ b. Revise paragraph (b);

■ c. Revise paragraph (c);

■ d. Revise paragraph (d) introductory text; and

■ e. Revise paragraph (d)(3)(ii).

The revisions read as follows:

§ 217.10 Minimum capital requirements.

(a) * * *

(1) * * *

(v) For a Category I Board-regulated institution, Category II Board-regulated institution, or Category III Board-regulated institution, a supplementary leverage ratio of 3 percent.

* * * * *

(b) *Standardized capital ratio calculations.* For a Board-regulated institution that is not a Category I Board-regulated institution or Category II Board-regulated institution:

(1) *Common equity tier 1 capital ratio.* The Board-regulated institution's common equity tier 1 capital ratio is the ratio of the Board-regulated institution's common equity tier 1 capital to selected total risk-weighted assets;

(2) *Tier 1 capital ratio.* The Board-regulated institution's tier 1 capital ratio is the ratio of the Board-regulated institution's tier 1 capital to selected total risk-weighted assets;

(3) *Total capital ratio.* The Board-regulated institution's total capital ratio is the ratio of the Board-regulated institution's total capital to selected total risk-weighted assets; and

(4) *Leverage ratio.* The Board-regulated institution's leverage ratio is the ratio of the Board-regulated institution's tier 1 capital to the Board-regulated institution's average total consolidated assets as reported on the Board-regulated institution's Call Report, for a state member bank, or the Consolidated Financial Statements for Bank Holding Companies (FR Y-9C), for a bank holding company or savings and loan holding company, as applicable minus amounts deducted from tier 1 capital under § 217.22(a), (c) and (d).

(5) *Selected total risk-weighted assets.* A Board-regulated institution's selected total risk-weighted assets is either the Board-regulated institution's standardized total risk-weighted assets or expanded total risk-weighted assets, as selected by the Board-regulated institution. A Board-regulated institution may change its choice for selected total risk-weighted assets by providing the Board with prior notice of the change at least four full calendar quarters before the calendar quarter in which the change will take effect.

(c) *Supplementary leverage ratio.* (1) The supplementary leverage ratio of a Category I Board-regulated institution, Category II Board-regulated institution, or Category III Board-regulated institution is the ratio of its tier 1 capital to total leverage exposure. Total

leverage exposure is calculated as the sum of:

(i) The mean of the on-balance sheet assets calculated as of each day of the reporting quarter; and

(ii) The mean of the off-balance sheet exposures calculated as of the last day of each of the most recent three months, minus the applicable deductions under § 217.22(a), (c), and (d).

(2) For purposes of this part, *total leverage exposure* means the sum of the items described in paragraphs (c)(2)(i) through (viii) of this section, as adjusted pursuant to paragraph (c)(2)(ix) of this section for a clearing member Board-regulated institution and paragraph (c)(2)(x) of this section for a custodial banking organization:

(i) The balance sheet carrying value of all of the Board-regulated institution's on-balance sheet assets, net of adjusted allowances for credit losses, *plus* the value of securities sold under a repurchase transaction or a securities lending transaction that qualifies for sales treatment under GAAP, *less* amounts deducted from tier 1 capital under § 217.22(a), (c), and (d), less the value of securities received in security-for-security repo-style transactions, where the Board-regulated institution acts as a securities lender and includes the securities received in its on-balance sheet assets but has not sold or re-hypothecated the securities received, and, for a Board-regulated institution that uses the standardized approach for counterparty credit risk (SA-CCR) under § 217.114 for its standardized total risk-weighted assets or expanded total risk-weighted assets, less the fair value of any derivative contracts;

(ii) (A) For a Board-regulated institution that uses the current exposure methodology under § 217.34(b) for its standardized total risk-weighted assets, the potential future credit exposure (PFE) for each derivative contract or each single-product netting set of derivative contracts (including a cleared transaction except as provided in paragraph (c)(2)(ix) of this section and, at the discretion of the Board-regulated institution, excluding a forward agreement treated as a derivative contract that is part of a repurchase or reverse repurchase or a securities borrowing or lending transaction that qualifies for sales treatment under GAAP), to which the Board-regulated institution is a counterparty as determined under § 217.34, but without regard to § 217.34(c), provided that:

(1) A Board-regulated institution may choose to exclude the PFE of all credit derivatives or other similar instruments through which it provides credit

protection when calculating the PFE under § 217.34, but without regard to § 217.34(c), provided that it does not adjust the net-to-gross ratio (NGR); and

(2) A Board-regulated institution that chooses to exclude the PFE of credit derivatives or other similar instruments through which it provides credit protection pursuant to paragraph (c)(2)(ii)(A) of this section must do so consistently over time for the calculation of the PFE for all such instruments; or

(B) (1) For a Board-regulated institution that uses SA-CCR under § 217.114 for its standardized total risk-weighted assets or expanded total risk-weighted assets, the PFE under SA-CCR for each derivative contract or single product netting set of derivative contracts to which the Board-regulated institution is a counterparty (including cleared transactions except as provided in paragraph (c)(2)(ix) of this section and, at the discretion of the Board-regulated institution, excluding a forward agreement treated as a derivative contract that is part of a repurchase or reverse repurchase or a securities borrowing or lending transaction that qualifies for sales treatment under GAAP), as determined under § 217.114(g), in which the term C in § 217.114(g)(1) equals zero, and, for any counterparty that is not a commercial end-user, multiplied by 1.4. For purposes of this paragraph (c)(2)(ii)(A), a Board-regulated institution may set the value of the term C in § 217.114(g)(1) equal to the amount of collateral posted by a clearing member client of the Board-regulated institution in connection with the client-facing derivative transactions within the netting set; and

(2) A Board-regulated institution may choose to exclude the PFE of all credit derivatives or other similar instruments through which it provides credit protection when calculating the PFE under § 217.114, provided that it does so consistently over time for the calculation of the PFE for all such instruments;

(iii)(A)(1) For a Board-regulated institution that uses the current exposure methodology under § 217.34(b) for its standardized total risk-weighted assets, the amount of cash collateral that is received from a counterparty to a derivative contract and that has offset the mark-to-fair value of the derivative asset, or cash collateral that is posted to a counterparty to a derivative contract and that has reduced the Board-regulated institution's on-balance sheet assets, unless such cash collateral is all or part of variation margin that satisfies the conditions in

paragraphs (c)(2)(iii)(C) through (G) of this section; and

(2) The variation margin is used to reduce the current credit exposure of the derivative contract, calculated as described in § 217.34(b), and not the PFE; and

(3) For the purpose of the calculation of the NGR described in

§ 217.34(b)(2)(ii)(B), variation margin described in paragraph (c)(2)(iii)(A)(2) of this section may not reduce the net current credit exposure or the gross current credit exposure; or

(B)(1) For a Board-regulated institution that uses SA-CCR under § 217.114 for its standardized total risk-weighted assets or expanded total risk-weighted assets, the replacement cost under § 217.114 of each derivative contract or single product netting set of derivative contracts to which the Board-regulated institution is a counterparty, calculated according to the following formula, and, for any counterparty that is not a commercial end-user, multiplied by 1.4:

$$\text{Replacement Cost} = \max\{V - \text{CVM}_r + \text{CVM}_p; 0\}$$

Where:

V equals the fair value for each derivative contract or each netting set of derivative contracts (including a cleared transaction except as provided in paragraph (c)(2)(ix) of this section and, at the discretion of the Board-regulated institution, excluding a forward agreement treated as a derivative contract that is part of a repurchase or reverse repurchase or a securities borrowing or lending transaction that qualifies for sales treatment under GAAP);

CVM_r equals the amount of cash collateral received from a counterparty to a derivative contract and that satisfies the conditions in paragraphs (c)(2)(iii)(C) through (G) of this section, or, in the case of a client-facing derivative transaction, the amount of collateral received from the clearing member client; and

CVM_p equals the amount of cash collateral that is posted to a counterparty to a derivative contract and that has not offset the fair value of the derivative contract and that satisfies the conditions in paragraphs (c)(2)(iii)(C) through (G) of this section, or, in the case of a client-facing derivative transaction, the amount of collateral posted to the clearing member client;

(2) Notwithstanding paragraph (c)(2)(iii)(A)(1) of this section, where multiple netting sets are subject to a single variation margin agreement, a Board-regulated institution must apply the formula for replacement cost provided in § 217.114(j)(1), in which the term CMA may only include cash collateral that satisfies the conditions in paragraphs (c)(2)(iii)(C) through (G) of this section; and

(3) For purposes of paragraph (c)(2)(iii)(A)(1) of this section, a Board-regulated institution must treat a derivative contract that references an index as if it were multiple derivative contracts each referencing one component of the index if the Board-regulated institution elected to treat the derivative contract as multiple derivative contracts under § 217.114(e)(6);

(C) For derivative contracts that are not cleared through a QCCP, the cash collateral received by the recipient counterparty is not segregated (by law, regulation, or an agreement with the counterparty);

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

(E) The variation margin transferred under the derivative contract or the governing rules of the CCP or QCCP for a cleared transaction is the full amount that is necessary to fully extinguish the net current credit exposure to the counterparty of the derivative contracts, subject to the threshold and minimum transfer amounts applicable to the counterparty under the terms of the derivative contract or the governing rules for a cleared transaction;

(F) The variation margin is in the form of cash in the same currency as the currency of settlement set forth in the derivative contract, provided that for the purposes of this paragraph (c)(2)(iii)(F), currency of settlement means any currency for settlement specified in the governing qualifying master netting agreement and the credit support annex to the qualifying master netting agreement, or in the governing rules for a cleared transaction; and

(G) The derivative contract and the variation margin are governed by a qualifying master netting agreement between the legal entities that are the counterparties to the derivative contract or by the governing rules for a cleared transaction, and the qualifying master netting agreement or the governing rules for a cleared transaction must explicitly stipulate that the counterparties agree to settle any payment obligations on a net basis, taking into account any variation margin received or provided under the contract if a credit event involving either counterparty occurs;

(iv) The effective notional principal amount (that is, the apparent or stated notional principal amount multiplied by any multiplier in the derivative contract) of a credit derivative, or other similar instrument, through which the Board-regulated institution provides credit protection, provided that:

(A) The Board-regulated institution may reduce the effective notional principal amount of the credit derivative by the amount of any reduction in the mark-to-fair value of the credit derivative if the reduction is recognized in common equity tier 1 capital;

(B) The Board-regulated institution may reduce the effective notional principal amount of the credit derivative by the effective notional principal amount of a purchased credit derivative or other similar instrument, provided that the remaining maturity of the purchased credit derivative is equal to or greater than the remaining maturity of the credit derivative through which the Board-regulated institution provides credit protection and that:

(1) With respect to a credit derivative that references a single exposure, the reference exposure of the purchased credit derivative is to the same legal entity and ranks *pari passu* with, or is junior to, the reference exposure of the credit derivative through which the Board-regulated institution provides credit protection; or

(2) With respect to a credit derivative that references multiple exposures, the reference exposures of the purchased credit derivative are to the same legal entities and rank *pari passu* with the reference exposures of the credit derivative through which the Board-regulated institution provides credit protection, and the level of seniority of the purchased credit derivative ranks *pari passu* to the level of seniority of the credit derivative through which the Board-regulated institution provides credit protection;

(3) Where a Board-regulated institution has reduced the effective notional principal amount of a credit derivative through which the Board-regulated institution provides credit protection in accordance with paragraph (c)(2)(iv)(A) of this section, the Board-regulated institution must also reduce the effective notional principal amount of a purchased credit derivative used to offset the credit derivative through which the Board-regulated institution provides credit protection, by the amount of any increase in the mark-to-fair value of the purchased credit derivative that is recognized in common equity tier 1 capital; and

(4) Where the Board-regulated institution purchases credit protection through a total return swap and records the net payments received on a credit derivative through which the Board-regulated institution provides credit protection in net income, but does not record offsetting deterioration in the mark-to-fair value of the credit

derivative through which the Board-regulated institution provides credit protection in net income (either through reductions in fair value or by additions to reserves), the Board-regulated institution may not use the purchased credit protection to offset the effective notional principal amount of the related credit derivative through which the Board-regulated institution provides credit protection;

(v) Where a Board-regulated institution acting as a principal has more than one repo-style transaction with the same counterparty and has offset the gross value of receivables due from a counterparty under reverse repurchase transactions by the gross value of payables under repurchase transactions due to the same counterparty, the gross value of receivables associated with the repo-style transactions less any on-balance sheet receivables amount associated with these repo-style transactions included under paragraph (c)(2)(i) of this section, unless the following criteria are met:

(A) The offsetting transactions have the same explicit final settlement date under their governing agreements;

(B) The right to offset the amount owed to the counterparty with the amount owed by the counterparty is legally enforceable in the normal course of business and in the event of receivership, insolvency, liquidation, or similar proceeding; and

(C) Under the governing agreements, the counterparties intend to settle net, settle simultaneously, or settle according to a process that is the functional equivalent of net settlement, (that is, the cash flows of the transactions are equivalent, in effect, to a single net amount on the settlement date), where both transactions are settled through the same settlement system, the settlement arrangements are supported by cash or intraday credit facilities intended to ensure that settlement of both transactions will occur by the end of the business day, and the settlement of the underlying securities does not interfere with the net cash settlement;

(vi) The counterparty credit risk of a repo-style transaction, including where the Board-regulated institution acts as an agent for a repo-style transaction and indemnifies the customer with respect to the performance of the customer's counterparty in an amount limited to the difference between the fair value of the security or cash its customer has lent and the fair value of the collateral the borrower has provided, calculated as follows:

(A) If the transaction is not subject to a qualifying master netting agreement, the counterparty credit risk (E^*) for transactions with a counterparty must be calculated on a transaction by transaction basis, such that each transaction i is treated as its own netting set, in accordance with the following formula, where E_i is the fair value of the instruments, gold, or cash that the Board-regulated institution has lent, sold subject to repurchase, or provided as collateral to the counterparty, and C_i is the fair value of the instruments, gold, or cash that the Board-regulated institution has borrowed, purchased subject to resale, or received as collateral from the counterparty:

$$E_i^* = \max \{0, [E_i - C_i]\}; \text{ and}$$

(B) If the transaction is subject to a qualifying master netting agreement, the counterparty credit risk (E^*) must be calculated as the greater of zero and the total fair value of the instruments, gold, or cash that the Board-regulated institution has lent, sold subject to repurchase or provided as collateral to a counterparty for all transactions included in the qualifying master netting agreement ($\sum E_i$), less the total fair value of the instruments, gold, or cash that the Board-regulated institution borrowed, purchased subject to resale or received as collateral from the counterparty for those transactions ($\sum C_i$), in accordance with the following formula:

$$E^* = \max \{0, [\sum E_i - \sum C_i]\}$$

(vii) If a Board-regulated institution acting as an agent for a repo-style transaction provides a guarantee to a customer of the security or cash its customer has lent or borrowed with respect to the performance of the customer's counterparty and the guarantee is not limited to the difference between the fair value of the security or cash its customer has lent and the fair value of the collateral the borrower has provided, the amount of the guarantee that is greater than the difference between the fair value of the security or cash its customer has lent and the value of the collateral the borrower has provided;

(viii) The credit equivalent amount of all off-balance sheet exposures of the Board-regulated institution, excluding repo-style transactions, repurchase or reverse repurchase or securities borrowing or lending transactions that qualify for sales treatment under GAAP, and derivative transactions, determined using:

(A) For a Board-regulated institution that elects to calculate its standardized total risk-weighted assets under § 217.10(b), the applicable credit

conversion factor under § 217.33(b), provided, however, that the minimum credit conversion factor that may be assigned to an off-balance sheet exposure under this paragraph is 10 percent; or

(B) For a Board-regulated institution that elects to calculate its expanded total risk-weighted assets under § 217.10(b), a Category I Board-regulated institution, or a Category II Board-regulated institution, the applicable credit conversion factor under § 217.112(b), provided, however, that the minimum credit conversion factor that may be assigned to an off-balance sheet exposure under this paragraph is 10 percent; and

(ix) For a Board-regulated institution that is a clearing member:

(A) A clearing member Board-regulated institution that guarantees the performance of a clearing member client with respect to a cleared transaction must treat its exposure to the clearing member client as a derivative contract or repo-style transaction, as applicable, for purposes of determining its total leverage exposure;

(B) A clearing member Board-regulated institution that guarantees the performance of a CCP with respect to a transaction cleared on behalf of a clearing member client must treat its exposure to the CCP as a derivative contract or repo-style transaction, as applicable, for purposes of determining its total leverage exposure;

(C) A clearing member Board-regulated institution that does not guarantee the performance of a CCP with respect to a transaction cleared on behalf of a clearing member client may exclude its exposure to the CCP for purposes of determining its total leverage exposure;

(D) A Board-regulated institution that is a clearing member may exclude from its total leverage exposure the effective notional principal amount of credit protection sold through a credit derivative contract, or other similar instrument, that it clears on behalf of a clearing member client through a CCP as calculated in accordance with paragraph (c)(2)(iv) of this section;

(E) Notwithstanding paragraphs (c)(2)(ix)(A) through (C) of this section, a Board-regulated institution may exclude from its total leverage exposure a clearing member's exposure to a clearing member client for a derivative contract if the clearing member client and the clearing member are affiliates and consolidated for financial reporting purposes on the Board-regulated institution's balance sheet; and

(F) Notwithstanding paragraph (c)(2)(ix)(A), a Board-regulated

institution that has elected under § 217.113(c) to treat any repo-style transactions subject to a qualifying cross-product master netting agreement as derivative contracts must treat any such repo-style transactions as a derivative contract for purposes of this paragraph (c).

(x) A custodial banking organization shall exclude from its total leverage exposure the lesser of:

(A) The amount of funds that the custodial banking organization has on deposit at a qualifying central bank; and

(B) The amount of funds in deposit accounts at the custodial banking organization that are linked to fiduciary or custodial and safekeeping accounts at the custodial banking organization. For purposes of this paragraph (c)(2)(x), a deposit account is linked to a fiduciary or custodial and safekeeping account if the deposit account is provided to a client that maintains a fiduciary or custodial and safekeeping account with the custodial banking organization and the deposit account is used to facilitate the administration of the fiduciary or custodial and safekeeping account.

(d) *Expanded capital ratio calculations.* For a Category I Board-regulated institution or a Category II Board-regulated institution:

(1) *Common equity tier 1 capital ratio.* The Board-regulated institution's common equity tier 1 capital ratio is the ratio of the Board-regulated institution's common equity tier 1 capital to expanded total risk-weighted assets;

(2) *Tier 1 capital ratio.* The Board-regulated institution's tier 1 capital ratio is the ratio of the Board-regulated institution's tier 1 capital to expanded total risk-weighted assets;

(3) *Total capital ratio.* The Board-regulated institution's total capital ratio is the ratio of the Board-regulated institution's total capital to expanded total risk-weighted assets; and

(4) *Leverage ratio.* The Board-regulated institution's leverage ratio is the ratio of the Board-regulated institution's tier 1 capital to the Board-regulated institution's average total consolidated assets as reported on the Board-regulated institution's Call Report, for a state member bank, or the Consolidated Financial Statements for Bank Holding Companies (FR Y–9C), for a bank holding company or savings and loan holding company, as applicable minus amounts deducted from tier 1 capital under § 217.22(a), (c) and (d).

* * * * *

■ 45. Revise § 217.11 to read as follows:

§ 217.11 Capital conservation buffer, countercyclical capital buffer amount, and GSIB surcharge.

(a) *Capital conservation buffer—(1) Composition of the capital conservation buffer.* The capital conservation buffer is composed solely of common equity tier 1 capital.

(2) *Definitions.* For purposes of this section, the following definitions apply:

(i) *Eligible retained income.* The eligible retained income of a Board-regulated institution is the greater of:

(A) The Board-regulated institution's net income, calculated in accordance with the instructions to the FR Y–9C or Call Report, as applicable, for the four calendar quarters preceding the current calendar quarter, net of any distributions and associated tax effects not already reflected in net income; and

(B) The average of the Board-regulated institution's net income, calculated in accordance with the instructions to the FR Y–9C or Call Report, as applicable, for the four calendar quarters preceding the current calendar quarter.

(ii) *Maximum payout amount.* A Board-regulated institution's maximum payout amount for the current calendar quarter is equal to the Board-regulated institution's eligible retained income, multiplied by its maximum payout ratio.

(iii) *Maximum payout ratio.* The maximum payout ratio is the percentage of eligible retained income that a Board-regulated institution can pay out in the form of distributions and discretionary bonus payments during the current calendar quarter. For a Board-regulated institution that is not subject to 12 CFR 225.8 or 238.170, and that is not a state member bank that is a subsidiary of a globally systemically important BHC, the maximum payout ratio is determined by the Board-regulated institution's capital conservation buffer, calculated as of the last day of the previous calendar quarter, as set forth in table 1 to § 217.11. For a Board-regulated institution that is subject to 12 CFR 225.8 or 238.170 or that is a state member bank that is a subsidiary of a global systemically important BHC, the maximum payout ratio is determined under paragraph (c)(1)(ii) of this section.

(iv) *Private sector credit exposure.* Private sector credit exposure means an exposure to a company or an individual that is not an exposure to a sovereign, a specified supranational entity, a MDB, a PSE, or a GSE.

(v) *Leverage buffer requirement.* (A) A global systemically important BHC's leverage buffer requirement is 50 percent of the most recent method 1 surcharge (expressed as a percentage) that the Board-regulated institution was

required to calculate pursuant to § 217.403(b), subject to the effective date provisions of § 217.403(d).

(B) The leverage buffer requirement of a state member bank that is a subsidiary of a global systemically important BHC is equal to the lesser of 1.0 percent or 50 percent of the most recent method 1 surcharge (expressed as a percentage) that the global systemically important BHC that controls the state member bank was required to calculate pursuant to § 217.403(b), subject to the effective date provisions of § 217.403(d).

(vi) *Stress capital buffer requirement.* (A) The stress capital buffer requirement for a Board-regulated institution subject to 12 CFR 225.8 or 238.170 is the stress capital buffer requirement determined under 12 CFR 225.8 or 238.170 except as provided in paragraph (a)(2)(vi)(B) of this section.

(B) If a Board-regulated institution subject to 12 CFR 225.8 or 238.170 has not yet received a stress capital buffer requirement, its stress capital buffer requirement for purposes of this part is 2.5 percent.

(3) *Calculation of capital conservation buffer.* (i) A Board-regulated institution that is not subject to 12 CFR 225.8 or 238.170 has a capital conservation buffer equal to the lowest of the following ratios, calculated as of the last day of the previous calendar quarter:

(A) The Board-regulated institution's common equity tier 1 capital ratio minus the Board-regulated institution's minimum common equity tier 1 capital ratio requirement under § 217.10;

(B) The Board-regulated institution's tier 1 capital ratio minus the Board-regulated institution's minimum tier 1 capital ratio requirement under § 217.10; and

(C) The Board-regulated institution's total capital ratio minus the Board-regulated institution's minimum total capital ratio requirement under § 217.10; or

(ii) Notwithstanding paragraphs (a)(3)(i)(A) through (C) of this section, if a Board-regulated institution's common equity tier 1, tier 1, or total capital ratio is less than or equal to the Board-regulated institution's minimum common equity tier 1, tier 1, or total capital ratio requirement under § 217.10, respectively, the Board-regulated institution's capital conservation buffer is zero.

(4) *Limits on distributions and discretionary bonus payments.* (i) A Board-regulated institution that is not subject to 12 CFR 225.8 or 238.170 shall not make distributions or discretionary bonus payments or create an obligation to make such distributions or payments during the current calendar quarter that,

in the aggregate, exceed its maximum payout amount.

(ii) A Board-regulated institution that is not subject to 12 CFR 225.8 or 238.170 and that has a capital conservation buffer that is greater than 2.5 percent plus 100 percent of its applicable countercyclical capital buffer amount in accordance with paragraph (b) of this section is not subject to a maximum payout amount under paragraph (a)(2)(ii) of this section.

(iii) Except as provided in paragraph (a)(4)(iv) of this section, a Board-

regulated institution that is not subject to 12 CFR 225.8 or 238.170 may not make distributions or discretionary bonus payments during the current calendar quarter if the Board-regulated institution's:

(A) Eligible retained income is negative; and

(B) Capital conservation buffer was less than 2.5 percent as of the end of the previous calendar quarter.

(iv) Notwithstanding the limitations in paragraphs (a)(4)(i) through (iii) of this section, the Board may permit a

Board-regulated institution that is not subject to 12 CFR 225.8 or 238.170 to make a distribution or discretionary bonus payment upon a request of the Board-regulated institution, if the Board determines that the distribution or discretionary bonus payment would not be contrary to the purposes of this section, or to the safety and soundness of the Board-regulated institution. In making such a determination, the Board will consider the nature and extent of the request and the particular circumstances giving rise to the request.

TABLE 1 TO § 217.11—CALCULATION OF MAXIMUM PAYOUT AMOUNT

Capital conservation buffer	Maximum payout ratio
Greater than 2.5 percent plus 100 percent of the Board-regulated institution's applicable countercyclical capital buffer amount.	No payout ratio limitation applies.
Less than or equal to 2.5 percent plus 100 percent of the Board-regulated institution's applicable countercyclical capital buffer amount, and greater than 1.875 percent plus 75 percent of the Board-regulated institution's applicable countercyclical capital buffer amount.	60 percent.
Less than or equal to 1.875 percent plus 75 percent of the Board-regulated institution's applicable countercyclical capital buffer amount, and greater than 1.25 percent plus 50 percent of the Board-regulated institution's applicable countercyclical capital buffer amount.	40 percent.
Less than or equal to 1.25 percent plus 50 percent of the Board-regulated institution's applicable countercyclical capital buffer amount and greater than 0.625 percent plus 25 percent of the Board-regulated institution's applicable countercyclical capital buffer amount.	20 percent.
Less than or equal to 0.625 percent plus 25 percent of the Board-regulated institution's applicable countercyclical capital buffer amount.	0 percent.

(v) Additional limitations on distributions may apply under 12 CFR 225.4 and 263.202 to a Board-regulated institution that is not subject to 12 CFR 225.8 or 238.170.

(b) *Countercyclical capital buffer amount*—(1) *General*. A Category I Board-regulated institution, Category II Board-regulated institution, or Category III Board-regulated institution must calculate a countercyclical capital buffer amount in accordance with this paragraph (b) for purposes of determining its maximum payout ratio under Table 1 to § 217.11 section and, if applicable, Table 2 to § 217.11.

(i) *Extension of capital conservation buffer*. The countercyclical capital buffer amount is an extension of the capital conservation buffer as described in paragraph (a) or (c) of this section, as applicable.

(ii) *Amount*. A Category I Board-regulated institution, Category II Board-regulated institution, or Category III Board-regulated institution has a countercyclical capital buffer amount determined by calculating the weighted average of the countercyclical capital buffer amounts established for the national jurisdictions where the Board-regulated institution's private sector credit exposures are located, as specified in paragraphs (b)(2) and (3) of this section.

(iii) *Weighting*. The weight assigned to a jurisdiction's countercyclical capital buffer amount is calculated by dividing the total risk-weighted assets for the Board-regulated institution's private sector credit exposures located in the jurisdiction by the total risk-weighted assets for all of the Board-regulated institution's private sector credit exposures. The methodology a Board-regulated institution uses for determining risk-weighted assets for purposes of this paragraph (b) must be the methodology that determines its risk-based capital ratios under § 217.10. Notwithstanding the previous sentence, the risk-weighted asset amount for a private sector credit exposure that is a covered position under subpart F of this part is its standardized default risk capital requirement as determined under § 217.210 multiplied by 12.5.

(iv) *Location*. (A) Except as provided in paragraphs (b)(1)(iv)(B) and (C) of this section, the location of a private sector credit exposure is the national jurisdiction where the borrower is located (that is, where it is incorporated, chartered, or similarly established or, if the borrower is an individual, where the borrower resides).

(B) If, in accordance with subpart D or E of this part, the Board-regulated institution has assigned to a private sector credit exposure a risk weight associated with a protection provider on

a guarantee or credit derivative, the location of the exposure is the national jurisdiction where the protection provider is located.

(C) The location of a securitization exposure is the location of the underlying exposures, or, if the underlying exposures are located in more than one national jurisdiction, the national jurisdiction where the underlying exposures with the largest aggregate unpaid principal balance are located. For purposes of this paragraph (b), the location of an underlying exposure shall be the location of the borrower, determined consistent with paragraph (b)(1)(iv)(A) of this section.

(2) *Countercyclical capital buffer amount for credit exposures in the United States*—(i) *Initial countercyclical capital buffer amount with respect to credit exposures in the United States*. The initial countercyclical capital buffer amount in the United States is zero.

(ii) *Adjustment of the countercyclical capital buffer amount*. The Board will adjust the countercyclical capital buffer amount for credit exposures in the United States in accordance with applicable law.¹

¹ The Board expects that any adjustment will be based on a determination made jointly by the Board, OCC, and FDIC.

(iii) *Range of countercyclical capital buffer amount*. The Board will adjust

the countercyclical capital buffer amount for credit exposures in the United States between zero percent and 2.5 percent of risk-weighted assets.

(iv) *Adjustment determination.* The Board will base its decision to adjust the countercyclical capital buffer amount under this section on a range of macroeconomic, financial, and supervisory information indicating an increase in systemic risk including, but not limited to, the ratio of credit to gross domestic product, a variety of asset prices, other factors indicative of relative credit and liquidity expansion or contraction, funding spreads, credit condition surveys, indices based on credit default swap spreads, options implied volatility, and measures of systemic risk.

(v) *Effective date of adjusted countercyclical capital buffer amount—*

(A) *Increase adjustment.* A determination by the Board under paragraph (b)(2)(ii) of this section to increase the countercyclical capital buffer amount will be effective 12 months from the date of announcement, unless the Board establishes an earlier effective date and includes a statement articulating the reasons for the earlier effective date.

(B) *Decrease adjustment.* A determination by the Board to decrease the established countercyclical capital buffer amount under paragraph (b)(2)(ii) of this section will be effective on the day following announcement of the final determination or the earliest date permissible under applicable law or regulation, whichever is later.

(vi) *Twelve-month sunset.* The countercyclical capital buffer amount will return to zero percent 12 months after the effective date that the adjusted countercyclical capital buffer amount is announced, unless the Board announces a decision to maintain the adjusted countercyclical capital buffer amount or adjust it again before the expiration of the 12-month period.

(3) *Countercyclical capital buffer amount for foreign jurisdictions.* The Board will adjust the countercyclical capital buffer amount for private sector credit exposures to reflect decisions made by foreign jurisdictions consistent with due process requirements described in paragraph (b)(2) of this section.

(c) *Calculation of buffers for Board-regulated institutions subject to 12 CFR 225.8 or 238.170—*(1) *Limits on distributions and discretionary bonus payments.* (i) *General.* A Board-regulated institution that is subject to 12 CFR 225.8 or 238.170, or that is a state member bank that is a subsidiary of a global systemically important BHC,

shall not make distributions or discretionary bonus payments or create an obligation to make such distributions or payments during the current calendar quarter that, in the aggregate, exceed its maximum payout amount.

(ii) *Maximum payout ratio.* The maximum payout ratio of a Board-regulated institution that is subject to 12 CFR 225.8 or 238.170, or that is a state member bank that is a subsidiary of a globally systemically important BHC, is the lowest of the payout ratios determined by its capital conservation buffer; and, if applicable, leverage buffer; as set forth in Table 2 to § 217.11.

(iii) *Capital conservation buffer requirement.* A Board-regulated institution that is subject to 12 CFR 225.8 or 238.170 has a capital conservation buffer requirement equal to its stress capital buffer requirement plus its applicable countercyclical capital buffer amount in accordance with paragraph (b) of this section plus its applicable GSIB surcharge in accordance with paragraph (d) of this section. A Board-regulated institution that is a state member bank subsidiary of a global systemically important BHC has a capital conservation buffer requirement equal to 2.5 percent.

(iv) *No maximum payout amount limitation.* A Board-regulated institution that is subject to 12 CFR 225.8 or 238.170, or that is a state member bank that is a subsidiary of a global systemically important BHC, is not subject to a maximum payout amount under paragraph (a)(2)(ii) of this section if it has:

(A) A capital conservation buffer, calculated under paragraph (c)(2) of this section, that is greater than its capital conservation buffer requirement calculated under paragraph (c)(1)(iii) of this section; and

(B) If applicable, a leverage buffer, calculated under paragraph (c)(3) of this section, that is greater than its leverage buffer requirement as set forth in paragraph (a)(2)(v) of this section.

(v) *Negative eligible retained income.* Except as provided in paragraph (c)(1)(vi) of this section, a Board-regulated institution that is subject to 12 CFR 225.8 or 238.170, or that is a state member bank that is a subsidiary of a global systemically important BHC, may not make distributions or discretionary bonus payments during the current calendar quarter if, as of the end of the previous calendar quarter, the Board-regulated institution's:

(A) Eligible retained income is negative; and

(B)(1) Capital conservation buffer was less than its capital conservation buffer requirement; or

(2) If applicable, leverage buffer was less than its leverage buffer requirement.

(vi) *Prior approval.* Notwithstanding the limitations in paragraphs (c)(1)(i) through (v) of this section, the Board may permit a Board-regulated institution that is subject to 12 CFR 225.8 or 238.170, or that is a state member bank that is a subsidiary of a global systemically important BHC, to make a distribution or discretionary bonus payment upon a request of the Board-regulated institution, if the Board determines that the distribution or discretionary bonus payment would not be contrary to the purposes of this section, or to the safety and soundness of the Board-regulated institution. In making such a determination, the Board will consider the nature and extent of the request and the particular circumstances giving rise to the request.

(vii) *Other limitations on distributions.* Additional limitations on distributions may apply under 12 CFR 225.4, 225.8, 238.170, 252.63, 252.165, and 263.202 to a Board-regulated institution that is subject to 12 CFR 225.8 or 238.170.

(2) *Capital conservation buffer.* (i) The capital conservation buffer for Board-regulated institutions subject to 12 CFR 225.8 or 238.170, or that is a state member bank that is a subsidiary of a global systemically important BHC, is composed solely of common equity tier 1 capital.

(ii) A Board-regulated institution that is subject to 12 CFR 225.8 or 238.170, or that is a state member bank that is a subsidiary of a global systemically important BHC, has a capital conservation buffer that is equal to the lowest of the following ratios, calculated as of the last day of the previous calendar quarter:

(A) The Board-regulated institution's common equity tier 1 capital ratio minus the Board-regulated institution's minimum common equity tier 1 capital ratio requirement under § 217.10;

(B) The Board-regulated institution's tier 1 capital ratio minus the Board-regulated institution's minimum tier 1 capital ratio requirement under § 217.10; and

(C) The Board-regulated institution's total capital ratio minus the Board-regulated institution's minimum total capital ratio requirement under § 217.10; or

(iii) Notwithstanding paragraph (c)(2)(ii) of this section, if a Board-regulated institution's common equity tier 1, tier 1, or total capital ratio is less than or equal to the Board-regulated institution's minimum common equity tier 1, tier 1, or total capital ratio requirement under § 217.10,

respectively, the Board-regulated institution's capital conservation buffer is zero.

(3) *Leverage buffer.* (i) The leverage buffer is composed solely of tier 1 capital.

(ii) A Category I Board-regulated institution has a leverage buffer that is equal to the global systemically important BHC's supplementary leverage ratio minus 3 percent, calculated as of the last day of the previous calendar quarter.

(iii) Notwithstanding paragraph (c)(3)(ii) of this section, if a Category I Board-regulated institution's supplementary leverage ratio is less than or equal to 3 percent, the Category I Board-regulated institution's leverage buffer is zero.

TABLE 2 TO § 217.11—CALCULATION OF MAXIMUM PAYOUT RATIO

Capital buffer ¹	Payout ratio
Greater than the Board-regulated institution's buffer requirement ²	No payout ratio limitation applies.
Less than or equal to 100 percent of the Board-regulated institution's buffer requirement, and greater than 75 percent of the Board-regulated institution's buffer requirement ...	60 percent.
Less than or equal to 75 percent of the Board-regulated institution's buffer requirement, and greater than 50 percent of the Board-regulated institution's buffer requirement ...	40 percent.
Less than or equal to 50 percent of the Board-regulated institution's buffer requirement, and greater than 25 percent of the Board-regulated institution's buffer requirement ...	20 percent.
Less than or equal to 25 percent of the Board-regulated institution's buffer requirement	0 percent.

¹A Board-regulated institution's "capital buffer" means each of, as applicable, its capital conservation buffer and leverage buffer.

²A Board-regulated institution's "buffer requirement" means each of, as applicable, its capital conservation buffer requirement and leverage buffer requirement.

(d) *GSIB surcharge.* A global systemically important BHC must use its GSIB surcharge calculated in accordance with subpart H of this part for purposes of determining its maximum payout ratio under Table 2 to § 217.11.

Subpart C—Definition of Capital

■ 46. In § 217.20, revise paragraphs (c)(1)(xiv), (d)(1)(xi) and (d)(3) to read as follows:

§ 217.20 Capital components and eligibility criteria for regulatory capital instruments.

* * * * *

(c) * * *

(1) * * *

(xiv) For a Category I Board-regulated institution, a Category II Board-regulated institution, or a Board-regulated institution that uses expanded total risk-weighted assets for purposes of § 217.10(a)(5), the governing agreement, offering circular, or prospectus of an instrument issued after the date upon which the Board-regulated institution becomes a Category I Board-regulated institution, a Category II Board-regulated institution, or a Board-regulated institution that uses expanded total risk-weighted assets for purposes of § 217.10(a)(5) must disclose that the holders of the instrument may be fully subordinated to interests held by the U.S. government in the event that the Board-regulated institution enters into a receivership, insolvency, liquidation, or similar proceeding.

* * * * *

(d) * * *

(1) * * *

(xi) For a Category I Board-regulated institution, a Category II Board-regulated institution, or a Board-regulated institution that uses expanded total risk-weighted assets for purposes of § 217.10(a)(5), the governing agreement, offering circular, or prospectus of an instrument issued after the date on which the Board-regulated institution becomes a Category I Board-regulated institution, a Category II Board-regulated institution, or a Board-regulated institution that uses expanded total risk-weighted assets for purposes of § 217.10(a)(5) must disclose that the holders of the instrument may be fully subordinated to interests held by the U.S. government in the event that the Board-regulated institution enters into a receivership, insolvency, liquidation, or similar proceeding.

* * * * *

(3) AACL up to 1.25 percent of the Board-regulated institution's standardized total risk-weighted assets or total credit risk-weighted assets, as applicable, not including any amount of the AACL (and excluding the case of a market risk Board-regulated institution, its market risk weighted assets).

* * * * *

■ 47. In § 217.21:

■ a. In paragraph (a)(1), remove the words "an advanced approaches Board-

regulated institution" and add in their place the words "a Category I Board-regulated institution, a Category II Board-regulated institution, or a Board-regulated institution that uses expanded total risk-weighted assets for purposes of § 217.10(a)(5)"; and

■ b. Revise paragraph (b).

The revision reads as follows:

§ 217.21 Minority interest.

* * * * *

(b) (1) *Applicability.* For purposes of § 217.20, a Category I Board-regulated institution, a Category II Board-regulated institution, or a Board-regulated institution that uses expanded total risk-weighted assets for purposes of § 217.10(a)(5) is subject to the minority interest limitations in this paragraph (b) if:

(i) A consolidated subsidiary of the Board-regulated institution has issued regulatory capital that is not owned by the Board-regulated institution; and

(ii) For each relevant regulatory capital ratio of the consolidated subsidiary, the ratio exceeds the sum of the subsidiary's minimum regulatory capital requirements plus its capital conservation buffer.

(2) *Difference in capital adequacy standards at the subsidiary level.* For purposes of the minority interest calculations in this section, if the consolidated subsidiary issuing the capital is not subject to capital adequacy standards similar to those of the Board-regulated institution, the Board-regulated institution must assume that the capital adequacy standards of the Board-regulated institution apply to the subsidiary.

(3) *Common equity tier 1 minority interest includable in the common equity tier 1 capital of the Board-regulated institution.* For each consolidated subsidiary of a Board-regulated institution, the amount of common equity tier 1 minority interest the Board-regulated institution may include in common equity tier 1 capital is equal to:

(i) The common equity tier 1 minority interest of the subsidiary; minus

(ii) The percentage of the subsidiary's common equity tier 1 capital that is not owned by the Board-regulated institution, multiplied by the difference between the common equity tier 1 capital of the subsidiary and the lower of:

(A) The amount of common equity tier 1 capital the subsidiary must hold, or would be required to hold pursuant to this paragraph (b), to avoid restrictions on distributions and discretionary bonus payments under § 217.11 or equivalent standards

established by the subsidiary's home country supervisor; or

(B)(1) The expanded total risk-weighted assets of the Board-regulated institution that relate to the subsidiary multiplied by

(2) The common equity tier 1 capital ratio the subsidiary must maintain to avoid restrictions on distributions and discretionary bonus payments under § 217.11 or equivalent standards established by the subsidiary's home country supervisor.

(4) *Tier 1 minority interest includable in the tier 1 capital of the Board-regulated institution.* For each consolidated subsidiary of the Board-regulated institution, the amount of tier 1 minority interest the Board-regulated institution may include in tier 1 capital is equal to:

(i) The tier 1 minority interest of the subsidiary; minus

(ii) The percentage of the subsidiary's tier 1 capital that is not owned by the Board-regulated institution multiplied by the difference between the tier 1 capital of the subsidiary and the lower of:

(A) The amount of tier 1 capital the subsidiary must hold, or would be required to hold pursuant to this paragraph (b), to avoid restrictions on distributions and discretionary bonus payments under § 217.11 or equivalent standards established by the subsidiary's home country supervisor, or

(B)(1) The expanded total risk-weighted assets of the Board-regulated institution that relate to the subsidiary multiplied by

(2) The tier 1 capital ratio the subsidiary must maintain to avoid restrictions on distributions and discretionary bonus payments under § 217.11 or equivalent standards established by the subsidiary's home country supervisor.

(5) *Total capital minority interest includable in the total capital of the Board-regulated institution.* For each consolidated subsidiary of the Board-regulated institution, the amount of total capital minority interest the Board-regulated institution may include in total capital is equal to:

(i) The total capital minority interest of the subsidiary; minus

(ii) The percentage of the subsidiary's total capital that is not owned by the Board-regulated institution multiplied by the difference between the total capital of the subsidiary and the lower of:

(A) The amount of total capital the subsidiary must hold, or would be required to hold pursuant to this paragraph (b), to avoid restrictions on

distributions and discretionary bonus payments under § 217.11 or equivalent standards established by the subsidiary's home country supervisor, or

(B)(1) The expanded total risk-weighted assets of the Board-regulated institution that relate to the subsidiary multiplied by

(2) The total capital ratio the subsidiary must maintain to avoid restrictions on distributions and discretionary bonus payments under § 217.11 or equivalent standards established by the subsidiary's home country supervisor.

* * * * *

■ 48. In § 217.22:

■ a. Revise paragraphs (a)(1) and (4); and

■ b. Remove paragraph (a)(6); and

■ c. Redesignate paragraph (a)(7) as new paragraph (a)(6); and

■ d. Revise paragraphs (b)(2)(i) and (b)(2)(ii);

■ e. In paragraph (b)(2)(iii), remove the words "an advanced approaches Board-regulated institution" and add in their place the words "a Category I Board-regulated institution, a Category II Board-regulated institution, or a Board-regulated institution that uses expanded total risk-weighted assets for purposes of § 217.10(a)(5)";

■ f. In paragraph (b)(2)(iv), remove the words "or FR Y-9SP";

■ g. In footnote 22, in paragraph (b)(2)(iv)(A), remove the words "12 CFR part 225 (Board)", and add in its place "12 CFR part 217 (Board)";

■ h. In footnote 23, in paragraph (c), remove the words "ALLL or AACL, as applicable," and add in its places "AACL";

■ i. Revise paragraph (c)(2);

■ j. In paragraph (c)(4), remove the words "an advanced approaches Board-regulated institution" and add in their place the words "a Category I Board-regulated institution, a Category II Board-regulated institution, or a Board-regulated institution that uses expanded total risk-weighted assets for purposes of § 217.10(a)(5)";

■ k. Revise paragraphs (c)(5)(i) through (iv); and

■ l. Revise paragraphs (c)(6) and (d)(2).

The revisions read as follows:

§ 217.22 Regulatory capital adjustments and deductions.

(a) * * *

(1)(i) Goodwill, net of associated deferred tax liabilities (DTLs) in accordance with paragraph (e) of this section; and

(ii) For a Category I Board-regulated institution, a Category II Board-regulated institution, or a Board-

regulated institution that uses expanded total risk-weighted assets for purposes of § 217.10(a)(5), goodwill that is embedded in the valuation of a significant investment in the capital of an unconsolidated financial institution in the form of common stock (and that is reflected in the consolidated financial statements of the Board-regulated institution), in accordance with paragraph (d) of this section;

* * * * *

(4) (i) Any gain-on-sale in connection with a securitization exposure;

(ii) For a Category I Board-regulated institution, a Category II Board-regulated institution, or a Board-regulated institution that uses expanded total risk-weighted assets for purposes of § 217.10(a)(5), the portion of any CEO that does not constitute an after-tax gain-on-sale;

(b) * * *

(2) AOCI opt-out election.

(i) A Board-regulated institution that is not a Category I Board-regulated institution, a Category II Board-regulated institution, or a Board-regulated institution that uses the expanded total risk-weighted assets for purposes of § 217.10(a)(5) may make a one-time election to opt out of the requirement to include all components of AOCI (with the exception of accumulated net gains and losses on cash flow hedges related to items that are not fair-valued on the balance sheet) in common equity tier 1 capital (AOCI opt-out election). A Board-regulated institution that makes an AOCI opt-out election in accordance with this paragraph (b)(2) must adjust common equity tier 1 capital as follows:

(A) Subtract any net unrealized gains and add any net unrealized losses on available-for-sale securities;

(B) Subtract any accumulated net gains and add any accumulated net losses on cash flow hedges;

(C) Subtract any amounts recorded in AOCI attributed to defined benefit postretirement plans resulting from the initial and subsequent application of the relevant GAAP standards that pertain to such plans (excluding, at the Board-regulated institution's option, the portion relating to pension assets deducted under paragraph (a)(5) of this section); and

(D) Subtract any net unrealized gains and add any net unrealized losses on held-to-maturity securities that are included in AOCI.

(ii) A Board-regulated institution that is not a Category I Board-regulated institution, a Category II Board-regulated institution, or a Board-regulated institution that uses expanded

total risk-weighted assets for purposes of § 217.10(a)(5) must make its AOCI opt-out election in the Call Report, for a state member bank, or FR Y–9C, for a bank holding company or savings and loan holding company, during the first reporting period after the Board-regulated institution is required to comply with subpart A of this part. If the Board-regulated institution was previously a Category I Board-regulated institution, a Category II Board-regulated institution, or a Board-regulated institution that uses expanded total risk-weighted assets for purposes of § 217.10(a)(5), the Board-regulated institution may not make an AOCI opt-out election under this paragraph (b)(2)(ii).

* * * * *

(c) * * *

(2) *Corresponding deduction approach.* For purposes of subpart C of this part, the corresponding deduction approach is the methodology used for the deductions from regulatory capital related to reciprocal cross holdings (as described in paragraph (c)(3) of this section), investments in the capital of unconsolidated financial institutions for a Board-regulated institution that is not a Category I Board-regulated institution, a Category II Board-regulated institution, or a Board-regulated institution that uses expanded total risk-weighted assets for purposes of § 217.10(a)(5) (as described in paragraph (c)(4) of this section), non-significant investments in the capital of unconsolidated financial institutions for a Category I Board-regulated institution, a Category II Board-regulated institution, or a Board-regulated institution that uses expanded total risk-weighted assets for purposes of § 217.10(a)(5) (as described in paragraph (c)(5) of this section), and non-common stock significant investments in the capital of unconsolidated financial institutions for a Category I Board-regulated institution, a Category II Board-regulated institution, or a Board-regulated institution that uses expanded total risk-weighted assets for purposes of § 217.10(a)(5) (as described in paragraph (c)(6) of this section). Under the corresponding deduction approach, a Board-regulated institution must make deductions from the component of capital for which the underlying instrument would qualify if it were issued by the Board-regulated institution itself, as described in paragraphs (c)(2)(i) through (iii) of this section. If the Board-regulated institution does not have a sufficient amount of a specific component of capital to effect the required deduction,

the shortfall must be deducted according to paragraph (f) of this section.

* * * * *

(5) * * *

(i) A Category I Board-regulated institution, a Category II Board-regulated institution, or a Board-regulated institution that uses expanded total risk-weighted assets for purposes of § 217.10(a)(5) must deduct its non-significant investments in the capital of unconsolidated financial institutions (as defined in § 217.2) that, in the aggregate and together with any investment in a covered debt instrument (as defined in § 217.2) issued by a financial institution in which the Board-regulated institution does not have a significant investment in the capital of the unconsolidated financial institution (as defined in § 217.2), exceeds 10 percent of the sum of the Board-regulated institution's common equity tier 1 capital elements minus all deductions from and adjustments to common equity tier 1 capital elements required under paragraphs (a) through (c)(3) of this section (the 10 percent threshold for non-significant investments) by applying the corresponding deduction approach in paragraph (c)(2) of this section.²⁶ The deductions described in this paragraph are net of associated DTLs in accordance with paragraph (e) of this section. In addition, with the prior written approval of the Board, a Category I Board-regulated institution, a Category II Board-regulated institution, or a Board-regulated institution that uses expanded total risk-weighted assets for purposes of § 217.10(a)(5) that underwrites a failed underwriting, for the period of time stipulated by the Board, is not required to deduct from capital a non-significant investment in the capital of an unconsolidated financial institution or an investment in a covered debt instrument pursuant to this paragraph (c)(5) to the extent the investment is related to the failed underwriting.²⁷ For any calculation under this paragraph (c)(5)(i), a Category I Board-regulated institution, a Category II Board-regulated institution, or a Board-regulated institution that uses expanded total risk-weighted assets for purposes of § 217.10(a)(5) may exclude the amount of an investment in a covered debt instrument under paragraph (c)(5)(iii) or (iv) of this section, as applicable.

(ii) For a Category I Board-regulated institution, a Category II Board-regulated institution, or a Board-regulated institution that uses expanded total risk-weighted assets for purposes of § 217.10(a)(5), the amount to be

deducted under this paragraph (c)(5) from a specific capital component is equal to:

(A) The Board-regulated institution's aggregate non-significant investments in the capital of an unconsolidated financial institution and, if applicable, any investments in a covered debt instrument subject to deduction under this paragraph (c)(5), exceeding the 10 percent threshold for non-significant investments, multiplied by

(B) The ratio of the Board-regulated institution's aggregate non-significant investments in the capital of an unconsolidated financial institution (in the form of such capital component) to the Board-regulated institution's total non-significant investments in unconsolidated financial institutions, with an investment in a covered debt instrument being treated as tier 2 capital for this purpose.

(iii) For purposes of applying the deduction under paragraph (c)(5)(i) of this section, a Category II Board-regulated institution or a Board-regulated institution that uses expanded total risk-weighted assets for purposes of § 217.10(a)(5) may exclude from the deduction the amount of the Board-regulated institution's gross long position, in accordance with § 217.22(h)(2), in investments in covered debt instruments issued by financial institutions in which the Board-regulated institution does not have a significant investment in the capital of the unconsolidated financial institutions up to an amount equal to 5 percent of the sum of the Board-regulated institution's common equity tier 1 capital elements minus all deductions from and adjustments to common equity tier 1 capital elements required under paragraphs (a) through (c)(3) of this section, net of associated DTLs in accordance with paragraph (e) of this section.

(iv) Prior to applying the deduction under paragraph (c)(5)(i) of this section:

(A) A Category I Board-regulated institution may designate any investment in a covered debt instrument as an excluded covered debt instrument, as defined in § 217.2.

(B) A Category I Board-regulated institution must deduct, according to the corresponding deduction approach in paragraph (c)(2) of this section, its gross long position, calculated in accordance with paragraph (h)(2) of this section, in a covered debt instrument that was originally designated as an excluded covered debt instrument, in accordance with paragraph (c)(5)(iv)(A) of this section, but no longer qualifies as an excluded covered debt instrument.

(C) A Category I Board-regulated institution must deduct according to the corresponding deduction approach in paragraph (c)(2) of this section the amount of its gross long position, calculated in accordance with paragraph (h)(2) of this section, in a direct or indirect investment in a covered debt instrument that was originally designated as an excluded covered debt instrument, in accordance with paragraph (c)(5)(iv)(A) of this section, and has been held for more than thirty business days.

(D) A Category I Board-regulated institution must deduct according to the corresponding deduction approach in paragraph (c)(2) of this section its gross long position, calculated in accordance with paragraph (h)(2) of this section, of its aggregate position in excluded covered debt instruments that exceeds 5 percent of the sum of the Board-regulated institution's common equity tier 1 capital elements minus all deductions from and adjustments to common equity tier 1 capital elements required under paragraphs (a) through (c)(3) of this section, net of associated DTLs in accordance with paragraph (e) of this section.

(6) *Significant investments in the capital of unconsolidated financial institutions that are not in the form of common stock.* If a Category I Board-regulated institution, a Category II Board-regulated institution, or a Board-regulated institution that uses expanded total risk-weighted assets for purposes of § 217.10(a)(5) has a significant investment in the capital of an unconsolidated financial institution, the Board-regulated institution must deduct from capital any such investment issued by the unconsolidated financial institution that is held by the Board-regulated institution other than an investment in the form of common stock, as well as any investment in a covered debt instrument issued by the unconsolidated financial institution, by applying the corresponding deduction approach in paragraph (c)(2) of this section.²⁸ The deductions described in this section are net of associated DTLs in accordance with paragraph (e) of this section. In addition, with the prior written approval of the Board, for the period of time stipulated by the Board, a Category I Board-regulated institution, a Category II Board-regulated institution, or a Board-regulated institution that uses expanded total risk-weighted assets for purposes of § 217.10(a)(5) that underwrites a failed underwriting is not required to deduct the significant investment in the capital of an unconsolidated financial institution or an investment in a

covered debt instrument pursuant to this paragraph (c)(6) if such investment is related to such failed underwriting.

* * * * *

(d) * * *

(2) A Category I Board-regulated institution, a Category II Board-regulated institution, or a Board-regulated institution that uses expanded total risk-weighted assets for purposes of § 217.10(a)(5) must make deductions from regulatory capital as described in this paragraph (d)(2).

(i) A Category I Board-regulated institution, a Category II Board-regulated institution, or a Board-regulated institution that uses expanded total risk-weighted assets for purposes of § 217.10(a)(5) must deduct from common equity tier 1 capital elements the amount of each of the items set forth in this paragraph (d)(2) that, individually, exceeds 10 percent of the sum of the Board-regulated institution's common equity tier 1 capital elements, less adjustments to and deductions from common equity tier 1 capital required under paragraphs (a) through (c) of this section (the 10 percent common equity tier 1 capital deduction threshold).

(A) DTAs arising from temporary differences that the Board-regulated institution could not realize through net operating loss carrybacks, net of any related valuation allowances and net of DTLs, in accordance with paragraph (e) of this section. A Category I Board-regulated institution, a Category II Board-regulated institution, or a Board-regulated institution that uses expanded total risk-weighted assets for purposes of § 217.10(a)(5) is not required to deduct from the sum of its common equity tier 1 capital elements DTAs (net of any related valuation allowances and net of DTLs, in accordance with § 217.22(e)) arising from timing differences that the Board-regulated institution could realize through net operating loss carrybacks. The Board-regulated institution must risk weight these assets at 100 percent. For a state member bank that is a member of a consolidated group for tax purposes, the amount of DTAs that could be realized through net operating loss carrybacks may not exceed the amount that the state member bank could reasonably expect to have refunded by its parent holding company.

(B) Significant investments in the capital of unconsolidated financial institutions in the form of common stock, net of associated DTLs in accordance with paragraph (e) of this section.³⁰ Significant investments in the capital of unconsolidated financial institutions in the form of common

stock subject to the 10 percent common equity tier 1 capital deduction threshold may be reduced by any goodwill embedded in the valuation of such investments deducted by the Board-regulated institution pursuant to paragraph (a)(1) of this section. In addition, with the prior written approval of the Board, for the period of time stipulated by the Board, a Category I Board-regulated institution, a Category II Board-regulated institution, or a Board-regulated institution that uses expanded total risk-weighted assets for purposes of § 217.10(a)(5) that underwrites a failed underwriting is not required to deduct a significant investment in the capital of an unconsolidated financial institution in the form of common stock pursuant to this paragraph (d)(2) if such investment is related to such failed underwriting.

(ii) A Category I Board-regulated institution, a Category II Board-regulated institution, or a Board-regulated institution that uses expanded total risk-weighted assets for purposes of § 217.10(a)(5) must deduct from common equity tier 1 capital elements the items listed in paragraph (d)(2)(i) of this section that are not deducted as a result of the application of the 10 percent common equity tier 1 capital deduction threshold, and that, in aggregate, exceed 17.65 percent of the sum of the Board-regulated institution's common equity tier 1 capital elements, minus adjustments to and deductions from common equity tier 1 capital required under paragraphs (a) through (c) of this section, minus the items listed in paragraph (d)(2)(i) of this section (the 15 percent common equity tier 1 capital deduction threshold). Any goodwill that has been deducted under paragraph (a)(1) of this section can be excluded from the significant investments in the capital of unconsolidated financial institutions in the form of common stock.³¹

(iii) For purposes of calculating the amount of DTAs subject to the 10 and 15 percent common equity tier 1 capital deduction thresholds, a Category I Board-regulated institution, a Category II Board-regulated institution, or a Board-regulated institution that uses expanded total risk-weighted assets for purposes of § 217.10(a)(5) may exclude DTAs and DTLs relating to adjustments made to common equity tier 1 capital under paragraph (b) of this section. A Category I Board-regulated institution, a Category II Board-regulated institution, or a Board-regulated institution that uses expanded total risk-weighted assets for purposes of § 217.10(a)(5) that elects to exclude DTAs relating to adjustments under paragraph (b) of this section also

must exclude DTLs and must do so consistently in all future calculations. A Category I Board-regulated institution, a Category II Board-regulated institution, or a Board-regulated institution that uses expanded total risk-weighted assets for purposes of § 217.10(a)(5) may change its exclusion preference only after obtaining the prior approval of the Board.

* * * * *

²⁶ With the prior written approval of the Board, for the period of time stipulated by the Board, a Category I Board-regulated institution, a Category II Board-regulated institution, or a Board-regulated institution that uses expanded total risk-weighted assets for purposes of § 217.10(a)(5) is not required to deduct a non-significant investment in the capital of an unconsolidated financial institution or an investment in a covered debt instrument pursuant to this paragraph if the financial institution is in distress and if such investment is made for the purpose of providing financial support to the financial institution, as determined by the Board.

²⁷ Any non-significant investment in the capital of an unconsolidated financial institution or any investment in a covered debt instrument that is not required to be deducted under this paragraph (c)(5) or otherwise under this section must be assigned the appropriate risk weight under subparts E or F of this part, as applicable.

²⁸ With prior written approval of the Board, for the period of time stipulated by the Board, a Category I Board-regulated institution, a Category II Board-regulated institution, or a Board-regulated institution that uses expanded total risk-weighted assets for purposes of § 217.10(a)(5) is not required to deduct a significant investment in the capital of an unconsolidated financial institution, including an investment in a covered debt instrument, under this paragraph (c)(6) or otherwise under this section if such investment is made for the purpose of providing financial support to the financial institution as determined by the Board.

* * * * *

³⁰ With the prior written approval of the Board, for the period of time stipulated by the Board, a Category I Board-regulated institution, a Category II Board-regulated institution, or a Board-regulated institution that uses expanded total risk-weighted assets for purposes of § 217.10(a)(5) is not required to deduct a significant investment in the capital instrument of an unconsolidated financial institution in distress in the form of common stock pursuant to this section if such investment is made for the purpose of providing financial support to the financial institution as determined by the Board.

³¹ The amount of the items in paragraph (d)(2) of this section that is not deducted from common equity tier 1 capital pursuant to this section must be included in the risk-weighted assets of the Category I Board-regulated institution, a Category II Board-regulated institution, or a Board-regulated institution that uses expanded total risk-weighted assets for purposes of § 217.10(a)(5)

and assigned the appropriate risk weight for the investment under subpart E of this part for purposes of expanded total risk-weighted assets.

Subpart D—Risk-Weighted Assets—Standardized Approach

§ 217.30 [Amended]

■ 49. In § 217.30

■ a. Revise paragraph (a);

■ b. In paragraph (b), remove the words “covered positions” and add in their place the words “market risk covered positions”.

The revisions read as follows:

* * * * *

(a) This subpart sets forth methodologies for determining standardized total risk-weighted assets. This subpart applies to any Board-regulated institution that elects to use this subpart under § _____.10(b).

* * * * *

§ 217.34 Derivative Contracts.

■ 50. In § 217.34, revise paragraph (a) to read as follows:

* * * * *

(a) *Exposure amount for derivatives contracts*—(1) A Board-regulated institution must use the current exposure methodology (CEM) described in paragraph (b) of this section to calculate the exposure amount for all its OTC derivative contracts, unless the Board-regulated institution makes the election provided in paragraph (a)(2) of this section.

(2) A Board-regulated institution may elect to calculate the exposure amount for all its OTC derivative contracts under the standardized approach for counterparty credit risk (SA-CCR) in § 217.114 by notifying the Board, rather than calculating the exposure amount for all its derivative contracts using CEM. A Board-regulated institution that elects under this paragraph (a)(2) to calculate the exposure amount for its OTC derivative contracts under SA-CCR must apply the treatment of cleared transactions under § 217.116 to its derivative contracts that are cleared transactions and to all default fund contributions associated with such derivative contracts, rather than applying § 217.35. A Board-regulated institution must use the same methodology to calculate the exposure amount for all its derivative contracts and, if a Board-regulated institution has elected to use SA-CCR under this paragraph (a)(2), the Board-regulated institution may change its election only with prior approval of the Board.

* * * * *

§ 217.35 Cleared transactions.

■ 51. In § 217.35, revise paragraph (a)(3) to read as follows:

(a) * * *

(3) *Alternate requirements.*

Notwithstanding any other provision of this section, a Board-regulated institution that has elected to use SA-CCR under § 217.34(a) must apply § 217.116 to its derivative contracts that are cleared transactions rather than this section.

* * * * *

■ 52. In § 217.37, revise paragraph (c)(1) to read as follows:

§ 217.37 Collateralized transactions.

* * * * *

(c) *Collateral haircut approach*—(1) *General.* A Board-regulated institution may recognize the credit risk mitigation benefits of financial collateral that secures an eligible margin loan, repo-style transaction, collateralized derivative contract, or single-product netting set of such transactions, and of any collateral that secures a repo-style transaction that is included in the Board-regulated institution’s measure for market risk under subpart F of this part by using the collateral haircut approach in this section. A Board-regulated institution may use the standard supervisory haircuts in paragraph (c)(3) of this section or, with prior written approval of the Board, its own estimates of haircuts according to paragraph (c)(4) of this section.

* * * * *

§ 217.61217.37 Collateralized transactions.

* * * * *

(c) *Collateral haircut approach*—(1) *General.* A Board-regulated institution may recognize the credit risk mitigation benefits of financial collateral that secures an eligible margin loan, repo-style transaction, collateralized derivative contract, or single-product netting set of such transactions, and of any collateral that secures a repo-style transaction that is included in the Board-regulated institution’s measure for market risk under subpart F of this part by using the collateral haircut approach in this section. A Board-regulated institution may use the standard supervisory haircuts in paragraph (c)(3) of this section or, with prior written approval of the Board, its own estimates of haircuts according to paragraph (c)(4) of this section.

* * * * *

§ 217.61 [Amended]

■ 53. In § 217.61:

■ a. Remove the citation “§ 217.172” wherever it appears, and add in its place

the citations “§§ 217.160 and 217.161”; and

■ b. Remove the sentence “An advanced approaches Board-regulated institution that has not received approval from the

Board to exit parallel run pursuant to § 217.121(d) is subject to the disclosure requirements described in §§ 217.62 and 217.63.”.

■ 54. In § 217.63:

■ a. In table 3, revise entry (c); and

■ b. Remove paragraphs (d) and (e).

The revision reads as follows:

§ 217.63 Disclosures by Board-regulated institutions described in § 217.61.

* * * * *

TABLE 3 TO § 217.63—CAPITAL ADEQUACY

*	*	*	*	*	*
		(c)	Market risk-weighted assets as calculated under subpart F of this part 217.		
*	*	*	*	*	*

* * * * *

Subpart E—Risk-Weighted Assets—Expanded Risk-Based Approach

§ 217.141 Simple risk-weight approach (SRWA).

■ 55. In § 217.141, revise paragraph (b)(3)(i) to read as follows:

(b) * * *

(3) * * *

(i) Community development equity exposures.

(A) For state member banks and bank holding companies, an equity exposure that qualifies as a community development investment under 12 U.S.C. 24 (Eleventh), excluding equity exposures to an unconsolidated small business investment company and equity exposures held through a consolidated small business investment company described in section 302 of the Small Business Investment Act of 1958 (15 U.S.C. 682).

(B) For savings and loan holding companies, an equity exposure that is

designed primarily to promote community welfare, including the welfare of low- and moderate-income communities or families, such as by providing services or employment, and excluding equity exposures to an unconsolidated small business investment company and equity exposures held through a small business investment company described in section 302 of the Small Business Investment Act of 1958 (15 U.S.C. 682).

* * * * *

Subpart G—Transition Provisions

■ 56. In § 217.300:

■ a. Revise paragraph (a);

■ b. Remove and reserve paragraphs (f) through (i).

The revision and addition read as follows:

§ 217.300 Transitions.

(a) *Transition adjustments for AOCI.* Beginning [January 1, 2027], a Board-regulated institution that uses expanded

total risk-weighted assets for purposes of § 217.10(a)(5) that had made an AOCI opt-out election under § 217.22(b)(2) effective [December 31, 2026] must subtract from the sum of its common equity tier 1 elements, before making deductions required under § 217.22(c) or (d), the AOCI adjustment amount multiplied by the percentage provided in Table 1 to § 217.300.

The transition AOCI adjustment amount is the sum of:

(1) Net unrealized gains or losses on available-for-sale debt securities, plus

(2) Accumulated net gains or losses on cash flow hedges, plus

(3) Any amounts recorded in AOCI attributed to defined benefit postretirement plans resulting from the initial and subsequent application of the relevant GAAP standards that pertain to such plans, plus

(4) Net unrealized holding gains or losses on held-to-maturity securities that are included in AOCI.

TABLE 1 TO § 217.300

Transition AOCI Adjustment	
Transition period	Percentage applicable to transition AOCI adjustment amount
January 1, 2027 to December 31, 2027	100
January 1, 2028 to December 31, 2028	80
January 1, 2029 to December 31, 2029	60
January 1, 2030 to December 31, 2030	40
January 1, 2031 to December 31, 2031	20
January 1, 2032 and thereafter	0

* * * * *

§ 217.301 [Removed and Reserved]

■ 57. Remove and reserve § 217.301.

* * * * *

§ 217.303 [Removed and Reserved]

■ 58. Remove and reserve § 217.303.

§ 217.304 [Removed and Reserved]

■ 59. Remove and reserve § 217.304.

§§ 217.1, 217.2, 217.10, 217.12, 217.22, 217.35, 217.61, 217.300, 217.302, 217.305, Appendix A to Part 217 [Amended]

■ 60. In the table below, for each section indicated in the left column, remove the

words indicated in the middle column from wherever it appears in the section, and add the words indicated in the right column:

Sections:	Remove the following words:	Add the following words:
217.1 217.2 217.12(a)(2) introductory text 217.22(b)(1)(ii), (b)(1)(iii), (c)(1), (c)(2)(ii)(D), (c)(3)(ii), footnote [24] of (c)(4), (c)(5)(iii), (d)(1), and (f); 217.61 217.300(c) 217.1(c)(5)(iii) 217.2 217.22(b)(1)(ii), (b)(1)(iii), (c)(1), (c)(2)(ii)(D), (c)(3)(ii), (c)(5)(iii), (d)(1), and (f); and 217.1 217.10(d); 217.22(g); 217.302; and 217.305 217.22(b)(1)(ii) and (b)(1)(iii) 217.2, in the definition of “qualifying central counterparty (QCCP)” 217.35(a)(3) Part 217 Appendix A Part 217 Appendix A, paragraph 1.(a) ...	“an advanced approaches Board-regu- lated institution” “advanced approaches Board-regulated institution” “advanced approaches total risk- weighted assets” “an advanced approaches Board-regu- lated institution” “§ 217.133” “advanced approaches institutions” “advanced approaches banking organi- zations” “(FDIC)”	“a Category I Board-regulated institution, a Category II Board-regulated institution, or a Board-regulated institu- tion that uses expanded total risk-weighted assets for purposes of § 217.10(a)(5).” “Category I Board-regulated institution, a Category II Board-regulated institution, or a Board-regulated institu- tion that uses expanded total risk-weighted assets for purposes of § 217.10(a)(5).” “expanded total risk-weighted assets” “a Category I Board-regulated institution, a Category II Board-regulated institution, or a Board-regulated institu- tion that uses expanded total risk-weighted assets for purposes of § 217.10(a)(5).” “§ 217.114” “Category I–II institutions and institutions the elect to use the expanded risk-based approach” “Category I–II banking organizations and institutions that elect to use the expanded risk-based approach” “(FDIC, and together with the Board and OCC, the agen- cies)”

■ 61. In Appendix A to part 217, revise footnotes 2 and 4 to read as follows:

Appendix A to Part 217—The Federal Reserve Board’s Framework for Implementing the Countercyclical Capital Buffer

* * * * *

² 12 CFR 217.11(b). The CCyB applies only to Category I–III banking organizations. See, e.g., 12 CFR 217.100(b).

* * * * *

⁴ The CcyB was subject to a phase-in arrangement between 2016 and 2019.

* * * * *

■ 62. Redesignate the footnotes in part 217, as follows:

Section	Current footnote number	New footnote number
217.2—“Cleared transaction”	3	1
217.2—“Collateral agreement”	4	2
217.2—“Eligible margin loan”	5	3
217.2—“Eligible margin loan”	6	4
217.2—“Qualifying master netting agreement”	7	5
217.2—“Repo-style transaction”	8	6
217.2—“Statutory multifamily mortgage”	9	7
217.20(b)(3)	11	1
217.20(c)(1)(v)(C)	12	2
217.20(c)(1)(xiii)	13	3
217.20(c)(3)(i)	14	4
217.20(c)(3)(i)	15	5
217.20(c)(3)(ii)	16	6
217.20(d)(1)(iv)	16	7
217.20(d)(1)(v)(C)	17	8
217.20(d)(1)(ix)	18	9
217.20(d)(4)(i)	19	10
217.20(d)(4)(i)	20	11
217.20(d)(4)(ii)	21	12
217.22(b)(2)(iv)(A)	22	1
217.22(c) paragraph heading	23	2
217.22(c)(4)	24	3
217.22(c)(4)	25	4
217.22(c)(5)(i)	26	5
217.22(c)(5)(i)	27	6
217.22(c)(6)	28	7
217.22(d)(1)(i)	29	8
217.22(d)(2)(i)(C)	30	9

Section	Current footnote number	New footnote number
217.22(d)(2)(ii)	31	10

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (REGULATION Y)

■ 63. The authority citation for part 225 continues to read as follows:

Authority: 12 U.S.C. 1817(j)(13), 1818, 1828(o), 1831i, 1831p–1, 1843(c)(8), 1844(b), 1972(1), 3106, 3108, 3310, 3331–3351, 3906, 3907, and 3909; 15 U.S.C. 1681s, 1681w, 6801, and 6805.

Subpart A—General Provisions

■ 64. In § 225.8:

■ a. Remove paragraph (d)(1);
■ b. Redesignate paragraphs (d)(2) through (21) as (d)(1) through (20), respectively;

■ c. Revise newly redesignated paragraphs (d)(9) and (16); and

■ d. Revise paragraph (f)(2).

The revisions and addition read as follows:

§ 225.8 Capital planning and stress capital buffer requirement.

* * * * *

(d) * * *

(9) *Effective capital distribution limitations* means any limitations on capital distributions established by the Board by order or regulation, including pursuant to 12 CFR 217.11, 225.4, 252.63, 252.165, and 263.202.

* * * * *

(16) *Regulatory capital ratio* means a capital ratio for which the Board has established minimum requirements for the bank holding company by regulation or order, including, as applicable, any regulatory capital ratios calculated under 12 CFR part 217 and the deductions required under 12 CFR 248.12.

* * * * *

(f) * * *

(2) *Stress capital buffer requirement calculation.* A bank holding company's stress capital buffer requirement is equal to the greater of:

(i) The following calculation:

(A) The bank holding company's common equity tier 1 capital ratio as of the last day of the previous capital plan cycle, unless otherwise determined by the Board; minus

(B) The bank holding company's lowest projected common equity tier 1 capital ratio in any quarter of the planning horizon under a supervisory stress test; plus

(C) The ratio of:

(1) The sum of the bank holding company's planned common stock

dividends (expressed as a dollar amount) for each of the fourth through seventh quarters of the planning horizon; to

(2) The risk-weighted assets of the bank holding company in the quarter in which the bank holding company had its lowest projected common equity tier 1 capital ratio in any quarter of the planning horizon under a supervisory stress test; and

(ii) 2.5 percent.

* * * * *

PART 238—SAVINGS AND LOAN HOLDING COMPANIES (REGULATION LL)

■ 65. The authority citation for part 238 continues to read as follows:

Authority: 5 U.S.C. 552, 559; 12 U.S.C. 1462, 1462a, 1463, 1464, 1467, 1467a, 1468, 5365; 1813, 1817, 1829e, 1831i, 1972; 15 U.S.C. 78l.

Subpart O—Supervisory Stress Test Requirements for Covered Savings and Loan Holding Companies

■ 66. In § 238.130:

■ a. Remove the definition of

“Advanced approaches”; and

■ b. Revise the definition of “Regulatory capital ratio”.

The revision reads as follows:

§ 238.130 Definitions.

* * * * *

Regulatory capital ratio means a capital ratio for which the Board has established minimum requirements for the company by regulation or order, including, as applicable, any regulatory capital ratios calculated under 12 CFR part 217 and the deductions required under 12 CFR 248.12.

* * * * *

Subpart P—Company-Run Stress Test Requirements for Savings and Loan Holding Companies

■ 67. In § 238.141:

■ a. Remove the definition of

“Advanced approaches”; and

■ b. Revise the definition of “Regulatory capital ratio”.

The revision reads as follows:

§ 238.141 Definitions.

* * * * *

Regulatory capital ratio means a capital ratio for which the Board has established minimum requirements for the company by regulation or order,

including, as applicable, any regulatory capital ratios calculated under 12 CFR part 217 and the deductions required under 12 CFR 248.12.

* * * * *

Subpart Q—Single Counterparty Credit Limits for Covered Savings and Loan Holding Companies

■ 68. In § 238.151:

■ a. Remove the words “in table 1 to § 217.132 of this chapter” wherever they appear and add in their place the words “in table 1 to § 217.37 of this chapter or in table 1 to § 217.121 of this chapter, as applicable”;

■ b. Remove the words “(12 CFR part 217, subpart D)” in paragraph (e)(4) and add in their place the words “(12 CFR part 217, subpart D or E, as applicable)”; and

■ c. Revise paragraph (q).

The revisions read as follows:

§ 238.151 Definitions.

* * * * *

(q) *Exempt counterparty* means an entity that is identified as exempt from the requirements of this subpart under § 252.77, or that is otherwise excluded from this subpart, including any sovereign entity assigned a zero percent risk weight under the standardized approach or the expanded risk-based approach in the Board's Regulation Q, as applicable (12 CFR part 217, subpart D or E, as applicable).

* * * * *

§ 238.153 [Amended]

■ 69. In § 238.153, remove the words “any of the methods that the covered company is authorized to use under 12 CFR part 217, subparts D and E” wherever they appear and add in their place the words “any of the methods that the covered company is authorized to use under 12 CFR part 217, subparts D or E, as applicable”.

§ 238.154 [Amended]

■ 70. Remove the words “the currency mismatch adjustment approach of § 217.37(c)(3)(ii) of the Board's Regulation Q (12 CFR 217.37(c)(3)(ii))” in paragraph (h)(1) and add in their place “the currency mismatch adjustment approach of § 217.37(c)(3)(ii) or § 217.115(c)(2), as applicable, of the Board's Regulation Q (12 CFR 217.37(c)(3)(ii) or 217.115(c)(2), as applicable)”.

Subpart S—Capital Planning and Stress Capital Buffer Requirement

- 71. In § 238.170:
 - a. Remove paragraph (d)(1);
 - b. Redesignate paragraphs (d)(2) through (18) as (d)(1) through (17), respectively;
 - c. Revise newly redesignated paragraphs (d)(9) and (14); and
 - d. Revise paragraph (f)(2).

The revisions and addition read as follows:

§ 238.170 Capital planning and stress capital buffer requirement.

* * * * *

(d) * * *

(9) *Effective capital distribution limitations* means any limitations on capital distributions established by the Board by order or regulation, including pursuant to 12 CFR 217.11.

* * * * *

(14) *Regulatory capital ratio* means a capital ratio for which the Board has established minimum requirements for the covered savings and loan holding company by regulation or order, including, as applicable, any regulatory capital ratios calculated under 12 CFR part 217 and the deductions required under 12 CFR 248.12.

* * * * *

(f) * * *

(2) *Stress capital buffer requirement calculation.* A covered savings and loan holding company's stress capital buffer requirement is equal to the greater of:

(i) The following calculation:

(A) The covered savings and loan holding company's common equity tier 1 capital ratio as of the last day of the previous capital plan cycle, unless otherwise determined by the Board; minus

(B) The covered savings and loan holding company's lowest projected common equity tier 1 capital ratio in any quarter of the planning horizon under a supervisory stress test; plus

(C) The ratio of:

(1) The sum of the covered savings and loan holding company's planned common stock dividends (expressed as a dollar amount) for each of the fourth through seventh quarters of the planning horizon; to

(2) The risk-weighted assets of the covered savings and loan holding company in the quarter in which the covered savings and loan holding company had its lowest projected common equity tier 1 capital ratio in any quarter of the planning horizon under a supervisory stress test; and

(ii) 2.5 percent.

* * * * *

PART 252—ENHANCED PRUDENTIAL STANDARDS (REGULATION YY)

- 72. The authority citation for part 252 continues to read as follows:

Authority: 12 U.S.C. 321–338a, 481–486, 1467a, 1818, 1828, 1831n, 1831o, 1831p–1, 1831w, 1835, 1844(b), 1844(c), 3101 *et seq.*, 3101 note, 3904, 3906–3909, 4808, 5361, 5362, 5365, 5366, 5367, 5368, 5371.

Subpart B—Company-Run Stress Test Requirements for State Member Banks With Total Consolidated Assets Over \$250 Billion

- 73. In § 252.12:

- a. Remove the definition of “Advanced approaches”; and

- b. Revise the definition of “Regulatory capital ratio”.

The revision reads as follows:

§ 252.12 Definitions.

* * * * *

Regulatory capital ratio means a capital ratio for which the Board has established minimum requirements for the state member bank by regulation or order, including, as applicable, any regulatory capital ratios calculated under 12 CFR part 217 and the deductions required under 12 CFR 248.12.

* * * * *

Subpart E—Supervisory Stress Test Requirements for Certain U.S. Banking Organizations With \$100 Billion or More in Total Consolidated Assets and Nonbank Financial Companies Supervised by the Board

- 74. In § 252.42:

- a. Remove the definition of “Advanced approaches”; and

- b. Revise the definition of “Regulatory capital ratio”.

The revision reads as follows:

§ 252.42 Definitions.

* * * * *

Regulatory capital ratio means a capital ratio for which the Board has established minimum requirements for the company by regulation or order, including, as applicable, any regulatory capital ratios calculated under 12 CFR part 217 and the deductions required under 12 CFR 248.12.

* * * * *

Subpart F—Company-Run Stress Test Requirements for Certain U.S. Bank Holding Companies and Nonbank Financial Companies Supervised by the Board

- 75. In § 252.52:

- a. Remove the definition of “Advanced approaches”; and

- b. Revise the definition of “Regulatory capital ratio”.

The revision reads as follows:

§ 252.52 Definitions.

* * * * *

Regulatory capital ratio means a capital ratio for which the Board has established minimum requirements for the company by regulation or order, including, as applicable, any regulatory capital ratios calculated under 12 CFR part 217 and the deductions required under 12 CFR 248.12.

* * * * *

Subpart G—External Long-Term Debt Requirement, External Total Loss-Absorbing Capacity Requirement and Buffer, and Restrictions on Corporate Practices for U.S. Global Systemically Important Banking Organizations

- 76. In § 252.61:

- a. Revise the definition of “Common equity tier 1 capital ratio”;

- b. Revision the definition of “Supplementary leverage ratio”;

- c. Revise the definition of “Total leverage exposure”; and

- d. Revise the definition of “Total risk-weighted assets”.

The revisions read as follows:

§ 252.61 Definitions.

* * * * *

Common equity tier 1 capital ratio has the same meaning as in 12 CFR 217.10(b)(1) and 12 CFR 217.10(d)(1).

* * * * *

Supplementary leverage ratio has the same meaning as in 12 CFR 217.10(c)(1).

* * * * *

Total leverage exposure has the same meaning as in 12 CFR 217.10(c)(2).

Total risk-weighted assets means standardized total risk-weighted assets or expanded total risk-weighted assets, as applicable under part 217 of this chapter.

* * * * *

Subpart H—Single-Counterparty Credit Limits

- 77. In § 252.71:

- a. Remove the words “in Table 1 to § 217.132 of the Board's Regulation Q (12 CFR 217.132)” wherever they appear and add in their place the words “in Table 1 to § 217.121 of the Board's Regulation Q (12 CFR 217.121)”;

- b. Remove the words “(12 CFR part 217, subpart D)” in paragraph (e)(4) and add in their place the words “(12 CFR part 217, subpart D or E, as applicable)”;

- and
- c. Revise paragraph (q).

The revisions read as follows:

§ 252.71 Definitions.

* * * * *

(q) *Exempt counterparty* means an entity that is identified as exempt from the requirements of this subpart under § 252.77, or that is otherwise excluded from this subpart, including any sovereign entity assigned a zero percent risk weight under the standardized approach or the expanded risk-based approach in the Board's Regulation Q, as applicable (12 CFR part 217, subpart D or E, as applicable).

* * * * *

§ 252.73 [Amended]

■ 78. In § 252.73, remove the words “any of the methods that the covered company is authorized to use under the Board's Regulation Q (12 CFR part 217, subparts D and E)” wherever they appear and add, in their place, the words “any of the methods that the covered company is authorized to use under the Board's Regulation Q (12 CFR part 217, subparts D or E, as applicable)”.

§ 272.74 [Amended]

■ 79. In § 252.74, remove the words “the currency mismatch adjustment approach of § 217.37(c)(3)(ii) of the Board's Regulation Q (12 CFR 217.37(c)(3)(ii))” in paragraph (h)(1) and add in their place “the currency mismatch adjustment approach of § 217.37(c)(3)(ii) or § 217.115(c)(2), as applicable, of the Board's Regulation Q (12 CFR 217.37(c)(3)(ii) or 217.115(c)(2), as applicable)”.

Subpart N—Enhanced Prudential Standards for Foreign Banking Organizations With Total Consolidated Assets of \$100 Billion or More and Combined U.S. Assets of Less Than \$100 Billion

■ 80. In § 252.147, revise paragraph (e)(1)(i) to read as follows:

§ 252.147 U.S. intermediate holding company requirement for foreign banking organizations with combined U.S. assets of less than \$100 billion and U.S. non-branch assets of \$50 billion or more.

* * * * *

(e) * * *

(1) * * *

(i) A U.S. intermediate holding company must comply with 12 CFR part 217 in the same manner as a bank holding company.

* * * * *

Subpart O—Enhanced Prudential Standards for Foreign Banking Organizations With Total Consolidated Assets of \$100 Billion or More and Combined U.S. Assets of \$100 Billion or More

■ 81. In § 252.153, revise paragraph (e)(1)(i) to read as follows:

§ 252.153 U.S. intermediate holding company requirement for foreign banking organizations with combined U.S. assets of \$100 billion or more and U.S. non-branch assets of \$50 billion or more.

* * * * *

(e) * * *

(1) * * *

(i) A U.S. intermediate holding company must comply with 12 CFR part 217 in the same manner as a bank holding company.

* * * * *

Subpart P—Covered IHC Long-Term Debt Requirement, Covered IHC Total Loss Absorbing Capacity Requirement and Buffer, and Restrictions on Corporate Practices for Intermediate Holding Companies of Global Systemically Important Foreign Banking Organizations

■ 82. In § 252.161:

■ a. Revise the definition of “Common equity tier 1 capital ratio”;

■ b. Remove the definition of “Standardized total risk-weighted assets”;

■ c. Revise the definition of “Supplementary leverage ratio”;

■ d. Revise the definition of “Total leverage exposure”; and

■ e. Revise the definition of “Total risk-weighted assets”.

The revisions read as follows:

§ 252.161 Definitions.

* * * * *

Common equity tier 1 capital ratio has the same meaning as in 12 CFR 217.10(b)(1) and 12 CFR 217.10(d)(1).

* * * * *

Supplementary leverage ratio has the same meaning as in 12 CFR 217.10(c)(1).

* * * * *

Total leverage exposure has the same meaning as in 12 CFR 217.10(c)(2).

Total risk-weighted assets means standardized total risk-weighted assets or expanded total risk-weighted assets, as applicable under part 217 of this chapter.

* * * * *

Subpart Q—Single Counterparty Credit Limits

■ 83. In § 252.171:

■ a. Remove the words “in Table 1 to § 217.132 of the Board's Regulation Q

(12 CFR 217.132)” wherever they appear and add in their place the words “in Table 1 to § 217.121 of the Board's Regulation Q (12 CFR 217.121)”;

■ b. Remove the words “(12 CFR part 217, subpart D)” in paragraph (f)(4) and add in their place the words “(12 CFR part 217, subpart D or E, as applicable)”;

and

■ c. Revise paragraph (r).

The revisions read as follows:

§ 252.171 Definitions.

* * * * *

(r) *Exempt counterparty* means an entity that is identified as exempt from the requirements of this subpart under § 252.177, or that is otherwise excluded from this subpart, including any sovereign entity assigned a zero percent risk weight under the standardized approach or the expanded risk-based approach in the Board's Regulation Q, as applicable (12 CFR part 217, subpart D or E, as applicable).

* * * * *

§ 252.173 [Amended]

■ 84. In § 252.173, remove the words “any of the methods that the covered company is authorized to use under the Board's Regulation Q (12 CFR part 217, subparts D and E)” wherever they appear and add, in their place, the words “any of the methods that the covered company is authorized to use under the Board's Regulation Q (12 CFR part 217, subparts D or E, as applicable)”.

§ 252.174 [Amended]

■ 85. In § 252.174, remove the words “the currency mismatch adjustment approach of § 217.37(c)(3)(ii) of the Board's Regulation Q (12 CFR 217.37(c)(3)(ii))” in paragraph (h)(1) and add in their place “the currency mismatch adjustment approach of § 217.37(c)(3)(ii) or § 217.115(c)(2), as applicable, of the Board's Regulation Q (12 CFR 217.37(c)(3)(ii) or 217.115(c)(2), as applicable)”.

Federal Deposit Insurance Corporation
12 CFR Chapter III

Authority and Issuance

For the reasons stated in the common preamble, the Federal Deposit Insurance Corporation proposes to amend 12 CFR part 324 as follows:

PART 324—CAPITAL ADEQUACY OF FDIC—SUPERVISED INSTITUTIONS

■ 86. The authority citation for part 324 continues to read as follows:

Authority: 12 U.S.C. 1815(a), 1815(b), 1816, 1818(a), 1818(b), 1818(c), 1818(t), 1819(Tenth), 1828(c), 1828(d), 1828(i),

1828(n), 1828(o), 1831o, 1835, 3907, 3909, 4808; 5371; 5412; Public Law 102–233, 105 Stat. 1761, 1789, 1790 (12 U.S.C. 1831n note); Public Law 102–242, 105 Stat. 2236, 2355, as amended by Public Law 103–325, 108 Stat. 2160, 2233 (12 U.S.C. 1828 note); Public Law 102–242, 105 Stat. 2236, 2386, as amended by Public Law 102–550, 106 Stat. 3672, 4089 (12 U.S.C. 1828 note); Public Law 111–203, 124 Stat. 1376, 1887 (15 U.S.C. 78o–7 note), Public Law 115–174; section 4014 § 201, Public Law 116–136, 134 Stat. 281 (15 U.S.C. 9052).

■ 87. Revise subpart E and subpart F of part 324 as set forth at the end of the common preamble.

■ 88. For purposes of part 324, subpart E and subpart F of the common rule are amended as follows:

■ a. Remove “[AGENCY]” and add “FDIC” in its place wherever it appears;

■ b. Remove “[BANKING ORGANIZATION]” and add “FDIC-supervised institution” in its place wherever it appears;

■ c. Remove “[BANKING ORGANIZATIONS]” and add “FDIC-supervised institutions” in its place wherever it appears;

■ d. Remove “[REAL ESTATE LENDING GUIDELINES]” and add “12 CFR part 365, Subpart A, Appendix A” in its place wherever it appears;

■ e. Remove “[APPRAISAL RULE]” and add “12 CFR part 323, Subpart A” in its place wherever it appears;

■ f. Remove “____.” and add “324.” in its place wherever it appears;

■ g. Remove “[REGULATORY REPORT]” and add “Call Report” in its place wherever it appears.

Subpart A—General Provisions

■ 89. In § 324.1:

■ a. Revise paragraph (c)(3);

■ b. Revise paragraph (e);

■ c. Revise paragraph (f); and

■ d. Add paragraph (g).

The additions and revisions read as follows:

§ 324.1 Purpose, applicability, reservations of authority, and timing.

* * * * *

(c) * * *

(3) *Risk-weighted assets.* Each FDIC-supervised institution must calculate either standardized total risk-weighted assets or expanded total risk-weighted assets, as necessary to satisfy the requirements of § 324.10(b) or (d), as applicable.

* * * * *

(e) *Notice and response procedures.* In making a determination under this part, unless more specifically provided for, the FDIC will apply notice and response procedures in the same manner and to the same extent as the

notice and response procedures in 12 CFR 324.7(c).

* * * * *

(f) *Transitions and timing*—(1) Transitions. Notwithstanding any other provision of this part, an FDIC-supervised institution must make any adjustments provided in subpart G of this part for purposes of implementing this part.

(2) *Timing.* An FDIC-supervised institution that changes from one category to another category, or that changes from having no category to having a category, must comply with the requirements of its category in this part, including applicable transition provisions of the requirements in this part, no later than on the first day of the second quarter following the change in the FDIC-supervised institution’s category.

* * * * *

(g) *Severability.* If any provision of this part, or the application thereof to any person or circumstances, is held invalid, such invalidity shall not affect the validity of other provisions or the application of such provision to other persons or circumstances that can be given effect without the invalid provision or application.

* * * * *

■ 90. Amend § 324.2 as follows:

■ a. Redesignate footnotes 3 through 9 as footnotes 1 through 7, respectively;

■ b. Revise the definition of “Adjusted allowances for credit losses (AACL)”;

■ c. Remove the definitions for “Advanced approaches FDIC-supervised institution”, “Advanced approaches total risk-weighted assets”, and “Advanced market risk-weighted assets”;

■ d. Remove the definition of “Allowances for loan and lease losses (ALLL)”;

■ e. Remove the definition for “Bank”;

■ f. Revise the definition for “Carrying value”;

■ g. Add, in alphabetical order, the definition for “Category I FDIC-supervised institution”;

■ h. Revise the definitions for “Category II FDIC-supervised institution” and “Category III FDIC-supervised institution”;

■ i. Add the definition for “Category IV FDIC-supervised institution” in alphabetical order;

■ j. Revise newly redesignated footnote 1 to paragraph (2) of the definition for “Cleared transaction”;

■ k. Revise the definition for “Commitment”;

■ l. Revise the definition for “Corporate exposure”;

■ m. Remove the definition for “Credit-risk-weighted assets”;

■ n. Add the definition for “CVA risk-weighted assets” in alphabetical order;

■ o. Add the definition of “Dependent on the cash flows generated by the real estate” in alphabetical order;

■ p. Revise the definitions for “Effective notional amount” and “Eligible clean-up call”;

■ q. Remove the definition for “Eligible credit reserves”;

■ r. Revise the definition for “Eligible guarantee”;

■ s. Add the definitions for “Eligible prepaid credit protection arrangement”, “ERBA FDIC-supervised institution”, and “Expanded total risk-weighted assets” in alphabetical order;

■ t. Remove the definition for “Expected credit loss (ECL)”;

■ u. Revise the definitions for “Exposure amount”, “FDIC-supervised institution”, paragraphs (4)(i)(A) and (5)(i) of “Financial institution”, and “Market risk FDIC-supervised institution”;

■ v. Add the definition for “Market risk-weighted assets” in alphabetical order;

■ w. Revise the definitions for “Net independent collateral amount” and “Netting set”;

■ x. Add, in alphabetical order, the definitions for “Non-performing loan securitization (NPL securitization)” and “Nonrefundable purchase price discount (NRPPD)”;

■ y. Revise the definition for “Protection amount (P)”;

■ z. Add the definition for “Prepaid credit protection arrangement” and “Qualifying cross-product master netting agreement” in alphabetical order;

■ aa. In the definition for “Residential mortgage exposure”;

■ i. Remove paragraph (2);

■ ii. Redesignate paragraphs (1)(i) and (ii) as paragraphs (1) and (2), respectively; and

■ iii. In newly redesignated paragraph (2), remove the words “family; and” and add, in their place, the word “family.”;

■ bb. Remove the definition for “Securitization special purpose entity (securitization SPE)”;

■ cc. Remove the definition for “Specific wrong-way risk”;

■ dd. Add the definition of “Specified supranational entity” in alphabetical order;

■ ee. Revise the definitions for “Speculative grade”, “Standardized market risk-weighted assets”, “Standardized total risk-weighted assets”, and “Sub-speculative grade”;

■ ff. Add, in alphabetical order, the definition for “Synthetic excess spread”;

■ gg. Revise the definition of “Synthetic securitization”;

- hh. Add the definition for “Total credit risk-weighted assets” in alphabetical order;
- ii. Revise the definition for “Traditional securitization”;
- jj. Remove the definition for “Value-at-Risk (VaR)”;
- kk. Revise the definition for “Variation margin amount”; and
- ll. Remove the definition of “Unconditionally cancelable”.

The additions and revisions read as follows:

§ 324.2 Definitions

* * * * *

Adjusted allowances for credit losses (AACL) means valuation allowances that have been established through a charge against earnings or retained earnings for expected credit losses on financial assets measured at amortized cost and a lessor’s net investment in leases that have been established to reduce the amortized cost basis of the assets to amounts expected to be collected as determined in accordance with GAAP. For purposes of this part, adjusted allowances for credit losses include allowances for expected credit losses on off-balance sheet credit exposures not accounted for as insurance as determined in accordance with GAAP. Adjusted allowances for credit losses exclude allocated transfer risk reserves and allowances created that reflect credit losses on purchased credit deteriorated assets, purchased seasoned loans, assets required to record an allowance for credit losses through a gross-up adjustment to the purchase price of the asset, and available-for-sale debt securities.

* * * * *

Carrying value means, with respect to an asset, the value of the asset on the balance sheet of the FDIC-supervised institution as determined in accordance with GAAP. For all assets other than available-for-sale debt securities, purchased credit deteriorated assets, purchased seasoned loans, or assets required to record an allowance for credit losses through a gross-up adjustment to the purchase price of the asset, the carrying value is not reduced by any associated credit loss allowance that is determined in accordance with GAAP.

Category I FDIC-supervised institution means an FDIC-supervised institution that is a subsidiary of a global systemically important BHC, as defined pursuant to 12 CFR 252.5.

Category II FDIC-supervised institution means an FDIC-supervised institution that is not a subsidiary of a global systemically important BHC, as

defined pursuant to 12 CFR 252.5, and that:

- (1) Is a subsidiary of a Category II banking organization, as defined pursuant to 12 CFR 252.5 or 12 CFR 238.10, as applicable; or
- (2)(i) 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 \$700 billion or more. 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; or
- (ii)(A) 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, of \$100 billion or more but less than \$700 billion. If the FDIC-supervised institution has not filed the Call Report for each of the four most recent quarters, total consolidated assets is based on its total consolidated assets, as reported on the Call Report, for the most recent quarter or average of the most recent quarters, as applicable; and
- (B) Has 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.

(3) After meeting the criteria in paragraph (2) of this definition, an FDIC supervised-institution continues to be a Category II FDIC-supervised institution until the FDIC-supervised institution has:

- (i) Less than \$700 billion in total consolidated assets, as reported on the Call Report, for each of the four most recent calendar quarters; and
- (ii) (A) 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) Less than \$100 billion in total consolidated assets, as reported on the Call Report, for each of the four most recent calendar quarters.

Category III FDIC-supervised institution means an FDIC-supervised

institution that is not a Category II FDIC-supervised institution and that:

- (1) Is a subsidiary of a Category III banking organization, as defined pursuant to 12 CFR 252.5 or 12 CFR 238.10, as applicable; or
- (2)(i) 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 \$250 billion or more. 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 average of the most recent quarters, as applicable; or
- (ii)(A) 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, of \$100 billion or more but less than \$250 billion. 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 average of the most recent quarters, as applicable; and
- (B) Has at least one of the following in paragraphs (2)(ii)(B)(1) through (3) of this definition, each calculated as the average of the four most recent calendar quarters, or if the FDIC-supervised institution has not filed each applicable reporting form for each of the four most recent calendar quarters, for the most recent quarter or quarters, as applicable:
 - (1) Total nonbank assets, calculated in accordance with the instructions to the FR Y–9LP or equivalent reporting form, equal to \$75 billion or more;
 - (2) Off-balance sheet exposure equal to \$75 billion or more. Off-balance sheet exposure is the FDIC-supervised institution’s total exposure, calculated in accordance with the instructions to the FR Y–15 or equivalent reporting form, minus the FDIC-supervised institution’s total consolidated assets, as reported on the Call Report; or
 - (3) 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 paragraph (2)(ii) of this definition, an FDIC-supervised institution continues to be a Category III FDIC-supervised institution until the FDIC-supervised institution:
 - (A) Has:

(1) Less than \$250 billion in total consolidated assets, as reported on the Call Report, for each of the four most recent calendar quarters;

(2) 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) 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; and

(4) Less than \$75 billion in off-balance sheet exposure for each of the four most recent calendar quarters. Off-balance sheet exposure is an FDIC-supervised institution's total exposure, calculated in accordance with the instructions to the FR Y-15 or equivalent reporting form, minus the total consolidated assets of the FDIC-supervised institution, as reported on the Call Report; 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 Category II FDIC-supervised institution.

Category IV FDIC-supervised institution means an FDIC-supervised institution that is not a Category II FDIC-supervised institution or a Category III FDIC-supervised institution, and that:

(1) Is a subsidiary of a Category IV banking organization, as defined pursuant to 12 CFR 252.5 or 12 CFR 238.10, as applicable; or

(2) 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, of \$100 billion or more. 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 the average of its total consolidated assets, as reported on the Call Report, for the most recent quarter(s) available.

(3) After meeting the criterion in paragraph (2) of this definition, an FDIC-supervised institution continues to be a Category IV FDIC-supervised institution until it:

(i) 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

(ii) Is a Category II FDIC-supervised institution or Category III FDIC-supervised institution.

* * * * *

Cleared transaction * * *

(2) * * * 1

¹ For the standardized approach treatment of these exposures, see § 324.34(e) (OTC derivative contracts) or § 324.37(c) (repo-style transactions). For the expanded risk-based approach treatment of these exposures, see § 324.113.

* * * * *

Commitment means a contractual arrangement, under which an FDIC-supervised institution and an obligor agree to terms applicable to one or more future extensions of credit, purchases of assets, or issuances of credit substitutes by the FDIC-supervised institution, whether or not such arrangement is unconditionally cancelable. A commitment is unconditionally cancelable if, by its terms, it either: (a) provides that an FDIC-supervised institution is not obligated to extend credit, purchase assets, or issue credit substitutes; or (b) permits a FDIC-supervised institution, at any time, with or without cause, to refuse to extend credit, purchase assets, or issue credit substitutes under the arrangement (to the extent permitted under applicable law).

* * * * *

Corporate exposure means an exposure to a company that is not:

(1) An exposure to a sovereign, a specified supranational entity, a multilateral development bank (MDB), a depository institution, a foreign bank, or a credit union, a public sector entity (PSE);

(2) An exposure to a government-sponsored enterprise (GSE);

(3) For purposes of subpart D of this part, a residential mortgage exposure;

(4) A pre-sold construction loan;

(5) A statutory multifamily mortgage;

(6) A high volatility commercial real estate (HVCRE) exposure;

(7) A cleared transaction;

(8) A default fund contribution;

(9) A securitization exposure;

(10) An equity exposure;

(11) An unsettled transaction;

(12) A policy loan;

(13) A separate account;

(14) A Paycheck Protection Program covered loan as defined in section 7(a)(36) or (37) of the Small Business Act (15 U.S.C. 636(a)(36)–(37));

(15) For purposes of subpart E of this part, a real estate exposure, as defined in § 324.101; or

(16) For purposes of subpart E of this part, a retail exposure as defined in § 324.101.

* * * * *

CVA risk-weighted assets means the measure for CVA risk calculated under § 324.221(a) multiplied by 12.5.

* * * * *

Dependent on the cash flows

generated by the real estate means, for a real estate exposure, the underwriting, at the time of origination, includes the cash flows generated by lease, rental, or sale of the real estate securing the loan as a source of repayment. For purposes of this definition, a residential mortgage exposure that is secured by the borrower's principal residence is deemed not dependent on the cash flows generated by the real estate.

* * * * *

Effective notional amount means for an eligible guarantee, eligible credit derivative, or eligible prepaid credit protection arrangement, the lesser of the contractual notional amount of the credit risk mitigant and the exposure amount of the hedged exposure, multiplied by the percentage coverage of the credit risk mitigant.

* * * * *

Eligible clean-up call means a clean-up call that:

(1) Is exercisable solely at the discretion of the originating FDIC-supervised institution or servicer;

(2) Is not structured to avoid allocating losses to securitization exposures held by investors or otherwise structured to provide credit enhancement to the securitization; and

(3) Is only exercisable:

(i) For a traditional securitization, when 10 percent or less of the principal amount of the underlying exposures or securitization exposures (determined as of the inception of the securitization) is outstanding;

(ii) For a synthetic securitization, when 10 percent or less of the principal amount of the reference portfolio of underlying exposures (determined as of the inception of the securitization) is outstanding;

(iii) Upon the occurrence of a regulatory event that significantly changes the risk-weighted asset amount for the securitization exposure under this part; or

(iv) Upon the occurrence of a tax event that significantly changes the tax treatment of the securitization exposure under applicable tax laws.

* * * * *

Eligible guarantee means a guarantee that:

(1) Is written;

(2) Is either:

(i) Unconditional, or

(ii) A contingent obligation of the U.S. government or its agencies, the enforceability of which is dependent upon some affirmative action on the part of the beneficiary of the guarantee or a third party (for example, meeting servicing requirements);

(3) Covers all or a pro rata portion of all contractual payments of the obligated party on the reference exposure;

(4) Gives the beneficiary a direct claim against the protection provider;

(5) Is not unilaterally cancelable by the protection provider for reasons other than the breach of the contract by the beneficiary;

(6) Except for a guarantee by a sovereign, is legally enforceable against the protection provider in a jurisdiction where the protection provider has sufficient assets against which a judgment may be attached and enforced;

(7) Requires the protection provider to make payment to the beneficiary on the occurrence of a default (as defined in the guarantee) of the obligated party on the reference exposure in a timely manner without the beneficiary first having to take legal actions to pursue the obligor for payment;

(8) Does not increase the beneficiary's cost of credit protection on the guarantee in response to deterioration in the credit quality of the reference exposure;

(9) Is not provided by an affiliate of the FDIC-supervised institution, unless the affiliate is an insured depository institution, foreign bank, securities broker or dealer, or insurance company that:

(i) Does not control the FDIC-supervised institution; and

(ii) Is subject to consolidated supervision and regulation comparable to that imposed on depository institutions, U.S. securities broker-dealers, or U.S. insurance companies (as the case may be); and

(10) Is provided by an eligible guarantor.

* * * * *

Eligible prepaid credit protection arrangement means a prepaid credit protection arrangement that:

(1) Is written;

(2) Is unconditional;

(3) Covers all or a pro rata portion of all contractual payments due to be paid on the reference exposure or reference exposures;

(4) Provides that the amount and timing of payments due from the protection purchaser to the protection provider are incorporated into the arrangement and the arrangement only allows these terms to change in the event of a breach of the arrangement by the protection purchaser;

(5) Provides that entry of the protection provider into receivership, insolvency, liquidation, conservatorship, or similar proceeding does not change the amounts or timing

of payments due to be paid by the protection purchaser under the arrangement;

(6) Is legally valid and enforceable under applicable law of the relevant jurisdictions;

(7) Upon a failure by the obligor on the one or more reference exposures to make a contractually required payment, or the occurrence of other credit events as described in the arrangement, allows the protection purchaser promptly to reduce the outstanding balance of the initial principal amount due to the protection provider by the loss of the protection purchaser on the reference exposures without input from the protection provider; and

(8) Does not increase the protection purchaser's cost of credit protection in response to deterioration in the credit quality of any of the reference exposures.

* * * * *

ERBA FDIC-supervised institution means an FDIC-supervised institution that is described in § 324.100(b).

* * * * *

Expanded total risk-weighted assets means the sum of:

(1) Total credit risk-weighted assets;

(2) Total risk-weighted assets for equity exposures as calculated under §§ 324.141 and 324.142;

(3) Risk-weighted assets for operational risk as calculated under § 324.150;

(4) Market risk-weighted assets, if applicable; and

(5) CVA risk-weighted assets, if applicable; minus

(6) Any amount of the FDIC-supervised institution's adjusted allowance for credit losses that is not included in tier 2 capital and any amount of allocated transfer risk reserves.

* * * * *

Exposure amount means:

(1) For the on-balance sheet component of an exposure (other than an available-for-sale or held-to-maturity security, if the FDIC-supervised institution has made an AOCI opt-out election (as defined in § 324.22(b)(2)); a derivative contract; a repo-style transaction or an eligible margin loan for which the FDIC-supervised institution determines the exposure amount under § 324.37, §§ 324.113 through 324.115, or § 324.121, as applicable; a cleared transaction; a default fund contribution; or a securitization exposure), the FDIC-supervised institution's carrying value of the exposure.

(2) For a security (that is not a securitization exposure, equity

exposure, or preferred stock classified as an equity security under GAAP) classified as available-for-sale or held-to-maturity if the FDIC-supervised institution has made an AOCI opt-out election (as defined in § 324.22(b)(2)), the FDIC-supervised institution's carrying value (including net accrued but unpaid interest and fees) for the exposure less any net unrealized gains on the exposure and plus any net unrealized losses on the exposure.

(3) For available-for-sale preferred stock classified as an equity security under GAAP if the FDIC-supervised institution has made an AOCI opt-out election (as defined in § 324.22(b)(2)), the FDIC-supervised institution's carrying value of the exposure less any net unrealized gains on the exposure that are reflected in such carrying value but excluded from the FDIC-supervised institution's regulatory capital components.

(4) For the off-balance sheet component of an exposure (other than a derivative contract; a repo-style transaction or an eligible margin loan for which the FDIC-supervised institution calculates the exposure amount under § 324.37 or § 324.121, as applicable; a cleared transaction; a default fund contribution; or a securitization exposure), the notional amount of the off-balance sheet component multiplied by the appropriate credit conversion factor (CCF) in § 324.33 or § 324.112, as applicable.

(5) For an exposure that is a derivative contract (other than a cleared transaction), the exposure amount determined under § 324.34 or §§ 324.113 through 324.114, as applicable.

(6) For an exposure that is a cleared transaction, the exposure amount determined under § 324.35 or § 324.116, as applicable.

(7) For an exposure that is an eligible margin loan or repo-style transaction (other than a cleared transaction) for which the FDIC-supervised institution calculates the exposure amount as provided in § 324.37 or §§ 324.113 through 324.115, as applicable, the exposure amount determined under § 324.37 or § 324.113 through 324.115, as applicable.

(8) For an exposure that is a securitization exposure, the exposure amount determined under § 324.42 or § 324.131, as applicable.

* * * * *

FDIC-supervised institution means an FDIC-insured, state-chartered commercial or savings bank that is not a member of the Federal Reserve System

and for which the FDIC is the appropriate Federal banking agency pursuant to section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)), or a state savings association.

* * * * *

Financial institution * * *

(4) * * *

(i) * * *

(A) An investment in GAAP equity instruments of the company with an adjusted carrying value or exposure amount equal to or greater than \$10 million, as adjusted pursuant to § 217.4; or

* * * * *

(5) * * *

(i) 85 percent or more of the total consolidated annual gross revenues (as determined in accordance with applicable accounting standards) of the company in either of the two most recent calendar years were derived, directly or indirectly, by the company on a consolidated basis from the activities; or

* * * * *

Market risk FDIC-supervised institution means an FDIC-supervised institution that is described in § 324.201(b)(1).

Market risk-weighted assets means the measure for market risk calculated pursuant to § 324.204(a) multiplied by 12.5.

* * * * *

Net independent collateral amount means the fair value amount of the independent collateral, as adjusted by the haircuts under § 324.121(c)(2)(iii), as applicable, that a counterparty to a netting set has posted to an FDIC-supervised institution less the fair value amount of the independent collateral, as adjusted by the haircuts under § 324.121(c)(2)(iii), as applicable, posted by the FDIC-supervised institution to the counterparty, excluding such amounts held in a bankruptcy-remote manner or posted to a QCCP and held in conformance with the operational requirements in § 324.3.

Netting set means a group of transactions with a single counterparty that are subject to a qualifying master netting agreement. For derivative contracts, netting set also includes a single derivative contract between an FDIC-supervised institution and a single counterparty.

* * * * *

Non-performing loan securitization (NPL securitization) means a traditional securitization, that is not a resecutization, where parameter W (as defined in § 324.133(b)(1)) for the underlying exposures is greater than or equal to 90 percent at the origination

cut-off date and at any subsequent date on which exposures are added to or removed from the pool of underlying exposures due to replenishment or restructuring.

Nonrefundable purchase price discount (NRPPD) means the difference between the outstanding principal balance of the underlying exposures at the time of sale and the price at which these exposures are sold by the originator to a company the activities of which are limited to those appropriate for the specific purpose of holding the underlying exposures of a securitization, when neither originator nor the original lender are reimbursed for this difference. In cases where the originator underwrites tranches of an NPL securitization for subsequent sale, the NRPPD may include the differences between the outstanding principal balance of the underlying exposures at the time of sale and the price at which all of the tranches are first sold to unrelated third parties. For any given piece of a securitization tranche, only its initial sale from the originator to investors is taken into account in the determination of NRPPD. The purchase prices of subsequent re-sales of a securitization tranche are not considered.

* * * * *

Prepaid credit protection arrangement means a contractual arrangement under which a protection purchaser transfers the credit risk of one or more reference exposures to a protection provider where:

(1) The protection provider pays an initial principal amount in cash to the protection purchaser at the inception of the transaction; and

(2) The protection purchaser is obligated to repay the initial principal amount to the protection provider on or before the maturity date of the transaction, less any losses that the protection purchaser realizes or otherwise recognizes due to nonpayment of all contractual payments due to be paid on the reference exposure or reference exposures by the obligors.

* * * * *

Protection amount (P) means, with respect to an exposure hedged by an eligible guarantee, eligible credit derivative, or eligible prepaid credit protection arrangement, or secured by financial collateral, the effective notional amount of the guarantee, credit derivative, or prepaid credit protection arrangement, or the fair value of the financial collateral, reduced to reflect any currency mismatch, maturity mismatch, or lack of restructuring

coverage (as provided in § 324.36–324.37 or § 324.120–121, as applicable).

* * * * *

Qualifying cross-product master netting agreement means a qualifying master netting agreement that provides for termination and close-out netting across multiple types of financial transactions or qualifying master netting agreements in the event of a counterparty's default, provided that the underlying financial transactions are derivative contracts or repo-style transactions that are not cleared transactions. In order to treat an agreement as a qualifying cross-product master netting agreement, an FDIC-supervised institution must comply with the requirements of § 324.3(c) of this part with respect to that agreement.

* * * * *

Specified supranational entity means the Bank for International Settlements, the European Central Bank, the European Commission, the International Monetary Fund, the European Stability Mechanism, or the European Financial Stability Facility.

* * * * *

Speculative grade means that the entity to which the FDIC-supervised institution is exposed through a loan or security, or the reference entity with respect to a credit derivative, has adequate capacity to meet financial commitments in the near term, but is vulnerable to adverse economic conditions, such that should economic conditions deteriorate, the issuer or the reference entity would present an elevated default risk.

Standardized market risk-weighted assets means the standardized measure for market risk calculated under § 324.204(b) multiplied by 12.5.

Standardized total risk-weighted assets means:

(1) The sum of:

(i) Total risk-weighted assets for general credit risk as calculated under § 324.31;

(ii) Total risk-weighted assets for cleared transactions and default fund contributions as calculated under § 324.35;

(iii) Total risk-weighted assets for unsettled transactions as calculated under § 324.38;

(iv) Total risk-weighted assets for securitization exposures as calculated under § 324.42;

(v) Total risk-weighted assets for equity exposures as calculated under § 324.52 and § 324.53; and

(vi) For a market risk FDIC-supervised institution only, market risk-weighted assets; less

(2) Any amount of the FDIC-supervised institution's adjusted

allowance for credit losses that is not included in tier 2 capital and any amount of allocated transfer risk reserves.

* * * * *

Sub-speculative grade means that the entity to which the FDIC-supervised institution is exposed through a loan or security, or the reference entity with respect to a credit derivative, depends on favorable economic conditions to meet its financial commitments, such that should such economic conditions deteriorate the issuer or the reference entity likely would default on its financial commitments.

* * * * *

Synthetic securitization means a transaction in which:

(1) All or a portion of the credit risk of one or more underlying exposures is retained or transferred to one or more third parties through the use of one or more credit derivatives, guarantees (other than a guarantee that transfers only the credit risk of an individual retail exposure), or prepaid credit protection arrangements;

(2) The credit risk associated with the underlying exposures has been separated into at least two tranches reflecting different levels of seniority;

(3) Performance of the securitization exposures depends solely upon the performance of the underlying exposures; and

(4) All or substantially all of the underlying exposures are financial exposures (such as loans, commitments, credit derivatives, guarantees, receivables, asset-backed securities, mortgage-backed securities, other debt securities, or equity securities).

* * * * *

Total credit risk-weighted assets means the sum of:

(1) Total risk-weighted assets for general credit risk as calculated under § 324.110;

(2) Total risk-weighted assets for cleared transactions and default fund contributions as calculated under § 324.116;

(3) Total risk-weighted assets for unsettled transactions as calculated under § 324.117; and

(4) Total risk-weighted assets for securitization exposures as calculated under § 324.132.

* * * * *

Traditional securitization means a transaction in which:

(1) All or a portion of the credit or equity risk of one or more underlying exposures is transferred to one or more third parties other than through the use of credit derivatives, guarantees, or prepaid credit protection arrangements;

(2) The credit risk associated with the underlying exposures has been separated into at least two tranches reflecting different levels of seniority;

(3) Performance of the securitization exposures depends solely upon the performance of the underlying exposures;

(4) All or substantially all of the underlying exposures are financial exposures (such as loans, commitments, credit derivatives, guarantees, receivables, asset-backed securities, mortgage-backed securities, other debt securities, or equity securities);

(5) The underlying exposures are not owned by an operating company;

(6) The underlying exposures are not owned by a small business investment company defined in section 302 of the Small Business Investment Act;

(7) The underlying exposures are not owned by a firm an investment in which qualifies as a community development investment under section 24 (Eleventh) of the National Bank Act;

(8) The FDIC may determine that a transaction in which the underlying exposures are owned by an investment firm that exercises substantially unfettered control over the size and composition of its assets, liabilities, and off-balance sheet exposures is not a traditional securitization based on the transaction's leverage, risk profile, or economic substance;

(9) The FDIC may deem a transaction that meets the definition of a traditional securitization, notwithstanding paragraph (5), (6), or (7) of this definition, to be a traditional securitization based on the transaction's leverage, risk profile, or economic substance; and

(10) The transaction is not:

(i) An investment fund;

(ii) A collective investment fund (as defined in 12 CFR 344.3 (state nonmember bank), and 12 CFR 390.203 (state savings association);

(iii) An employee benefit plan (as defined in paragraphs (3) and (32) of section 3 of ERISA), 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;

(iv) A synthetic exposure to the capital of a financial institution to the extent deducted from capital under § 324.22; or

(v) Registered with the SEC under the Investment Company Act of 1940 or foreign equivalents thereof.

* * * * *

Variation margin amount means the fair value amount of the variation margin, as adjusted by the standard supervisory haircuts under § 324.121(c)(2)(iii), as applicable, that a counterparty to a netting set has posted to an FDIC-supervised institution less the fair value amount of the variation margin, as adjusted by the standard supervisory haircuts under § 324.121(c)(2)(iii), as applicable, posted by the FDIC-supervised institution to the counterparty.

* * * * *

■ 91. In § 324.3, revise paragraph (c) to read as follows:

§ 324.3 Operational requirements for counterparty credit risk.

* * * * *

(c) *Qualifying cross-product master netting agreement.* In order to recognize an agreement as a qualifying cross-product master netting agreement as defined in § 324.2, an FDIC-supervised institution must obtain a written legal opinion verifying the validity and enforceability of the agreement under applicable law of the relevant jurisdictions if the counterparty fails to perform upon an event of default, including upon receivership, insolvency, liquidation, or similar proceeding

* * * * *

§ 324.4 [Redesignated as § 324.6]

■ 92. Redesignate § 324.4 as § 324.6.

■ a. Redesignate footnote 10 as footnote 1.

■ b. Revise newly redesignated footnote 1.

The revision reads as follows:

§ 324.6 Inadequate capital as an unsafe or unsound practice or condition.

* * * * *

¹ The term total assets shall have the same meaning as provided in 12 CFR 324.401(g).

§ 324.5 [Redesignated as § 324.7]

■ 93. Redesignate § 324.5 as § 324.7.

■ a. In paragraph (a), remove the reference "§§ 324.4 and 324.10" and adding in its place the reference "§§ 324.6 and 324.10".

■ 94. Add section § 324.4 to read as follows:

§ 324.4 Threshold Indexing.

(a) *Methodology.* The dollar thresholds specified in paragraph (c) of this section shall be adjusted by multiplying the baseline threshold values specified in paragraph (c) of this section by one plus the cumulative percent change in the non-seasonally adjusted Consumer Price Index for Urban Wage Earners and Clerical Workers, measured from the effective

date of this rule, as further described in paragraph (b) of this section, and shall be rounded in accordance with paragraph (d) of this section.

(b) *Frequency.* (1) *In general—biennial adjustments.* Except as otherwise provided in paragraph (b)(2) and (b)(3) of this section, the adjustments described in paragraph (a) of this section shall be effective on October 1 following each consecutive two year period ending August 30, and using the non-seasonally adjusted Consumer Price Index for Urban Wage Earners and Clerical Workers as of August 30 of that year.

(2) *Off-year adjustments.* In the event that the FDIC determines, during a year where no adjustment would be made under paragraph (b)(1), that the non-seasonally adjusted Consumer Price Index for Urban Wage Earners and Clerical Workers, measured over the twelve month period ending August 30 of that year, is such that an adjustment under this section would be appropriate for that year, the FDIC may make an adjustment under this section for that year.

(3) *Periods of negative inflation.* Notwithstanding paragraph (b)(1) or (b)(2) of this section, if an adjustment of dollar thresholds using the cumulative percent change of the non-seasonally adjusted Consumer Price Index for Urban Wage Earners and Clerical Workers from the effective date of this rule or the most recent adjustment, as applicable, would not result in an increase from the current dollar thresholds, no adjustment will be made pursuant to paragraph (a) of this section.

(c) *Specified thresholds.* The thresholds in the following sections shall be adjusted in accordance with paragraph (a) of this section relative to the baseline threshold values as specified below.

(1) § 324.2, definition of Financial institution, paragraph (4)(i)(A), baseline threshold value \$10 million;

(2) § 324.101, definition of Regulatory retail exposure, paragraph (2), baseline threshold value \$1 million;

(3) § 324.101, definition of Small or medium-sized entity (SME), baseline threshold value \$50 million;

(4) § 324.150(b)(1), baseline threshold value \$1 billion;

(5) § 324.150(b)(2), baseline threshold values \$1 billion, \$30 billion, and \$120 million;

(6) § 324.150(b)(2)(i), baseline threshold value \$1 billion;

(7) § 324.150(b)(3), baseline threshold values \$30 billion and \$4.47 billion

(8) § 324.150(b)(3)(i), baseline threshold value \$30 billion;

(9) § 324.150(d)(2)(i)(A), baseline threshold value \$20,000;

(10) § 324.201(b)(1)(ii)(B), baseline threshold value \$5 billion;

(11) § 324.201(b)(2)(ii), baseline threshold value \$1 trillion;

(12) § 324.202 “Large market cap”, baseline threshold value \$2 billion;

(15) § 324.202, “Market risk covered position” (1)(ii)(D), baseline value \$20 million;

(16) § 324.202, “Small market cap”, baseline threshold value \$2 billion.

(d) *Rounding.* When adjusting thresholds under this section, each threshold shall be rounded based on the size of the threshold (e.g., thousands, millions, billions) to the nearest number with two significant digits.

(e) *Effective date of threshold adjustments.* The FDIC shall announce the thresholds adjusted in accordance with this section by publication in the **Federal Register**. Such adjusted thresholds shall be effective on October 1 of the year during which an adjustment is made.

(f) *Failure to publish in the Federal Register.* In the event, for any reason, the thresholds adjusted in accordance with this section are not published in the **Federal Register** in a year in which an adjustment is made under this section, the thresholds specified in paragraph (c) of this section will adjust as provided in this section and be effective on October 1, notwithstanding the lack of publication in the **Federal Register**.

* * * * *

■ 95. Add § 324.5 “Calculation of loan-to-value (LTV) ratio.”

The addition reads as follows:

§ 324.5 Calculation of loan-to-value (LTV) ratio.

(a) *Loan-to-Value ratio.* The loan-to-value (LTV) ratio must be calculated as the extension of credit divided by the value of the property.

(b) *Extension of credit.* For purposes of a LTV ratio calculated under this section, the extension of credit is equal to the total outstanding amount of the loan including any undrawn committed amount of the loan.

(c) *Value of the property.* (1) For purposes of a LTV ratio calculated under this section, the value of the property is the market value of all real estate properties securing or being improved by the extension of credit plus the amount of any readily marketable collateral and other acceptable collateral, as defined in 12 CFR part 365, subpart A, Appendix A, that secures the extension of credit, subject to the following:

(i) For exposures subject to 12 CFR part 323, subpart A, the market value of property is a valuation that meets all requirements of that rule.

(ii) For exposures not subject to 12 CFR part 323, subpart A:

(A) The market value of real estate must be obtained from an independent valuation of the property using prudently conservative valuation criteria;

(B) The valuation must be done independently from the FDIC-supervised institution’s origination and underwriting process, and

(C) To ensure that the market value of the real estate is determined in a prudently conservative manner, the valuation must exclude expectations of price increases and must be adjusted downward to account for the potential for the current market price to be significantly above the value that would be sustainable over the life of the loan.

(2) In the case where the exposure includes the financing to purchase the property, the value of the property is the lower of the market value obtained under paragraph (c)(1)(i) or (c)(1)(ii) of this section, as applicable, and the actual acquisition cost.

(3) The value of the property must be measured at the time of origination, except in the following circumstances:

(i) The FDIC requires an FDIC-supervised institution to revise the value of the property downward;

(ii) The value of the property must be adjusted downward due to an extraordinary event that results in a permanent reduction of the property value; or

(iii) The value of the property may be increased to reflect modifications made to the property that increase the market value, as determined according to the requirements in paragraphs (c)(1)(i) or (ii) of this section.

(4) Readily marketable collateral and other acceptable collateral, as defined in 12 CFR part 365, subpart A, Appendix A, must be appropriately discounted by the FDIC-supervised institution consistent with the FDIC-supervised institution’s usual practices for making loans secured by such collateral.

Subpart B—Capital Ratio Requirements and Buffers

■ 96. In § 324.10:

■ a. Revise paragraphs (a)(1)(v), (b), (c), (d); and

■ b. Add paragraph (b)(6).

The revisions read as follows:

§ 324.10 Minimum capital requirements.

* * * * *

(a) * * *

(1) * * *

(v) For an Category I FDIC-supervised institution, Category II FDIC-supervised institution, or Category III FDIC-supervised institution, a supplementary leverage ratio of 3 percent.

* * * * *

(b) *Standardized capital ratio calculations.* For an FDIC-supervised institution that is not a Category I FDIC-supervised institution or Category II FDIC-supervised institution:

(1) *Common equity tier 1 capital ratio.* The FDIC-supervised institution's common equity tier 1 capital ratio is the ratio of the FDIC-supervised institution's common equity tier 1 capital to selected total risk-weighted assets;

(2) *Tier 1 capital ratio.* The FDIC-supervised institution's tier 1 capital ratio is the ratio of the FDIC-supervised institution's tier 1 capital to selected total risk-weighted assets;

(3) *Total capital ratio.* The FDIC-supervised institution's total capital ratio is the ratio of the FDIC-supervised institution's total capital to selected total risk-weighted assets; and

(4) *Leverage ratio.* The FDIC-supervised institution's leverage ratio is the ratio of the FDIC-supervised institution's tier 1 capital to the FDIC-supervised institution's average total consolidated assets as reported on the FDIC-supervised institution's Call Report, minus amounts deducted from tier 1 capital under § 324.22(a), (c) and (d).

(5) *State savings association tangible capital ratio.* A state savings association's tangible capital ratio is the ratio of the state savings association's core capital (tier 1 capital) to total assets. For purposes of this paragraph (b)(5), the term total assets shall have the meaning provided in § 324.401(g).

(6) *Selected total risk-weighted assets.* An FDIC-supervised institution's selected total risk-weighted assets is either the FDIC-supervised institution's standardized total risk-weighted assets or expanded total risk-weighted assets, as selected by the FDIC-supervised institution. An FDIC-supervised institution may change its choice for selected total risk-weighted assets by providing the FDIC with prior notice of the change at least four full calendar quarters before the calendar quarter in which the change will take effect.

(c) *Supplementary leverage ratio.* (1) The supplementary leverage ratio of a Category I FDIC-supervised institution, Category II FDIC-supervised institution, or Category III FDIC-supervised institution is the ratio of its tier 1 capital to total leverage exposure. Total

leverage exposure is calculated as the sum of:

(i) The mean of the on-balance sheet assets calculated as of each day of the reporting quarter; and

(ii) The mean of the off-balance sheet exposures calculated as of the last day of each of the most recent three months, minus the applicable deductions under § 324.22(a), (c), and (d).

(2) For purposes of this part, *total leverage exposure* means the sum of the items described in paragraphs (c)(2)(i) through (viii) of this section, as adjusted pursuant to paragraph (c)(2)(ix) of this section for a clearing member FDIC-supervised institution and paragraph (c)(2)(x) of this section for a custody bank:

(i) The balance sheet carrying value of all of the FDIC-supervised institution's on-balance sheet assets, net of adjusted allowances for credit losses, *plus* the value of securities sold under a repurchase transaction or a securities lending transaction that qualifies for sales treatment under GAAP, less amounts deducted from tier 1 capital under § 324.22(a), (c), and (d), less the value of securities received in security-for-security repo-style transactions, where the FDIC-supervised institution acts as a securities lender and includes the securities received in its on-balance sheet assets but has not sold or re-hypothecated the securities received, and, for an FDIC-supervised institution that uses the standardized approach for counterparty credit risk (SA-CCR) under § 324.114 for its standardized total risk-weighted assets or expanded total risk-weighted assets, less the fair value of any derivative contracts;

(ii) (A) For an FDIC-supervised institution that uses the current exposure methodology under § 324.34(b) for its standardized total risk-weighted assets, the potential future credit exposure (PFE) for each derivative contract or each single-product netting set of derivative contracts (including a cleared transaction except as provided in paragraph (c)(2)(ix) of this section and, at the discretion of the FDIC-supervised institution, excluding a forward agreement treated as a derivative contract that is part of a repurchase or reverse repurchase or a securities borrowing or lending transaction that qualifies for sales treatment under GAAP), to which the FDIC-supervised institution is a counterparty as determined under § 324.34, but without regard to § 324.34(c), provided that:

(1) An FDIC-supervised institution may choose to exclude the PFE of all credit derivatives or other similar instruments through which it provides

credit protection when calculating the PFE under § 324.34, but without regard to § 324.34(c), provided that it does not adjust the net-to-gross ratio (NGR); and

(2) An FDIC-supervised institution that chooses to exclude the PFE of credit derivatives or other similar instruments through which it provides credit protection pursuant to paragraph (c)(2)(ii)(A) of this section must do so consistently over time for the calculation of the PFE for all such instruments; or

(B) (1) For an FDIC-supervised institution that uses SA-CCR under § 324.114 for its standardized total risk-weighted assets or expanded total risk-weighted assets, the PFE under SA-CCR each derivative contract or single product netting set of derivative contracts to which the FDIC-supervised institution is a counterparty (including cleared transactions except as provided in paragraph (c)(2)(ix) of this section and, at the discretion of the FDIC-supervised institution, excluding a forward agreement treated as a derivative contract that is part of a repurchase or reverse repurchase or a securities borrowing or lending transaction that qualifies for sales treatment under GAAP), as determined under § 324.114(g), in which the term C in § 324.114(g)(1) equals zero, and, for any counterparty that is not a commercial end-user, multiplied by 1.4. For purposes of this paragraph (c)(2)(ii)(A), an FDIC-supervised institution may set the value of the term C in § 324.114(g)(1) equal to the amount of collateral posted by a clearing member client of the FDIC-supervised institution in connection with the client-facing derivative transactions within the netting set; and

(2) An FDIC-supervised institution may choose to exclude the PFE of all credit derivatives or other similar instruments through which it provides credit protection when calculating the PFE under § 324.114, provided that it does so consistently over time for the calculation of the PFE for all such instruments;

(iii)(A)(1) For an FDIC-supervised institution that uses the current exposure methodology under § 324.34(b) for its standardized total risk-weighted assets, the amount of cash collateral that is received from a counterparty to a derivative contract and that has offset the mark-to-fair value of the derivative asset, or cash collateral that is posted to a counterparty to a derivative contract and that has reduced the FDIC-supervised institution's on-balance sheet assets, unless such cash collateral is all or part of variation margin that satisfies the conditions in

paragraphs (c)(2)(iii)(C) through (G) of this section; and

(2) The variation margin is used to reduce the current credit exposure of the derivative contract, calculated as described in § 324.34(b), and not the PFE; and

(3) For the purpose of the calculation of the NGR described in

§ 324.34(b)(2)(ii)(B), variation margin described in paragraph (c)(2)(iii)(A)(2) of this section may not reduce the net current credit exposure or the gross current credit exposure; or

(B)(1) For an FDIC-supervised institution that uses SA-CCR under § 324.114 for its standardized total risk-weighted assets or expanded total risk-weighted assets, the replacement cost under § 324.114 of each derivative contract or single product netting set of derivative contracts to which the FDIC-supervised institution is a counterparty, calculated according to the following formula, and, for any counterparty that is not a commercial end-user, multiplied by 1.4:

$$\text{Replacement Cost} = \max\{V - \text{CVM}_r + \text{CVM}_p; 0\}$$

Where:

V equals the fair value for each derivative contract or each netting set of derivative contracts (including a cleared transaction except as provided in paragraph (c)(2)(ix) of this section and, at the discretion of the FDIC-supervised institution, excluding a forward agreement treated as a derivative contract that is part of a repurchase or reverse repurchase or a securities borrowing or lending transaction that qualifies for sales treatment under GAAP);

CVM_r equals the amount of cash collateral received from a counterparty to a derivative contract and that satisfies the conditions in paragraphs (c)(2)(iii)(C) through (G) of this section, or, in the case of a client-facing derivative transaction, the amount of collateral received from the clearing member client; and

CVM_p equals the amount of cash collateral that is posted to a counterparty to a derivative contract and that has not offset the fair value of the derivative contract and that satisfies the conditions in paragraphs (c)(2)(iii)(C) through (G) of this section, or, in the case of a client-facing derivative transaction, the amount of collateral posted to the clearing member client;

(2) Notwithstanding paragraph (c)(2)(iii)(A)(1) of this section, where multiple netting sets are subject to a single variation margin agreement, an FDIC-supervised institution must apply the formula for replacement cost provided in § 324.114(j)(1), in which the term CMA may only include cash collateral that satisfies the conditions in paragraphs (c)(2)(iii)(C) through (G) of this section; and

(3) For purposes of paragraph (c)(2)(iii)(A) of this section, an FDIC-supervised institution must treat a derivative contract that references an index as if it were multiple derivative contracts each referencing one component of the index if the FDIC-supervised institution elected to treat the derivative contract as multiple derivative contracts under § 324.114(e)(6);

(C) For derivative contracts that are not cleared through a QCCP, the cash collateral received by the recipient counterparty is not segregated (by law, regulation, or an agreement with the counterparty);

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

(E) The variation margin transferred under the derivative contract or the governing rules of the CCP or QCCP for a cleared transaction is the full amount that is necessary to fully extinguish the net current credit exposure to the counterparty of the derivative contracts, subject to the threshold and minimum transfer amounts applicable to the counterparty under the terms of the derivative contract or the governing rules for a cleared transaction;

(F) The variation margin is in the form of cash in the same currency as the currency of settlement set forth in the derivative contract, provided that for the purposes of this paragraph (c)(2)(iii)(F), currency of settlement means any currency for settlement specified in the governing qualifying master netting agreement and the credit support annex to the qualifying master netting agreement, or in the governing rules for a cleared transaction; and

(G) The derivative contract and the variation margin are governed by a qualifying master netting agreement between the legal entities that are the counterparties to the derivative contract or by the governing rules for a cleared transaction, and the qualifying master netting agreement or the governing rules for a cleared transaction must explicitly stipulate that the counterparties agree to settle any payment obligations on a net basis, taking into account any variation margin received or provided under the contract if a credit event involving either counterparty occurs;

(iv) The effective notional principal amount (that is, the apparent or stated notional principal amount multiplied by any multiplier in the derivative contract) of a credit derivative, or other similar instrument, through which the FDIC-supervised institution provides credit protection, provided that:

(A) The FDIC-supervised institution may reduce the effective notional principal amount of the credit derivative by the amount of any reduction in the mark-to-fair value of the credit derivative if the reduction is recognized in common equity tier 1 capital;

(B) The FDIC-supervised institution may reduce the effective notional principal amount of the credit derivative by the effective notional principal amount of a purchased credit derivative or other similar instrument, provided that the remaining maturity of the purchased credit derivative is equal to or greater than the remaining maturity of the credit derivative through which the FDIC-supervised institution provides credit protection; and that:

(1) With respect to a credit derivative that references a single exposure, the reference exposure of the purchased credit derivative is to the same legal entity and ranks *pari passu* with, or is junior to, the reference exposure of the credit derivative through which the FDIC-supervised institution provides credit protection; or

(2) With respect to a credit derivative that references multiple exposures, the reference exposures of the purchased credit derivative are to the same legal entities and rank *pari passu* with the reference exposures of the credit derivative through which the FDIC-supervised institution provides credit protection, and the level of seniority of the purchased credit derivative ranks *pari passu* to the level of seniority of the credit derivative through which the FDIC-supervised institution provides credit protection;

(3) Where an FDIC-supervised institution has reduced the effective notional principal amount of a credit derivative through which the FDIC-supervised institution provides credit protection in accordance with paragraph (c)(2)(iv)(A) of this section, the FDIC-supervised institution must also reduce the effective notional principal amount of a purchased credit derivative used to offset the credit derivative through which the FDIC-supervised institution provides credit protection, by the amount of any increase in the mark-to-fair value of the purchased credit derivative that is recognized in common equity tier 1 capital; and

(4) Where the FDIC-supervised institution purchases credit protection through a total return swap and records the net payments received on a credit derivative through which the FDIC-supervised institution provides credit protection in net income, but does not record offsetting deterioration in the mark-to-fair value of the credit

derivative through which the FDIC-supervised institution provides credit protection in net income (either through reductions in fair value or by additions to reserves), the FDIC-supervised institution may not use the purchased credit protection to offset the effective notional principal amount of the related credit derivative through which the FDIC-supervised institution provides credit protection;

(v) Where an FDIC-supervised institution acting as a principal has more than one repo-style transaction with the same counterparty and has offset the gross value of receivables due from a counterparty under reverse repurchase transactions by the gross value of payables under repurchase transactions due to the same counterparty, the gross value of receivables associated with the repo-style transactions less any on-balance sheet receivables amount associated with these repo-style transactions included under paragraph (c)(2)(i) of this section, unless the following criteria are met:

(A) The offsetting transactions have the same explicit final settlement date under their governing agreements;

(B) The right to offset the amount owed to the counterparty with the amount owed by the counterparty is legally enforceable in the normal course of business and in the event of receivership, insolvency, liquidation, or similar proceeding; and

(C) Under the governing agreements, the counterparties intend to settle net, settle simultaneously, or settle according to a process that is the functional equivalent of net settlement, (that is, the cash flows of the transactions are equivalent, in effect, to a single net amount on the settlement date), where both transactions are settled through the same settlement system, the settlement arrangements are supported by cash or intraday credit facilities intended to ensure that settlement of both transactions will occur by the end of the business day, and the settlement of the underlying securities does not interfere with the net cash settlement;

(vi) The counterparty credit risk of a repo-style transaction, including where the FDIC-supervised institution acts as an agent for a repo-style transaction and indemnifies the customer with respect to the performance of the customer's counterparty in an amount limited to the difference between the fair value of the security or cash its customer has lent and the fair value of the collateral the borrower has provided, calculated as follows:

(A) If the transaction is not subject to a qualifying master netting agreement, the counterparty credit risk (E^*) for transactions with a counterparty must be calculated on a transaction by transaction basis, such that each transaction i is treated as its own netting set, in accordance with the following formula, where E_i is the fair value of the instruments, gold, or cash that the FDIC-supervised institution has lent, sold subject to repurchase, or provided as collateral to the counterparty, and C_i is the fair value of the instruments, gold, or cash that the FDIC-supervised institution has borrowed, purchased subject to resale, or received as collateral from the counterparty:

$$E_i^* = \max \{0, [E_i - C_i]\}; \text{ and}$$

(B) If the transaction is subject to a qualifying master netting agreement, the counterparty credit risk (E^*) must be calculated as the greater of zero and the total fair value of the instruments, gold, or cash that the FDIC-supervised institution has lent, sold subject to repurchase or provided as collateral to a counterparty for all transactions included in the qualifying master netting agreement ($\sum E_i$), less the total fair value of the instruments, gold, or cash that the FDIC-supervised institution borrowed, purchased subject to resale or received as collateral from the counterparty for those transactions ($\sum C_i$), in accordance with the following formula:

$$E^* = \max \{0, [\sum E_i - \sum C_i]\}$$

(vii) If an FDIC-supervised institution acting as an agent for a repo-style transaction provides a guarantee to a customer of the security or cash its customer has lent or borrowed with respect to the performance of the customer's counterparty and the guarantee is not limited to the difference between the fair value of the security or cash its customer has lent and the fair value of the collateral the borrower has provided, the amount of the guarantee that is greater than the difference between the fair value of the security or cash its customer has lent and the value of the collateral the borrower has provided;

(viii) The credit equivalent amount of all off-balance sheet exposures of the FDIC-supervised institution, excluding repo-style transactions, repurchase or reverse repurchase or securities borrowing or lending transactions that qualify for sales treatment under GAAP, and derivative transactions, determined using:

(A) For an FDIC-supervised institution that elects to calculate its standardized total risk-weighted assets under § 324.10(b), the applicable credit

conversion factor under § 324.33(b), provided, however, that the minimum credit conversion factor that may be assigned to an off-balance sheet exposure under this paragraph is 10 percent; or

(B) For an FDIC-supervised institution that elects to calculate its expanded total risk-weighted assets under § 324.10(b), a Category I FDIC-supervised institution, a Category II FDIC-supervised institution, the applicable credit conversion factor under § 324.112(b), provided, however, that the minimum credit conversion factor that may be assigned to an off-balance sheet exposure under this paragraph is 10 percent; and

(ix) For an FDIC-supervised institution that is a clearing member:

(A) A clearing member FDIC-supervised institution that guarantees the performance of a clearing member client with respect to a cleared transaction must treat its exposure to the clearing member client as a derivative contract or repo-style transaction, as applicable, for purposes of determining its total leverage exposure;

(B) A clearing member FDIC-supervised institution that guarantees the performance of a CCP with respect to a transaction cleared on behalf of a clearing member client must treat its exposure to the CCP as a derivative contract or repo-style transaction, as applicable, for purposes of determining its total leverage exposure;

(C) A clearing member FDIC-supervised institution that does not guarantee the performance of a CCP with respect to a transaction cleared on behalf of a clearing member client may exclude its exposure to the CCP for purposes of determining its total leverage exposure;

(D) An FDIC-supervised institution that is a clearing member may exclude from its total leverage exposure the effective notional principal amount of credit protection sold through a credit derivative contract, or other similar instrument, that it clears on behalf of a clearing member client through a CCP as calculated in accordance with paragraph (c)(2)(iv) of this section;

(E) Notwithstanding paragraphs (c)(2)(ix)(A) through (C) of this section, an FDIC-supervised institution may exclude from its total leverage exposure a clearing member's exposure to a clearing member client for a derivative contract if the clearing member client and the clearing member are affiliates and consolidated for financial reporting purposes on the FDIC-supervised institution's balance sheet; and

(F) Notwithstanding paragraph (c)(2)(ix)(A), an FDIC-supervised institution that has elected under § 324.113(c) to treat any repo-style transactions subject to a qualifying cross-product master netting agreement as derivative contracts must treat any such repo-style transactions as a derivative contract for purposes of this paragraph (c).

(x) A custody bank shall exclude from its total leverage exposure the lesser of:

(A) The amount of funds that the custody bank has on deposit at a qualifying central bank; and

(B) The amount of funds in deposit accounts at the custody bank that are linked to fiduciary or custodial and safekeeping accounts at the custody bank. For purposes of this paragraph (c)(2)(x), a deposit account is linked to a fiduciary or custodial and safekeeping account if the deposit account is provided to a client that maintains a fiduciary or custodial and safekeeping account with the custody bank and the deposit account is used to facilitate the administration of the fiduciary or custodial and safekeeping account.

* * * * *

(d) *Expanded capital ratio calculations.* For a Category I FDIC-supervised institution, a Category II FDIC-supervised institution, or an ERBA FDIC-supervised institution:

(1) *Common equity tier 1 capital ratio.* The FDIC-supervised institution's common equity tier 1 capital ratio is the ratio of the FDIC-supervised institution's common equity tier 1 capital to expanded total risk-weighted assets;

(2) *Tier 1 capital ratio.* The FDIC-supervised institution's tier 1 capital ratio is the ratio of the FDIC-supervised institution's tier 1 capital to expanded total risk-weighted assets;

(3) *Total capital ratio.* The FDIC-supervised institution's total capital ratio is the ratio of the FDIC-supervised institution's total capital to expanded total risk-weighted assets; and

(4) *Leverage ratio.* The FDIC-supervised institution's leverage ratio is the ratio of the FDIC-supervised institution's tier 1 capital to the FDIC-supervised institution's average total consolidated assets as reported on the FDIC-supervised institution's Call Report, minus amounts deducted from tier 1 capital under § 324.22(a), (c) and (d).

(5) *State savings association tangible capital ratio.* A state savings association's tangible capital ratio is the ratio of the state savings association's core capital (tier 1 capital) to total assets. For purposes of this paragraph,

the term total assets shall have the meaning provided in 12 CFR 324.401(g).

* * * * *

■ 97. In § 324.11:

■ a. Revise paragraph (a)(2)(iv);

■ b. In paragraph (b)(1), remove the words “An advanced approaches FDIC-supervised institution or a Category III FDIC-supervised institution” and add in their place the words “A Category I FDIC-supervised institution, a Category II FDIC-supervised institution, or a Category III FDIC-supervised institution”;

■ c. Revise paragraph (b)(1)(iii); and

■ d. In paragraph (b)(2)(ii), redesignate footnote 11 as footnote 1.

The revision reads as follows:

§ 324.11 Capital conservation buffer and countercyclical capital buffer amount

* * * * *

(a) * * *

(2) * * *

(iv) Private sector credit exposure.

Private sector credit exposure means an exposure to a company or an individual that is not an exposure to a sovereign, a specified supranational entity, a MDB, a PSE, or a GSE.

(b) * * *

(1) * * *

(iii) *Weighting.* The weight assigned to a jurisdiction's countercyclical capital buffer amount is calculated by dividing the total risk-weighted assets for the FDIC-supervised institution's private sector credit exposures located in the jurisdiction by the total risk-weighted assets for all of the FDIC-supervised institution's private sector credit exposures. The methodology an FDIC-supervised institution uses for determining risk-weighted assets for purposes of this paragraph (b) must be the methodology that determines its risk-based capital ratios under § 324.10. Notwithstanding the previous sentence, the risk-weighted asset amount for a private sector credit exposure that is a covered position under subpart F of this part is its standardized default risk capital requirement as determined under § 324.210 multiplied by 12.5.

* * * * *

§ 324.12 [Amended]

■ 98. In § 324.12, remove paragraph (a)(4).

Subpart C—Definition of Capital

■ 99. In § 324.20:

■ a. Revise paragraphs (c)(1)(xiv), (d)(1)(xi), and (d)(3); and

■ b. Redesignate footnotes 12 through 23 as footnotes 1 through 12, respectively;

The revisions read as follows:

§ 324.20 Capital components and eligibility criteria for regulatory capital instruments.

* * * * *

(c) * * *

(1) * * *

(xiv) For an ERBA FDIC-supervised institution, the governing agreement, offering circular, or prospectus of an instrument issued after the date upon which the FDIC-supervised institution becomes subject to this part must disclose that the holders of the instrument may be fully subordinated to interests held by the U.S. government in the event that the FDIC-supervised institution enters into a receivership, insolvency, liquidation, or similar proceeding.

* * * * *

(d) * * *

(1) * * *

(xi) For an ERBA FDIC-supervised institution, the governing agreement, offering circular, or prospectus of an instrument issued after the date on which the FDIC-supervised institution becomes subject to this part must disclose that the holders of the instrument may be fully subordinated to interests held by the U.S. government in the event that the FDIC-supervised institution enters into a receivership, insolvency, liquidation, or similar proceeding.

* * * * *

(3) AACL up to 1.25 percent of the FDIC-supervised institution's standardized total risk-weighted assets or total credit risk-weighted assets, as applicable, not including any amount of the AACL (and excluding the case of a market risk FDIC-supervised institution, its market risk weighted assets).

* * * * *

■ 100. In § 324.21:

■ a. Revise paragraph (b).

The revision reads as follows:

§ 324.21 Minority interest.

* * * * *

(b) (1) *Applicability.* For purposes of § 324.20, an ERBA FDIC-supervised institution is subject to the minority interest limitations in this paragraph (b) if:

(i) A consolidated subsidiary of the FDIC-supervised institution has issued regulatory capital that is not owned by the FDIC-supervised institution; and

(ii) For each relevant regulatory capital ratio of the consolidated subsidiary, the ratio exceeds the sum of the subsidiary's minimum regulatory capital requirements plus its capital conservation buffer.

(2) *Difference in capital adequacy standards at the subsidiary level.* For purposes of the minority interest

calculations in this section, if the consolidated subsidiary issuing the capital is not subject to capital adequacy standards similar to those of the ERBA FDIC-supervised institution, the ERBA FDIC-supervised institution must assume that the capital adequacy standards of the FDIC-supervised institution apply to the subsidiary.

(3) *Common equity tier 1 minority interest includable in the common equity tier 1 capital of the FDIC-supervised institution.* For each consolidated subsidiary of an ERBA FDIC-supervised institution, the amount of common equity tier 1 minority interest the FDIC-supervised institution may include in common equity tier 1 capital is equal to:

(i) The common equity tier 1 minority interest of the subsidiary; minus

(ii) The percentage of the subsidiary's common equity tier 1 capital that is not owned by the FDIC-supervised institution, multiplied by the difference between the common equity tier 1 capital of the subsidiary and the lower of:

(A) The amount of common equity tier 1 capital the subsidiary must hold, or would be required to hold pursuant to this paragraph (b), to avoid restrictions on distributions and discretionary bonus payments under § 324.11 or equivalent standards established by the subsidiary's home country supervisor; or

(B) (1) The expanded total risk-weighted assets of the FDIC-supervised institution that relate to the subsidiary multiplied by

(2) The common equity tier 1 capital ratio the subsidiary must maintain to avoid restrictions on distributions and discretionary bonus payments under § 324.11 or equivalent standards established by the subsidiary's home country supervisor.

(4) *Tier 1 minority interest includable in the tier 1 capital of the FDIC-supervised institution.* For each consolidated subsidiary of the ERBA FDIC-supervised institution, the amount of tier 1 minority interest the FDIC-supervised institution may include in tier 1 capital is equal to:

(i) The tier 1 minority interest of the subsidiary; minus

(ii) The percentage of the subsidiary's tier 1 capital that is not owned by the FDIC-supervised institution multiplied by the difference between the tier 1 capital of the subsidiary and the lower of:

(A) The amount of tier 1 capital the subsidiary must hold, or would be required to hold pursuant to this paragraph (b), to avoid restrictions on distributions and discretionary bonus

payments under § 324.11 or equivalent standards established by the subsidiary's home country supervisor, or

(B) (1) The expanded total risk-weighted assets of the FDIC-supervised institution that relate to the subsidiary multiplied by

(2) The tier 1 capital ratio the subsidiary must maintain to avoid restrictions on distributions and discretionary bonus payments under § 324.11 or equivalent standards established by the subsidiary's home country supervisor.

(5) *Total capital minority interest includable in the total capital of the FDIC-supervised institution.* For each consolidated subsidiary of the ERBA FDIC-supervised institution, the amount of total capital minority interest the FDIC-supervised institution may include in total capital is equal to:

(i) The total capital minority interest of the subsidiary; minus

(ii) The percentage of the subsidiary's total capital that is not owned by the FDIC-supervised institution multiplied by the difference between the total capital of the subsidiary and the lower of:

(A) The amount of total capital the subsidiary must hold, or would be required to hold pursuant to this paragraph (b), to avoid restrictions on distributions and discretionary bonus payments under § 324.11 or equivalent standards established by the subsidiary's home country supervisor, or

(B) (1) The expanded total risk-weighted assets of the FDIC-supervised institution that relate to the subsidiary multiplied by

(2) The total capital ratio the subsidiary must maintain to avoid restrictions on distributions and discretionary bonus payments under § 324.11 or equivalent standards established by the subsidiary's home country supervisor.

* * * * *

■ 101. In § 324.22:

■ a. Redesignate footnotes 22 through 31 as footnotes 1 through 10, respectively;

■ b. Revise newly redesignated footnotes 1, 5, 6, 7, 9, and 10;

■ c. Revise paragraph (a)(4);

■ d. Remove and reserve paragraph (a)(6);

■ e. Revise paragraph (b)(1)(ii);

■ f. Revise paragraphs (b)(2)(i), (b)(2)(ii), (b)(2)(iii), and (b)(2)(iv) introductory text, and (c)(2) introductory text; and

■ g. Revise paragraphs (c)(5), (c)(6), (d)(1) introductory text, (d)(2), and (f),

The revisions read as follows:

§ 324.22 Regulatory capital adjustments and deductions

* * * * *

(a) * * *

(4) (i) Any gain-on-sale in connection with a securitization exposure;

(ii) For an ERBA FDIC-supervised institution, the portion of any CEIO that does not constitute an after-tax gain-on-sale;

* * * * *

(b) * * *

(1) * * *

(ii) An ERBA FDIC-supervised institution, and an FDIC-supervised institution that has not made an AOCI opt-out election (as defined in paragraph (b)(2) of this section), must deduct any accumulated net gains and add any accumulated net losses on cash flow hedges included in AOCI that relate to the hedging of items that are not recognized at fair value on the balance sheet.

* * * * *

(2) AOCI opt-out election.

(i) An FDIC-supervised institution that is not an ERBA FDIC-supervised institution may make a one-time election to opt out of the requirement to include all components of AOCI (with the exception of accumulated net gains and losses on cash flow hedges related to items that are not fair-valued on the balance sheet) in common equity tier 1 capital (AOCI opt-out election). An FDIC-supervised institution that makes an AOCI opt-out election in accordance with this paragraph (b)(2) must adjust common equity tier 1 capital as follows:

(A) Subtract any net unrealized gains and add any net unrealized losses on available-for-sale securities;

(B) Subtract any accumulated net gains and add any accumulated net losses on cash flow hedges;

(C) Subtract any amounts recorded in AOCI attributed to defined benefit postretirement plans resulting from the initial and subsequent application of the relevant GAAP standards that pertain to such plans (excluding, at the FDIC-supervised institution's option, the portion relating to pension assets deducted under paragraph (a)(5) of this section); and

(D) Subtract any net unrealized gains and add any net unrealized losses on held-to-maturity securities that are included in AOCI.

* * * * *

(ii) An FDIC-supervised institution that is not an ERBA FDIC-supervised institution must make its AOCI opt-out election in the Call Report during the first reporting period after the FDIC-supervised institution is required to comply with subpart A of this part. If

the FDIC-supervised institution was previously an ERBA FDIC-supervised institution, the FDIC-supervised institution may not make an AOCI opt-out election under this paragraph (b)(2)(ii).

(iii) With respect to an FDIC-supervised institution that is not an ERBA FDIC-supervised institution, each of its subsidiary banking organizations that is subject to regulatory capital requirements issued by the Federal Reserve, the FDIC, or the OCC1 must elect the same option as the FDIC-supervised institution pursuant to this paragraph (b)(2).

(iv) With prior notice to the FDIC, an FDIC-supervised institution resulting from a merger, acquisition, or purchase transaction and that is not an ERBA FDIC-supervised institution may change its AOCI opt-out election in its Call Report filed for the first reporting period after the date required for such FDIC-supervised institution to comply with subpart A of this part as set forth in § 324.1(f) if:

* * * * *

(c) * * *

(2) *Corresponding deduction approach.* For purposes of subpart C of this part, the corresponding deduction approach is the methodology used for the deductions from regulatory capital related to reciprocal cross holdings (as described in paragraph (c)(3) of this section), investments in the capital of unconsolidated financial institutions for an FDIC-supervised institution that is not an ERBA FDIC-supervised institution (as described in paragraph (c)(4) of this section), non-significant investments in the capital of unconsolidated financial institutions for an ERBA FDIC-supervised institution (as described in paragraph (c)(5) of this section), and non-common stock significant investments in the capital of unconsolidated financial institutions for an ERBA FDIC-supervised institution (as described in paragraph (c)(6) of this section). Under the corresponding deduction approach, an FDIC-supervised institution must make deductions from the component of capital for which the underlying instrument would qualify if it were issued by the FDIC-supervised institution itself, as described in paragraphs (c)(2)(i) through (iii) of this section. If the FDIC-supervised institution does not have a sufficient amount of a specific component of capital to effect the required deduction, the shortfall must be deducted according to paragraph (f) of this section.

* * * * *

(5) * * *

(i) An ERBA FDIC-supervised institution must deduct its non-significant investments in the capital of unconsolidated financial institutions (as defined in § 324.2) that, in the aggregate and together with any investment in a covered debt instrument (as defined in § 324.2) issued by a financial institution in which the FDIC-supervised institution does not have a significant investment in the capital of the unconsolidated financial institution (as defined in § 324.2), exceeds 10 percent of the sum of the FDIC-supervised institution's common equity tier 1 capital elements minus all deductions from and adjustments to common equity tier 1 capital elements required under paragraphs (a) through (c)(3) of this section (the 10 percent threshold for non-significant investments) by applying the corresponding deduction approach in paragraph (c)(2) of this section.⁵ The deductions described in this paragraph are net of associated DTLs in accordance with paragraph (e) of this section. In addition, with the prior written approval of the FDIC, an ERBA FDIC-supervised institution that underwrites a failed underwriting, for the period of time stipulated by the FDIC, is not required to deduct from capital a non-significant investment in the capital of an unconsolidated financial institution or an investment in a covered debt instrument pursuant to this paragraph (c)(5) to the extent the investment is related to the failed underwriting.⁶ For any calculation under this paragraph (c)(5)(i), an ERBA FDIC-supervised institution may exclude the amount of an investment in a covered debt instrument under paragraph (c)(5)(iii) or (iv) of this section, as applicable.

(ii) For an ERBA FDIC-supervised institution, the amount to be deducted under this paragraph (c)(5) from a specific capital component is equal to:

(A) The FDIC-supervised institution's aggregate non-significant investments in the capital of an unconsolidated financial institution and, if applicable, any investments in a covered debt instrument subject to deduction under this paragraph (c)(5), exceeding the 10 percent threshold for non-significant investments, multiplied by

(B) The ratio of the FDIC-supervised institution's aggregate non-significant investments in the capital of an unconsolidated financial institution (in the form of such capital component) to the FDIC-supervised institution's total non-significant investments in unconsolidated financial institutions, with an investment in a covered debt

instrument being treated as tier 2 capital for this purpose.

* * * * *

(iii) For purposes of applying the deduction under paragraph (c)(5)(i) of this section, an ERBA FDIC-supervised institution that is not a Category I FDIC-supervised institution may exclude from the deduction the amount of the FDIC-supervised institution's gross long position, in accordance with § 324.22(h)(2), in investments in covered debt instruments issued by financial institutions in which the FDIC-supervised institution does not have a significant investment in the capital of the unconsolidated financial institutions up to an amount equal to 5 percent of the sum of the FDIC-supervised institution's common equity tier 1 capital elements minus all deductions from and adjustments to common equity tier 1 capital elements required under paragraphs (a) through (c)(3) of this section, net of associated DTLs in accordance with paragraph (e) of this section.

(iv) Prior to applying the deduction under paragraph (c)(5)(i) of this section:

(A) A Category I FDIC-supervised institution may designate any investment in a covered debt instrument as an excluded covered debt instrument, as defined in § 324.2.

(B) A Category I FDIC-supervised institution must deduct, according to the corresponding deduction approach in paragraph (c)(2) of this section, its gross long position, calculated in accordance with paragraph (h)(2) of this section, in a covered debt instrument that was originally designated as an excluded covered debt instrument, in accordance with paragraph (c)(5)(iv)(A) of this section, but no longer qualifies as an excluded covered debt instrument.

(C) A Category I FDIC-supervised institution must deduct according to the corresponding deduction approach in paragraph (c)(2) of this section the amount of its gross long position, calculated in accordance with paragraph (h)(2) of this section, in a direct or indirect investment in a covered debt instrument that was originally designated as an excluded covered debt instrument, in accordance with paragraph (c)(5)(iv)(A) of this section, and has been held for more than thirty business days.

(D) A Category I FDIC-supervised institution must deduct according to the corresponding deduction approach in paragraph (c)(2) of this section its gross long position, calculated in accordance with paragraph (h)(2) of this section, of its aggregate position in excluded covered debt instruments that exceeds 5

percent of the sum of the FDIC-supervised institution's common equity tier 1 capital elements minus all deductions from and adjustments to common equity tier 1 capital elements required under paragraphs (a) through (c)(3) of this section, net of associated DTLs in accordance with paragraph (e) of this section.

* * * * *

(6) *Significant investments in the capital of unconsolidated financial institutions that are not in the form of common stock.* If an ERBA FDIC-supervised institution has a significant investment in the capital of an unconsolidated financial institution, the FDIC-supervised institution must deduct from capital any such investment issued by the unconsolidated financial institution that is held by the FDIC-supervised institution other than an investment in the form of common stock, as well as any investment in a covered debt instrument issued by the unconsolidated financial institution, by applying the corresponding deduction approach in paragraph (c)(2) of this section.⁷ The deductions described in this section are net of associated DTLs in accordance with paragraph (e) of this section. In addition, with the prior written approval of the FDIC, for the period of time stipulated by the FDIC, an ERBA FDIC-supervised institution that underwrites a failed underwriting is not required to deduct the significant investment in the capital of an unconsolidated financial institution or an investment in a covered debt instrument pursuant to this paragraph (c)(6) if such investment is related to such failed underwriting.

(d) *Certain DTAs subject to common equity tier 1 capital deduction thresholds.*

(1) An FDIC-supervised institution that is not an ERBA FDIC-supervised institution must make deductions from regulatory capital as described in this paragraph (d)(1).

* * * * *

(2) An ERBA FDIC-supervised institution must make deductions from regulatory capital as described in this paragraph (d)(2).

(i) An ERBA FDIC-supervised institution must deduct from common equity tier 1 capital elements the amount of each of the items set forth in this paragraph (d)(2) that, individually, exceeds 10 percent of the sum of the FDIC-supervised institution's common equity tier 1 capital elements, less adjustments to and deductions from common equity tier 1 capital required under paragraphs (a) through (c) of this

section (the 10 percent common equity tier 1 capital deduction threshold).

(A) DTAs arising from temporary differences that the FDIC-supervised institution could not realize through net operating loss carrybacks, net of any related valuation allowances and net of DTLs, in accordance with paragraph (e) of this section. An ERBA FDIC-supervised institution is not required to deduct from the sum of its common equity tier 1 capital elements DTAs (net of any related valuation allowances and net of DTLs, in accordance with § 324.22(e)) arising from timing differences that the FDIC-supervised institution could realize through net operating loss carrybacks. The FDIC-supervised institution must risk weight these assets at 100 percent. For an FDIC-supervised institution that is a member of a consolidated group for tax purposes, the amount of DTAs that could be realized through net operating loss carrybacks may not exceed the amount that the FDIC-supervised institution could reasonably expect to have refunded by its parent holding company.

(B) Significant investments in the capital of unconsolidated financial institutions in the form of common stock, net of associated DTLs in accordance with paragraph (e) of this section.⁹ Significant investments in the capital of unconsolidated financial institutions in the form of common stock subject to the 10 percent common equity tier 1 capital deduction threshold may be reduced by any goodwill embedded in the valuation of such investments deducted by the FDIC-supervised institution pursuant to paragraph (a)(1) of this section. In addition, with the prior written approval of the FDIC, for the period of time stipulated by the FDIC, an ERBA FDIC-supervised institution that underwrites a failed underwriting is not required to deduct a significant investment in the capital of an unconsolidated financial institution in the form of common stock pursuant to this paragraph (d)(2) if such investment is related to such failed underwriting.

(ii) An ERBA FDIC-supervised institution must deduct from common equity tier 1 capital elements the items listed in paragraph (d)(2)(i) of this section that are not deducted as a result of the application of the 10 percent common equity tier 1 capital deduction threshold, and that, in aggregate, exceed 17.65 percent of the sum of the FDIC-supervised institution's common equity tier 1 capital elements, minus adjustments to and deductions from common equity tier 1 capital required under paragraphs (a) through (c) of this

section, minus the items listed in paragraph (d)(2)(i) of this section (the 15 percent common equity tier 1 capital deduction threshold). Any goodwill that has been deducted under paragraph (a)(1) of this section can be excluded from the significant investments in the capital of unconsolidated financial institutions in the form of common stock.¹⁰

(iii) For purposes of calculating the amount of DTAs subject to the 10 and 15 percent common equity tier 1 capital deduction thresholds, an ERBA FDIC-supervised institution may exclude DTAs and DTLs relating to adjustments made to common equity tier 1 capital under paragraph (b) of this section. An ERBA FDIC-supervised institution that elects to exclude DTAs relating to adjustments under paragraph (b) of this section also must exclude DTLs and must do so consistently in all future calculations. An ERBA FDIC-supervised institution may change its exclusion preference only after obtaining the prior approval of the FDIC.

* * * * *

(f) *Insufficient amounts of a specific regulatory capital component to effect deductions.* Under the corresponding deduction approach, if an FDIC-supervised institution does not have a sufficient amount of a specific component of capital to effect the full amount of any deduction from capital required under paragraph (d) of this section, the FDIC-supervised institution must deduct the shortfall amount from the next higher (that is, more subordinated) component of regulatory capital. Any investment by an ERBA FDIC-supervised institution in a covered debt instrument must be treated as an investment in the tier 2 capital for purposes of this paragraph (f). Notwithstanding any other provision of this section, a qualifying community banking organization (as defined in § 324.12) that has elected to use the community bank leverage ratio framework pursuant to § 324.12 is not required to deduct any shortfall of tier 2 capital from its additional tier 1 capital or common equity tier 1 capital.

* * * * *

¹ These rules include the regulatory capital requirements set forth at 12 CFR part 3 (OCC); 12 CFR part 217 (Board); 12 CFR part 324 (FDIC).

* * * * *

⁵ With the prior written approval of the FDIC, for the period of time stipulated by the FDIC, an ERBA FDIC-supervised institution is not required to deduct a non-significant investment in the capital of an unconsolidated financial institution or an investment in a covered debt instrument pursuant to this paragraph if the financial

*	*	*	*	*	*	*
			(c)	Market risk-weighted assets as calculated under subpart F of this part.		
*	*	*	*	*	*	*

* * * * *

**Subpart E—Risk-Weighted Assets—
Expanded Risk-Based Approach****§ 324.111 [Amended]**

■ 108. In § 324.111:

■ a. Remove paragraph (j)(1)(i) and redesignate paragraph (j)(1)(ii) as paragraph (j)(1); and

■ b. Remove paragraphs (k).

■ 109. In § 324.132, revise paragraphs (h)(1)(iv) and (h)(4)(i) to read as follows:

**§ 324.132 Risk-weighted assets for
securitization exposures.**

* * * * *

(h) * * *

(1) * * *

(iv) The FDIC-supervised institution is well capitalized, as defined in subpart H of this part. For purposes of determining whether an FDIC-supervised institution is well

capitalized for purposes of this paragraph (h), the FDIC-supervised institution's capital ratios must be calculated without regard to the capital treatment for transfers of small-business obligations with recourse specified in paragraph (h)(1) of this section.

* * * * *

(4) * * *

(i) Determining whether an FDIC-supervised institution is adequately capitalized, undercapitalized, significantly undercapitalized, or critically undercapitalized under subpart H of this part; and

* * * * *

■ 110. In § 324.162:

■ a. Revise paragraph (c) as follows; and

■ b. Revise the heading of Table 13 as follows.

**§ 324.162 Mechanics of risk-weighted
asset calculation.**

* * * * *

(c) *Regulatory capital instrument and other instruments eligible for total loss absorbing capacity (TLAC) disclosures.* An FDIC-supervised institution described in § 324.160 must provide a description of the main features of its regulatory capital instruments, in accordance with table 13 to paragraph (c). If the FDIC-supervised institution issues or repays a capital instrument, or in the event of a redemption, conversion, write down, or other material change in the nature of an existing instrument, but in no event less frequently than semiannually, the FDIC-supervised institution must update the disclosures provided in accordance with table 13 to paragraph (c). An FDIC-supervised institution also must disclose the full terms and conditions of all instruments included in regulatory capital.

TABLE 13 TO PARAGRAPH (C)—MAIN FEATURES OF REGULATORY CAPITAL INSTRUMENTS AND OF OTHER TLAC-ELIGIBLE INSTRUMENTS

Qualitative Disclosures.	(a)	For each regulatory capital instrument and any other instrument that is an eligible debt security as defined in 12 CFR 252.61, the FDIC-supervised institution must provide the following information:
		(1) The issuer's legal entity. (2) The unique identifier. (3) The governing law(s) of the instrument. (4) The regulatory capital treatment. (5) The level(s) within the FDIC-supervised institution at which the instrument is included in capital. (6) The instrument type. (7) The amount recognized in regulatory capital. (8) The par value of the instrument. (9) The accounting classification as debt or equity. (10) The original date of issuance. (11) Whether perpetual or dated. (12) The original maturity date. (13) Whether an issuer call option subject to prior supervisory approval exists. (14) For an instrument with an issuer call option: (i) the first date of call if the instrument has a call option on a specific date (day, month, and year); (ii) the instrument has a tax and/or regulatory event call; and (iii) the redemption price. (15) Whether there are subsequent call option dates and, if so, their frequency. (16) Whether the coupon or dividend is fixed over the life of the instrument, floating over the life of the instrument, currently fixed but will move to a floating rate in the future, or currently floating but will move to a fixed rate in the future. (17) The coupon rate of the instrument and any related index that the coupon or dividend rate references. (18) Whether the non-payment of a coupon or dividend on the instrument prohibits the payment of dividends on common shares. (19) Whether the issuer has full, partial, or no discretion over whether a coupon or dividend is paid. (20) Whether there is a step-up or other incentive to redeem. (21) Whether the dividends or coupons are cumulative or non-cumulative. (22) Whether the instrument is convertible or non-convertible. (23) If the instrument is convertible, the conditions under which the instrument will convert, including point of non-viability. Where one or more authorities have the ability to trigger conversion, the authorities should be listed. For each of the authorities, state whether the legal basis for the authority to trigger conversion is provided by the terms of the contract of the instrument (a contractual approach) or statutory means (a statutory approach). (24) If the instrument is convertible, whether the instrument will: (i) always convert fully; (ii) may convert fully or partially; or (iii) will always convert partially. (25) If the instrument is convertible, the rate of conversion into the more loss-absorbent instrument. (26) If the instrument is convertible, whether conversion is mandatory or optional. (27) If the instrument is convertible, the instrument type into which it is convertible. (28) If the instrument is convertible, the issuer of the instrument into which it converts. (29) Whether a write-down feature exists. (30) If there is a write-down feature, the trigger at which write-down occurs, including point of non-viability. Where one or more authorities have the ability to trigger write-down, the authorities should be listed. For each of the authorities it should be stated whether the legal basis for the authority to trigger conversion is provided by the terms of the contract of the instrument or statutory means.

TABLE 13 TO PARAGRAPH (c)—MAIN FEATURES OF REGULATORY CAPITAL INSTRUMENTS AND OF OTHER TLAC-ELIGIBLE INSTRUMENTS—Continued

		(31) If there is a write-down feature, for each write-down trigger separately, whether the instrument will: (i) always be written down fully; (ii) may be written down partially; or (iii) will always be written down partially. (32) If there is a write-down feature, whether the write-down is permanent or temporary. (33) For instruments that have a temporary write-down, a description of the writeup mechanism. (34) The type of subordination. (35) A description of the position in subordination hierarchy in liquidation, including by specifying the instrument type immediately senior to instrument in the insolvency creditor hierarchy of the legal entity concerned.

Subpart F—Risk-weighted Assets—Market Risk and Credit Valuation Adjustment (CVA)

■ 111. In § 324.201:

■ a. Revise paragraphs (b)(1) and (b)(2); and

■ b. In paragraph (d), remove “[12 CFR 3.404, 263.202, and 324.5(c)]” and add “12 CFR 324.7(c)” in its place wherever it appears.

The revisions are as follows:

§ 324.201 Purpose, applicability, and reservation of authority.

* * * * *

(b) * * *

(1) *Market risk*. The market risk capital requirements and related reporting and public disclosure requirements specified in §§ _____.203 through _____.217 apply to an FDIC-supervised institution that has aggregate trading assets and trading liabilities, excluding customer and proprietary broker-dealer reserve bank accounts, equal to:

(i) 10 percent or more of quarter-end total assets as reported on the most recent quarterly Call Report; or

(ii) \$5 billion, as adjusted pursuant to § 324.4, or more, on average for the four most recent quarters as reported in the

FDIC-supervised institution’s Call Reports.

* * * * *

(2) *CVA Risk*. The CVA risk-based capital requirements specified in §§ 324.220 through 324.225 apply to any FDIC-supervised institution that is:

(i) A subsidiary of a global systemically important BHC or a Category II depository institution holding company and subject to the market risk framework pursuant to § 324.201(b)(1); or

(ii) An FDIC-supervised institution that is subject to the market risk framework pursuant to § 324.201(b)(1) and engages in OTC derivative contracts with an aggregate gross notional value, as reported on the FDIC-supervised institution’s Call Reports of \$1 trillion [, as adjusted pursuant to § 324.4,] or more on average for the prior four quarters.

* * * * *

* * * * *

Subpart G—Transition Provisions

■ 112. In § 324.300:

■ a. Revise paragraph (a); and

■ b. Remove and reserve paragraphs (f) through (h).

The revision and addition read as follows:

§ 324.300 Transitions.

(a) *Transition adjustments for AOCI*. Beginning [January 1, 2027], an FDIC-supervised institution that uses expanded total risk-weighted assets for purposes of § 324.10(a)(5) and that had made an AOCI opt-out election under § 324.22(b)(2) effective [December 31, 2026] must subtract from the sum of its common equity tier 1 elements, before making deduction required under § 324.22(c) or (d), the AOCI adjustment amount multiplied by the percentage provided in Table 1 to § 324.300.

The transition AOCI adjustment amount is the sum of:

(1) Net unrealized gains or losses on available-for-sale debt securities, plus

(2) Accumulated net gains or losses on cash flow hedges, plus

(3) Any amounts recorded in AOCI attributed to defined benefit postretirement plans resulting from the initial and subsequent application of the relevant GAAP standards that pertain to such plans, plus

(4) Net unrealized holding gains or losses on held-to-maturity securities that are included in AOCI.

TABLE 1 TO § 324.300

Transition AOCI adjustment	
Transition period	Percentage applicable to transition AOCI adjustment amount
January 1, 2027 to December 31, 2027	100
January 1, 2028 to December 31, 2028	80
January 1, 2029 to December 31, 2029	60
January 1, 2030 to December 31, 2030	40
January 1, 2031 to December 31, 2031	20
January 1, 2032 and thereafter	0

* * * * *

§ 324.301 Current expected credit losses (CECL) transition.

■ 113. Remove and reserve § 324.301.

§ 324.303 [Removed and Reserved]

■ 114. Remove and reserve § 324.303.

§ 324.304 [Removed and Reserved]

■ 115. Remove and reserve § 324.304.

Subpart H—Prompt Corrective Action

■ 116. In § 324.401, revise paragraphs (c), (f), and (g).

The revisions read as follows:

§ 324.401 Authority, purpose, scope, other supervisory authority, disclosure of capital categories, and transition procedures

* * * * *

(c) *Scope*. This subpart H implements the provisions of section 38 of the FDI Act as they apply to FDIC-supervised institutions and insured branches of foreign banks for which the FDIC is the appropriate Federal banking agency. Certain of these provisions also apply to officers, directors and employees of those insured institutions. In addition, certain provisions of this subpart apply

to all insured depository institutions that are deemed critically undercapitalized.

* * * *

(f) *Timing.* The calculation of the definitions of common equity tier 1 capital, the common equity tier 1 risk-based capital ratio, the leverage ratio, the supplementary leverage ratio, tangible equity, tier 1 capital, the tier 1 risk-based capital ratio, total assets, total leverage exposure, the total risk-based capital ratio, and total risk-weighted assets under this subpart H is subject to the timing provisions at 12 CFR 324.1(f) and the transitions at 12 CFR part 324, subpart G.

(g) For purposes of subpart H, total assets means quarterly average total assets as reported in an FDIC-supervised institution's Call Report, minus amounts deducted from tier 1 capital under § 324.22(a), (c), and (d). At its discretion, the FDIC may calculate total

assets using an FDIC-supervised institution's period-end assets rather than quarterly average assets.

■ 117. Amend § 324.403, by revising paragraphs (a)(1)(iv)(B), (b)(2)(vi), and (b)(3)(v) to read as follows:

§ 324.403 Capital measures and capital category definitions.

(a) * * *

(1) * * *

(iv) * * *

(B) With respect to a Category I FDIC-supervised institution, Category II FDIC-supervised institution, or Category III FDIC-supervised institution, the supplementary leverage ratio.

* * * *

(b) * * *

(2) * * *

(vi) A Category I FDIC-supervised institution, Category II FDIC-supervised institution, or Category III FDIC-supervised institution will be deemed to be "adequately capitalized" if it satisfies

paragraphs (b)(2)(i) through (v) of this section and has a supplementary leverage ratio of 3.0 percent or greater, as calculated in accordance with § 324.10.

(3) * * *

(v) A Category I FDIC-supervised institution, Category II FDIC-supervised institution, or Category III FDIC-supervised institution will be deemed to be "undercapitalized" if it has a supplementary leverage ratio of less than 3.0 percent, as calculated in accordance with § 324.10.

* * * *

§ § 324.1, 324.2, 324.10, 324.12, 324.22, 324.61, 324.302, 324.305 [Amended]

■ 118. In the table below, for each section indicated in the left column, remove the words indicated in the middle column from wherever it appears in the section, and add the words indicated in the right column:

Sections:	Remove the following words:	Add the following words:
324.1	"advanced approaches FDIC-supervised institution".	"ERBA FDIC-supervised institution."
324.2		
324.12(a)(2) introductory text		
324.21(a)(1)		
324.22 (a)(1)(ii), (b)(1)(iii), (c)(2)(ii)(D), (c)(3)(ii), and (c)(4), and		
324.61		
324.22(g)	"advanced approaches total risk-weighted assets".	"expanded total risk-weighted assets."
324.302, and		
324.305		
324.2, in the definition of "qualifying central counterparty (QCCP)".	"§ 324.133"	"§ 324.114."

* * * *

Jonathan V. Gould,

Comptroller of the Currency.

By order of the Board of Governors of the Federal Reserve System.

Benjamin W. McDonough,

Secretary of the Board.

Federal Deposit Insurance Corporation.

By order of the Board of Directors,

Dated at Washington, DC, on March 19, 2026.

Jennifer M. Jones,

Deputy Executive Secretary.

[FR Doc. 2026-05959 Filed 3-26-26; 8:45 am]

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Part IV

Department of the Treasury

Office of the Comptroller of the Currency

12 CFR Part 3

Federal Reserve System

12 CFR Parts 217, 238, 252

Federal Deposit Insurance Corporation

12 CFR Part 324

Regulatory Capital Rules: Regulatory Capital and Standardized Approach for Risk-Weighted Assets; Proposed Rule

DEPARTMENT OF THE TREASURY**Office of the Comptroller of the Currency****12 CFR Part 3**

[Docket ID OCC–2026–0034]

RIN 1557–AF49

FEDERAL RESERVE SYSTEM**12 CFR Parts 217, 238, 252**

[Docket No. R–1888]

RIN 7100–AH21

FEDERAL DEPOSIT INSURANCE CORPORATION**12 CFR Part 324**

RIN 3064–AG23

Regulatory Capital Rules: Regulatory Capital and Standardized Approach for Risk-Weighted Assets

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury; the Board of Governors of the Federal Reserve System (Board); and the Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation are proposing to modify certain aspects of the regulatory capital rule (the proposal). The proposal would revise the risk-based capital treatment of certain exposure categories under the standardized approach, focusing on improving the calibration and risk sensitivity of risk weights that are particularly material to covered banking organizations' lending activities. The proposal would also modify the definition of regulatory capital by removing the threshold-based deduction for mortgage servicing assets for all banking organizations subject to the regulatory capital rule, including banking organizations subject to the community bank leverage ratio framework. In addition, the proposal would require Category III and IV banking organizations to recognize most elements of accumulated other comprehensive income in their regulatory capital. The agencies are concurrently publishing a separate proposal, which would require Category I and II banking organizations to use a new framework to calculate risk-weighted assets, called the expanded risk-based approach and would allow other banking organizations to elect to use the expanded risk-based approach.

DATES: Comments must be received by June 18, 2026.

ADDRESSES: Comments should be directed to:

OCC: Commenters are encouraged to submit comments through the Federal eRulemaking Portal, if possible. Please use the title “Regulatory Capital Rules: Regulatory Capital and Standardized Approach for Risk-weighted Assets” to facilitate the organization and distribution of the comments and identify the number of the specific question(s) to which you are responding. You may submit comments by any of the following methods:

- *Federal eRulemaking Portal—Regulations.gov:*

Go to <https://regulations.gov/>. Enter Docket ID “OCC–2026–0034” in the Search Box and click “Search.” Public comments can be submitted via the “Comment” box below the displayed document information or by clicking on the document title and then clicking the “Comment” box on the top-left side of the screen. For help with submitting effective comments, please click on “Commenter’s Checklist.” For assistance with the *Regulations.gov* site, please call 1–866–498–2945 (toll free) Monday–Friday, 9 a.m.–5 p.m. EST, or email regulationshelpdesk@gsa.gov.

- *Mail:* Chief Counsel’s Office, Attention: Comment Processing, Office of the Comptroller of the Currency, 400 7th Street SW, Suite 3E–218, Washington, DC 20219.

- *Hand Delivery/Courier:* 400 7th Street SW, Suite 3E–218, Washington, DC 20219.

Instructions: You must include “OCC” as the agency name and Docket ID “OCC–2026–0034” in your comment. In general, the OCC will enter all comments received into the docket and publish the comments on the *Regulations.gov* website without change, including any business or personal information provided such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

You may review comments and other related materials that pertain to this action by the following method:

- *Viewing Comments Electronically—Regulations.gov:*

Go to <https://regulations.gov/>. Enter Docket ID “OCC–2026–0034” in the Search Box and click “Search.” Click on

the “Dockets” tab and then the document’s title. After clicking the document’s title, click the “Browse All Comments” tab. Comments can be viewed and filtered by clicking on the “Sort By” drop-down on the right side of the screen or the “Refine Comments Results” options on the left side of the screen. Supporting materials can be viewed by clicking on the “Browse Documents” tab. Click on the “Sort By” drop-down on the right side of the screen or the “Refine Results” options on the left side of the screen checking the “Supporting & Related Material” checkbox. For assistance with the *Regulations.gov* site, please call 1–866–498–2945 (toll free) Monday–Friday, 9 a.m.–5 p.m. EST, or email regulationshelpdesk@gsa.gov.

The docket may be viewed after the close of the comment period in the same manner as during the comment period.

Board: You may submit comments, identified by Docket No. R–1888, and RIN 7100–AH21 by any of the following methods:

- *Agency Website:* <https://www.federalreserve.gov/apps/proposals/>. Follow the instructions for submitting comments, including attachments. *Preferred Method.*
- *Mail:* Benjamin W. McDonough, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.
- *Hand Delivery/Courier:* Same as mailing address.
- *Other Means:* publiccomments@frb.gov. You must include the docket number in the subject line of the message.

Comments received are subject to public disclosure. In general, comments received will be made available on the Board’s website at <https://www.federalreserve.gov/apps/proposals/> without change and will not be modified to remove personal or business information including confidential, contact, or other identifying information. Comments should not include any information such as confidential information that would not be appropriate for public disclosure. Comments should identify the number for the specific question(s) to which they respond. Public comments may also be viewed electronically or in person in Room M–4365A, 2001 C St. NW, Washington, DC 20551, between 9 a.m. and 5 p.m. during Federal business weekdays.

FDIC: You may submit comments to the FDIC, identified by RIN 3064–AG23 and identify the number for the specific question(s) to which you are

responding, by any of the following methods:

Agency Website: <https://www.fdic.gov/resources/regulations/federal-register-publications>. Follow instructions for submitting comments on the FDIC's website.

Email: comments@FDIC.gov. Include RIN 3064-AG23 in the subject line of the message.

Mail: Jennifer M. Jones, Deputy Executive Secretary, Attention: Comments—RIN 3064-AG23, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

Hand Delivered/Courier: Comments may be hand-delivered to the guard station at the rear of the 550 17th Street NW building (located on F Street NW) on business days between 7 a.m. and 5 p.m.

Public Inspection: Comments received, including any personal information provided, may be posted without change to <https://www.fdic.gov/resources/regulations/federal-register-publications>. Commenters should submit only information that the commenter wishes to make available publicly. The FDIC may review, redact, or refrain from posting all or any portion of any comment that it may deem to be inappropriate for publication, such as irrelevant or obscene material. The FDIC may post only a single representative example of identical or substantially identical comments, and in such cases will generally identify the number of identical or substantially identical comments represented by the posted example. All comments that have been redacted, as well as those that have not been posted, that contain comments on the merits of this document will be retained in the public comment file and will be considered as required under all applicable laws. All comments may be accessible under the Freedom of Information Act.

FOR FURTHER INFORMATION CONTACT:

OCC: Venus Fan, Risk Expert, Benjamin Pegg, Technical Expert, or Diana Wei, Risk Expert, Capital Policy, (202) 649-6370; Carl Kaminski, Assistant Director, Ron Shimabukuro, Senior Counsel, Kevin Korzeniewski, Counsel, Daniel Perez, Counsel, Chris Rafferty, Counsel, Chief Counsel's Office, (202) 649-5490, Office of the Comptroller of the Currency, 400 7th Street SW, Washington, DC 20219. If you are deaf, hard of hearing, or have a speech disability, please dial 7-1-1 to access telecommunications relay services.

Board: Anna Lee Hewko, Associate Director, (202) 530-6260; Andrew Willis, Manager, (202) 430-1667;

Missaka Nuwan Warusawitharana, Manager, (202) 452-3461; Marco Migueis, Principal Economist, (202) 452-6447; Ke Wang, Principal Economist, (202) 680-8527; Emily Davine, Senior Financial Institution Policy Analyst, (771) 216-7655; Division of Supervision and Regulation; or Jay Schwarz, Deputy Associate General Counsel, (202) 452-2970; Mark Buresh, Senior Special Counsel, (202) 452-5270; Gillian Burgess, Senior Counsel, (202) 736-5564; Jonah Kind, Senior Counsel, (202) 452-2045, Legal Division, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551. For users of TTY-TRS, please call 711 from any telephone, anywhere in the United States.

FDIC: Benedetto Bosco, Chief Capital Policy Section; Bob Charurat, Corporate Expert; Irina Leonova, Corporate Expert; Andrew Carayiannis, Chief, Policy and Risk Analytics Section; Michael Maloney, Senior Policy Analyst; Iris Li, Senior Policy Analyst; Olga Lionakis, Senior Policy Analyst; Richard Smith, Capital Markets Policy Analyst; Ernest Barkett, Financial Analyst; Kyle McCormick, Senior Policy Analyst; Keith Bergstresser, Senior Policy Analyst; Lauren Brown, Senior Risk and Policy Analyst; Rachel Romm-Nisson, Risk Analytics Specialist; Jim Yu, Senior Policy Analyst, Peter Yen, Senior Policy Analyst; Huiyang Zhou, Senior Quantitative Risk Specialist; Soo Jeong Kim, Capital Markets Policy Analyst; Capital Markets and Accounting Policy Branch, Division of Risk Management Supervision; Catherine Wood, Counsel; Merritt Pardini, Counsel; Kevin Zhao, Senior Attorney; Nicholas Soyer, Attorney, Michael Overmyer, Special Counsel, Legal Division; regulatorycapital@fdic.gov, (202) 898-6888; Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

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I. Introduction and Overview

The Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (Board), and the Federal Deposit Insurance Corporation (FDIC) (collectively, the agencies) are proposing to modify aspects of the capital rule. Specifically, the proposal would revise certain elements of the calculation of the denominator of the risk-based capital ratios (risk-weighted assets) under the standardized approach and make certain adjustments to the definition of regulatory capital.¹ The proposed

changes aim to improve risk sensitivity while generally retaining the simplicity of the current framework. Elements of the proposal would also address comments received from the Economic Growth and Regulatory Paperwork Reduction Act (EGRPRA) public notices.² The banking organizations that would be subject to the changes to risk-weighted assets under this proposal are referred to as “covered banking organizations” herein.

The prompt corrective action framework in section 38 of the Federal Deposit Insurance Act (FDI Act) requires the agencies to set capital standards for insured depository institutions that include a risk-based capital requirement and provides that the agencies may establish any additional relevant capital measures to carry out the purpose of that section.³ Various other statutory authorities provide the agencies with broad discretionary authority to set capital requirements and standards for banking organizations supervised by the agencies, including national banking associations, state-chartered banks, savings associations, and depository institution holding companies.⁴ Further, Congress has authorized the agencies to establish enhanced risk-based capital requirements and standards for larger banking organizations subject to the capital rule.⁵

¹ “Changes to Applicability Thresholds for Regulatory Capital and Liquidity Requirements,” 84 FR 59230 (Nov. 1, 2019).

² The agencies, together with the Federal Financial Institutions Examination Council, commenced a review under the Economic Growth and Regulatory Paperwork Reduction Act of 1996 in 2024 to identify outdated or otherwise unnecessary regulatory requirements. The agencies will continue reviewing and considering these comments as part of any final rulemaking. Public Law 104–208, Div. A, Title II, section 2222, 110 Stat. 3009–414, (1996) (codified at 12 U.S.C. 3311). See also Regulatory Publication and Review Under the Economic Growth and Regulatory Paperwork Reduction Act of 1996, 90 FR 35241 (Jul. 25, 2025).

³ See 12 U.S.C. 1831o(c)(1)(A), (c)(1)(B)(i).

⁴ See 12 U.S.C. 93a (national banking associations); 12 U.S.C. 248(i), 324, 327, 329 (state member banks); 12 U.S.C. 1463 (savings associations); 12 U.S.C. 1467a(g)(1) (savings and loan holding companies); 12 U.S.C. 1844(b) (bank holding companies); 12 U.S.C. 3106 (certain U.S. operations of foreign banking organizations); 12 U.S.C. 3902(1)–(2), 3907(a), 3909(a), (c)(1)–(2) (depository institutions; affiliates of depository institutions, including holding companies; and certain U.S. operations of foreign banking organizations); 12 U.S.C. 5371 (insured depository institutions, depository institution holding companies, and nonbank financial companies supervised by the Board).

⁵ See, e.g., section 165 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), as amended by section 401 of the Economic Growth, Regulatory Relief, and Consumer Protection Act, which requires the Board to establish enhanced prudential standards that include risk-based capital requirements for bank holding companies with \$250 billion or more in total consolidated assets.

In a concurrent notice of proposed rulemaking, the agencies are seeking comment on changes to the risk-based capital framework that would apply to Category I and II banking organizations as well as banking organizations with significant trading activity (expanded risk-based proposal).⁶ That proposal would introduce a new “expanded risk-based approach”—which would include requirements for credit risk, equity risk, and operational risk—and a revised market risk framework. Notably, the expanded risk-based proposal would allow banking organizations of any size to elect to use the expanded risk-based approach to determine requirements for credit risk, equity risk, and operational risk in place of the standardized approach.⁷

Analysis undertaken by the agencies in connection with the expanded risk-based proposal included evaluating the appropriateness of the risk weights applicable to exposures at the business-line level. That analysis informs the changes in this proposal, including revisions to risk weights that are particularly material to lending activities. Specifically, the analysis suggests revisions would be appropriate to the risk weights applicable to residential mortgage exposures, corporate exposures, and certain exposures in the current standardized approach’s “other assets” category. The proposal would reduce the risk weight applicable to corporate exposures from 100 percent to 95 percent and the risk weight applicable to all assets not specifically assigned a different risk weight under the rule from 100 percent to 90 percent. The proposal would also introduce a broader range of risk weights for residential mortgage exposures, based on more granular risk factors. In addition, the proposal would adopt the same definition of commitment as the expanded risk-based proposal and would align the credit conversion factors for certain off-

⁶ Banking organizations with significant trading activities that are not Category I or II banking organizations would apply (1) the market risk framework under the expanded risk-based proposal and (2) the standardized approach in this proposal (unless they elect to use expanded risk-based approach under the expanded risk-based proposal) to determine their risk-weighted assets.

⁷ The agencies consider the proposed requirements under the expanded risk-based approach to be appropriate for Category I and II banking organizations given their risk profiles, complexity, risk management resources, and international activities. Although the expanded risk-based proposal poses more operational complexity relative to this proposal, the expanded risk-based proposal would allow other banking organizations to elect to use it. A banking organization that elects to do so would be subject to the same definition of capital as Category I and II banking organizations.

¹ The standardized approach does not apply to banking organizations that have elected to use the community bank leverage ratio framework. Under the terms of a concurrent proposal, the standardized approach would not apply to Category I or II banking organizations or to banking organizations that elect to use the expanded risk-based approach. In 2019, the agencies adopted rules establishing four categories of capital standards for U.S. banking organizations with \$100 billion or more in total consolidated assets and foreign banking organizations with \$100 billion or more in combined U.S. assets. Under this framework, Category I standards apply to U.S.-domiciled bank holding companies identified as GSIBs and their depository institution subsidiaries. Category II standards apply to banking organizations with at least \$700 billion in total consolidated assets or at least \$75 billion in cross-jurisdictional activity and their depository institution subsidiaries. Category III standards apply to banking organizations with total consolidated assets of at least \$250 billion or at least \$75 billion in weighted short-term wholesale funding, nonbank assets, or off-balance sheet exposure and their depository institution subsidiaries. Category IV standards apply to banking organizations with total consolidated assets of at least \$100 billion that do not meet the thresholds for a higher category and their depository institution subsidiaries. See 12 CFR 3.2 (OCC); 12 CFR 217.400, 238.10, 252.5, (Board); 12 CFR 324.2 (FDIC); “Prudential Standards for Large Bank Holding Companies, Savings and Loan Holding Companies, and Foreign Banking Organizations,” 84 FR 59032 (Nov. 1, 2019);

balance sheet exposures, including equity commitments, with that proposal.

These changes focus on exposure categories that comprise a substantial amount of total risk-weighted assets for covered banking organizations and aim to balance a more risk-sensitive calibration of the requirements with retaining the simplicity of the standardized approach.^{8 9}

To improve risk sensitivity, this proposal would also make targeted adjustments to the existing methodologies for determining exposure amounts for counterparty credit risk and risk-weighted asset amounts for securitizations, as well as for recognizing the benefits of credit risk mitigants. These targeted adjustments would align with adjustments included in the expanded risk-based proposal. Improving the risk sensitivity of the regulatory capital framework would mean that a banking organization's capital requirements more readily increase or decrease due to changes in the risk of its business activities.

In addition to changes to the calculation of risk-weighted assets, the proposal would modify the definition of regulatory capital by removing the threshold-based deduction of mortgage servicing assets (MSAs). All MSAs would receive a 250 percent risk weight under the proposal, consistent with the risk weight in the current capital rule for MSAs that do not exceed the deduction threshold. This proposed revision would promote mortgage origination and servicing by banking organizations in a risk-appropriate manner and would apply to all banking organizations subject to the regulatory capital rule, including banking organizations subject to the community bank leverage ratio framework.¹⁰

The proposal would require Category III and IV banking organizations to include most elements of accumulated

other comprehensive income (AOCI) in common equity tier 1 capital, consistent with the current treatment applicable to Category I and II banking organizations.¹¹ This change would better reflect the capital adequacy and loss-absorbing capacity of Category III and IV banking organizations in their regulatory capital ratios. The proposal would include a transition period five years from the effective date of any final rule for Category III and IV banking organizations to phase-in the effect of recognizing AOCI in regulatory capital; this transition period would provide sufficient time to adapt to the changes while minimizing any potential adverse impact.¹²

The proposal would also amend certain dollar-based regulatory thresholds in the standardized approach to reflect inflation and ensure that such thresholds preserve their intended application in real terms over time. Finally, the proposal would not make any modifications to the enhanced disclosure requirements under section .63 of the capital rule but seeks comment on whether certain modifications would be appropriate.¹³

Taken together, the proposed changes aim to improve the risk sensitivity of the framework while retaining its simplicity. The agencies expect the proposal to reduce the common equity tier 1 capital requirements applicable to Category III and IV holding companies by 3.0 percent and the capital requirements applicable to smaller holding companies¹⁴ by 7.8 percent. The reduction in requirements for Category III and IV holding companies reflects a 6.1 percent reduction due to the revised risk-weighted assets combined with an estimated 3.1 percent increase in capital requirements due to an estimated long-run average impact of including AOCI in regulatory capital. Similarly, the agencies expect the proposal to reduce the common equity tier 1 capital requirements applicable to

depository institution subsidiaries of Category III and IV banking organizations by 4.7 percent, and those applicable to smaller depository institutions by 8.0 percent. The agencies performed economic analysis to assess the potential effects of the proposal (see Section VI). The improvements in risk sensitivity of capital requirements and associated benefits expected to result from the proposal justify the proposal's expected costs.

The agencies seek comment on all aspects of the proposal.

II. Definition of Capital

The proposal would broadly maintain the definition of capital applicable to covered banking organizations in the current capital rule with two modifications. The proposal would (1) eliminate the requirement to deduct MSAs above a threshold from common equity tier 1 capital for all covered banking organizations¹⁵ and (2) require Category III and IV banking organizations to recognize certain elements of AOCI in common equity tier 1 capital.

A. Removal of the Mortgage Servicing Asset Deduction

Under the current capital rule, covered banking organizations must deduct from common equity tier 1 capital amounts of MSAs that exceed 25 percent of the banking organization's common equity tier 1 capital. Under the proposal, covered banking organizations would no longer be required to deduct any amount of MSAs from common equity tier 1 capital. Instead, MSAs would be subject to a 250 percent risk weight, consistent with the treatment in the current capital rule for MSAs that do not exceed the deduction threshold.¹⁶

An MSA arises when a banking organization sells a loan to a third party but retains the obligation to service the loan in exchange for a fee. Banking organizations may also purchase, sell, or transfer MSAs separately from the underlying mortgage loans.

MSAs can be a useful tool for banking organizations to manage interest rate risk. The value of MSAs generally

⁸ See Table V.G.1 in the Data Appendix (Section V.G.) for a breakdown of the size of the exposure categories whose treatment would be revised under this proposal.

⁹ The calculation of the risk-weighted assets under the expanded risk-based approach is more complex than under the standardized approach as it is more granular and includes several additional risk factors. The expanded risk-based approach would also include an operational risk capital requirement and the requirement to use the standardized approach for counterparty credit risk to determine the exposure amount for derivative contracts. Banking organizations subject to the expanded risk-based approach would also be subject to a more risk-sensitive but complex definition of capital, including the requirement to include most elements of accumulated other comprehensive income in regulatory capital.

¹⁰ The expanded risk-based approach proposal contains a corresponding change that would apply to Category I and II banking organizations.

¹¹ AOCI generally includes accumulated unrealized gains and losses on certain assets and liabilities that have not been included in net income but are included in equity under U.S. generally accepted accounting principles (for example, unrealized gains and losses on securities designated as available-for-sale).

¹² This transition period would mirror the transition period under the expanded risk-based proposal provided to banking organizations that elect to use the expanded risk-based approach and that do not currently recognize AOCI in their regulatory capital.

¹³ The agencies anticipate proposing revisions to several reporting forms of the agencies filed by covered banking organizations that would align with the proposed revisions to the capital rule.

¹⁴ Refers to holding companies with total assets under \$100 billion that are required to report risk-based capital information on the FR Y9-C.

¹⁵ In addition, the proposal would require a covered banking organization to deduct from common equity tier 1 capital any portion of a credit-enhancing interest only strip that does not constitute an after-tax-gain-on sale, as discussed in section III.E.5.f.

¹⁶ This revision would also be consistent with comments received under EGRPRA as commenters requested removal of the MSA threshold. The expanded risk-based approach proposal would make the same modification to the definition of regulatory capital for Category I and II banking organizations and banking organizations that elect to use the expanded risk-based approach.

increases when interest rates rise, which extends the expected duration of related servicing fees. As a result, they may provide a hedge against losses on other assets that decline in value in the same interest rate environment.¹⁷

Moreover, MSAs are important for banking organizations to maintain their relationship with borrowers by retaining customer-facing relationships even after transferring the underlying loans, allowing cross-selling of products. Banking organizations can also improve efficiency by increasing scale. A deduction approach for MSAs can discourage banking organizations from creating economies of scale, which can hinder their ability to compete in mortgage underwriting or servicing businesses and to manage risks.

At the same time, MSAs have long been subject to elevated capital requirements because of the high level of uncertainty regarding the ability of banking organizations to realize value from these assets, especially under adverse financial conditions. MSAs may face significant valuation risk, which mainly stems from prepayment risk, default risk, and liquidity risk. For example, increased refinancing of mortgage loans due to lower interest rates can quickly erode the value of MSA portfolios, as can increased incidents of mortgage defaults. MSAs can also be difficult to value, as bank portfolios of MSAs can be heterogeneous and MSA valuations rely on assessments of future economic variables. Maintaining the 250 percent risk weight for MSAs would promote regulatory capital requirements that are commensurate with the risk of these assets.

Question 1: What are the advantages and disadvantages of the proposed treatment of MSAs? What are the implications of the proposed treatment of MSAs for banking organizations' mortgage origination business? To what extent does the 250 percent risk weight appropriately reflect the risk of these assets throughout the economic cycle? Given the potential volatility of MSAs under certain circumstances, what are the advantages and disadvantages of the agencies imposing a higher limit on MSA as a percentage of common equity tier 1 capital (for example, 100 percent) and why? What are the advantages and

disadvantages of differentiating the treatment of MSAs based on the size of the banking organization (for example, banking organizations with assets under \$10 billion or over \$100 billion) or applicable capital framework (for example, banking organizations that elect the community bank leverage ratio framework)?

B. Recognition of Accumulated Other Comprehensive Income for Category III and IV Banking Organizations

Under the current capital rule, Category I and II banking organizations are required to include most elements of AOCI in regulatory capital. All other banking organizations, including all covered banking organizations, had the option to make a one-time election to opt-out of recognizing most elements of AOCI and related deferred tax assets and liabilities within regulatory capital.¹⁸ Under the proposal, Category III and IV banking organizations would be required to include all AOCI components in common equity tier 1 capital, except gains and losses on cash-flow hedges where the hedged item is not recognized on a covered banking organization's balance sheet at fair value. This would require all net unrealized gains and losses on holdings of available-for-sale debt securities from changes in fair value to flow through to common equity tier 1 capital, including those that result primarily from fluctuations in benchmark interest rates.¹⁹ This treatment would align with the treatment of AOCI for banking organizations subject to the expanded risk-based proposal.

¹⁸ See 12 CFR 3.22(b) (OCC); 12 CFR 217.22(b) (Board); 12 CFR 324.22(b) (FDIC). A banking organization that made an opt-out election is currently required to adjust common equity tier 1 capital as follows: subtract any net unrealized holding gains and add any net unrealized holding losses on available-for-sale securities; subtract any accumulated net gains and add any accumulated net losses on cash flow hedges; subtract any amounts recorded in AOCI attributed to defined benefit postretirement plans resulting from the initial and subsequent application of the relevant GAAP standards that pertain to such plans (excluding, at the banking organization's option, the portion relating to pension assets deducted under § 22(a)(5) of the current capital rule); and, subtract any net unrealized holding gains and add any net unrealized holding losses on held-to-maturity securities that are included in AOCI.

¹⁹ Available-for-sale securities refers to debt securities. Accounting Standards Update 2016–01 eliminated the classification of available-for-sale equity securities under Accounting Standards Codification Subtopic 321–10 and generally requires investments in equity securities to be measured at fair value with changes in fair value recognized in net income. Changes in the fair value of (i.e., the unrealized gains and losses on) a banking organization's equity securities are recognized through net income rather than other comprehensive income.

AOCI is an important indicator that regulators and market observers use to evaluate the capital strength of a banking organization. The requirement to recognize elements of AOCI in regulatory capital has helped improve the transparency of regulatory capital ratios for Category I and II banking organizations, as it better reflects a banking organization's actual loss-absorbing capacity at a specific point in time, notwithstanding the potential volatility that such recognition may pose for its regulatory capital ratios. Category III and IV banking organizations have the tools and access to capital markets to manage the volatility of regulatory capital that recognition of AOCI in capital may cause. In addition, as noted in the expanded risk-based proposal, any banking organization that elects to apply the expanded risk-based approach would be required to include AOCI in regulatory capital. Given the more complex nature of the expanded risk-based proposal, these electing banking organizations are expected to have the ability to manage the volatility which may arise from the recognition of AOCI in capital, even if they are smaller banking organizations.

AOCI contributes to a banking organization's balance sheet equity and may be used by market participants in evaluating a banking organization's capital position.²⁰ Adverse trends in a banking organization's balance sheet equity can result in negative market perception and have liquidity implications.²¹ Banking organizations that do not include AOCI in regulatory capital are often reluctant to sell available-for-sale securities that have unrealized losses, as the losses would have to be recognized upon sale, thereby reducing regulatory capital. However, banking organizations may need to take such steps to meet liquidity needs. Recognizing elements of AOCI in regulatory capital achieves a better alignment of regulatory capital with a banking organization's point-in-time loss-absorbing capacity.

Question 2: What are the advantages and disadvantages of requiring Category III and IV banking organizations to recognize AOCI in their regulatory capital? What other scope of application for the proposed AOCI treatment should the agencies consider and why? Please provide any supporting data and analysis.

²⁰ See 84 FR 59230, 59249 (Nov. 1, 2019).

²¹ See Interagency Advisory on Interest Rate Risk Management (OCC Bulletin 2010–1, SR 10–1, FIL 2–2012, Jan. 11, 2010).

¹⁷ In a rising rate environment, the expected life of a mortgage will increase due to reduced prepayments. As a result, MSAs will increase in value, as the banking organization will collect servicing fees over a longer period of time. The increased value of MSAs act as a natural hedge against existing mortgage-backed securities which would be expected to trade at a discount in such an environment.

The proposal includes transition provisions that would provide Category III and IV banking organizations that do not currently recognize AOCI in their regulatory capital with a phase-in for reflecting AOCI in their regulatory capital over a five-year period from the effective date of any final rule.²² Such a banking organization would determine its AOCI adjustment amount as the sum of: (1) net unrealized gains or losses on available-for-sale securities, plus (2) accumulated net gains or losses on cash

flow hedges, plus (3) any amounts recorded in AOCI attributed to defined benefit postretirement plans resulting from the initial and subsequent application of the relevant GAAP standards that pertain to such plans, plus (4) net unrealized holding gains or losses on held-to-maturity securities that are included in AOCI. This AOCI adjustment amount would be transitioned as set forth in Table 1 below for Category III and IV banking organizations that have previously made

the AOCI opt-out election.²³ If the banking organization's AOCI adjustment amount is positive, it would multiply this amount by the percentage of the appropriate transition period provided in Table 1 below and subtract the resulting amount from its common equity tier 1 capital. If the AOCI adjustment amount is negative, the banking organization would perform the same calculation and add back the resulting amount to its common equity tier 1 capital.

Table 1 to § .300 Transition AOCI Adjustment Amount

Transition period	Percentage applicable to AOCI adjustment amount
January 1, 2027 to December 31, 2027	100
January 1, 2028 to December 31, 2028	80
January 1, 2029 to December 31, 2029	60
January 1, 2030 to December 31, 2030	40
January 1, 2031 to December 31, 2031	20
January 1, 2032 to thereafter	0

Question 3: What are the advantages and disadvantages of the proposed transition provisions for AOCI adjustments? What alternatives to the proposed transition provisions should the agencies consider, and why? For example, what are the costs and benefits of different transition-period durations or different recognition percentages in each period of the transition?

Question 4: Under the proposal, Category III or IV banking organizations would recognize AOCI in common equity tier 1 capital through a transition period, with only a portion of AOCI recognized during the transition. Category III and IV banking organizations with positive AOCI (for example, from unrealized gains on available-for-sale securities) would recognize less AOCI in its regulatory capital ratios during the transition period than they would if the full AOCI amount were recognized immediately. What are the costs and benefits of making the transition period optional, allowing Category III and IV banking organizations to elect to recognize the full AOCI amount on the effective date of the rule? Please provide relevant data to support your views, including information on the magnitude of AOCI

at Category III and IV banking organizations and how it has varied over time and in different interest rate environments.

Question 5: The expanded risk-based proposal would provide covered banking organizations under this proposal the choice to adopt the expanded risk-based approach. The expanded risk-based proposal includes the same AOCI transition period for banking organizations that do not currently recognize AOCI in their regulatory capital and that elect to use the expanded risk-based approach. What are the costs and benefits of applying the same AOCI transition provisions to banking organizations that elect to adopt the expanded risk-based approach as would apply to Category III and IV banking organizations under the standardized approach? Should banking organizations that elect to adopt the expanded risk-based approach be subject to different AOCI transition provisions? If so, what alternative transition provisions would be appropriate, and why?

III. Calculation of Risk-Weighted Assets Under the Standardized Approach

Under the proposal, a covered banking organization would continue to

follow the mechanics of the current capital rule for determining its standardized total risk-weighted assets.²⁴ Accordingly, such a banking organization would calculate its risk-weighted asset amounts for its on- and off-balance sheet exposures and, if applicable, risk-weighted assets for market risk covered positions. Risk-weighted asset amounts generally are determined by assigning on-balance sheet assets to broad risk-weight categories according to the counterparty, or, if relevant, the guarantor or collateral. Similarly, risk-weighted asset amounts for off-balance sheet items are calculated using a two-step process: (1) multiplying the amount of the off-balance sheet exposure by a conversion factor to determine a credit equivalent amount or adjusted carrying value, and (2) assigning the credit equivalent amount or adjusted carrying value to a relevant risk-weight category.

A. General Risk Weight Treatment

To improve the risk sensitivity of the standardized approach, the proposal would make targeted revisions to the general risk weight treatment of certain exposure categories that are particularly material to bank lending activities. As more specifically discussed below, the

²² This transition period would mirror the transition period under the expanded risk-based proposal provided to banking organizations that elect to use the expanded risk-based approach and

that do not currently recognize AOCI in their regulatory capital.

²³ For simplicity and illustrative purposes, the transition table assumes an effective date of January 1, 2027.

²⁴ See generally, 12 CFR part 3, subpart D (OCC); 12 CFR part 217, subpart D (Board); 12 CFR part 324, subpart D (FDIC).

proposal would (1) introduce a more risk-sensitive treatment for residential mortgage exposures and (2) amend the risk weights applicable to corporate exposures and to all assets not specifically assigned a different risk weight under the current standardized approach. The risk weights applicable to all other exposure categories would remain unchanged under the proposal.

1. Residential Mortgage Exposures

Under the proposal, a residential mortgage exposure would continue to be defined as an exposure that is primarily secured by a first or subsequent lien on one-to-four family residential property or an exposure with an original and outstanding amount of \$1 million or less that is primarily secured by a first or subsequent lien on a residential property that is not one-to-four family.²⁵ A residential mortgage exposure would not include an ADC exposure, a pre-sold construction loan, a statutory multifamily mortgage, or an HVCRE exposure.

To improve risk sensitivity, the proposal would introduce a loan-to-value (LTV)-based approach for assigning risk weights to certain residential mortgage exposures as discussed in section III.A.1.b. of this **SUPPLEMENTARY INFORMATION**. LTV ratios are a useful credit risk indicator as higher levels of homeowner equity generally reduce the likelihood of borrower default and provide lenders with a degree of protection against credit losses.

The proposed LTV-based approach would further differentiate risk weights based on whether a residential mortgage is dependent on cash flows generated by the real estate securing the extension of credit. Residential mortgage exposures in which the primary source of repayment is dependent on cash flows generated by the real estate can expose a banking organization to elevated credit risk relative to residential mortgage exposures where the source of repayment does not face such dependency, as the obligor may be unable to meet its financial commitments when cash flows from the property decrease, such as when tenants default or properties are unexpectedly vacant.²⁶ Residential mortgage exposures that are dependent on such cash flows to repay the loan can also be more affected by local market conditions and, thus, present elevated credit risk relative to exposures that are

serviceable by the income, cash, or other assets of the obligor. For example, an increase in the supply of competitive rental property could lower rental prices and suppress cash flows needed to support repayment of the loan.

If the underwriting process at origination of the residential mortgage exposure considers any cash flows generated by the real estate securing the loan, such as from rental payments, then the exposure would meet the proposal's definition of dependent on the cash flows generated by the real estate. Evaluating the dependence on cash flows generated from the real estate is a conservative and straightforward measure of credit risk. Reliance on cash flows from the property for repayment of a loan indicates increased risk of nonpayment relative to when the borrower has sufficient funds from other sources for full repayment of the loan. Given their increased credit risk, the proposal would assign higher risk weights to residential mortgage exposures that are dependent on proceeds or cash flows generated from the real estate itself to service the loan.

Under the proposal, additional loan characteristics can affect whether an exposure would be considered dependent on cash flows from the real estate. The proposal's definition of dependent on the cash flows generated by the real estate would exclude any residential mortgage exposure that is secured by the obligor's principal residence, as such mortgage exposures present reduced credit risk relative to real estate exposures that are secured by the obligor's non-principal residence.²⁷ For residential properties that are not the obligor's principal residence, including vacation homes and other second homes, such properties would be considered dependent on the cash flows generated by the real estate unless the covered banking organization has relied solely on the obligor's personal income and resources, rather than rental income (or resale or refinance of the property), to ascertain the obligor's capacity to repay the loan.²⁸

²⁷ See Breck Robinson, Federal Reserve Bank of Richmond, and Richard M. Todd, Federal Reserve Bank of Minneapolis, "The Role of Non-Owner-Occupied Homes in the Current Housing and Foreclosure Cycle," which cites multiple studies that loans on non-owner occupied properties have higher loss rates on mortgages to non-occupant owners than on mortgages to owner-occupants, at least after controlling for credit scores and other standard underwriting criteria. Pg. 6. https://www.richmondfed.org/~media/richmondfedorg/publications/research/working_papers/2010/pdf/wp10-11.pdf.

²⁸ For example, if (1) a borrower purchases a two-unit property with the intention of making one unit their principal residence, (2) the borrower intends to rent out the second unit to a third party, and (3)

To be eligible to use the proposed LTV-based approach, a residential mortgage exposure would be required to: (1) be secured by a property that is either owner-occupied or rented; (2) be made in accordance with prudent underwriting standards, including relating to the loan amount as a percent of the value of the property;²⁹ (3) not be 90 days or more past due or carried in nonaccrual status; and (4) not be restructured or modified.^{30 31} Additionally, the property would need to be valued in accordance with the proposed requirements included in the proposed LTV ratio calculation, as discussed below. Consistent with the current capital rule, residential mortgage exposures that do not meet the above criteria or are a junior lien residential mortgage exposure would continue to receive a 100 percent risk weight.

Question 6: The agencies seek comment on the set of residential mortgage exposures that are eligible to use the LTV-based approach. What are the advantages and disadvantages of aligning the scope of mortgages eligible to use the LTV-based approach with the current capital rule's 50 percent risk-weight category for residential mortgage exposures? What other alternatives should the agencies consider? Should covered banking organizations have the option to adopt the LTV-based approach or the option to retain the current treatment which applies less risk-sensitive risk weights of 50 and 100 percent?

Question 7: The agencies seek comment on the appropriateness of using an LTV-based approach to determine risk-weights for residential mortgages as a standardized approach and the operational or administrative

the covered banking organization considered the cash flows from the rental unit as a source of repayment, the exposure would not meet the proposal's definition of dependent on the cash flows generated by the real estate because the property securing the exposure is the borrower's principal residence.

²⁹ The agencies expect these underwriting standards to align with the agencies' safety and soundness and real estate lending guidelines. See 12 CFR part 30, appendix C and 12 CFR part 34, appendix A to subpart D (OCC); 12 CFR part 208, appendix C (Board); 12 CFR parts 364 and 365 (FDIC).

³⁰ Consistent with the current capital rule and under the proposal, when a covered banking organization holds the first-lien and junior-lien(s) residential mortgage exposures and no other party holds an intervening lien, the covered banking organization would be required to combine the exposures and treat them as a single first-lien residential mortgage exposure.

³¹ These requirements generally align with the current capital rule's requirements for first-lien residential mortgages that are eligible for a 50 percent risk weight.

²⁵ See 12 CFR _____.2.

²⁶ See Board of Governors of the Federal Reserve System, Financial Stability Report (November 2020), <https://www.federalreserve.gov/publications/files/financial-stability-report-20201109.pdf>.

burden associated with its implementation. What are the advantages or disadvantages of using an LTV-based approach for the standardized approach? What alternative approaches should the agencies consider, and why? Please provide examples of potential operational or administrative challenges associated with implementing the LTV-based approach.

a. Calculating the Loan-to-Value Ratio

Under the proposal and in line with the expanded risk-based approach proposal, covered banking organizations would use an LTV ratio to assign a risk weight applicable to certain residential mortgage exposures. The proposed calculation of the LTV ratio would generally align with the real estate lending guidelines, except with respect to the recognition of private mortgage insurance.

A covered banking organization would calculate the LTV ratio for purposes of Table III.1 and Table III.2 below by dividing the extension of credit by the value of the property. The extension of credit means the total outstanding amount of the loan, including any undrawn committed amount. The total outstanding amount reflects the current amortized balance as the loan pays down, which would allow a covered banking organization to assign a lower risk weight to a loan over time as the principal is repaid. Similarly, if an extension of credit increases, a covered banking organization would reflect that increase in the LTV ratio.

For the LTV ratio calculation, a covered banking organization would calculate the loan amount without making any adjustments for credit loss provisions or private mortgage insurance. Not recognizing private mortgage insurance for these purposes would be consistent with the current capital rule's definition of eligible guarantor, which does not recognize an insurance company predominately engaged in the business of providing credit protection (such as a monoline bond insurer or re-insurer).³² During the 2007–2009 housing market stress, the performance of private mortgage insurance deteriorated at the same time as the underlying exposures.³³ Under

the proposal and consistent with the current capital rule, private mortgage insurance is considered when a covered banking organization identifies which of its residential mortgage exposures are made in accordance with prudent underwriting standards and eligible to use the proposed risk weights discussed in section III.A.1.b. of this

SUPPLEMENTARY INFORMATION.³⁴

The value of the property would mean the value at the time of origination of all real estate properties securing the extension of credit, including the increased estimated value of the property if the property is being improved by an extension of credit. The value of the property would also include the fair value of any readily marketable collateral and other acceptable collateral, as defined in the real estate lending guidelines, that secures the extension of credit.

For exposures subject to the Real Estate Lending, Appraisal Standards, and Minimum Requirements for Appraisal Management Companies or Appraisal Standards for Federally Related Transactions (collectively, the appraisal rule),³⁵ the market value of real estate would be a valuation that meets all requirements of that rule. For exposures not subject to the appraisal rule, the proposal would require that (1) the market value of real estate be obtained from an independent valuation of the property using prudently conservative valuation criteria and (2) the valuation be done independently from the covered banking organization's origination and underwriting process. Most residential mortgage exposures held by insured depository institutions are subject to the agencies' appraisal rule, which also provides for evaluations in some cases, and provides for certain exceptions, such as where a lien on real estate is taken as an abundance of caution. To help ensure that the value of the real estate is determined in a prudently conservative manner, the proposal would also provide that, for exposures not subject to the appraisal rule, the valuations of the real estate properties would need to exclude expectations of price increases and be adjusted downward to take into account the potential for the current market prices to be significantly above

the values that would be sustainable over the life of the loan.

In addition, when the residential mortgage exposure finances the purchase of a property, the value would be the lower of (1) the actual acquisition cost of the property and (2) the market value obtained from either (i) the valuation requirements under the appraisal rule (if applicable) or (ii) as described above, an independent valuation using prudently conservative valuation criteria that is separate from the covered banking organization's origination and underwriting process.

Using the value of a property at origination when calculating the LTV ratio protects against volatility risk or short-term market price inflation. For purposes of the LTV ratio calculation, the proposal would require covered banking organizations to use the value of the property at the time of origination, except under the following circumstances: (1) the covered banking organization's primary Federal supervisor requires the covered banking organization to revise the property value downward; (2) an extraordinary event occurs resulting in a permanent reduction of the property value (for example, a natural disaster); or (3) modifications are made to the property that increase its market value and are supported by an appraisal or independent evaluation using prudently conservative criteria. These proposed exceptions are intended to constrain the use of values other than the value of the property at loan origination only to exceptional circumstances that are sufficiently material to warrant use of a revised valuation.

For purposes of determining the value of the property, the proposal would use the definition of readily marketable collateral and other acceptable collateral consistent with the real estate lending guidelines. Therefore, readily marketable collateral would mean insured deposits, financial instruments, and bullion in which the covered banking organization has a perfected security interest. Financial instruments and bullion would need to be salable under ordinary circumstances with reasonable promptness at a fair market value determined by quotations based on actual transactions, in an auction or on similarly available daily bid and ask price market. Other acceptable collateral would mean any collateral in which the covered banking organization has a perfected security interest that has a quantifiable value and is accepted by the covered banking organization in accordance with safe and sound lending practices. Under the proposal, other acceptable collateral would include,

³² A guarantor is not an eligible guarantor under the current capital rule if the guarantor's creditworthiness is positively correlated with the credit risk of the exposures for which it has provided guarantees. 78 FR 62141 (Oct. 11, 2013). See definition of eligible guarantor in § __.2 of the capital rule. 12 CFR 3.2 (OCC); 12 CFR 217.2 (Board); 12 CFR 324.2 (FDIC).

³³ See Laurie Goodman and Karan Kuhl, "Sixty Years of Private Mortgage Insurance in the United States", The Urban Institute Housing Finance

Policy Center, August 2017.Pg. 7, https://www.urban.org/sites/default/files/publication/92676/2017_08_18_sixty_years_of_pmi_finalizedv3_3.pdf.

³⁴ See 12 CFR __.32(g)(1)(ii).

³⁵ See 12 CFR part 34, subpart C or subpart G (OCC); 12 CFR part 208, subpart E or 12 CFR part 225, subpart G (Board); 12 CFR part 323 (FDIC).

among other items, unconditional irrevocable standby letters of credit for the benefit of the covered banking organization. Readily marketable collateral and other acceptable collateral must be appropriately discounted by the covered banking organization consistent with the banking organization’s usual practices for making loans secured by such collateral. The reasonableness of a covered banking organization’s underwriting criteria would continue to be reviewed through the supervisory process to help ensure its real estate lending policies are consistent with safe and sound banking practices.

Question 8: The agencies have considered various alternatives relating to how private mortgage insurance should be recognized for residential mortgages exposures beyond the proposed treatment of considering private mortgage insurance when identifying which residential mortgage exposures meet the requirements to be considered prudently underwritten and eligible to use the proposed LTV-based approach. What would be the pros and

cons of providing explicit recognition of private mortgage insurance in the calculation of LTV ratios for purposes of determining the risk weights for residential exposures? What, if any, increases in procyclicality and incentives for increased risk-taking by covered banking organizations might such recognition create? What conditions could the agencies impose on such recognition to mitigate concerns about the wrong-way risk of monoline credit insurance? In recognition that private mortgage insurance may not provide protection under all relevant stress events, what are the advantages and disadvantages of recognizing a portion (such as 50 percent) of the value of the private mortgage insurance in determining the total outstanding amount of the loan in the calculation of the LTV ratio? Please provide any data and analysis supporting alternative approaches.

b. Risk Weights for Residential Mortgage Exposures

Under the proposal, a covered banking organization would assign a

risk weight to an eligible residential mortgage exposure based on the exposure’s LTV ratio without private mortgage insurance and based on whether repayment is dependent on the cash flows generated by the real estate, in accordance with Tables III.1 and III.2 below.³⁶ LTV ratios and source of repayment would factor into the risk-weight treatment for residential mortgage exposures because they are key determinants of risk for real estate exposures.

The proposed risk weights would recognize the reduction in risk due to amortization, as the borrower pays down principal and builds equity.³⁷ Given the increased risk sensitivity of the LTV-based approach relative to the current standardized approach, the risk weights for eligible residential mortgage exposures would decrease throughout the life of the loan as the obligor makes payments. Lower LTVs are strongly associated with lower realized loss given default.³⁸

Table III.1: Proposed Risk Weights for Residential Mortgage Exposures that are Not Dependent on the Cash Flows of the Real Estate

	LTV Ratio ≤ 50%	50% < LTV Ratio ≤ 60%	60% < LTV Ratio ≤ 80%	80% < LTV Ratio ≤ 90%	90% < LTV Ratio ≤ 100%	LTV Ratio > 100%
Risk Weight	25%	30%	35%	45%	55%	75%

Table III.2: Proposed Risk Weights for Residential Mortgage Exposures Dependent on the Cash Flows of the Real Estate

	LTV Ratio ≤ 50%	50% < LTV Ratio ≤ 60%	60% < LTV Ratio ≤ 80%	80% < LTV Ratio ≤ 90%	90% < LTV Ratio ≤ 100%	LTV Ratio > 100%
Risk Weight	35%	40%	50%	65%	80%	110%

The proposed risk weights in Tables III.1 and III.2 would appropriately balance the benefits of risk sensitivity, transparency, and consistency in

requirements across covered banking organizations.

Relative to the current standardized approach, the proposed risk weights in Tables III.1 and III.2 would also align

more closely with the treatment of regulatory residential real estate exposures under the expanded risk-based proposal. Consistent with the general risk weights in the current

³⁶ The risk weight assigned to loans does not impact the appropriate treatment of loans under the agencies’ other regulations and guidance, such as the supervisory LTV limits under the real estate lending guidelines. See Appendix C to Part 208, Title 12.

³⁷ For purposes of the LTV ratio calculation, the proposal would require covered banking organizations to use the value of the property at the time of origination, except under limited circumstances. See also Luis Otero González, Pablo Durán Santomil, Milagros Vivel Búa and Rubén Lado Sestayo, “The Impact of Loan-to-Value on The

Default Rate of Residential MBS” Journal of Credit Risk (July 2016), <https://www.risk.net/journal-of-credit-risk/2465626/the-impact-of-loan-to-value-on-the-default-rate-of-residential-mortgage-backed-securities>.
³⁸ Keç, Turalay. “Macroprudential regulation: history, theory and policy.” BIS Paper 86c (2016).

standardized approach and in contrast with the proposed expanded risk-based approach, there is not a separate operational risk-based capital requirement. Therefore, the proposed risk weights for residential mortgage exposures under this proposal would not account exclusively for credit risk. The difference in risk weights between the two proposals is, therefore, explained by the differing approaches for how risk categories, such as specific credit and operational risk-based requirements, factor into each proposal's methodology for assigning risk weights.³⁹

Question 9: The agencies seek comment on the proposed risk-weights for residential mortgage exposures in Tables III.1 and III.2. What alternative approaches, if any, should the agencies consider to account for risks other than credit risk posed by covered banking organizations' residential mortgage lending activities? What alternative risk weights, if any, should the agencies consider, and why? Please provide any supporting data.

Question 10: What are the advantages and disadvantages of the proposed LTV-based approach for residential mortgage exposures that are dependent on the cash flows of the property? What, if any, implementation challenges would the requirement to determine whether an exposure is dependent on the cash flows of the property present? What would be the advantages and disadvantages of an alternative LTV-based approach that differentiates risk weights on whether the property securing the residential mortgage exposure is owner occupied? If the agencies were to implement such an approach for purposes of the final rule, what would be the appropriate risk-weight calibration? The agencies encourage commenters to provide data and supporting analysis.

2. Corporate Exposures and Certain Other Assets

The proposal would update the risk weights applicable to (1) corporate exposures and (2) all assets not specifically assigned a different risk weight under the capital rule and that are not deducted from regulatory capital (other assets).

³⁹ The calibration of the operational risk add-on followed a similar logic to the one used for corporate exposures and other assets (discussed below). Given that operational risk represents approximately 12 percent of risk-weighted assets for traditional lending under the expanded risk-based approach and assuming an average 35 percent risk weight for eligible residential real estate exposures, an operational risk add-on of approximately 5 percentage points to residential real estate risk weights would be appropriate.

Under the proposal, the risk weight applicable to corporate exposures would be reduced from 100 percent to 95 percent and the risk weight applicable to other assets would be reduced from 100 percent to 90 percent.⁴⁰ These changes aim to balance a more risk-sensitive calibration with maintaining the simplicity of the standardized approach. The proposal would maintain the existing definition of corporate exposure and other assets.

When analyzing the risk-based capital requirements for specific business lines under the expanded risk-based proposal, the agencies determined that the current risk weights for certain exposure categories may not appropriately reflect risks. The expanded risk-based proposal includes reduced risk weights relative to the current standardized approach for corporate exposures that are deemed investment grade and retail exposures that exhibit reduced credit risk. These changes in the expanded risk-based proposal are intended to increase sensitivity to risk of the capital requirements for the banking organizations covered by that proposal. However, the increased complexity and operational burden for achieving these enhancements in risk sensitivity would not be appropriate for a standardized approach that applies to smaller and less complex banking organizations. To better calibrate the standardized approach's general risk weights for similar exposures while retaining their simplicity, the agencies conducted additional data analysis.

The risk weights assigned to corporate exposures and other assets under this proposal are informed by the risk weights for credit risk and operational risk that would apply to domestic Category III and IV banking organizations under the expanded risk-based approach. Specifically, the exposure categories that would be risk-weighted as corporate exposures and other assets were approximated using exposures reported in the special data collection, risk-weighted as under the expanded risk-based proposal.⁴¹ This

⁴⁰ The other assets category is composed of exposures to individuals, other real estate owned, and other exposures not specifically assigned a different risk weight.

⁴¹ In late 2023, the Board collected data on risk-weighted assets from 32 large bank holding companies based on the specific requirements contained in a July 27, 2023, capital proposal. See <https://www.federalreserve.gov/newsevents/pressreleases/bcreg20231020b.htm>. Corporate exposures were proxied using data reported in line items containing corporate exposures (item 8), certain real estate exposures (items 6.d, 6.g, 6.h, and 6.i), and certain off-balance sheet items (items 13 to 25 and 27), where those items were assigned one

analysis resulted in a weighted-average credit risk weight of 85 percent for corporate exposures and 77 percent for other assets.

In addition to credit risk, the expanded risk-based proposal would assign risk-weighted asset requirements for the operational risk of these exposures. Consistent with the simple risk weighting of the standardized approach, this proposal would reflect a nominal add-on to account for operational risk. Analysis in the expanded risk-based proposal suggests that risk-weighted assets for operational risk would represent approximately 12 percent of credit risk-weighted assets for traditional lending activities.⁴² Assuming approximately an 80 percent credit risk weight for these activities, this would result in approximately a 10 percentage points risk-weight add-on for operational risk. Moreover, the methodology used to determine the weighted-average risk weight for other assets under the expanded risk-based approach is likely slightly underestimated because the portfolios of non-Category III or IV banking organizations subject to the standardized approach likely include fewer transactor retail exposures (with relatively low risk weights) as smaller banking organizations have more limited credit card portfolios. Therefore, this proposal would assign risk weights of 95 percent for corporate exposures and 90 percent for other assets.

Question 11: The agencies seek comment on the proposed risk weight for corporate exposures. What alternative risk-weight should the agencies consider, and why? Please provide any supporting data.

Question 12: The agencies seek comment on the proposed risk weight for exposures to assets not otherwise assigned to a specific risk weight under the current standardized approach and that are not deducted from tier 1 or tier 2 capital pursuant to § __.22. What are the advantages and disadvantages of the proposed risk weight of 90 percent for this set of exposures? What alternative risk-weight should the agencies

of the possible risk-weights corresponding to corporate exposure under the expanded risk-based approach proposal. Other asset exposures were proxied using data reported in line items containing retail exposures (item 7), other assets (item 9), and certain off-balance sheet items (items 13) where such exposures were assigned a risk weight corresponding to either retail exposures or a risk weight of 100 percent.

⁴² See Table VII.6 in the expanded risk-based proposal. This calculation is based on the risk-weighted assets estimated to apply to the traditional lending activities of Category I and II bank holding companies.

consider, and why? Please provide any supporting data.

Question 13: The agencies seek comment on whether to create a separate category, or separate categories, for retail exposures in the proposed standardized approach. What would be the advantages and disadvantages of creating a separate category for retail exposures? What are the appropriate criteria for defining retail exposures (for example, the criteria used to define retail exposures under the expanded risk-based proposal)? What risk weight would be appropriate for retail exposures for covered banking organizations? In a revised treatment where retail exposures are segregated into their own risk-weight category, would it be appropriate to set a 100 percent risk weight for other assets (not including retail exposures) and why? Please provide relevant data to support your views, including information on the historical loss rates and risk characteristics of retail exposures.

B. Off-Balance Sheet Exposures

The proposal would better capture the risk of certain off-balance sheet exposures relative to the current standardized approach by revising the definition of commitment to clarify the off-balance sheet exposures that would be subject to risk-based capital requirements and modifying the conversion factors applicable to certain credit and equity commitments.

1. Definition of Commitment

The current capital rule defines a commitment as any legally binding arrangement that obligates a banking organization to extend credit or to purchase assets.⁴³ Such an arrangement is treated as a commitment even when the banking organization has the unilateral right to cancel the arrangement at any time. The agencies have received questions from banking organizations regarding whether certain types of arrangements, such as advised credit lines and uncommitted lines, would be commitments even if they are unconditionally cancelable. In addition, the agencies have observed an inconsistent application of the current definition of commitment.

Consistent with the expanded risk-based proposal, the proposal would revise the definition of commitment to clarify that any contractual arrangement under which a banking organization and an obligor agree to the terms applicable to one or more future extensions of

credit, purchases of assets, or issuances of credit substitutes by the banking organization is a commitment, whether or not the arrangement is unconditionally cancelable. Consistent with the current capital rule, an unconditionally cancelable commitment would include a commitment that permits a banking organization to, at any time, with or without cause, refuse to extend credit, purchase assets, or issue credit substitutes under the arrangement (to the extent permitted under applicable law). Similarly, the proposal clarifies that a contractual arrangement to extend credit, purchase assets, or issue credit substitutes, but which does not obligate the banking organization to do so, is also considered a commitment that is unconditionally cancelable.⁴⁴ This approach would promote comparable treatment across banking organizations subject to the capital rule.

Commitments represent an arrangement where the banking organization could expect to purchase assets or to extend credit to an obligor, in which case the credit becomes an on-balance sheet asset. The scope of the definition is, therefore, not intended to be limited to those situations in which the banking organization is obligated to provide some amount of credit to an obligor. The agencies do not, however, intend for the definition of commitment to include arrangements where a banking organization has merely offered potential terms to a potential obligor or that continue to be subject to negotiation between the parties. For the purpose of the regulatory capital rule, a commitment does not and would not include pre-approval letters for residential mortgage loans, credit card offers, or other offers that have not yet been agreed upon by both parties to the transaction.

Examples of arrangements that would generally be considered commitments under the proposal include fronting commitments, where a banking organization agrees to fund the obligations of other members of a syndicate of lenders, and commitment letters, where a banking organization agrees to provide financing in connection with an acquisition or other transaction to be entered into by the obligor. The proposal would also include other off-balance sheet activities such as advised lines or “uncommitted” facilities as commitments (even if they are unconditionally cancelable or

provide that the banking organization is not obligated to perform). For example, an arrangement under which a banking organization retains full discretion as to whether to extend credit to a potential borrower, but under which the banking organization and the potential borrower have agreed to the material terms on which such lending would take place if the banking organization chose to extend credit, is an unconditionally cancelable commitment under the proposal. An unconditionally cancelable commitment also includes an arrangement where a banking organization provides an initial line of credit with an additional amount that the banking organization may extend in the future subject to prior approval by the banking organization, with the agreed upon terms of the future unconditionally cancelable line.

Exposures without pre-set limits on the amount of credit that can be extended also can be unconditionally cancelable commitments. With some retail products, such as with charge cards, the banking organization does not disclose a pre-set credit limit to its obligors. For charge cards, or similar types of off-balance sheet exposures, each attempt to borrow by an obligor is individually underwritten and requires the approval of the banking organization. Nevertheless, because the banking organization and the borrower have agreed to the material terms on which such lending would take place, such arrangements meet the definition of commitment and, therefore, should be treated as unconditionally cancelable commitments for regulatory capital purposes.⁴⁵

Question 14: The agencies seek comment on the clarification to the definition of commitment. Does the proposal appropriately capture as off-balance sheet exposures arrangements where the covered banking organization is not legally obligated to extend credit, purchase assets, or issue credit substitutes but which nonetheless arise out of a contractual arrangement to extend credit or purchase assets? To what extent would the proposed definition affect a covered banking organization's business practices regarding commitments and similar arrangements, including how covered banking organizations treat such arrangements for regulatory capital and reporting purposes? Please provide any rationale or data that may be helpful for the agencies to consider.

⁴³ See 12 CFR 3.2 (OCC); 12 CFR 217.2 (Board); 12 CFR 324.2 (FDIC).

⁴⁴ The proposal would remove the definition of “unconditionally cancelable” and revise the definition of “commitment” to indicate which commitments are considered unconditionally cancelable.

⁴⁵ See section V.F. for the proposed methodology to determine the exposure amount for retail exposures with no pre-set limit.

2. Conversion Factors

Consistent with the current rule, under the proposed rule a covered banking organization would calculate the exposure amount of an off-balance sheet exposure by multiplying the off-balance sheet component, which is usually the contractual amount or adjusted carrying value, by the applicable conversion factor. The resulting exposure amount would then be assigned to the relevant risk-weight category for the exposure. The proposal would retain the same conversion factors from the current capital rule, except with respect to commitments.⁴⁶

Under the current standardized approach, commitments that are not unconditionally cancelable with an original maturity of one year or less receive a 20 percent credit conversion factor and those with an original maturity of more than one year receive a 50 percent credit conversion factor.⁴⁷ The proposal would simplify the conversion factors applicable to the unused portion of a credit or equity commitment that is not unconditionally cancelable. For these commitments, the proposal would no longer differentiate conversion factors by original maturity of one year or less and greater than one year.

Under the proposal, a credit commitment that is not unconditionally cancelable would be subject to a credit conversion factor of 40 percent regardless of the maturity of the facility.⁴⁸ Removing the one-year mark as a dividing line between substantially different treatments would remove any regulatory incentive to structure transactions around that line. The 40 percent credit conversion factor would align with the expanded risk-based

proposal and reflect that most outstanding commitments that are not unconditionally cancelable have a maturity greater than one year.⁴⁹

The proposal would also simplify the treatment of conditional commitments to acquire an equity exposure by removing the differentiation of conversion factors by maturity. Under the proposal a covered banking organization would be required to multiply the effective notional principal amount of a conditional commitment by a 40 percent conversion factor to calculate its adjusted carrying value.⁵⁰

Question 15: What additional factors, if any, should the agencies consider for determining the applicable credit conversion factors for commitments?

Question 16: What are the advantages and disadvantages relative to the proposal of using the current treatment for commitments, that are not unconditionally cancelable which differentiates credit conversion factors based on maturity, and would apply a 20 percent credit conversion factor to those commitments with an original maturity of one year or less, and a 50 percent credit conversion factor to those with an original maturity of more than one year?

Question 17: What are the advantages and disadvantages of applying the proposed 40 percent credit conversion factor for commitments regardless of maturity that are not unconditionally cancelable to the supplementary leverage ratio framework and to the Size Category of the FR Y-15?

3. Commitments With No Pre-Set Limit

Most off-balance sheet exposures, such as credit card lines, allow obligors to borrow up to a specified amount. However, some off-balance sheet exposures such as charge cards do not have an explicit contractual pre-set credit limit. For commitments that do not have an express contractual maximum amount or pre-set limit, the proposal would include an approach to calculate a proxy for the committed but undrawn amount of the commitment (undrawn exposure amount). This approach would generally align with that under the expanded risk-based

proposal, except for a broader scope of application under this proposal given the objective to retain a simpler and less granular framework.

The proxy for the undrawn exposure amount is particularly important for covered banking organizations subject to the supplementary leverage ratio framework. Consistent with the current rule, under the proposal, covered banking organizations would apply a zero percent credit conversion factor to the unused portion of a commitment that is unconditionally cancelable for risk-based capital purposes. However, for purposes of the supplementary leverage ratio the minimum credit conversion factor that may be assigned to an off-balance sheet exposure is 10 percent.⁵¹

The undrawn exposure amount would be calculated by using the exposure's highest drawn amount over the previous 24 months as an indicator of the amount of credit a covered banking organization is likely to extend to an obligor in the future. Specifically, under the proposal, a covered banking organization would first identify the largest drawn amount by an obligor over the prior 24 months or, if the covered banking organization has offered the product to the obligor for fewer than 24 months, the largest drawn amount since the commitment was first issued. The off-balance sheet exposure amount would be calculated by first subtracting the current drawn amount from the largest drawn amount and then multiplying this difference by the applicable credit conversion factor. The risk-weighted asset amount would be the off-balance sheet exposure amount multiplied by the applicable risk weight for the obligor.

A substantial share of uncapped commitments is in the form of charge cards to individuals, and these exposures have characteristics that suggest the highest drawn balance method described above is a reasonable proxy to estimate the undrawn exposure amount. A charge card does not have a pre-set credit limit, its balance is generally required to be paid in full at the end of each statement period, and charge card transactions are generally underwritten separately and reviewed by the issuing banking organization for approval or denial. Therefore, a charge card obligor's spending pattern, which reflects a covered banking organization's approval of the charge card obligor's usage, is indicative of the off-balance sheet exposure amount for a charge card.

⁴⁶ Note issuance facilities and revolving underwriting facilities are forms of revolving credit. Notes issued under note issuance facilities and revolving underwriting facilities are short-term instruments issued under a legally binding medium-term contractual arrangement. Under a revolving underwriting facility, the underwriting banking organization agrees to provide loans should the issue fail, but under a note issuance facility the banking organization could either lend to the issuer or purchase the outstanding notes. Consistent with the current rule and with the Basel standards, the proposal would require banking organizations to apply a 50 percent credit conversion factor to the off-balance sheet amount of note issuance facilities and revolving underwriting facilities, regardless of whether a lower credit conversion factor would otherwise apply.

⁴⁷ 12 CFR 3.33(b)(2) (OCC); 12 CFR 217.33(b)(2) (Board); 12 CFR 324.33(b)(2) (FDIC).

⁴⁸ Under the proposal, a 40 percent conversion factor would also apply to commitments that are not unconditionally cancelable commitments for purposes of calculating the total leverage exposure for the supplementary leverage ratio framework and for the calculation of the Size Category of the FR Y-15 Systemic Risk Report form.

⁴⁹ In Q2 2025, prior to application of conversion factors, commitments with maturity less than one year accounted for under 20 percent of aggregate risk-weighted assets associated with commitments of Category III and smaller bank holding companies (See FR Y-9C Schedule HC-R Part II, items 18.a and b).

⁵⁰ Aside from this change, the equity framework would retain the current capital rule's methods for calculating the adjusted carrying value for equity exposures. Under the proposal, the risk-weighted asset amount calculation for equity exposures would also be consistent with the current rule.

⁵¹ See 12 CFR 3.10(c)(2)(viii) (OCC); 12 CFR 217.10(c)(2)(viii) (Board); 12 CFR 324.10(c)(2)(viii) (FDIC).

As an example of the proposed treatment, assume an obligor's charge card had a maximum drawn amount of \$4,000 during the period of the prior 24 months and a current drawn amount of \$3,000.⁵² To determine the off-balance sheet exposure amount of the charge card, the covered banking organization would (1) identify the maximum drawn amount over the prior 24 months (\$4,000), (2) subtract the applicable drawn amount of \$3,000 from \$4,000 (\$1,000), and (3) multiply \$1,000 by the applicable credit conversion factor.⁵³

Question 18: What are the advantages and disadvantages of the proposed treatment for commitments with no express contractual maximum amount or pre-set limit? What other time period or approach should the agencies consider for calculating the highest drawn amount (for example, using month-end balance or statement balances), and why?

Question 19: What would be the advantages and disadvantages of applying a multiplier to the highest drawn amount to calculate the off-balance sheet exposure amount (for example, multiplying the highest drawn balance by a figure between 1.5 and 3) to calculate the off-balance sheet exposure amount?⁵⁴ If applied, how should such multiplier be calibrated? What data should the agencies use to calibrate such a multiplier?

Question 20: The agencies seek feedback on commitments that contain no express contractual maximum amount but also contain features such as a "pay over time" limit, which allows a borrower to carry a balance with interest on certain charges. What would be the advantages and disadvantages of incorporating the "pay over time" limit as a floor when calculating the highest drawn amount under the proposal? For example, assume the maximum drawn amount over the prior 24 months is \$4,000 and the "pay over time" limit is \$5,000. Under this alternative, the applicable drawn amount would be subtracted from \$5,000 instead of \$4,000.

⁵² The maximum balance would reflect the highest daily drawn amount for the account with no pre-set limit over the period.

⁵³ The applicable credit conversion factor for these types of exposures, assuming they are unconditionally cancelable commitments, would continue to be zero percent under the standardized approach and 10 percent under the supplementary leverage ratio.

⁵⁴ If a multiplier of two were applied to the maximum drawn amount over the prior 24 months, under the example presented above, the off-balance sheet exposure amount would equal \$5,000, which corresponds to \$4,000 times two minus \$3,000. The other steps of the process would remain unchanged and would result in a risk-weighted asset amount of \$225 for the off-balance sheet exposure.

Question 21: The agencies seek comment on whether the specific treatment described above is appropriate for all commitments with no contractual maximum or pre-set limit. What are the advantages and disadvantages of instead limiting the proposed treatment for such commitments to a narrower set of exposure categories (such as the scope under the expanded risk-based proposal) and why? What alternative treatments, if any, should the agencies consider for determining the exposure amount when no contractual maximum or pre-set limit exists? Describe in detail the types of alternative treatments that the agencies should consider, and provide supporting rationale or data that may be helpful for the agencies.

C. Derivative Contracts

Under the proposal and consistent with the current capital rule, a covered banking organization would use the current exposure methodology to calculate the exposure amount for derivative contracts unless it elects to use the standardized approach for counterparty credit risk (SA-CCR).⁵⁵ To promote consistency, a covered banking organization that elects to use SA-CCR would apply the same revised SA-CCR framework that is proposed in the expanded risk-based proposal regardless of whether the banking organization is subject to the standardized approach or the expanded risk-based approach.⁵⁷ The revised SA-CCR framework would better reflect the risk-reducing effects of netting arrangements and collateral.

Specifically, the revised SA-CCR framework would recognize qualifying cross-product master netting agreements for non-cleared transactions and incorporate certain non-cleared repo-style transactions, including client-facing transactions. The revised framework would also permit the netting of collateralized-to-market and settled-to-market client-facing derivative transactions. In addition, the proposal would make technical revisions to promote consistent implementation of SA-CCR and better reflect counterparty credit risk. The accompanying expanded risk-based approach proposal provides further details on the changes to the SA-CCR framework.

D. Credit Risk Mitigation

The current capital rule permits covered banking organizations to

recognize certain types of credit risk mitigants, such as guarantees, credit derivatives, and collateral, for risk-based capital purposes provided the credit risk mitigants satisfy the qualification standards under the rule.⁵⁸ Credit derivatives and guarantees can reduce the credit risk of an exposure by placing a legal obligation on a third-party protection provider to compensate the banking organization for losses associated with a credit event of the original obligor.⁵⁹ Similarly, the use of collateral often can reduce the credit risk of an exposure by creating the right of a banking organization to take ownership of and liquidate the collateral in the event of a default by the counterparty. Prudent use of such mitigants can help a banking organization reduce the credit risk of an exposure and in some circumstances reduce the risk-based capital requirement associated with that exposure.

Credit risk mitigants recognized for risk-based capital purposes must be of sufficiently high quality to effectively reduce credit risk. For guarantees and credit derivatives, the current capital rule primarily looks to the creditworthiness of the guarantor and the features of the underlying contract to determine whether these forms of credit risk mitigation may be recognized for risk-based capital purposes (eligible guarantee or eligible credit derivative). With respect to collateralized transactions, the current capital rule primarily looks to the liquidity profile and quality of the collateral received (such as the creditworthiness of the issuer of the collateral) and the nature of the banking organization's security interest to determine whether the collateral qualifies as financial collateral that may be recognized for purposes of risk-based capital.⁶⁰

The proposal would largely incorporate the treatments for collateralized transactions, guarantees, and credit derivatives from the current capital rule with enhancements to increase risk sensitivity. For eligible guarantees and eligible credit

⁵⁸ Consistent with the current capital rule, the proposal would not require covered banking organizations to recognize a credit risk mitigant that it has obtained. Credit derivatives that a covered banking organization cannot or chooses not to recognize as a credit risk mitigant would be subject to a separate counterparty credit risk capital requirement.

⁵⁹ Credit events are defined in the documents governing the credit risk mitigant and often include events such as failure to pay principal and interest and entry into insolvency or similar proceedings.

⁶⁰ See definition of financial collateral in § __.2 of the capital rule. 12 CFR 3.2 (OCC); 12 CFR 217.2 (Board); 12 CFR 324.2 (FDIC).

⁵⁵ See 12 CFR 3.34 (OCC); 12 CFR 217.34 (Board); 12 CFR 324.34 (FDIC).

⁵⁶ 85 FR 4362 (Jan. 24, 2020).

⁵⁷ See expanded risk-based proposal section IV.A.4.

derivatives, the proposal would generally retain the substitution approach from the current capital rule with two modifications. Specifically, the proposal would modify the treatment for eligible credit derivatives that do not include restructuring as a credit event and no longer permit the recognition of credit protection from nth-to-default credit derivatives.⁶¹

For collateralized transactions where financial collateral secures exposures that are not derivative contracts or netting sets of derivative contracts, the proposal would generally retain the simple approach from the current capital rule with the following two modifications.⁶² First, the proposal would replace the requirement that financial collateral be subject to a collateral agreement with conditions including the requirement that the covered banking organization have the right to liquidate or take legal possession of the collateral upon an event of default. Second, the proposal would permit covered banking organizations to recognize, under the simple approach, the credit risk mitigation benefits of financial collateral with a maturity or currency mismatch, after applying certain adjustments. The proposal would also update the collateral haircut approach to partially recognize the netting and diversification benefits that may be present in repo-style transactions, eligible margin loans, collateralized derivative contracts and single product netting sets of such transactions.⁶³

The proposal would also introduce eligible prepaid credit protection arrangements as a credit risk mitigant available to all exposure types, including securitizations, and permit covered banking organizations to recognize the credit risk mitigation benefits of the protection amount of the prepaid credit protection arrangement, discounted to reflect any applicable maturity and currency mismatch adjustments.

1. Guarantees and Credit Derivatives

a. Substitution Approach

Consistent with the current capital rule, the proposal would permit a

covered banking organization to recognize the credit risk-mitigation benefits of eligible guarantees and eligible credit derivatives by substituting the risk weight applicable to the eligible guarantor or counterparty to the eligible credit derivative (protection provider) for the risk weight applicable to the hedged exposure. To recognize the risk mitigating benefits of a guarantee or credit derivative for risk-based capital purposes, the proposal would continue to require the issuer of or counterparty to the eligible guarantee or eligible credit derivative, respectively, to be an eligible guarantor.⁶⁴ The proposal would rely on the definition of eligible guarantor in § _____.2 of the capital rule, which, among other criteria, requires an entity to have issued and outstanding an unsecured debt security without credit enhancement that is investment grade at the time the guarantee is issued or anytime thereafter.

Question 22: The agencies seek comment on the requirement that the entity has issued and outstanding an unsecured debt security without credit enhancement that is investment grade to meet the definition of an eligible guarantor. What, if any, alternatives to this requirement should the agencies consider to help ensure that eligible guarantors can be expected to perform on guarantees, and what would the pros and cons of those alternatives be?

b. Adjustment for Credit Derivatives Without Restructuring

Credit derivative contracts in certain jurisdictions include debt restructuring as a credit event that triggers a payment obligation by the protection provider to the protection purchaser. Such restructurings of the hedged exposure may involve forgiveness or postponement of principal, interest, or fees that result in a loss to investors. Consistent with the current capital rule, the proposal would generally require a banking organization that seeks to recognize the credit risk-mitigation benefits of an eligible credit derivative that does not include a restructuring of the reference exposure as a credit event to reduce the effective notional amount of the credit derivative by 40 percent to account for any unmitigated losses that could occur as a result of a restructuring of the hedged exposure.

Under the proposal, however, the 40 percent adjustment would not apply to

eligible credit derivatives without restructuring as a credit event if both of the following requirements are satisfied: (1) the terms of the hedged exposure (and the reference exposure, if different from the hedged exposure) allow the maturity, principal, coupon, currency, or seniority status to be amended outside of receivership, insolvency, liquidation, or similar proceeding only by unanimous consent of all parties; and (2) the covered banking organization has conducted sufficient legal review to conclude with a well-founded basis (and maintains sufficient written documentation of that legal review) that the hedged exposure is subject to the U.S. Bankruptcy Code or a domestic or foreign insolvency regime with similar features that allows for a company to reorganize or restructure and provides for an orderly settlement of creditor claims.

The unanimous consent requirement would mean that, for restructurings occurring outside of an insolvency proceeding, all holders of the hedged exposure (and the reference exposure, if different from the hedged exposure) must agree to any restructuring for the restructuring to occur, and no holder can vote against the restructuring or abstain. This unanimous consent requirement would reduce the risk that a covered banking organization would suffer a credit loss on the hedged exposure that would not be offset by a payment under the eligible credit derivative. Banking organizations generally would only be incentivized to vote for a restructuring if the terms of the restructuring provide a more beneficial outcome to the banking organization relative to insolvency proceedings that would trigger payment under the eligible credit derivative. Additionally, the unanimous consent requirement for the reference exposure, if different from the hedged exposure, would provide an additional layer of security by significantly reducing the probability of reaching a restructuring agreement that results in a loss of principal or interest for creditors without triggering payment under the eligible credit derivative. The unanimous consent requirement would need to be satisfied through the terms of the hedged exposure (and the reference exposure, if different from the hedged exposure), which could be accomplished through a contractual provision of the exposure or the operation of the applicable law.

The requirement that the hedged exposure be subject to the U.S. Bankruptcy Code or a similar domestic or foreign insolvency regime would help to ensure that any restructuring is done

⁶¹ See section III.E.5.b. of this **SUPPLEMENTARY INFORMATION**.

⁶² The collateral haircut approach also would be available to covered banking organizations to recognize the benefits of collateral for eligible margin loans and repo-style transactions.

⁶³ Consistent with the expanded risk-based approach, the proposal would increase simplicity, consistency and comparability of capital requirements eliminating the option for banking organizations to use of their own estimates of haircuts for purposes of the collateral haircut approach.

⁶⁴ Under the advanced approaches framework in the current capital rule, an eligible guarantee need not be issued by an eligible guarantor unless the exposure is a securitization exposure. Under the proposal, an eligible guarantee would need to be issued by an eligible guarantor.

in an orderly, predictable, and regulated process. In the event that the obligor of the hedged exposure defaults and the default is not cured, the obligor would either be required to enter insolvency proceedings, which would trigger payment under the credit derivative, or the obligor would be required to pursue restructuring outside of insolvency, which could not occur without the banking organization's consent. Together, the proposed conditions are intended to ensure that credit derivatives that do not include restructuring as a credit event but provide similarly effective protection as those that do contain such provisions would be afforded similar recognition under the capital framework.

Question 23: The agencies seek comment on allowing covered banking organizations to recognize in full the effective notional amount of credit derivatives that do not include restructuring as a credit event, if certain conditions are met. What are the cost and benefits of this approach? What, if any, less restrictive conditions for receiving full recognition should the agencies consider that would more appropriately capture credit derivatives that provide similar protection as those that include restructuring as a credit event receive and why? For example, what would be the advantages and disadvantages of requiring the consent of all parties directly and adversely affected by a restructuring, rather than the unanimous consent of all parties? What would be the advantages and disadvantages of requiring the consent of all parties affected by any change in lien position or priority in the hedged or referenced exposure?

Question 24: To what extent is the proposed treatment of eligible credit derivatives that do not include restructuring of the reference exposure as a credit event relevant outside of the United States and how should this be considered for purposes of the proposal?

Question 25: In order for a covered banking organization to recognize the credit risk mitigation benefits of an eligible credit derivative, the current capital rule requires that legally-enforceable cross-default or cross-acceleration clauses be in place and that the reference exposure and the hedged exposure be to the same legal entity. What would be the advantages and disadvantages of allowing recognition of credit derivatives where (1) the reference exposure is to a different legal entity than the hedged exposure, (2) the reference exposure's legal entity is guaranteed by its parent company, and (3) the parent company is subject to a binding cross-default or

cross-acceleration provision related to the hedged exposure's debt?

2. Collateralized Transactions

a. Simple Approach

Consistent with the current capital rule, a covered banking organization would be permitted to recognize the risk-mitigating benefits of financial collateral using the simple approach by substituting the risk weight applicable to an exposure with the risk weight applicable to the financial collateral securing the exposure, generally subject to a 20 percent floor.

Under the current capital rule, a requirement for recognizing the credit risk mitigation benefit of financial collateral under the simple approach is that the collateral must be subject to a collateral agreement for at least the life of the exposure. The proposal would not include this requirement under the simple approach because the requirement is overly broad and not relevant for certain transaction types. For example, while the right to close out a transaction would be relevant with respect to a repurchase agreement, it may not be relevant with respect to a loan. Instead, the proposal would require that the legal mechanism by which the financial collateral is pledged or transferred be enforceable and provide the covered banking organization with an ability to exercise its applicable legal rights with respect to the collateral in a timely manner upon an event of default. Depending on the characteristics of the type of exposure and the financial collateral in question, those rights may include the right to liquidate or take legal possession of the financial collateral, to set off amounts owed by the covered banking organization against amounts owed by the obligor, and to close out the underlying transaction. However, not all of these rights may be applicable with respect to all types of exposures and financial collateral, and a covered banking organization would only be required to have those rights that are applicable for the type of exposure and financial collateral in question. This requirement, in combination with the definition of financial collateral—which, in part, requires a covered banking organization to have a perfected, first-priority security interest (or the legal equivalent thereof) in the collateral—and the other requirements of § ___.37(b)(1) would provide a sufficient basis for recognizing the collateral under the simple approach.

The requirement under the current capital rule that financial collateral be subject to a collateral agreement often

prevents a covered banking organization from recognizing financial collateral as a credit risk mitigant under the simple approach if the covered banking organization's exercise of its rights may be stayed in a bankruptcy of the obligor. This has generally meant that a covered banking organization could not use the simple approach to recognize financial collateral in respect of collateralized loans because the exercise of a covered banking organization's collateral rights with respect to a loan would often be subject to a stay in the bankruptcy or insolvency of a borrower under the applicable law. Under the proposal, the fact that a covered banking organization's rights may be subject to a stay in the event of an obligor's bankruptcy would not preclude the banking organization from recognizing the credit risk mitigation benefits of financial collateral, provided the banking organization has a well-founded basis for concluding that it will be able to exercise its rights in a timely manner. The proposed change would permit covered banking organizations to recognize the credit risk mitigation benefits of financial collateral that protects exposures arising from many types of loans and traditional credit products. Other elements of the simple approach, such as the 20 percent risk-weight floor, help to address the risk of declines in the value of collateral.

Typically, financial collateral in respect of a collateralized transaction is pledged by the obligor of that exposure. In some cases, collateral may be pledged or transferred by a party other than the obligor. A third-party pledgor may be the parent or an affiliate of an obligor or an unrelated party that is providing credit risk protection to the banking organization. While collateral provided by a third party may be an effective credit risk mitigant, it may also pose unique risks. In particular, depending on the laws of the applicable jurisdictions and the terms of the relevant legal agreements, the bankruptcy or insolvency of a pledgor prior to an event of default of the obligor may terminate or impair the banking organization's rights to the collateral. In these circumstances, financial collateral does not provide an effective credit risk mitigant. Consequently, the proposal would require that the bankruptcy or insolvency of a third-party pledgor not result in the termination or impairment of the covered banking organization's rights in respect of the financial collateral.

There may be situations where obligors have the ability to remove collateral that they are contractually obligated to maintain when a banking

organization is experiencing stress. This risk is most apparent when financial collateral takes the form of cash on deposit at a banking organization, where a banking organization's deposit systems may not reflect the obligor's contractual obligation to maintain the deposit at the banking organization. It may also arise, in respect of other types of financial collateral, depending on the custody arrangement and associated controls in respect of the collateral. Financial collateral is not an effective credit risk mitigant if a banking organization cannot appropriately safeguard its rights in respect of such financial collateral. Consequently, the proposal would also require a covered banking organization to be able to reasonably demonstrate the ability to protect and enforce its rights in respect of any financial collateral.

Other safeguards relating to the simple approach are intended to sufficiently calibrate the benefits of the proposal's recognition of financial collateral for a broader scope of products. For example, the maturity mismatch adjustment, which is described in greater detail below, reduces the benefit of financial collateral based on the difference between the residual maturity of the legal mechanism by which financial collateral is pledged and that of the secured exposure. Additionally, for a situation with a maturity mismatch, the proposal would only allow for recognition of the credit risk mitigant where the original maturity of the legal mechanism is greater than or equal to one year and the residual maturity of the legal mechanism is greater than three months. These requirements, taken together with the other requirements in section _____.121 of the proposal, would incentivize covered banking organizations to utilize credit risk mitigants that provide effective credit risk transfer.

Question 26: Under the simple approach, the current capital rule requires that collateral be revalued at

least every six months. The agencies recognize that, in practice, most collateral agreements for liquid collateral provide for more frequent valuation. The proposal would remove the requirement for collateral agreements. Given that financial collateral is generally liquid, what would be the advantages and disadvantages of requiring a more frequent minimum revaluation interval—such as quarterly—under the simple approach? Please provide rationale supporting or opposing a more frequent revaluation requirement.

Question 27: The proposal would maintain the current capital rule's definition of financial collateral and allow covered banking organizations to recognize the risk-mitigating benefits of cash on deposit, including cash held by a third-party custodian or trustee. The agencies invite comment on whether the definition of financial collateral is sufficiently clear with respect to cash collateral held for a covered banking organization by a third-party custodian or trustee. What would be the advantages or disadvantages of revising the "cash on deposit" prong of the definition of financial collateral to explicitly recognize cash on deposit at any third-party depository institution, regardless of whether it is a custodian or trustee? In addition, what would be the appropriate risk weight for the collateralized exposure where the financial collateral is, directly or indirectly, in the form of a deposit claim on a third-party depository institution and why? What would be the advantages and disadvantages of subjecting the collateralized exposure to the 20 percent risk weight floor? What, if any, other alternative approaches should the agencies consider and why?

b. Collateral Haircut Approach

Under the proposal, as under the current capital rule, a covered banking organization would be permitted to recognize the credit risk-mitigation benefits of collateral supporting repo-

style transactions, eligible margin loans, collateralized derivative contracts, and single product⁶⁵ netting sets of such transactions by adjusting its exposure amount to its counterparty to recognize financial collateral received and any collateral posted to the counterparty. The collateral haircut approach would continue to require a covered banking organization to adjust the fair value of the collateral received and posted to account for any potential market price volatility in the value of the collateral during the margin period of risk, as well as to address any currency mismatch. To increase the risk-sensitivity of the collateral haircut approach, the proposal would modify certain of the standard market price volatility haircuts. At the same time, to reduce unwarranted divergence in risk-weighted assets, the proposal would no longer allow a covered banking organization to use its own internal estimates for calculating haircuts.

i. Formula for Determining Exposure Amount

The proposal would introduce a new formula for calculating the exposure amount of eligible margin loans, repo-style transactions, or netting sets thereof. The proposed exposure amount equation is revised from the current formula to improve the recognition of the risk-mitigating benefits of netting and portfolio diversification. The proposed formula would revert to the current collateral haircut approach formula in cases where there are no variables to populate the second and the third components as described below. The modification would increase the risk sensitivity of the capital requirement for such transactions relative to the current collateral haircut approach. Under the proposal, the exposure amount (E^*) of a netting set of eligible margin loans or repo-style transactions or an individual transaction that is not part of a netting set would be determined according to the following formula:

$$E^* = \max \left\{ 0; \left(\sum_i E_i - \sum_i C_i \right) + (0.4 \times \text{net}_{\text{exposure}}) + \left(0.6 \times \frac{\text{gross}_{\text{exposure}}}{\sqrt{N}} \right) + \left(\sum_{fx} (E_{fx} \times H_{fx}) \right) \right\}$$

⁶⁵ SA-CCR is proposed for use under Subpart D § 217.34(a)(3) and § 217.37(f) for repo-style

transactions that are subject to a qualifying cross-

product master netting agreement with derivative contracts

Where:

- E^* is the exposure amount of the eligible margin loan, repo-style transaction, or netting set after credit risk mitigation.
- E_i is the current fair value of the instrument, cash, or gold the banking organization has lent, sold subject to repurchase, or posted as collateral to the counterparty.
- C_i is the current fair value of the instrument, cash, or gold the banking organization has borrowed, purchased subject to resale, or taken as collateral from the counterparty.
- $net_{exposure} = |\sum_s E_s H_s|$
- $gross_{exposure} = \sum_s E_s |H_s|$
- E_s is the absolute value of the net position in a given instrument or in gold (where the net position in a given instrument or gold equals the sum of the current fair values of the instrument or gold the banking organization has lent, sold subject to repurchase, or posted as collateral to the counterparty, minus the sum of the current fair values of that same instrument or gold the banking organization has borrowed, purchased subject to resale, or taken as collateral from the counterparty).
- H_s is the haircut appropriate to E_s as described in Table 1 to § _____.37, as applicable. H_s has a positive sign if the instrument or gold is net lent, sold subject to repurchase, or posted as collateral to the counterparty; H_s has a negative sign if the instrument or gold is net borrowed, purchased subject to resale, or taken as collateral from the counterparty.
- N is the number of instruments with a unique Committee on Uniform Securities Identification Procedures (CUSIP) designation or foreign equivalent, with certain exceptions. N includes any instrument with a unique CUSIP that the banking organization lends, sells subject to repurchase, or posts as collateral, as well as any instrument with a unique CUSIP that the banking organization borrows, purchases subject to resale, or takes as collateral. However, N would not include collateral instruments that the banking organization is not permitted to include within the credit risk mitigation framework (such as nonfinancial collateral that is not part of a repo-style transaction included in the banking organization's market risk weighted assets) or elects not to include within the credit risk mitigation

framework. The number of instruments for N would also not include any instrument (or gold) for which the value E_s is less than one-tenth of the value of the largest E_s in the netting set. Any amount of gold would be given a value of one.

- E_{fx} is the absolute value of the net position in each currency fx different from the settlement currency.
- H_{fx} is the haircut appropriate for currency mismatch of currency fx .

The first component in the above formula ($\sum_i E_i - \sum_i C_i$) would capture the baseline exposure of eligible margin loans, repo-style transactions, or netting sets thereof, after accounting for the value of any collateral received. The second ($0.4 \times net_{exposure}$) and third ($0.6 \times (gross_{exposure} / \sqrt{N})$) components in the above formula would allow for the partial recognition of the netting and diversification benefit of instruments exchanged between a covered banking organization and a given counterparty within a netting set. The net exposure component partially recognizes the offsetting of gross exposures between a given instrument that is both lent and received as collateral within a netting set. Additionally, because the contribution from the gross exposure component to the exposure amount would decrease proportionally with an increase in the number of unique instruments by CUSIP designations or foreign equivalent, the gross exposure component would capture the impact of diversification in the types of instruments lent or received. The fourth component ($\sum_{fx} (E_{fx} \times H_{fx})$) would capture any adjustment to reflect currency mismatch, if applicable.

When determining the market price volatility and currency mismatch haircuts, the covered banking organization would use the market price volatility haircuts described in the following section and a standard 8 percent currency mismatch haircut, subject to certain adjustments.

Question 28: What are the pros and cons of basing N for purposes of the collateral haircut approach on the number of unique CUSIPs in a netting

set? What alternatives should the agencies consider and how would such alternatives align with the goal of identifying the number of instruments for purposes of measuring diversification in the pool?

Question 29: The agencies seek comment on the appropriateness of the proposed collateral haircut approach formula, in particular for banking organizations that use the current exposure methodology for derivatives. What are the advantages and disadvantages of revising the collateral haircut approach to align with the formula in the expanded risk-based approach proposal? What, if any, risks may not be appropriately captured by the proposed change for banking organizations that use the current exposure methodology for derivative transactions and why?

ii. Market Price Volatility Haircuts

Under the proposal, a covered banking organization would apply the market price volatility haircut appropriate for the type of collateral, as provided in Table 1 to § _____.37 below, when calculating the exposure amount for repo-style transactions, eligible margin loans, collateralized derivative contracts, and single-product netting sets thereof using the collateral haircut approach and in the calculation of the net independent collateral amount and the variation margin amount for collateralized derivative transactions using SA-CCR, if applicable.⁶⁶ Consistent with the current capital rule, the proposal would require covered banking organizations to apply an 8 percent supervisory haircut, subject to adjustments, to the absolute value of the net position in each currency that is different from the settlement currency.

Proposed Table 1 to § _____.37

⁶⁶ As described in section III.C. of this Supplementary Information, under the proposal and consistent with the current capital rule, a covered banking organization would use the current exposure methodology to calculate the exposure amount for derivative contracts unless it elects to use SA-CCR.

Market Price Volatility Haircuts

(Haircuts in percent)

Residual Maturity		Securities issued by a sovereign or an issuer described in § __.32(b) ⁶⁷ (percent)			Other investment-grade securities (percent)		
		Issuer risk weight of zero	Issuer risk weight of 20 or 50	Issuer risk weight of 100	GSE exposures	Exposures other than GSE or securitization exposures	Senior securitization exposures with risk weight <100
Debt Securities	Less than or equal to 1 year	0.5	1.0	15.0	1.0	2.0	4.0
	Greater than 1 year and less than or equal to 3 years	2.0	3.0	15.0	4.0	4.0	12.0
	Greater than 3 years and less than or equal to 5 years					6.0	
	Greater than 5 years and less than or equal to 10 years	4.0	6.0	15.0	8.0	12.0	24.0
	Greater than 10 years					20.0	
Main index equities (including convertible bonds) and gold					20.0		
Other publicly traded equities and convertible bonds					30.0		
Mutual funds and exchange traded funds					Highest haircut applicable to any security in which the fund can invest, unless the banking organization can apply the full look-through approach for equity exposures to investment funds in § __.53(b), in which case the banking organization may use a weighted average of haircuts applicable to the securities held by the fund.		
Cash on deposit					0.0		
Other exposure types ⁶⁸					30.0		

The proposed haircuts would strike a balance between simplicity and risk sensitivity relative to the supervisory haircuts in the current capital rule by introducing additional granularity with respect to residual maturity, which is a meaningful driver for distinguishing between the market price volatility of different instruments, and by streamlining other aspects of the collateral haircut approach where the exposure's risk weight figures less prominently in the instrument's market price volatility, as described below.

The proposal would apply haircuts primarily based on residual maturity, rather than a combination of residual maturity and underlying risk weight as under the current capital rule, for non-sovereign investment grade debt securities. These haircuts are derived from observed stress volatilities during 10-business day periods during the 2008 financial crisis. Debt securities with longer maturities are subject to higher price volatility from changes in both interest rates and the creditworthiness of the issuer.

Because securitization exposures tend to be more volatile than corporate debt, the proposal would provide a distinct category of market price volatility haircuts for certain securitization exposures consistent with the current capital rule. The proposal would distinguish between non-senior and senior securitization exposures to enhance risk sensitivity.⁶⁹ Because senior securitization exposures absorb losses only after more junior securitization exposures, these exposures have an added layer of security and distinct market price volatility. Therefore, the proposal would only specify term-based haircuts for investment grade senior securitization exposures that receive a risk weight of less than 100 percent under the securitization framework. Other securitization exposures would receive the 30 percent market price volatility haircut applicable to "other" exposure types.

The proposal would require a banking organization to apply market price volatility haircuts of 20 percent for main index equities (including convertible bonds) and gold, 30 percent for other publicly traded equities and convertible

bonds, and 30 percent for other exposure types. Equities in a main index typically are more liquid than those that are not included in a main index, in part because investors may seek to replicate the index by purchasing the referenced equities or engaging in derivative transactions involving the index or equities within the index. The lower haircuts for equities included in a main index under the proposal would reflect the higher liquidity of those securities compared to other publicly traded equities or exposure types, which would generally help to reduce losses to banking organizations when liquidating those securities during stress conditions.

For collateral in the form of mutual fund shares, the proposal would be consistent with the current collateral haircut approach in which a covered banking organization would apply the highest haircut applicable to any security in which the fund can invest. Under the proposal, a covered banking organization could treat exchange traded fund (ETF) shares in the same manner as mutual fund shares and apply haircuts based on the underlying instruments in the fund. Given that ETFs (like mutual funds) may benefit from diversification and tend to have lower levels of price volatility compared to non-pooled investment vehicles, a look-through approach is more risk sensitive than applying the publicly traded equities haircut for ETF shares. The proposal also would include an alternative method available to a covered banking organization if the mutual fund or ETF qualifies for the full look-through approach for purposes of the equity framework under the current rule.⁷⁰ This alternative method would provide a more risk-sensitive calculation of the haircut on fund shares collateral by using the weighted average of haircuts applicable to the instruments held by the fund.⁷¹

In addition, consistent with the expanded risk-based approach proposal, the proposal would require a covered banking organization to apply a market price volatility haircut of 30 percent to address the potential market price volatility for any instruments that the covered banking organization has lent, sold subject to repurchase, or posted as

collateral that is not of a type otherwise specified in Table 1 to § _____.37.

Question 30: The agencies seek comment on the appropriateness of the calibration of the market price volatility haircuts. Commenters are encouraged to submit data with their response.

3. Prepaid Credit Protection

The proposal would introduce eligible prepaid credit protection arrangements as an additional type of credit risk mitigant. The proposal would define a prepaid credit protection arrangement as a contractual agreement in which a protection purchaser receives an initial amount in cash from a protection provider that the protection purchaser is required to repay, less any losses that the protection purchaser incurs due to a credit event on the protected exposures, such as borrower default on the protected exposures. In this type of arrangement, the amount paid by the protection provider is not collateral that secures a future obligation of the protection provider; rather, it is consideration for a right to future payments, contingent on the performance of the protected exposure(s), from the protection purchaser. This form of credit risk mitigant effectively transfers credit risk to the protection provider, as the banking organization's liability created by the prepaid credit protection arrangement generally would be reduced at the same time the banking organization incurs a loss on the protected exposure(s). A common example of a prepaid credit protection arrangement are fully funded credit-linked notes issued by a banking organization that transfer the credit risk of a reference exposure or portfolio of reference exposures to third party investors.⁷²

Under the proposal, a prepaid credit protection arrangement would be required to meet specific requirements to be recognized for risk-based capital purposes as an eligible prepaid credit protection arrangement. Specifically, the proposal would define an eligible prepaid credit protection arrangement as a prepaid credit protection arrangement that:

- (1) Is written;
- (2) Is unconditional;
- (3) Covers all or a pro rata portion of all contractual payments due to be paid

⁶⁹ Includes a foreign PSE that receives a zero percent risk weight.

⁶⁸ Includes senior securitization exposures with the risk weight greater than or equal to 100 percent and sovereign exposures with a risk weight greater than 100 percent.

⁶⁹ As described in section III.E.5.e. of this **SUPPLEMENTARY INFORMATION**, the proposal would define a senior securitization exposure as an exposure that has a first priority claim on the cash flows from the underlying exposures.

⁷⁰ See 12 CFR 3.53(b) (OCC); 12 CFR 217.53(b) (Board); 12 CFR 324.53(b) (FDIC).

⁷¹ If the mutual fund qualifies for the full look-through approach in § _____.53(b) of the capital rule but would be treated as a market risk covered position if the covered banking organization held the mutual fund directly, the proposal would allow a covered banking organization that is subject to market risk capital requirements to apply the alternative method to calculate the haircut.

⁷² See e.g., Frequently Asked Questions, 12 CFR part 217, Q2 and Q3, <https://www.federalreserve.gov/supervisionreg/legalinterpretations/reg-q-frequently-asked-questions.htm>. This revision would also be consistent with comments received under EGRPRA as commenters requested recognition of the risk-mitigation benefits of credit-linked notes.

on the reference exposure or reference exposures;

(4) Provides that the amount and timing of payments due from the protection purchaser to the protection provider are incorporated into the arrangement and the arrangement only allows these terms to change in the event of a breach of the arrangement by the protection purchaser;

(5) Provides that entry of the protection provider into receivership, insolvency, liquidation, conservatorship, or similar proceeding does not change the amounts or timing of payments due by the protection purchaser under the arrangement;

(6) Is legally valid and enforceable under applicable law of the relevant jurisdictions;

(7) Upon a failure by the obligor on the one or more reference exposures to make a contractually required payment, or the occurrence of other credit events as described in the arrangement, allows the protection purchaser promptly to reduce the outstanding balance of the initial principal amount due to the protection provider by the loss of the protection purchaser on the reference exposures without input from the protection provider; and

(8) Does not increase the protection purchaser's cost of credit protection in response to deterioration in the credit quality of any of the reference exposures.

The protection amount of an eligible prepaid credit protection arrangement would be the effective notional amount of the prepaid credit protection, reduced to reflect any currency mismatch or maturity mismatch. The effective notional amount for an eligible prepaid credit protection arrangement would be the lesser of the contractual notional amount of the credit risk mitigant and the exposure amount of the reference exposure(s), multiplied by the percentage coverage of the credit risk mitigant.

Under the proposal, if the protection amount of the eligible prepaid credit protection arrangement is greater than or equal to the exposure amount of the reference exposure, a covered banking organization would be allowed to assign a zero percent risk weight to the exposure.

If the protection amount of the eligible prepaid credit protection arrangement is less than the exposure amount of the reference exposure(s) and any losses are shared on a pro rata basis between the covered banking organization and the protection

provider,⁷³ the proposal would require the covered banking organization to treat the reference exposure(s) as two separate exposures, protected and unprotected, in order to recognize the credit risk mitigation benefit of the eligible prepaid credit protection arrangement. In such cases, a covered banking organization would apply a zero percent risk weight to the protected exposure. The covered banking organization would calculate its risk-weighted asset amount for the unprotected exposure under the standardized approach using the risk weight assigned to the exposure and an exposure amount equal to the exposure amount of the original reference exposure minus the protection amount.

Question 31: Under the definition of eligible prepaid credit protection arrangement, the proposal would require that a protection purchaser be able to reduce the outstanding balance due to the protection provider promptly upon realizing or otherwise recognizing a loss on the reference exposure, in the event that the obligor on one or more reference exposures fails to make a contractually required payment, or the occurrence of other credit events as described in the arrangement. What, if any, are the exposure types in respect of which, or circumstances when, a protection purchaser may be exposed to losses before such losses are manifested in a way that would permit a reduction in the protection purchaser's repayment obligation? For example, what would be the instances where nonpayment or other loss on the reference exposure may not always result in an accounting write-down of the eligible prepaid credit protection arrangement at the same time? What, if any, changes to the proposed definitions of prepaid credit protection arrangement and eligible prepaid credit protection arrangement should the agencies consider to further ensure that a protection purchaser would be able to reduce its repayment obligation on a prepaid credit protection arrangement as contemporaneously as possible with the manifestation of losses in respect of a reference exposure?

Question 32: The proposal would define the protection amount of an eligible prepaid credit protection arrangement to mean the effective notional amount of the prepaid credit protection. Certain credit-linked notes that may qualify as eligible prepaid credit protection under the proposal, are sometimes accounted for on a fair value

basis. The fair value of such credit-linked notes may be affected by factors other than losses or credit events (for example, a change in interest rates) in respect of the reference exposure. As a result, at the time that credit losses in respect of the reference exposure are realized, the fair value of the credit-linked note, and the amount by which the covered banking organization may set off its losses in respect of the reference exposure, may be less than the notional amount of the note. What, if any, modifications to the proposal should the agencies consider to address the risk that a covered banking organization may not be able to set off losses on a reference exposure against the full notional amount of a prepaid credit protection instrument? What would be the advantages and disadvantages of defining the protection amount of an eligible prepaid credit protection instrument to be the instrument's carrying value (for example, the fair value if the covered banking organizations elects this accounting treatment)?

Question 33: The definition of prepaid credit protection requires that the protection purchaser is obligated to repay the initial principal amount to the protection provider on or before the maturity date of the transaction, less any losses that the protection purchaser realizes or otherwise recognizes due to nonpayment of all contractual payments due to be paid on the reference exposure by the obligors. The agencies seek comment as to whether the definition is sufficiently broad to capture the types of prepaid credit protection arrangements that covered banking organizations may enter into to transfer credit risk. For example, may prepaid credit protection arrangements be structured to allow for a reduction in the initial principal amount of the arrangement upon the recognition of losses on one or more reference exposures due to credit quality deterioration of the exposures, even in the absence of any nonpayment. If so, what if any changes to the definition of prepaid credit protection should the agencies consider?

4. Maturity and Currency Mismatch Adjustment

The simple approach in the current capital rule does not permit a covered banking organization to recognize credit risk mitigation benefits where the transaction is subject to a collateral agreement that has a shorter tenor than

⁷³ Exposures on which there is a tranching of credit risk (reflecting at least two different levels of seniority) generally are securitization exposures, as described in section III.E. of this **SUPPLEMENTARY INFORMATION**.

that of the secured exposure.⁷⁴ To improve the risk sensitivity of the simple approach, the proposal would permit covered banking organizations to recognize financial collateral and prepaid credit protection with a maturity mismatch after adjusting the fair value of the financial collateral or the effective notional amount of the eligible prepaid credit protection arrangement to reflect any maturity mismatch.⁷⁵

Under the proposal, the residual maturity of an eligible prepaid credit protection arrangement would be determined in the same manner as applies to eligible credit derivatives and eligible guarantees under the current capital rule. For financial collateral that is not cash on deposit at the covered banking organization, but including cash held for the covered banking organization by a third-party custodian or trustee, the residual maturity of any amount of such financial collateral would be the earliest date on which the covered banking organization's rights in respect of such amount of financial collateral may be terminated without the pledgor being subject to a contemporaneous requirement to pledge additional financial collateral. For financial collateral that is cash on deposit at the covered banking organization, the residual maturity of any amount of such collateral would be the earliest date on which a depositor may withdraw such amount, notwithstanding any notice requirements or early withdrawal fees or penalties. For example, if an obligor is subject to a loan covenant requiring the obligor to maintain a certain deposit balance at the covered banking

organization until the maturity of the loan, the residual maturity of the cash on deposit would be the remaining maturity of the loan. Any amount of a deposit balance that an obligor is contractually permitted to withdraw, however, would have a residual maturity of the earliest date on which the deposit may be withdrawn. If an obligor may withdraw a deposit at any time, including where an obligor may be subject to a notice period or an early withdrawal fee or penalty, the residual maturity would be zero, notwithstanding any stated maturity date of the deposit instrument.

Under the proposal, a covered banking organization would be required to apply the same adjustment to reduce the fair value of the financial collateral or the effective notional amount of the prepaid credit protection arrangement as currently applies to eligible credit derivatives and eligible guarantees under the substitution approach:

$$P_m = E \times [(t - 0.25) / (T - 0.25)]$$

Where:

P_m = fair value of the financial collateral or effective notional amount of the eligible prepaid credit protection arrangement, adjusted for maturity mismatch;

E = fair value of the financial collateral or effective notional amount of the eligible prepaid credit protection arrangement;

t = the lesser of T or the residual maturity of the credit risk mitigant, expressed in years; and

T = the lesser of five or the residual maturity of the secured exposure or reference exposure, as applicable, expressed in years.

Similarly, the proposal would eliminate the current capital rule's requirement that financial collateral be denominated in the same currency as the secured exposure for a covered banking organization to use the simple approach. The proposal would permit covered banking organizations to recognize the credit risk mitigation benefits of financial collateral and eligible prepaid credit protection arrangements when denominated in a different currency than the currency of the secured exposure, after adjusting the fair value or the effective notional amount, as applicable, to reflect any currency mismatch. Under the proposal, a covered banking organization would use the following formula to adjust the fair value of the financial collateral or the effective notional amount of the eligible prepaid credit protection arrangement:

$$P_c = P_r \times (1 - H_{FX})$$

Where:

P_c = fair value of the financial collateral or effective notional amount of the eligible

prepaid credit protection arrangement, adjusted for currency mismatch (and maturity mismatch, if applicable).

P_r = fair value of the financial collateral or effective notional amount of the eligible prepaid credit protection arrangement (adjusted for maturity mismatch, if applicable).

H_{FX} = haircut appropriate for the currency mismatch between the financial collateral and the secured exposure or the eligible prepaid credit protection arrangement and the reference exposure.

Consistent with substitution approach for guarantees and credit derivatives in the current capital rule, the proposal would require covered banking organizations to use a standard supervisory haircut of 8 percent for H_{FX} (based on a ten business-day holding period and daily marking-to-market and re-margining). If a covered banking organization revalues the financial collateral or eligible prepaid credit protection arrangement less frequently than once every 10 business days, the proposal would require the covered banking organization to scale up the haircut using the following square root of time formula:

$$H_{FX} = 8\% \times \sqrt{\frac{T_M}{10}}$$

Where:

T_M = the greater of 10 or the number of business days between revaluations.

Question 34: The agencies seek comment on the effectiveness of the credit risk mitigation of collateral and eligible prepaid credit protection arrangement when there is a maturity mismatch between the credit risk mitigant and the hedged reference portfolio, for example, longer-dated assets that are protected by a shorter-dated prepaid credit protection arrangement. The agencies seek comment on whether the covered banking organization has effectively mitigated credit risk if the losses on the assets are estimated to occur after the expiration of the prepaid credit protection arrangement. Does the proposed maturity mismatch adjustment sufficiently capitalize for the residual risks of hedging longer-dated assets with shorter-term prepaid credit protection arrangement? Please provide supporting data and analysis.

E. Securitization Framework

The securitization framework is designed to produce capital requirements for exposures that involve tranching of the credit risk of one or

⁷⁴ For determining maturity mismatch, the comparison is between the remaining maturity of the protected exposure against the remaining maturity of the legal mechanism by which financial collateral is pledged. For example, if the legal mechanism by which financial collateral is pledged to a 5-year loan has a 5-year term, even if the remaining maturity of the collateral is 2 years, there would be no maturity mismatch under the proposal as long as the security interest transfers without any breaks to the proceeds of the matured collateral or replacement collateral.

⁷⁵ The proposal would define residual maturity as the longest possible remaining time before the obligated party of the secured exposure is scheduled to fulfill its obligation on the reference exposure. If a contract has embedded options that may reduce its term, the proposal would require the covered banking organization to adjust the residual maturity of the contract. If a call is at the discretion of the protection provider, the residual maturity of the contract would be at the first call date. If the call is at the discretion of the covered banking organization, but the terms of the arrangement at origination of the contract contain a positive incentive for the covered banking organization to cancel the contract before contractual maturity, the remaining time to the first call date would be the residual maturity of the contract.

more underlying financial exposures.⁷⁶ The risk and complexity posed by securitizations differ relative to direct exposures to the underlying financial exposures because the credit risk of those exposures is divided into different levels of risk using a wide range of structural mechanisms.⁷⁷ The performance of a securitization exposure depends not only on the structure of the securitization, but also on the performance of the underlying exposures⁷⁸ and certain parties to the securitization structure, including the asset servicer and any liquidity facility provider. Such structural features and the involvement of these parties make securitization exposures susceptible to additional risks as compared to direct exposures to the underlying financial exposures.

The proposed securitization framework would incorporate the securitization framework in the current standardized approach with the following modifications: (1) a revised definition of and additional operational requirements for synthetic

securitizations; (2) a modified treatment for resecuritizations that meet the operational requirements; (3) a modified definition of an eligible clean-up call; (4) a new securitization standardized approach (SEC-SA), as a replacement to the standardized supervisory formula approach (SSFA), which includes, relative to the SSFA, modified definitions of attachment point and detachment point, a modified definition of the W parameter, modifications to the definition of K_G , a lower risk-weight floor for securitization exposures that are not resecuritization exposures, and a higher risk-weight floor for resecuritization exposures; (5) a revised treatment for purchased and sold nth-to-default credit derivatives that would prohibit covered banking organizations from recognizing any risk-mitigating benefit for such exposures; (6) a revised treatment for certain derivative contracts that are not credit derivatives and a new treatment for derivative contracts that do not provide credit enhancement; (7) new provisions to expand the scope of securitization exposures for which a covered banking organization may apply the overlapping exposure treatment; (8) a new treatment and eligibility criteria for certain senior securitization exposures (the “look-through approach”); (9) a modification to the treatment for credit-enhancing interest only strips; (10) a new framework for non-performing loan securitizations; and (11) elimination of the gross-up approach. The proposal would also introduce certain minor technical edits to the definitions of traditional securitization and synthetic securitization to clarify the existing scope of exposures subject to the securitization framework under the current capital rule.

Question 35: This proposal retains the current securitization framework, except as noted above and below, to align with the proposed expanded risk-based approach. As such, this proposal would not retain the gross-up approach under the current capital rule, which generally only is applicable to banking organizations not subject to the market risk rule. What are the advantages and disadvantages of retaining the gross-up approach for certain banking organizations, consistent with the current capital rule?

1. Definitions

The proposal would generally retain the existing definitions of traditional securitization and synthetic securitization under the current capital rule, except for (1) revising the definition of synthetic securitization to include prepaid credit protection

arrangements, and (2) introducing technical modifications to the definitions of traditional securitization and synthetic securitization that are intended to clarify the existing scope of exposures subject to the securitization framework under the current capital rule.

a. Synthetic Securitization

As discussed in section III.D.3. of this **SUPPLEMENTARY INFORMATION**, the proposal would permit covered banking organizations to recognize risk mitigating benefits of eligible prepaid credit protection arrangements. Consistent with these provisions, the proposal would revise the definitional and operational criteria for synthetic securitizations to include prepaid credit protection arrangements as structures that can qualify as synthetic securitizations and to include eligible prepaid credit protection arrangements as an eligible credit risk mitigant within the securitization framework. Under the proposal, a transaction would meet the definitional and operational criteria of synthetic securitization if all or a portion of the credit risk of one or more underlying exposures is transferred to one or more third parties through prepaid credit protection arrangements, and the transaction satisfies all other requirements of the securitization framework under the proposal.

b. Technical Modifications

The proposal would modify paragraph (3) within the definitions of traditional securitization and synthetic securitization to clarify that the performance of the securitization exposure is expected to depend solely upon the performance of the underlying exposures, aside from the performance of common supporting transaction participants such as servicers and trustees. For example, a transaction would not satisfy this criterion if there is an expectation that any sources outside of the underlying exposures would fund the interest or principal payments due on the securitization exposures.

Consistent with the current capital rule, the proposed modification would continue to permit certain transactions where a party provides a specified amount of credit protection to qualify as a securitization exposure. As an example, consider a multi-seller ABCP conduit that funds itself entirely with a single class of commercial paper and purchases assets such as wholesale loan exposures from multiple sellers. As is typical in such multi-seller ABCP conduits, each seller provides first-loss protection by over-collateralizing its

⁷⁶ To segment the credit risk of the underlying financial exposures (“reference portfolio”), securitization exposures divide the reference portfolio into different slices (known as “tranches”) such that any cash flows or losses are allocated to the various tranches based on a predetermined order of priority. This payment structure is sometimes referred to as the cash flow waterfall (or simply the “waterfall”) and dictates the manner in which interest or principal payments from the reference portfolio must be allocated, creating different risk-return profiles for each tranche.

⁷⁷ For example, assume a covered banking organization extends a loan to a bankruptcy remote special purpose entity which holds financial exposures (including equity securities) and the fair value of the underlying financial assets exceeds that of the loan. Under this transaction, the underlying financial exposures are pledged as collateral to the lender. As the excess collateral would initially absorb any losses arising from non-payment on the loan (after which the covered banking organization would be exposed to any subsequent losses), the loan would generally be viewed as tranching and could qualify as a securitization exposure under the proposal, if the transaction satisfies all of the other applicable requirements. Consistent with the current capital rule, to the extent the fair value of the collateral declines such that it no longer exceeds the outstanding principal balance of the, the covered banking organization’s exposure to the borrower, the transaction would no longer involve tranching of credit or equity risk—and thus would not qualify as a securitization exposure under the proposal. Rather, the covered banking organization would be required to calculate risk-based capital requirements for the exposure using the general risk-weight framework as described in section III.A. of this **SUPPLEMENTARY INFORMATION**.

⁷⁸ Consistent with the current capital rule, the proposal would define equity exposure to include exposures to equity instruments that do not have mandatory contractual payments, among other requirements. Accordingly, under the proposal, the performance of underlying equity exposures would refer to both changes in the fair value of the equity exposures and whether the issuer(s) of the equity exposures is subject to a bankruptcy or insolvency proceeding.

loans sold to the conduit. To ensure a high credit rating on the commercial paper issued by the ABCP conduit, a banking organization sponsor may provide either a pool-specific liquidity facility or a program-wide credit enhancement such as a guarantee on a portion of the losses not protected by the seller over-collateralization. Consistent with the current capital rule, under the proposal, commercial paper issued by the ABCP conduit with a pool-specific liquidity facility generally would be a securitization exposure because the pool-specific liquidity facility represents a tranche of the credit risk of the underlying exposures (that is the repayment of the liquidity facility depends upon the underlying exposures) and losses are allocated through subordination. Conversely, if the sponsor provides a program-wide credit enhancement that covers all credit losses across multiple asset pools without reference to asset-level performance (not just those above the seller-provided credit enhancement) or seller-specific subordination, the commercial paper generally would not be a securitization exposure, as the commercial paper holders are primarily exposed to the default risk of the sponsor instead of the underlying exposures and the commercial paper does not represent a tranching risk position. The proposed modification is intended to clarify that a securitization exposure to such program-wide guarantees, including guarantees provided by an operating company to a special purpose entity it establishes, generally would not satisfy the definition of traditional or synthetic securitization.

Additionally, the proposal would modify paragraph (1) of the definition of traditional securitization to clarify that a transaction transferring equity risk could be subject to the securitization framework if all of the other definitional criteria are satisfied. The securitization framework generally applies to exposures to companies with material liabilities that are not operating companies,⁷⁹ and whose underlying exposures are primarily financial exposures (including when all or substantially all of the underlying assets are equity exposures). For exposures to companies with material liabilities that are not operating companies and whose underlying exposures are all or substantially all financial exposures, the risk-based capital treatment under the current capital rule reflects how the risk of exposures to such entities depends primarily on the degree of leverage

employed by the company. Accordingly, the current capital rule generally requires covered banking organizations to apply the securitization framework to determine the risk-weighted asset amount for exposures to non-operating companies with material liabilities, unless the primary Federal supervisor determines that the exposure is not a traditional securitization based on the transaction's leverage, risk profile or economic substance. The proposal would modify paragraph (1) of definition of traditional securitization to clarify that this treatment would also apply to exposures to such companies with material liabilities, where all or a portion of the credit or equity risk of one or more underlying exposures is transferred to one or more third parties (other than through the use of credit derivatives or guarantees or prepaid credit protection arrangements).⁸⁰ As a result, the proposed definition of traditional securitization would continue to include exposures to companies with material liabilities that are not operating companies, where all or substantially all of the underlying assets are financial exposures, and whose funding structure results in the risk associated with the underlying exposures being separated into at least two tranches with different levels of seniority.

Question 36: What additional clarifications, if any, should the agencies consider for the proposed modification to paragraph (3) of the definition of traditional and synthetic securitization and why?

Question 37: What additional clarifications, if any, should the agencies consider for the proposed modification to paragraph (1) of the definition of traditional securitization and why? What would be the advantages and disadvantages of making similar changes to paragraph (1) of the definition of synthetic securitization?

Question 38: The agencies seek comment on the appropriateness of requiring covered banking organizations to use the general risk-weight framework for certain overcollateralized exposures if the fair value of underlying equity exposures declines such that there is no longer overcollateralization? What would be the advantages and

disadvantages of requiring covered banking organizations to use the general risk-weight framework (rather than the securitization framework) to determine the applicable risk weight for securitization exposures where the underlying exposures are primarily equity exposures and the fair value of the underlying equity exposures has significantly declined? What criteria should the agencies consider to capture only those securitization exposures for which such an approach would more appropriately capture the risk and why?

2. Operational Requirements

The proposed operational requirements would be consistent with the operational requirements in the current capital rule, with five exceptions as described below and directly above in section III.E.1.a. of this **SUPPLEMENTARY INFORMATION**. In addition, for resecuritization exposures that meet the operational requirements, the proposal would eliminate the option for covered banking organizations to treat the exposures as if they had not been securitized.⁸¹

a. Early Amortization Provisions

Early amortization provisions cause investors in securitization exposures to be repaid before the original stated maturity when certain conditions are triggered. For example, many securitizations of revolving credit facilities, most commonly credit-card receivable securitizations, contain provisions that require the securitization to be wound down and investors repaid on an accelerated basis if excess spread falls below a certain threshold. This decrease in excess spread would typically be caused by credit deterioration in the underlying exposures. Such provisions can expose the originating banking organization to increased credit and liquidity risk and potentially increased capital requirements after the early amortization is triggered as the banking organization could be obligated to fund the borrowers' future draws on the revolving lines of credit.⁸² In such an

⁸¹ In the case of non-performing loan securitizations, as described in section III.E.5.g. of this **SUPPLEMENTARY INFORMATION**, the proposal would allow a covered banking organization that meets the operational requirements to choose to hold risk-based capital against the transferred exposures as if they had not been securitized and deduct from common equity tier 1 capital any after-tax gain-on-sale resulting from the transaction.

⁸² Under the capital rule, an originating banking organization, with respect to a securitization, means a banking organization that: (1) directly or indirectly originated or securitized the underlying exposures included in the securitization; or (2) serves as an ABCP program sponsor to the

⁷⁹ See 78 FR 62112 (Oct. 11, 2013).

⁸⁰ Consistent with the current capital rule, under the proposal, a covered banking organization would use the equity framework to calculate risk-based capital requirements for equity exposures to companies where all or substantially all of the underlying assets are financial assets and that have no material liabilities. See definition of investment fund in § _____.2 of the current capital rule and the treatment of equity exposures to investment funds in § _____.53 of the proposed rule.

instance, the originating banking organization may have to either find a new funding source, whether internal or external, to cover the new draws or reduce the borrowers' credit line availability.

The proposal would expand the applicability of the operational requirements regarding early amortization provisions to synthetic securitizations, similar to their application to traditional securitizations under the current capital rule. The current capital rule defines an early amortization provision as a provision in the documentation governing a securitization that, when triggered, causes investors in the securitization exposures to be repaid before the original stated maturity of the securitization exposures, with certain exceptions.⁸³ Under the proposal, if a synthetic securitization includes an early amortization provision and references one or more underlying exposures in which the borrower is permitted to vary the drawn amount within an agreed limit under a line of credit, the covered banking organization would be required to hold risk-based capital against the underlying exposures as if they had not been synthetically securitized. Aligning this treatment for both traditional and synthetic securitizations would provide greater consistency within the securitization framework and reduce the likelihood that a covered banking organization would provide implicit support for synthetic securitization exposures.

Question 39: What, if any, additional exceptions to the early amortization provision definition should the agencies consider and why, provided such exceptions would not incentivize a covered banking organization to provide implicit support to a securitization exposure? In particular, is the current rule's exception where early amortization "is triggered solely by events not directly related to the performance of the underlying exposures or the originating institution (such as material changes in tax laws or regulations)" sufficiently clear? What types of early termination events should

qualify as events not directly related to either the performance of the underlying exposures or the originating banking organization? Should events not directly related to the performance of the underlying exposures or the originating banking organization include customary provisions designed to protect against non-performance of various contractual obligations by one of the parties facilitating the securitization (including the originating banking organization, if it has such a transaction facilitating role, for example by acting as a servicer)? Commenters are also asked to describe under what circumstances could a provision in a revolving loan securitization that, when triggered, causes investors in the securitization exposures to be repaid before the original stated maturity of the securitization exposures, leaves investors "fully exposed to future draws by borrowers on the underlying exposures even after the provision is triggered", or otherwise should be deemed not to be an early amortization provision. What are the advantages and disadvantages of "fully exposed" encompassing only cash-funded exposures versus also including exposures in the form of contractual commitments to provide funding?

b. Synthetic Excess Spread

The proposal would prohibit a covered banking organization that is an originating banking organization from recognizing the risk-mitigating benefits of a synthetic securitization that includes synthetic excess spread. Synthetic excess spread would be defined as any contractual provision in a synthetic securitization that is designed to absorb losses prior to any of the tranches of the securitization structure. Synthetic excess spread is a form of credit enhancement provided by the originating banking organization to the investors in the synthetic securitization; therefore, the originating banking organization should maintain capital against the credit exposure represented by the synthetic excess spread. However, a risk-based capital requirement for synthetic excess spread may not be determinable with sufficient precision to promote comparability across banking organizations because the amount of synthetic excess spread made available to investors in the synthetic securitization would depend upon the maturity of the underlying exposures, which itself depends on whether any of the underlying exposures have defaulted or prepaid. In particular, the total amount of synthetic excess spread made available at inception to investors over the life of the

transaction may not be known *ex ante*, as the outstanding balance of the securitization in future years is unknown. Therefore, if a synthetic securitization structure includes synthetic excess spread, the proposal would require the covered banking organization to maintain capital against all the underlying exposures as if they had not been synthetically securitized.

Question 40: What clarifications or modifications should the agencies consider for the above proposed definition of synthetic excess spread and why?

Question 41: What are the advantages and disadvantages of the proposed treatment of synthetic securitizations with synthetic excess spread? If the agencies were to permit a covered banking organization that is an originating banking organization to recognize the credit risk-mitigation benefits of securitizations with synthetic excess spread, how should the exposure amount of the synthetic excess spread be calculated, and what would be the appropriate capital requirement for synthetic excess spread?

c. Minimum Payment Threshold

Under the proposal, the operational requirements for synthetic securitizations would include a new requirement that any applicable minimum payment threshold for the credit risk mitigant be consistent with standard market practice.⁸⁴ A contractual minimum payment threshold refers to the delinquency condition that must exist before a credit event is deemed to have occurred under the terms of the credit protection. The proposed minimum payment threshold criterion is intended to prohibit a covered banking organization that is an originating banking organization from recognizing any risk mitigating benefit for a synthetic securitization whose minimum payment threshold is so large that it allows for material losses to occur without triggering the credit protection acquired by the protection purchaser, as such provisions would interfere with an effective transfer of credit risk.

Question 42: What are the benefits and drawbacks of the proposed minimum payment threshold criterion? What, if any, additional criteria or clarifications should the agencies consider and why?

securitization. See 12 CFR 3.2 (OCC); 12 CFR 217.2 (Board); 12 CFR 324.2 (FDIC).

⁸³ Under the capital rule, the exceptions to the definition of early amortization provision are a provision that: (1) is triggered solely by events not directly related to the performance of the underlying exposures or the originating banking organization (such as material changes in tax laws or regulations); or (2) leaves investors fully exposed to future draws by borrowers on the underlying exposures even after the provision is triggered. See definition of early amortization provision in § _____.2 of the capital rule. 12 CFR 3.2 (OCC); 12 CFR 217.2 (Board); 12 CFR 324.2 (FDIC).

⁸⁴ For example, for derivative contracts written under ISDA Master Agreement documentation, standard market practice for contractual minimum payment thresholds would generally be \$1 million (or the equivalent in other currencies), such as established in ISDA Credit Derivatives Definitions. See ISDA Credit Derivatives Definitions Section 4.5 "Failure to Pay" and Section 4.9(d) "Payment Requirement."

d. Resecuritization Exposures

For a resecuritization exposure arising from a traditional securitization, if the operational requirements have been met, a covered banking organization that is an originating banking organization would be required to exclude the transferred exposures from the calculation of its risk-weighted assets and maintain risk-based capital against any credit risk it retains in connection with the resecuritization. Unlike in the case of a securitization exposure that is not a resecuritization exposure, the proposal would not provide the option for a covered banking organization to elect to treat a resecuritization exposure as if the underlying exposures had not been resecuritized. While a securitization of non-securitized assets can be used to diversify or transfer credit risk of those exposures, a resecuritization might not offer similar risk reduction or diversification benefits, particularly if the underlying exposures reflect similar high-risk tranches of other securitizations. Therefore, these resecuritization exposures warrant a higher regulatory capital requirement than that applicable to the underlying exposures.

Similarly, for a resecuritization that is a synthetic securitization, if the operational requirements have been met, a covered banking organization that is an originating banking organization would be required to recognize for risk-based capital purposes the use of a credit risk mitigant to hedge the underlying exposures and must hold capital against any credit risk of the resecuritization exposures it retains in connection with the synthetic securitization.

e. Clean-Up Calls

The proposal would use the definition of a clean-up call in the current capital rule without change. The capital rule defines a clean-up call as a contractual provision that permits an originating banking organization or servicer to call securitization exposures before their stated maturity date or call date. For an originating banking organization to exclude the underlying exposures from its risk-based capital calculation, any clean-up call associated with a securitization must be an eligible clean-up call.

The proposal would expand the definition of an eligible clean-up call. Under the current capital rule, an eligible clean-up call is defined as a clean-up call that is exercisable solely at the discretion of the originator or servicer, is not structured to avoid allocating losses to securitization

exposures held by investors or otherwise structured to provide credit enhancement to the securitization, and is only exercisable when 10 percent or less of the principal amount of the initial pool of underlying or reference exposures is outstanding. The proposal would expand the definition of an eligible clean-up call to also include clean-up calls exercisable when certain regulatory and tax events occur, in addition to the existing criteria under the current capital rule. Specifically, the modification would permit the exercise of a clean-up call upon the occurrence of (1) a regulatory event that significantly changes the risk-weighted asset amount for the securitization exposure under applicable risk-weighted asset standards of the agencies, or (2) a tax event that significantly changes the tax treatment of the securitization exposure under applicable tax laws. The events must represent final actions, such as a final rule adopted by the agencies or taxing authority, or a law enacted by Congress. Proposed rules or legislative bills would not satisfy this requirement.

Question 43: What, if any, other modifications should the agencies consider for the definition of an eligible clean-up call and why?

3. Exposure Amount of a Securitization Exposure

The proposal would maintain the exposure calculation methodology in the current capital rule for both on-balance-sheet and off-balance-sheet securitization exposures. The exposure amount for an on-balance-sheet securitization exposure that is not a repo-style transaction, an eligible margin loan, or a derivative contract (other than a credit derivative) would equal the carrying value of the exposure.⁸⁵ For off-balance-sheet securitization exposures that are not a repo-style transaction, eligible margin loan, or derivative contract (other than a credit derivative), the exposure amount would equal the notional amount of the exposure.⁸⁶ For a

⁸⁵ Consistent with the current rule, under the proposal, the exposure amount of an on-balance sheet securitization exposure that is an available-for-sale or held-to-maturity security held by a banking organization that has made an AOCI opt-out election would be the banking organization's carrying value (including net accrued but unpaid interest and fees), less any net unrealized gains on the exposure and plus any net unrealized losses on the exposure.

⁸⁶ The proposal would generally maintain the current capital rule's treatment for off-balance sheet securitization exposures to ABCP programs, with certain exceptions. The proposal would not include the specific treatments provided for such exposures in __.42(c)(3)(ii)–(iii) and __.44 in the current capital rule. The other elements of the proposed

securitization exposure that is a repo-style transaction, eligible margin loan, or derivative contract (other than a credit derivative), the exposure amount would be calculated based on the proposed counterparty credit risk framework, described in sections III.C. and III.D.2.b. of this **SUPPLEMENTARY INFORMATION**.

*Question 44: What, if any, clarifications should the agencies consider regarding the determination of the exposure amount for securitization exposures where one or more of the underlying exposures are off-balance sheet exposures (such as unfunded commitments)? Specifically, what are the advantages and disadvantages of a modification that would clarify that covered banking organizations could apply the same credit conversion factors described in section III.B.2. of this **SUPPLEMENTARY INFORMATION** when calculating the components of the SEC-SA (K_G , W parameter, attachment point A and detachment point D) for a securitization exposure where one or more of the underlying exposures are off-balance sheet exposures? What would be the effect of such a clarification on the volatility of the capital requirements?*

4. Securitization Standardized Approach (SEC-SA)

Under the proposal, a covered banking organization would determine the capital requirements for most securitization exposures under the SEC-SA. The SEC-SA would be substantively similar to the SSFA in the current capital rule except for certain changes as discussed below. Under the SEC-SA, a covered banking organization would determine the risk weight for a securitization exposure based on the risk weight of the underlying exposures that are adjusted to reflect (1) delinquencies in such exposures, (2) the securitization exposure's subordination level in the allocation of losses, and (3) the heightened correlation and additional risks inherent in securitizations relative to direct exposures to the underlying financial exposures.

To calculate the risk weight for a securitization exposure using the SEC-SA, a covered banking organization would be required to have accurate information on the parameters used in the SEC-SA calculation. If the covered banking organization cannot, or chooses not to, apply the SEC-SA, the covered

securitization framework (for example, the look through approach for senior securitization exposures) are intended to better reflect the risk of such exposures.

banking organization would be required to apply a 1,250 percent risk weight to the securitization exposure. For synthetic securitizations, the proposal would permit covered banking organizations to choose not to recognize

the credit risk mitigant and hold risk-based capital against the underlying exposures as if they had not been synthetically securitized.

Under the proposed SEC-SA, the risk weight assigned to a securitization

exposure, or portion of a securitization exposure, would be determined according to the formula under § _____.44(a) of the proposed rule, expressed as:

RW_{SEC-SA}

$$= \begin{cases} \max(RW_{FLOOR}, 1,250\% \cdot K_{SEC-SA}), & K_A \leq A \\ \max\left(RW_{FLOOR}, \left(\frac{K_A - A}{D - A}\right) \cdot 1,250\% + \left(\frac{D - K_A}{D - A}\right) \cdot 1,250\% \cdot K_{SEC-SA}\right), & A < K_A < D \\ 1,250\%, & D \leq K_A \end{cases}$$

Where:

- RW_{FLOOR} is equal to 100 percent for resecuritization exposures and 15 percent for all other securitization exposures.

- K_A represents the delinquency-adjusted, weighted-average capital requirement of the underlying exposures, as described in section III.E.4.c. of this **SUPPLEMENTARY INFORMATION**.
- A represents the attachment point of the securitization exposure, as described in

section III.E.4.a. of this **SUPPLEMENTARY INFORMATION**.

- D represents the detachment point of the securitization exposure, as described in section III.E.4.a. of this **SUPPLEMENTARY INFORMATION**.

- $K_{SEC-SA} = \frac{e^{a \cdot u} - e^{a \cdot l}}{a \cdot (u - l)}$

- $a = -\frac{1}{p \cdot K_A}$, where p equals 1.5 for a resecuritization exposure and 0.5 for all

other securitization exposures.

- $u = D - K_A$
- $l = \max(A - K_A, 0)$
- e equals the base of the natural logarithm.

a. Definition of Attachment Point and Detachment Point

Under the current capital rule, the attachment point (parameter A) of a securitization exposure equals the ratio of (1) the current dollar amount of underlying exposures that are subordinated to the exposure of the banking organization to (2) the current dollar amount of underlying exposures. Any reserve account funded by the accumulated cash flows from the underlying exposures that is subordinated to the covered banking organization's securitization exposure may be included in the calculation of parameter A to the extent that cash is present in the account. The current capital rule generally requires a covered banking organization to recognize cash or securities that are included in a reserve account in the calculation of parameter A.⁸⁷

The proposal would generally retain the existing definitions of attachment point and detachment point under the current capital rule, with one modification. Specifically, the proposal would not allow a covered banking organization to include interest rate derivative contracts and exchange rate derivative contracts, or the cash collateral accounts related to these instruments, in the calculation of parameters A and D. The agencies are proposing this treatment because assets held in a funded reserve account, whether cash or securities, can provide credit enhancement to a securitization exposure, whereas interest rate and foreign exchange derivatives (and any cash collateral held against these derivatives) do not.⁸⁸

organizations to treat any assets that are included in a reserve account as underlying exposures of the securitization exposure, which must be reflected in parameters A and D as well as K_G and the W parameter.

⁸⁸ For example, assume a securitization has assets denominated in U.S. dollars and liabilities denominated in euros, and that the securitization executes a USD-EUR foreign exchange swap with a covered banking organization. The transaction

b. Definition of W Parameter

Under the current capital rule, parameter W, which is expressed as a decimal value between zero and one, reflects the proportion of underlying exposures that are not performing or are delinquent, according to criteria outlined in the rule.⁸⁹ The proposal would retain the current capital rule's definition of parameter W, with two modifications. Specifically, the proposal would revise the definition of parameter

would serve to hedge the foreign exchange risk of the securitization's assets and liabilities but would not provide credit enhancement to any of the tranches of the securitization.

⁸⁹ Consistent with the current capital rule, the proposal would define equity exposure to include exposures to equity instruments that do not have mandatory contractual payments, among other requirements. Accordingly, under the proposal, for purposes of determining the W parameter for a securitization exposure, a covered banking organization would not treat an underlying equity exposure as being past due or in default on payments, but could treat an underlying equity exposure as subject to a bankruptcy or insolvency proceeding if the issuer of the equity exposure were subject to such a proceeding. See definition of equity exposure in § _____.2 of the capital rule. 12 CFR 3.2 (OCC); 12 CFR 217.2 (Board); 12 CFR 324.2 (FDIC).

⁸⁷ Consistent with the current capital rule, the proposal would require covered banking

W to (1) exclude any exposure that is directly and unconditionally guaranteed by the U.S. government, its central bank, or a U.S. government agency from the calculation of W, up to the amount of the guarantee; and (2) clarify that for resecuritization exposures, any underlying exposure that is a securitization exposure would only be included in the denominator of the ratio and would be excluded from the numerator of the ratio.

Under the proposal, a covered banking organization would exclude from the calculation of parameter W any exposure that is directly and unconditionally guaranteed by the U.S. government, its central bank, or a U.S. government agency, up to the amount of the guarantee. By allowing covered banking organizations to reflect the risk mitigation effects of the U.S. government's guarantee, the proposed modification is intended to more appropriately align the capital requirement with the risk of such securitization exposures. For example, when a covered banking organization invests in a securitization exposure where all of the underlying exposures are unconditionally guaranteed by the U.S. government, the covered banking organization may set parameter W equal to zero.

For resecuritization exposures, parameter W would be the ratio of the sum of the current dollar amount of any underlying exposures of the resecuritization that meet any of the criteria in paragraphs _____.42(b)(1)(i) through (vi) of the proposal that are not securitization exposures to the current dollar amount of all underlying exposures. Underlying securitization exposures do not need to be included in the numerator of parameter W because the risk weight of the underlying securitization exposure as calculated by the SEC-SA would already reflect the impact of any delinquent or otherwise nonperforming loans within the underlying securitization exposure. For example, if a resecuritization with a notional amount of \$10 million includes underlying securitization exposures with a notional amount of \$5 million and underlying non-securitization exposures with a notional amount of \$5 million, and if \$500,000 of the non-securitization exposures are delinquent, the numerator for the W parameter would be \$500,000 while the denominator for the W parameter would be \$10 million. This reflects the fact that the risk associated with securitization exposures generally arises from the underlying assets failing to perform as expected, resulting in investors receiving less cashflow than expected

from the securitization exposure, rather than from securitization exposure itself failing to make payments due to investors.

Question 45: The agencies seek comment on the appropriateness of requiring covered banking organizations to only include equity exposures when the issuer is subject to a bankruptcy or insolvency proceeding in the W parameter calculation. What, if any, alternative approaches (such as requiring covered banking organizations to include equity exposures when the issuer has an obligation to the banking organization that is 90-days or more past due) should the agencies consider that would more appropriately capture the proportion of underlying exposures that are not performing or are delinquent and why? What, if any, operational concerns could such alternatives pose?

c. Delinquency-Adjusted (K_A) and Non-Adjusted (K_G) Weighted-Average Capital Requirement of the Underlying Exposures

Under the proposal, K_A would reflect the delinquency-adjusted, weighted-average capital requirement of the underlying exposures and would be a function of K_G and parameter W. Under this approach, in order to calculate parameter W, and thus K_A , the covered banking organization must know the delinquency status of all underlying exposures in the securitization. K_G would equal the weighted average total capital requirement of the underlying exposures (with the unpaid principal used as the weight for each exposure), calculated using the proposed risk weights in the standardized approach, as described in section III.A. of this **SUPPLEMENTARY INFORMATION**.

The proposal would retain the current capital rule's definition of K_G , with two modifications. First, for interest rate derivative contracts and exchange rate derivative contracts, the proposal would require covered banking organizations to include in the numerator of K_G (and exclude from the denominator of K_G) the product of (1) the positive current exposure, (2) the risk weight of the counterparty, and (3) 0.08. This accounts for the issue where, if amounts related to interest rate and exchange rate derivative contracts were included in both the numerator and denominator of K_G , these contracts could reduce the capital requirement of securitization exposures even though interest rate and exchange rate derivative contracts do not provide any credit enhancement to a securitization.

Second, the proposal would clarify the existing requirement that covered

banking organizations must determine the risk weight applicable to an underlying equity exposure under the simple risk-weight approach in § _____.52 of the current capital rule based on the characteristics of the underlying equity exposure. Consistent with the treatment under the current capital rule, covered banking organizations would not be able to consider the underlying equity exposures as a non-significant equity exposure that receive a 100 percent risk weight when determining K_G . Unlike equity exposures to investment funds (as defined), traditional securitizations can include transactions with companies that have material liabilities and structures that allocate losses based on a predetermined order of priority (rather than on a pro-rata basis). Accordingly, unlike the look-through approaches applicable to underlying equity securities held by investment funds, the proposal would clarify that covered banking organizations may not calculate risk-based capital requirements for securitization exposures with underlying equity exposures as though the underlying equity exposures were on the covered banking organization's balance sheet. This clarification to the current capital rule promotes the risk sensitivity of the securitization framework by requiring covered banking organizations to reflect a risk weight based on the underlying exposure's risk characteristics and appropriately differentiates between the risk-based capital treatment applicable to investment funds and to securitization exposures.

Question 46: Recognizing that banking organizations may not always know the delinquency status of each underlying exposure, what would be the benefits and drawbacks of allowing a covered banking organization to use the SEC-SA if the covered banking organization knows the delinquency status for most, but not all, of the underlying exposures? For example, if the covered banking organization knew the delinquency status of 95 percent of the exposures, what would be the benefits and drawbacks of allowing the covered banking organization to (1) split the underlying exposures into two subpools, (2) calculate a weighted average of the K_A of the subpool comprising the underlying exposures for which the delinquency status is known, (3) assign a value of 1 for K_A of the other subpool comprising exposures for which the delinquency status is unknown, and (4) assign a K_A for the entire pool equal to the weighted average of the K_A for each subpool? What other approaches,

if any, should the agencies consider and why?

Question 47: *The agencies seek comment on the appropriateness of requiring covered banking organizations to reflect underlying past due exposures in both the K_G and the W parameter components when calculating K_A . To what extent could including past due exposures in both components result in overly punitive capital requirements for such exposures under SEC-SA? What, if any, alternatives (such as not applying the heightened 150 risk weight for past due exposures for purposes of calculating K_G) should the agencies consider and why? Commenters are encouraged to provide specific examples, including calculations and supporting data.*

d. Supervisory Risk-Weight Floors

Consistent with the SSFA in the current capital rule, the SEC-SA would require covered banking organizations to apply a risk-weight floor to all securitization exposures. The proposed risk-weight floor is intended to ensure that covered banking organizations maintain a minimum level of capital to account for risks that may not otherwise be captured by SEC-SA, such as modeling risks and correlation. The proposal would apply a risk-weight floor of 15 percent for securitization exposures that are not resecuritization exposures. The 15 percent risk-weight floor is most relevant for more senior securitization exposures. While junior tranches can absorb a significant amount of credit or equity risk, senior tranches are still exposed to some amount of credit or equity risk on the underlying exposures. Therefore, a minimum capital requirement continues to be appropriate for all securitization exposures.

For resecuritization exposures, the proposed SEC-SA approach would require covered banking organizations to apply a risk-weight floor of 100 percent. The proposed 100 percent supervisory risk-weight floor for resecuritization exposures is intended to capture the greater complexity of such exposures and heightened correlation risks inherent in the underlying securitization exposures.⁹⁰

⁹⁰ In a typical securitization exposure that is not a resecuritization, each underlying exposure is subject to idiosyncratic default risks (for example, the employment status of each obligor) which may exhibit lower relative default correlation. In a resecuritization exposure, the underlying exposures, which are typically tranches of securitizations, usually have credit enhancement from more junior tranches that protects against many idiosyncratic risks. Systematic risks are more likely to generate defaults in the underlying exposures of resecritizations than idiosyncratic

Question 48: *The agencies seek comment on the proposed 100 percent risk-weight floor for resecuritization exposures. What modifications, if any, should the agencies consider to the 100 percent risk-weight floor for resecuritization exposures and why? For example, what would be the pros and cons of excluding certain types of resecuritization exposures—such as resecritizations of servicer cash advance receivables—from the 100 percent risk-weight floor and why? Commenters are encouraged to provide data (such as loss history) to support their recommendations.*

5. Exceptions to the SEC-SA Risk-Based Capital Treatment for Securitization Exposures

Securitization exposures sometimes contain features that, if not accounted for, could produce inconsistent outcomes under the SEC-SA, or in some cases make the calculation of the risk weight inoperable. Therefore, the proposal would include additional approaches for certain types of securitization exposures to more appropriately align the capital requirement with the risk of such securitization exposures.

a. Purchased Credit Derivatives

As discussed previously in section III.E.1.b. of this **SUPPLEMENTARY INFORMATION**, the proposal would modify paragraph (1) of the definition of traditional securitization to clarify that the securitization framework generally applies to exposures to companies with material liabilities that are not operating companies, and whose underlying exposures are primarily financial exposures. To further clarify the scope of exposures subject to the securitization framework under the current capital rule, the proposal would also remove the definition of securitization special purpose entity (SPE).

Under the current capital rule, if a covered banking organization purchases a credit derivative (other than an nth-to-default credit derivative) that is recognized as a credit risk mitigant (including via recognized collateral) under the securitization framework, the covered banking organization is not required to compute a separate counterparty credit risk capital requirement. For purchased credit derivatives that a covered banking organization cannot or chooses not to

recognize as a credit risk mitigant under the securitization framework, the current capital rule requires the covered banking organization to calculate an exposure amount using SA-CCR and to determine the applicable risk weight based on whether or not the counterparty is a securitization SPE.⁹¹ Specifically, if the counterparty is a securitization SPE, the covered banking organization must determine the risk weight based on the securitization framework; if the counterparty is not a securitization SPE, the covered banking organization must apply the risk weight applicable to the counterparty under the general risk-weight framework.

Consistent with the proposed technical modification to the definition of traditional securitization,⁹² the proposal would (1) remove the definition of securitization SPE, and (2) clarify that the risk weight applicable to purchased credit derivatives that a covered banking organization cannot or chooses not to recognize as a credit risk mitigant would be based on whether the counterparty is a securitization (*i.e.*, a non-operating company that holds the underlying exposures of a securitization transaction).

b. Nth-to-Default Credit Derivatives

Nth-to-default credit derivatives provide credit protection on a group of reference exposures only after a specific number (n) of the reference exposures default.⁹³ As nth-to-default credit derivatives tranche the credit risk of the reference exposures based on the order in which defaults occur within the group of reference exposures, such credit derivatives would generally

⁹¹ Securitization SPE under § ____ . 2 of the current capital rule means a corporation, trust, or other entity organized for the specific purpose of holding underlying exposures of a securitization, the activities of which are limited to those appropriate to accomplish this purpose, and the structure of which is intended to isolate the underlying exposures held by the entity from the credit risk of the seller of the underlying exposures to the entity. See 12 CFR 3.2 (OCC); 12 CFR 217.2 (Board); 12 CFR 324.2 (FDIC).

⁹² The proposal would retain the existing definition of securitization exposure under the current capital rule. Under § ____ . 2 of the current capital rule, securitization exposure means (1) an on-balance sheet or off-balance sheet credit exposure (including credit-enhancing representations and warranties) that arises from a traditional securitization or synthetic securitization (including a resecritization), or (2) an exposure that directly or indirectly references a securitization exposure described in paragraph (1) of this definition. See 12 CFR 3.2 (OCC); 12 CFR 217.2 (Board); 12 CFR 324.2 (FDIC).

⁹³ Consistent with the current capital rule, the proposal would define an nth-to-default credit derivative as a credit derivative that provides credit protection only for the nth-defaulting reference exposure in a group of reference exposures. See 12 CFR 3.2 (OCC); 12 CFR 217.2 (Board); 12 CFR 324.2 (FDIC).

qualify as securitization exposures under the proposal, consistent with the current capital rule. Under the current capital rule, covered banking organizations that have purchased credit protection in the form of an nth-to-default credit derivative may recognize the risk-mitigating benefit of that derivative under the credit risk mitigation framework applicable to securitization exposures if certain conditions are met. If a covered banking organization sells protection in the form of an nth-to-default credit derivative, the current capital rule requires the covered banking organization to calculate risk-weighted assets as the product of (1) the exposure amount produced by SA-CCR, and (2) either the risk weight produced by the SSFA or a 1,250 percent risk weight.

Nth-to-default credit derivatives provide protection only for a limited number of default event(s) and, therefore, do not provide continuous or comprehensive coverage of credit risk for the entire basket of reference exposures. Furthermore, the current capital treatment of nth-to-default credit derivatives may not appropriately capture the default correlation among the reference exposures. For example, assume a covered banking organization with exposure to five corporate entities purchases an nth-to-default credit derivative that pays out upon the default of the second of the five corporate entities. In such a case, the covered banking organization would remain exposed to any losses incurred upon the first corporate entity default, as well as losses from any defaults beyond the second corporate entity default, if applicable. Conversely, a covered banking organization that sells an nth-to-default credit derivative that provides protection against the default of the second corporate entity could incur losses exceeding the premiums collected from the protection purchaser if the defaults of the underlying corporates are highly correlated. Furthermore, the risk weight produced by the SEC-SA may not appropriately capture the risk of sold nth-to-default credit derivatives, which are priced based on the expected default correlation among the reference exposures.⁹⁴

⁹⁴ As a standardized approach, the SEC-SA calculation does not explicitly capture default correlation among the underlying exposures (such as the possibility that multiple underlying exposures will default simultaneously or that the default of one underlying exposure may affect the likelihood of another underlying exposure defaulting). Instead, default correlation effects are implicitly incorporated through the supervisory parameter (ρ) in the SEC-SA calculation, which

Accordingly, while nth-to-default credit derivatives would continue to be securitization exposures, the proposal would not permit covered banking organizations to recognize any risk-mitigating benefit for nth-to-default credit derivatives for which the covered banking organization is the protection purchaser under the proposed securitization framework. Rather, the proposal would require covered banking organizations to calculate risk-weighted assets for counterparty credit risk using the exposure amount produced by current exposure methodology or SA-CCR, as described in section III.C. of this **SUPPLEMENTARY INFORMATION** and the risk weight applicable to the protection provider under the general risk-weight framework.

Similarly, while nth-to-default credit derivatives in which the covered banking organization is the seller of protection would continue to be securitization exposures, the proposal would prohibit the covered banking organization from using the SEC-SA to determine the applicable risk weight. Rather, the proposal would generally require covered banking organizations to calculate the risk-weighted asset amount by multiplying the notional amount of the protection provided by the nth-to-default credit derivative by the sum of the risk weights applicable to each of the underlying reference exposures, up to a maximum of 1,250 percent. In aggregating the risk weights for second- or later-to-default credit derivatives, the proposal would permit covered banking organizations to exclude the (n-1) assets with the lowest risk weights from the calculation.⁹⁵ This approach would require a covered banking organization to maintain capital based on the risk characteristics of all the underlying reference exposures in the basket on which it is providing protection, while recognizing that the covered banking organization is not

serves as a proxy for the concentration and correlation of the underlying exposures.

⁹⁵ For example, assume a covered banking organization sells a first-to-default credit derivative that provides protection on three underlying entities, two of which would be subject to the 95 percent risk weight for corporate exposures under the proposal and one to the 20 percent risk weight for GSEs. The proposal would require the covered banking organization to multiply the sum of the three risk-weights (210 percent) by the notional amount of protection provided by the first-to-default credit derivative. If the covered banking organization sold a second-to-default credit derivative that provided protection on the same three entities, the proposal would require the covered banking organization to multiply the sum of the two highest applicable risk-weights (190 percent) by the notional amount of protection provided by the second-to-default credit derivative.

required to make a payment unless “n” names in the basket default.

c. Derivative Contracts That Do Not Provide Credit Enhancements

The proposal would revise the risk weight for securitization exposures that are derivative contracts (other than protection provided by a covered banking organization in the form of a credit derivative) that have a first priority claim on the cash flows from the underlying exposures, notwithstanding amounts due under interest rate or currency derivative contracts, fees, or other similar payments. The current capital rule permits covered banking organizations to assign a risk-weighted asset amount for such securitization exposures equal to the exposure amount calculated under current exposure methodology or SA-CCR, as applicable, (corresponding to a 100 percent risk weight). The proposal would eliminate this option. Instead, a covered banking organization would determine the risk-weighted asset amount by multiplying (1) the exposure amount produced by the counterparty credit risk framework, as described in section III.C. of this **SUPPLEMENTARY INFORMATION**, and (2) either the risk weight applicable to the exposure under the securitization framework or a 1,250 percent risk weight. The proposed treatment would be more risk sensitive and more accurately reflect the risks of such exposures than a flat 100 percent risk weight.

Additionally, the proposal would provide a new treatment for certain interest rate or foreign exchange derivative contracts that qualify as securitization exposures. Some securitizations either make payments to investors in a different currency from the underlying exposures or make fixed payments to investors when the cash flows received on the underlying exposures are linked to a floating interest rate. To neutralize these foreign exchange or interest rate risks, a securitization may enter into a derivative contract that mirrors the currency or interest rate mismatch between the exposures and the tranches. Cash flows required to be paid to the derivative counterparty tend to have a claim senior to the investors in the cash flow waterfall, and therefore tend not to provide credit enhancement.

The proposal would require a covered banking organization that acts as a counterparty to these types of interest rate and foreign exchange derivatives to set the risk weight on such derivatives equal to the risk weight calculated under the SEC-SA for a securitization exposure that is *pari passu* to the

derivative contract or, if such an exposure does not exist, the risk weight of the next subordinated tranche of the securitization exposure. A covered banking organization may otherwise not be able to calculate a risk weight for these derivative contracts using the SEC-SA because the attachment and detachment points under the proposed formula could equal one another, rendering the formula inoperable. The proposed treatment is intended to appropriately reflect how the credit risk associated with these derivative contracts would be commensurate with or less than the credit risk associated with a pari passu tranche or the next subordinated tranche of a securitization exposure.

Question 49: The current capital rule provides covered banking organizations the option to assign a 100 percent risk weight to securitization exposures that are derivative contracts (other than protection provided by a covered banking organization in the form of a credit derivative) that have a first priority claim on the cash flows from the underlying exposures (notwithstanding amounts due under interest rate or currency derivative contracts, fees, or other similar payments). The agencies seek comment on the advantages and disadvantages of retaining this option. What, if any, operational burden would covered banking organizations face if this option were retained or eliminated? What, if any, clarifications should the agencies consider regarding the determination of the attachment point and detachment point for such securitization exposures, and why?

d. Overlapping Exposures

To enhance the risk sensitivity of the securitization framework, the proposal would introduce new provisions to address instances where one of the covered banking organization's securitization exposures would preclude the covered banking organization from incurring losses under all circumstances on one or more separate securitization exposures also held by the covered banking organization (overlapping exposures). The standardized approach of the current capital rule includes provisions to limit the double counting of risks in situations involving overlapping securitization exposures. If a covered banking organization has multiple securitization exposures that provide duplicative coverage to the underlying exposures of a securitization (such as when a covered banking organization provides a program-wide credit enhancement and multiple pool-specific liquidity facilities to an ABCP program),

the covered banking organization is not required to hold duplicative risk-based capital against the overlapping position. Instead, the covered banking organization may apply to the overlapping position the applicable risk-based capital treatment under the securitization framework that results in the highest risk-based capital requirement.

The proposal would expand the treatment of overlapping exposures to allow covered banking organizations to also apply this treatment (1) where one or more of the overlapping securitization exposures would be subject to the securitization framework in § _____.43 of the proposal and other(s) to the proposed market risk framework, and (2) to securitization exposures that partially overlap for purposes of the securitization framework in § _____.43 of the proposal.

First, to the extent that (1) a covered banking organization is subject to market risk capital requirements, and (2) one or more of the such securitization exposures would be subject to securitization framework and others to the revised market risk framework, the proposal would allow the covered banking organization to reflect only the greater of the risk-based capital requirement produced by the securitization framework or the market risk capital framework, provided the covered banking organization is able to calculate and compare the capital requirements for the relevant exposures.

Second, if a covered banking organization has two or more securitization exposures that partially overlap, the proposal would permit the covered banking organization to treat the exposures as overlapping exposures, provided the covered banking organization can demonstrate that one of its securitization exposures can fully absorb losses arising from its other securitization exposures. For example, if a covered banking organization provides a program-wide credit enhancement to an ABCP conduit that covers only the portion of the losses above the seller-provided protection⁹⁶ and the covered banking organization also holds commercial paper issued by the ABCP conduit, the covered banking organization would be permitted to reflect the risk-weighted asset amount only for the program-wide credit enhancement, provided the covered banking organization demonstrates, for purposes of calculating risk-based

capital requirements, that the program-wide credit enhancement would require the covered banking organization to fully absorb any losses arising from the ABCP conduit. As the risk-based capital requirement for the program-wide credit enhancement would be treated as covering any losses on the commercial paper, the proposal would not require the covered banking organization to also maintain additional risk-based capital against the securitization exposure(s) arising from the commercial paper.

In this regard, the proposal aims to increase risk sensitivity by allowing covered banking organizations to appropriately reflect the risk of such overlapping exposures within the calculation of risk-weighted assets while also providing sufficient flexibility if doing so would impose significant burden.⁹⁷

Question 50: What challenges, if any, would the option to recognize an overlap between market risk covered and noncovered positions introduce? To what degree do covered banking organizations anticipate recognizing overlaps between market risk covered and noncovered positions?

e. Look-Through Approach for Senior Securitization Exposures

The proposal would introduce a provision that would allow a covered banking organization to assign to a senior securitization exposure that is not a resecuritization exposure a risk weight equal to the weighted average risk weight of the underlying exposures, provided that the covered banking organization has knowledge of the composition of all of the underlying exposures (also referred to as the "look-through approach"). For purposes of calculating the weighted-average risk weight, the proposal would require a covered banking organization to use (1) the unpaid principal amount of underlying exposures as the weight for each exposure, and (2) determine the risk weight applicable to an underlying equity exposure based on the characteristics of the underlying equity exposure.⁹⁸

⁹⁷ For example, the proposed market risk capital framework would require banking organizations to calculate risk-based capital requirements at the trading desk level. Thus, the cost associated with requiring covered banking organizations to calculate market risk capital requirements for an individual securitization exposure may outweigh any improvement in risk sensitivity associated with the proposed treatment for overlapping exposures described above. See section V.A. of the expanded risk-based proposal.

⁹⁸ As discussed in section III.E.4.c. of this SUPPLEMENTARY INFORMATION, the non-significant equity exposure treatment does not apply to equity securities underlying a securitization.

⁹⁶ For example, typically in the case of multi-seller ABCP conduits, each seller provides first-loss protection by over-collateralizing the conduit to which it sells loans.

The proposal would define a senior securitization exposure as an exposure that has a first priority claim on the cash flows from the underlying exposures. When determining whether a securitization exposure has a first priority claim on the cash flows from the underlying exposures, a covered banking organization would not be required to consider amounts due under interest rate derivative contracts, currency derivative contracts, and servicer cash advance facility contracts,⁹⁹ or any fees and other similar payments to be made by the securitization to other parties. Both the most senior commercial paper issued by an ABCP program and a liquidity facility that supports the ABCP program may be senior securitization exposures if the liquidity facility provider's right to reimbursement of the drawn amounts is senior to all claims on the cash flows from the underlying exposures, except amounts due under interest rate derivative contracts, currency derivative contracts, and servicer cash advance facility contracts, fees due, and other similar payments. Accordingly, under the proposed look-through approach, if a senior securitization exposure's underlying exposures consists solely of past due loans with a weighted-average risk weight of 150 percent, the risk weight for the senior securitization exposure would be no more than 150 percent.

Consistent with the proposed 15 percent floor under the SEC-SA, the proposal would require covered banking organizations to floor the total risk-based capital requirement under the look-through approach at 15 percent. The proposed 15 percent floor is intended to appropriately reflect the minimum amount of risk-based capital that a covered banking organization should maintain for senior securitization exposures given that the process of securitization can introduce risks that are not present in directly holding the underlying exposures. For example, the transformation of risk profiles through the securitization process and the introduction of payment waterfalls, among other structural features, can add complexity to modeling and correlation assumptions.

Question 51: What are the advantages and disadvantages of the proposed 15

⁹⁹ Consistent with the current capital rule, the proposal would define a servicer cash advance facility as a facility under which the servicer of the underlying exposures of a securitization may advance cash to ensure an uninterrupted flow of payments to investors in the securitization, including advances made to cover foreclosure costs or other expenses to facilitate the timely collection of the underlying exposures. See 12 CFR 3.2 (OCC); 12 CFR 217.2 (Board); 12 CFR 324.2 (FDIC).

percent risk weight floor in the look-through approach and why?

f. Credit-Enhancing Interest Only Strips

The proposal would require a covered banking organization to deduct from common equity tier 1 capital any portion of a credit-enhancing interest-only strip¹⁰⁰ that does not constitute an after-tax-gain-on sale, regardless of whether the securitization exposure meets the proposed operational requirements. The proposed treatment for credit-enhancing interest-only strips would be different than under standardized approach in the current capital rule, which requires a risk weight of 1,250 percent for these items. The proposal would require covered banking organizations to deduct credit-enhancing interest-only strips from common equity tier 1 capital because valuations of credit-enhancing interest-only strips can include a high degree of subjectivity and, just like assets subject to deduction under the current capital rule such as goodwill and other intangible assets, covered banking organizations may not be able to fully realize value from credit-enhancing interest-only strips based on their balance sheet carrying amounts. While a deduction is generally equivalent to a 1,250 percent risk weight when the covered banking organization maintains an 8 percent risk-based capital ratio, given the various capital ratios, buffers, and add-ons applicable to covered banking organizations, applying a deduction provides a more consistent treatment across capital ratios.

g. Non-Performing Loan Securitizations

The proposal would define a non-performing loan securitization as a traditional securitization, that is not a res securitization, where parameter W for the underlying exposures is greater than or equal to 90 percent at the origination cut-off date¹⁰¹ and at any subsequent date on which exposures are added to

¹⁰⁰ Consistent with the current capital rule, the proposal would define a credit-enhancing interest-only strip as an on-balance sheet asset that, in form or in substance (1) represents a contractual right to receive some or all of the interest and no more than a minimal amount of principal due on the underlying exposures of a securitization; and (2) exposes the holder of the CEIO to credit risk directly or indirectly associated with the underlying exposures that exceeds a pro rata share of the holder's claim on the underlying exposures, whether through subordination provisions or other credit-enhancement techniques. See 12 CFR 3.2 (OCC); 12 CFR 217.2 (Board); 12 CFR 324.2 (FDIC).

¹⁰¹ Cut-off date is the date on which the composition of the underlying exposures collateralizing a securitization transaction is established. This means that all exposures to be included in a securitization must already be in existence and meet the non-performing loan criteria as of that date.

or removed from the pool of underlying exposures due to replenishment or restructuring. A securitization exposure that meets the definition of a res securitization exposure would be excluded from the definition of a non-performing loan securitization.

In a typical non-performing loan securitization, the originating banking organization sells non-performing loans to a securitization at a significant discount to the outstanding loan balances, reflecting the nonperforming nature of the underlying exposures. This nonrefundable purchase price discount functions as a form of credit enhancement to investors. Unlike securitizations of performing loans, which principally depend on the cash flows of the underlying loans, the performance of non-performing loan securitizations depends in part on the performance of workouts on defaulted loans and on the liquidation of underlying collateral for those loans which are unable to be cured, both which are uncertain and could be volatile.

Consistent with the expanded risk-based approach proposal, the proposal would introduce a specific capital treatment for non-performing loan securitization exposures. A covered banking organization would assign a risk weight of 100 percent to a non-performing loan securitization exposure if the following conditions are satisfied: (1) the transaction structure meets the definition of a traditional securitization; (2) the securitization contains a credit enhancement in the form of a nonrefundable purchase price discount greater than or equal to 50 percent of the outstanding principal balance of the underlying exposures at inception of the transaction; and (3) the covered banking organization's securitization exposure is a senior securitization exposure, as described in section III.E.5.e. of this **SUPPLEMENTARY INFORMATION**.¹⁰² Applying the SEC-SA to senior securitizations of non-performing loans that meet these criteria would result in capital requirements that do not appropriately reflect the nonrefundable purchase price discount associated with these transactions. The SEC-SA is calibrated on the assumption that the underlying exposures at origination of the securitization are generally

¹⁰² If the covered banking organization is an originating banking organization with respect to the non-performing loan securitization, the covered banking organization may maintain risk-based capital against the transferred exposures as if they had not been securitized and must deduct from common equity tier 1 capital any after-tax gain-on-sale resulting from the transaction and any portion of a CEIO strip that does not constitute an after-tax gain-on-sale.

performing and is therefore inappropriate for senior exposures to securitizations of non-performing loans that meet these criteria.

If the non-performing loan securitization exposure is not a senior securitization exposure or the nonrefundable purchase price discount is less than 50 percent, the covered banking organization would be required to apply the SEC-SA to determine the applicable risk weight (including by reflecting all delinquent exposures in the calculation of parameter W), subject to a risk weight floor of 100 percent. Compared to other securitizations, the higher supervisory risk-weight floor of 100 percent for non-performing loan securitization exposures reflects the greater dependence of non-performing loan securitizations on the servicer's ability to generate recovery cashflows through loan workouts, borrower renegotiations, or enforcement against collateral. If the securitization exposure does not meet the requirements for use of the SEC-SA, the proposal would require the covered banking organization to assign a risk weight of 1,250 to the securitization exposure.

Question 52: The agencies seek comment on the proposed 100 percent risk-weight floor for non-performing loan securitization exposures. What modifications, if any, should the agencies consider to the 100 percent risk-weight floor for non-performing loan securitization exposures and why? Commenters are encouraged to provide data (such as loss history) to support their recommendations.

i. Attachment and Detachment Points for NPL Securitizations Subject to the SEC-SA

Under the proposal, the nonrefundable purchase price discount would equal the difference between the outstanding principal balance of the underlying exposures at the time of sale and the price at which these exposures are sold by the securitization originator¹⁰³ on a final basis, without recourse, to a company the activities of which are limited to those appropriate for the specific purpose of holding the underlying exposures of a securitization. The purchase price discount would be considered non-refundable when neither the securitization originator nor the original lender is reimbursed with respect to that difference. For any given tranche of the securitization, a covered banking

organization may take into account only the initial sale from the securitization originator in the determination of the non-refundable purchase price discount. In cases where the securitization originator underwrites tranches of a non-performing loan securitization for subsequent sale, a covered banking organization that is an investing banking organization may include in the calculation of the nonrefundable purchase price discount the difference between the outstanding principal balance of the underlying exposures at time of sale and the price at which the securitization originator subsequently sells all of the underwritten tranches to unrelated third parties.

Because the calculation of both parameters A and D depend on the current dollar amount of the underlying exposures, any nonrefundable purchase price discount associated with a securitization would be included in both the numerator and denominator of parameters A and D. For example, assume an originating banking organization sells on a final basis, without recourse, a pool of mortgage loans with an outstanding principal balance of \$100 million to a securitization at a price of \$60 million. The nonrefundable purchase price discount would be the difference between the outstanding principal balances of the underlying mortgages at the time of sale to the securitization and the price at which the originating banking organization sold these mortgages to the securitization company (that is, \$40 million). Assume that the securitization company issues \$60 million in securitization tranches of which the originating banking organization purchases the senior \$50 million tranche and an investing banking organization purchases the \$10 million subordinate tranche. Parameter A for the investing banking organization's exposure would equal 40 percent (that is, the ratio of \$40 million to \$100 million). In this case, the purchase price discount functions as the effective first-loss position in the securitization structure. Likewise, the originating banking organization would treat both the nonrefundable purchase price discount and the investing banking organization's tranche as subordinate and would set parameter A at 50 percent.

If, in the example above, after selling the \$100 million pool of mortgage loans to a securitization company at a price of \$60 million, the originating banking organization underwrites both the senior tranche and the subordinate tranche and later sells both tranches to third parties at a 20 percent discount

(that is, the \$10 million subordinated tranche is sold for a price of \$8 million and the \$50 million senior tranche is sold for a price of \$40 million), the proposal would allow the investing banking organizations to assign an attachment point that reflects the extent to which losses have effectively been absorbed by the non-refundable purchase price discount, as measured by the difference between the outstanding principal amount of the underlying exposures (\$100 million) and the aggregate price at which the originating bank subsequently sells those securitization tranches to unrelated third parties (\$48 million). The originating banking organization as underwriter absorbs the additional 20 percent price discount at the sale of the tranches.¹⁰⁴ Thus, the investing banking organization that purchases the \$8 million subordinate tranche would be permitted to assign an attachment point of 52 percent and a detachment point of 60 percent to its securitization exposure; the investing banking organization that purchases the \$40 million senior tranche would be permitted to assign an attachment point of 60 percent and a detachment point of 100 percent to its securitization exposure.

6. Credit Risk Mitigation for Securitization Exposures

The proposal would incorporate the credit risk mitigation framework for securitization exposures in the current capital rule, with one exception. A covered banking organization that purchases or sells tranching credit protection, whether hedged or unhedged, referencing part of a senior tranche would not be allowed to treat the lower-priority portion that the credit protection does not reference as a senior securitization exposure. For example, if a covered banking organization holds a securitization exposure with an attachment point of 20 percent and a detachment point of 100 percent and the covered banking organization purchases an eligible guarantee with an attachment point of 50 percent and a detachment point of 100 percent, the covered banking organization's residual

¹⁰⁴ Under the proposal, a purchase price discount would only qualify as a non-refundable purchase price discount if neither the securitization originator nor the original lender receive reimbursement of the discount. If, in the above example, the securitization company repays the originating banking organization, acting in its role as underwriter, for the purchase price discount from the sale of the tranches to third-party investors, the purchase price discount would not qualify as a non-refundable purchase price discount and the investing banking organizations would not be permitted to recognize such a discount in the calculation of parameters A and D.

¹⁰³ While originator typically refers to the party originating the underlying loans, in the non-performing loan context it refers to the party arranging the non-performing loan securitization (that is, the securitizer).

exposure, which attaches at 20 percent and detaches at 50 percent, would be considered a non-senior securitization exposure, and the covered banking organization would not be permitted to apply the look-through approach to this exposure. A covered banking organization that purchases a mezzanine tranche that attaches at 20 percent and detaches at 50 percent has a similar economic exposure to a covered banking organization that purchases a senior tranche that attaches at 20 percent and detaches at 100 percent and then purchases credit protection that attaches at 50 percent and detaches at 100 percent. Because the former transaction would not be considered a senior securitization exposure eligible for the look-through approach, the latter transaction likewise should not be eligible for the look-through approach. Alternatively, the covered banking organization may choose not to recognize the tranching credit protection. In this case, the proposal would allow the covered banking organization to treat the securitization exposure (which attaches at 20 percent and detaches at 100 percent) as a senior securitization exposure.

F. Indexing of Thresholds

The capital rule uses certain thresholds to differentiate requirements based on a banking organization's size, risk profile, and complexity as well as on the characteristics of the exposures. However, static dollar-based thresholds can lead to unintended consequences if threshold levels are not periodically updated or indexed to inflation. For example, covered banking organizations can become subject to additional requirements and burden over time for reasons unrelated to changes in their risk profile. Under the proposal, certain dollar-based thresholds would be adjusted in the future to reflect inflation, pursuant to a pre-determined indexing methodology.¹⁰⁵ Indexing dollar-based thresholds would preserve threshold levels in real terms, which would efficiently and transparently preserve the thresholds' intended application and align with intended policy objectives over time.

The proposed indexing methodology would adjust thresholds based on the consumer price index for urban wage earners and clerical workers (CPI-W) published by the U.S. Bureau of Labor Statistics. The use of CPI-W to index thresholds is consistent with other bank

regulations, such as those relating to the Community Reinvestment Act and the Board's Regulation CC.¹⁰⁶ Further, the indexing methodology included under the proposal would generally align with the methodology used to adjust certain thresholds within FDIC regulations.¹⁰⁷ Specifically, certain dollar thresholds would be adjusted at the end of every consecutive two-year period based on the cumulative percent change of the non-seasonally adjusted CPI-W since the effective date of any final rule. This two-year period is intended to provide an appropriate cadence for capturing meaningful changes in inflation on a timely basis while minimizing the burden of adjustment. To address the possibility of periods of unusual inflation, the indexing methodology would also allow for discretionary adjustment to thresholds by the agencies during an off year. The proposal would also not lower thresholds in the event of deflation.¹⁰⁸ Additionally, thresholds adjusted under the proposed indexing methodology would be rounded based on the size of the threshold (e.g., billions, millions, thousands), generally, to the nearest two significant digits, as appropriate.¹⁰⁹

The proposal would index the following thresholds: (1) the \$1 million threshold used to determine whether a mortgage qualifies as a residential mortgage exposure; (2) the \$10 million threshold used to determine whether a company in which a covered banking organization owns equity instruments meets the definition of financial institution; and (3) the \$50 billion threshold used to determine whether a covered banking organization is subject to enhanced public disclosure requirements.

To effectuate threshold changes under the proposal, the agencies would announce threshold adjustments pursuant to the indexing methodology

¹⁰⁶ The agencies' regulations that implement the Community Reinvestment Act define small and intermediate-small banks by reference to asset-size criteria expressed in dollar amounts, which are adjusted annually based on the year-to-year change in inflation through a **Federal Register** notice. Specifically, this adjustment corresponds to the average of the Consumer Price Index for Urban Wage Earners and Clerical Workers, not seasonally adjusted, for each 12-month period ending in November, with rounding to the nearest million. See e.g., Community Reinvestment Act Regulations Asset-Size Thresholds, 89 FR 106480, 106481 (Dec. 30, 2024). See also 12 CFR 229.11.

¹⁰⁷ See Adjusting and Indexing Certain Regulatory Thresholds, 90 FR 55789 (Dec. 1, 2025).

¹⁰⁸ Any periods of deflation would be reflected in future threshold increases, as threshold adjustments in the future would be based on the positive net cumulative change in CPI-W.

¹⁰⁹ For example, a threshold that would otherwise be calculated as \$5.964 million would be rounded to \$6.0 million, or the nearest \$0.1 million.

by publishing the updated thresholds. Threshold adjustments would be calculated based on cumulative CPI-W data through August of the year in which the adjustment is made, relative to the same initial baseline.¹¹⁰

Question 53: What are the advantages and disadvantages of the proposed approach for indexing thresholds? What alternatives should the agencies consider and why? What are the advantages and disadvantages of using a different index for adjusting thresholds, such as nominal GDP or the GDP deflator, instead of CPI-W?

Question 54: Are there specific thresholds within the proposal that can result in an increase in operational burden when indexed? If so, which are they and why?

Question 55: What are the advantages and disadvantages of discretionary off-year adjustments for periods of unusual inflation? Should the agencies consider a framework for adjustment in off years, such as based on inflation or other threshold and, if so, why?

IV. Disclosure Requirements

Meaningful public disclosures of a banking organization's activities and the features of its risk profile work in tandem with the regulatory and supervisory frameworks by helping to support robust market discipline. In this way, meaningful public disclosures help to support the safety and soundness of banking organizations and the financial system more broadly.

Under the current capital rule, all covered banking organizations with total consolidated assets \$50 billion or more are subject to the public disclosure requirements.¹¹¹ Under the proposal, the \$50 billion total consolidated asset threshold in section _____.61 of the capital rule would adopt a mechanism to adjust the public disclosure threshold for inflation, as described in Section III.F of this **SUPPLEMENTARY INFORMATION**.¹¹²

In addition, to account for the changes proposed under this proposal, the agencies anticipate separately proposing revisions to the Consolidated Reports of Condition and Income (Call Report).

¹¹⁰ The U.S. Bureau of Labor Statistics publishes the CPI-W on a monthly basis.

¹¹¹ See 12 CFR _____.61 to _____.63. For the purposes of the disclosure requirements threshold, total consolidated assets are determined based on the average of a covered banking organization's total consolidated assets in the four most recent quarters or the average of the covered banking organization's total consolidated assets in the most recent consecutive quarters if the Board-regulated institution has not filed such a report for each of the most recent four quarters. See 12 CFR _____.61.

¹¹² See 12 CFR _____.2, "Annual inflation index" and 12 CFR _____.4.

¹⁰⁵ This revision would also be consistent with comments received under EGRPRA as commenters requested indexing of thresholds going forward to reflect inflation.

Similarly, the Board anticipates proposing corresponding revisions to the Consolidated Financial Statements for Holding Companies (FR Y-9C), the Capital Assessments and Stress Testing (FR Y-14A and FR Y-14Q), and the Systemic Risk Report (FR Y-15) to reflect the changes to the capital rule that would be required under this proposal and the expanded risk-based approach proposal.

The agencies are considering proposing reporting changes that would include many of the quantitative disclosure requirements currently provided under section _____.173 of the current capital rule for Category I and II banking organizations. To reduce duplication in anticipation of these proposed reporting changes, the expanded risk-based approach proposal would remove all quantitative disclosures required under section _____.173 of the capital rule.¹¹³ Covered banking organizations subject to public disclosure requirements under section _____.63 of the capital rule would not be subject to the same regulatory reporting requirements as Category I and II banking organizations.¹¹⁴ As such, this proposal would not make any modifications to the disclosure requirements under section _____.63 of the capital rule.

Question 56: Many of the quantitative disclosures required by section _____.63 of the capital rule are also reported in other publicly available regulatory reports such as the Call Report or FR Y-9C. The agencies request comment on the public disclosure requirements

under section _____.63 of the current capital rule and whether each of the mandated quantitative disclosures is necessary given other regulatory reporting requirements imposed on banking organizations. What duplicative quantitative disclosures should the agencies consider modifying, and why? What are the advantages and disadvantages of removing all quantitative disclosures from section _____.63 and reflecting them in regulatory reports, consistent with the approach being contemplated in the expanded risk-based approach proposal?

Question 57: The agencies invite comment on the utility of the proposed public disclosure requirements. What additional considerations, if any, should the agencies consider with regard to the scope and granularity of the proposal's disclosure requirements? What are the advantages and disadvantages of the proposed disclosure requirements?

V. Estimated Impact on Capital Requirements

As previously discussed, the proposed rule would amend aspects of the capital requirements for covered banking organizations. In particular, the proposed rule would revise the calculation of risk-weighted assets for certain asset classes for covered banking organizations. The changes in risk-weighted assets would in turn affect covered banking organizations' risk-based capital requirements. The proposed rule would also modify the securitization framework and the credit risk mitigation framework. Further, the proposed rule would remove the threshold-based deduction for mortgage servicing assets for covered banking organizations.¹¹⁵ Finally, the proposed

rule would require Category III and IV banking organizations to include most components of accumulated other comprehensive income (AOCI) in the numerator of their regulatory capital ratios.

This section estimates the impact of these proposed revisions to the regulatory capital framework on risk-weighted assets and capital requirements. The following section examines the effect on covered banking organizations, their customers, their competitors, and the banking industry at large.

Summary

The analysis estimates the change in risk-weighted assets and common equity tier 1 and tier 1 capital requirements that would result from the proposal. This impact is estimated separately for holding companies and depository institutions, and for three size groups of these banking organizations: (1) Category III and IV holding companies, which have assets over \$100 billion, and their subsidiaries;¹¹⁶ (2) covered banking organizations with between \$10 billion and \$100 billion in assets; and (3) covered banking organizations with less than \$10 billion in assets that have not elected to use the community bank leverage ratio (CBLR) framework. The estimated impact of the proposal across all covered banking organizations is summarized by Table V.1. Table V.2 further breaks down the impact across banking organizations in the different size groups.

community bank leverage ratio framework. In addition, the expanded risk-based proposal would remove the deduction treatment of mortgage servicing assets for Category I and II banking organizations.

¹¹⁶ Smaller subsidiaries of Category III and IV holding companies are included in only this first group of banking organizations.

¹¹³ See section VI. of the expanded risk-based proposal.

¹¹⁴ For example, the Regulatory Capital Reporting for Institutions Subject to the Advanced Capital Adequacy Framework (FFIEC 101) or the Market Risk Regulatory Report for Institutions Subject to the Market Risk Capital Rule (FFIEC 102).

¹¹⁵ This proposed change would also apply to banking organizations that elect to use the

Table V.1: Summary of the Proposal's Estimated Impact on Risk-Weighted Assets and Common Equity Tier 1 (CET1) and Tier 1 Capital Requirements (%)

	Risk-Weighted Assets	Capital Requirements	
		CET 1	Tier 1
Covered Depository Institutions			
No AOCI	-8.6	-8.6	-7.4
With AOCI impact ¹¹⁷		-6.4	-5.7
Covered Holding Companies			
No AOCI	-8.8	-6.8	-6.9
With AOCI impact		-4.8	-5.3

Source: Special data collection, FR Y-9C, FFIEC Call Reports, and agency calculations as described in sections V.D. and V.F.

The agencies estimate that the proposal would decrease aggregate risk-weighted assets by 8.6 percent for covered banking organizations that are depository institutions (covered depository institutions), relative to the current standardized approach. The changes in risk-weighted assets would in turn decrease these depository institutions' common equity tier 1 capital requirements by 8.6 percent and tier 1 capital requirements by 7.4 percent, after taking into account leverage ratio requirements and before considering changes to the numerator of the capital ratios. The proposed changes would require depository institution subsidiaries of Category III and IV holding companies to recognize AOCI in regulatory capital, subject to a five-year transition period. The agencies assess the impact of AOCI recognition with a long-run perspective and estimate that this proposed change would partially offset the expected decrease in capital requirements. As a result, taking into account AOCI recognition (in addition to leverage ratio requirements),

aggregate common equity tier 1 and tier 1 capital requirements for covered depository institutions decrease by 6.4 and 5.7 percent, respectively, as shown in Table V.1.¹¹⁸

Similarly, the agencies estimate that the proposal would decrease aggregate risk-weighted assets by 8.8 percent for covered banking organizations that are depository institution holding companies (covered holding companies), relative to the current standardized approach. The changes in risk-weighted assets would in turn decrease these covered holding companies' common equity tier 1 capital requirements by 6.8 percent and tier 1 capital requirements by 6.9 percent, after taking into account leverage ratio requirements and before considering changes to the numerator of the capital ratios. Taking into account AOCI impacts and leverage ratio requirements, covered holding companies would see decreases in common equity tier 1 and tier 1 capital requirements of 4.8 and 5.3 percent, respectively, as shown in Table V.1.

In the current capital regulation framework, Category III and IV holding companies are further subject to a stress capital buffer requirement which would dampen the impact of changes in risk-weighted assets on capital requirements.¹¹⁹ This stress capital buffer requirement is informed by the Board's supervisory stress test, to which changes have been recently proposed.¹²⁰ Table V.2 shows that the impact of the proposed stress test changes as if the proposed model changes and proposed revisions to the global market shock scenario design had been implemented in the 2024 and 2025 stress tests, independent of other factors that affect the determination of a banking organization's stress capital buffer

¹¹⁹ Stress capital buffer requirements expressed in dollar terms are affected by risk-weighted assets primarily to the extent that they are subject to a floor equal to 2.5 percent of risk-weighted assets.

¹²⁰ The "proposed stress test changes" refer to the proposed model changes and revisions to the global market shock component announced in connection with the Board's proposal to enhance the transparency and public accountability of the Board's supervisory stress test. See Board, Enhanced Transparency and Public Accountability of the Supervisory Stress Test Models and Scenarios; Modifications to the Capital Planning and Stress Capital Buffer Requirement Rule, Enhanced Prudential Standards Rule, and Regulation LL, 90 FR 51856 (Nov. 18, 2025) (the "Stress Test Transparency Proposal").

¹¹⁷ As described below in section V.E, the impact of AOCI is represented as a change in requirements by adding the estimated long-run impact of AOCI on equity to requirements. Under the proposal, recognizing most elements of AOCI in regulatory capital would be mandatory only for Category III and IV banking organizations and their subsidiaries.

¹¹⁸ The impact of AOCI recognition in regulatory capital can be affected by the interest rate environment, bank balance sheet management, and changes in the accounting standards. The estimate reported here represents a long-run average and does not consider the transition provisions (see *Infra* fn [121]).

requirement.¹²¹ The cumulative estimated impact of the proposal's risk-weighted asset changes, the long-run average estimate of AOCI recognition,

and the proposed stress testing model and scenario changes would decrease Category III and IV holding companies' common equity tier 1 and tier 1 capital

requirements by approximately 5.3 and 5.6 percent, respectively.

Table V.2: Summary of the Proposal's Estimated Impact on Risk-Weighted Assets and Common Equity Tier 1 (CET1) and Tier 1 Capital Requirements (%), by Banking Organization Size

	Risk-Weighted Assets	Capital Requirements	
		CET 1	Tier 1
Depository Institutions			
Category III/IV Sub., No AOCI	-9.1	-9.1	-7.8
Category III/IV Sub., AOCI		-4.7	-4.3
Assets \$10 to \$100 bn	-8.3	-8.3	-7.5
Assets Below \$10 bn	-7.7	-7.7	-6.6
Holding Companies			
Category III/IV, No AOCI	-9.5	-6.1	-6.4
Category III/IV, AOCI		-3.0	-3.8
Category III/IV, AOCI and Proposed Stress Test Changes		-5.3	-5.6
Assets \$10 to \$100 bn	-7.9	-7.9	-7.9
Assets Below \$10 bn	-7.5	-7.5	-7.4

Source: Special data collection, FR Y-9C, FFIEC Call Reports, and agency calculations as described in sections V.D and V.F.

Importantly, risk-weighted asset and capital impact estimates assume banking activity and risk exposures remain unchanged. As the proposal and its incentives come into effect, covered

banking organizations may change their behavior.

Baseline

This analysis compares estimated outcomes under the proposal to a baseline in which the current capital regulations remain unchanged. For the

¹²¹ The estimated capital impact described in this cumulative analysis with respect to the proposed stress test changes announced in the Stress Test Transparency Proposal incorporates the underlying data published by the Board in the Stress Test Transparency Proposal, without changes to the underlying data. That proposal included illustrative

analysis that considered the potential effects of the proposed stress test model and scenario changes, independent of other factors and components that inform the Board's stress capital buffer determinations for specific bank holding companies, within the 2024 and 2025 supervisory stress tests. As stated in the Stress Test

Transparency Proposal, in aggregate, the proposed stress test model and scenario changes are not expected to materially change capital requirements for bank holding companies subject to the supervisory stress test, across various stress scenarios and jump-off conditions at the start of the test.

estimation of economic outcomes in both the proposal and the baseline states, this analysis assumes such states would have in place all other relevant statutes and regulations applicable to covered banking organizations that existed as of June 30, 2025. Covered banking organizations' financials other than items affected by capital requirements in these states are assumed to be identical to those on Reports of Income and Condition (Call Reports) and Consolidated Financial Statements for Holding Companies (FR Y-9C) as of June 30, 2025. In addition, agencies use the results of a special data collection in 2023 to inform its analysis.¹²²

¹²² See section VII.D.1 of the expanded risk-based proposal for further discussion of the special collection data.

In conjunction with this proposal, the agencies are issuing the expanded risk-based proposal that would generally apply to Category I and II banking organizations and any other banking organizations that choose to adopt the proposed expanded risk-based approach, and would also revise the market risk capital framework for banking organizations with significant trading activity. The agencies have also published a notice of proposed rulemaking that would lower the CBLR framework's leverage requirement from 9 percent to 8 percent (CBLR proposal).¹²³ The majority of this analysis does not address potential overlaps among the three rulemakings. However, where appropriate, this

¹²³ 90 FR 55048 (Dec. 1, 2025).

analysis considers interaction effects when these other rulemakings are finalized before or at the same time as the proposal.

Scope

The proposal would affect risk-weighted asset calculations for all covered banking organizations. As of June 30, 2025, there are 2,741 covered depository institutions and 344 covered holding companies.¹²⁴ Table V.3 summarizes the total assets and capital levels for the covered banking organizations.

¹²⁴ Holding companies with assets under \$3 billion are not required to report risk-based capital information on the FR Y9-C. For these smaller holding companies, economic activity is largely represented by their depository institution subsidiaries.

Table V.3: Summary of Covered Banking Organizations

Covered depository institutions	Count	Total Assets (billion)	Risk-Weighted Assets (billion)	CET1 capital (billion)	Tier 1 capital (billion)	Required CET1 capital (billion)	Required Tier 1 capital (billion)
Subsidiaries of Category III and IV holding companies	35	\$6,034	\$4,213	\$604	\$608	\$295	\$371
Total assets between \$10 billion and \$100 billion	115	\$3,272	\$2,426	\$316	\$318	\$170	\$209
Total assets below \$10 billion	2,591	\$2,769	\$2,071	\$295	\$296	\$145	\$179
Total	2,741	\$12,075	\$8,711	\$1,216	\$1,222	\$610	\$759
Covered holding companies	Count	Total Assets (billion)	Risk-Weighted Assets (billion)	CET1 capital (billion)	Tier 1 capital (billion)	Required CET1 capital (billion)	Required Tier 1 capital (billion)
Category III and IV	25	\$6,972	\$4,655	\$597	\$659	\$371	\$449
Total assets between \$10 billion and \$100 billion	109	\$3,351	\$2,431	\$322	\$334	\$170	\$207
Total assets below \$10 billion	210	\$1,100	\$864	\$110	\$115	\$60	\$73
Total	344	\$11,423	\$7,950	\$1,029	\$1,108	\$602	\$729

Source: FFIEC Call Reports and FR Y-9C, June 30, 2025.

Notes:

Counts of covered banking organizations exclude Category I and II banking organizations and banking organizations that elected to use the CBLR framework as of June 30, 2025. There are 1,714 depository institutions that elected to use the CBLR framework as of June 30, 2025 with \$796 billion in total assets, and 26 holding companies that elected to use the CBLR framework as of June 30, 2025, with \$100 billion in total assets.

Dollar values represent aggregate assets and capital levels for each cohort of depository institutions and holding companies. Assets and capital levels for cohorts may not add up to the totals due to rounding.

CET1 capital and tier 1 capital denote the values that covered banking organizations reported on Call Reports and the FR Y-9C, as applicable, as of June 30, 2025.

Required CET1 capital is 7% of risk-weighted assets for depository institutions (4.5% adequately capitalized threshold plus 2.5% capital conservation buffer), and 4.5% plus 2.5% capital conservation buffer or firm-specific stress capital buffer requirement, as

applicable, for holding companies.

Required tier 1 capital equals the maximum of required risk-based tier 1 capital, required leverage tier 1 capital, and supplementary leverage ratio (SLR) required tier 1 capital. Required risk-based tier 1 capital is 8.5% of risk-weighted assets for depository institutions (6% adequately capitalized threshold plus 2.5% capital conservation buffer), and 6% plus 2.5% capital conservation buffer or firm-specific stress capital buffer, as applicable, for holding companies. Required leverage tier 1 capital equals 5% of average assets for depository institutions and 4% of average assets for holding companies.

Required SLR tier 1 capital equals 3% of total leverage exposure for Category III holding companies and subsidiary depository institutions.

For Category III and IV holding companies, required capital considers the average of each holding company's two most recent stress capital buffer requirements, effective as of October 1, 2024 and October 1, 2025.

As shown in Table V.3, Category III and IV entities currently represent the largest share of total risk-weighted assets and capital among covered banking organizations. In contrast, covered banking organizations with total assets under \$10 billion constitute the largest group by number but hold substantially smaller risk-weighted asset shares. Covered banking organizations with total assets between \$10 billion and \$100 billion fall in the middle on both metrics.

A. Impact on Risk-Weighted Assets by Lending Category

Covered banking organizations' risk-based capital requirements are expressed as a percentage of their risk-weighted assets. The proposal would revise calculations of risk-weighted assets, which would in turn affect these banking organizations' risk-based capital requirements.

In this section, the agencies estimate how the proposed risk weight revisions would directly change covered banking organizations' risk-weighted assets relative to the baseline. Over the long term, covered banking organizations may adjust their asset allocations across categories to re-optimize returns under the new risk weights. The long-term effects of the proposed rule on covered entities' risk-weighted assets may therefore differ from the estimates presented here. This analysis assumes that asset levels reported as of June 30, 2025, remain constant under both the baseline and the proposal.¹²⁵

In developing these estimates, the agencies apply the proposal's risk weights to exposures included in Call Report schedule RC-R and FR Y-9C schedule HC-R for depository institutions and holding companies, respectively. For more information on

data and methodology, please see section V.F.

In connection with the expanded risk-based proposal, the agencies have evaluated the appropriateness of risk weights in the current rule. This analysis suggests that lower risk-weights would better align with the actual risks in bank lending activities related to residential mortgage, corporate, and retail exposures, as well as other assets.¹²⁶ Informed by this analysis and to have more consistency between the expanded risk-based approach and the standardized approach, the proposal implements the following major changes: (1) broader range of risk weights for residential mortgage exposures, based on LTV ratios and source of repayment, (2) reduction in the risk weight assigned to corporate exposures from 100 percent to 95 percent, (3) reduction in the risk weight assigned to other assets from 100 percent to 90 percent and (4) replacement of the 20 percent and 50 percent maturity-based credit conversion factors for commitments that are not unconditionally cancelable with a single 40 percent credit conversion factor. Additionally, the proposal adopts the changes in the expanded risk-based proposal regarding the securitization framework and the credit risk mitigation including the recognition of financial collateral for a broader range of transactions.¹²⁷

To produce a more precise assessment of the impact of the proposal, this analysis estimates the impact on risk-weighted assets to the most granular extent possible given existing regulatory reports. In many cases, the analysis

employs simplifying assumptions and relies on aggregated line items from current regulatory reports to estimate the effect of the proposal. See Section V.F for further details.

As mentioned previously, the proposal would modify the capital treatment of residential mortgage exposures. Under the current capital rule, owner-occupied or rented residential mortgage exposures secured by a first lien on one-to-four family residential properties that are prudently underwritten generally receive a 50 percent risk weight. Other residential mortgage exposures receive a 100 percent risk weight. Under the proposal, residential mortgage exposures currently eligible for the 50 percent risk weight would be risk-weighted according to two LTV-based lookup tables, which are applied based on the residential mortgage exposures' source of repayment. Residential mortgage exposures that are not dependent on the cash flows of the underlying real estate would have risk weights that range from 25 percent to 75 percent, whereas residential mortgage exposures that are dependent on the cash flows of the underlying real estate would have risk weights that range from 35 percent to 110 percent. These changes would represent a substantial increase in risk sensitivity of the capital framework.

Due to the limitations of current regulatory reports, the agencies utilize the 2023 special data collection to estimate the LTV distribution of residential mortgage exposures and the proportion of them that are dependent on the cash flows of the underlying real estate. This special data collection indicates that the significant majority of residential mortgage loans by Category III and IV banking organizations would be risk-weighted as residential mortgage exposures that are not dependent on the

¹²⁵ Section VI discusses covered institutions' plausible responses to the proposal and the effects thereof.

¹²⁶ "Retail" exposures are not a defined category of exposures under the current or proposed standardized approach. Additionally, as described in Section III.A.2, "other assets" refers to all assets not specifically assigned a different risk weight under the rule and that are not deducted from regulatory capital.

¹²⁷ See section IV.A.5 of the expanded risk-based approach proposal.

cash flows of the real estate.¹²⁸ Per Table V.4, the analysis indicates that the risk-weighted assets for residential mortgage exposures would decrease by 29.8 percent for covered depository institutions and by 30.4 percent for covered holding companies, relative to the baseline. The decrease in risk-

¹²⁸ The 2023 special collection data indicate that, in aggregate, approximately 97 percent of residential exposures are not dependent on the cash flows of the real estate for firms that submitted data.

weighted assets would, in turn, result in a significant decrease in the capital required to support residential mortgage lending.

Relating more generally to residential mortgage lending, the proposal would remove the 25 percent deduction threshold for mortgage servicing assets, while retaining the 250 percent risk weight.¹²⁹ Per Table V.4, the impact of

¹²⁹ The proposal would remove the 25 percent deduction threshold for mortgage servicing assets

removing the threshold deduction is not material for risk-weighted assets; however, this proposed change may incentivize banks to re-enter the mortgage servicing business or expand their existing operations.

for all banking organizations subject to the regulatory capital rule, including banking organizations subject to the community bank leverage ratio framework. The 250 percent risk weight for mortgage servicing assets would not apply to banking organizations subject to the community bank leverage ratio framework.

Table V.4: Impact on Risk-Weighted Assets

Current and revised standardized approach (SA) risk-weighted assets, covered banking organizations, billions							
		Depository institutions			Holding companies		
		Current SA	Revised SA	Change	Current SA	Revised SA	Change
General Risk Weights	Residential mortgages	\$755	\$530	-29.8%	\$606	\$421	-30.4%
	Commercial real estate	\$1,896	\$1,801	-5.0%	\$1,426	\$1,354	-5.0%
	Other corporate exposures	\$3,023	\$2,808	-7.1%	\$3,095	\$2,878	-7.0%
	Retail	\$1,297	\$1,167	-10.0%	\$1,182	\$1,063	-10.0%
	Securitization	\$117	\$96	-17.6%	\$108	\$88	-18.0%
	Commitments	\$20	\$17	-11.3%	\$17	\$15	-12.2%
	Other assets from 100% to 90% risk weight	\$473	\$426	-10.0%	\$494	\$445	-10.0%
	MSA deduction elimination	\$0.0	\$0.4		\$0.0	\$0.0	
	Exposures shifting from market risk framework to standardized approach	\$0.0	\$1.3		\$0.0	\$3.3	
	Allowance deduction change	\$0.0	(\$6.5)		\$0.0	(\$5.9)	
	Other assets – risk weights unchanged	\$1,119	\$1,119	0.0%	\$865	\$865	0.0%
Market risk		\$12	\$4.2	-66.2%	\$157	\$95.7	-39.2%
Credit valuation adjustment (CVA) risk		\$0.0	\$2		\$0.0	\$29.7	
Risk-weighted assets for trading-related activities (market risk and CVA risk, subtotal)		\$12	\$6	-48.4%	\$157	\$125	-20.3%
Total		\$8,711	\$7,966	-8.6%	\$7,950	\$7,253	-8.8%
Source: Special data collection of 2023; FFIEC Call Reports; and FR Y-9C, June 30, 2025. Other corporate exposures category includes unused commitments currently risk-weighted at 100%, and repo currently risk-weighted at 100%; all such exposures are risk-weighted at 95% under the revised SA. The Commitments row includes all unused commitments except those currently risk-weighted at 100%. All commitments under one year have a credit conversion factor change from 0.2 to 0.4, those over one year have credit conversion factor change from 0.5 to 0.4. "Allowance deduction change" accounts for the change in deduction for excess adjusted allowance for credit losses (AACL) to risk-weighted assets that occurs when credit risk-weighted assets change. This change in risk-weighted assets would reflect a change in RC-R and HC-R part II. item 29.							

The proposal would decrease the risk weight for corporate exposures uniformly by five percentage points. Under both the current and proposed rule, the corporate exposure category is a broad one that includes a wide range of exposures to companies without specific regulatory treatment under the rule.¹³⁰ Among these various corporate

exposure types, the agencies separately analyze the impact on commercial real estate, which is generally a material asset class for banking organizations, along with "other corporate exposures."

As shown in Table V.4, the agencies estimate a decrease in risk-weighted assets of 5 percent for identified exposures to commercial real estate, at both the holding company and

depository institution levels, compared to the baseline. The commercial real estate exposures are based on current regulatory reporting items, including multifamily loans, that would likely not qualify for other specialized treatments under the capital rule, such as the treatment for high volatility commercial real estate exposures.

Per Table V.4, the other corporate exposure category is the largest asset class for covered banking organizations

¹³⁰ In the capital impact analysis of the expanded risk-based approach proposal, corporate exposures

do not include any commercial real estate exposures.

in terms of the quantity of risk-weighted assets. Other corporate exposures include a wide range of exposures such as commercial and industrial loans, loans to non-depository financial institutions, and certain farm loans, as well as unfunded commitments to companies and repo-style transactions and derivatives. The estimated impact to risk-weighted assets for other corporate exposures in Table V.4 includes estimated changes both due to the risk weight change and due to the exposure measurement change as a result of applying a 40 percent credit conversion factor. Estimated risk-weighted assets for other corporate exposures decrease by approximately 7 percent for covered banking organizations, relative to the baseline. Given its large share, the decrease is close to 30 percent of the total estimated decrease in risk-weighted assets.

The proposed changes to the treatment of commitments would have effects beyond those associated with other corporate exposures. Banking organizations may also extend commitments that are not unconditionally cancelable and that have varying maturities to other entities such as public sector entities. The agencies estimate that the proposed change on such commitments that were not included in the other corporate exposure category would result in a decrease of risk-weighted assets of 11.3 percent for depository institutions and 12.2 percent for holding companies, relative to the baseline. However, these constitute a relatively small share of overall exposures.

The proposal would also lower the risk weight for other assets from 100 percent to 90 percent. The other asset category in the capital rule includes a range of exposures such as exposures to individuals and other real estate owned that are not otherwise assigned a specialized capital treatment under the rule. To gain a more granular understanding of the proposal's impact, the agencies estimate the impact on retail exposures as well as other assets currently assigned a 100 percent risk weight.

Retail exposures typically include loans to individuals such as credit card loans, revolving credit plans, and automobile loans. Using existing regulatory reporting information, the agencies identified such exposures and per Table V.4, estimate a decrease of 10 percent in risk-weighted assets, relative to the baseline, consistent with the decline in the risk weight from 100 percent to 90 percent. The agencies separately estimate the impact on other assets that are not associated with retail

exposures. These exposures can include premises and fixed assets and other real estate owned. Per Table V.4, the agencies estimate a 10 percent decrease in risk-weighted assets for covered banking organizations, relative to the baseline.

As discussed in Section III.E, the agencies are proposing to also include many of the changes to the securitization framework in the revised standardized approach that are also included in the expanded risk-based proposal. These changes would likely serve to lower the capital requirements for a given securitization transaction, incentivize the use of the securitization framework to reduce risk weights for assets held on-balance sheet, and encourage the sale of pools of assets to securitization trusts, relative to the baseline. Per Table V.4, the agencies estimate that there will be an approximately 18 percent decrease in risk-weighted assets for securitization exposures for covered banking organizations, relative to the baseline.

As noted above, the proposal also includes changes to the credit risk mitigation framework which would increase the options available to substitute the risk weight of loans with the risk weight of financial collateral such as U.S. Treasury securities and cash on deposit. The agencies have not estimated the impact of this proposed change due to insufficient data to develop a reasonably accurate estimate. Given the prevalence of U.S. Treasury securities and deposits in the banking system, the agencies note that the decrease to capital requirements could be significant, although the impact will depend in part on an obligor's willingness to encumber their securities and deposits for a period of time in order to satisfy the proposal's qualifying criteria.

B. Trading-Related Impact on Risk-Weighted Assets

Banking organizations subject to the revised standardized approach would also be subject to capital requirements for market risk and credit valuation adjustment (CVA) risk to the extent that they have significant amounts of trading activity.¹³¹ As discussed in the expanded risk-based proposal, the applicability of the market risk and CVA risk frameworks would be modified relative to the current rule.¹³² As a result, some banking organizations

would no longer be required to apply the market risk framework and instead would have their trading assets risk-weighted according to the risk weights in the revised standardized approach. Per Table V.4, the agencies estimate that this would result in an increase in risk-weighted assets of \$1 billion for depository institutions and \$3 billion for holding companies, relative to the baseline. However, this change should be considered together with the changes in risk-weighted assets for the market risk and CVA risk frameworks.

Under the current capital rule, depository institutions and holding companies with over \$1 billion in trading assets must calculate market risk-weighted assets. The expanded risk-based proposal would raise the threshold to \$5 billion indexed for inflation to U.S. CPI-W, eliminating the requirement for depository institutions and holding companies with between \$1 billion and \$5 billion in trading assets. The expanded risk-based proposal would also add a CVA risk-weighted asset calculation for depository institutions that are subsidiaries of Category I or II depository institution holding companies and are subject to the market risk framework, and for other banking organizations that are subject to the market risk framework that also have at least \$1 trillion in over-the-counter notional derivative exposure. Eight depository institutions and 17 holding companies subject to the proposed revised standardized approach would be subject to the market risk framework under the expanded risk-based proposal. One of these depository institutions and 6 of these holding companies would also be subject to capital requirements for CVA risk. Raising the market risk threshold removes the market risk requirement for 7 covered depository institutions and 9 covered holding companies.

Revisions to the market risk framework within the expanded risk-based proposal and removal of market risk capital requirements for some covered banking organizations would result in a large decline in aggregate market risk-weighted assets for covered banking organizations, which is partially offset by the addition of the CVA risk requirement. Relative to the baseline, risk-weighted assets for trading-related activities would decrease by 48.4 percent for covered depository institutions and by 20.3 percent for covered holding companies. However, the changes are small relative to the total reduction in risk-weighted assets under the proposal. For covered depository institutions, the estimated \$6 billion decline in aggregate trading-

¹³¹ Credit valuation adjustment risk is the exposure to changes in the valuation of derivative contracts driven by changes in counterparty credit risk.

¹³² See section II.A of the expanded risk-based proposal.

related risk-weighted assets is less than one percent of the estimated total \$745 billion decline in risk-weighted assets under the proposal, relative to the baseline. For covered holding companies, the estimated \$32 billion decline in aggregate trading-related risk-weighted assets is 4.6 percent of the estimated total \$697 billion decline in risk-weighted assets under the proposal, relative to the baseline. Please see the expanded risk-based proposal for a comprehensive discussion of the regulatory capital and economic effects of the proposed changes to the market risk and CVA risk frameworks.¹³³

C. Impact on Risk-Weighted Assets by Bank Size

The proposal, together with the market risk and CVA risk capital requirements of the expanded risk-based proposal, would result in an estimated decrease in risk-weighted assets of 8.6 percent for covered depository institutions and 8.8 percent for covered holding companies, per Table V.4, relative to the baseline. Table V.5 presents estimated risk-weighted assets under the baseline and the proposal for three groups of covered banking organizations: Category III and IV; those with total assets between \$10 billion and \$100 billion; and those with assets under \$10 billion (excluding banking organizations that opted into the CBLR framework as of June 30, 2025). Relative to the baseline, total risk-weighted assets under the proposal would decrease by 9.1 percent for Category III and IV depository institutions, by 8.3 percent for depository institutions with assets between \$10 billion and \$100 billion and by 7.7 percent for covered depository institutions with assets under \$10 billion.

Table V.5: Impact on Risk-Weighted Assets by Bank Size

RWA totals	Depository institutions			Holding companies		
Bank Cohort	Current SA	Revised SA	Change	Current SA	Revised SA	Change
Category III and IV	\$4,213	\$3,828	-9.1%	\$4,655	\$4,214	-9.5%
Total assets between \$10 billion and \$100 billion	\$2,426	\$2,225	-8.3%	\$2,431	\$2,239	-7.9%
Total assets below \$10 billion	\$2,071	\$1,913	-7.7%	\$866	\$799	-7.5%

Source: Special data collection of 2023; FFIEC Call Reports; and FR Y-9C, June 30, 2025.

Differences in risk-weighted asset impact across bank size cohorts is driven by differences in the other corporate exposures category as classified in Table V.4, specifically unused commitments. Covered depository institutions and holding companies with assets under \$10 billion have a greater proportion of unused commitments that are not unconditionally cancelable and that have a maturity of under one year, which would, under the proposal, have a credit conversion factor change from 20 percent to 40 percent. This change doubles the recorded exposure amount. Under the proposal, unused commitments that are corporate exposures are risk-weighted at 95 percent, down from 100 percent under the baseline, so the proposal would increase the risk-weighted asset amount for unused commitments under one year

by 90 percent, relative to the baseline.¹³⁴

Conversely, Category III and IV depository institutions and holding companies, and to a lesser extent depository institutions and holding companies with assets between \$10 billion and \$100 billion, have a greater proportion of unused commitments that are not unconditionally cancelable and that have a maturity of over one year. The proposal would apply a credit conversion factor of 40 percent to unused commitments over one year, down from a credit conversion factor of 50 percent under the baseline. The reduction in the credit conversion factor from 50 percent to 40 percent lowers the exposure amount for those unused commitments by 20 percent. The risk-weighted asset amount for unused commitments with a maturity of over one year decreases by 24 percent under the proposal.¹³⁵

All exposures in the other corporate exposures category would have risk weights reduced from 100 percent to 95 percent under the proposal, and a credit conversion factor is applied to unused commitments within this exposure category. Therefore, in the absence of unused commitments, risk-weighted assets for other corporate exposures would decrease by 5 percent under the proposal. For covered depository institutions and holding companies with assets under \$10 billion, risk-weighted assets for other corporate exposures would decline by less than 5 percent (4.3 percent and 4.7 percent, respectively) relative to the baseline, a result that reflects these banking organizations' greater proportion of unused commitments with a maturity of under one year. For Category III and IV depository institutions and for holding companies and depository institutions and holding companies with assets between \$10 billion and \$100 billion,

¹³³ See sections VII and VIII.E of the expanded risk-based proposal.

¹³⁴ $(0.4 \times 95\% - 0.2 \times 100\%) / (0.2 \times 100\%) = 90$ percent.

¹³⁵ $(0.4 \times 95 - 0.5 \times 100) / (0.5 \times 100\%) = -24$ percent

risk-weighted assets for other corporate exposures would decline by more than 5 percent relative to the baseline.¹³⁶ This result reflects these banking organizations' greater proportion of unused commitments with a maturity of over one year.

D. Impact of Changes to Risk-Weighted Assets on Required Capital

As detailed above, the proposed standardized approach would revise calculations of risk-weighted assets for covered banking organizations. The changes in risk-weighted assets would in turn affect these banking organizations' risk-based capital requirements. The impact on required capital would depend on each banking organization's risk exposures as well as the other capital requirements to which the banking organization may or may not be subject. The estimated capital impact considers all applicable minimum capital ratio and buffer requirements, including the stress capital buffer requirement applicable to Category III and IV holding companies. In many instances, this impact analysis summarizes the estimated impact on minimum capital and capital buffer requirements in a single number. However, a banking organization's

minimum regulatory capital ratio and capital buffer requirements are separate requirements with distinct, complementary purposes, and banking organizations are subject to different consequences for falling below minimum capital ratio and buffer requirements.¹³⁷ Please see section V.F for additional details on the data and estimation methodology.

Section V.E considers the long-run average estimate of the impact of AOCI changes on required capital for Category III and IV holding companies and their depository institution subsidiaries, whereas results presented in this section do not include the impact of AOCI recognition.

As shown in Table V.6, the agencies estimate that for covered depository institutions, the impact of risk-weight changes in the proposal on common equity tier 1 capital requirements would be a decrease of 8.6 percent. For depository institution subsidiaries of Category III and IV holding companies, the risk-weight changes in the proposal would decrease aggregate common equity tier 1 capital requirements by 9.1 percent relative to current requirements. For depository institutions with total assets between \$10 billion to \$100 billion, and for covered depository

institutions with total assets below \$10 billion, the aggregate impact of the proposal on common equity tier 1 capital requirements would be a decrease of 8.3 and 7.7 percent, respectively, relative to the baseline.¹³⁸

Binding tier 1 capital impacts for depository institutions are similar to the impacts for common equity tier 1 capital. However, they may also reflect the requirements of the tier 1 leverage ratio and the supplementary leverage ratio. The agencies estimate that, in aggregate, tier 1 capital requirements for covered depository institutions would decrease by 7.4 percent due to the risk-weight changes in the proposal. For depository institution subsidiaries of Category III and IV holding companies, the agencies estimate that risk-weight changes in the proposal would decrease aggregate tier 1 capital requirements by 7.8 percent relative to current requirements. For depository institutions with total assets between \$10 billion to \$100 billion and for covered depository institutions with total assets below \$10 billion, the aggregate impact of the proposal on tier 1 capital requirements would be an estimated decrease of 7.5 and 6.6 percent, respectively.

Table V.6. Covered Depository Institutions: Capital Impact of Changes to Risk-Weighted Assets

Panel A: Common Equity Tier 1 Minimum Plus Buffer Requirements for Depository Institutions

Depository institutions	Current SA	Revised SA	% change from current
Subsidiaries of Category III and IV holding companies	\$295	\$268	-9.1%
Total assets between \$10 billion and \$100 billion	\$170	\$156	-8.3%
Total assets below \$10 billion	\$145	\$134	-7.7%
Total	\$610	\$558	-8.6%

¹³⁶ For additional detail, see section V.G.

¹³⁷ Under the capital rule, a banking organization that is subject to risk-based capital requirements

must maintain capital ratios above the sum of its minimum requirements and buffer requirements to avoid restrictions on capital distributions and certain discretionary bonus payments.

¹³⁸ Both groups of depository institutions exclude subsidiaries of Category I–IV holding companies.

Panel B: Binding Tier 1 Minimum Plus Buffer Requirements for Depository Institutions

	Current						
	Current SA	Leverage	SLR	Binding	Revised SA	Revised binding	% change from current
Depository institutions							
Subsidiaries of Category III and IV holding companies	\$358	\$292	\$126	\$371	\$325	\$342	-7.8%
Total assets between \$10 billion and \$100 billion	\$206	\$159	\$0	\$209	\$189	\$193	-7.5%
Total assets below \$10 billion	\$176	\$137	\$0	\$179	\$163	\$167	-6.6%
Total	\$740	\$589	\$126	\$759	\$677	\$702	-7.4%

Source: Special data collection of 2023; FFIEC Call Reports; and FR Y-9C, June 30, 2025.

As shown in Table V.7 and based on the methodology outlined in section V.F, the agencies estimate that, in aggregate, common equity tier 1 capital requirements of covered holding companies would decrease by 6.8 percent due to the risk-weight changes in the proposal. For Category III and IV holding companies, risk-weight changes in the proposal would decrease aggregate common equity tier 1 capital requirements by 6.1 percent relative to current requirements. For holding companies with total assets between \$10

billion to \$100 billion and for covered holding companies with total assets below \$10 billion, the aggregate impact of the proposal on common equity tier 1 capital requirements would be a decrease of 7.9 and 7.5 percent, respectively.

The agencies estimate that the impact of risk-weight changes in the proposal on tier 1 capital requirements for all holding companies combined would be a decrease of 6.9 percent. For Category III and IV holding companies, the agencies estimate that risk-weight changes in the proposal would decrease

aggregate tier 1 capital requirements by 6.4 percent relative to current requirements. The aggregate impact of the proposal on tier 1 capital requirements would be a decrease of 7.9 percent for holding companies with total assets between \$10 billion to \$100 billion, and a decrease of 7.4 percent for covered holding companies with total assets below \$10 billion. As discussed above, results in Table V.7 do not include effects of AOCI recognition for Category III and IV banking organizations.

Table V.7. Covered Holding Companies: Capital Impact of Changes to Risk-Weighted Assets

Panel A: Common Equity Tier 1 Minimum Plus Buffer Requirements for Holding Companies

	Current	Revised SA	% change from current
Holding companies			
Category III and IV	\$371	\$348	-6.1%
Total assets between \$10 billion and \$100 billion	\$170	\$157	-7.9%
Total assets below \$10 billion	\$60	\$56	-7.5%
Total	\$602	\$561	-6.8%

Panel B: Binding Tier 1 Minimum Plus Buffer Requirements for Holding Companies

	Current				Revised SA	Revised binding	% change from current
	Risk- based	Leverage	SLR	Binding			
Holding companies							
Category III and IV	\$441	\$270	\$154	\$449	\$412	\$421	-6.4%
Total assets between \$10 billion and \$100 billion	\$207	\$131	\$0	\$207	\$190	\$190	-7.9%
Total assets below \$10 billion	\$73	\$44	\$0	\$73	\$68	\$68	-7.4%
Total	\$721	\$444	\$154	\$729	\$670	\$679	-6.9%

Source: Special data collection of 2023; FFIEC Call Reports; and FR Y-9C, June 30, 2025.

In addition to the estimated capital impacts discussed above, some covered banking organizations could be affected by a provision in the expanded risk-based proposal that would give them the option to apply the expanded risk-based approach instead of the proposed revised standardized approach. The expanded risk-based proposal includes a discussion of potential impacts of this option for covered banking organizations. Overall, the incentives to adopt the expanded risk-based approach would be limited, in part, by the proposed revisions to the standardized risk weights.

E. Impact of AOCI Recognition

The proposal would revise the regulatory capital calculation for Category III and IV banking organizations by requiring them to recognize most elements of AOCI in regulatory capital. Under the current capital framework, most Category III and IV banking organizations have opted to exclude AOCI from their regulatory capital. The proposal would withdraw this option and provide a transition period for firms that have made such an election to phase in the effects of recognizing AOCI in their regulatory capital, as discussed in Section II.B.

For Category III and IV holding companies that opted out of the AOCI inclusion, the majority of AOCI is attributable to unrealized losses on current or former available-for-sale securities. Capital market and yield curve developments can at times lead to substantial AOCI fluctuation. Since 2015, the aggregate AOCI related to the security holdings of Category III and IV holding companies fluctuated between

an unrealized gain of \$16 billion and an unrealized loss of \$112 billion. Therefore, the agencies assess the impact of AOCI inclusion from a long-run perspective, which provides a more representative measure of the risk and portfolio management practices of banking organizations through the cycle.¹³⁹

The agencies use quarterly FR Y-9C data from 1996 Q1 to 2025 Q3 to estimate the effect of AOCI recognition. A historical data series is used to represent a full range of economic environments and to reduce the influence of short-term volatility. Some of the main factors affecting AOCI, include: (1) the impact of interest rate environment (as interest rates increase, the market valuations of available-for-sale securities decline, resulting in higher unrealized losses), (2) the effects of bank's balance sheet management, including reallocation of security

holdings from available-for-sale to held-to-maturity, and 3) the effects of accounting rules and standards pertaining to treatment of available-for-sale and held-to-maturity securities. Based on the size of securities portfolios as of 2025 Q3, the estimated long-run average impact of the proposed AOCI inclusion would be to reduce regulatory capital, or effectively increase capital requirements, by \$11.5 billion and \$13.0 billion for all opted-out Category III and IV holding companies and their depository institution subsidiaries, respectively, relative to the baseline.¹⁴⁰

The agencies estimate that the average long-run effect of the proposed recognition of AOCI on depository institution subsidiaries of Category III and IV holding companies would be equivalent to a 4.5 percent increase in common equity tier 1 capital requirements, relative to the baseline. This 4.5 percent increase would

¹³⁹ The literature emphasizes that the economic impact of AOCI should be evaluated from a longer-run perspective, as banks dynamically adjust portfolio composition and securities classification in ways that attenuate the relevance of short-run mark-to-market fluctuations (Kim, Kim, and Ryan, 2019, 2025; Granja et al., 2024). Reference sources: Kim, Sehwa, Seil Kim, & Stephen G. Ryan. 2019. "Economic Consequences of the AOCI Filter Removal for Advanced Approaches Banks." *The Accounting Review* 94 (6): 309–335; Kim, Sehwa and Kim, Seil and Ryan, Stephen G., 2025. "Banks' Motivations for Designating Securities as Held to Maturity" Columbia Business School Research Paper No. 4452667, *The Accounting Review*, forthcoming. Available at SSRN: <https://ssrn.com/abstract=4452667>; Granja, Joao and Jiang, Erica Xuewei and Matvos, Gregor and Piskorski, Tomasz, & Seru, Amit, Book Value Risk Management of Banks: Limited Hedging, HTM Accounting, and Rising Interest Rates (April 2, 2024). University of Chicago, Becker Friedman Institute for Economics Working Paper No. 2024–37. Available at SSRN: <https://ssrn.com/abstract=4781916>.

¹⁴⁰ The –\$11.5 billion estimate is calculated as the amortized cost of securities multiplied by the long-run average AOCI impact factor, which is constructed as follows. First, an AOCI impact is estimated for each holding company that has opted to exclude AOCI from regulatory capital as the sum of (i) net unrealized gains or losses on available for sale debt securities and (ii) held-to-maturity (HTM) securities (where included in AOCI, e.g., due to transfers from AFS to HTM), and (iii) AOCI attributed to defined benefit postretirement plans, i.e., FR Y-9C Schedule HC-R Part I items 9.a, d, and e. This impact is aggregated across all such holding companies and divided by the total amortized cost of their securities, as securities portfolios have historically been the source of almost all AOCI (FR Y-9C Schedule HC-B item 8, columns A and C). This scaled impact is averaged across each quarter from 1996 Q1 to 2025 Q3. The average of these quarterly totals is –81.1 basis points. Similarly, the long-run average AOCI impact factor and the long-run impact for depository institutions that opted to exclude AOCI from regulatory capital is –90 basis points.

partially offset the estimated 9.1 percent decrease in required common equity tier 1 capital due to risk-weighted asset changes. Therefore, the estimated cumulative impact of the proposal on common equity tier 1 capital requirements for depository institution subsidiaries of Category III and IV holding companies would be a decrease of 4.7 percent. Similarly, the agencies estimate that the average long-run impact of the proposed recognition of AOCI on depository institution subsidiaries of Category III and IV holding companies would be equivalent to a 3.5 percent increase in tier 1 capital requirements, partially offsetting the estimated 7.8 percent decrease in required tier 1 capital due to risk-weighted asset changes. Therefore, the estimated cumulative impact of the proposal on tier 1 capital requirements for depository institution subsidiaries of Category III and IV holding companies would be a decrease of 4.3 percent.¹⁴¹

For Category III and IV holding companies, the average long-run impact of AOCI recognition would be equivalent to a 3.1 percent and 2.6 percent relative increase in the respective common equity tier 1 and tier 1 capital requirements, relative to the baseline. The required capital increases would partially offset the estimated 6.1 percent and 6.4 percent decreases in required common equity tier 1 capital and tier 1 capital, respectively, due to risk-weighted asset changes. The cumulative impact of the proposal on common equity tier 1 capital requirements and tier 1 capital requirements for Category III and IV holding companies are estimated to be decreases of 3.0 percent and 3.8, respectively. Note, however, that these estimates of the impact of AOCI do not account for interactions with the stress capital buffer requirement or the five-year transition provisions. Specifically, with AOCI, stress scenarios involving reductions in interest rates would see increases in capital reflecting appreciation in the market value of holding companies' available-for-sale securities, which could affect the size of firms' stress capital buffer and associated capital requirements, and which are not reflected in through-the-cycle long-run estimates on AOCI impact used in this analysis.

Finally, if affected banking organizations do not adjust their AOCI management in response to the

proposed changes (for example by adjusting the relative size, fair value hedging, or interest rate sensitivity of their available-for-sale security portfolios), AOCI recognition could increase variation in regulatory capital ratios over time due to market-driven fluctuations in security values.

F. Data and Estimation Methodology

The agencies estimated risk-weighted assets under the proposal for covered banking organizations, as of the second quarter of 2025. In developing these estimates, the agencies primarily relied on line items from regulatory financial reports (Consolidated Reports of Condition and Income (Call Reports), FFIEC 101, and FFIEC 102 for depository institutions and FR Y-9C for holding companies, supplemented with data on stress capital buffer requirements.¹⁴² The estimates also rely in part on the distribution of residential real estate exposures across various risk weights contained in the 2023 special data collection, which are used to inform the impact of the proposal's risk-weight treatment for residential mortgage exposures, as applied to residential mortgage exposure amounts as of the second quarter of 2025.¹⁴³

¹⁴² Reporting forms issued by the Federal Financial Institutions Examination Council (FFIEC) are available at www.ffiec.gov and reporting forms issued by the Federal Reserve Board are available at www.federalreserve.gov. The "Call Report" collectively refers to the data from the FFIEC 031, 041, and 051 forms. Specifically, see FFIEC 031 Form Statistics and FFIEC 041 Form Statistics. For FFIEC 051 ("FFIEC 051 Form Statistics"), see FFIEC, Reporting Forms, Consolidated Reports of Condition and Income for a Bank with Domestic Offices Only and Total Assets Less than \$5 Billion: FFIEC 051 (version June 2023). Bulk data download available at: <https://cdr.ffiec.gov/public/PWS/DownloadBulkData.aspx>. Certain financial reports filed by banking organizations, including portions of the FFIEC 101 and FFIEC 102 reports, are not available publicly because they contain confidential supervisory information and are confidential business information of the reporting banking organizations.

¹⁴³ To estimate residential real estate risk-weighted assets under the proposal's residential treatment for the Category III and IV holding companies that participated in the 2023 special data collection and their depository institution subsidiaries, the agencies first calculated firm-specific average residential real estate risk-weights according to the proposal that were informed by the firm-specific loan-to-value distribution of residential mortgage exposures contained in the 2023 special data collection. These firm-specific risk-weights were then applied to residential real estate items currently risk weighted at 50 percent (Schedule RC-R and HC-R items 4.a. Column H and 5.a. Column H). For holding companies that did not submit data under the 2023 special data collection, or depository institutions that did not have a parent holding company that submitted data under the 2023 special data collection, the average of the firm-specific average residential risk-weights that were derived from the 2023 special data collection were applied to each firm's residential real estate items currently risk weighted at 50

The 2023 special data collection captures respondents' exposures as of June 30, 2023.¹⁴⁴ Of the 37 banking organizations covered by the 2023 proposal, 32 banking organizations (representing 95 percent of the total assets) provided substantially complete data in the collection. For additional information on how this special collection data was employed in the agencies' estimation methodology, please refer to the expanded risk-based proposal.

The 2023 special data collection did not have depository institutions as participants. However, because subsidiary depository institutions are often the most significant operating companies within a covered depository institution holding company, the agency estimates generally assume that the proposal's risk-weight treatment for residential mortgage exposures would impact risk weighted assets and capital requirements of depository institutions subsidiaries of Category III and IV holding companies similarly to their parent holding companies. The agencies acknowledge, however, that there is likely some variation among banking organizations and that the residential mortgage exposures of some depository institutions may not closely resemble those of their holding companies.

For both covered depository institutions and holding companies, the proposal's 95 percent corporate risk weight was applied to an estimate of corporate exposures that are currently risk-weighted at 100 percent. This includes exposures contained in the FR Y-9C and Call Report that are classified as commercial and industrial, agricultural, secured by farmland, commercial real estate, non-depository financial institutions, reverse repurchase agreements, federal funds, unused commitments, available-for-sale securities, and held-to-maturity securities.¹⁴⁵ Similarly, the proposal's

percent (Schedule RC-R and HC-R items 4.a. Column H and 5.a. Column H).

¹⁴⁴ One banking organization submitted data as of the third quarter of 2023, instead of as of June 30, 2023.

¹⁴⁵ The agencies first estimate the amount of corporate exposures relative to all exposures that are likely to be predominantly risk-weighted at 100 percent in Call Report Schedule RC-C and FR Y-9C Schedule HC-C, and then applying this ratio to items RC-R 4.d. Column I and 5.d. Column I, all other loans and leases held for investment and held for sale, respectively, currently risk-weighted at 100 percent. Corporate exposures from Call Report Schedule RC-C and FR Y-9C Schedule HC-C include loans secured by multifamily (item 1.d.), loans secured by nonfarm, nonresidential property (items 1.e.(1) and 1.e.(2)), commercial and industrial loans (items 4.a. and 4.b.), loans to non-depository financial institutions (item 9.a.), loans secured by farmland (item 1.b.), and loans to finance agricultural production (item 3.).

¹⁴¹ While the impact on capital ratios without AOCI can be viewed as a point-in-time estimate (as of 2025 Q2), the impact of AOCI is estimated through-the-cycle, without taking into account a 5-year transition period, which creates a mild timing mismatch in a cumulative impact estimation.

retail and other assets risk weight of 90 percent was applied to an estimate of retail and other exposures that are currently risk-weighted at 100 percent. This includes exposures contained within the FR Y-9C and Call Report that are classified as or related to credit cards, other revolving credit plans to individuals, autos, other consumer loans, leases, and other exposures contained in HC-R or RC-R part II, item 8 (All other assets) that are currently risk-weighted at 100 percent.¹⁴⁶

In addition to the application of the corporate 95 percent risk weight to commitments currently risk-weighted at 100 percent, unused commitments generally were adjusted by the change in credit conversion factor, which increases from 20 percent to 40 percent

All exposures that are likely to be predominantly risk-weighted at 100 percent include the corporate items listed above, plus the following items: loans to individuals (items 6.a through 6.d.), and lease financial receivables (items 10.a. and 10.b.).

Additional items from Schedule RC-R and Schedule HC-R that are currently risk-weighted at 100 percent are also added to corporate exposures include: Held-to-maturity securities (item 2.a. Column I), available-for-sale debt securities (item 2.b., adjusted to remove non-trading equity securities item 2.c. from Schedules RC and HC), federal funds sold (item 3.a. Column I), financial standby letters of credit (item 12. Column I), performance standby letters of credit and transaction-related contingent items (item 13. Column I), commercial and similar letters of credit with an original maturity of one year or less (item 14. Column I), repo-style transactions (item 16. Column I), all other off-balance sheet liabilities (item 17. Column I), unused commitments (items 18.a. and 18.b.), and over-the-counter derivatives (item 10. Column I).

¹⁴⁶ The agencies estimate retail and other exposures similarly to corporate exposures, by taking a ratio of retail exposures from Schedules RC-C and HC-C (items 6.a through 6.d.) to all exposures that are likely to be predominantly risk-weighted at 100 percent from Schedules RC-C and HC-C (all items listed previously) and applying this ratio to RC-R 4.d. Column I and 5.d. Column I, all other loans and leases held for investment and held for sale, respectively, currently risk-weighted at 100 percent. One additional item from Schedule RC-R and Schedule HC-R that is currently risk-weighted at 100 percent, all other assets (item 8. Column I), is also added to retail and other exposures.

for commitments with a maturity of less than one year and decreases from 50 percent to 40 percent for commitments with a maturity of greater than one year.¹⁴⁷

The proposal would reduce the risk-weight floor for securitizations from 20 percent to 15 percent. The proposal's securitization treatment was proxied by lowering the average risk weight by five percentage points for securitization exposures that are not currently risk-weighted at 1,250 percent.¹⁴⁸

Due to data limitations, the agencies did not attempt to estimate the impact of the proposal's reverse repurchase agreement exposure methodology, and therefore such exposures were not modified from those currently reported in the FR Y-9C and Call Reports.

However, the proposal's 90 percent corporate risk-weight was applied to reverse repurchase agreements currently risk-weighted at 100 percent.¹⁴⁹

Please refer to the expanded risk-based proposal data and estimation methodology related to market risk and CVA for more information.

1. Capital Impact Estimation Methodology—Regulatory Capital Buffers and Floors

The impact analysis reported in this section summarizes the estimated impact on minimum capital and capital

buffer requirements, taken together. A banking organization's minimum regulatory capital and buffer requirements are separate requirements with distinct, complementary purposes, and banking organizations are subject to different consequences for falling below minimum capital ratio and buffer requirements. The estimated capital impact considers applicable minimum capital ratio and buffer requirements, in particular, including the stress capital buffer requirement. The stress capital buffer requirement depends on risk-weighted assets under both the current capital rule and the proposal. The impact estimates presented here account for the changes to this buffer that are mechanically driven by changes in risk-weighted assets from the proposal.

Under the regulatory capital framework, the risk-weighted assets used to calculate the applicable stress capital buffer requirement are based on balance sheet data from an earlier date than the date of analysis used in the capital impacts contained in this section.¹⁵⁰ To adjust the applicable stress capital buffer to reflect the proposal, the agencies assumed that the percentage difference in risk-weighted assets between the revised standardized approach and the current standardized approach would have been the same on those earlier dates as it would have been on June 30, 2025. The agencies applied this percentage difference in risk-weighted assets to modify the applicable stress capital buffer requirements when estimating the impact of the proposal on capital requirements.

G. Data Appendix

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¹⁴⁷ The agencies apply the change in credit conversion factor to unused commitment line items 18.a. (original maturity of one year or less) and 18.b. (original maturity exceeding one year) from Schedules RC-R and HC-R for all risk-weighted columns (Columns C through S).

¹⁴⁸ The agencies calculate securitization exposures that are not currently risk-weighted at 1,250 percent by summing the following risk-weighted asset items from Columns T and U of Schedules RC-R and HC-R: on-balance sheet securitization exposures (items 9.a through 9.d), and off-balance sheet securitization exposures (item 10.).

¹⁴⁹ The agencies estimate repo-related risk-weighted assets under the proposal by applying the 90 percent corporate risk-weight to Schedule RC-R and HC-R item 16. Column I.

¹⁵⁰ The stress capital buffer requirements applicable to banking organizations as of June 30, 2025, are based on the results of the 2024 supervisory stress test, which utilized balance sheet data and risk-weighted assets from December 31, 2023.

Current and revised Standardized Approach, Category III and IV holding companies and depository institution subsidiaries, billions							
		Depository institutions			Holding companies		
		Current SA	Revised SA	Change	Current SA	Revised SA	Change
General Risk Weights	Residential mortgages	\$301	\$214	-29.0%	\$304	\$211	-30.7%
	CRE	\$327	\$310	-5.0%	\$363	\$345	-5.0%
	Other corporate exposures	\$1,607	\$1,474	-8.3%	\$1,955	\$1,806	-7.6%
	Retail	\$998	\$898	-10.0%	\$1,002	\$902	-10.0%
	Securitization	\$76	\$61	-19.5%	\$80	\$65	-18.8%
	Commitments	\$10	\$9	-13.6%	\$11	\$9	-13.0%
	Other assets from 100% to 90% risk-weight	\$245	\$221	-10.0%	\$315	\$284	-10.0%
	MSA deduction elimination	\$0.0	\$0.0		\$0.0	\$0.0	
	Exposures shifting from market risk framework to standardized approach	\$0.0	\$0.9		\$0.0	\$1.1	
	Allowance deduction change	\$0.0	(\$4.6)		\$0.0	(\$4.7)	
	Other assets – risk weights unchanged	\$640	\$640	0.0%	\$506	\$506	0.0%
Market risk		\$10	\$4	-63.8%	\$118	\$73	-38.0%
CVA		\$0	\$2		\$0.0	\$17	
RWA for trading-related activities (market risk and CVA, subtotal)		\$10	\$6	-42.0%	\$118	\$90	-23.7%
Total		\$4,213	\$3,828	-9.1%	\$4,655	\$4,214	-9.5%
Source: Special data collection of 2023, FFIEC Call Reports, and FR Y-9C, June 30, 2025. Corporate category includes unused commitments currently risk-weight at 100 percent, and repo currently risk-weighted at 100 percent; all such exposures are risk-weighted at 95 percent under revised SA. Commitments include all unused commitments except those currently risk-weighted at 100 percent; those under one year have CCF change from 20 percent to 40 percent, those over one year have CCF change from 50 percent to 40 percent.							

billion and \$100 billion

Current and revised SA, depository institution and holding companies with total assets between \$10 billion and \$100 billion, billions							
		Depository institutions			Holding companies		
		Current SA	Revised SA	Change	Current SA	Revised SA	Change
General Risk Weights	Residential mortgages	\$220	\$153	-30.2%	\$213	\$149	-30.2%
	CRE	\$790	\$751	-5.0%	\$737	\$700	-5.0%
	Other corporate exposures	\$835	\$779	-6.8%	\$900	\$844	-6.3%
	Retail	\$188	\$169	-10.0%	\$137	\$123	-10.0%
	Securitization	\$26	\$22	-16.6%	\$21	\$17	-17.1%
	Commitments	\$5	\$4	-13.3%	\$5	\$4	-11.3%
	Other assets from 100% to 90% risk-weight	\$121	\$109	-10.0%	\$133	\$120	-10.0%
	MSA deduction elimination	\$0.0	\$0.0		\$0.0	\$0.0	
	Exposures shifting from market risk framework to standardized approach	\$0.0	\$0.4		\$0.0	\$2.2	
	Allowance deduction change	\$0.0	(\$1.0)		\$0.0	(\$0.9)	
	Other assets – risk weights unchanged	\$239	\$239	0.0%	\$246	\$246	0.0%
Market risk		\$2.2	\$0.5	-76.9%	\$39	\$23	-42.5%
CVA		\$0.0	\$0.0		\$0.0	\$13	
RWA for trading-related activities (market risk and CVA, subtotal)		\$2.2	\$0.5	-76.9%	\$39	\$36	-9.8%
Total		\$2,426	\$2,225	-8.3%	\$2,431	\$2,239	-7.9%

Source: Special data collection of 2023, FFIEC Call Reports, and FR Y-9C, June 30, 2025.
Excludes depository institutions subsidiaries of Category I-IV holding companies.

Corporate category includes unused commitments currently risk-weight at 100 percent, and repo currently risk-weighted at 100 percent; all such exposures are risk-weighted at 95 percent under revised SA.
Commitments include all unused commitments except those currently risk-weighted at 100 percent; those under one year have CCF change from 20 percent to 40 percent, those over one year have CCF change from 50 percent to 40 percent.

Table V.G.3: Risk-weighted Asset Impact, Banking Organizations with Assets under \$10 billion

Current and revised SA, covered depository institution and holding companies with total assets under \$10 billion, billions							
		Depository institutions			Holding companies		
		Current SA	Revised SA	Change	Current SA	Revised SA	Change
General Risk Weights	Residential mortgages	\$234	\$163	-30.2%	\$89	\$62	-30.2%
	CRE	\$779	\$740	-5.0%	\$326	\$310	-5.0%
	Other corporate exposures	\$581	\$556	-4.3%	\$239	\$228	-4.7%
	Retail	\$111	\$100	-10.0%	\$43	\$39	-10.0%
	Securitization	\$15	\$13	-10.0%	\$6.7	\$5.9	-11.5%
	Commitments	\$4.9	\$4.7	-4.6%	\$2.1	\$1.9	-9.8%
	Other assets from 100% to 90% risk-weight	\$107	\$96	-10.0%	\$46	\$41	-10.0%
	MSA deduction elimination	\$0.0	\$0.4		\$0.0	\$0.0	
	Exposures shifting from market risk framework to standardized approach	\$0.0	\$0.0		\$0.0	\$0.0	
	Allowance deduction change	\$0.0	(\$0.9)		\$0.0	(\$0.4)	
	Other assets – risk weights unchanged	\$241	\$241	0.0%	\$113	\$113	0.0%
Market risk		\$0.0	\$0.0		\$0.0	\$0.0	
CVA		\$0.0	\$0.0		\$0.0	\$0.0	
RWA for trading-related activities (market risk and CVA, subtotal)		\$0.0	\$0.0		\$0.0	\$0.0	
Total		\$2,071	\$1,913	-7.7%	\$864	\$799	-7.5%
Source: Special data collection of 2023, FFIEC Call Reports, and FR Y-9C, June 30, 2025. Excludes depository institutions subsidiaries of Category I-IV holding companies. Excludes banking organizations that elected CBLR as of June 30, 2025. Corporate category includes unused commitments currently risk-weight at 100 percent, and repo currently risk-weighted at 100 percent; all such exposures are risk-weighted at 95 percent under revised SA. Commitments include all unused commitments except those currently risk-weighted at 100 percent; those under one year have CCF change from 20 percent to 40 percent, those over one year have CCF change from 50 percent to 40 percent.							

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VI. Economic Analysis

This section evaluates the projected economic effect of the proposal by analyzing its key costs and benefits. The proposal aims to improve the alignment of risk weights under the standardized approach to the risks of underlying exposures while maintaining simplicity and capital sufficiency. Improved risk alignment helps avoid unintended inefficiencies and potential misallocation of resources from capital regulation. Covered banking organizations will likely respond differently to these changes based on

their financial conditions, business strategies, and market opportunities. Given the effects of regulatory capital requirements on the real economy, the proposal would increase financial intermediation, improve economic efficiency, and support economic growth through capital formation, business expansion, and household wealth-building, while still maintaining appropriate safeguards against financial system risks.

A. Reasonable Alternatives

This analysis begins with an evaluation of alternative approaches to

the proposed rule. Specifically, this subsection compares the proposal to three reasonable alternatives for revising risk-weighted asset standards for the covered banking organizations. These alternatives, alongside the proposal, represent different approaches intended to promote robust capital levels while balancing the inherent tradeoff between risk sensitivity and simplicity in the capital framework.

Alternative 1 would require all banking organizations that are subject to risk-based capital requirements to adopt the expanded risk-based approach, as would be required for Category I and II

banking organizations under the expanded risk-based proposal. This alternative would implement a more risk-sensitive capital framework for all affected banking organizations but would also require more operational complexity for smaller banking organizations. Under this alternative, some smaller banking organizations (those with assets under \$10 billion and satisfying the other requirements of the CBLR framework) could choose to avoid the additional operational complexity by adopting the CBLR framework.

In aggregate, the expanded risk-based approach would require covered banking organizations to hold less capital than estimated under the standardized approach, as modified by proposal. Assuming no change in which banking organizations opt into the CBLR framework, under Alternative 1 covered depository institutions' risk-weighted assets would decrease by an estimated 11.6 percent relative to current requirements, compared to the estimated 8.6 percent decrease under the proposal. This reduction in risk-weighted assets would result in a more substantial decrease in regulatory capital requirements for covered depository institutions relative to current requirements under Alternative 1 than under the proposal. However, under this alternative, the compliance burdens associated with the regulatory capital framework for these banking organizations would increase significantly.

Alternative 2 would require adoption of the expanded risk-based approach only for Category III and IV banking organizations while applying the proposal for all other covered banking organizations. Category III and IV banking organizations are the largest and most complex banking organizations not covered by the expanded risk-based proposal.¹⁵¹ Therefore, these organizations are most likely to be able to absorb the additional costs of operational complexity for the benefit of the enhanced risk sensitivity of the expanded risk-based approach.

Under Alternative 2, aggregate risk-weighted assets for depository institution subsidiaries of Category III and IV holding companies would decrease by an estimated 9.4 percent, relative to the baseline, slightly more than the estimated 9.1 percent decrease

under the proposal.¹⁵² As a result of this similar change in risk-weighted assets, aggregate required capital for depository institutions subsidiaries of Category III and IV holding companies would decrease by a similar amount under Alternative 2 as under the proposal, compared to the baseline.

Alternative 3 would replace the LTV-based risk-weight tables for residential real estate in the proposal with simplified flat risk weights: 35% for residential mortgage exposures not dependent on the cash flows of the real estate and 45% for residential mortgage exposures that are dependent on the cash flows of the real estate. While the proposal modestly increases operational complexity relative to the baseline, this alternative would maintain the simplicity of the current Standardized Approach. However, this alternative lacks the enhanced risk sensitivity that the proposal's LTV-based lookup tables would provide for mortgage exposures.

Under Alternative 3, aggregate risk-weighted assets for covered depository institutions would decrease by an estimated 8.4 percent, relative to the baseline, similar to the estimated 8.6 percent decrease under the proposal. As a result, aggregate required capital for covered depository institutions would decrease by a similar amount under Alternative 3 as under the proposal, compared to the baseline.

The agencies assessed that the provisions of the proposal best balance the competing goals of risk alignment and simplicity, while also promoting robust capital levels. Alternative 1 would impose unnecessary operational complexity on smaller banking organizations, including those ineligible for the CBLR framework. Covered banking organizations can already elect to use the expanded risk-based proposal when they judge that the adoption is beneficial. Alternative 2 offers minimal advantages over the current proposal, as Category III and IV banking organizations can already elect to use the expanded risk-based proposal when they judge that the adoption is beneficial. Rather than mandating a specific size threshold for this approach, the proposal appropriately allows banking organizations to make this determination based on their own internal analysis. Alternative 3, while simpler, would generate only modest operational cost savings. Loan-to-value calculations can be automated using existing loan information and smaller banking organizations concerned about

compliance costs retain the option to adopt the CBLR framework. Based on these considerations, the agencies assess that the current proposal is the best approach among all these reasonable alternative considerations to most effectively enhance risk sensitivity while limiting additional operational burden and maintaining robust capital standards.

B. Effects on Lending

Bank lending remains the core economic function of the banking sector, with banks continuing to serve as the primary intermediaries supplying credit to households and nonfinancial firms. Within the banking system, covered banking organizations of this proposal play an important role in the U.S. lending landscape, accounting for a little more than one half of total loans and leases outstanding in the banking system as of 2025 Q2.¹⁵³

This subsection examines how the proposal could affect lending activities of covered banking organizations. As previously discussed, the proposed rule would generally reduce risk-weighted assets for covered institutions, thereby reducing required capital.¹⁵⁴ The financial intermediation literature provides evidence that when banks face higher risk-based capital requirements, they typically reduce lending to decrease risk-weighted assets and sometimes transfer higher funding costs to borrowers through increased interest rates.¹⁵⁵ Conversely, a reduction in risk weights would, in general, promote lending activities by increasing credit

¹⁵³ The agencies calculate that total loans and leases held for investment and held for sale for covered banking organizations represent about 57.6% of the Call Report and FR Y-9C filers. Data sources are compiled to the top-tier holder level based on reports from FFIEC 031, 041, and 051, as well as FR Y-9C. Line items consist of rcfd2122 in FFIEC031, rcon2122 in FFIEC041, rcon2122 in FFIEC051, and bhck2122 in FR Y-9C.

¹⁵⁴ Based on the same data source and estimation methodology, fewer than 20 covered banking organizations would experience a slight increase in capital requirements under the proposal. All of these institutions have tier 1 and CET 1 capital ratios over 11 percent under both the proposal and the baseline. The proposal would affect any one of these covered institutions' capital buffer by no more than half a percentage point.

¹⁵⁵ See, among others, Ragnar E. Juelsrud and Ella Getz Wold, (2020). "Risk-weighted capital requirements and portfolio rebalancing." *Journal of Financial Intermediation*, 41, 100806; Reint Gropp, Thomas Mosk, Steven Ongena, and Carlo Wix, (2019) "Banks response to higher capital requirements. Evidence from a quasi-natural experiment." *The Review of Financial Studies* 32, 266–299; Jose M. Berrospide and Rochelle M. Edge, (2024) "Bank capital buffers and lending, firm financing and spending: What can we learn from five years of stress test results?" *Journal of Financial Intermediation* 57, 101061.

¹⁵¹ While the expanded risk-based proposal leaves an option for all banking organizations to elect to use the expanded risk-based approach, the impact analysis in this standardized approach proposal assumes that covered banking organizations do not adopt the expanded risk-based approach.

¹⁵² The small difference is due to the close calibration of the proposed standardized approach to the expanded risk-based approach.

availability and potentially lowering interest rates.

To estimate the potential benefits for lending activity by asset class associated with reduced risk-weighted assets, this analysis employs several simplifying assumptions.

First, banking organizations generally maintain capital levels above regulatory capital requirements, including applicable buffer requirements. This excess—often called the “management buffer”—varies across institutions as it reflects firm-specific considerations. By reducing required capital, the proposed rule would increase the size of these management buffers. Covered banking organizations might respond to this increase in various ways: they could maintain their new management buffer levels, transfer some or all of the additional capital to equity holders, or reduce their management buffers by increasing interest-earning assets.

For the purpose of this analysis, the agencies apply a general method to estimate lending effects and assume that

covered entities experiencing a decrease in capital requirements under the proposal would increase interest-earning assets to target management buffers equal to their current management buffers (as of June 30, 2025).¹⁵⁶ Implicitly, this also assumes that the leverage ratio requirement would not be binding under the proposed capital framework. In other words, this analysis begins by assuming that each covered institution would fully deploy its decrease in risk-weighted assets toward new lending.

Second, this analysis assumes that, under the proposal, each covered institution’s marginal propensity to lend any capital in excess of the current management buffer to any particular asset class would be equivalent to the current share of that asset class to total assets. It is plausible that some covered institutions would apply a portion of the incremental management buffers to increase their activity in other asset classes, but to simplify the estimates, this analysis assumes all covered

institutions that increase lending would do so within the same asset class.

Following these two assumptions, the agencies adopt a simple approach to estimating asset-class level lending changes. For each asset class, the analysis converts the reduction in risk-weighted assets into potential new lending by dividing the estimated reduction by the proposed applicable risk weight. Specifically, the estimated incremental lending for each affected asset class equals the product of the dollar amount of the reduction in risk-weighted assets for that asset class and the inverse of its average proposed risk weight. Table VI.1 presents asset-class level estimates of the potential lending effects resulting from the proposed reduction in risk weights. While the way each banking organization responds to the proposal would likely depend on its individual circumstances, this approach provides a broad estimate of the proposal’s potential impact on lending, at the aggregate level.

Table VI.1 Estimated Additional Balance Sheet Capacity Under the Proposal by Asset Class

(All covered depository institutions. Based on 8.5 percent required capital ratio)

Asset class	Average proposed risk weight	Reduction in risk-weighted assets (billions)	Reduction in required capital (billions)	Additional balance sheet capacity (Potential lending) (billions)
RRE mortgage loans	35%	\$225	\$19.1	\$643
CRE mortgage loans	95%	\$95	\$8.1	\$100
Corporate	95%	\$215	\$18.3	\$226
Retail	90%	\$130	\$11.1	\$144
Securitizations	23%	\$21	\$1.8	\$91
Other assets	90%	\$47	\$4.0	\$52
Totals	N/A	\$733	\$62.3	\$1,256

Source: Special data collection of 2023, FFIEC Call Reports, and FR Y-9C, June 30, 2025.

Note: RRE is residential real estate; CRE is commercial real estate; Securitization risk weight is an estimated average effective risk weight of the proposal.

The agencies recognize that these assumptions may result in overestimates of lending growth—not all covered

banking organizations would use all of their additional management buffers to increase interest-earning assets.

Decisions on balance sheet deployment would likely depend on other factors such as banking organizations’ strategic

¹⁵⁶ Covered banking organizations’ financials other than items affected by capital requirements in

these states are assumed to be identical to those on Reports of Income and Condition (Call Reports) and

Consolidated Financial Statements for Holding Companies (FR Y-9C) as of June 30, 2025.

plans, growth outlooks, risk assessments, as well as market conditions such as demand for credit driven by factors exogenous to bank capital regulation. In addition, over the long term, covered banking organizations are likely to re-optimize their portfolios to achieve more efficient risk-adjusted returns relative to their risk tolerances and strategic plans.

Additionally, the above analysis considers covered banking organizations in aggregate. As discussed earlier, a small portion of them could see an increase in capital requirements from the proposal. These entities are unlikely to observe an increase in their lending capacity according to the above simplified framework.

Furthermore, numerous credit market supply and demand factors would influence the provision and pricing of loans across different asset classes. Depending on the covered banking organization's underwriting practices and risk appetites, some portion of the incremental lending may increase risk exposures. The agencies do not have the information necessary to determine precisely how each covered banking organization would respond to the proposal. As such, the analysis is intended to illustrate the potential magnitude of aggregate and distributional effects on lending by the proposal.

The expanded risk-based proposal would amend risk weights by asset class for Category I and II banking organizations. For most asset classes, risk-weighted assets applicable to bank lending activities would decline for both covered banking organizations as a result of this proposal and for Category I and II banking organizations as a result of the expanded risk-based proposal. Therefore, to the extent that the proposals cause banking organizations to increase lending, the combined economy-wide impact of the proposals may be larger than the estimates presented herein.

1. Effects on Residential Real Estate Lending

The proposal would generally implement reductions in risk weights for loans secured by residential real estate, whether originated by the covered institution or purchased from another lender. Under the baseline, a prudently underwritten first lien residential mortgage on a property that is either owner-occupied or rented generally receives a 50 percent risk weight; other residential mortgages receive a 100 percent risk weight. The proposal would assign risk weights to the former according to the loan-to-

value (LTV) ratio of the mortgage, among other factors. For this set of mortgage loans, the average risk weight would fall from 50 percent to approximately 35 percent,¹⁵⁷ on average, a 30 percent reduction.

Under the proposal, the agencies estimate that aggregate residential real estate risk-weighted assets for covered depository institutions would fall by an estimated \$225 billion (see Table VI.1), relative to the baseline and holding constant the volume of lending activity. The proposed revised risk weights based on LTV ratios would decline over time as mortgage balances are paid down, potentially adding future balance sheet capacity. The estimates do not account for this. Applying the simplified approach introduced above, this yields an estimate of increased lending capacity by about \$643 billion, as shown in Table VI.1.¹⁵⁸ Should the covered depository institutions choose to increase their residential real estate lending at this scale, it may place downward pressure on loan prices.

2. Effects on Commercial Real Estate Lending

Risk weights for non-construction commercial real estate loans would fall from 100 percent to 95 percent under the proposal. This 5 percent reduction in the risk weight would decrease risk-weighted assets by an estimated \$95 billion relative to the baseline, assuming no change in the volume of commercial real estate assets. Applying the methodology introduced above, this would yield an aggregate \$100 billion that could be applied to additional lending and asset purchases within this asset class. Should the covered depository institutions choose to increase their commercial real estate lending at this scale, it may place downward pressure on loan prices.

3. Effects on Corporate Lending

Under the baseline, all on-balance-sheet and off-balance-sheet corporate exposures generally receive a 100 percent risk weight. Risk weights for on-balance sheet corporate lending would fall to 95 percent under the proposal, a 5 percent reduction. Off-balance-sheet exposures, typically consisting of

unutilized portions of credit lines, are subject to additional considerations through credit conversion factors.

The proposal would reduce corporate lending risk-weighted assets by an estimated \$215 billion, relative to the baseline and holding the volume of lending activity constant. This would yield an aggregate \$226 billion that could be applied to additional lending and asset purchases within this asset class. Should the covered depository institutions choose to increase their corporate lending at this scale, it may place downward pressure on loan prices.

4. Effects on Retail Lending

Risk weights for retail loans, including but not limited to unsecured personal loans, auto loans, home equity lines of credit, credit cards, other real estate owned, and other assets such as property, plant, and equipment, would decrease from 100 percent to 90 percent. This 10 percent reduction would reduce risk-weighted assets by an estimated \$130 billion, relative to the baseline and assuming no change in the volume or composition of retail loan assets. This would yield an aggregate \$144 billion that could be applied to additional lending and asset purchases within this asset class. Should the covered depository institutions choose to increase their retail lending at this scale, it may place downward pressure on loan prices.

5. Effects on Securitization

The proposal would generally implement reductions in risk weights for securitized assets. There are many factors that affect a banking organization's decision to hold securitized assets or engage in securitization activities. For the purposes of this analysis the agencies estimate the changes in holdings of securitized assets to illustrate the potential balance sheet effects of this aspect of the proposed rule, holding all else equal. The analysis provides an initial upper-bound estimate based on the direct effects of changes in capital requirements within the asset class alone.

The proposal reduces the minimum risk weight for senior securitization positions from 20 percent in the current standardized approach to 15 percent. These proposed changes would reduce risk-weighted assets by an estimated \$21 billion, relative to the baseline, assuming no change in the volume or composition of securitization positions. The proposal would yield an estimated aggregate \$91 billion that could be applied to additional securitization

¹⁵⁷ This 35 percent average proposed risk weight is based on special data collection participant Category III and IV holding companies' residential real estate exposures, as applied to the proposal's LTV-based risk weight classes. Non-Category I and II holding companies that report mortgage data on the FR Y-14 show a similar 34 percent average risk weight under the proposal as of June 30, 2025.

¹⁵⁸ The estimation of the incremental lending effects for the residential real estate is as follows: \$225 billion drop in risk-weighted assets * 1/35% average proposed risk weight = \$643 billion.

activity. Should the covered banking organizations choose to increase their securitization activities at this scale, it may place downward pressure on prices of securitized assets.¹⁵⁹

The estimated effects on securitized assets of covered banking organizations are influenced by many factors and, therefore, highly uncertain.¹⁶⁰ First, the propensity to engage in securitization activity can depend on the differences in funding costs for retail deposits, debt, or equity. Second, banking organizations may engage in securitization activity to transfer credit risk to third parties and thereby manage the credit risk of their asset portfolios. Third, banking organizations may engage in securitization activity to generate higher returns relative to holding the constituent assets in their portfolio. Finally, the propensity to engage in securitization activity or hold securitized assets can be affected by different regulatory capital treatments for securities and loans.

The estimated volume and distribution of securitization activities for covered banking organizations may also be influenced by interactions between the proposed risk weight changes for different asset classes. The proposal would directly reduce securitization risk weights and capital requirements, thereby incentivizing additional securitization activities, all else equal. However, the assets subject to securitization (e.g., residential- and commercial real estate loans, among others) themselves would experience risk weight changes under the proposal that could influence banking organizations' securitization decisions. For example, proposed reductions in risk weights for residential real estate loans would reduce minimum capital requirements for these assets and decrease banking organizations' incentives to securitize these loans in order to reduce their capital requirements, all else equal. However, the proposal may have little direct effect on their incentives to securitize these loans if they primarily do so as a means of accessing low-cost funding and liquidity, or to manage the quality of their assets.

¹⁵⁹ Such an increase in securitization activity may also impact their risk profiles.

¹⁶⁰ Discussion based on Doku, Solomon Y., Alper Kara, and Yifan Zhou, (2019), "Securitization, Bank Behavior and Financial Stability: A Systematic Review of the Recent Empirical Literature," *International Review of Financial Analysis* 61: 245–254, and Affinito, Massimiliano and Edoardo Tagliaferri, (2010), "Why Do (or Did?) Banks Securitise Their Loans? Evidence from Italy," *Journal of Financial Stability* 6: 189–202.

6. Effects on Lending Related to Other Assets

Other assets not classified within one of the preceding asset classes, such as other real estate owned assets,¹⁶¹ generally would decrease from a 100 percent risk weight to 90 percent under the proposal. This 10 percent reduction would reduce risk-weighted assets by an estimated \$47 billion, relative to the baseline and assuming no change in the volume or composition of the assets. The proposal would yield an aggregate \$52 billion that could be applied to additional lending and asset purchases within this asset class. Should the covered depository institutions choose to increase their other assets lending at this scale, it may place downward pressure on loan prices.

In summary, across the six asset classes discussed in this subsection, the agencies' upper-bound estimate shows the proposal could potentially generate up to \$1.26 trillion in new lending and securitization activity, relative to the baseline and predicated on certain assumptions. The potential new lending (\$1.17 trillion, exclusive of securitization effects), equivalent to 9 percent of total loans and leases outstanding among all commercial banking organizations in the U.S.,¹⁶² may support business investment and consumers, and contribute to economic growth.

7. Effects of Portfolio Re-Optimization on Lending

Research finds that changes in regulatory capital frameworks can encourage banking organizations to shift their asset portfolios. This is because in general, banking organizations would optimize portfolio holdings to maximize risk-adjusted returns.¹⁶³ Therefore,

¹⁶¹ "Other real estate owned" assets are defined as real estate acquired in any manner for debts previously contracted (including, but not limited to, real estate acquired through foreclosure and real estate acquired by deed in lieu of foreclosure), even if the bank has not yet received title to the property, and real estate collateral underlying a loan when the bank has obtained physical possession of the collateral. Call Reports Schedule RC-F Instructions, "Other Assets". <https://www.fdic.gov/resources/bankers/call-reports/crinst-031-041/2019/2019-03-rc-f.pdf>.

¹⁶² All commercial banking organizations in the U.S. collectively held \$12.9 trillion in seasonally adjusted loans and leases in bank credit as of June 30, 2025. Federal Reserve, H8 "Assets and Liabilities of Commercial Banks in the United States" Table 2.

¹⁶³ Empirical studies supporting this view include Haubrich, Joseph G. and Paul Wachtel, 1993, "Capital Requirements and Shifts in Commercial Bank Portfolios." *Economic Review*, Federal Reserve Bank of Cleveland, vol. 29 (Q III), pages 2–15, and with more recent data, Hoshi, Takeo & Ke Wang, 2021. "Bank Regulatory Reforms and Declining Diversity of Bank Credit Allocation,"

under the proposal, some covered banking organizations may re-optimize their asset portfolios to the proposed changes in risk weighting. In particular, the more risk-sensitive proposed risk weights could incentivize covered banking organizations to adjust their loan portfolios to minimize their capital requirements per unit of expected returns within the asset class.

This incentive to reoptimize within an asset class would be prominent in the residential real estate lending sector due to the increased granularity of asset treatment based on LTV ratios. The proposal's introduction of several risk weight classes below the current 50 percent baseline risk weight for prudently underwritten exposures would incentivize covered institutions to originate or purchase lower-LTV residential mortgages and to retain any residential mortgages as servicers, because the risk weights would decline as the outstanding balances and LTVs fall over time. Alternatively, covered banking organizations may quickly sell or securitize high-LTV mortgages that they originate, rather than hold these high risk-weighted assets on their balance sheets. As a result, the proposal could lead to a gradual increase in the share of lower-LTV residential real estate exposures held by covered banking organizations. The agencies do not have the data to provide a robust estimate of this potential effect.

Portfolio re-optimization may also occur across asset classes, as covered institutions may shift investments from one asset class to another to maximize risk-adjusted returns under the proposed new risk weighting system. The proposed 30 percent average reduction in risk weights for residential real estate exposures would strengthen incentives, relative to other asset classes, for covered banking organizations to hold these assets. Incentives to hold asset classes that would receive 10 percent (retail lending, other assets) and 5 percent (commercial real estate, corporate lending) reductions in their risk weights would likely increase as well. Responses from covered banking organizations may include incremental new lending and asset purchases as discussed above, and the shifting of assets currently invested in different asset classes on their balance sheets. The agencies expect these across-asset class reallocations to increase lending, particularly in residential real estate, retail lending, and other assets that would experience

CARF F-Series working paper, Center for Advanced Research in Finance, Faculty of Economics, The University of Tokyo.

relatively larger drops in their risk weights. To the extent that resources shift away from other asset classes, some reduction in certain lending and securities portfolios may occur. The agencies do not have the data to provide robust estimates of these potential effects.

C. Economic Efficiency

Regulatory capital frameworks that assign capital requirements that are not aligned with risk have distortionary effects on banking organizations' investment decisions. Any such distortion would result in the inefficient allocation of capital by discouraging investments in assets with higher-than-appropriate risk weights. The proposal would revise certain risk weights to improve how regulatory capital ratios capture the underlying economic risks of banking organizations' balance sheets and activities. Covered banking organizations may respond by decreasing their capital levels or increasing their assets or both.¹⁶⁴ Aggregated to an industry level, the proposal's incentives for increased lending, through the revisions to risk weights, may contribute to overall economic efficiency by improving economy-wide financial resource allocation relative to the baseline.¹⁶⁵ Empirical evidence suggests that allocative efficiency is a key contributor to productivity growth and economic output.¹⁶⁶

D. Effects on Competitiveness

As compared to the baseline, the proposal would generally increase the competitiveness of covered banking organizations, relative to competitors in the markets they serve, through increased economies of scale and reduced funding costs for certain assets with reduced risk weights. In addition, the proposal would provide more granular risk-weight assignments to residential mortgages, generally increasing the competitiveness of covered institutions in that market.

1. General Competitiveness

As compared to the baseline, the proposal would decrease tier 1 capital requirements for covered depository institution subsidiaries of Category III and IV holding companies by 4.3

percent and would decrease tier 1 capital requirements for covered depository institutions with assets under \$100 billion by 7.1 percent. At the bank level, the median covered depository institution would experience a tier 1 capital requirement decrease of 6.2 percent, and nearly 10 percent of covered depository institutions would experience a decrease over 10 percent. These lower requirements would allow covered banking organizations to benefit from economies of scale by expanding their balance sheets, potentially increasing their competitiveness. The increased balance sheet capacity would also enable covered banking organizations to adapt to specific changes in the markets they serve or to pursue new markets that may generate long-run efficiency gains.

2. Competitiveness in Specific Asset Classes

Regulatory capital requirements impose economic costs on covered banking organizations, including the cost of obtaining capital. When the regulatory capital requirement is tied to a specific asset class, banks may pass a portion of the regulatory capital costs onto the borrower of that asset through reduced lending supply and higher interest rates and fees. As the proposal reduces the regulatory capital costs for certain financial products (through a reduction in the applicable risk weight), covered banking organizations would be able to increase their share of those markets by offering reduced interest rates and fees, along with a greater availability of such financial products.

For example, the proposal would reduce the risk weights, and concomitant regulatory capital costs, of corporate lending by 5 percent.¹⁶⁷ Covered banking organizations that engage in corporate lending may be able to offer lower prices to their customers due to the decrease in regulatory costs. These effects may accrue more to the larger covered banking organizations—as Tables V.G.1–3 shows, Category III and IV depository institutions hold, in dollar terms, approximately twice the volume of non-CRE corporate loans as covered depository institutions with assets between \$10 billion and \$100 billion and three times as much as covered depository institutions with assets below \$10 billion. This ordering is reversed in other markets—covered depository institutions with assets below \$10 billion hold twice as much volume of commercial real estate loans as Category III and IV institutions. The reduction in capital costs under the

proposal would make these smaller banking organizations more competitive in this space.

For some assets, the proposal would increase all covered banking organizations' ability to compete with nonbank financial intermediaries. Of particular note, Tables V.G.1–3 show that, in the market for residential real estate lending, all three size categories of covered depository institutions hold approximately the same amount of risk-weighted assets and would accrue similar aggregate reductions in required capital, with concomitant increases in competitiveness for all covered depository institutions relative to nonbanks. The share of bank activity in the residential real estate lending market has decreased substantially since the 2008 financial crisis;¹⁶⁸ the increased competitiveness brought about by the proposal may slow or even partially reverse the migration of activity to the nonbank sector, particularly in residential mortgage markets.¹⁶⁹

The proposal would also introduce more granular risk weights for certain assets—particularly residential mortgages that are owner-occupied or rented and meet prudential underwriting standards.¹⁷⁰ Currently, and under the baseline, these exposures are all given identical risk weights of 50 percent. Under the proposal, the exposures' risk weights would vary according to their cash flow dependency and LTV ratios: from 25 percent for those residential mortgages with LTV ratios of 50 percent or less to 110 percent for those with LTV ratios greater than 100 percent and that are dependent on the cash flows generated by the mortgaged property. Given that risk weights are proportional to the real economic costs of holding required capital, the granularity introduced by the proposal would increase a covered institution's competitiveness for residential mortgages with low LTV

¹⁶⁸ For example, see Figure 4 of the Financial Stability Oversight Council's Report on Nonbank Mortgage Servicing 2024, available at <https://home.treasury.gov/system/files/261/FSOC-2024-Nonbank-Mortgage-Servicing-Report.pdf>.

¹⁶⁹ The agencies acknowledge that there could be many reasons that residential real estate lending has migrated to nonbanks, including stricter non-capital regulatory requirements. In addition, nonbanks also innovated technologically and expanded access to borrowers who were underserved by banks after the crisis. See, for example, Greg Buchak, Gregor Matvos, Tomasz Piskorski & Amit Seru, "Fintech, Regulatory Arbitrage, and the Rise of Shadow Banks," *Journal of Financial Economics*, 130(3), 453–483 (December 2018) ("Buchak et al. (2018)"), <https://doi.org/10.1016/j.jfineco.2018.03.011>.

¹⁷⁰ Among other qualifications delineated in proposed 12 CFR _____.32(g).

¹⁶⁴ The agencies discuss covered institutions' responses in Section VII.B in this proposal.

¹⁶⁵ The estimated effects on lending discussed in Section VII.B could vary with the economic cycle and associated fluctuations in credit demand.

¹⁶⁶ Shao, Lin and Rongsheng Tang, 2024, "Allocative Efficiency and the Productivity Slowdown." Bank for International Settlements working paper 1185.

¹⁶⁷ See proposed 12 CFR _____.32(f).

ratios and that are not dependent on the cash flows of the mortgaged property.

This increased competitiveness for specific subgroups of residential real estate loans may drive market activity for the sale of mortgages; some covered institutions may purchase low-LTV loans from nonbanks or other banks that originate-to-distribute. Covered banking organizations may also compete for these loans against mortgage loan securitization entities, both private and government-backed.

On the other hand, the increased risk weights for high-LTV residential mortgages, or those with cash flows dependent on the mortgaged property, would decrease covered banking organizations' competitiveness in the market for these assets. The proposed regulatory capital cost increase for these high-LTV loans may induce some covered banking organizations to adopt larger originate-to-distribute business lines rather than hold these assets on their balance sheets.

E. Effects on Safety and Soundness

As previously discussed in Section VI.B on lending effects and Section VI.C on economic efficiency, lower capital requirements under the proposal could enable up to \$1.17 trillion¹⁷¹ in additional lending to businesses and consumers, potentially supporting investment and contributing to economic growth. However, these economic benefits must be weighed against a possible modest increase in the risk of bank failures or other economy-wide bank-related stress event. The agencies evaluate the proposal using the academic literature on the effects of capital requirements, as discussed in Section VIII.D of the expanded risk-based proposal, which provides a range of capital levels over which benefits exceed costs in the long run.

Academic literature examines how capital requirements affect the probability of systemic financial crises. The Basel Committee's long-term economic impact assessment of capital

and liquidity requirements (BCBS 2010 study) shows that higher capital and liquidity requirements reduce the likelihood of systemic crises.¹⁷² Conversely, lower capital requirements increase this likelihood. In the context of this proposal and using covered depository institutions as the sample, under the baseline, the aggregate common equity tier 1 capital ratio for covered depository institutions is 14.0 percent.¹⁷³ If covered depository institutions reduce their common equity tier 1 capital by the estimated 8.6 percent reduction in requirements, they would maintain an aggregate common equity tier 1 ratio of 12.8 percent relative to current risk-weighted assets. According to models used in the BCBS 2010 study, with no changes in liquidity, a decrease in tangible common equity to risk-weighted assets from 14.0 percent to 12.8 percent would increase the annual probability of a systemic crisis from 0.4 percent to 0.5 percent.¹⁷⁴ However, the study notes the result is subject to considerable model and estimation uncertainty. Moreover, the literature does not agree on the correlation between capital levels and the likelihood of crises. For example, Jorda et al. (2021) finds no robust evidence in long-run data that capital ratios are closely related to rising risks of financial instability.¹⁷⁵

Beyond systemic effects, lower capital requirements also increase risks at the individual institution level. To the extent that covered banking organizations reduce their capital and increase their leverage in response to the proposal, there would be attendant economic costs due to increased risk of bank failure. All else equal, lower capital increases the size and likelihood of losses at individual institutions, as

well as the potential for shifting losses from shareholders to creditors and the Deposit Insurance Fund in the event of failure. Such losses may also lead to spillover effects and additional costs to the financial system. However, as described further below, the agencies believe that mitigating factors would appropriately offset these safety and soundness risks.

Optimal Capital Levels

This subsection presents an abbreviated discussion of the cumulative effects of this proposal and the expanded risk-based proposal through the lens of the academic literature on optimal levels of capital.¹⁷⁶ In Table VI.2, the agencies situate the capital requirements under the proposal in the context of optimal capital levels from the BCBS 2010 study and the extant literature.¹⁷⁷ The agencies caution that significant uncertainties and limitations remain on how to measure these benefits and costs, and different approaches used in various studies yield different estimates of the optimal level of capital.¹⁷⁸ Under the proposal, covered depository institutions are projected to maintain an aggregate common equity tier 1 ratio of 12.8 percent relative to current risk-weighted assets. This level falls within the range of optimal values discussed in the literature.¹⁷⁹

¹⁷⁶ For a more detailed discussion on this literature, see Section VIII.D of the expanded risk-based proposal.

¹⁷⁷ The BCBS 2010 study developed a framework in which the benefits of higher capital stem from a reduced probability of a financial crisis. These benefits can be quantified by estimating the degree to which higher bank capital reduces the probability of a crisis and multiplying this reduction in probability by the expected economic output loss caused by a crisis. The cost of higher capital requirements stems from the increased cost of funding for banks, which can lead to higher interest rates on lending and thus lower economic activity, depending on market structure, competition, and other factors. The trade-off between these benefits and costs yields the optimal level of capital in the banking system.

¹⁷⁸ The studies are discussed further in Sections VIII.D.2 and VIII.D.3 of the expanded risk-based proposal.

¹⁷⁹ The estimated common equity tier 1 capital ratio for the entire U.S. banking industry of about 13 percent, also falls within the range of optimal values. See Section VIII.D of the expanded risk-based proposal.

¹⁷² See Basel Committee, "An Assessment of the Long-Term Economic Impact of Stronger Capital and Liquidity Requirements" (Aug. 2010), <https://www.bis.org/publ/bcbs173.pdf> ("BCBS 2010 study").

¹⁷³ For depository institutions, \$1,216 billion in common equity tier 1 capital held as of June 30, 2025, divided by \$8,711 billion in RWA under the baseline (from Table V.3) equals about 14 percent.

¹⁷⁴ BCBS 2010 study, Tables 3 and A2.2.

¹⁷⁵ See Oscar Jorda, Björn Richter, Moritz Schularick, and Alan Taylor, "Bank Capital Redux: Solvency, Liquidity, and Crisis," *The Review of Economic Studies*, Volume 88, Issue 1, January 2021, Pages 260–286, <https://doi.org/10.1093/restud/rdaa040>.

¹⁷¹ As previously noted, the \$1.17 trillion in potential new lending (exclusive of securitization effects) makes up 9 percent of the \$12.9 trillion in seasonally adjusted loans and leases in bank credit held by all commercial banking organizations in the U.S. as of June 30, 2025. Federal Reserve, H8 "Assets and Liabilities of Commercial Banks in the United States" Table 2.

Table VI.2: Estimated Levels of Capital Under the Proposals and Optimal Level of Capital in the Literature

Estimated common equity tier 1 capital ratio under both proposals: 13 percent	
Study	Optimal Level of Capital
BCBS 2010 study	10 to 14 percent
Fender and Lewrick (2016)	8 to 11 percent
Miles, Yang, and Marcheggiano (2013)	16 to 20 percent
Brooke et al. (2015)	10 to 14 percent
Firestone et al. (2019)	13 to 26 percent
Soederhuizen et al. (2023)	16 to 31 percent
Jorda et al. (2021)	^a
Admati and Hellwig (2024)	^b
Begenau (2020)	12.4 percent
Begenau and Landvoigt (2022)	16 percent
Elenev et al. (2021)	6 percent
Begenau et al. (2026)	^c
Davyduik (2017)	6 percent
Notes:	
a. The analytical framework in Jorda et al. (2021) does not yield an estimate of the optimal level of bank capital.	
b. Admati and Hellwig (2024) argue that the level of optimal capital in the banking system ought to be much higher than current capital levels.	
c. Optimal capital requirements in Begenau et al. (2026) are lower than current values.	
Sources:	
Basel Committee on Banking Supervision, “An Assessment of the Long-Term Economic Impact of Stronger Capital and Liquidity Requirements” (Aug. 2010) (“BCBS 2010 study”), https://www.bis.org/publ/bcbs173.pdf	
Ingo Fender and Ulf Lewrick, Monetary and Economic Department, BIS, “Adding it All Up: The Macroeconomic Impact of Basel III and Outstanding Reform Issues,” <i>BIS Working Papers</i> , No. 591 (Nov. 2016) (“Fender and Lewrick (2016)”), https://www.bis.org/publ/work591.pdf .	

David Miles, Jing Yang, and Gilberto Marcheggiano, “Optimal Bank Capital,” 123 *The Economic Journal* 1, 29 Table 10 (Mar. 2013) (“Miles, Yang and Marcheggiano (2013)”), <https://academic.oup.com/ej/article/123/567/1/5080596>.

Martin Brooke, Oliver Bush, Robert Edwards, Jas Ellis, Bill Francis, Rashmi Harimohan, Katharine Neiss, and Caspar Siebert, “Bank of England, Measuring the Macroeconomic Costs and Benefits of Higher UK Bank Capital Requirements,” *Bank of England, Financial Stability Paper* No. 35 (Dec. 2015) (“Brooke et al. (2015)”), <https://www.bankofengland.co.uk/-/media/boe/files/financial-stability-paper/2015/measuring-the-macroeconomic-costs-and-benefits-of.pdf>.

Simon Firestone, Amy Lorenc, and Ben Ranish, “An Empirical Economic Assessment of the Costs and Benefits of Bank Capital in the United States,” 101 *Federal Reserve Bank of St. Louis Review* 203, 203–30 (2019) (“Firestone et al. (2019)”), <https://doi.org/10.20955/r.101.203-30>.

Beau Soederhuizen, Gerrit Hugo van Heuvelen, Rob Luginbuhl, and Bert van Stiphout-Kramer, Netherlands Bureau for Economic Policy Analysis (CPB), “Optimal Capital Ratios for Banks in the Euro Area,” 69 *Journal of Financial Stability*, No. 101164 (Dec. 2023) (“Soederhuizen et al. (2023)”), <https://doi.org/10.1016/j.jfs.2023.101164>.

Oscar Jorda, Björn Richter, Moritz Schularick, and Alan Taylor, “Bank Capital Redux: Solvency, Liquidity, and Crisis,” *The Review of Economic Studies* 88, No. 1: 260–268 (2021) (“Jorda et al. (2021)”), <https://doi.org/10.1093/restud/rdaa040>.

Anat Admati and Martin Hellwig, *The Bankers’ New Clothes: What’s Wrong with Banking and What to Do About It*, New and expanded edition. Princeton, NJ: Princeton University Press. (2024), originally published in 2013 (“Admati and Hellwig (2024)”).

Juliane Begenau, “Capital Requirements, Risk Choice, and Liquidity Provision in a Business-Cycle Model,” *Journal of Financial Economics* 136: 355–378 (May 2020) (“Begenau (2020)”), <https://doi.org/10.1016/j.jfineco.2019.10.004>.

Julaine Begenau and Tim Landvoigt, “Financial Regulation in a Quantitative Model of the Modern Banking System,” *The Review of Economic Studies* 89:1748–1784 (July 2022) (“Begenau and Landvoigt (2022)”), <https://doi.org/10.1093/restud/rdab088>.

Vadim Elenev, Tim Landvoigt, and Stijn Van Nieuwerburgh, “A Macroeconomic Model With Financially Constrained Producers and Intermediaries,” *Econometrica* 89: 1361–1418 (May 2021) (“Elenev et al. (2021)”), <https://doi.org/10.3982/ECTA16438>.

Juliane Begenau, Saki Bigio, Jeremy Majerovitz, and Matias Vieyra, “A Q-Theory of Banks,” *The Review of Economic Studies*, 93 (1): 106–143, (Jan. 2026) (“Begenau et al. (2026)”), <https://doi.org/doi:10.1093/restud/rdaf035>.

Tetiana Davydiuk, “Dynamic Bank Capital Requirements,” (Oct. 2017) (“Davydiuk (2017)”), <https://dx.doi.org/10.2139/ssrn.3110800>.

Several limitations exist in applying academic studies on optimal capital levels to evaluate the proposals.¹⁸⁰ First, the literature on optimal capital levels examines the effects due to a direct change in the required capital for a certain quantity of risky assets, rather than changes in capital requirements

resulting from revised risk weights, as proposed here. Second, banking organizations use a broad range of loss-absorbing instruments to meet different capital requirements. While a few exceptions, such as Brooke et al. (2015), distinguish between these different capital instruments, most do not. This makes it challenging to determine which capital ratio is most applicable to mapping the results of a given study to

the U.S. banking system. Third, optimal capital levels can differ across jurisdictions. For example, differences in the degree to which an economy relies on bank-based versus market-based finance may affect the optimal level of capital in the banking system.¹⁸¹

¹⁸⁰ See section VIII.D.4 of the expanded risk-based proposal for additional details.

¹⁸¹ Section VIII.D.4 of the expanded risk-based proposal also notes the limitation that the optimal capital level literature, including the studies based on optimizing macroeconomic agents, almost

While the proposed capital levels fall within the optimal range identified in the literature and are thus reasonable, several factors may further mitigate the safety and soundness concerns stemming from the estimated reductions in capital requirements. All covered banking organizations would continue to be subject to robust supervisory and regulatory standards, as well as leverage ratio requirements which would provide a backstop to any significant decreases in the tier 1 capital ratio. Additionally, certain depository institutions would continue to be subject to resolution planning requirements. Moreover, capital requirements under the proposal for specific asset classes would generally remain sufficient to cover anticipated losses due to a stress event.¹⁸² As of June 30, 2025, covered depository institutions held more than \$1.2 trillion in common equity tier 1 capital in aggregate.¹⁸³ The above analysis suggests that existing levels of capital, in addition to other regulatory requirements noted above, would appropriately mitigate safety and soundness risks.

Finally, as discussed in Section VI.D on competitiveness effects, the proposal may slow or partially reverse the migration of lending activity from the banking sector to the nonbank sector, which has implications for financial stability. Nonbanks are typically less regulated and not subject to the same comprehensive prudential regulations and supervision as banks. To the extent

exclusively focuses on capitalizing for the risks posed by banks' loan portfolios rather than the risk associated with trading activity or the potential macroeconomic effect of changes in the provision of trading activity. Under the proposal, total risk-weighted assets applicable to lending could increase while the change in risk-weighted assets for other banking activities for which the risk weights change in the proposal are *de minimis*. This limitation would not be applicable to evaluating the proposal.

¹⁸² For example, the agencies estimate that, under the proposal, first or subsequent liens on one-to-four family residential properties that are prudently underwritten would have an average risk weight of approximately 35 percent, resulting in a three percent tier 1 capital requirement (equal to 35 percent of the 8.5 percent minimum tier 1 capital ratio) that covered banking organizations must hold against these exposures. This three percent would remain sufficient to cover anticipated mortgage losses under a stress event, as estimated as a result of recent supervisory stress tests (See 2025 Federal Reserve Stress Test Results (June 2025) at <https://www.federalreserve.gov/publications/files/2025-dfast-results-20250627.pdf>) or in response to the 2023 proposal (See Laurie Goodman and Zhu, Jun, "Bank Capital Notice of Proposed Rulemaking," (September 18, 2023) at <https://www.urban.org/research/publication/bank-capital-notice-proposed-rulemaking>).

¹⁸³ As shown in Table V.3, as of June 30, 2025, covered depository institutions are required to hold common equity tier 1 capital of \$610 billion, in aggregate, and reported common equity tier 1 capital levels of \$1,216 billion.

the proposal leads to migration of lending activity back to the regulated banking sector, it could benefit financial stability.

F. Other Costs

The proposal would impose transitional costs on all covered banking organizations. All covered banking organizations would need to establish or revise internal recordkeeping systems, policies and procedures to track compliance with the amended supervisory capital requirements. Costs to establish internal recordkeeping systems, policies and procedures likely would be non-recurring, whereas costs associated with monitoring the performance of and revising such systems, policies and procedures likely would be ongoing and recurring. For instance, covered banking organizations would now have to separately identify and delineate certain residential mortgages by their cash flow dependencies and their LTV ratios. The agencies do not have the information necessary to estimate these costs but acknowledge that they may be material for smaller covered banking organizations or covered banking organizations with significant residential mortgage exposures.¹⁸⁴

G. Interactions With CBLR Proposal

The agencies anticipate limited interactions between this proposal and the CBLR proposal. Banking organizations that qualify to use and adopt the CBLR framework are considered to have met the minimum risk-based capital requirements; depository institutions that qualify to use and adopt the CBLR framework are considered well-capitalized. Therefore, the agencies anticipate no direct interaction between the proposals, insofar as no banking organizations would face tradeoffs or considerations around satisfying both requirements simultaneously.

The proposal could affect a banking organization's decision to adopt the CBLR framework. CBLR-eligible banking organizations generally face a tradeoff between lower required capital under the risk-based framework¹⁸⁵ and simpler reporting requirements under the CBLR framework. This proposal generally reduces capital requirements under the risk-based capital framework, increasing the benefit of remaining under the risk-based framework. The

proposal also slightly increases the reporting complexity of the risk-based framework, which would increase the benefits of adopting CBLR framework. While these changes are relatively minor and do not significantly alter the basic tradeoff between lower required capital under the risk-based framework and simpler reporting requirements under CBLR, they could lead to more CBLR eligible banking organizations choosing to remain subject to the risk-based framework.

H. Conclusion

The analysis above represents a thorough estimation of the economic effects of the proposal on covered banking organizations as well as other affected entities, the U.S. banking system and the broader economy, relative to a baseline in which the proposal was not adopted. The agencies estimate that the proposal would generate broad benefits for covered banking organizations as well as their customers and the economy at large. Specifically, the proposal would lower capital requirements and expand, by up to \$1.26 trillion, the balance sheet capacity of covered banking organizations. In addition, the proposal would better align capital requirements with the underlying risk of exposures and increase allocative efficiency. The proposal would decrease risk weights for certain asset classes, which would reduce funding costs for these assets and enhance the competitiveness of covered institutions in applicable markets.

As noted in the analysis, covered banking organizations would likely respond differently based on their business models and market positions—potentially adjusting asset portfolios, modifying management capital buffers, or adopting alternative regulatory capital regimes; this heterogeneity in responses lends uncertainty to the agencies' analysis. Nevertheless, the agencies estimate that the proposal is likely to lead to increased lending activities in several asset classes. Greater market participation by covered institutions would directly benefit consumers through lower borrowing costs and improved credit access. The projected increase in lending would support economic growth by facilitating capital formation, business expansion, and household wealth-building through homeownership and other forms of credit access.

Costs of the proposal would include a moderate increase in the risk of loss associated with financial instability, bank failure, or other economy-wide bank-related stress events. The agencies

¹⁸⁴ The small number of banking organizations with trading assets between \$1 and \$5 billion that would no longer be subject to market risk capital requirements could see a reduction in compliance costs.

¹⁸⁵ See 90 FR 55048, 55051 (Dec. 1, 2025).

believe these costs would be low, given that the capital ratios for covered institutions are significantly higher than the proposed required levels, which in turn are generally higher than expected stress loss levels and remain within the range of optimal capital levels discussed in the literature. There may also be material transition costs for smaller covered institutions.

Based on the economic analysis summarized above, the agencies conclude that the expected benefits of the proposal justify its expected costs. The agencies invite comment on all aspects of the economic impact analysis.

VII. Technical Amendments to the Capital Rule

A. Accounting Standards Update 2025–08

On November 12, 2025, the Financial Accounting Standards Board (FASB) issued Accounting Standards Update (ASU) 2025–08, “Financial Instruments—Credit Losses (Topic 326): Purchased Loans,” which amends the guidance on accounting for purchased loans. Upon adoption of ASU 2025–08, the population of acquired financial assets subject to the “gross-up approach” will be expanded to include purchased seasoned loans. The “gross-up approach” under U.S. generally accepted accounting practices (GAAP) requires a banking organization to record an allowance for credit losses on purchased credit deteriorated assets¹⁸⁶ as well as purchased seasoned loans as of the date of acquisition with an offsetting gross-up adjustment to the purchase price of the assets or loans.

In the agencies’ final rule implementing the current expected credit losses (CECL) methodology in 2019 (CECL final rule), the agencies amended the capital rule to identify which allowance for credit losses under the new CECL accounting standard would be eligible for inclusion in a covered banking organization’s tier 2 capital.¹⁸⁷ The CECL final rule addressed the treatment of allowance for credit losses related to purchase credit deteriorated assets. As ASU 2025–08 requires covered banking organizations to apply the gross approach to both purchase credit deteriorated assets and purchased seasoned loans, the agencies are proposing to apply the capital rule’s treatment of allowance for credit losses

on purchase credit deteriorated (PCD) assets to allowance for credit losses on purchased seasoned loans. In particular, the proposal would modify the term adjusted allowance for credit losses (AACL) adopted in the CECL final rule to exclude credit loss allowances on purchased seasoned loans in addition to those on purchase credit deteriorated assets and available-for-sale (AFS) debt securities. A covered banking organization would continue to be able to include AACL in its tier 2 capital up to 1.25 percent of the covered banking organization’s standardized total risk weighted assets (excluding its market risk-weighted assets, if applicable). The proposal would also amend the definition of carrying value to require the carrying value of purchased seasoned loans to be calculated net of allowances for credit losses (ACL) like the capital rule’s current treatment of PCD assets.

In defining AACL, the agencies intend to include only those ACLs that have been fully charged against earnings or retained earnings. Including in tier 2 capital ACLs that have not been charged against earnings would diminish the quality of regulatory capital. Because the initial ACL amount for a PSL recorded on a covered banking organization’s balance sheet would not be established through a charge to earnings, the agencies believe the treatment currently applied to the initial ACL for purchase credit deteriorated assets also would be appropriate for the ACL on purchased seasoned loans. Due to concerns of undue complexity and burden on covered banking organizations, the agencies are not proposing a bifurcated approach for the treatment of purchased seasoned loans whereby a covered banking organization could include post-acquisition ACLs on PSLs in tier 2 capital when the covered banking organization’s purchased seasoned loan balances exceed a materiality threshold. The agencies believe that requiring covered banking organizations to calculate the carrying value of purchased seasoned loans net of ACLs appropriately offsets the effects of excluding post-acquisition ACLs on PSLs in the calculation of regulatory capital. Therefore, the agencies are proposing to exclude the entire ACL on PSLs from AACL, even though post-acquisition increases in ACLs for PSLs would be established through a charge against earnings.

In addition, the agencies are proposing to amend the definitions of AACL and carrying value to provide the same treatment as purchase credit deteriorated assets to other assets that may in the future become subject to the

gross approach following a change to GAAP by FASB.

B. Allowance for Loan and Lease Losses Definition

The agencies are proposing a technical amendment to the current capital rule to remove the definition of allowance for loan and lease losses (ALLL) from section _____.2 of the capital rule. The definition of ALLL in the current capital rule is no longer meaningful given the introduction and adoption of the current expected credit loss (CECL) methodology by the FASB under ASU 2016–13, “Financial Instruments—Credit Losses (Topic 326).”

C. Clarifications to Procedures, Effective Dates, and Severability

In § _____.1, the proposal would clarify the application of notice and response procedures for reservation of authority actions, would clean up expired effective date provisions, would clarify the criteria for when standards apply to covered banking organizations that change from one category to another. The proposal would introduce a severability provision to clarify the agencies’ intent with respect to the effectiveness of the proposal in the event that any particular provision or application of the rule is determined to be invalid.

VIII. Related Proposals and Proposed Amendments to Related Rules

A. Related proposals

Concurrently with this proposal, the agencies also are issuing a proposal that would modernize the capital requirements applicable to Category I and II banking organizations (expanded risk-based approach) and the market risk capital framework applicable to banking organizations with significant trading activity (expanded risk-based proposal). All other banking organizations would be permitted, but not required, to use the expanded risk-based approach as discussed in section I. of the Supplementary Information section.

The expanded risk-based proposal would include standardized frameworks for credit risk, equity risk, and operational risk, as well as a revised market risk framework. Relative to the current U.S. standardized approach, this new credit risk framework would provide for improved risk sensitivity and granularity by incorporating additional relevant metrics into the treatments for several new and existing exposure categories, including exposures to depository institutions,

¹⁸⁶ Purchase credit deteriorated assets are acquired individual financial assets (or acquired groups of financial assets with shared risk characteristics) that, as of the date of acquisition and as determined by an acquirer’s assessment, have experienced a more-than-insignificant deterioration in credit quality since origination.

¹⁸⁷ See 86 FR 4224 (Feb. 14, 2019).

foreign banks, and credit unions, corporate exposures, project finance exposures, and retail exposures (which could include small- or medium-sized entities). The equity risk framework is largely consistent with the current U.S. standardized approach. The expanded risk-based approach also would introduce a standardized operational risk capital requirement, calculated based on a banking organization's income and expenses. These items would serve as proxies for measuring operational risk and determining an operational risk capital requirement across the range of activities conducted by large U.S. banking organizations.

The revised market risk framework, which would apply to Category I and II banking organizations as well as other banking organizations with significant trading activity, would replace the current market risk capital framework. The revised market risk framework is designed to better capture tail risk and the risk of less liquid positions. It consists of a standardized measure for market risk and a models-based measure for market risk that may be used with supervisory approval. The agencies are seeking comment on any burden or operational challenges associated with discretionary use of the expanded risk-based approach.

B. Board Amendments

In connection with this proposal, the Board is proposing amendments to certain regulations (Regulation LL, 12 CFR part 238, and Regulation YY, 12 CFR part 252) that reference the capital rule in order to make appropriate conforming amendments to reflect this proposal.

Question 58: What modifications, if any, should the agencies consider to this proposal or to other rules indirectly affected by this proposal?

IX. Administrative Law Matters

A. Paperwork Reduction Act

Certain provisions of the proposal contain "collections of information" within the meaning of the Paperwork Reduction Act of 1995 (PRA). In accordance with the requirements of the PRA, the agencies may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The information collection requirements contained in this joint proposal have been submitted to OMB for review and approval by the OCC and FDIC under section 3507(d) of the PRA (44 U.S.C. 3507(d)) and section 1320.11 of OMB's implementing

regulations (5 CFR part 1320). The Board reviewed the proposal under the authority delegated to the Board by OMB.

The proposal contains revisions to current information collections subject to the PRA. To implement these requirements, the agencies would revise and extend for three years the Reporting, Recordkeeping, and Disclosure Requirements Associated with Regulatory Capital Rules (OMB Nos. 1557–0318, 3064–0153, and 7100–0313). This information collection is also being revised by the expanded risk-based proposal. For ease of reference, the proposed revisions to this information collection by this proposal as well as the expanded risk-based proposal will be addressed in a separate **Federal Register** notice.

The Board would also revise and extend for three years the (1) Financial Statements for Holding Companies (FR Y 9; OMB No. 7100–0128), (2) the Capital Assessments and Stress Testing (FR Y 14A/Q/M; OMB No. 7100–0341), and (3) other affect reports. The proposed revisions to these Board reports will be addressed in a separate **Federal Register** notice.

Finally, the agencies, under the auspices of the FFIEC, would also propose related revisions to (1) all versions of the Consolidated Reports of Condition and Income (Call Reports) (FFIEC 031, FFIEC 041, and FFIEC 051; OMB Nos. 1557–0081; 3064–0052, and 7100–0036). The proposed revisions to these FFIEC reports will be addressed in one or more separate **Federal Register** notices.

B. Regulatory Flexibility Act

FDIC

The Regulatory Flexibility Act (RFA) generally requires an agency, in connection with a proposed rule, to prepare and make available for public comment an initial regulatory flexibility analysis that describes the impact of the proposed rule on small entities.¹⁸⁸ However, an initial regulatory flexibility analysis is not required if the agency certifies that the proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. The Small Business Administration (SBA) has defined "small entities" to include banking organizations with total assets of less than or equal to \$850 million.¹⁸⁹

¹⁸⁸ 5 U.S.C. 601 *et seq.*

¹⁸⁹ The SBA defines a small banking organization as having \$850 million or less in assets, where an organization's "assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year." See 13 CFR

For the reasons described below, the FDIC believes that the proposal, if adopted, will have a significant economic effect on a substantial number of FDIC-supervised insured depository institutions that meet the definition of a "small entity" under the RFA (small FDIC-supervised IDI). As such, the FDIC has prepared and is making available for public comment the following initial regulatory flexibility analysis. An initial regulatory flexibility analysis must contain (1) a description of the reasons why action by the agency is being considered; (2) a succinct statement of the objectives of, and legal basis for, the proposed rule; (3) a description of, and, where feasible, an estimate of the number of small entities to which the proposed rule will apply; (4) a description of the projected reporting, recordkeeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities that will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; (5) an identification, to the extent practicable, of all relevant Federal rules which may duplicate, overlap with, or conflict with the proposed rule; and (6) a description of any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and minimize any significant economic impact of the proposed rule on small entities.¹⁹⁰ A final regulatory flexibility analysis will be conducted after consideration of comments received during the public comment period.

Reasons Why Action Is Being Considered

As noted in Section I. Introduction and overview, in connection with the expanded risk-based proposal, the agencies evaluated the appropriateness of the risk weights applicable to exposures at the business-line level. Specifically, the evaluation suggested revisions would be appropriate to the risk weights applicable to residential mortgage exposures, corporate exposures, and certain exposures in the current standardized approach's "other assets" category. In addition, the

121.201 (as amended by 87 FR 69118, effective December 19, 2022). In its determination, the "SBA counts the receipts, employees, or other measure of size of the concern whose size is at issue and all of its domestic and foreign affiliates." See 13 CFR 121.103. Following these regulations, the FDIC uses an insured depository institution's affiliated and acquired assets, averaged over the preceding four quarters, to determine whether the insured depository institution is "small" for the purposes of RFA.

¹⁹⁰ 5 U.S.C. 603(b)–(c).

agencies considered comments received from the EGRPA public notices.

Statement of the Objectives and Legal Basis for the Proposal

As previously noted, the proposed changes aim to improve risk sensitivity while generally retaining the simplicity of the current framework. For further discussion of the policy objectives of the proposal please refer to Section I. Introduction and overview.

The prompt corrective action framework in section 38 of the Federal Deposit Insurance Act (FDI Act) requires the agencies to set capital standards for insured depository institutions that include a risk-based capital requirement and provides that the agencies may establish any additional relevant capital measures to carry out the purpose of that section.¹⁹¹ Various other statutory authorities provide the agencies with broad discretionary authority to set capital requirements and standards for banking organizations supervised by the agencies, including national banking associations, state-chartered banks, savings associations, and depository institution holding companies.¹⁹² Further, Congress has authorized the agencies to establish enhanced risk-based capital requirements and standards for larger banking organizations subject to the capital rule.¹⁹³

Description of the Proposal and an Estimate of the Number of Small Entities

The proposal would reduce the risk weight applicable to corporate exposures from 100 percent to 95 percent and the risk weight applicable to all assets not specifically assigned a different risk weight under the rule from 100 percent to 90 percent. The proposal would also introduce a broader range of

risk weights for residential mortgage exposures, based on more granular risk factors. In addition, the proposal would adopt the same definition of commitment as the expanded risk-based proposal and would align the credit conversion factors for certain off-balance sheet exposures, including equity commitments, with the expanded risk-based proposal. These changes focus on exposure categories that comprise a substantial amount of total risk-weighted assets for covered banking organizations and aim to balance a more risk-sensitive calibration of the requirements with retaining the simplicity of the standardized approach.¹⁹⁴ See Table V.G.1 in the Data Appendix (Section V.G.) for a breakdown of the size of the exposure categories whose treatment would be revised under this proposal.

To improve risk sensitivity, this proposal would also make targeted adjustments to the existing methodologies for determining exposure amounts for counterparty credit risk and risk-weighted asset amounts for securitizations, as well as for recognizing the benefits of credit risk mitigants. These targeted adjustments would align with adjustments included in the expanded risk-based proposal.

In addition to changes to the calculation of risk-weighted assets, the proposal would modify the definition of regulatory capital by removing the threshold-based deduction of mortgage servicing assets (MSAs). All MSAs would receive a 250 percent risk weight under the proposal, consistent with the risk weight in the current capital rule for MSAs that do not exceed the deduction threshold. This proposed revision would promote mortgage origination and servicing by banking organizations in a risk-appropriate manner and would apply to all banking organizations subject to the regulatory capital rule, including banking organizations subject to the community bank leverage ratio framework.

The proposal would require Category III and IV banking organizations to include most elements of AOCI in

common equity tier 1 capital, consistent with the current treatment applicable to Category I and II banking organizations.¹⁹⁵ This change would better reflect the capital adequacy and loss-absorbing capacity of Category III and IV banking organizations in their regulatory capital ratios.

As of June 30, 2025, the FDIC supervises 2,802 depository institutions,¹⁹⁶ of which 2,085 would be considered small entities for the purposes of the RFA.¹⁹⁷

Significant Impact Determination

To determine if the proposal, if adopted, will have a significant economic effect on a substantial number of small FDIC-supervised IDIs, the analysis focuses on the small FDIC-supervised IDIs that would be subject to the changes to risk-weighted assets under this proposal. As of June 30, 2025, 1,082 small FDIC-supervised IDIs report risk-weighted assets (small FDIC-supervised IDIs that report RWAs).¹⁹⁸ These institutions would have the choice to calculate risk weighted assets based on this proposal or the expanded risk-based proposal. For purposes of this analysis, the FDIC assumed these entities would select the revised standardized approach to calculate their risk-weighted assets. These institutions represent over 51 percent of all small FDIC-supervised IDIs, and they hold over 58 percent of total assets of small FDIC-supervised IDIs.¹⁹⁹

As discussed in Section V. Estimated impact on capital requirements, the agencies estimate that this proposal, if adopted, would decrease risk-weighted assets and corresponding common equity tier 1 capital requirements for covered depository institutions by approximately \$745 billion and \$52 billion (or 8.6 percent for both), respectively, relative to a baseline in which the current regulations remain unchanged.²⁰⁰ For small FDIC-supervised IDIs that report RWAs, the

¹⁹¹ See 12 U.S.C. 1831o(c)(1)(A), (c)(1)(B)(i).

¹⁹² See 12 U.S.C. 93a (national banking associations); 12 U.S.C. 248(i), 324, 327, 329 (state member banks); 12 U.S.C. 1463 (savings associations); 12 U.S.C. 1467a(g)(1) (savings and loan holding companies); 12 U.S.C. 1844(b) (bank holding companies); 12 U.S.C. 3106 (certain U.S. operations of foreign banking organizations); 12 U.S.C. 3902(1)–(2), 3907(a), 3909(a), (c)(1)–(2) (depository institutions; affiliates of depository institutions, including holding companies; and certain U.S. operations of foreign banking organizations); 12 U.S.C. 5371 (insured depository institutions, depository institution holding companies, and nonbank financial companies supervised by the Board).

¹⁹³ See e.g., section 165 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), as amended by section 401 of the Economic Growth, Regulatory Relief, and Consumer Protection Act, which requires the Board to establish enhanced prudential standards that include risk-based capital requirements for bank holding companies with \$250 billion or more in total consolidated assets.

¹⁹⁴ The calculation of the risk-weighted assets under the expanded risk-based approach is more complex and burdensome than under the standardized approach as it is more granular and includes several additional risk factors. The expanded risk-based approach would also include an operational risk capital requirement and the requirement to use the standardized approach for counterparty credit risk to determine the exposure amount for derivative contracts. Banking organizations subject to the expanded risk-based approach would also be subject to a more risk-sensitive but complex definition of capital, including the requirement to include most elements of accumulated other comprehensive income in regulatory capital.

¹⁹⁵ AOCI generally includes accumulated unrealized gains and losses on certain assets and liabilities that have not been included in net income yet are included in equity under U.S. generally accepted accounting principles (for example, unrealized gains and losses on securities designated as available-for-sale).

¹⁹⁶ The count of FDIC-supervised institutions excludes six insured, domestic branches of foreign banks. None would be considered small entities for the purposes of the RFA. Call Report data, June 30, 2025.

¹⁹⁷ Call Report data, June 30, 2025.

¹⁹⁸ Call Report data, June 30, 2025. As of June 30, 2025, 1,003 small, FDIC-supervised IDIs currently elect to use the CBLR framework.

¹⁹⁹ Call Report data, June 30, 2025.

²⁰⁰ See Section V. Estimated impact on capital requirements, for a discussion of the baseline, data, and the estimation methodology.

FDIC estimates that the proposal would decrease aggregate risk-weighted assets and common equity tier 1 capital requirements by \$19 billion and \$1.3 billion (or 7.8 percent for both), respectively, relative to the baseline.²⁰¹ By reducing required capital, the proposal would increase the size of management buffers.²⁰² Across the 1,082 small FDIC-supervised IDIs that report RWAs as of June 30, 2025, the proposal would increase the common equity tier 1 management buffer by an average of \$1.2 million, ranging from \$1,600 to \$7.1 million, relative to the baseline.

As noted in Section VI.B. Effects on lending, covered banking organizations, including small FDIC-supervised IDIs, may respond to the proposal in different ways. Many small FDIC-supervised IDIs would likely reduce the additional management buffer under the proposal by expanding their holdings of earning assets. If under the proposal, every small FDIC-supervised IDI that reports RWAs expanded its earning assets to achieve a management buffer equal to its buffer as of June 30, 2025, the result would be an increase in aggregate earning assets of approximately \$31 billion for such institutions and a corresponding increase in aggregate interest income of \$1.1 billion.²⁰³ At the individual institution level, the

resulting increase in net interest income would exceed 2.5 percent of total annualized net interest income, as of June 30, 2025, for over 98 percent of small FDIC-supervised IDIs that report RWAs, and exceed 5 percent for over 87 percent of these IDIs.

The FDIC recognizes that not all small FDIC-supervised IDIs would deplete all of their additional management buffer under the proposal to accumulate earning assets. Thus, the estimate presented above may overestimate the significance of the impact of the proposal on small FDIC-supervised IDIs that report RWAs. As a sensitivity analysis, the FDIC estimates that even if the small FDIC-supervised IDIs that report RWAs use only a third of their additional management buffer to accumulate earning assets, the resulting increase in net interest income would exceed 2.5 percent of total annualized net interest income, as of June 30, 2025, for over 60 percent of these IDIs, and exceed 5 percent for over 10 percent of these IDIs. Given the size of these potential effects, the FDIC believes the impact of the proposal would likely be significant for a substantial number of small entities.

Economic Impact

As noted above, the proposal would expand by approximately \$31 billion the aggregate balance sheet capacity of small FDIC-supervised IDIs that report RWAs. The proposal could have other potential economic effects on small FDIC-supervised IDIs, as summarized here and discussed in detail in Section VI. Economic analysis.²⁰⁴ The proposal would better align capital requirements with the underlying risk of exposures and increase allocative efficiencies. The proposal would decrease risk weights for certain asset classes, which would reduce funding costs for these assets and enhance the competitiveness of small FDIC-supervised IDIs in applicable markets.

As noted in the analysis, small FDIC-supervised IDIs would likely respond differently based on their business models and market positions—potentially adjusting asset portfolios, modifying management capital buffers, or adopting alternative regulatory capital regimes; this heterogeneity in responses lends uncertainty to the FDIC's analysis. Nevertheless, the FDIC estimates that the proposal is likely to lead to increased lending activities in several asset classes. Greater market

participation by small FDIC-supervised IDIs would directly benefit consumers through lower borrowing costs and improved credit access. The projected increase in lending would support economic growth by facilitating capital formation, business expansion, and household wealth-building through homeownership and other forms of credit access.

Costs of the proposal would include a marginal increase in the risk of loss associated with financial instability or failure. The FDIC believes the costs associated with this risk would be low, given that small FDIC-supervised IDIs would continue to be subject to robust supervisory and regulatory standards and leverage requirements and that the estimated common equity tier 1 capital ratio for small FDIC-supervised IDIs that report RWAs under the proposal falls within the range of optimal values discussed in the literature.²⁰⁵ There may also be transition costs for small FDIC-supervised covered IDIs.

Reporting, Recordkeeping, and Other Compliance Requirements of the Proposal

As described in section IX.A., the proposal contains revisions to FDIC's current information collections subject to the Paperwork Reduction Act of 1995 (PRA).²⁰⁶ To implement these requirements, the FDIC would revise and extend for three years the Reporting, Recordkeeping, and Disclosure Requirements Associated with Regulatory Capital Rules (OMB No. 3064–0153). The FDIC, under the auspices of the FFIEC, would also propose related revisions to all versions of the Call Reports (OMB No. 3064–0052). All small FDIC-supervised IDIs that report RWAs would be subject to the revisions. The proposed revisions to these information collections will be addressed in a separate **Federal Register** notice.

Alternatives Considered

As discussed in Section VI.A, the agencies compare the proposal to three reasonable alternatives for revising risk-weighted asset standards.

Alternative 1 would require all banking organizations that are subject to risk-based capital requirements to adopt the expanded risk-based approach, as

²⁰¹ Using the data and methodology discussed in Section V. Estimated impact on capital requirements, the FDIC estimates that three small, FDIC-supervised IDIs that report RWAs would experience a slight increase in capital requirements under the proposal.

²⁰² IDIs generally maintain capital levels above regulatory capital requirements, including any applicable buffer requirements. The excess above such requirements is called "management buffers." See VI.B. Effects on lending for a more detailed discussion.

²⁰³ For each small, FDIC-supervised IDI that reports RWAs, the FDIC first estimates the decrease in RWA under the proposal. Second, assuming an increase in balance sheet capacity equal to this decrease in RWA, the FDIC estimates the increase in earning assets for the institution, where earnings assets equals the increase in balance sheet capacity divided by the average risk weight under the proposal. Average risk weight under the proposal is obtained by dividing the total RWA under the proposal by the institution's assets as of June 30, 2025. Finally, multiplying the increase in earning assets by the institution's reported annualized net interest margin yields the additional net interest income generated under the proposal.

For example, consider a hypothetical \$500 million small institution with existing RWA of \$350 million, RWA under the proposal of \$325 million, and a net interest margin of 3 percent. It experiences a decrease of \$25 million in RWA under the proposal and its average risk weight under the proposal is 65 percent (\$325 million/\$500 million). Under the proposal, it could generate earning assets of \$38 million, or \$25 million divided by 65 percent. At a hypothetical annualized net interest margin of 3 percent, the \$38 million in additional earning assets would generate \$1.14 million in additional net interest income.

²⁰⁴ See Section VI.G. Interactions with CBLR proposal for a discussion of the economic impact on the 1,003 small, FDIC-supervised IDIs that currently elect to use the CBLR framework.

²⁰⁵ As of June 30, 2025, the 1,082 small, FDIC-supervised IDIs that report RWAs examined in this analysis hold \$37 billion in common equity tier 1 against an estimated \$225 billion in RWA under the proposal, resulting in a common equity tier 1 ratio of approximately 17 percent. See Section VI.E Effects on safety and soundness for additional discussion.

²⁰⁶ 44 U.S.C. 3501 *et. seq.*

would be required for Category I and II banking organizations under the expanded risk-based proposal. This alternative would implement a more risk-sensitive capital framework for all affected banking organizations but would also require more operational complexity for smaller banking organizations. Under this alternative, some smaller banking organizations (those with assets under \$10 billion and satisfying the other requirements of the CBLR framework) could choose to avoid the additional operational complexity by adopting the CBLR framework.

In aggregate, the expanded risk-based approach would require covered banking organizations to hold less capital than estimated under the standardized approach, as modified by proposal. Assuming no change in which banking organizations opt into the CBLR framework, under Alternative 1, covered depository institutions' risk-weighted assets would decrease by an estimated 11.6 percent relative to current requirements, compared to the estimated 8.6 percent decrease under the proposal. This reduction in risk-weighted assets would result in a more substantial decrease in regulatory capital requirements for covered depository institutions relative to current requirements under Alternative 1 than under the proposal. However, under this alternative, the compliance burdens associated with the regulatory capital framework for these banking organizations would increase significantly.

Alternative 2 would require the adoption of the expanded risk-based approach only for Category III and IV banking organizations while applying the proposal for all other covered banking organizations. Category III and IV banking organizations are the largest and most complex banking organizations not covered by the expanded risk-based proposal. Therefore, these organizations are most likely to be able to absorb the additional costs of operational complexity for the benefit of the enhanced risk sensitivity of the expanded risk-based approach.

Under Alternative 2, aggregate risk-weighted assets for depository institution subsidiaries of Category III and IV holding companies would decrease by an estimated 9.4 percent, relative to the baseline, slightly more than the estimated 9.1 percent decrease under the proposal.²⁰⁷ As a result of this similar change in risk-weighted assets, aggregate required capital for depository

institutions subsidiaries of Category III and IV holding companies would decrease by a similar amount under Alternative 2 as under the proposal, compared to the baseline.

Alternative 3 would replace the LTV-based risk-weight tables for residential real estate in the proposal with simplified flat risk weights: 35% for residential mortgage exposures not dependent on the cash flows of the real estate and 45% for residential mortgage exposures that are dependent on the cash flows of the real estate. While the proposal modestly increases operational complexity relative to the baseline, this alternative would maintain the simplicity of the current standardized approach for residential mortgage exposures. However, this alternative lacks the enhanced risk sensitivity that the proposal's LTV-based lookup tables would provide for mortgage exposures.

The agencies assessed that the provisions of the proposal best balance the competing goals of risk alignment and simplicity, while also promoting robust capital levels. Alternative 1 would impose unnecessary operational complexity on smaller banking organizations, including those ineligible for the CBLR framework. Alternative 2 offers minimal advantages over the current proposal, as Category III and IV banking organizations can already elect to use the expanded risk-based proposal when they judge that the adoption is beneficial. Rather than mandating a specific size threshold for this approach, the proposal appropriately allows banking organizations to make this determination based on their own internal analysis. Alternative 3, while simpler, would generate only modest operational cost savings. Loan-to-value calculations can be automated using existing loan information and smaller banking organizations concerned about compliance costs retain the option to adopt the CBLR framework. Based on these considerations, the agencies assess that the current proposal is the best approach among all these reasonable alternative considerations to most effectively enhance risk sensitivity while limiting additional operational burden and maintaining robust capital standards.

Other Statutes and Federal Rules

The FDIC has not identified any likely duplication, overlap, and/or potential conflict between this proposal and any other federal rule.

The FDIC invites comments on all aspects of the supporting information provided in this RFA section. In particular, would the proposal have any

significant effects on small entities that the FDIC has not identified?

Board

The Board is providing an initial regulatory flexibility analysis with respect to this proposed rule. The Regulatory Flexibility Act²⁰⁸ (RFA) requires an agency to consider whether the rules it proposes will have a significant economic impact on a substantial number of small entities.²⁰⁹ In connection with a proposed rule, the RFA requires an agency to prepare and invite public comment on an initial regulatory flexibility analysis describing the impact of the rule on small entities, unless the agency certifies that the proposed rule, if promulgated, would not have a significant economic impact on a substantial number of small entities. An initial regulatory flexibility analysis must contain: (1) a description of the reasons why action by the agency is being considered; (2) a succinct statement of the objectives of, and legal basis for, the proposed rule; (3) a description of, and, where feasible, an estimate of the number of small entities to which the proposed rule will apply; (4) a description of the projected reporting, recordkeeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities that will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; (5) an identification, to the extent practicable, of all relevant Federal rules which may duplicate, overlap with, or conflict with the proposed rule; and (6) a description of any significant alternatives to the proposed rule which accomplish its stated objectives and minimize any significant economic impact of the proposed rule on small entities.²¹⁰

The Board has considered the potential impact of the proposed rule on small entities in accordance with the RFA. The Board is publishing and inviting comment on this initial regulatory flexibility analysis.

As discussed in detail above, the proposed rule would revise the risk-based capital treatment of certain

²⁰⁸ 5 U.S.C. 601 *et seq.*

²⁰⁹ Under regulations issued by the U.S. Small Business Administration (SBA), a small entity includes a depository institution, bank holding company, or savings and loan holding company with total assets of \$850 million or less. *See* 13 CFR 121.201. Consistent with the SBA's General Principles of Affiliation, the Board includes the assets of all domestic and foreign affiliates toward the applicable size threshold when determining whether to classify a particular entity as a small entity. *See* 13 CFR 121.103.

²¹⁰ 5 U.S.C. 603(b)–(c).

²⁰⁷ The small difference is due to the close calibration of the proposed standardized approach to the expanded risk-based approach.

exposure categories under the standardized approach, including the risk weights for traditional lending activities to improve their calibration and risk sensitivity. The proposal would also modify the definition of regulatory capital by removing the threshold-based deduction for mortgage servicing assets for all banking organizations subject to the regulatory capital rule, including banking organizations subject to the community bank leverage ratio framework. In addition, the proposal would require Category III and IV banking organizations to recognize most elements of accumulated other comprehensive income in their regulatory capital. The proposed changes aim to better reflect the risks of these banking organizations' exposures while generally retaining the simplicity of the current framework.

As noted above, the prompt corrective action framework in section 38 of the FDI Act requires the agencies to prescribe capital standards for insured depository institutions that include a risk-based capital requirement and provides that the agencies may establish any additional relevant capital measures to carry out the purpose of that section.²¹¹ Various statutory authorities provide the agencies with broad discretionary authority to set capital requirements and standards for banking organizations supervised by the agencies, including national banking associations, state-chartered banks, savings associations, and depository institution holding companies.²¹² Elements of the proposal would also be responsive to comments received from the EGRPA public notices.²¹³ Further, Congress has also authorized the

agencies to establish risk-based capital requirements and standards for larger banking organizations subject to the capital rule and this proposal.²¹⁴

As of the second quarter of 2025, there were approximately 2,796 small bank holding companies and approximately 157 small savings and loan holding companies, and approximately 443 small state member banks. The proposed rule would apply to all small entities supervised by the Board; however, small entities that are bank holding companies or savings and loan holding companies are generally subject to the Small Bank Holding Company and Savings and Loan Holding Company Policy Statement and would not be impacted by the proposed rule.²¹⁵

While the proposal slightly increases the reporting complexity of the risk-based framework for small entities that have not elected to use the CBLR framework,²¹⁶ the proposal would also generally reduce capital requirements for small entities under the risk-based framework. As described in sections V. and VI. of this **SUPPLEMENTARY INFORMATION**, the improvements in risk sensitivity of capital requirements expected to result from the proposal and associated benefits justify the proposal's expected costs. For small entities, the proposal would provide meaningfully improved risk sensitivity to a large portion of covered banking organizations' exposures from a total risk-weighted assets perspective, while allowing them to avoid the regulatory burden of implementing the expanded risk-based approach set forth in the expanded risk-based proposal. In particular, small entities would not be required to manage potential volatility that may rise from the recognition of AOCI in regulatory capital. They also would avoid mandatory application of SA-CCR and a separate calculation of an operational risk capital requirement. Further, the proposal would amend

certain dollar-based regulatory thresholds in the standardized approach to reflect inflation and ensure that such thresholds preserve their intended application in real terms over time.

The Board is aware of no other federal rules that duplicate, overlap, or conflict with the proposal. Although the Board considered several alternatives, as discussed in more detail in section VI.A. of this **SUPPLEMENTARY INFORMATION**, the proposal is the best alternative for improving risk sensitivity while limiting additional operational costs and maintaining robust capital standards, particularly for small entities. Accordingly, the Board believes that there are no significant alternatives to the proposal that would accomplish the stated objectives and minimize the economic impact of the proposal on small entities.

The Board welcomes comment on all aspects of its analysis. In particular, the Board requests that commenters describe the nature of any impact on small entities and provide empirical data to illustrate and support the extent of the impact.

OCC

In accordance with section 3(a) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) (RFA), the OCC is publishing this summary of its Initial Regulatory Flexibility Analysis (IRFA) for this NPR. The RFA requires an agency to publish in the **Federal Register** its IRFA or a summary of its IRFA at the time of the publication of its general notice of proposed rulemaking or to certify that the proposed rule will not have a significant economic impact on a substantial number of small entities. For its IRFA, the OCC analyzed the potential economic impact of this NPR on the small entities that it regulates.

The OCC welcomes comment on all aspects of the summary of its IRFA. A final regulatory flexibility analysis will be conducted after consideration of comments received during the public comment period.

A. Reasons Why the Proposed Rule Is Being Considered by the Agencies; Statement of the Objectives of the Proposed Rule; and Legal Basis

As discussed in the **SUPPLEMENTARY INFORMATION** section above, the agencies are proposing to revise their capital requirements to help ensure standards are appropriately calibrated and that the framework is functioning as intended. The primary objective of the proposal is to improve the risk sensitivity of the regulatory capital framework for covered banks. Risk-sensitive capital requirements help align regulatory

²¹¹ See 12 U.S.C. 1831o(c)(1)(A), (c)(1)(B)(i).

²¹² See 12 U.S.C. 93a (national banking associations); 12 U.S.C. 248(i), 324, 327, 329 (state member banks); 12 U.S.C. 1463 (savings associations); 12 U.S.C. 1467a(g)(1) (savings and loan holding companies); 12 U.S.C. 1844(b) (bank holding companies); 12 U.S.C. 3106 (certain U.S. operations of foreign banking organizations); 12 U.S.C. 3902(1)–(2), 3907(a), 3909(a), (c)(1)–(2) (depository institutions; affiliates of depository institutions, including holding companies; and certain U.S. operations of foreign banking organizations); 12 U.S.C. 5371 (insured depository institutions, depository institution holding companies, and nonbank financial companies supervised by the Board).

²¹³ The agencies, together with the Federal Financial Institutions Examination Council, commenced a review under the Economic Growth and Regulatory Paperwork Reduction Act of 1996 in 2024 to identify outdated or otherwise unnecessary regulatory requirements. The agencies will continue reviewing and considering these comments as part of any final rulemaking. Public Law 104–208, Div. A, Title II, section 2222, 110 Stat. 3009–414, (1996) (codified at 12 U.S.C. 3311). See also Regulatory Publication and Review Under the Economic Growth and Regulatory Paperwork Reduction Act of 1996, 90 FR 35241 (Jul. 25, 2025).

²¹⁴ See, e.g., section 165 of the Dodd-Frank Act, as amended by section 401 of the Economic Growth, Regulatory Relief, and Consumer Protection Act, which requires the Board to establish enhanced prudential standards that include risk-based capital requirements for bank holding companies with \$250 billion or more in total consolidated assets.

²¹⁵ See 12 CFR part 225 appendix C.

²¹⁶ As a result of the proposal, small entities that have not elected to use the CBLR framework would need to establish or revise internal recordkeeping systems, policies and procedures to track compliance with the amended supervisory capital requirements. For instance, such small entities would now have to separately identify and delineate certain residential mortgages by their cash flow dependencies and their LTVs. Small entities that elect to use the CBLR would not need to implement these changes.

capital with the underlying risk profile of bank exposures. The proposal also aims to promote appropriately calibrated capital levels, which can enhance the efficiency of capital by limiting systemic risk without unduly constraining routine bank activities. Together, these features reduce the opportunities for regulatory arbitrage and support prudent risk taking, thereby improving the resilience of individual institutions and the stability of the financial system.

B. Small Entities Affected by the Proposal

As of December 31, 2024, the OCC supervised approximately 609 small entities, of which 359 will be impacted by the proposal's changes to risk-based capital requirements.²¹⁷ Thus, a substantial number of small entities will be impacted by the proposed rule.

C. Projected Reporting, Recordkeeping, and Other Compliance Requirements

This NPR includes changes to the risk-based capital requirements that address the definition of capital and the calculation of risk-weighted assets and affect small banking organizations. The proposed rules in this NPR that would

affect small banking organizations include:

1. Changing the denominator of the risk-based capital ratios by revising the asset and exposure risk weights;
2. Revising the treatment of counterparty credit risk; and
3. Revising the numerator of the risk-based capital ratios by, among other changes, removing the deduction from regulatory capital for concentrations of mortgage servicing assets that exceed 25 percent of common equity tier 1 capital.

These changes are designed to enhance the risk-sensitivity of the calculation of risk-weighted assets. Therefore, capital requirements may go down for some assets and up for others. To comply with the proposed rules in this NPR, covered small banking organizations would be required to change their internal reporting processes. These changes would require some additional personnel training and expenses related to new systems (or modification of existing systems) for calculating regulatory capital ratios. Additionally, covered small banking organizations that hold certain exposures would be required to obtain additional information under the proposed rules in order to determine the applicable risk weights.

To estimate the compliance costs of the proposal, the OCC reviewed the new mandates that affect OCC-supervised banks. OCC staff then considered costs that may arise from compliance with these mandates. The OCC's cost estimate includes an estimate of the time required to implement the mandates and the estimated average hourly wage of the bank employees who might be responsible for tasks associated with achieving this compliance. In the

cost estimate, OCC staff used a compensation rate of \$131 per hour.²¹⁸

In determining the total hours needed per bank for one-time implementation costs to ensure compliance with the proposal, OCC staff considered the total hours needed per bank, on average, for systems development, data acquisition, data aggregation and reporting, calculation and verification, training, and risk management. As part of this determination, OCC staff also considered the scope of applicability of the rule's key provisions and bank size category.²¹⁹ Based on internal discussions with OCC subject matter experts, OCC staff estimated the total hours needed for one-time implementation efforts per bank.²²⁰ OCC staff then multiply the anticipated total hours by the hourly compensation rate of \$131. The results are summarized below.

²¹⁸ To estimate wages the OCC reviewed May 2024 data for wages (by industry and occupation) from the U.S. Bureau of Labor Statistics (BLS) for credit intermediation and related activities (NAICS 5220A1). To estimate compensation costs associated with the rule, the OCC uses \$131.10 per hour, which is based on the average of the 90th percentile for six occupations adjusted for inflation (3.6 percent as of Q1 2025), plus an additional 35.6 percent for benefits (based on the percent of total compensation allocated to benefits as of Q4 2024 for NAICS 522: credit intermediation and related activities).

²¹⁹ Assuming an average total hour estimate for all banks in a given size category is a simplifying assumption. OCC staff recognize in practice that even across banks within the same category, there would be heterogeneity of time needed to ensure compliance based on size, complexity, balance sheet composition, and market risk approach selected by the bank. OCC staff will look to comment letters for further insight into these costs for the final rule stage.

²²⁰ These compliance cost estimates are subject to considerable uncertainty. They should be interpreted as approximate, order-of-magnitude estimates rather than precise measures of the actual costs individual banks will incur.

²¹⁷ The OCC bases its estimate of the number of small entities on the Small Business Administration's size thresholds for commercial banks and savings institutions NAICS Code: 522110), and trust companies (NAICS Code: 523991), which are \$850 million and \$47 million, respectively. Consistent with the General Principles of Affiliation 13 CFR 121.103(a), the OCC counts the assets of affiliated financial institutions when determining whether to classify an OCC-supervised institution as a small entity. The OCC uses December 31, 2024, to determine size because a "financial institution's assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year." See footnote 8 of the U.S. Small Business Administration's *Table of Size Requirements*.

Implementation Cost per Bank and in Aggregate

Category	Count	Total Hours per Bank	Hourly Wage	Cost per Bank	Aggregate Cost per Category
Category III and IV banks subject to risk-based capital requirements	25	5,838	131	\$764,778	\$19,119,450
Non-Category I to IV banks subject to risk-based capital requirements	622	4,192	131	\$549,152	\$341,572,544
Banks electing to use the CBLR framework	308	0	131	\$0	\$0
Total	955				\$ 360,691,994

Aggregating the per bank compliance costs for all 955 affected OCC-supervised banks results in an aggregate one-time implementation cost estimate of approximately \$361 million.

D. Identification of Duplicative, Overlapping, or Conflicting Federal Rules

The OCC is unaware of any duplicative, overlapping, or conflicting federal rules. As noted previously, the OCC anticipates issuing a separate proposal to implement reporting requirements that are tied to (but do not overlap or duplicate) the requirements of the proposed rule. The OCC seeks comments and information regarding any such federal rules that are duplicative, overlapping, or otherwise in conflict with the proposed rule.

E. Discussion of Significant Alternatives to the Proposed Rule

The agencies have sought to incorporate flexibility into the proposed rule and lessen burden and complexity for smaller banking organizations wherever possible, consistent with safety and soundness and applicable law. The agencies are requesting comment on potential options for simplifying the rule and reducing burden.

The agencies welcome comment on any significant alternatives to the proposed rules applicable to covered small banking organizations that would minimize their impact on those entities.

C. Plain Language

Section 722 of the Gramm-Leach Bliley Act²²¹ requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The agencies have sought to present the proposed rule in a simple and straightforward manner and invite comments on the use of plain language and whether any part of the proposed rule could be more clearly stated. For example:

- Have the agencies presented the material in an organized manner that meets your needs? If not, how could this material be better organized?
- Are the requirements in the notice of proposed rulemaking clearly stated? If not, how could the proposed rule be more clearly stated?
- Does the proposed rule contain language that is not clear? If so, which language requires clarification?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the proposed rule easier to understand? If so, what changes to the format would make the proposed rule easier to understand?
- What else could the agencies do to make the proposed rule easier to understand?

²²¹ Public Law 106–102, section 722, 113 Stat. 1338, 1471 (1999).

D. Riegle Community Development and Regulatory Improvement Act of 1994

Pursuant to section 302(a) of the Riegle Community Development and Regulatory Improvement Act (RCDRIA),²²² in determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on insured depository institutions, each Federal banking agency must consider, consistent with principles of safety and soundness and the public interest, any administrative burdens that such regulations would place on depository institutions, including small depository institutions, and customers of depository institutions, as well as the benefits of such regulations. In addition, section 302(b) of RCDRIA requires new regulations and amendments to regulations that impose additional reporting, disclosures, or other new requirements on insured depository institutions generally to take effect on the first day of a calendar quarter that begins on or after the date on which the regulations are published in final form, with certain exceptions, including for good cause.²²³

The agencies note that comment on these matters has been solicited in other sections of this **SUPPLEMENTARY INFORMATION** section, and that the

²²² 12 U.S.C. 4802(a).

²²³ 12 U.S.C. 4802.

requirements of RCDRIA will be considered as part of the overall rulemaking process. In addition, the agencies also invite any other comments that further will inform the agencies' consideration of RCDRIA.

E. OCC Unfunded Mandates Reform Act of 1995 Determination

The OCC has analyzed the proposed rule under the factors in the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1532). Under this analysis, the OCC considered whether the proposed rule includes a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year (adjusted annually for inflation).

The OCC has determined this proposed rule is likely to result in the expenditure by the private sector of \$100 million or more in any one year (adjusted annually for inflation). The OCC has prepared an impact analysis and identified and considered alternative approaches. When the supplemental proposal is published in the **Federal Register**, the full text of the OCC's analysis will be available at: <https://www.regulations.gov>.

F. Providing Accountability Through Transparency Act of 2023

The Providing Accountability Through Transparency Act of 2023 (5 U.S.C. 553(b)(4)) requires that a notice of proposed rulemaking include the internet address of a summary of not more than 100 words in length of the proposed rule, in plain language, that shall be posted on the internet website under section 206(d) of the E-Government Act of 2002 (44 U.S.C. 3501 note).

In summary, the bank regulatory agencies request comment on a proposal to revise the U.S. standardized approach to better align certain capital requirements with the risk of firms' exposures, and ensure that all large banking organizations are required to account for accumulated other comprehensive income (AOCI) in their regulatory capital to better reflect their loss-absorbing capacity.

The proposal and such a summary can be found at <https://www.regulations.gov> by searching for Docket ID OCC-2026-0034 and <https://occ.gov/topics/laws-and-regulations/occ-regulations/proposed-issuances/index-proposed-issuances.html>, <https://www.federalreserve.gov/supervisionreg/reglisting.htm>, and <https://www.fdic.gov/federal-register-publications>.

G. Executive Orders 128866, 13563, and 14192

Executive Order 12866 (Regulatory Planning and Review)²²⁴ and Executive Order 13563 (Improving Regulation and Regulatory Review)²²⁵ direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This proposed rule was drafted and reviewed in accordance with Executive Order 12866 and Executive Order 13563. Within OMB, the Office of Information and Regulatory Affairs (OIRA) has determined that this rulemaking is an economically significant regulatory action under section 3(f)(1) of Executive Order 12866. Accordingly, the draft rule was submitted to OIRA for review. As noted in other sections of the **SUPPLEMENTARY INFORMATION** of this document, the agencies have assessed the costs and benefits of this rulemaking and have made a reasoned determination that the benefits of this rulemaking justify its costs. The proposal, if finalized as proposed, is not expected to be an Executive Order 14192 regulatory action.

List of Subjects

12 CFR Part 3

Administrative practice and procedure, Banks, banking, Federal Reserve System, Investments, National banks, Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 217

Administrative practice and procedure, Banks, Banking, Capital, Federal Reserve System, Holding companies.

12 CFR Part 238

Administrative practice and procedure, Banks, banking, Federal Reserve System, Holding companies, Reporting and recordkeeping requirements, Securities.

12 CFR Part 252

Administrative practice and procedure, Banks, banking, Credit, Federal Reserve System, Holding companies, Investments, Qualified financial contracts, Reporting and recordkeeping requirements, Securities.

12 CFR Part 324

Administrative practice and procedure, Banks, Banking, Capital adequacy, Reporting and recordkeeping

requirements, Savings associations, State non-member banks.

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Chapter I

Authority and Issuance

For the reasons set forth in the preamble, the OCC proposes to amend part 3 of chapter I of title 12 of the Code of Federal Regulations as follows:

PART 3—CAPITAL ADEQUACY STANDARDS

■ 1. The authority citation for part 3 continues to read as follows:

Authority: 12 U.S.C. 93a, 161, 1462, 1462a, 1463, 1464, 1818, 1828(n), 1828 note, 1831n note, 1835, 3907, 3909, 5412(b)(2)(B), and Pub. L. 116–136, 134 Stat. 281.

■ 2. In § 3.1:

■ a. Revise paragraphs (c)(4)(i), (e) and (f); and

■ b. Add paragraph (g).

The addition and revision read as follows:

§ 3.1 Purpose, applicability, reservations of authority, and timing.

* * * * *

(c) * * *

(4) * * *

(i) Except for an advanced approaches national bank or Federal savings association that is making public disclosures pursuant to the requirements in subpart E of this part, each national bank or Federal savings association with total consolidated assets of \$50 billion or more, as adjusted pursuant to § 3.4, must make the public disclosures described in subpart D of this part.

* * * * *

(e) *Notice and response procedures.* In making a determination under this part, unless more specifically provided for, 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 4.404.

(f) *Timing.* A national bank or Federal savings association that changes from one category of national bank or Federal savings association to another of such categories, or that changes from having no category to having a such category, must comply with the requirements of its category in this part, including applicable transition provisions of the requirements in this part, no later than on the first day of the second quarter following the change in the national

²²⁴ E.O. 12866, 58 FR 51735 (Oct. 4, 1993).

²²⁵ E.O. 13563, 76 FR 3821 (Jan. 21, 2011).

bank's or Federal savings association's category.

* * * * *

(g) *Severability*. If any provision of this part, or the application thereof to any national bank or Federal savings association, is held invalid, such invalidity shall not affect the validity of other provisions or the application of such provision to other national banks or Federal savings associations that can be given effect without the invalid provision or application.

* * * * *

■ 3. In § 3.2:

- a. Revise the definition of “Adjusted allowances for credit losses (AACL)”;
- b. Remove the definition of “Allowances for loan and lease losses (ALLL)”;
- c. Revise the definition of “Carrying value”;
- d. Revise the definition for “Category III national bank or Federal savings association”;
- e. Add, in alphabetical order, the definition for “Category IV national bank or Federal savings association”;
- f. Revise the definition for “Commitment”;
- g. Add, in alphabetical order, the definition for “Dependent on the cash flows generated by the real estate”;
- h. Revise the definitions for “Effective notional amount”, “Eligible clean-up call”, and “Eligible guarantee”;
- i. Add, in alphabetical order, the definition for “Eligible prepaid credit protection arrangement”;
- j. Revise paragraph (4)(i)(A) in the definition of “Financial institution”;
- k. Revise the definition for “Netting set”;
- l. Add, in alphabetical order, the definitions for “Non-performing loan securitization (NPL securitization)”, “Nonrefundable purchase price discount (NRPPD)”, and “Prepaid credit protection arrangement”;
- m. Revise the definition for “Protection amount (P)”;
- n. Add, in alphabetical order, the definition for “Qualifying Cross Product Master Netting Agreement”;
- o. Revise paragraphs (3) and (4) of the definition for “Qualifying master netting agreement”;
- p. Revise paragraph (1)(ii) of the definition for “Residential mortgage exposure”;
- q. Remove the definition for “Securitization special purpose entity (SPE)”;
- r. Add, in alphabetical order, the definitions for “Senior securitization exposure” and “Specified supranational entity”;
- s. Revise the definition for “Speculative grade”;

■ t. Add, in alphabetical order, the definition for “Synthetic excess spread”;

■ u. In the definition of “Standardized total risk-weighted assets”, remove the words “§ 3.42” and add, in their place, the words “§ 3.43”;

■ v. Revise the definitions for “Sub-speculative grade”, “Synthetic securitization”, and “Traditional securitization”.

The additions and revisions read as follows:

Adjusted allowances for credit losses (AACL) means valuation allowances that have been established through a charge against earnings or retained earnings for expected credit losses on financial assets measured at amortized cost and a lessor's net investment in leases that have been established to reduce the amortized cost basis of the assets to amounts expected to be collected as determined in accordance with GAAP. For purposes of this part, adjusted allowances for credit losses include allowances for expected credit losses on off-balance sheet credit exposures not accounted for as insurance as determined in accordance with GAAP. Adjusted allowances for credit losses exclude allocated transfer risk reserves and allowances created that reflect credit losses on purchased credit deteriorated assets, purchased seasoned loans, assets required to record an allowance for credit losses through a gross-up adjustment to the purchase price of the asset, and available-for-sale debt securities.

* * * * *

Carrying value means, with respect to an asset, the value of the asset on the balance sheet of the national bank or Federal savings association as determined in accordance with GAAP. For all assets other than available-for-sale debt securities, purchased credit deteriorated assets, purchased seasoned loans, or assets required to record an allowance for credit losses through a gross-up adjustment to the purchase price of the asset, the carrying value is not reduced by any associated credit loss allowance that is determined in accordance with GAAP.

* * * * *

Category III national bank or Federal savings association means a national bank or Federal savings association that is not a Category I national bank or Federal savings association, or a Category II national bank or Federal savings association, and that:

- (1) Is a subsidiary of a Category III banking organization, as defined pursuant to 12 CFR 252.5 or 12 CFR 238.10, as applicable; or

(2) (i) Has total consolidated assets, calculated based on the average of the national bank's or Federal savings association's total consolidated assets for the four most recent calendar quarters as reported on the Call Report, equal to \$250 billion or more. If the national bank or Federal savings association 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 average of the most recent quarters, as applicable; or

(ii) (A) Has total consolidated assets, calculated based on the average of the national bank's or Federal savings association'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 is calculated based on its total consolidated assets, as reported on the Call Report, for the most recent quarter or average of the most recent quarters, as applicable; and

(B) Has at least one of the following in paragraphs (2)(ii)(B)(1) through (3) of this definition, each calculated as the average of the four most recent calendar quarters, or if the national bank or Federal savings association has not filed each applicable reporting form for each of the four most recent calendar quarters, for the most recent quarter or quarters, as applicable:

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

(2) Off-balance sheet exposure equal to \$75 billion or more. Off-balance sheet exposure is a national bank's or Federal savings association's total exposure, calculated in accordance with the instructions to the FR Y-15 or equivalent reporting form, minus the total consolidated assets of the national bank or Federal savings association, as reported on the Call Report; or

(3) 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 paragraph (2)(ii) of this definition, a national bank or Federal savings association continues to be a Category III national bank or Federal savings association until the national bank or Federal savings association:

(A) Has:

(1) Less than \$250 billion in total consolidated assets, as reported on the Call Report, for each of the four most recent calendar quarters;

(2) 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) 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; and

(4) Less than \$75 billion in off-balance sheet exposure for each of the four most recent calendar quarters. Off-balance sheet exposure is a national bank's or Federal savings association's total exposure, calculated in accordance with the instructions to the FR Y-15 or equivalent reporting form, minus the total consolidated assets of the national bank or Federal savings association, as reported on the Call Report; 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 Category II national bank or Federal savings association.

* * * * *

Category IV national bank or Federal savings association means a national bank or Federal savings association that is not a Category I national bank or Federal savings association, a Category II national bank or Federal savings association, or a Category III national bank or Federal savings association and that:

(1) Is a subsidiary of a Category IV banking organization, as defined pursuant to 12 CFR 252.5 or 12 CFR 238.10, as applicable; or

(2) Has total consolidated assets, calculated based on the average of the national bank's or Federal savings association's total consolidated assets for the four most recent calendar quarters as reported on the Call Report, of \$100 billion or more. If the national bank or Federal savings association has not filed the Call Report for each of the four most recent calendar quarters, total consolidated assets is calculated based on the average of its total consolidated assets, as reported on the Call Report, for the most recent quarter(s) available.

(3) After meeting the criterion in paragraph (2) of this definition, a national bank or Federal savings association continues to be a Category IV national bank or Federal savings association until it:

(i) 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

(ii) Is a Category II national bank or Federal savings association or Category III national bank or Federal savings association.

* * * * *

Commitment means a contractual arrangement, under which a national bank or Federal savings association and an obligor agree to terms applicable to one or more future extensions of credit, purchases of assets, or issuances of credit substitutes by the national bank or Federal savings association, whether or not such arrangement is unconditionally cancelable. A commitment is unconditionally cancellable if, by its terms, it either: (a) provides that a national bank or Federal savings association is not obligated to extend credit, purchase assets, or issue credit substitutes; or (b) permits a national bank or Federal savings association, at any time, with or without cause, to refuse to extend credit, purchase assets, or issue credit substitutes under the arrangement (to the extent permitted under applicable law).

* * * * *

Dependent on the cash flows generated by the real estate means, for a real estate exposure, the underwriting, at the time of origination, considers the cash flows generated by lease, rental, or sale of the real estate securing the loan as a source of repayment. For purposes of this definition, a residential mortgage exposure that is secured by the borrower's principal residence is deemed not dependent on the cash flows generated by the real estate.

* * * * *

Effective notional amount means for an eligible guarantee, eligible credit derivative, or eligible prepaid credit protection arrangement, the lesser of the contractual notional amount of the credit risk mitigant and the exposure amount of the hedged exposure, multiplied by the percentage coverage of the credit risk mitigant.

* * * * *

Eligible clean-up call means a clean-up call that:

(1) Is exercisable solely at the discretion of the originating national bank or Federal savings association or servicer;

(2) Is not structured to avoid allocating losses to securitization exposures held by investors or otherwise structured to provide credit enhancement to the securitization; and

(3) Is only exercisable:

(i) For a traditional securitization, when 10 percent or less of the principal amount of the underlying exposures or securitization exposures (determined as of the inception of the securitization) is outstanding;

(ii) For a synthetic securitization, when 10 percent or less of the principal amount of the reference portfolio of underlying exposures (determined as of the inception of the securitization) is outstanding;

(iii) Upon the occurrence of a regulatory event that significantly changes the risk-weighted asset amount for the securitization exposure under this part; or

(iv) Upon the occurrence of a tax event that significantly changes the tax treatment of the securitization exposure under applicable tax laws.

* * * * *

Eligible guarantee means a guarantee that:

(1) Is written;

(2) Is either:

(i) Unconditional, or

(ii) A contingent obligation of the U.S. government or its agencies, the enforceability of which is dependent upon some affirmative action on the part of the beneficiary of the guarantee or a third party (for example, meeting servicing requirements);

(3) Covers all or a pro rata portion of all contractual payments of the obligated party on the reference exposure;

(4) Gives the beneficiary a direct claim against the protection provider;

(5) Is not unilaterally cancelable by the protection provider for reasons other than the breach of the contract by the beneficiary;

(6) Except for a guarantee by a sovereign, is legally enforceable against the protection provider in a jurisdiction where the protection provider has sufficient assets against which a judgment may be attached and enforced;

(7) Requires the protection provider to make payment to the beneficiary on the occurrence of a default (as defined in the guarantee) of the obligated party on the reference exposure in a timely manner without the beneficiary first having to take legal actions to pursue the obligor for payment;

(8) Does not increase the beneficiary's cost of credit protection on the guarantee in response to deterioration in the credit quality of the reference exposure;

(9) Is not provided by an affiliate of the national bank or Federal savings association, unless the affiliate is an insured depository institution, foreign bank, securities broker or dealer, or insurance company that:

(i) Does not control the national bank or Federal savings association; and
(ii) Is subject to consolidated supervision and regulation comparable to that imposed on depository institutions, U.S. securities broker-dealers, or U.S. insurance companies (as the case may be); and

(10) Is provided by an eligible guarantor.

* * * * *

Eligible prepaid credit protection arrangement means a prepaid credit protection arrangement that:

(1) Is written;

(2) Is unconditional;

(3) Covers all or a pro rata portion of all contractual payments due to be paid on the reference exposure or reference exposures;

(4) Provides that the amount and timing of payments due from the protection purchaser to the protection provider are incorporated into the arrangement and the arrangement only allows these terms to change in the event of a breach of the arrangement by the protection purchaser;

(5) Provides that entry of the protection provider into receivership, insolvency, liquidation, conservatorship, or similar proceeding does not change the amounts or timing of payments due to be paid by the protection purchaser under the arrangement;

(6) Is legally valid and enforceable under applicable law of the relevant jurisdictions;

(7) Upon a failure by the obligor on the one or more reference exposures to make a contractually required payment, or the occurrence of other credit events as described in the arrangement, allows the protection purchaser promptly to reduce the outstanding balance of the initial principal amount due to the protection provider by the loss of the protection purchaser on the reference exposures without input from the protection provider; and

(8) Does not increase the protection purchaser's cost of credit protection in response to deterioration in the credit quality of any of the reference exposure.

* * * * *

Financial institution means:

* * * * *

(4) * * *

(i) * * *

(A) An investment in GAAP equity instruments of the company with an adjusted carrying value or exposure amount equal to or greater than \$10 million, as adjusted pursuant to § 3.4; or

* * * * *

Netting set means a group of transactions with a single counterparty

that are subject to a qualifying master netting agreement. For derivative contracts, netting set also includes a single derivative contract between a national bank or Federal savings association and a single counterparty.

* * * * *

Non-performing loan securitization (NPL securitization) means a traditional securitization, that is not a resecuritization, where parameter W (as defined in § 3.44(b)(1)) for the underlying exposures in a pool is greater than or equal to 90 percent at the origination cut-off date and at any subsequent date on which exposures are added to or removed from the pool of underlying exposures due to replenishment or restructuring.

Nonrefundable purchase price discount (NRPPD) means the difference between the outstanding principal balance of the underlying exposures at the time of sale and the price at which these exposures are sold by the originator to a company the activities of which are limited to those appropriate for the specific purpose of holding the underlying exposures of a securitization, when neither originator nor the original lender are reimbursed for this difference. In cases where the originator underwrites tranches of an NPL securitization for subsequent sale, the NRPPD may include the differences between the outstanding principal balance of the underlying exposures at the time of sale and the price at which all of the tranches are first sold to unrelated third parties. For any given piece of a securitization tranche, only its initial sale from the originator to investors is taken into account in the determination of NRPPD. The purchase prices of subsequent re-sales of a securitization tranche are not considered.

* * * * *

Prepaid credit protection arrangement means a contractual arrangement under which a protection purchaser transfers the credit risk of one or more reference exposures to a protection provider where:

(1) The protection provider pays an initial principal amount in cash to the protection purchaser at the inception of the transaction; and

(2) The protection purchaser is obligated to repay the initial principal amount to the protection provider on or before the maturity date of the transaction, less any losses that the protection purchaser realizes or otherwise recognizes due to nonpayment of all contractual payments

due to be paid on the reference exposure or reference exposures by the obligors.

* * * * *

Protection amount (P) means, with respect to an exposure hedged by an eligible guarantee, eligible credit derivative, or eligible prepaid credit protection arrangement, or secured by financial collateral, the effective notional amount of the guarantee, credit derivative, or prepaid credit protection arrangement, or the fair value of the financial collateral, reduced to reflect any currency mismatch, maturity mismatch, or lack of restructuring coverage (as provided in § 3.36–3.37 or § 3.120–121, as applicable).

* * * * *

Qualifying cross-product master netting agreement means a qualifying master netting agreement that provides for termination and close-out netting across multiple types of financial transactions or qualifying master netting agreements in the event of a counterparty's default, provided that the underlying financial transactions are derivative contracts or repo-style transactions that are not cleared transactions. In order to treat an agreement as a qualifying cross-product master netting agreement, a national bank or Federal savings association must comply with the requirements of § 3.3(c) of this part with respect to that agreement.

* * * * *

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

* * * * *

(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, a national bank or Federal savings association must comply with the requirements of § 3.3(d) with respect to that agreement.

* * * * *

Residential mortgage exposure means an exposure (other than a securitization exposure, equity exposure, statutory multifamily mortgage, or presold construction loan):

(1) * * *

(ii) With an original and outstanding amount of \$1 million or less, as adjusted pursuant to § 3.4, that is primarily secured by a first or subsequent lien on

residential property that is not one-to-four family; and

* * * * *

Senior securitization exposure means a securitization exposure that has a first-priority claim on the cash flows from the underlying exposures. When determining whether a securitization exposure has a first-priority claim on the cash flows from the underlying exposures, a national bank or Federal savings association is not required to consider amounts due under interest rate derivative, currency derivative, and servicer cash advance facility contracts; fees due; and other similar payments. Both the most senior commercial paper issued by an ABCP program and a liquidity facility that supports the ABCP program may be senior securitization exposures if the liquidity facility provider's right to reimbursement of the drawn amounts is senior to all claims on the cash flows from the underlying exposures except amounts due under interest rate derivative, currency derivative, and servicer cash advance facility contracts; fees due; and other similar payments.

* * * * *

Specified supranational entity means the Bank for International Settlements, the European Central Bank, the European Commission, the International Monetary Fund, the European Stability Mechanism, or the European Financial Stability Facility.

* * * * *

Speculative grade means that the entity to which the national bank or Federal savings association is exposed through a loan or security, or the reference entity with respect to a credit derivative, has adequate capacity to meet financial commitments in the near term, but is vulnerable to adverse economic conditions, such that should economic conditions deteriorate, the issuer or the reference entity would present an elevated default risk.

* * * * *

Sub-speculative grade means that the entity to which the national bank or Federal savings association is exposed through a loan or security, or the reference entity with respect to a credit derivative, depends on favorable economic conditions to meet its financial commitments, such that should such economic conditions deteriorate the issuer or the reference entity likely would default on its financial commitments.

* * * * *

Synthetic excess spread means any contractual provisions in a synthetic securitization that are designed to

absorb losses prior to any of the tranches of the securitization structure.

Synthetic securitization means a transaction in which:

(1) All or a portion of the credit risk of one or more underlying exposures is retained or transferred to one or more third parties through the use of one or more credit derivatives, guarantees (other than a guarantee that transfers only the credit risk of an individual retail exposure), or prepaid credit protection arrangements;

(2) The credit risk associated with the underlying exposures has been separated into at least two tranches reflecting different levels of seniority;

(3) Performance of the securitization exposures depends solely upon the performance of the underlying exposures; and

(4) All or substantially all of the underlying exposures are financial exposures (such as loans, commitments, credit derivatives, guarantees, receivables, asset-backed securities, mortgage-backed securities, other debt securities, or equity securities).

* * * * *

Traditional securitization means a transaction in which:

(1) All or a portion of the credit or equity risk of one or more underlying exposures is transferred to one or more third parties other than through the use of credit derivatives, guarantees, or prepaid credit protection arrangements;

(2) The credit risk associated with the underlying exposures has been separated into at least two tranches reflecting different levels of seniority;

(3) Performance of the securitization exposures depends solely upon the performance of the underlying exposures;

(4) All or substantially all of the underlying exposures are financial exposures (such as loans, commitments, credit derivatives, guarantees, receivables, asset-backed securities, mortgage-backed securities, other debt securities, or equity securities);

(5) The underlying exposures are not owned by an operating company;

(6) The underlying exposures are not owned by a small business investment company defined in section 302 of the Small Business Investment Act;

(7) The underlying exposures are not owned by a firm an investment in which qualifies as a community development investment under section 24(Eleventh) of the National Bank Act;

(8) The OCC may determine that a transaction in which the underlying exposures are owned by an investment firm that exercises substantially unfettered control over the size and

composition of its assets, liabilities, and off-balance sheet exposures is not a traditional securitization based on the transaction's leverage, risk profile, or economic substance;

(9) The OCC may deem a transaction that meets the definition of a traditional securitization, notwithstanding paragraph (5), (6), or (7) of this definition, to be a traditional securitization based on the transaction's leverage, risk profile, or economic substance; and

(10) The transaction is not:

(i) An investment fund;

(ii) A collective investment fund (as defined in 12 CFR 9.18 (national banks), 12 CFR 151.40 (Federal saving associations));

(iii) An employee benefit plan (as defined in paragraphs (3) and (32) of section 3 of ERISA), 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;

(iv) A synthetic exposure to the capital of a financial institution to the extent deducted from capital under § 3.22; or

(v) Registered with the SEC under the Investment Company Act of 1940 (15 U.S.C. 80a-1) or foreign equivalents thereof.

* * * * *

■ 4. Add § 3.4 to read as follows:

§ 3.4 Threshold Indexing.

(a) *Methodology.* The dollar thresholds specified in paragraph (c) of this section shall be adjusted by multiplying the baseline threshold values specified in paragraph (c) of this section by one plus the cumulative percent change in the non-seasonally adjusted Consumer Price Index for Urban Wage Earners and Clerical Workers, measured from the effective date of this rule, as further described in paragraph (b) of this section, and shall be rounded in accordance with paragraph (d) of this section.

(b) *Frequency.* (1) *In general—biennial adjustments.* Except as otherwise provided in paragraph (b)(2) and (b)(3) of this section, the adjustments described in paragraph (a) of this section shall be effective on October 1 following each consecutive two year period ending August 30, and using the non-seasonally adjusted Consumer Price Index for Urban Wage Earners and Clerical Workers as of August 30 of that year.

(2) *Off-year adjustments.* In the event that the OCC determines, during a year

where no adjustment would be made under paragraph (b)(1), that the non-seasonally adjusted Consumer Price Index for Urban Wage Earners and Clerical Workers, measured over the twelve month period ending August 30 of that year, is such that an adjustment under this section would be appropriate for that year, the OCC may make an adjustment under this section for that year.

(3) *Periods of negative inflation.* Notwithstanding paragraph (b)(1) or (b)(2) of this section, if an adjustment of dollar thresholds using the cumulative percent change of the non-seasonally adjusted Consumer Price Index for Urban Wage Earners and Clerical Workers from the effective date of this rule or the most recent adjustment, as applicable, would not result in an increase from the current dollar thresholds, no adjustment will be made pursuant to paragraph (a) of this section.

(c) *Specified thresholds.* The thresholds in the following sections shall be adjusted in accordance with paragraph (a) of this section relative to the baseline threshold values as specified below.

(1) Section 3.1(c)(4)(i), baseline threshold value \$50 billion.

(2) Section 3.2, paragraph (4)(i)(A) of the definition of “Financial institution,” baseline threshold value \$10 million;

(3) Section 3.2, definition of “Residential mortgage exposure,” baseline threshold value \$1 million;

(4) Section 3.61, baseline threshold value \$50 billion.

(d) *Rounding.* When adjusting thresholds under this section, each threshold shall be rounded based on the size of the threshold (e.g., thousands, millions, billions) to the nearest number with two significant digits.

(e) *Effective date of threshold adjustments.* The OCC shall announce the thresholds adjusted in accordance with this section by publication in the **Federal Register**. Such adjusted thresholds shall be effective on October 1 of the year during which an adjustment is made.

(f) *Failure to publish in the **Federal Register**.* In the event, for any reason, the thresholds adjusted in accordance with this section are not published in the **Federal Register** in a year in which an adjustment is made under this section, the thresholds specified in paragraph (c) of this section will adjust as provided in this section and be effective on October 1, notwithstanding the lack of publication in the **Federal Register**.

* * * * *

■ 5. Add § 3.5 to read as follows:

§ 3.5 Calculation of loan-to-value (LTV) ratio.

(a) *Loan-to-value ratio.* The loan-to-value (LTV) ratio must be calculated as the extension of credit divided by the value of the property.

(b) *Extension of credit.* For purposes of a LTV ratio calculated under this § 3.5, the extension of credit is equal to the total outstanding amount of the loan including any undrawn committed amount of the loan.

(c) *Value of the property.* (1) For purposes of a LTV ratio calculated under this § 3.5, the value of the property is the market value of all real estate properties securing or being improved by the extension of credit plus the amount of any readily marketable collateral and other acceptable collateral, as defined in 12 CFR part 34, appendix A to subpart D, that secures the extension of credit, subject to the following:

(i) For exposures subject to 12 CFR part 34, subpart C, the market value of property is a valuation that meets all requirements of that rule.

(ii) For exposures not subject to 12 CFR part 34, subpart C:

(A) The market value of real estate must be obtained from an independent valuation of the property using prudently conservative valuation criteria;

(B) The valuation must be done independently from the national bank's or Federal savings association's origination and underwriting process; and

(C) To ensure that the market value of the real estate is determined in a prudently conservative manner, the valuation must exclude expectations of price increases and must be adjusted downward to account for the potential for the current market price to be significantly above the value that would be sustainable over the life of the loan.

(2) In the case where the exposure includes the financing to purchase the property, the value of the property is the lower of the market value obtained under paragraph (c)(1)(i) or (c)(1)(ii) of this section, as applicable, and the actual acquisition cost.

(3) The value of the property must be measured at the time of origination, except in the following circumstances:

(i) The OCC requires a national bank or Federal savings association to revise the value of the property downward;

(ii) The value of the property must be adjusted downward due to an extraordinary event that results in a permanent reduction of the property value; or

(iii) The value of the property may be increased to reflect modifications made

to the property that increase the market value, as determined according to the requirements in paragraphs (c)(1)(i) or (c)(1)(ii) of this section.

(4) Readily marketable collateral and other acceptable collateral, as defined in 12 CFR part 34, appendix A to subpart D, must be appropriately discounted by the national bank or Federal savings association consistent with the national bank's or Federal savings association's usual practices for making loans secured by such collateral.

■ 6. Amend § 3.22 by:

■ a. Redesignating footnotes 22 through 31 as footnotes 1 through 10; and

■ b. Revising paragraph (b), the heading of paragraph (d), and paragraph (d)(1).

The revisions read as follows:

§ 3.22 Regulatory capital adjustments and deductions.

* * * * *

(b) *Regulatory adjustments to common equity tier 1 capital.*

(1) A national bank or Federal savings association must adjust the sum of common equity tier 1 capital elements pursuant to the requirements set forth in this paragraph (b). Such adjustments to common equity tier 1 capital must be made net of the associated deferred tax effects.

(i) A national bank or Federal savings association that makes an AOCI opt-out election (as defined in paragraph (b)(2) of this section), must make the adjustments required under paragraph (b)(2)(i) of this section.

(ii) A national bank or Federal savings association that is an advanced approaches national bank or Federal savings association, Category III national bank or Federal savings association, or Category IV national bank or Federal savings association, and a national bank or Federal savings association that has not made an AOCI opt-out election (as defined in paragraph (b)(2) of this section), must deduct any accumulated net gains and add any accumulated net losses on cash flow hedges included in AOCI that relate to the hedging of items that are not recognized at fair value on the balance sheet.

(iii) A national bank or Federal savings association must deduct any net gain and add any net loss related to changes in the fair value of liabilities that are due to changes in the national bank's or Federal savings association's own credit risk. An advanced approaches national bank or Federal savings association, Category III national bank or Federal savings association, or Category IV national bank or Federal savings association must deduct the difference between its credit spread premium and the risk-free rate for

derivatives that are liabilities as part of this adjustment.

(2) AOCI opt-out election.

(i) A national bank or Federal savings association that is not an advanced approaches national bank or Federal savings association, Category III national bank or Federal savings association, or Category IV national bank or Federal savings association may make a one-time election to opt out of the requirement to include all components of AOCI (with the exception of accumulated net gains and losses on cash flow hedges related to items that are not fair-valued on the balance sheet) in common equity tier 1 capital (AOCI opt-out election). A national bank or Federal savings association that makes an AOCI opt-out election in accordance with this paragraph (b)(2) must adjust common equity tier 1 capital as follows:

(A) Subtract any net unrealized gains and add any net unrealized losses on available-for-sale securities;

(B) Subtract any accumulated net gains and add any accumulated net losses on cash flow hedges;

(C) Subtract any amounts recorded in AOCI attributed to defined benefit postretirement plans resulting from the initial and subsequent application of the relevant GAAP standards that pertain to such plans (excluding, at the national bank's or Federal savings association's option, the portion relating to pension assets deducted under paragraph (a)(5) of this section); and

(D) Subtract any net unrealized gains and add any net unrealized losses on held-to-maturity securities that are included in AOCI.

(ii) (A) A national bank or Federal savings association that is not an advanced approaches national bank or Federal savings association, Category III national bank or Federal savings association, or Category IV national bank or Federal savings association must make its AOCI opt-out election in the Call Report during the first reporting period after the national bank or Federal savings association is required to comply with subpart A of this part as set forth in § 3.1(f).

(B) Notwithstanding paragraph (b)(ii)(A) of this section, if a national bank or Federal savings association was previously an advanced approaches national bank or Federal savings association, Category III national bank or Federal savings association, or Category IV national bank or Federal savings association, the national bank or Federal savings association must make its AOCI opt-out election in the Call Report during the first reporting period after the national bank or Federal savings association ceased to be an

advanced approaches national bank or Federal savings association, Category III national bank or Federal savings association, or Category IV national bank or Federal savings association.

(iii) With respect to a national bank or Federal savings association that is not an advanced approaches national bank or Federal savings association, Category III national bank or Federal savings association, or Category IV national bank or Federal savings association, each of its subsidiary banking organizations that is subject to regulatory capital requirements issued by the Board of Governors of the Federal Reserve, the Federal Deposit Insurance Corporation, or the Office of the Comptroller of the Currency²¹ must elect the same option as the national bank or Federal savings association pursuant to this paragraph (b)(2).

(iv) With prior notice to the OCC, a national bank or Federal savings association resulting from a merger, acquisition, or purchase transaction and that is not an advanced approaches national bank or Federal savings association, a Category III national bank or Federal savings association, or a Category IV national bank or Federal savings association, may make a new AOCI opt-out election in the Call Report filed by the resulting national bank or Federal savings association for the first reporting period after it is required to comply with subpart A of this part as set forth in § 3.1(f) if:

(A) Other than as set forth in paragraph (b)(2)(iv)(C) of this section, the merger, acquisition, or purchase transaction involved the acquisition or purchase of all or substantially all of either the assets or voting stock of another banking organization that is subject to regulatory capital requirements issued by the Board of Governors of the Federal Reserve, the Federal Deposit Insurance Corporation, or the Office of the Comptroller of the Currency;²²

(B) Prior to the merger, acquisition, or purchase transaction, only one of the banking organizations involved in the transaction made an AOCI opt-out election under this section; and

(C) A national bank or Federal savings association may, with the prior approval of the OCC, change its AOCI opt-out election under this paragraph (b) in the case of a merger, acquisition, or purchase transaction that meets the requirements set forth at paragraph (b)(2)(iv)(B) of this section, but does not meet the requirements of paragraph (b)(2)(iv)(A) of this section. In making such a determination, the OCC may consider the terms of the merger, acquisition, or purchase transaction, as

well as the extent of any changes to the risk profile, complexity, and scope of operations of the national bank or Federal savings association resulting from the merger, acquisition, or purchase transaction.

* * * * *

(d) *Certain DTAs subject to common equity tier 1 capital deduction thresholds.*

(1) A national bank or Federal savings association that is not an advanced approaches national bank or Federal savings association must make deductions from regulatory capital as described in this paragraph (d)(1).

(i) The national bank or Federal savings association must deduct from common equity tier 1 capital elements the amount of DTAs as described in paragraph (d)(1)(ii) of this section that exceeds 25 percent of the sum of the national bank's or Federal savings association's common equity tier 1 capital elements, less adjustments to and deductions from common equity tier 1 capital required under paragraphs (a) through (c)(3) of this section (the 25 percent common equity tier 1 capital deduction threshold).²⁹

(ii) The national bank or Federal savings association must deduct from common equity tier 1 capital elements the amount of DTAs arising from temporary differences that the national bank or Federal savings association could not realize through net operating loss carrybacks, net of any related valuation allowances and net of DTLs, in accordance with paragraph (e) of this section. A national bank or Federal savings association is not required to deduct from the sum of its common equity tier 1 capital elements DTAs (net of any related valuation allowances and net of DTLs, in accordance with § 3.22(e)) arising from timing differences that the national bank or Federal savings association could realize through net operating loss carrybacks. The national bank or Federal savings association must risk weight these assets at 100 percent. For a national bank or Federal savings association that is a member of a consolidated group for tax purposes, the amount of DTAs that could be realized through net operating loss carrybacks may not exceed the amount that the national bank or Federal savings association could reasonably expect to have refunded by its parent holding company.

(iii) For purposes of calculating the amount of DTAs subject to deduction pursuant to paragraph (d)(1) of this section, a national bank or Federal savings association may exclude DTAs and DTLs relating to adjustments made

to common equity tier 1 capital under paragraph (b) of this section. A national bank or Federal savings association that elects to exclude DTAs relating to adjustments under paragraph (b) of this section also must exclude DTLs and must do so consistently in all future calculations. A national bank or Federal savings association may change its exclusion preference only after obtaining the prior approval of the OCC.

* * * * *

²² These rules include the regulatory capital requirements set forth at 12 CFR part 3 (OCC); 12 CFR part 225 (Board); 12 CFR part 325, and 12 CFR part 390 (FDIC).

* * * * *

²⁹ The amount of the items in paragraph (d)(1) of this section that is not deducted from common equity tier 1 capital must be included in the risk-weighted assets of the

national bank or Federal savings association and assigned a 250 percent risk weight.

* * * * *

■ 7. In § 3.32:

■ a. Revise paragraph (f)(1);

■ b. Revise paragraph (g)(1);

■ c. Revise paragraph (l)(5).

The revisions read as follows:

§ 3.32 General risk weights.

* * * * *

(f) Corporate exposures.

(1) A national bank or Federal savings association must assign a 95 percent risk weight to all its corporate exposures, except as provided in paragraphs (f)(2) and (f)(3) of this section.

* * * * *

(g) Residential mortgage exposures.

(1) A national bank or Federal savings association must assign a risk weight in

accordance with Table 5 to § 3.32 or Table 6 to § 3.32, as applicable, to a first-lien residential mortgage exposure that:

(i) Is secured by a property that is either owner-occupied or rented;

(ii) Is made in accordance with prudent underwriting standards, including relating to the loan amount as a percent of the appraised value of the property;

(iii) Is not 90 days or more past due or carried in nonaccrual status; and

(iv) Is not restructured or modified, provided that a loan modified or restructured solely pursuant to the U.S. Treasury's Home Affordable Mortgage Program is not modified or restructured for purposes of this section.

TABLE 5—RISK WEIGHTS FOR RESIDENTIAL MORTGAGES THAT ARE NOT DEPENDENT ON THE CASH FLOWS GENERATED BY THE REAL ESTATE BASED ON LTV¹

	LTV ratio ≤ 50%	50% < LTV ratio ≤ 60%	60% < LTV ratio ≤ 80%	80% < LTV ratio ≤ 90%	90% < LTV ratio ≤ 100%	LTV ratio > 100%
Risk Weight	25%	30%	35%	45%	55%	75%

¹ LTV is calculated in accordance with § 3.5.

TABLE 6—PROPOSED RISK WEIGHTS FOR RESIDENTIAL MORTGAGE EXPOSURES DEPENDENT ON THE CASH FLOWS GENERATED BY THE REAL ESTATE AND BASED ON LTV²

	LTV ratio ≤ 50%	50% < LTV ratio ≤ 60%	60% < LTV ratio ≤ 80%	80% < LTV ratio ≤ 90%	90% < LTV ratio ≤ 100%	LTV ratio > 100%
Risk Weight	35%	40%	50%	65%	80%	110%

¹ LTV is calculated in accordance with § 3.5.

(2) A national bank or Federal savings association must assign a 100 percent risk weight to a first-lien residential mortgage exposure that does not meet the criteria in paragraph (g)(1) of this section or for which the national bank or Federal savings association cannot calculate the LTV in accordance with 12 CFR 3.5, and to junior-lien residential mortgage exposures.

(3) For the purpose of this paragraph (g), if a national bank or Federal savings association holds the first-lien and junior-lien(s) residential mortgage exposures, and no other party holds an intervening lien, the national bank or Federal savings association must combine the exposures and treat them as a single first-lien residential mortgage exposure.

* * * * *

(l) * * *

(5) A national bank or Federal savings association must assign a 90 percent risk weight to all assets not specifically assigned a different risk weight under this subpart D and that are not deducted

from tier 1 or tier 2 capital pursuant to § 3.22.

* * * * *

■ 8. In § 3.33:

■ a. Add paragraph (a)(5);

■ b. Remove paragraph (b)(2)(ii) and redesignate paragraph (b)(2)(i) as paragraph (b)(2);

■ c. Revise paragraph (b)(3);

■ d. Redesignate paragraph (b)(4) as new paragraph (b)(5); and

■ e. Add new paragraph (b)(4).

The revision reads as follows:

§ 3.33 Off-balance sheet exposures.

(a) *General.*

* * * * *

(5) For purposes of this section if a commitment does not have an express contractual maximum amount that can be drawn, the committed but undrawn amount of the commitment is equal to the highest total drawn amount over the period since the commitment was created or the prior 24 months, whichever period is shorter, minus the current drawn amount.

* * * * *

(b) *Credit conversion factors—*

* * * * *

(2) *20 percent CCF.* A national bank or Federal savings association must apply a 20 percent CCF to the amount of self-liquidating, trade-related contingent items that arise from the movement of goods, with an original maturity of one year or less.

(3) *40 percent CCF.* A national bank or Federal savings association must apply a 40 percent CCF to commitments, regardless of the maturity of the facility, unless they qualify for a lower or higher CCF.

(4) *50 percent CCF.* A national bank or Federal savings association must apply a 50 percent CCF to the amount of:

(i) Transaction-related contingent items, including performance bonds, bid bonds, warranties, and performance standby letters of credit; and

(ii) Note issuance facilities and revolving underwriting facilities.

(5) *100 percent CCF.* * * *

* * * * *

■ 9. Amend § 3.34 by revising paragraph (c)(2) to read as follows:

§ 3.34 Derivative contracts.

* * * *

(c) * * *

(2) As an alternative to the simple approach, a national bank or Federal savings association using CEM under paragraph (b) of this section may recognize the credit risk mitigation benefits of financial collateral that secures such a contract or netting set if the financial collateral is marked-to-fair value on a daily basis and subject to a daily margin maintenance requirement by applying a risk weight to the uncollateralized portion of the exposure, after adjusting the exposure amount calculated under paragraph (b)(1) or (2) of this section using the collateral haircut approach in § 3.37(e). The national bank or Federal savings association must substitute the exposure amount calculated under paragraph (b)(1) or (2) of this section for $\sum_i E_i$ in the equation in § 3.37(e)(2).

* * * *

■ 10. Amend § 3.36 by revising paragraph (e) to read as follows:

§ 3.36 Guarantees and credit derivatives: substitution treatment.

* * * *

(e) *Adjustment for credit derivatives without restructuring as a credit event.*

(1) If a national bank or Federal savings association recognizes an eligible credit derivative that does not include as a credit event a restructuring of the hedged exposure involving forgiveness or postponement of principal, interest, or fees that results in a credit loss event (that is, a charge-off, specific provision, or other similar debit to the profit and loss account), the national bank or Federal savings association must apply the adjustment in paragraph (e)(2) of this section to reduce the effective notional amount of the credit derivative unless:

(i) The terms of the hedged exposure and the reference exposure, if different from the hedged exposure, allow the maturity, principal, coupon, currency, or seniority status of the exposure to be amended outside of receivership, insolvency, liquidation, or similar proceeding only by unanimous consent of all parties; and

(ii) The national bank or Federal savings association has conducted sufficient legal review to conclude with a well-founded basis (and maintains sufficient written documentation of that legal review) that the hedged exposure is subject to the U.S. Bankruptcy Code, the Federal Deposit Insurance Act, or a domestic or foreign insolvency regime

with similar features that allow for a company to liquidate, reorganize, or restructure and provides for an orderly settlement of creditor claims.

(2) The national bank or Federal savings association must apply the following adjustment to reduce the effective notional amount of any eligible credit derivative that is subject to adjustment under paragraph (e)(1) of this section:

$$Pr = Pm \times 0.60$$

Where:

- (i) Pr = effective notional amount of the credit risk mitigant, adjusted for lack of restructuring event (and maturity mismatch, if applicable); and
- (ii) Pm = effective notional amount of the credit risk mitigant (adjusted for maturity mismatch, if applicable).

* * * *

■ 11. Amend § 3.37 to read as follows:

§ 3.37 Collateralized transactions and prepaid credit protection arrangements.

(a) *Financial Collateral.* (1) To recognize the risk-mitigating effects of financial collateral, a national bank or Federal savings association may use:

- (i) The simple approach in paragraph (b) of this section; or
- (ii) The collateral haircut approach in paragraph (e) of this section for repo-style transactions, eligible margin loans, collateralized derivative contracts, and single-product netting sets of such transactions, subject to paragraph (a)(3) of this section.

(2) A national bank or Federal savings association must use the same approach to recognize the risk-mitigating effects of financial collateral for similar exposures or transactions.

(3) A national bank or Federal savings association that has elected under § 3.34(a)(1)(ii) to use the standardized approach for counterparty credit risk (SA-CCR) for derivative contracts may elect to also use SA-CCR for repo-style transactions that are subject to a qualifying cross-product master netting agreement with derivative contracts, subject to the requirements of paragraph (f) of this section. A national bank or Federal savings association that uses SA-CCR to determine the exposure amount of a derivative contract or netting set may use not the simple approach in paragraph (b) of this section or the collateral haircut approach under paragraph (e) of this section for the exposures for which SA-CCR is used.

(b) *The simple approach*—(1) *General requirements.* To qualify for the simple approach under this paragraph (b), the financial collateral must meet the following requirements:

- (i) The collateral must be revalued at least every six months;

(ii) The legal mechanism by which financial collateral is pledged or transferred must be enforceable in the relevant jurisdictions and ensure that the national bank or Federal savings association has the contractual right, as applicable to the characteristics of the financial collateral and exposure, to liquidate or take legal possession of the financial collateral, setoff amounts owed to the obligor against amounts owed to the national bank or Federal savings association and close out any transaction giving rise to the secured exposure, in a timely manner, in the event of the default, insolvency or bankruptcy (or one or more otherwise-defined credit events set out in the transaction documentation) of the obligor; and

(iii) The national bank or Federal savings association must be able to reasonably demonstrate the ability to protect and enforce its rights in respect of any financial collateral.

(2) *Risk weight substitution.* (i) A national bank or Federal savings association may apply a risk weight to the portion of an exposure that is secured by financial collateral that meets the requirements of paragraph (b) of this section, up to the protection amount of the financial collateral as adjusted by paragraph (d) of this section, based on the risk weight assigned to the collateral under this subpart. For repurchase agreements, reverse repurchase agreements, and securities lending and borrowing transactions, the collateral is the instruments, gold, and cash the national bank or Federal savings association has borrowed, purchased subject to resale, or taken as collateral from the counterparty under the transaction. Except as provided in paragraph (b)(3) of this section, the risk weight assigned to the protected portion of the exposure may not be less than 20 percent.

(ii) A national bank or Federal savings association must apply a risk weight to the amount of an exposure in excess of the protection amount of financial collateral securing the exposure based on the risk weight applicable to the exposure under this subpart.

(3) *Exceptions to the 20 percent risk weight floor and other requirements.* Notwithstanding paragraph (b)(2)(i) of this section, a national bank or Federal savings association may assign a zero percent risk weight up to the protection amount of the financial collateral where:

- (i) The financial collateral is cash on deposit; or
- (ii) The financial collateral is an exposure to a sovereign that qualifies for a zero percent risk weight under § 3.32, and the national bank or Federal savings

association has discounted the fair value of the collateral by 20 percent.

(c) *Eligible prepaid credit protection arrangements.* (1) *Scope.* A national bank or Federal savings association may recognize the credit risk mitigation benefits of an eligible prepaid credit protection arrangement as provided under this paragraph.

(2) *Application.* This paragraph applies to exposures, including securitization exposures, for which:

(i) Credit risk is fully covered by an eligible prepaid credit protection arrangement; or

(ii) Credit risk is covered on a pro rata basis (that is, on a basis in which the national bank or Federal savings association and the protection provider share losses proportionately) by an eligible prepaid credit protection arrangement.

(3) *Tranching of credit risk.* Exposures on which there is a tranching of credit risk (reflecting at least two different levels of seniority) generally are securitization exposures subject to § 3.41 through § 3.45.

(4) *Multiple eligible prepaid credit protection arrangements.* If multiple eligible prepaid credit protection arrangements cover a single exposure, a national bank or Federal savings association may treat the hedged exposure as multiple separate exposures each covered by a single eligible credit protection arrangement and may calculate a separate risk-weighted asset amount for each separate exposure as described in paragraph (c)(6) of this section.

(5) *Single eligible credit protection arrangements.* If a single eligible credit protection arrangement covers multiple hedged exposures, a national bank or Federal savings association must treat each hedged exposure as covered by a separate eligible credit protection arrangement and must calculate a separate risk-weighted asset amount for each exposure as described in paragraph (c)(6) of this section.

(6) *Prepaid credit protection arrangements—The substitution approach.* (i) *Full coverage.* If an eligible prepaid credit protection arrangement meets the conditions in paragraphs (c)(1) through (5) of this section and the protection amount (P) of the prepaid credit protection arrangement is greater than or equal to the exposure amount of the reference exposure, a national bank or Federal savings association may assign a zero percent risk weight to the reference exposure.

(ii) *Partial coverage.* If an eligible prepaid credit protection arrangement meets the conditions in paragraphs (c)(1) through (5) of this section and the

protection amount (P) of the prepaid credit protection arrangement is less than the exposure amount of the reference exposure, the national bank or Federal savings association must treat the reference exposure as two separate exposures (protected and unprotected) in order to recognize the credit risk mitigation benefit of the prepaid credit protection arrangement.

(A) The national bank or Federal savings association may apply a risk-weight of zero percent for the protected exposure.

(B) The national bank or Federal savings association must calculate the risk-weighted asset amount for the unprotected exposure under this subpart D, where the applicable risk weight is that of the unprotected portion of the reference exposure.

(C) The treatment provided in this section is applicable when the credit risk of a reference exposure is covered on a partial pro rata basis and may be applicable when an adjustment is made to the effective notional amount of the prepaid credit protection arrangement under paragraph (d) of this section.

(d) *Required adjustments—*(1) *Maturity mismatch adjustment.* (i) A national bank or Federal savings association that recognizes the credit risk mitigation benefits of financial collateral under paragraph (b) of this section or of an eligible prepaid credit protection arrangement under paragraph (c) of this section must adjust the amount of credit risk mitigation recognized to reflect any maturity mismatch.

(ii) A maturity mismatch occurs when:

(A) The residual maturity of the legal mechanism by which financial collateral is pledged is less than that of the secured exposure(s); or

(B) The residual maturity of an eligible prepaid credit protection arrangement is less than that of the reference exposure.

(iii) The residual maturity of a secured exposure under paragraph (b) of this section or a reference exposure under paragraph (c) of this section is the longest possible remaining time before the obligated party of the secured exposure or reference exposure is scheduled to fulfil its obligation on the exposure. For purposes of this paragraph (d)(1)(iii):

(A) For an eligible prepaid credit protection arrangement, if the terms of the arrangement include embedded options that may reduce its term, the national bank or Federal savings association (protection purchaser) must adjust the residual maturity. If a call is at the discretion of the protection

provider, the residual maturity is at the first call date. If the call is at the discretion of the national bank or Federal savings association (protection purchaser), but the terms of the arrangement at origination contain a positive incentive for the national bank or Federal savings association to cancel the arrangement before contractual maturity, the remaining time to the first call date is the residual maturity.

(B) For financial collateral that is not cash on deposit at the national bank or Federal savings association, but including cash held for the national bank or Federal savings association by a third-party custodian or trustee, the residual maturity of any amount of such financial collateral is the earliest date on which the national bank's or Federal savings association's rights in respect of such amount of financial collateral may be terminated without the pledgor being subject to a contemporaneous requirement to pledge additional financial collateral. For financial collateral that is cash on deposit at the national bank or Federal savings association, the residual maturity of any amount of such cash collateral is the earliest date on which a depositor may withdraw such amount, notwithstanding any notice requirements or early withdrawal fees or penalties.

(iv) The credit risk mitigation benefits of financial collateral or an eligible prepaid credit protection arrangement with a maturity mismatch may be recognized only if the original maturity of the legal mechanism by which financial collateral is pledged or the eligible prepaid credit protection arrangement is greater than or equal to one year and its residual maturity is greater than three months.

(v) When a maturity mismatch exists, the national bank or Federal savings association must apply the following adjustment to reduce the protection amount:

$$P_m = E \times (t - 0.25) / (T - 0.25)$$

Where:

(A) P_m = fair value of the financial collateral or effective notional amount of the eligible prepaid credit protection arrangement, adjusted for maturity mismatch;

(B) E = fair value of the financial collateral or effective notional amount of the eligible prepaid credit protection arrangement;

(C) t = the lesser of T or the residual maturity of the arrangement, expressed in years; and

(D) T = the lesser of five or the residual maturity of the secured exposure or reference exposure, expressed in years.

(2) *Currency mismatch adjustment.* (i) If a national bank or Federal savings association recognizes the credit risk mitigation benefits of financial collateral under paragraph (b) of this section or of an eligible prepaid credit protection arrangement under paragraph (c) of this section that is denominated in a currency different from that in which the secured or reference exposure is denominated, the national bank or Federal savings association must apply the following formula to the fair value of the financial collateral or the effective notional amount of the eligible prepaid credit protection arrangement:

$$H_{FX} = 8\% \times \sqrt{\frac{T_M}{10}}, \text{ where } T_M \text{ equals the greater of 10 or the number of business days}$$

between revaluations.

(e) *Collateral haircut approach—Exposure amount for eligible margin loans and repo-style transactions.* (1) *General.* A national bank or Federal savings association may recognize the credit risk mitigation benefits of financial collateral that secures an eligible margin loan, repo-style transaction, collateralized derivative contract, or netting set of eligible margin

$$P_c = P_r \times (1 - H_{FX})$$

Where:

- (A) P_c = fair value of the financial collateral or the effective notional amount of the eligible prepaid credit protection arrangement, adjusted for currency mismatch (and maturity mismatch, if applicable);
- (B) P_r = fair value of the financial collateral or the effective notional amount of the eligible prepaid credit protection arrangement (adjusted for maturity mismatch, if applicable); and
- (C) H_{FX} = haircut appropriate for the currency mismatch between the financial collateral and the secured exposure or the eligible prepaid credit protection

arrangement and the reference exposure, as determined under paragraphs (d)(2)(ii) through (iii) of this section.

(ii) Subject to paragraph (d)(2)(iii) of this section, a national bank or Federal savings association must set H_{FX} equal to eight percent.

(iii) A national bank or Federal savings association must increase H_{FX} as determined under paragraph (d)(2)(ii) of this section if the national bank or Federal savings association revalues the financial collateral or eligible prepaid credit protection arrangement less frequently than once every 10 business days using the following formula:

loans, repo-style transactions, or collateralized derivative contracts, and of any collateral that secures a repo-style transaction that is included in the national bank's or Federal savings association's measure for market risk under subpart F of this part, by using the collateral haircut approach covered in this paragraph (e) of this section.

(2) *Exposure amount calculation.* For purposes of the collateral haircut

approach, a national bank or Federal savings association must determine the exposure amount for an eligible margin loan, repo-style transaction, collateralized derivative contract, or netting set of eligible margin loans, repo-style transactions, or collateralized derivative contracts according to the following formula:

$$E^* = \max \left\{ 0; \left(\sum_i E_i - \sum_i C_i \right) + \left(0.4 \times \text{net}_{\text{exposure}} \right) + \left(0.6 \times \frac{\text{gross}_{\text{exposure}}}{\sqrt{N}} \right) + \right.$$

$$\left. \left(\sum_{fx} (E_{fx} \times H_{fx}) \right) \right\} \text{ where:}$$

- (i) E^* is the exposure amount of the eligible margin loan, repo-style transaction, or netting set after credit risk mitigation;
- (ii) E_i is:
 - (A) For eligible margin loans and repo-style transactions and netting sets thereof, the current fair value of the instrument, cash, or gold the national bank or Federal savings association has lent, sold subject to repurchase, or posted as collateral to the counterparty; and
 - (B) For collateralized derivative contracts and netting sets thereof, the exposure amount of the OTC derivative contract or netting set calculated under § 3.34(b)(1) or (2);
- (iii) C_i is the current fair value of the instrument, cash, or gold the banking organization has borrowed, purchased subject to resale, or taken as collateral from the counterparty;
- (iv) $\text{net}_{\text{exposure}} = |\sum_s E_s H_s|$;
- (v) $\text{gross}_{\text{exposure}} = \sum_s E_s |H_s|$;
- (vi) E_s is the absolute value of the net position in a given instrument or in gold, where the net position in a given instrument or gold equals the sum of the

- current fair values of the instrument or gold the national bank or Federal savings association has lent, sold subject to repurchase, or posted as collateral to the counterparty, minus the sum of the current fair values of that same instrument or gold the national bank or Federal savings association has borrowed, purchased subject to resale, or taken as collateral from the counterparty;
- (vii) H_s is the haircut appropriate to E_s as described in Table 1 to § 3.37, as applicable. H_s has a positive sign if the instrument or gold is net lent, sold subject to repurchase, or posted as collateral to the counterparty; H_s has a negative sign if the instrument or gold is net borrowed, purchased subject to resale, or taken as collateral from the counterparty;
- (viii) N is the number of instruments with a unique Committee on Uniform Securities Identification Procedures (CUSIP) designation or foreign equivalent that the national bank or Federal savings association lends, sells subject to

repurchase, posts as collateral, borrows, purchases subject to resale, or takes as collateral in the eligible margin loan, repo-style transaction, collateralized derivative contract, or netting set, including all collateral that the national bank or Federal savings association elects to include within the credit risk mitigation framework, except that instruments where the value E_s is less than one tenth of the value of the largest E_s in the eligible margin loan, repo-style transaction, collateralized derivative contract, or netting set are not included in the count or gold, with any amount of gold given a value of one;

- (ix) E_{fx} is the absolute value of the net position in each currency fx different from the settlement currency;
- (x) H_{fx} is the haircut appropriate for currency mismatch of currency fx .

(3) *Market price volatility and currency mismatch haircuts.* (i) A national bank or Federal savings association must use the haircuts for

market price volatility (H_s) in Table 1 to paragraphs (e)(3)(iii) through (v) of this section, as adjusted in certain circumstances as provided in

TABLE 1 TO § 3.37—MARKET PRICE VOLATILITY HAIRCUTS

Residual maturity	Securities issued by a sovereign or an issuer described in § 3.32(b) ¹ (percent)				Other investment-grade securities (percent)	
	Issuer risk weight of 0%	Issuer risk weight of 20% or 50%	Issuer risk weight of 100%	GSE exposures	Exposures other than GSE exposures or securitization exposures	Senior securitization exposures with risk weight <100%
Debt Securities:						
Less than or equal to 1 year	0.5	1.0	15.0	1.0	2.0	4.0
Greater than 1 year and less than or equal to 3 years	2.0	3.0	15.0	4.0	4.0	12.0
Greater than 3 years and less than or equal to 5 years					6.0	
Greater than 5 years and less than or equal to 10 years	4.0	6.0	15.0	8.0	12.0	24.0
Greater than 10 years					20.0	
Main index equities (including convertible bonds) and gold	20.0					
Other publicly traded equities and convertible bonds	30.0					
Mutual funds and exchange traded funds	Highest haircut applicable to any security in which the fund can invest, unless the banking organization can apply the full look-through approach for equity investments in funds § 3.53(b), in which case the banking organization may use a weighted average of haircuts applicable to the securities held by the fund.					
Cash on deposit	0.0					
Other exposure types ²	30.0					

¹ Includes a foreign PSE that receives a zero percent risk weight.

² Includes senior securitization exposures with a risk weight greater than or equal to 100 percent and sovereign exposures with a risk weight greater than 100 percent.

(ii) For currency mismatches, a national bank or Federal savings association must use a haircut for foreign exchange rate volatility (H_{fx}) of 8 percent, as adjusted in certain circumstances under paragraphs (e)(3)(iii) and (iv) of this section.

(iii) For repo-style transactions, a national bank or Federal savings association may multiply the haircuts provided in paragraphs (e)(3)(i) and (ii) of this section by the square root of $\frac{1}{2}$ (which equals 0.707107).

(iv) A national bank or Federal savings association must adjust the haircuts provided in paragraphs (e)(3)(i) and (ii) of this section upward on the basis of a holding period longer than ten business days for eligible margin loans and derivative contracts that are not client-facing derivative transactions or a holding period longer than five business days for repo-style transactions and client-facing derivative transactions that are not cleared transactions under the following conditions. If the number of trades in a netting set exceeds 5,000 at any time during a quarter, a national bank or Federal savings association must adjust the haircuts provided in paragraphs (e)(3)(i) and (ii) of this section upward on the basis of a holding period of twenty business days for the following quarter except in the calculation of exposure amount for purposes of § 3.35. If a netting set contains one or more trades involving illiquid collateral, a national bank or

Federal savings association must adjust the haircuts provided in paragraphs (e)(3)(i) and (ii) of this section upward on the basis of a holding period of twenty business days. If over the two previous quarters more than two margin disputes on a netting set have occurred that lasted longer than the holding period, then the national bank or Federal savings association must adjust the haircuts provided in paragraphs (e)(3)(i) and (ii) of this section upward for that netting set on the basis of a holding period that is at least two times the minimum holding period for that netting set. The national bank or Federal savings association must adjust the haircuts upward using the following formula:

$$H_a = H_s \sqrt{T_m/T_s}$$

Where:

- (A) T_m equals a holding period of longer than 10 business days for eligible margin loans and derivative contracts other than client-facing derivative transactions or longer than 5 business days for repo-style transactions and client-facing derivative transactions;
- (B) H_s equals the market price volatility haircut provided in Table 1 to § 3.37 or to the foreign exchange rate volatility haircut provided in paragraph (e)(3)(ii) of this section; and
- (C) T_s equals 10 business days for eligible margin loans and derivative contracts other than client-facing derivative transactions or 5 business days for repo-style transactions and client-facing derivative transactions.

(5) If the instruments a national bank or Federal savings association has lent, sold subject to repurchase, or posted as collateral do not meet the definition of financial collateral, the national bank or Federal savings association must use a 30 percent haircut for market price volatility (H_s).

(f) *Election to apply SA-CCR to certain repo-style transactions.* (1) A national bank or Federal savings association that elects to determine the exposure amount using SA-CCR for its derivative contracts under paragraph (a)(1)(ii) of § 3.34 may elect under paragraph (a)(3) of this section to use SA-CCR to determine the exposure amount for a set of repo-style transactions and derivative contracts that are subject to a qualifying cross-product master netting agreement. A national bank or Federal savings association makes such an election with respect to a qualifying cross-product master netting agreement must make the adjustments described in paragraphs (f)(2) and (3) in order to determine the exposure amount of the set of repo-style transactions and derivative contracts under SA-CCR.

(2) The exposure amount of a set of transactions subject to a qualifying cross-product master netting agreement for purposes of (f)(1), *Exposure Amount_{NSCP}*, must be calculated as follows:

$$\text{Exposure Amount}_{NSCP} = (1 - MR_{NSCP}) * (\text{Exposure Amount}_{repo-style transactions})$$

$$+ \text{Exposure Amount}_{\text{derivatives}}) + MR_{NSCP} * \text{Extended SA} - CCR \text{ Exposure Amount}$$

Where:

- (i) *Exposure Amount_{repo-style transactions}* is the exposure amount for repo-style transactions in the netting set that is subject to a qualifying cross-product master netting agreement, calculated

- using the collateral haircut approach, under paragraph (e) of this section;
- (ii) *Exposure Amount_{derivatives}* is the exposure amount for derivatives in the netting set that is subject to a qualifying cross-product master netting agreement, calculated using the standardized approach to counterparty credit risk, under § 3.132(c)(5);
- (iii) *Extended SA – CCR Exposure Amount* is the exposure amount for both repo-style

- transactions and derivatives that are in the netting set that is subject to a qualifying cross-product master netting agreement, calculated using the standardized approach to counterparty credit risk, under § 3.132(c)(5); and
- (iv) *MR_{NSCP}* is the Maturity Ratio for a given netting set that is subject to a qualifying cross-product master netting agreement, calculated as follows:

$$MR_{NSCP} = \frac{\sum NAWM \text{ of the repo – style transactions}_i}{\max(\sum NAWM \text{ of the repo – style transactions}_i, \sum NAWM \text{ of the derivative transactions}_i)}$$

Where:

- (A) $\sum NAWM \text{ of the repo-style transactions}_i$ is the notional average weighted maturity of all *i* repo-style transactions subject to the qualifying cross-product master netting agreement, subject to a minimum maturity of 10 business days and a maximum maturity of one year for purposes of this calculation.
- (B) $\sum NAWM \text{ of the derivative transactions}_i$ is the notional average weighted maturity of all *i* derivative transactions subject to the qualifying cross-product master netting agreement subject to a minimum maturity of 10 business days and a maximum maturity of one year for purposes of this calculation.

(3) For purposes of applying SA–CCR to a repo-style transaction, the national bank or Federal savings association must make the adjustments described in paragraphs (f)(3)(i) through (iii) of this section.

(i) For purposes of this section, the national bank or Federal savings association must:

(A) Treat a repo-style transaction that has multiple underlying instruments as separate repo-style transactions for each distinct underlying instrument;

(B) Treat a repo-style transaction with a debt instrument as the underlying instrument as either a credit derivative that references the underlying debt instrument or an interest rate derivative that references the interest rate of the underlying debt instrument, based on the primary risk factor of the repo-style transaction;

(C) Treat a repo-style transaction with an equity instrument as the underlying instrument as an equity derivative that references the underlying equity instrument;

(D) Not apply paragraph (c)(4) of § 3.132 to a repo-style transaction with an equity instrument as the underlying instrument; and

(E) Treat a repo-style transaction as a client-facing derivative transaction where the national bank or Federal savings association is either acting as a financial intermediary and enters into an offsetting transaction with a

qualifying central counterparty (QCCP) or where the national bank or Federal savings association provides a guarantee on the performance of a client on a transaction between the client and a QCCP.

(ii) For purposes of the supervisory delta under paragraph (c)(9)(iii) of § 3.132, a national bank or Federal savings association must use a supervisory delta of 1 for a repurchase transaction or a securities lending transaction, and must use a supervisory delta of –1 for a reverse repurchase transaction or a securities borrowing transaction;

(iii) For purposes of the maturity factor under paragraph (c)(9)(iv) of § 3.132, MPOR cannot be less than five business days plus the periodicity of re-margining expressed in business days minus one business day.

* * * * *

■ 12. Amend § 3.41 to read as follows:

§ 3.41 Operational criteria for recognizing the transfer of risk.

(a) *Operational criteria for traditional securitizations.* A national bank or Federal savings association that transfers exposures it has originated or purchased to a third party in connection with a traditional securitization may exclude the exposures from the calculation of its risk-weighted assets only if each condition in this section is satisfied. A national bank or Federal savings association that meets these conditions must hold risk-based capital against any credit risk it retains in connection with the securitization. A national bank or Federal savings association that fails to meet these conditions must hold risk-based capital against the transferred exposures as if they had not been securitized and must deduct from common equity tier 1 capital any after-tax gain-on-sale resulting from the transaction and any portion of a CEIO strip that does not constitute after-tax gain-on-sale. If the transferred exposures are in connection with a securitization and all of the

conditions in this paragraph (a) are satisfied, the national bank or Federal savings association must exclude the exposures from the calculation of its risk-weighted assets and must hold risk-based capital against any credit risk it retains in connection with the securitization. The conditions are:

(1) The exposures are not reported on the national bank's or Federal savings association's consolidated balance sheet under GAAP;

(2) The national bank or Federal savings association has transferred to one or more third parties credit risk associated with the underlying exposures;

(3) Any clean-up calls relating to the securitization are eligible clean-up calls; and

(4) The securitization does not:

(i) Include one or more underlying exposures in which the borrower is permitted to vary the drawn amount within an agreed limit under a line of credit; and

(ii) Contain an early amortization provision.

(b) *Operational criteria for synthetic securitizations.* For synthetic securitizations, a national bank or Federal savings association may recognize for risk-based capital purposes the use of a credit risk mitigant to hedge underlying exposures only if each condition in this paragraph (b) is satisfied. A national bank or Federal savings association that meets these conditions must hold risk-based capital against any credit risk of the exposures it retains in connection with the synthetic securitization. A national bank or Federal savings association that fails to meet these conditions or chooses not to recognize the credit risk mitigant for purposes of this section must instead hold risk-based capital against the underlying exposures as if they had not been synthetically securitized. If the synthetic securitization is a securitization and all of the conditions in this paragraph (b) are satisfied, the national bank or Federal savings

association must exclude the underlying securitization exposures from the calculation of its risk-weighted assets and must hold risk-based capital against any credit risk it retains in connection with the resecuritization. The conditions are:

- (1) The credit risk mitigant is:
 - (i) Financial collateral;
 - (ii) A guarantee that meets all criteria as set forth in the definition of *eligible guarantee* in § 3.2, except for the criteria in paragraph (3) of that definition;
 - (iii) A credit derivative that is not an nth-to-default credit derivative and that meets all criteria as set forth in the definition of *eligible credit derivative* in § 3.2, except for the criteria in paragraph (3) of the definition of *eligible guarantee* in § 3.2; or

- (iv) A prepaid credit protection arrangement that meets all criteria as set forth in the definition of *eligible prepaid credit protection arrangement* in § 3.2, except for the criteria in paragraph (3) of that definition.

(2) The national bank or Federal savings association transfers credit risk associated with the underlying exposures to one or more third parties, and the terms and conditions in the credit risk mitigants employed do not include provisions that:

- (i) Allow for the termination of the credit protection due to deterioration in the credit quality of the underlying exposures;
- (ii) Require the national bank or Federal savings association to alter or replace the underlying exposures to improve the credit quality of the underlying exposures;
- (iii) Increase the national bank's or Federal savings association's cost of credit protection in response to deterioration in the credit quality of the underlying exposures;
- (iv) Increase the yield payable to parties other than the national bank or Federal savings association in response to a deterioration in the credit quality of the underlying exposures; or
- (v) Provide for increases in a retained first loss position or credit enhancement provided by the national bank or Federal savings association after the inception of the securitization;

(3) The national bank or Federal savings association obtains a well-reasoned opinion from legal counsel that confirms the enforceability of the credit risk mitigant in all relevant jurisdictions;

(4) Any clean-up calls relating to the securitization are eligible clean-up calls;

(5) No synthetic excess spread is permitted within the synthetic securitization;

(6) Any applicable minimum payment threshold for the credit risk mitigant is consistent with standard market practice; and

(7) The securitization does not:

- (i) Include one or more underlying exposures in which the borrower is permitted to vary the drawn amount within an agreed limit under a line of credit; and
- (ii) Contain an early amortization provision.

(c) *Due diligence requirements for securitization exposures.* (1) Except for exposures that are deducted from common equity tier 1 capital and exposures subject to § 3.43(h), if a national bank or Federal savings association is unable to demonstrate to the satisfaction of the OCC a comprehensive understanding of the features of a securitization exposure that would materially affect the performance of the exposure, the national bank or Federal savings association must assign the securitization exposure a risk weight of 1,250 percent. The national bank's or Federal savings association's analysis must be commensurate with the complexity of the securitization exposure and the materiality of the exposure in relation to its capital.

(2) A national bank or Federal savings association must demonstrate its comprehensive understanding of a securitization exposure under paragraph (c)(1) of this section, for each securitization exposure by:

(i) Conducting an analysis of the risk characteristics of a securitization exposure prior to acquiring the exposure and documenting such analysis within 3 business days after acquiring the exposure, considering:

(A) Structural features of the securitization that would materially impact the performance of the exposure, for example, the contractual cash flow waterfall, waterfall-related triggers, credit enhancements, liquidity enhancements, fair value triggers, the performance of organizations that service the exposure, and deal-specific definitions of default;

(B) Relevant information regarding—

(1) The performance of the underlying credit exposure(s), for example, the percentage of loans 30, 60, and 90 days past due; default rates; prepayment rates; loans in foreclosure; property types; occupancy; average credit score or other measures of creditworthiness; average LTV ratio; and industry and geographic diversification data on the underlying exposure(s); and

(2) For resecuritization exposures, in addition to the information described in paragraph (c)(2)(i)(B)(1) of this section, performance information on the

underlying securitization exposures, which may include the issuer name and credit quality, and the characteristics and performance of the exposures underlying the securitization exposures; and

(C) Relevant market data of the securitization, for example, bid-ask spread, most recent sales price and historic price volatility, trading volume, implied market rating, and size, depth and concentration level of the market for the securitization; and

(ii) On an on-going basis (no less frequently than quarterly), evaluating, reviewing, and updating as appropriate the analysis required under paragraph (c)(1) of this section for each securitization exposure.

* * * * *

■ 13. Amend § 3.42 to read as follows:

§ 3.42 Exposure amount of a securitization exposure.

(a) *On-balance sheet securitization exposure.* The exposure amount of an on-balance sheet securitization exposure (excluding a repo-style transaction, eligible margin loan, OTC derivative contract that is not a credit derivative, or cleared transaction that is not a credit derivative) is equal to the national bank's or Federal savings association's carrying value of the exposure. For a credit derivative, a national bank or Federal savings association must apply § 3.43(i) or (j), as applicable.

(b) *Off-balance sheet securitization exposure.* Except as provided in § 3.43(h), the exposure amount of an off-balance sheet securitization exposure that is not a repo-style transaction, eligible margin loan, OTC derivative contract (other than a credit derivative), or cleared transaction (other than a credit derivative) is the notional amount of the exposure. For an off-balance sheet securitization exposure to an ABCP program, such as an eligible ABCP liquidity facility, the notional amount may be reduced to the maximum potential amount that the national bank or Federal savings association could be required to fund given the ABCP program's current underlying assets (calculated without regard to the current credit quality of those assets).

(c) *Repo-style transaction, eligible margin loan, OTC derivative contract that is not a credit derivative, or cleared transaction that is not a credit derivative.* The exposure amount of a securitization exposure that is a repo-style transaction, eligible margin loan, or OTC derivative contract (other than a credit derivative) is the exposure amount as calculated in accordance with §§ 3.34 or 3.37, or § 3.33, as applicable, and the exposure amount of

a securitization exposure that is a cleared transaction that is not a credit derivative is the exposure amount as calculated in § 3.35.

* * * * *

■ 14. Amend § 3.43 to read as follows:

§ 3.43 Risk-weighted assets for securitization exposures.

(a) *General approach.* Except as provided elsewhere in this section and in § 3.41:

(1) A national bank or Federal savings association may, subject to the limitation under paragraph (e) of this section, apply the securitization standardized approach (SEC-SA) in § 3.44 to the exposure if the exposure meets the following requirements:

(i) The national bank or Federal savings association has accurate information on A, D, W, and K_G (as defined in § 3.44) for the exposure. Data used to assign the parameters described in this paragraph (a)(1)(i) must be the most currently available data. If the contracts governing the underlying exposures of the securitization require payments on a monthly or quarterly basis, the data used to assign the parameters described in this paragraph (a)(1)(i) must be no more than 91 calendar days old.

(ii) The national bank or Federal savings association has accurate information regarding whether the exposure is a securitization exposure.

(2) If the securitization exposure is an interest rate derivative contract, an exchange rate derivative contract, or a cash collateral account related to an interest rate or exchange rate derivative contract, the national bank or Federal savings association must assign a risk weight to the exposure equal to the risk weight of a securitization exposure that is *pari passu* to the interest rate derivative contract or exchange rate derivative contract or, if such an exposure does not exist, the risk weight of any subordinate securitization exposure.

(3) If the national bank or Federal savings association cannot apply, or chooses not to apply, the securitization standardized approach in § 3.44, the national bank or Federal savings association must apply a 1,250 percent risk weight to the exposure.

(b) *Total risk-weighted assets for securitization exposures.* A national bank's or Federal savings association's total risk-weighted assets for securitization exposures equals the sum of the risk-weighted asset amount for securitization exposures that the national bank or Federal savings association risk weights under §§ 3.43 through 3.45, as applicable.

(c) *After-tax gain-on-sale resulting from a securitization.* Notwithstanding any other provision of this subpart, a national bank or Federal savings association must deduct from common equity tier 1 capital any after-tax gain-on-sale resulting from a securitization as well as the portion of a CEIO that does not constitute an after-tax gain-on-sale.

(d) *Overlapping exposures.* (1) If a national bank or Federal savings association has multiple securitization exposures that provide duplicative coverage of the underlying exposures of a securitization (such as when a national bank or Federal savings association provides a program-wide credit enhancement and multiple pool-specific liquidity facilities to an ABCP program), the national bank or Federal savings association is not required to hold duplicative risk-based capital against the overlapping position. Instead, the national bank or Federal savings association may apply to the overlapping position the applicable risk-based capital treatment that results in the highest risk-based capital requirement.

(2) If a national bank or Federal savings association has one or more securitization exposures that partially overlap with each other, the national bank or Federal savings association may treat the exposures as overlapping and apply the treatment under paragraph (d)(1). For purposes of such a treatment under this paragraph (d)(2), the national bank or Federal savings association must include in expanded total risk-weighted assets the risk-weighted asset amount for a hypothetical securitization exposure that would fully overlap with all of the partially overlapping exposures.

(3) If a national bank or Federal savings association has a securitization exposure under this subpart that is an overlapping exposure with a securitization exposure that is a market risk covered position under subpart F of this part, the national bank or Federal savings association may assign to the overlapping securitization exposure the applicable risk-based capital treatment under either this subpart or subpart F, whichever results in the highest risk-based capital requirement.

(e) *Implicit support.* If a national bank or Federal savings association provides support to a securitization in excess of the national bank's or Federal savings association's contractual obligation to provide credit support to the securitization:

(1) The national bank or Federal savings association must calculate a risk-weighted asset amount for underlying exposures associated with

the securitization as if the exposures had not been securitized and must deduct from common equity tier 1 capital any after-tax gain-on-sale resulting from the securitization and any portion of a CEIO strip that does not constitute after-tax gain-on-sale; and

(2) The national bank or Federal savings association must disclose publicly:

(i) That it has provided implicit support to the securitization; and

(ii) The risk-based capital impact to the national bank or Federal savings association of providing such implicit support.

(f) *Undrawn portion of a servicer cash advance facility.* (1) Notwithstanding any other provision of this subpart, a national bank or Federal savings association that is a servicer under an eligible servicer cash advance facility is not required to hold risk-based capital against potential future cash advance payments that it may be required to provide under the contract governing the facility.

(2) For a national bank or Federal savings association that acts as a servicer, the exposure amount for a servicer cash advance facility that is a not an eligible servicer cash advance facility is equal to the amount of all potential future cash advance payments that the national bank or Federal savings association may be contractually required to provide during the subsequent 12-month period under the contract governing the facility.

(g) *Interest-only mortgage-backed securities.* Notwithstanding any other provision of this subpart, the risk weight for a non-credit-enhancing interest-only mortgage-backed security may not be less than 100 percent.

(h) *Small-business loans and leases on personal property transferred with retained contractual exposure.* (1) Regardless of any other provision of this subpart, a national bank or Federal savings association that has transferred small-business loans and leases on personal property (small-business obligations) with recourse must include in risk-weighted assets only its contractual exposure to the small-business obligations if all the following conditions are met:

(i) The transaction must be treated as a sale under GAAP;

(ii) The national bank or Federal savings association establishes and maintains, pursuant to GAAP, a non-capital reserve sufficient to meet the national bank's or Federal savings association's reasonably estimated liability under the contractual obligation;

(iii) The small-business obligations are to businesses that meet the criteria for a small-business concern established by the Small Business Administration under section 3(a) of the Small Business Act (15 U.S.C. 632 *et seq.*); and

(iv) The national bank or Federal savings association is well capitalized as defined in 12 CFR 6.4. For purposes of determining whether a national bank or Federal savings association is well capitalized for purposes of this paragraph (h), the national bank's or Federal savings association's capital ratios must be calculated without regard to the capital treatment for transfers of small-business obligations with recourse specified in paragraph (h)(1) of this section.

(2) The total outstanding amount of contractual exposure retained by a national bank or Federal savings association on transfers of small-business obligations receiving the capital treatment specified in paragraph (h)(1) of this section cannot exceed 15 percent of the national bank's or Federal savings association's total capital.

(3) If a national bank or Federal savings association ceases to be well capitalized under 12 CFR 6.4, or exceeds the 15 percent capital limitation provided in paragraph (h)(2) of this section, the capital treatment specified in paragraph (h)(1) of this section will continue to apply to any transfers of small-business obligations with retained contractual exposure that occurred during the time that the national bank or Federal savings association was well capitalized and did not exceed the capital limit.

(4) The risk-based capital ratios of the national bank or Federal savings association must be calculated without regard to the capital treatment for transfers of small-business obligations specified in paragraph (h)(1) of this section for purposes of:

(i) Determining whether a national bank or Federal savings association is adequately capitalized, undercapitalized, significantly undercapitalized, or critically undercapitalized under the OCC's prompt corrective action regulations; and

(ii) Reclassifying a well-capitalized national bank or Federal savings association to adequately capitalized and requiring an adequately capitalized national bank or Federal savings association to comply with certain mandatory or discretionary supervisory actions as if the national bank or Federal savings association were in the next lower prompt-corrective-action category.

(i) *Nth-to-default credit derivatives—(1) Protection provider.* A national bank or Federal savings association providing protection through a first-to-default or second-or-later-to-default derivative is subject to capital requirements on such instruments under this paragraph (i)(1).

(i) *First-to-default.* For first-to-default derivatives, a national bank or Federal savings association must aggregate by simple summation the risk weights of the assets covered up to a maximum of 1,250 percent and multiply by the nominal amount of the protection provided by the credit derivative to obtain the risk-weighted asset amount.

(ii) *Nth-to-default.* For second-or-later-to-default derivatives, in aggregating the risk weights, a national bank or Federal savings association may exclude the asset with the lowest risk-weighted amount from the risk-weighted capital calculation. This risk-based capital treatment applies for nth-to-default derivatives for which the n-1 assets with the lowest risk-weighted amounts can be excluded from the risk-weighted capital calculation.

(2) *Protection purchaser.* A national bank or Federal savings association is not permitted to recognize purchased protection in the form of an nth-to-default credit derivative as a credit risk mitigant. A national bank or Federal savings association must calculate the counterparty credit risk of a purchased nth-to-default credit derivative under §§ 3.34.

(j) *Guarantees, credit derivatives other than nth-to-default credit derivatives, and prepaid credit protection arrangements—(1) Protection provider.* For a guarantee, credit derivative (other than an nth-to-default credit derivative), or prepaid credit protection arrangement provided by a national bank or Federal savings association that covers the full amount or a pro rata share of a securitization exposure's principal and interest, the national bank or Federal savings association must risk-weight the guarantee, credit derivative, or prepaid credit protection arrangement under paragraph (a) of this section as if it held the portion of the securitization exposure covered by the guarantee, credit derivative, or prepaid credit protection arrangement.

(2) *Protection purchaser.* (i) A national bank or Federal savings association that purchases a credit derivative (other than an nth-to-default credit derivative) that is recognized under § 3.45 as a credit risk mitigant (including via recognized collateral) is not required to compute a separate counterparty credit risk capital requirement under §§ 3.34.

(ii) If a national bank or Federal savings association cannot, or chooses not to, recognize protection purchased in the form of a credit derivative as a credit risk mitigant under § 3.45, the national bank or Federal savings association must determine the exposure amount of the credit derivative under § 3.34.

(A) If the national bank or Federal savings association purchases credit protection from a counterparty, the national bank or Federal savings association must determine the risk weight for the exposure according to § 3.32.

(B) If the national bank or Federal savings association purchases credit protection from a counterparty, the national bank or Federal savings association must determine the risk weight for the exposure according to this section.

(k) *Look-through approach.* (1) Subject to paragraph (k)(2) of this section, a national bank or Federal savings association may assign a risk weight to a senior securitization exposure that is not a resecuritization exposure equal to the greater of:

(i) The weighted-average risk weight, calculated without reference to, or the use of the risk weight under § 3.52(b)(3)(iii), of all the underlying exposures where the weight for each exposure in the weighted-average calculation is determined by the unpaid principal amount of the exposure; and

(ii) 15 percent.

(2) A national bank or Federal savings association may assign a risk weight under this paragraph (k) only if the national bank or Federal savings association has knowledge of the composition of all of the underlying exposures.

(l) *NPL securitization.* Notwithstanding any other provision of this subpart except for paragraph (e) of this section:

(1) If the nonrefundable purchase price discount for the NPL securitization is greater than or equal to 50 percent of the unpaid principal balance of the pool of exposures, the risk weight for a senior securitization exposure to an NPL securitization is 100 percent.

(2) If the national bank or Federal savings association is an originating national bank or Federal savings association with respect to the NPL securitization, the national bank or Federal savings association may hold risk-based capital against the transferred exposures as if they had not been securitized and must deduct from common equity tier 1 capital any after-tax gain-on-sale resulting from the

transaction and any portion of a CEIO that does not constitute an after-tax gain-on-sale.

* * * * *

■ 15. Amend § 3.44 to read as follows:

$$RW_{SEC-SA} = \begin{cases} \max(RW_{FLOOR}, 1,250\% \cdot K_{SEC-SA}), & K_A \leq A \\ \max\left(RW_{FLOOR}, \left(\frac{K_A - A}{D - A}\right) \cdot 1,250\% + \left(\frac{D - K_A}{D - A}\right) \cdot 1,250\% \cdot K_{SEC-SA}\right), & A < K_A < D \\ 1,250\%, & D \leq K_A \end{cases}$$

Where:

- (1) K_A is calculated under paragraph (b) of this section;
- (2) A (attachment point) equals the greater of zero and the ratio, expressed as a decimal value between zero and one, of the current dollar amount of underlying exposures that are subordinated to the exposure of the national bank or Federal savings association to the current dollar amount of the underlying exposures, as adjusted in accordance with paragraph (a)(6) of this section;
- (3) D (detachment point) equals the greater of zero and the sum of the parameter A and the ratio, expressed as a decimal value between zero and one, of the current dollar amount of the securitization exposures that are ranked senior or pari passu with the exposure (that is, have equal seniority with respect to credit risk) to the current dollar amount of the underlying exposures, as adjusted in accordance with paragraph (a)(6) of this section;
- (4) RW_{FLOOR} equals 100 percent for resecuritization exposures and NPL securitization exposures and 15 percent for all other securitization exposures; and
- (5) K_{SEC-SA} is calculated according to the following formula:

$$K_{SEC-SA} = \frac{e^{a \cdot u} - e^{a \cdot l}}{a \cdot (u - l)}$$

Where:

- (i) a equals $-(1/p \cdot K_A)$ (as K_A is defined in this paragraph (a)), where p equals 1.5 for a resecuritization exposure and 0.5 for all other securitization exposures;
- (ii) u equals $D - K_A$ (as D and K_A are defined in paragraph (a) of this section);
- (iii) l equals $\max(A - K_A, 0)$ (as A and K_A are defined in paragraph (a) of this section); and
- (iv) e equals the base of the natural logarithm.

(6) A national bank or Federal savings association must include in the calculation of A and D the funded portion of any reserve account funded by the accumulated cash flows from the underlying exposures that is subordinated to the national bank's or

§ 3.44 Securitization standardized approach (SEC-SA).

(a) *In general.* The risk weight RW_{SEC-SA} assigned to a securitization exposure, or portion of a securitization

exposure, is calculated according to the following formula:

Federal savings association's securitization exposure. Interest rate derivative contracts, exchange rate derivative contracts, and cash collateral accounts related to these contracts must not be included in the calculation of A and D . If the securitization exposure includes a nonrefundable purchase price discount, the nonrefundable purchase price discount must be included in the numerator and denominator of A and D .

(b) *Calculation of K_A .* K_A is calculated under this paragraph (b) according to the following formula:

$$K_A = (1 - W) \cdot K_G + (W \cdot 0.5)$$

Where:

- (1) W equals the ratio, expressed as a decimal value between zero and one, of the sum of the dollar amounts of any underlying exposures of the securitization that are not securitization exposures and that meet any of the criteria in paragraphs (b)(1)(i) through (vii) of this section to the outstanding balance measured in dollars of all underlying exposures:
 - (i) Ninety days or more past due;
 - (ii) Subject to a bankruptcy or insolvency proceeding;
 - (iii) In the process of foreclosure;
 - (iv) Held as real estate owned;
 - (v) Has contractually deferred payments for 90 days or more, other than principal or interest payments deferred on:
 - (A) Federally guaranteed student loans, in accordance with the terms of those guarantee programs; or
 - (B) Consumer loans, including non-federally-guaranteed student loans, provided that such payments are deferred pursuant to provisions included in the contract at the time funds are disbursed that provide for period(s) of deferral that are not initiated based on changes in the creditworthiness of the borrower; or
 - (vi) Is in default; and
 - (vii) Notwithstanding paragraphs (1)(i) through (vi) of this paragraph, an exposure that is directly and unconditionally guaranteed by the U.S. Government, its central bank, or a U.S. Government agency may be excluded

- from the calculation of W up to the amount of the guarantee; and
- (2) K_G equals the weighted average (with unpaid principal used as the weight for each credit exposure and fair value used for each equity exposure) total capital requirement, expressed as a decimal value between zero and one, of the underlying exposures calculated using this subpart D (that is, an average risk weight of 100 percent represents a value of K_G equal to 0.08), as adjusted in accordance with this paragraph (b)(2). For purposes of K_G , the determination of the capital requirement associated with an underlying exposure that is an equity exposure cannot use the risk weight under § 3.52(b)(3)(iii). For interest rate derivative contracts and exchange rate derivative contracts, the positive current exposure times the risk weight of the counterparty multiplied by 0.08 must be included in the numerator of K_G but must be excluded from the denominator of K_G .

* * * * *

■ 16. Amend § 3.45 by:

- a. Adding paragraphs (a)(3) and (a)(4).
- b. Revising paragraph (b).

The additions and revisions read as follows:

§ 3.45 Recognition of credit risk mitigants for securitization exposures.

* * * * *

- (3) If the recognized credit risk mitigant hedges a portion of the national bank's or Federal savings association's securitization exposure, the national bank or Federal savings association must calculate its capital requirements for the hedged and unhedged portions of the exposure separately. For each unhedged portion, the national bank or Federal savings association must calculate capital requirements according to § 3.42 and § 3.43. For each hedged portion, the national bank or Federal savings association may recognize the credit risk mitigant under § 3.36 or § 3.37, but only as provided in this section.

(4) When a national bank or Federal savings association purchases or sells credit protection on a portion of a senior tranche, the lower-priority portion, whether hedged or unhedged, must be considered a non-senior securitization exposure.

* * * * *

(b) *Mismatches*. A national bank or Federal savings association must make any applicable adjustment to the protection amount as required in § 3.36 for any hedged securitization exposure. In the context of a synthetic securitization, when a credit risk mitigant described in § 3.41(b)(1)(ii) through (iv) covers multiple hedged exposures that have different residual maturities, the national bank or Federal savings association must use the longest residual maturity of any of the hedged exposures as the residual maturity of all hedged exposures.

* * * * *

■ 17. Amend § 3.51 by:

■ a. Revising paragraph (b).

The revisions read as follows:

§ 3.51 Introduction and exposure measurement.

* * * * *

(b) *Adjusted carrying value*. For purposes of §§ 3.51 through 3.53, the adjusted carrying value of an equity exposure is:

* * * * *

(4) For a commitment to acquire an equity exposure (an equity commitment), the effective notional principal amount of the exposure is multiplied by the following conversion factors (CFs):

(i) Conditional equity commitments receive a 40 percent conversion factor.

(ii) Unconditional equity commitments receive a 100 percent conversion factor.

* * * * *

■ 18. Revise § 3.61 to read as follows:

§ 3.61 Purpose and scope.

Sections 3.61 through 3.63 of this subpart establish public disclosure requirements related to the capital requirements described in subpart B of this part for a national bank or Federal savings association with total consolidated assets of \$50 billion, as adjusted pursuant to § 3.4, or more as reported on the national bank's or Federal savings association's most recent year-end Call Report, that is not an advanced approaches national bank or Federal savings association making public disclosures pursuant to § 3.172. An advanced approaches national bank or Federal savings association that has not received approval from the OCC to exit parallel run pursuant to § 3.121(d) is subject to the disclosure requirements described in §§ 3.62 and 3.63. A national bank or Federal savings association with total consolidated assets of \$50 billion, as adjusted pursuant to § 3.4, or more as reported on the national bank's or Federal savings association's most recent year-end Call Report, that is not an advanced approaches national bank or Federal savings association making public disclosures subject to § 3.172 must comply with § 3.62 unless it is a consolidated subsidiary of a bank holding company, savings and loan holding company, or depository institution that is subject to the disclosure requirements of § 3.62 or a subsidiary of a non-U.S. banking organization that is subject to comparable public disclosure requirements in its home jurisdiction.

For purposes of this section, total consolidated assets are determined based on the average of the national bank's or Federal savings association's total consolidated assets in the four most recent quarters as reported on the Call Report, or the average of the national bank's or Federal savings association's total consolidated assets in the most recent consecutive quarters as reported quarterly on the Call Report, if the national bank or Federal savings association has not filed such a report for each of the most recent four quarters.

* * * * *

■ 19. Amend § 3.300 by revising paragraph (a) to read as follows:

§ 3.300 Transitions.

(a) *Transition adjustments for AOCI*. Beginning [January 1, 2027], a Category III national bank or Federal savings association or a Category IV national bank or Federal savings association that had made an AOCI opt-out election under § 3.22(b)(2) effective [December 31, 2026], must subtract from the sum of its common equity tier 1 elements, before making deductions required under § 3.22(c) or (d), the transition AOCI adjustment amount multiplied by the percentage provided in Table 1 to § 3.300. The transition AOCI adjustment amount is the sum of:

(1) Net unrealized gains or losses on available-for-sale securities, plus

(2) Accumulated net gains or losses on cash flow hedges, plus

(3) Any amounts recorded in AOCI attributed to defined benefit postretirement plans resulting from the initial and subsequent application of the relevant GAAP standards that pertain to such plans, plus

(4) Net unrealized holding gains or losses on held-to-maturity securities that are included in AOCI.

TABLE 1 TO § 3.300

Transition AOCI Adjustment	
Transition period	Percentage applicable to transition AOCI adjustment amount
January 1, 2027 to December 31, 2027	100
January 1, 2028 to December 31, 2028	80
January 1, 2029 to December 31, 2029	60
January 1, 2030 to December 31, 2030	40
January 1, 2031 to December 31, 2031	20
January 1, 2032 and thereafter	0

* * * * *

Board of Governors of the Federal Reserve System

12 CFR Chapter II

Authority and Issuance

For the reasons set forth in the preamble, the Board of Governors of the Federal Reserve System proposes to

amend chapter II of title 12 of the Code of Federal Regulations as follows:

PART 217—CAPITAL ADEQUACY OF BANK HOLDING COMPANIES, SAVINGS AND LOAN HOLDING COMPANIES, AND STATE MEMBER BANKS (REGULATION Q)

■ 20. The authority citation for part 217 continues to read as follows:

Authority: 12 U.S.C. 248(a), 321–338a, 481–486, 1462a, 1467a, 1818, 1828, 1831n, 1831o, 1831p–1, 1831w, 1835, 1844(b), 1851, 3904, 3906–3909, 4808, 5365, 5368, 5371, and 5371 note, and sec. 4012, Pub. L. 116–136, 134 Stat. 281.

■ 21. In § 217.1:

■ a. Revise paragraphs (c)(5)(i), (e) and (f); and

■ b. Add paragraph (h).

The addition and revision read as follows:

§ 217.1 Purpose, applicability, reservations of authority, and timing.

* * * *

(c) * * *

(5) * * *

(i) Except for an advanced approaches Board-regulated institution that is making public disclosures pursuant to the requirements in subpart E of this part, each Board-regulated institution with total consolidated assets of \$50 billion or more, as adjusted pursuant to § 217.4, must make the public disclosures described in subpart D of this part.

* * * *

(e) *Notice and response procedures.* In making a determination under this part, unless more specifically provided for, the Board will apply notice and response procedures in the same manner and to the same extent as the notice and response procedures in 12 CFR 263.202.

(f) *Timing.* A Board-regulated institution that changes from one category of Board-regulated institution to another of such categories, or that changes from having no category of Board-regulated institution to having such a category, must comply with the requirements of its category in this part, including applicable transition provisions of the requirements in this part, no later than on the first day of the second quarter following the change in the company's category.

* * * *

(h) *Severability.* If any provision of this part, or the application thereof to any Board-regulated institution, is held invalid, such invalidity shall not affect the validity of other provisions or the application of such provision to Board-regulated institutions that can be given effect without the invalid provision or application.

* * * *

■ 22. In § 217.2:

■ a. Revise the definition of “Adjusted allowances for credit losses (AACL)”;

■ b. Remove the definition of “Allowances for loan and lease losses (ALLL)”;

■ c. Revise the definition of “Carrying value”;

■ d. In the definition of “Category III Board-regulated institution (217.2):

■ i. Remove paragraph (3);

■ ii. Redesignate paragraph (4) as paragraph (3);

■ iii. Revise newly redesignated paragraph (3) introductory text;

■ iv. Revise newly redesignated paragraph (3)(i); and

■ v. In newly redesignated paragraph (3)(iv) introductory text, remove the words “paragraph (4)(ii) of this definition” and add, in their place, the words “paragraph (3)(ii) of this definition”;

■ e. Add, in alphabetical order, the definition for “Category IV Board-regulated institution”;

■ f. Revise the definition for “Commitment”;

■ g. Add, in alphabetical order, the definition for “Dependent on the cash flows generated by the real estate”;

■ h. Revise the definitions for “Effective notional amount”, “Eligible clean-up call”, and “Eligible guarantee”;

■ i. Add, in alphabetical order, the definition for “Eligible prepaid credit protection arrangement”;

■ j. Revise paragraph (4)(i)(A) in the definition of “Financial institution”;

■ k. Revise the definition for “Netting set”;

■ l. Add, in alphabetical order, the definitions for “Non-performing loan securitization (NPL securitization)”, “Nonrefundable purchase price discount (NRPPD)”, and “Prepaid credit protection arrangement”;

■ m. Revise the definition for “Protection amount (P)”;

■ n. Add, in alphabetical order, the definition for “Qualifying Cross Product Master Netting Agreement”;

■ o. Revise paragraphs (3) and (4) of the definition for “Qualifying master netting agreement”;

■ p. Revise paragraph (1)(ii) of the definition for “Residential mortgage exposure”;

■ q. Remove the definition for “Securitization special purpose entity (SPE)”;

■ r. Add, in alphabetical order, the definitions for “Senior securitization exposure” and “Specified supranational entity”;

■ s. Revise the definition for “Speculative grade”;

■ t. In the definition of “Standardized total risk-weighted assets”, remove the

words “§ 217.42” and add, in their place, the words “§ 217.43”;

■ u. Revise the definition for “Sub-speculative grade”;

■ v. Add, in alphabetical order, the definition for “Synthetic excess spread”;

■ w. Revise the definitions for “Synthetic securitization”, and

“Traditional securitization”.

The additions and revisions read as follows:

Adjusted allowances for credit losses (AACL) means valuation allowances that have been established through a charge against earnings or retained earnings for expected credit losses on financial assets measured at amortized cost and a lessor's net investment in leases that have been established to reduce the amortized cost basis of the assets to amounts expected to be collected as determined in accordance with GAAP. For purposes of this part, adjusted allowances for credit losses include allowances for expected credit losses on off-balance sheet credit exposures not accounted for as insurance as determined in accordance with GAAP. Adjusted allowances for credit losses exclude allocated transfer risk reserves and allowances created that reflect credit losses on purchased credit deteriorated assets, purchased seasoned loans, assets required to record an allowance for credit losses through a gross-up adjustment to the purchase price of the asset, and available-for-sale debt securities.

* * * *

Carrying value means, with respect to an asset, the value of the asset on the balance sheet of the Board-regulated institution as determined in accordance with GAAP. For all assets other than available-for-sale debt securities, purchased credit deteriorated assets, purchased seasoned loans, or assets required to record an allowance for credit losses through a gross-up adjustment to the purchase price of the asset, the carrying value is not reduced by any associated credit loss allowance that is determined in accordance with GAAP.

* * * *

Category III Board-regulated institution means:

* * * *

(3) A state member bank that is not a Category II Board-regulated institution and that:

(i) Is a subsidiary of a Category III banking organization, as defined pursuant to § 252.5 of this chapter or § 238.10 of this chapter, as applicable; or

* * * *

Category IV Board-regulated institution means:

(1) A depository institution holding company that is identified as a Category IV banking organization pursuant to § 252.5 of this chapter or § 238.10 of this chapter, as applicable;

(2) A U.S. intermediate holding company that is identified as a Category IV banking organization pursuant to § 252.5 of this chapter;

(3) A state member bank that is not a Category II Board-regulated institution or Category III Board-regulated institution and that:

(i) Is a subsidiary of a Category IV banking organization, as defined pursuant to § 252.5 of this chapter or § 238.10 of this chapter, as applicable; or

(ii) 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 of \$100 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 four most recent quarters, as applicable.

(iii) After meeting the criterion in paragraph (3)(ii) of this definition, a state member bank continues to be a Category IV Board-regulated institution until the state member bank:

(A) 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

(B) Is a Category II or Category III Board-regulated institution.

* * * * *

Commitment means a contractual arrangement, under which a Board-regulated institution and an obligor agree to terms applicable to one or more future extensions of credit, purchases of assets, or issuances of credit substitutes by the Board-regulated institution, whether or not such arrangement is unconditionally cancelable. A commitment is unconditionally cancelable if, by its terms, it either: (a) provides that a Board-regulated institution is not obligated to extend credit, purchase assets, or issue credit substitutes; or (b) permits a Board-regulated institution, at any time, with or without cause, to refuse to extend credit, purchase assets, or issue credit substitutes under the arrangement (to the extent permitted under applicable law).

* * * * *

Dependent on the cash flows generated by the real estate means, for a real estate exposure, the underwriting, at the time of origination, considers the cash flows generated by lease, rental, or sale of the real estate securing the loan as a source of repayment. For purposes of this definition, a residential mortgage exposure that is secured by the borrower's principal residence is deemed not dependent on the cash flows generated by the real estate.

* * * * *

Effective notional amount means for an eligible guarantee, eligible credit derivative, or eligible prepaid credit protection arrangement, the lesser of the contractual notional amount of the credit risk mitigant and the exposure amount of the hedged exposure, multiplied by the percentage coverage of the credit risk mitigant.

* * * * *

Eligible clean-up call means a clean-up call that:

(1) Is exercisable solely at the discretion of the originating Board-regulated institution or servicer;

(2) Is not structured to avoid allocating losses to securitization exposures held by investors or otherwise structured to provide credit enhancement to the securitization; and

(3) Is only exercisable:

(i) For a traditional securitization, when 10 percent or less of the principal amount of the underlying exposures or securitization exposures (determined as of the inception of the securitization) is outstanding;

(ii) For a synthetic securitization, when 10 percent or less of the principal amount of the reference portfolio of underlying exposures (determined as of the inception of the securitization) is outstanding;

(iii) Upon the occurrence of a regulatory event that significantly changes the risk-weighted asset amount for the securitization exposure under applicable risk-weighted asset standards; or

(iv) Upon the occurrence of a tax event that significantly changes the tax treatment of the securitization exposure under applicable tax laws.

* * * * *

Eligible guarantee means a guarantee that:

(1) Is written;

(2) Is either:

(i) Unconditional, or

(ii) A contingent obligation of the U.S. government or its agencies, the enforceability of which is dependent upon some affirmative action on the part of the beneficiary of the guarantee or a third party (for example, meeting servicing requirements);

(3) Covers all or a pro rata portion of all contractual payments of the obligated party on the reference exposure;

(4) Gives the beneficiary a direct claim against the protection provider;

(5) Is not unilaterally cancelable by the protection provider for reasons other than the breach of the contract by the beneficiary;

(6) Except for a guarantee by a sovereign, is legally enforceable against the protection provider in a jurisdiction where the protection provider has sufficient assets against which a judgment may be attached and enforced;

(7) Requires the protection provider to make payment to the beneficiary on the occurrence of a default (as defined in the guarantee) of the obligated party on the reference exposure in a timely manner without the beneficiary first having to take legal actions to pursue the obligor for payment;

(8) Does not increase the beneficiary's cost of credit protection on the guarantee in response to deterioration in the credit quality of the reference exposure;

(9) Is not provided by an affiliate of the Board-regulated institution, unless the affiliate is an insured depository institution, foreign bank, securities broker or dealer, or insurance company that:

(i) Does not control the Board-regulated institution; and

(ii) Is subject to consolidated supervision and regulation comparable to that imposed on depository institutions, U.S. securities broker-dealers, or U.S. insurance companies (as the case may be); and

(10) Is provided by an eligible guarantor.

* * * * *

Eligible prepaid credit protection arrangement means a prepaid credit protection arrangement that:

(1) Is written;

(2) Is unconditional;

(3) Covers all or a pro rata portion of all contractual payments due to be paid on the reference exposure or reference exposures;

(4) Provides that the amount and timing of payments due from the protection purchaser to the protection provider are incorporated into the arrangement and the arrangement only allows these terms to change in the event of a breach of the arrangement by the protection purchaser;

(5) Provides that entry of the protection provider into receivership, insolvency, liquidation, conservatorship, or similar proceeding does not change the amounts or timing

of payments due to be paid by the protection purchaser under the arrangement;

(6) Is legally valid and enforceable under applicable law of the relevant jurisdictions;

(7) Upon a failure by the obligor on the one or more reference exposures to make a contractually required payment, or the occurrence of other credit events as described in the arrangement, allows the protection purchaser promptly to reduce the outstanding balance of the initial principal amount due to the protection provider by the loss of the protection purchaser on the reference exposures without input from the protection provider; and

(8) Does not increase the protection purchaser's cost of credit protection in response to deterioration in the credit quality of any of the reference exposure.

* * * * *

Financial institution means:

* * * * *

(4) * * *

(i) * * *

(A) An investment in GAAP equity instruments of the company with an adjusted carrying value or exposure amount equal to or greater than \$10 million, as adjusted pursuant to § 217.4; or

* * * * *

Netting set means a group of transactions with a single counterparty that are subject to a qualifying master netting agreement. For derivative contracts, netting set also includes a single derivative contract between a Board-regulated institution and a single counterparty.

* * * * *

Non-performing loan securitization (NPL securitization) means a traditional securitization, that is not a resecuritization, where parameter W (as defined in § 217.44(b)(1)) for the underlying exposures in a pool is greater than or equal to 90 percent at the origination cut-off date and at any subsequent date on which exposures are added to or removed from the pool of underlying exposures due to replenishment or restructuring.

Nonrefundable purchase price discount (NRPPD) means the difference between the outstanding principal balance of the underlying exposures at the time of sale and the price at which these exposures are sold by the originator to a company the activities of which are limited to those appropriate for the specific purpose of holding the underlying exposures of a securitization, when neither originator nor the original lender are reimbursed for this difference. In cases where the

originator underwrites tranches of an NPL securitization for subsequent sale, the NRPPD may include the differences between the outstanding principal balance of the underlying exposures at the time of sale and the price at which all of the tranches are first sold to unrelated third parties. For any given piece of a securitization tranche, only its initial sale from the originator to investors is taken into account in the determination of NRPPD. The purchase prices of subsequent re-sales of a securitization tranche are not considered.

* * * * *

Prepaid credit protection arrangement means a contractual arrangement under which a protection purchaser transfers the credit risk of one or more reference exposures to a protection provider where:

(1) The protection provider pays an initial principal amount in cash to the protection purchaser at the inception of the transaction; and

(2) The protection purchaser is obligated to repay the initial principal amount to the protection provider on or before the maturity date of the transaction, less any losses that the protection purchaser realizes or otherwise recognizes due to nonpayment of all contractual payments due to be paid on the reference exposure or reference exposures by the obligors.

* * * * *

Protection amount (P) means, with respect to an exposure hedged by an eligible guarantee, eligible credit derivative, or eligible prepaid credit protection arrangement, or secured by financial collateral, the effective notional amount of the guarantee, credit derivative, or prepaid credit protection arrangement, or the fair value of the financial collateral, reduced to reflect any currency mismatch, maturity mismatch, or lack of restructuring coverage (as provided in § 217.36–217.37 or § 217.120–121, as applicable).

* * * * *

Qualifying cross-product master netting agreement means a qualifying master netting agreement that provides for termination and close-out netting across multiple types of financial transactions or qualifying master netting agreements in the event of a counterparty's default, provided that the underlying financial transactions are derivative contracts or repo-style transactions that are not cleared transactions. In order to treat an agreement as a qualifying cross-product master netting agreement, a Board-regulated institution must comply with

the requirements of § 217.3(c) of this part with respect to that agreement.

* * * * *

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

* * * * *

(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, a Board-regulated institution must comply with the requirements of § 217.3(d) with respect to that agreement.

* * * * *

Residential mortgage exposure means an exposure (other than a securitization exposure, equity exposure, statutory multifamily mortgage, or presold construction loan):

(1) * * *

(ii) With an original and outstanding amount of \$1 million or less, as adjusted pursuant to § 217.4, that is primarily secured by a first or subsequent lien on residential property that is not one-to-four family; and

* * * * *

Senior securitization exposure means a securitization exposure that has a first-priority claim on the cash flows from the underlying exposures. When determining whether a securitization exposure has a first-priority claim on the cash flows from the underlying exposures, a Board-regulated institution is not required to consider amounts due under interest rate derivative, currency derivative, and servicer cash advance facility contracts; fees due; and other similar payments. Both the most senior commercial paper issued by an ABCP program and a liquidity facility that supports the ABCP program may be senior securitization exposures if the liquidity facility provider's right to reimbursement of the drawn amounts is senior to all claims on the cash flows from the underlying exposures except amounts due under interest rate derivative, currency derivative, and servicer cash advance facility contracts; fees due; and other similar payments.

* * * * *

Specified supranational entity means the Bank for International Settlements, the European Central Bank, the European Commission, the International Monetary Fund, the European Stability

Mechanism, or the European Financial Stability Facility.

* * * * *

Speculative grade means that the entity to which the Board-regulated institution is exposed through a loan or security, or the reference entity with respect to a credit derivative, has adequate capacity to meet financial commitments in the near term, but is vulnerable to adverse economic conditions, such that should economic conditions deteriorate, the issuer or the reference entity would present an elevated default risk.

* * * * *

Sub-speculative grade means that the entity to which the Board-regulated institution is exposed through a loan or security, or the reference entity with respect to a credit derivative, depends on favorable economic conditions to meet its financial commitments, such that should such economic conditions deteriorate the issuer or the reference entity likely would default on its financial commitments.

* * * * *

Synthetic excess spread means any contractual provisions in a synthetic securitization that are designed to absorb losses prior to any of the tranches of the securitization structure.

* * * * *

Synthetic securitization means a transaction in which:

(1) All or a portion of the credit risk of one or more underlying exposures is retained or transferred to one or more third parties through the use of one or more credit derivatives, guarantees (other than a guarantee that transfers only the credit risk of an individual retail exposure), or prepaid credit protection arrangements;

(2) The credit risk associated with the underlying exposures has been separated into at least two tranches reflecting different levels of seniority;

(3) Performance of the securitization exposures depends solely upon the performance of the underlying exposures; and

(4) All or substantially all of the underlying exposures are financial exposures (such as loans, commitments, credit derivatives, guarantees, receivables, asset-backed securities, mortgage-backed securities, other debt securities, or equity securities).

* * * * *

Traditional securitization means a transaction in which:

(1) All or a portion of the credit or equity risk of one or more underlying exposures is transferred to one or more third parties other than through the use

of credit derivatives, guarantees, or prepaid credit protection arrangements;

(2) The credit risk associated with the underlying exposures has been separated into at least two tranches reflecting different levels of seniority;

(3) Performance of the securitization exposures depends solely upon the performance of the underlying exposures;

(4) All or substantially all of the underlying exposures are financial exposures (such as loans, commitments, credit derivatives, guarantees, receivables, asset-backed securities, mortgage-backed securities, other debt securities, or equity securities);

(5) The underlying exposures are not owned by an operating company;

(6) The underlying exposures are not owned by a small business investment company defined in section 302 of the Small Business Investment Act;

(7) The underlying exposures are not owned by a firm an investment in which qualifies as a community development investment under section 24(Eleventh) of the National Bank Act;

(8) The Board may determine that a transaction in which the underlying exposures are owned by an investment firm that exercises substantially unfettered control over the size and composition of its assets, liabilities, and off-balance sheet exposures is not a traditional securitization based on the transaction's leverage, risk profile, or economic substance;

(9) The Board may deem a transaction that meets the definition of a traditional securitization, notwithstanding paragraph (5), (6), or (7) of this definition, to be a traditional securitization based on the transaction's leverage, risk profile, or economic substance; and

(10) The transaction is not:

(i) An investment fund;

(ii) A collective investment fund (as defined in 12 CFR 208.34);

(iii) An employee benefit plan (as defined in paragraphs (3) and (32) of section 3 of ERISA), 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;

(iv) A synthetic exposure to the capital of a financial institution to the extent deducted from capital under § 217.22; or

(v) Registered with the SEC under the Investment Company Act of 1940 (15 U.S.C. 80a–1) or foreign equivalents thereof.

* * * * *

■ 23. Add § 217.4 to read as follows:

§ 217.4 Threshold Indexing.

(a) *Methodology*. The dollar thresholds specified in paragraph (c) of this section shall be adjusted by multiplying the baseline threshold values specified in paragraph (c) of this section by one plus the cumulative percent change in the non-seasonally adjusted Consumer Price Index for Urban Wage Earners and Clerical Workers, measured from the effective date of this rule, as further described in paragraph (b) of this section, and shall be rounded in accordance with paragraph (d) of this section.

(b) *Frequency*. (1) *In general—biennial adjustments*. Except as otherwise provided in paragraph (b)(2) and (b)(3) of this section, the adjustments described in paragraph (a) of this section shall be effective on October 1 following each consecutive two year period ending August 30, and using the non-seasonally adjusted Consumer Price Index for Urban Wage Earners and Clerical Workers as of August 30 of that year.

(2) *Off-year adjustments*. In the event that the [AGENCY] determines, during a year where no adjustment would be made under paragraph (b)(1), that the non-seasonally adjusted Consumer Price Index for Urban Wage Earners and Clerical Workers, measured over the twelve month period ending August 30 of that year, is such that an adjustment under this section would be appropriate for that year, the [AGENCY] may make an adjustment under this section for that year.

(3) *Periods of negative inflation*. Notwithstanding paragraph (b)(1) or (b)(2) of this section, if an adjustment of dollar thresholds using the cumulative percent change of the non-seasonally adjusted Consumer Price Index for Urban Wage Earners and Clerical Workers from the effective date of this rule or the most recent adjustment, as applicable, would not result in an increase from the current dollar thresholds, no adjustment will be made pursuant to paragraph (a) of this section.

(c) *Specified thresholds*. The thresholds in the following sections shall be adjusted in accordance with paragraph (a) of this section relative to the baseline threshold values as specified below.

(1) Section 217.1(c)(5)(i), baseline threshold value \$50 billion.

(2) Section 217.2, paragraph (4)(i)(A) of the definition of "Financial institution," baseline threshold value \$10 million;

(3) Section 217.2, definition of “Residential mortgage exposure,” baseline threshold value \$1 million;

(4) Section 217.61, baseline threshold value \$50 billion.

(d) *Rounding*. When adjusting thresholds under this section, each threshold shall be rounded based on the size of the threshold (e.g., thousands, millions, billions) to the nearest number with two significant digits.

(e) *Effective date of threshold adjustments*. The [AGENCY] shall announce the thresholds adjusted in accordance with this section by publication in the **Federal Register**. Such adjusted thresholds shall be effective on October 1 of the year during which an adjustment is made.

(f) *Failure to publish in the Federal Register*. In the event, for any reason, the thresholds adjusted in accordance with this section are not published in the **Federal Register** in a year in which an adjustment is made under this section, the thresholds specified in paragraph (c) of this section will adjust as provided in this section and be effective on October 1, notwithstanding the lack of publication in the **Federal Register**.

* * * * *

■ 24. Add § 217.5 to read as follows:

§ 217.5 Calculation of loan-to-value (LTV) ratio.

(a) *Loan-to-value ratio*. The loan-to-value (LTV) ratio must be calculated as the extension of credit divided by the value of the property.

(b) *Extension of credit*. For purposes of a LTV ratio calculated under this § 217.5, the extension of credit is equal to the total outstanding amount of the loan including any undrawn committed amount of the loan.

(c) *Value of the property*. (1) For purposes of a LTV ratio calculated under this § 217.5, the value of the property is the market value of all real estate properties securing or being improved by the extension of credit plus the amount of any readily marketable collateral and other acceptable collateral, as defined in 12 CFR part 208, appendix C, that secures the extension of credit, subject to the following:

(i) For exposures subject to [APPRAISAL RULE], the market value of property is a valuation that meets all requirements of that rule.

(ii) For exposures not subject to [APPRAISAL RULE]:

(A) The market value of real estate must be obtained from an independent valuation of the property using prudently conservative valuation criteria;

(B) The valuation must be done independently from the Board-regulated institution’s origination and underwriting process; and

(C) To ensure that the market value of the real estate is determined in a prudently conservative manner, the valuation must exclude expectations of price increases and must be adjusted downward to account for the potential for the current market price to be significantly above the value that would be sustainable over the life of the loan.

(2) In the case where the exposure includes the financing to purchase the property, the value of the property is the lower of the market value obtained under paragraph (c)(1)(i) or (c)(1)(ii) of this section, as applicable, and the actual acquisition cost.

(3) The value of the property must be measured at the time of origination, except in the following circumstances:

(i) The [AGENCY] requires a Board-regulated institution to revise the value of the property downward;

(ii) The value of the property must be adjusted downward due to an extraordinary event that results in a permanent reduction of the property value; or

(iii) The value of the property may be increased to reflect modifications made to the property that increase the market value, as determined according to the requirements in paragraphs (c)(1)(i) or (c)(1)(ii) of this section.

(4) Readily marketable collateral and other acceptable collateral, as defined in 12 CFR part 208, appendix C, must be appropriately discounted by the Board-regulated institution consistent with the Board-regulated institution’s usual practices for making loans secured by such collateral.

■ 25. Amend § 217.22 by:

■ a. Redesignating footnotes 22 through 31 as footnotes 1 through 10; and

■ b. Revising paragraph (b), the heading of paragraph (d), and paragraph (d)(1).

The revisions read as follows:

§ 217.22 Regulatory capital adjustments and deductions.

* * * * *

(b) *Regulatory adjustments to common equity tier 1 capital*.

(1) A Board-regulated institution must adjust the sum of common equity tier 1 capital elements pursuant to the requirements set forth in this paragraph (b). Such adjustments to common equity tier 1 capital must be made net of the associated deferred tax effects.

(i) A Board-regulated institution that makes an AOCI opt-out election (as defined in paragraph (b)(2) of this section), must make the adjustments required under paragraph (b)(2)(i) of this section.

(ii) A Board-regulated institution that is an advanced approaches Board-regulated institution, Category III Board-regulated institution, or Category IV Board-regulated institution, and a Board-regulated institution that has not made an AOCI opt-out election (as defined in paragraph (b)(2) of this section), must deduct any accumulated net gains and add any accumulated net losses on cash flow hedges included in AOCI that relate to the hedging of items that are not recognized at fair value on the balance sheet.

(iii) A Board-regulated institution must deduct any net gain and add any net loss related to changes in the fair value of liabilities that are due to changes in the Board-regulated institution’s own credit risk. An advanced approaches Board-regulated institution, Category III Board-regulated institution, or Category IV Board-regulated institution must deduct the difference between its credit spread premium and the risk-free rate for derivatives that are liabilities as part of this adjustment.

(2) AOCI opt-out election.

(i) A Board-regulated institution that is not an advanced approaches Board-regulated institution, Category III Board-regulated institution, or Category IV Board-regulated institution may make a one-time election to opt out of the requirement to include all components of AOCI (with the exception of accumulated net gains and losses on cash flow hedges related to items that are not fair-valued on the balance sheet) in common equity tier 1 capital (AOCI opt-out election). A Board-regulated institution that makes an AOCI opt-out election in accordance with this paragraph (b)(2) must adjust common equity tier 1 capital as follows:

(A) Subtract any net unrealized gains and add any net unrealized losses on available-for-sale securities;

(B) Subtract any accumulated net gains and add any accumulated net losses on cash flow hedges;

(C) Subtract any amounts recorded in AOCI attributed to defined benefit postretirement plans resulting from the initial and subsequent application of the relevant GAAP standards that pertain to such plans (excluding, at the Board-regulated institution’s option, the portion relating to pension assets deducted under paragraph (a)(5) of this section); and

(D) Subtract any net unrealized gains and add any net unrealized losses on held-to-maturity securities that are included in AOCI.

(ii)(A) A Board-regulated institution that is not an advanced approaches Board-regulated institution, Category III

Board-regulated institution, or Category IV Board-regulated institution must make its AOCI opt-out election in the Call Report, for a state member bank, or FR Y–9C, for a bank holding company or savings and loan holding company, during the first reporting period after the Board-regulated institution is required to comply with subpart A of this part as set forth in § 217.1(f).

(B) Notwithstanding paragraph (b)(ii)(A) of this section, if a Board-regulated institution was previously an advanced approaches Board-regulated institution, Category III Board-regulated institution, or Category IV Board-regulated institution, the Board-regulated institution must make its AOCI opt-out election in the Call Report, for a state member bank, or FR Y–9C, for a bank holding company or savings and loan holding company, during the first reporting period after the Board-regulated institution ceased to be an advanced approaches Board-regulated institution, Category III Board-regulated institution, or Category IV Board-regulated institution.

(iii) Each depository institution subsidiary of a Board-regulated institution that is not an advanced approaches Board-regulated institution, Category III Board-regulated institution, or Category IV Board-regulated institution must elect the same option as the Board-regulated institution pursuant to paragraph (b)(2) of this section.

(iv) With prior notice to the Board, a Board-regulated institution resulting from a merger, acquisition, or purchase transaction and that is not an advanced approaches Board-regulated institution, a Category III Board-regulated institution, or a Category IV Board-regulated institution, may make a new AOCI opt-out election in the Call Report (for a state member bank), or FR Y–9C or FR Y–9SP, as applicable (for bank holding companies or savings and loan holding companies) filed by the resulting Board-regulated institution for the first reporting period after it is required to comply with subpart A of this part as set forth in § 217.1(f) if:

(A) Other than as set forth in paragraph (b)(2)(iv)(C) of this section, the merger, acquisition, or purchase transaction involved the acquisition or purchase of all or substantially all of either the assets or voting stock of another banking organization that is subject to regulatory capital requirements issued by the Board of Governors of the Federal Reserve, the Federal Deposit Insurance Corporation, or the Office of the Comptroller of the Currency;¹

(B) Prior to the merger, acquisition, or purchase transaction, only one of the

banking organizations involved in the transaction made an AOCI opt-out election under this section; and

(C) A Board-regulated institution may, with the prior approval of the Board, change its AOCI opt-out election under this paragraph (b) in the case of a merger, acquisition, or purchase transaction that meets the requirements set forth at paragraph (b)(2)(iv)(B) of this section, but does not meet the requirements of paragraph (b)(2)(iv)(A) of this section. In making such a determination, the Board may consider the terms of the merger, acquisition, or purchase transaction, as well as the extent of any changes to the risk profile, complexity, and scope of operations of the Board-regulated institution resulting from the merger, acquisition, or purchase transaction.

(3) *Regulatory capital requirement for insurance underwriting risks.* A bank holding company or savings and loan holding company must deduct an amount equal to the regulatory capital requirement for insurance underwriting risks established by the regulator of any insurance underwriting activities of the company. The bank holding company or savings and loan holding company must take the deduction 50 percent from tier 1 capital and 50 percent from tier 2 capital. If the amount deductible from tier 2 capital exceeds the Board-regulated institution's tier 2 capital, the Board-regulated institution must deduct the excess from tier 1 capital.

* * * * *

(d) *Certain DTAs subject to common equity tier 1 capital deduction thresholds.*

(1) A Board-regulated institution that is not an advanced approaches Board-regulated institution must make deductions from regulatory capital as described in this paragraph (d)(1).

(i) The Board-regulated institution must deduct from common equity tier 1 capital elements the amount of DTAs as described in paragraph (d)(1)(ii) of this section that exceeds 25 percent of the sum of the Board-regulated institution's common equity tier 1 capital elements, less adjustments to and deductions from common equity tier 1 capital required under paragraphs (a) through (c)(3) of this section (the 25 percent common equity tier 1 capital deduction threshold).²

(ii) The Board-regulated institution must deduct from common equity tier 1 capital elements the amount of DTAs arising from temporary differences that the Board-regulated institution could not realize through net operating loss carrybacks, net of any related valuation allowances and net of DTLs, in

accordance with paragraph (e) of this section. A Board-regulated institution is not required to deduct from the sum of its common equity tier 1 capital elements DTAs (net of any related valuation allowances and net of DTLs, in accordance with § 217.22(e)) arising from timing differences that the Board-regulated institution could realize through net operating loss carrybacks. The Board-regulated institution must risk weight these assets at 100 percent. For a state member bank that is a member of a consolidated group for tax purposes, the amount of DTAs that could be realized through net operating loss carrybacks may not exceed the amount that the state member bank could reasonably expect to have refunded by its parent holding company.

(iii) For purposes of calculating the amount of DTAs subject to deduction pursuant to paragraph (d)(1) of this section, a Board-regulated institution may exclude DTAs and DTLs relating to adjustments made to common equity tier 1 capital under paragraph (b) of this section. A Board-regulated institution that elects to exclude DTAs relating to adjustments under paragraph (b) of this section also must exclude DTLs and must do so consistently in all future calculations. A Board-regulated institution may change its exclusion preference only after obtaining the prior approval of the Board.

* * * * *

¹ These rules include the regulatory capital requirements set forth at 12 CFR part 3 (OCC); 12 CFR part 225 (Board); 12 CFR part 325, and 12 CFR part 390 (FDIC).

* * * * *

² The amount of the items in paragraph (d)(1) of this section that is not deducted from common equity tier 1 capital must be included in the risk-weighted assets of the Board-regulated institution and assigned a 250 percent risk weight.

- * * * * *
- 26. In § 217.32:
- a. Revise paragraph (f)(1);
 - b. Revise paragraph (g);
 - c. Revise paragraph (l)(5).

The revisions read as follows:

§ 217.32 General risk weights.

* * * * *

(f) Corporate exposures.

(1) A Board-regulated institution must assign a 95 percent risk weight to all its corporate exposures, except as provided in paragraphs (f)(2) and (f)(3) of this section.

* * * * *

(g) Residential mortgage exposures.

(1) A Board-regulated institution must assign a risk weight in accordance with Table 5 to § 217.32 or Table 6 to

§ 217.32, as applicable, to a first-lien residential mortgage exposure that:

- (i) Is secured by a property that is either owner-occupied or rented;
- (ii) Is made in accordance with prudent underwriting standards,

including relating to the loan amount as a percent of the appraised value of the property;

- (iii) Is not 90 days or more past due or carried in nonaccrual status; and

(iv) Is not restructured or modified, provided that a loan modified or restructured solely pursuant to the U.S. Treasury's Home Affordable Mortgage Program is not modified or restructured for purposes of this section.

TABLE 5—RISK WEIGHTS FOR RESIDENTIAL MORTGAGES THAT ARE NOT DEPENDENT ON THE CASH FLOWS GENERATED BY THE REAL ESTATE BASED ON LTV ¹

	LTV ratio ≤ 50%	50% < LTV ratio ≤ 60%	60% < LTV ratio ≤ 80%	80% < LTV ratio ≤ 90%	90% < LTV ratio ≤ 100%	LTV Ratio > 100%
Risk Weight	25%	30%	35%	45%	55%	75%

¹ LTV is calculated in accordance with § 217.5.

TABLE 6—PROPOSED RISK WEIGHTS FOR RESIDENTIAL MORTGAGE EXPOSURES DEPENDENT ON THE CASH FLOWS GENERATED BY THE REAL ESTATE AND BASED ON LTV ¹

	LTV ratio ≤ 50%	50% < LTV ratio ≤ 60%	60% < LTV ratio ≤ 80%	80% < LTV ratio ≤ 90%	90% < LTV ratio ≤ 100%	LTV Ratio > 100%
Risk Weight	35%	40%	50%	65%	80%	110%

¹ LTV is calculated in accordance with § 217.5.

(2) A Board-regulated institution must assign a 100 percent risk weight to a first-lien residential mortgage exposure that does not meet the criteria in paragraph (g)(1) of this section or for which the Board-regulated institution cannot calculate the LTV in accordance with 12 CFR 217.5, and to junior-lien residential mortgage exposures.

(3) For the purpose of this paragraph (g), if a Board-regulated institution holds the first-lien and junior-lien(s) residential mortgage exposures, and no other party holds an intervening lien, the Board-regulated institution must combine the exposures and treat them as a single first-lien residential mortgage exposure.

* * * * *

(1) * * *

(5) A Board-regulated institution must assign a 90 percent risk weight to all assets not specifically assigned a different risk weight under this subpart D and that are not deducted from tier 1 or tier 2 capital pursuant to § 217.22.

* * * * *

■ 27. Amend § 217.33 by:

- a. Adding paragraph (a)(5); and
- b. Revising paragraph (b).

The revisions read as follows:

§ 217.33 Off-balance sheet exposures.

(a) * * *

(5) For purposes of this section, if a commitment does not have an express contractual maximum amount that can be drawn, the committed but undrawn amount of the commitment is equal to the highest total drawn amount over the period since the commitment was created or the prior 24 months,

whichever period is shorter, minus the current drawn amount.

* * * * *

(b) *Credit conversion factors—*

(1) *Zero percent CCF.* A Board-regulated institution must apply a zero percent CCF to the unused portion of a commitment that is unconditionally cancelable by the Board-regulated institution.

(2) *20 percent CCF.* A Board-regulated institution must apply a 20 percent CCF to the amount of self-liquidating trade-related contingent items that arise from the movement of goods, with an original maturity of one year or less.

(3) *40 percent CCF.* A Board-regulated institution must apply a 40 percent CCF to commitments, regardless of the maturity of the facility, unless they qualify for a lower or higher CCF.

(4) *50 percent CCF.* A Board-regulated institution must apply a 50 percent CCF to the amount of:

(i) Transaction-related contingent items, including performance bonds, bid bonds, warranties, and performance standby letters of credit; and

(ii) Note issuance facilities and revolving underwriting facilities.

(5) *100 percent CCF.* A Board-regulated institution must apply a 100 percent CCF to the amount of the following off-balance-sheet items and other similar transactions:

(i) Guarantees;

(ii) Repurchase agreements (the off-balance sheet component of which equals the sum of the current fair values of all positions the Board-regulated institution has sold subject to repurchase);

(iii) Credit-enhancing representations and warranties that are not securitization exposures;

(iv) Off-balance sheet securities lending transactions (the off-balance sheet component of which equals the sum of the current fair values of all positions the Board-regulated institution has lent under the transaction);

(v) Off-balance sheet securities borrowing transactions (the off-balance sheet component of which equals the sum of the current fair values of all non-cash positions the Board-regulated institution has posted as collateral under the transaction);

(vi) Financial standby letters of credit; and

(vii) Forward agreements.

* * * * *

■ 28. Amend § 217.34 by revising paragraph (c)(2) to read as follows:

§ 217.34 Derivative contracts.

* * * * *

(c) * * *

(2) As an alternative to the simple approach, a Board-regulated institution using CEM under paragraph (b) of this section may recognize the credit risk mitigation benefits of financial collateral that secures such a contract or netting set if the financial collateral is marked-to-fair value on a daily basis and subject to a daily margin maintenance requirement by applying a risk weight to the uncollateralized portion of the exposure, after adjusting the exposure amount calculated under paragraph (b)(1) or (2) of this section using the collateral haircut approach in § 217.37(e). The Board-regulated institution must substitute the exposure

amount calculated under paragraph (b)(1) or (2) of this section for $\Sigma_i E_i$ in the equation in § 217.37(e)(2).

* * * * *

■ 29. Amend § 217.36 by revising paragraph (e) to read as follows:

§ 217.36 Guarantees and credit derivatives: substitution treatment.

* * * * *

(e) *Adjustment for credit derivatives without restructuring as a credit event.*

(1) If a Board-regulated institution recognizes an eligible credit derivative that does not include as a credit event a restructuring of the hedged exposure involving forgiveness or postponement of principal, interest, or fees that results in a credit loss event (that is, a charge-off, specific provision, or other similar debit to the profit and loss account), the Board-regulated institution must apply the adjustment in paragraph (e)(2) of this section to reduce the effective notional amount of the credit derivative unless:

(i) The terms of the hedged exposure and the reference exposure, if different from the hedged exposure, allow the maturity, principal, coupon, currency, or seniority status of the exposure to be amended outside of receivership, insolvency, liquidation, or similar proceeding only by unanimous consent of all parties; and

(ii) The Board-regulated institution has conducted sufficient legal review to conclude with a well-founded basis (and maintains sufficient written documentation of that legal review) that the hedged exposure is subject to the U.S. Bankruptcy Code, the Federal Deposit Insurance Act, or a domestic or foreign insolvency regime with similar features that allow for a company to liquidate, reorganize, or restructure and provides for an orderly settlement of creditor claims.

(2) The Board-regulated institution must apply the following adjustment to reduce the effective notional amount of any eligible credit derivative that is subject to adjustment under paragraph (e)(1) of this section:

$$Pr = Pm \times 0.60$$

Where:

- (i) Pr = effective notional amount of the credit risk mitigant, adjusted for lack of restructuring event (and maturity mismatch, if applicable); and
- (ii) Pm = effective notional amount of the credit risk mitigant (adjusted for maturity mismatch, if applicable).

* * * * *

■ 30. Revise § 217.37 to read as follows:

§ 217.37 Collateralized transactions and prepaid credit protection arrangements.

(a) *Financial Collateral.* (1) To recognize the risk-mitigating effects of financial collateral, a Board-regulated institution may use:

(i) The simple approach in paragraph (b) of this section; or

(ii) The collateral haircut approach in paragraph (e) of this section for repo-style transactions, eligible margin loans, collateralized derivative contracts, and single-product netting sets of such transactions, subject to paragraph (a)(3) of this section.

(2) A Board-regulated institution must use the same approach to recognize the risk-mitigating effects of financial collateral for similar exposures or transactions.

(3) A Board-regulated institution that has elected under § 217.34(a)(1)(ii) to use the standardized approach for counterparty credit risk (SA-CCR) for derivative contracts may elect to also use SA-CCR for repo-style transactions that are subject to a qualifying cross-product master netting agreement with derivative contracts, subject to the requirements of paragraph (f) of this section. A Board-regulated institution that uses SA-CCR to determine the exposure amount of a derivative contract or netting set may use not the simple approach in paragraph (b) of this section or the collateral haircut approach under paragraph (e) of this section for the exposures for which SA-CCR is used.

(b) *The simple approach—(1) General requirements.* To qualify for the simple approach under this paragraph (b), the financial collateral must meet the following requirements:

(i) The collateral must be revalued at least every six months;

(ii) The legal mechanism by which financial collateral is pledged or transferred must be enforceable in the relevant jurisdictions and ensure that the Board-regulated institution has the contractual right, as applicable to the characteristics of the financial collateral and exposure, to liquidate or take legal possession of the financial collateral, setoff amounts owed to the obligor against amounts owed to the Board-regulated institution and close out any transaction giving rise to the secured exposure, in a timely manner, in the event of the default, insolvency or bankruptcy (or one or more otherwise-defined credit events set out in the transaction documentation) of the obligor; and

(iii) The Board-regulated institution must be able to reasonably demonstrate the ability to protect and enforce its

rights in respect of any financial collateral.

(2) *Risk weight substitution.* (i) A Board-regulated institution may apply a risk weight to the portion of an exposure that is secured by financial collateral that meets the requirements of paragraph (b) of this section, up to the protection amount of the financial collateral as adjusted by paragraph (d) of this section, based on the risk weight assigned to the collateral under this subpart. For repurchase agreements, reverse repurchase agreements, and securities lending and borrowing transactions, the collateral is the instruments, gold, and cash the Board-regulated institution has borrowed, purchased subject to resale, or taken as collateral from the counterparty under the transaction. Except as provided in paragraph (b)(3) of this section, the risk weight assigned to the protected portion of the exposure may not be less than 20 percent.

(ii) A Board-regulated institution must apply a risk weight to the amount of an exposure in excess of the protection amount of financial collateral securing the exposure based on the risk weight applicable to the exposure under this subpart.

(3) *Exceptions to the 20 percent risk weight floor and other requirements.* Notwithstanding paragraph (b)(2)(i) of this section, a Board-regulated institution may assign a zero percent risk weight up to the protection amount of the financial collateral where:

(i) The financial collateral is cash on deposit; or

(ii) The financial collateral is an exposure to a sovereign that qualifies for a zero percent risk weight under § 217.32, and the Board-regulated institution has discounted the fair value of the collateral by 20 percent.

(c) *Eligible prepaid credit protection arrangements.* (1) *Scope.* A Board-regulated institution may recognize the credit risk mitigation benefits of an eligible prepaid credit protection arrangement as provided under this paragraph.

(2) *Application.* This paragraph applies to exposures, including securitization exposures, for which:

(i) Credit risk is fully covered by an eligible prepaid credit protection arrangement; or

(ii) Credit risk is covered on a pro rata basis (that is, on a basis in which the Board-regulated institution and the protection provider share losses proportionately) by an eligible prepaid credit protection arrangement.

(3) *Tranching of credit risk.* Exposures on which there is a tranching of credit risk (reflecting at least two different

levels of seniority) generally are securitization exposures subject to § 217.41 through § 217.45.

(4) *Multiple eligible prepaid credit protection arrangements.* If multiple eligible prepaid credit protection arrangements cover a single exposure, a Board-regulated institution may treat the hedged exposure as multiple separate exposures each covered by a single eligible credit protection arrangement and may calculate a separate risk-weighted asset amount for each separate exposure as described in paragraph (c)(6) of this section.

(5) *Single eligible credit protection arrangements.* If a single eligible credit protection arrangement covers multiple hedged exposures, a Board-regulated institution must treat each hedged exposure as covered by a separate eligible credit protection arrangement and must calculate a separate risk-weighted asset amount for each exposure as described in paragraph (c)(6) of this section.

(6) *Prepaid credit protection arrangements—The substitution approach.* (i) *Full coverage.* If an eligible prepaid credit protection arrangement meets the conditions in paragraphs (c)(1) through (5) of this section and the protection amount (P) of the prepaid credit protection arrangement is greater than or equal to the exposure amount of the reference exposure, a Board-regulated institution may assign a zero percent risk weight to the reference exposure.

(ii) *Partial coverage.* If an eligible prepaid credit protection arrangement meets the conditions in paragraphs (c)(1) through (5) of this section and the protection amount (P) of the prepaid credit protection arrangement is less than the exposure amount of the reference exposure, the Board-regulated institution must treat the reference exposure as two separate exposures (protected and unprotected) in order to recognize the credit risk mitigation benefit of the prepaid credit protection arrangement.

(A) The Board-regulated institution may apply a risk-weight of zero percent for the protected exposure.

(B) The Board-regulated institution must calculate the risk-weighted asset amount for the unprotected exposure under this subpart D, where the applicable risk weight is that of the unprotected portion of the reference exposure.

(C) The treatment provided in this section is applicable when the credit risk of a reference exposure is covered on a partial pro rata basis and may be applicable when an adjustment is made to the effective notional amount of the

prepaid credit protection arrangement under paragraph (d) of this section.

(d) *Required adjustments—(1) Maturity mismatch adjustment.* (i) A Board-regulated institution that recognizes the credit risk mitigation benefits of financial collateral under paragraph (b) of this section or of an eligible prepaid credit protection arrangement under paragraph (c) of this section must adjust the amount of credit risk mitigation recognized to reflect any maturity mismatch.

(ii) A maturity mismatch occurs when:

(A) The residual maturity of the legal mechanism by which financial collateral is pledged is less than that of the secured exposure(s); or

(B) The residual maturity of an eligible prepaid credit protection arrangement is less than that of the reference exposure.

(iii) The residual maturity of a secured exposure under paragraph (b) of this section or a reference exposure under paragraph (c) of this section is the longest possible remaining time before the obligated party of the secured exposure or reference exposure is scheduled to fulfil its obligation on the exposure. For purposes of this paragraph (d)(1)(iii):

(A) For an eligible prepaid credit protection arrangement, if the terms of the arrangement include embedded options that may reduce its term, the Board-regulated institution (protection purchaser) must adjust the residual maturity. If a call is at the discretion of the protection provider, the residual maturity is at the first call date. If the call is at the discretion of the Board-regulated institution (protection purchaser), but the terms of the arrangement at origination contain a positive incentive for the Board-regulated institution to cancel the arrangement before contractual maturity, the remaining time to the first call date is the residual maturity.

(B) For financial collateral that is not cash on deposit at the Board-regulated institution, but including cash held for the Board-regulated institution by a third-party custodian or trustee, the residual maturity of any amount of such financial collateral is the earliest date on which the Board-regulated institution's rights in respect of such amount of financial collateral may be terminated without the pledgor being subject to a contemporaneous requirement to pledge additional financial collateral. For financial collateral that is cash on deposit at the Board-regulated institution, the residual maturity of any amount of such cash collateral is the earliest date on which a depositor may

withdraw such amount, notwithstanding any notice requirements or early withdrawal fees or penalties.

(iv) The credit risk mitigation benefits of financial collateral or an eligible prepaid credit protection arrangement with a maturity mismatch may be recognized only if the original maturity of the legal mechanism by which financial collateral is pledged or the eligible prepaid credit protection arrangement is greater than or equal to one year and its residual maturity is greater than three months.

(v) When a maturity mismatch exists, the Board-regulated institution must apply the following adjustment to reduce the protection amount:

$$P_m = E \times (t - 0.25) / (T - 0.25)$$

Where:

- (A) P_m = fair value of the financial collateral or effective notional amount of the eligible prepaid credit protection arrangement, adjusted for maturity mismatch;
- (B) E = fair value of the financial collateral or effective notional amount of the eligible prepaid credit protection arrangement;
- (C) t = the lesser of T or the residual maturity of the arrangement, expressed in years; and
- (D) T = the lesser of five or the residual maturity of the secured exposure or reference exposure, expressed in years.

(2) *Currency mismatch adjustment.* (i) If a Board-regulated institution recognizes the credit risk mitigation benefits of financial collateral under paragraph (b) of this section or of an eligible prepaid credit protection arrangement under paragraph (c) of this section that is denominated in a currency different from that in which the secured or reference exposure is denominated, the Board-regulated institution must apply the following formula to the fair value of the financial collateral or the effective notional amount of the eligible prepaid credit protection arrangement:

$$P_c = P_r \times (1 - H_{FX})$$

Where:

- (A) P_c = fair value of the financial collateral or the effective notional amount of the eligible prepaid credit protection arrangement, adjusted for currency mismatch (and maturity mismatch, if applicable);
- (B) P_r = fair value of the financial collateral or the effective notional amount of the eligible prepaid credit protection arrangement (adjusted for maturity mismatch, if applicable); and
- (C) H_{FX} = haircut appropriate for the currency mismatch between the financial collateral and the secured exposure or the eligible prepaid credit protection arrangement and the reference exposure,

as determined under paragraphs (d)(2)(ii) through (iii) of this section.

(ii) Subject to paragraph (d)(2)(iii) of this section, a Board-regulated

institution must set H_{FX} equal to eight percent.

(iii) A Board-regulated institution must increase H_{FX} as determined under paragraph (d)(2)(ii) of this section if the

Board-regulated institution revalues the financial collateral or eligible prepaid credit protection arrangement less frequently than once every 10 business days using the following formula:

$$H_{FX} = 8\% \times \sqrt{\frac{T_M}{10}}, \text{ where } T_M \text{ equals the greater of 10 or the number of business days}$$

between revaluations.

(e) *Collateral haircut approach—Exposure amount for eligible margin loans and repo-style transactions.* (1) *General.* A Board-regulated institution may recognize the credit risk mitigation benefits of financial collateral that secures an eligible margin loan, repo-style transaction, collateralized derivative contract, or netting set of eligible margin loans, repo-style

transactions, or collateralized derivative contracts, and of any collateral that secures a repo-style transaction that is included in the Board-regulated institution's measure for market risk under subpart F of this part, by using the collateral haircut approach covered in this paragraph (e) of this section.

(2) *Exposure amount calculation.* For purposes of the collateral haircut

approach, a Board-regulated institution must determine the exposure amount for an eligible margin loan, repo-style transaction, collateralized derivative contract, or netting set of eligible margin loans, repo-style transactions, or collateralized derivative contracts according to the following formula:

$$E^* = \max \left\{ 0; \left(\sum_i E_i - \sum_i C_i \right) + \left(0.4 \times \text{net}_{\text{exposure}} \right) + \left(0.6 \times \frac{\text{gross}_{\text{exposure}}}{\sqrt{N}} \right) + \left(\sum_{fx} (E_{fx} \times H_{fx}) \right) \right\} \text{ where:}$$

(i) E^* is the exposure amount of the eligible margin loan, repo-style transaction, collateralized derivative contract, or netting set after credit risk mitigation;

(ii) E_i is:

(A) For eligible margin loans and repo-style transactions and netting sets thereof, the current fair value of the instrument, cash, or gold the Board-regulated institution has lent, sold subject to repurchase, or posted as collateral to the counterparty; and,

(B) For collateralized derivative contracts and netting sets thereof, the exposure amount of the OTC derivative contract or netting set calculated under § 217.34(b)(1) or (2);

(iii) C_i is the current fair value of the instrument, cash, or gold the banking organization has borrowed, purchased subject to resale, or taken as collateral from the counterparty;

(iv) $\text{net}_{\text{exposure}} = |\sum_s E_s H_s|$;

(v) $\text{gross}_{\text{exposure}} = \sum_s E_s |H_s|$;

(vi) E_s is the absolute value of the net position in a given instrument or in gold, where the net position in a given instrument or gold equals the sum of the current fair values of the instrument or

gold the Board-regulated institution has lent, sold subject to repurchase, or posted as collateral to the counterparty, minus the sum of the current fair values of that same instrument or gold the Board-regulated institution has borrowed, purchased subject to resale, or taken as collateral from the counterparty;

(vii) H_s is the haircut appropriate to E_s as described in Table 1 to § 217.37, as applicable. H_s has a positive sign if the instrument or gold is net lent, sold subject to repurchase, or posted as collateral to the counterparty; H_s has a negative sign if the instrument or gold is net borrowed, purchased subject to resale, or taken as collateral from the counterparty;

(viii) N is the number of instruments with a unique Committee on Uniform Securities Identification Procedures (CUSIP) designation or foreign equivalent that the Board-regulated institution lends, sells subject to repurchase, posts as collateral, borrows, purchases subject to resale, or takes as collateral in the eligible margin loan, repo-style transaction, collateralized derivative contract, or

netting set, including all collateral that the Board-regulated institution elects to include within the credit risk mitigation framework, except that instruments where the value E_s is less than one tenth of the value of the largest E_s in the eligible margin loan, repo-style transaction, collateralized derivative contract, or netting set are not included in the count or gold, with any amount of gold given a value of one;

(ix) E_{fx} is the absolute value of the net position in each currency fx different from the settlement currency;

(x) H_{fx} is the haircut appropriate for currency mismatch of currency fx .

(3) *Market price volatility and currency mismatch haircuts.* (i) A Board-regulated institution must use the haircuts for market price volatility (H_s) in Table 1 to § 217.37, as adjusted in certain circumstances as provided in paragraphs (e)(3)(iii) through (v) of this section.

TABLE 1 TO § 217.37—MARKET PRICE VOLATILITY HAIRCUTS

Residual maturity	Securities issued by a sovereign or an issuer described in § 217.32(b) ¹ (percent)				Other investment-grade securities (percent)	
	Issuer risk weight of 0%	Issuer risk weight of 20% or 50%	Issuer risk weight of 100%	GSE exposures	Exposures other than GSE exposures or securitization exposures	Senior securitization exposures with risk weight <100%
Debt Securities:						

TABLE 1 TO § 217.37—MARKET PRICE VOLATILITY HAIRCUTS—Continued

Residual maturity	Securities issued by a sovereign or an issuer described in § 217.32(b) ¹ (percent)				Other investment-grade securities (percent)	
	Issuer risk weight of 0%	Issuer risk weight of 20% or 50%	Issuer risk weight of 100%	GSE exposures	Exposures other than GSE exposures or securitization exposures	Senior securitization exposures with risk weight <100%
Less than or equal to 1 year	0.5	1.0	15.0	1.0	2.0	4.0
Greater than 1 year and less than or equal to 3 years	2.0	3.0	15.0	4.0	4.0	12.0
Greater than 3 years and less than or equal to 5 years					6.0	
Greater than 5 years and less than or equal to 10 years	4.0	6.0	15.0	8.0	12.0	24.0
Greater than 10 years					20.0	
Main index equities (including convertible bonds) and gold	20.0					
Other publicly traded equities and convertible bonds	30.0					
Mutual funds and exchange traded funds	Highest haircut applicable to any security in which the fund can invest, unless the banking organization can apply the full look-through approach for equity investments in funds § 217.53(b), in which case the banking organization may use a weighted average of haircuts applicable to the securities held by the fund.					
Cash on deposit	0.0					
Other exposure types ²	30.0					

¹ Includes a foreign PSE that receives a zero percent risk weight.

² Includes senior securitization exposures with a risk weight greater than or equal to 100 percent and sovereign exposures with a risk weight greater than 100 percent.

(ii) For currency mismatches, a Board-regulated institution must use a haircut for foreign exchange rate volatility (H_{fx}) of 8 percent, as adjusted in certain circumstances under paragraphs (e)(3)(iii) and (iv) of this section.

(iii) For repo-style transactions, a Board-regulated institution may multiply the haircuts provided in paragraphs (e)(3)(i) and (ii) of this section by the square root of $\frac{1}{2}$ (which equals 0.707107).

(iv) A Board-regulated institution must adjust the haircuts provided in paragraphs (e)(3)(i) and (ii) of this section upward on the basis of a holding period longer than ten business days for eligible margin loans and derivative contracts that are not client-facing derivative transactions or a holding period longer than five business days for repo-style transactions and client-facing derivative transactions that are not cleared transactions under the following conditions. If the number of trades in a netting set exceeds 5,000 at any time during a quarter, a Board-regulated institution must adjust the haircuts provided in paragraphs (e)(3)(i) and (ii) of this section upward on the basis of a holding period of twenty business days for the following quarter except in the calculation of exposure amount for purposes of § 217.35. If a netting set contains one or more trades involving illiquid collateral, a Board-regulated institution must adjust the haircuts provided in paragraphs (e)(3)(i) and (ii) of this section upward on the basis of a holding period of twenty business days. If over the two previous quarters more than two margin disputes on a netting set have occurred that lasted longer than

the holding period, then the Board-regulated institution must adjust the haircuts provided in paragraphs (e)(3)(i) and (ii) of this section upward for that netting set on the basis of a holding period that is at least two times the minimum holding period for that netting set. The Board-regulated institution must adjust the haircuts upward using the following formula:

$$H_a = H_s \sqrt{T_m/T_s}$$

Where:

- (A) T_m equals a holding period of longer than 10 business days for eligible margin loans and derivative contracts other than client-facing derivative transactions or longer than 5 business days for repo-style transactions and client-facing derivative transactions;
- (B) H_s equals the market price volatility haircut provided in Table 1 to § 217.37 or to the foreign exchange rate volatility haircut provided in paragraph (e)(3)(ii) of this section; and
- (C) T_s equals 10 business days for eligible margin loans and derivative contracts other than client-facing derivative transactions or 5 business days for repo-style transactions and client-facing derivative transactions.

(v) If the instruments a Board-regulated institution has lent, sold subject to repurchase, or posted as collateral do not meet the definition of financial collateral, the Board-regulated institution must use a 30 percent haircut for market price volatility (H_s).

(f) *Election to apply SA-CCR to certain repo-style transactions.* (1) A Board-regulated institution that elects to determine the exposure amount using SA-CCR for its derivative contracts under paragraph (a)(1)(ii) of § 217.34

may elect under paragraph (a)(3) of this section to use SA-CCR to determine the exposure amount for a set of repo-style transactions and derivative contracts that are subject to a qualifying cross-product master netting agreement. A Board-regulated institution that makes such an election with respect to a qualifying cross-product master netting agreement must make the adjustments described in paragraphs (f)(2) and (3) in order to determine the exposure amount of the set of repo-style transactions and derivative contracts under SA-CCR.

(2) The exposure amount of a set of transactions subject to a qualifying cross-product master netting agreement for purposes of (f)(1), *Exposure Amount_{NSCP}*, must be calculated as follows:

$$\text{Exposure Amount}_{NSCP} = (1 - MR_{NSCP}) * (\text{Exposure Amount}_{repo-style transactions} + \text{Exposure Amount}_{derivatives}) + MR_{NSCP} * \text{Extended SA-CCR Exposure Amount}$$

Where:

- (i) *Exposure Amount_{repo-style transactions}* is the exposure amount for repo-style transactions in the netting set that is subject to a qualifying cross-product master netting agreement, calculated using the collateral haircut approach, under paragraph (e) of this section;
- (ii) *Exposure Amount_{derivatives}* is the exposure amount for derivatives in the netting set that is subject to a qualifying cross-product master netting agreement, calculated using the standardized approach to counterparty credit risk, under § 217.132(c)(5);
- (iii) *Extended SA-CCR Exposure Amount* is the exposure amount for both repo-style transactions and derivatives that are in the netting set that is subject to a

qualifying cross-product master netting agreement, calculated using the standardized approach to counterparty credit risk, under § 217.132(c)(5); and

(iv) MR_{NSCP} is the Maturity Ratio for a given netting set that is subject to a qualifying cross-product master netting agreement, calculated as follows:

$$MR_{NSCP} = \frac{\sum NAWM \text{ of the repo - style transactions}_i}{\max(\sum NAWM \text{ of the repo - style transactions}_i, \sum NAWM \text{ of the derivative transactions}_i)}$$

Where:

- (A) $\sum NAWM \text{ of the repo-style transactions}_i$ is the notional average weighted maturity of all i repo-style transactions subject to the qualifying cross-product master netting agreement, subject to a minimum maturity of 10 business days and a maximum maturity of one year for purposes of this calculation.
- (B) $\sum NAWM \text{ of the derivative transactions}_i$ is the notional average weighted maturity of all i derivative transactions subject to the qualifying cross-product master netting agreement subject to a minimum maturity of 10 business days and a maximum maturity of one year for purposes of this calculation.

(3) For purposes of applying SA-CCR to a repo-style transaction, the Board-regulated must make the adjustments described in paragraphs (f)(3)(i) through (iii) of this section.

(i) For purposes of this section, the Board-regulated institution must:

(A) Treat a repo-style transaction that has multiple underlying instruments as separate repo-style transactions for each distinct underlying instrument;

(B) Treat a repo-style transaction with a debt instrument as the underlying instrument as either a credit derivative that references the underlying debt instrument or an interest rate derivative that references the interest rate of the underlying debt instrument, based on the primary risk factor of the repo-style transaction;

(C) Treat a repo-style transaction with an equity instrument as the underlying instrument as an equity derivative that references the underlying equity instrument;

(D) Not apply paragraph (c)(4) of § 217.132 to a repo-style transaction with an equity instrument as the underlying instrument; and

(E) Treat a repo-style transaction as a client-facing derivative transaction where the Board-regulated institution is either acting as a financial intermediary and enters into an offsetting transaction with a qualifying central counterparty (QCCP) or where the Board-regulated institution provides a guarantee on the performance of a client on a transaction between the client and a QCCP.

(ii) For purposes of the supervisory delta under paragraph (c)(9)(iii) of § 217.132, a Board-regulated institution must use a supervisory delta of 1 for a

repurchase transaction or a securities lending transaction, and must use a supervisory delta of -1 for a reverse repurchase transaction or a securities borrowing transaction;

(iii) For purposes of the maturity factor under paragraph (c)(9)(iv) of § 217.132, MPOR cannot be less than five business days plus the periodicity of re-margining expressed in business days minus one business day.

* * * * *

■ 31. Revise § 217.41 to read as follows:

§ 217.41 Operational criteria for recognizing the transfer of risk.

(a) *Operational criteria for traditional securitizations.* A Board-regulated institution that transfers exposures it has originated or purchased to a third party in connection with a traditional securitization may exclude the exposures from the calculation of its risk-weighted assets only if each condition in this section is satisfied. A Board-regulated institution that meets these conditions must hold risk-based capital against any credit risk it retains in connection with the securitization. A Board-regulated institution that fails to meet these conditions must hold risk-based capital against the transferred exposures as if they had not been securitized and must deduct from common equity tier 1 capital any after-tax gain-on-sale resulting from the transaction and any portion of a CEIO strip that does not constitute after-tax gain-on-sale. If the transferred exposures are in connection with a resecuritization and all of the conditions in this paragraph (a) are satisfied, the Board-regulated institution must exclude the exposures from the calculation of its risk-weighted assets and must hold risk-based capital against any credit risk it retains in connection with the resecuritization. The conditions are:

(1) The exposures are not reported on the Board-regulated institution's consolidated balance sheet under GAAP;

(2) The Board-regulated institution has transferred to one or more third parties credit risk associated with the underlying exposures;

(3) Any clean-up calls relating to the securitization are eligible clean-up calls; and

(4) The securitization does not:

(i) Include one or more underlying exposures in which the borrower is permitted to vary the drawn amount within an agreed limit under a line of credit; and

(ii) Contain an early amortization provision.

(b) *Operational criteria for synthetic securitizations.* For synthetic securitizations, a Board-regulated institution may recognize for risk-based capital purposes the use of a credit risk mitigant to hedge underlying exposures only if each condition in this paragraph (b) is satisfied. A Board-regulated institution that meets these conditions must hold risk-based capital against any credit risk of the exposures it retains in connection with the synthetic securitization. A Board-regulated institution that fails to meet these conditions or chooses not to recognize the credit risk mitigant for purposes of this section must instead hold risk-based capital against the underlying exposures as if they had not been synthetically securitized. If the synthetic securitization is a resecuritization and all of the conditions in this paragraph (b) are satisfied, the Board-regulated institution must exclude the underlying securitization exposures from the calculation of its risk-weighted assets and must hold risk-based capital against any credit risk it retains in connection with the resecuritization. The conditions are:

(1) The credit risk mitigant is:

(i) Financial collateral;

(ii) A guarantee that meets all criteria as set forth in the definition of *eligible guarantee* in § 217.2, except for the criteria in paragraph (3) of that definition;

(iii) A credit derivative that is not an nth-to-default credit derivative and that meets all criteria as set forth in the definition of *eligible credit derivative* in § 217.2, except for the criteria in paragraph (3) of the definition of *eligible guarantee* in § 217.2; or

(iv) A prepaid credit protection arrangement that meets all criteria as set forth in the definition of *eligible prepaid credit protection arrangement* in § 217.2, except for the criteria in paragraph (3) of that definition.

(2) The Board-regulated institution transfers credit risk associated with the

underlying exposures to one or more third parties, and the terms and conditions in the credit risk mitigants employed do not include provisions that:

(i) Allow for the termination of the credit protection due to deterioration in the credit quality of the underlying exposures;

(ii) Require the Board-regulated institution to alter or replace the underlying exposures to improve the credit quality of the underlying exposures;

(iii) Increase the Board-regulated institution's cost of credit protection in response to deterioration in the credit quality of the underlying exposures;

(iv) Increase the yield payable to parties other than the Board-regulated institution in response to a deterioration in the credit quality of the underlying exposures; or

(v) Provide for increases in a retained first loss position or credit enhancement provided by the Board-regulated institution after the inception of the securitization;

(3) The Board-regulated institution obtains a well-reasoned opinion from legal counsel that confirms the enforceability of the credit risk mitigant in all relevant jurisdictions;

(4) Any clean-up calls relating to the securitization are eligible clean-up calls;

(5) No synthetic excess spread is permitted within the synthetic securitization;

(6) Any applicable minimum payment threshold for the credit risk mitigant is consistent with standard market practice; and

(7) The securitization does not:

(i) Include one or more underlying exposures in which the borrower is permitted to vary the drawn amount within an agreed limit under a line of credit; and

(ii) Contain an early amortization provision.

(c) *Due diligence requirements for securitization exposures.* (1) Except for exposures that are deducted from common equity tier 1 capital and exposures subject to § 217.43(h), if a Board-regulated institution is unable to demonstrate to the satisfaction of the Board a comprehensive understanding of the features of a securitization exposure that would materially affect the performance of the exposure, the Board-regulated institution must assign the securitization exposure a risk weight of 1,250 percent. The Board-regulated institution's analysis must be commensurate with the complexity of the securitization exposure and the materiality of the exposure in relation to its capital.

(2) A Board-regulated institution must demonstrate its comprehensive understanding of a securitization exposure under paragraph (c)(1) of this section, for each securitization exposure by:

(i) Conducting an analysis of the risk characteristics of a securitization exposure prior to acquiring the exposure and documenting such analysis within 3 business days after acquiring the exposure, considering:

(A) Structural features of the securitization that would materially impact the performance of the exposure, for example, the contractual cash flow waterfall, waterfall-related triggers, credit enhancements, liquidity enhancements, fair value triggers, the performance of organizations that service the exposure, and deal-specific definitions of default;

(B) Relevant information regarding—

(1) The performance of the underlying credit exposure(s), for example, the percentage of loans 30, 60, and 90 days past due; default rates; prepayment rates; loans in foreclosure; property types; occupancy; average credit score or other measures of creditworthiness; average LTV ratio; and industry and geographic diversification data on the underlying exposure(s); and

(2) For resecuritization exposures, in addition to the information described in paragraph (c)(2)(i)(B)(1) of this section, performance information on the underlying securitization exposures, which may include the issuer name and credit quality, and the characteristics and performance of the exposures underlying the securitization exposures; and

(C) Relevant market data of the securitization, for example, bid-ask spread, most recent sales price and historic price volatility, trading volume, implied market rating, and size, depth and concentration level of the market for the securitization; and

(ii) On an on-going basis (no less frequently than quarterly), evaluating, reviewing, and updating as appropriate the analysis required under paragraph (c)(1) of this section for each securitization exposure.

* * * * *

■ 32. Revise § 217.42 to read as follows:

§ 217.42 Exposure amount of a securitization exposure.

(a) *On-balance sheet securitization exposure.* (1) The exposure amount of an on-balance sheet securitization exposure (excluding an available-for-sale or held-to-maturity security where the Board-regulated institution has made an AOCI opt-out election under § 217.22(b)(2), a repo-style transaction,

eligible margin loan, OTC derivative contract that is not a credit derivative, or cleared transaction that is not a credit derivative) is equal to the Board-regulated institution's carrying value of the exposure. For a credit derivative, a Board-regulated institution must apply § 217.43(i) or (j), as applicable.

(2) The exposure amount of an on-balance sheet securitization exposure that is an available-for-sale or held-to-maturity security held by a Board-regulated institution that has made an AOCI opt-out election under § 217.22(b)(2) is the Board-regulated institution's carrying value (including net accrued but unpaid interest and fees), less any net unrealized gains on the exposure and plus any net unrealized losses on the exposure.

(b) *Off-balance sheet securitization exposure.* Except as provided in § 217.43(h), the exposure amount of an off-balance sheet securitization exposure that is not a repo-style transaction, eligible margin loan, OTC derivative contract (other than a credit derivative), or cleared transaction (other than a credit derivative) is the notional amount of the exposure. For an off-balance sheet securitization exposure to an ABCP program, such as an eligible ABCP liquidity facility, the notional amount may be reduced to the maximum potential amount that the Board-regulated institution could be required to fund given the ABCP program's current underlying assets (calculated without regard to the current credit quality of those assets).

(c) *Repo-style transaction, eligible margin loan, OTC derivative contract that is not a credit derivative, or cleared transaction that is not a credit derivative.* The exposure amount of a securitization exposure that is a repo-style transaction, eligible margin loan, or OTC derivative contract (other than a credit derivative) is the exposure amount as calculated in accordance with §§ 217.34 or 217.37, or § 217.33, as applicable, and the exposure amount of a securitization exposure that is a cleared transaction that is not a credit derivative is the exposure amount as calculated in § 217.35.

* * * * *

■ 33. Revise § 217.43 to read as follows:

§ 217.43 Risk-weighted assets for securitization exposures.

(a) *General approach.* Except as provided elsewhere in this section and in § 217.41:

(1) A Board-regulated institution may, subject to the limitation under paragraph (e) of this section, apply the securitization standardized approach (SEC-SA) in § 217.44 to the exposure if

the exposure meets the following requirements:

(i) The Board-regulated institution has accurate information on A , D , W , and K_G (as defined in § 217.44) for the exposure. Data used to assign the parameters described in this paragraph (a)(1)(i) must be the most currently available data. If the contracts governing the underlying exposures of the securitization require payments on a monthly or quarterly basis, the data used to assign the parameters described in this paragraph (a)(1)(i) must be no more than 91 calendar days old.

(ii) The Board-regulated institution has accurate information regarding whether the exposure is a resecuritization exposure.

(2) If the securitization exposure is an interest rate derivative contract, an exchange rate derivative contract, or a cash collateral account related to an interest rate or exchange rate derivative contract, the Board-regulated institution must assign a risk weight to the exposure equal to the risk weight of a securitization exposure that is *pari passu* to the interest rate derivative contract or exchange rate derivative contract or, if such an exposure does not exist, the risk weight of any subordinate securitization exposure.

(3) If the Board-regulated institution cannot apply, or chooses not to apply, the securitization standardized approach in § 217.44, the Board-regulated institution must apply a 1,250 percent risk weight to the exposure.

(b) *Total risk-weighted assets for securitization exposures.* A Board-regulated institution's total risk-weighted assets for securitization exposures equals the sum of the risk-weighted asset amount for securitization exposures that the Board-regulated institution risk weights under §§ 217.43 through 217.45, as applicable.

(c) *After-tax gain-on-sale resulting from a securitization.* Notwithstanding any other provision of this subpart, a Board-regulated institution must deduct from common equity tier 1 capital any after-tax gain-on-sale resulting from a securitization as well as the portion of a CEIO that does not constitute an after-tax gain-on sale.

(d) *Overlapping exposures.* (1) If a Board-regulated institution has multiple securitization exposures that provide duplicative coverage of the underlying exposures of a securitization (such as when a Board-regulated institution provides a program-wide credit enhancement and multiple pool-specific liquidity facilities to an ABCP program), the Board-regulated institution is not required to hold duplicative risk-based capital against the overlapping position.

Instead, the Board-regulated institution may apply to the overlapping position the applicable risk-based capital treatment that results in the highest risk-based capital requirement.

(2) If a Board-regulated institution has two or more securitization exposures that partially overlap with each other, the Board-regulated institution may treat the exposures as overlapping and apply the treatment under paragraph (d)(1). For purposes of such a treatment under this paragraph (d)(2), the Board-regulated institution must include in expanded total risk-weighted assets the risk-weighted asset amount for a hypothetical securitization exposure that would fully overlap with all of the partially overlapping exposures.

(3) If a Board-regulated institution has a securitization exposure under this subpart that is an overlapping exposure with a securitization exposure that is a market risk covered position under subpart F of this part, the Board-regulated institution may assign to the overlapping securitization exposure the applicable risk-based capital treatment under either this subpart or subpart F, whichever results in the highest risk-based capital requirement.

(e) *Implicit support.* If a Board-regulated institution provides support to a securitization in excess of the Board-regulated institution's contractual obligation to provide credit support to the securitization:

(1) The Board-regulated institution must calculate a risk-weighted asset amount for underlying exposures associated with the securitization as if the exposures had not been securitized and must deduct from common equity tier 1 capital any after-tax gain-on-sale resulting from the securitization and any portion of a CEIO strip that does not constitute after-tax gain-on-sale; and

(2) The Board-regulated institution must disclose publicly:

(i) That it has provided implicit support to the securitization; and

(ii) The risk-based capital impact to the Board-regulated institution of providing such implicit support.

(f) *Undrawn portion of a servicer cash advance facility.* (1) Notwithstanding any other provision of this subpart, a Board-regulated institution that is a servicer under an eligible servicer cash advance facility is not required to hold risk-based capital against potential future cash advance payments that it may be required to provide under the contract governing the facility.

(2) For a Board-regulated institution that acts as a servicer, the exposure amount for a servicer cash advance facility that is not an eligible servicer cash advance facility is equal to the

amount of all potential future cash advance payments that the Board-regulated institution may be contractually required to provide during the subsequent 12-month period under the contract governing the facility.

(g) *Interest-only mortgage-backed securities.* Notwithstanding any other provision of this subpart, the risk weight for a non-credit-enhancing interest-only mortgage-backed security may not be less than 100 percent.

(h) *Small-business loans and leases on personal property transferred with retained contractual exposure.* (1) Regardless of any other provision of this subpart, a Board-regulated institution that has transferred small-business loans and leases on personal property (small-business obligations) with recourse must include in risk-weighted assets only its contractual exposure to the small-business obligations if all the following conditions are met:

(i) The transaction must be treated as a sale under GAAP;

(ii) The Board-regulated institution establishes and maintains, pursuant to GAAP, a non-capital reserve sufficient to meet the Board-regulated institution's reasonably estimated liability under the contractual obligation;

(iii) The small-business obligations are to businesses that meet the criteria for a small-business concern established by the Small Business Administration under section 3(a) of the Small Business Act (15 U.S.C. 632 *et seq.*); and

(iv) The Board-regulated institution is well capitalized for purposes of the Prompt Corrective Action framework (12 U.S.C. 1831o). For purposes of determining whether a Board-regulated institution is well capitalized for purposes of this paragraph (h), the Board-regulated institution's capital ratios must be calculated without regard to the capital treatment for transfers of small-business obligations with recourse specified in paragraph (h)(1) of this section.

(2) The total outstanding amount of contractual exposure retained by a Board-regulated institution on transfers of small-business obligations receiving the capital treatment specified in paragraph (h)(1) of this section cannot exceed 15 percent of the Board-regulated institution's total capital.

(3) If a Board-regulated institution ceases to be well capitalized, or exceeds the 15 percent capital limitation provided in paragraph (h)(2) of this section, the capital treatment specified in paragraph (h)(1) of this section will continue to apply to any transfers of small-business obligations with retained contractual exposure that occurred during the time that the Board-regulated

institution was well capitalized and did not exceed the capital limit.

(4) The risk-based capital ratios of the Board-regulated institution must be calculated without regard to the capital treatment for transfers of small-business obligations specified in paragraph (h)(1) of this section for purposes of:

(i) Determining whether a Board-regulated institution is adequately capitalized, undercapitalized, significantly undercapitalized, or critically undercapitalized under the Board's prompt corrective action regulations; and

(ii) Reclassifying a well-capitalized Board-regulated institution to adequately capitalized and requiring an adequately capitalized Board-regulated institution to comply with certain mandatory or discretionary supervisory actions as if the Board-regulated institution were in the next lower prompt-corrective-action category.

(i) *Nth-to-default credit derivatives*—(1) *Protection provider*. A Board-regulated institution providing protection through a first-to-default or second-or-later-to-default derivative is subject to capital requirements on such instruments under this paragraph (i)(1).

(i) *First-to-default*. For first-to-default derivatives, a Board-regulated institution must aggregate by simple summation the risk weights of the assets covered up to a maximum of 1,250 percent and multiply by the nominal amount of the protection provided by the credit derivative to obtain the risk-weighted asset amount.

(ii) *Nth-to-default*. For second-or-later-to-default derivatives, in aggregating the risk weights, a Board-regulated institution may exclude the asset with the lowest risk-weighted amount from the risk-weighted capital calculation. This risk-based capital treatment applies for nth-to-default derivatives for which the n-1 assets with the lowest risk-weighted amounts can be excluded from the risk-weighted capital calculation.

(2) *Protection purchaser*. A Board-regulated institution is not permitted to recognize purchased protection in the form of an nth-to-default credit derivative as a credit risk mitigant. A Board-regulated institution must

calculate the counterparty credit risk of a purchased nth-to-default credit derivative under §§ 217.34.

(j) *Guarantees, credit derivatives other than nth-to-default credit derivatives, and prepaid credit protection arrangements*—(1) *Protection provider*. For a guarantee, credit derivative (other than an nth-to-default credit derivative), or prepaid credit protection arrangement provided by a Board-regulated institution that covers the full amount or a pro rata share of a securitization exposure's principal and interest, the Board-regulated institution must risk-weight the guarantee, credit derivative, or prepaid credit protection arrangement under paragraph (a) of this section as if it held the portion of the securitization exposure covered by the guarantee, credit derivative, or prepaid credit protection arrangement.

(2) *Protection purchaser*. (i) A Board-regulated institution that purchases a credit derivative (other than an nth-to-default credit derivative) that is recognized under § 217.45 as a credit risk mitigant (including via recognized collateral) is not required to compute a separate counterparty credit risk capital requirement under §§ 217.34.

(ii) If a Board-regulated institution cannot, or chooses not to, recognize protection purchased in the form of a credit derivative as a credit risk mitigant under § 217.45, the Board-regulated institution must determine the exposure amount of the credit derivative under § 217.34.

(A) If the Board-regulated institution purchases credit protection from a counterparty the activities of which are limited to those appropriate for the specific purpose of holding the underlying exposures of a securitization, the Board-regulated institution must determine the risk weight for the exposure according to § 217.32.

(B) If the Board-regulated institution purchases credit protection from a counterparty the activities of which are limited to those appropriate for the specific purpose of holding the underlying exposures of a securitization, the Board-regulated institution must determine the risk

weight for the exposure according to this section.

(k) *Look-through approach*. (1) Subject to paragraph (k)(2) of this section, a Board-regulated institution may assign a risk weight to a senior securitization exposure that is not a res securitization exposure equal to the greater of:

(i) The weighted-average risk weight, calculated without reference to, or the use of, the risk weight under § 217.52(b)(3)(iii), of all the underlying exposures where the weight for each exposure in the weighted-average calculation is determined by the unpaid principal amount of the exposure; and

(ii) 15 percent.

(2) A Board-regulated institution may assign a risk weight under this paragraph (k) only if the Board-regulated institution has knowledge of the composition of all of the underlying exposures.

(l) *NPL securitization*.

Notwithstanding any other provision of this subpart except for paragraph (e) of this section:

(1) If the nonrefundable purchase price discount for the NPL securitization is greater than or equal to 50 percent of the unpaid principal balance of the pool of exposures, the risk weight for a senior securitization exposure to an NPL securitization is 100 percent.

(2) If the Board-regulated institution is an originating Board-regulated institution with respect to the NPL securitization, the Board-regulated institution may hold risk-based capital against the transferred exposures as if they had not been securitized and must deduct from common equity tier 1 capital any after-tax gain-on-sale resulting from the transaction and any portion of a CEIO that does not constitute an after-tax gain-on-sale.

* * * * *

■ 34. Revise § 217.44 to read as follows:

§ 217.44 Securitization standardized approach (SEC-SA).

(a) *In general*. The risk weight RW_{SEC-SA} assigned to a securitization exposure, or portion of a securitization exposure, is calculated according to the following formula:

$$RW_{SEC-SA} = \begin{cases} \max(RW_{FLOOR}, 1,250\% \cdot K_{SEC-SA}), & K_A \leq A \\ \max\left(RW_{FLOOR}, \left(\frac{K_A - A}{D - A}\right) \cdot 1,250\% + \left(\frac{D - K_A}{D - A}\right) \cdot 1,250\% \cdot K_{SEC-SA}\right), & A < K_A < D \\ 1,250\%, & D \leq K_A \end{cases}$$

Where:

- (1) K_A is calculated under paragraph (b) of this section;
- (2) A (attachment point) equals the greater of zero and the ratio, expressed as a decimal value between zero and one, of the current dollar amount of underlying exposures that are subordinated to the exposure of the Board-regulated institution to the current dollar amount of the underlying exposures, as adjusted in accordance with paragraph (a)(6) of this section;
- (3) D (detachment point) equals the greater of zero and the sum of parameter A and the ratio, expressed as a decimal value between zero and one, of the current dollar amount of the securitization exposures that are ranked senior or pari passu with the exposure (that is, have equal seniority with respect to credit risk) to the current dollar amount of the underlying exposures, as adjusted in accordance with paragraph (a)(6) of this section;
- (4) RW_{FLOOR} equals 100 percent for resecuritization exposures and NPL securitization exposures and 15 percent for all other securitization exposures; and
- (5) K_{SEC-SA} is calculated according to the following formula:

$$K_{SEC-SA} = \frac{e^{a \cdot u} - e^{a \cdot l}}{a \cdot (u - l)}$$

Where:

- (i) a equals $-1/p \cdot K_A$ (as K_A is defined in this paragraph (a)), where p equals 1.5 for a resecuritization exposure and 0.5 for all other securitization exposures;
- (ii) u equals $D - K_A$ (as A and K_A are defined in paragraph (a) of this section);
- (iii) l equals $\max(A - K_A, 0)$ (as A and K_A are defined in paragraph (a) of this section); and
- (iv) e equals the base of the natural logarithm.

(6) A Board-regulated institution must include in the calculation of A and D the funded portion of any reserve account funded by the accumulated cash flows from the underlying exposures that is subordinated to the Board-regulated institution's securitization exposure. Interest rate derivative contracts, exchange rate derivative contracts, and cash collateral accounts related to these contracts must not be included in the calculation of A and D . If the securitization exposure includes a nonrefundable purchase

price discount, the nonrefundable purchase price discount must be included in the numerator and denominator of A and D .

(b) *Calculation of K_A* is calculated under this paragraph (b) according to the following formula:

$$K_A = (1 - W \cdot K_G + (W \cdot 0.5))$$

Where:

- (1) W equals the ratio, expressed as a decimal value between zero and one, of the sum of the dollar amounts of any underlying exposures of the securitization that are not securitization exposures and that meet any of the criteria in paragraphs (b)(1)(i) through (vii) of this section to the outstanding balance, measured in dollars, of all underlying exposures:
 - (i) Ninety days or more past due;
 - (ii) Subject to a bankruptcy or insolvency proceeding;
 - (iii) In the process of foreclosure;
 - (iv) Held as real estate owned;
 - (v) Has contractually deferred payments for 90 days or more, other than principal or interest payments deferred on:
 - (A) Federally guaranteed student loans, in accordance with the terms of those guarantee programs; or
 - (B) Consumer loans, including non-federally-guaranteed student loans, provided that such payments are deferred pursuant to provisions included in the contract at the time funds are disbursed that provide for period(s) of deferral that are not initiated based on changes in the creditworthiness of the borrower; or
 - (vi) Is in default; and
 - (vii) Notwithstanding paragraphs (1)(i) through (vi) of this paragraph, an exposure that is directly and unconditionally guaranteed by the U.S. Government, its central bank, or a U.S. Government agency may be excluded from the calculation of W up to the amount of the guarantee; and
- (2) K_G equals the weighted average (with unpaid principal used as the weight for each credit exposure and fair value used for each equity exposure) total capital requirement, expressed as a decimal value between zero and one, of the underlying exposures calculated using this subpart D (that is, an average risk weight of 100 percent represents a value of K_G equal to 0.08), as adjusted in accordance with this paragraph (b)(2). For purposes of K_G the determination of the capital requirement associated with an underlying exposure that is an equity exposure cannot use the risk weight under § 217.52(b)(3)(iii). For interest rate

derivative contracts and exchange rate derivative contracts, the positive current exposure times the risk weight of the counterparty multiplied by 0.08 must be included in the numerator of K_G but must be excluded from the denominator of K_G .

* * * * *

■ 35. Amend § 217.45 by:

- a. Adding paragraphs (a)(3) and (a)(4).
- b. Revising paragraph (b).

The additions and revisions read as follows:

§ 217.45 Recognition of credit risk mitigants for securitization exposures.

* * * * *

(3) If the recognized credit risk mitigant hedges a portion of the Board-regulated institution's securitization exposure, the Board-regulated institution must calculate its capital requirements for the hedged and unhedged portions of the exposure separately. For each unhedged portion, the Board-regulated institution must calculate capital requirements according to § 217.42 and § 217.43. For each hedged portion, the Board-regulated institution may recognize the credit risk mitigant under § 217.36 or § 217.37, but only as provided in this section.

(4) When a Board-regulated institution purchases or sells credit protection on a portion of a senior tranche, the lower-priority portion, whether hedged or unhedged, must be considered a non-senior securitization exposure.

* * * * *

(b) *Mismatches*. A Board-regulated institution must make any applicable adjustment to the protection amount as required in § 217.36 for any hedged securitization exposure. In the context of a synthetic securitization, when a credit risk mitigant described in § 217.41(b)(1)(ii) through (iv) covers multiple hedged exposures that have different residual maturities, the Board-regulated institution must use the longest residual maturity of any of the hedged exposures as the residual maturity of all hedged exposures.

* * * * *

■ 36. Revise § 217.51(b)(4) to read as follows:

§ 217.51 Introduction and exposure measurement.

* * * * *

(b) * * *

(4) For a commitment to acquire an equity exposure (an equity commitment), the effective notional principal amount of the exposure is multiplied by the following conversion factors (CFs):

(i) Conditional equity commitments receive a 40 percent conversion factor.

(ii) Unconditional equity commitments receive a 100 percent conversion factor.

* * * * *

■ 37. Revise § 217.61 to read as follows:

§ 217.61 Purpose and scope.

Sections 217.61 through 217.63 of this subpart establish public disclosure requirements related to the capital requirements described in subpart B of this part for a Board-regulated institution with total consolidated assets of \$50 billion, as adjusted pursuant to § 217.4, or more as reported on the Board-regulated institution's most recent year-end Call Report, for a state member bank, or FR Y–9C, for a bank holding company or savings and loan holding company, as applicable that is not an advanced approaches Board-regulated institution making public disclosures pursuant to § 217.172. An advanced approaches Board-regulated institution that has not received approval from the Board to exit parallel

run pursuant to § 217.121(d) is subject to the disclosure requirements described in §§ 217.62 and 217.63. A Board-regulated institution with total consolidated assets of \$50 billion, as adjusted pursuant to § 217.4, or more as reported on the Board-regulated institution's most recent year-end Call Report, for a state member bank, or FR Y–9C, for a bank holding company or savings and loan holding company, as applicable, that is not an advanced approaches Board-regulated institution making public disclosures subject to § 217.172 must comply with § 217.62 unless it is a consolidated subsidiary of a bank holding company, savings and loan holding company, or depository institution that is subject to the disclosure requirements of § 217.62 or a subsidiary of a non-U.S. banking organization that is subject to comparable public disclosure requirements in its home jurisdiction. For purposes of this section, total consolidated assets are determined based on the average of the Board-regulated institution's total consolidated assets in the four most recent quarters as reported on the Call Report, for a state member bank, or FR Y–9C, for a bank holding company or savings and loan holding company, as applicable; or the average of the Board-regulated institution's total consolidated assets in the most recent consecutive quarters as reported quarterly on the Board-regulated institution's Call Report, for a

state member bank, or FR Y–9C, for a bank holding company or savings and loan holding company, as applicable if the Board-regulated institution has not filed such a report for each of the most recent four quarters.

* * * * *

■ 38. Amend § 217.300 by revising paragraph (a) to read as follows:

§ 217.300 Transitions.

(a) *Transition adjustments for AOCI.* Beginning [January 1, 2027], a Category III Board-regulated institution or a Category IV Board-regulated institution that had made an AOCI opt-out election under § 217.22(b)(2) effective [December 31, 2026], must subtract from the sum of its common equity tier 1 elements, before making deductions required under § 217.22(c) or (d), the transition AOCI adjustment amount multiplied by the percentage provided in Table 1 to § 217.300. The transition AOCI adjustment amount is the sum of:

(1) Net unrealized gains or losses on available-for-sale securities, plus

(2) Accumulated net gains or losses on cash flow hedges, plus

(3) Any amounts recorded in AOCI attributed to defined benefit postretirement plans resulting from the initial and subsequent application of the relevant GAAP standards that pertain to such plans, plus

(4) Net unrealized holding gains or losses on held-to-maturity securities that are included in AOCI.

TABLE 1—TO § 217.300

Transition AOCI adjustment	
Transition period	Percentage applicable to transition AOCI adjustment amount
January 1, 2027 to December 31, 2027	100
January 1, 2028 to December 31, 2028	80
January 1, 2029 to December 31, 2029	60
January 1, 2030 to December 31, 2030	40
January 1, 2031 to December 31, 2031	20
January 1, 2032 and thereafter	0

* * * * *

PART 238—SAVINGS AND LOAN HOLDING COMPANIES (REGULATION LL)

■ 39. The authority citation for part 238 continues to read as follows:

Authority: 5 U.S.C. 552, 559; 12 U.S.C. 1462, 1462a, 1463, 1464, 1467, 1467a, 1468, 5365; 1813, 1817, 1829e, 1831i, 1972; 15 U.S.C. 78l.

Subpart Q—Single-Counterparty Credit Limits for Covered Savings and Loan Holding Companies**§ 238.154 [Amended]**

■ 40. In paragraph (h)(1) of § 238.154, remove the words “§ 217.37(c)(3)(ii)” and add in their place “§ 217.37(d)(2)”.

PART 252—ENHANCED PRUDENTIAL STANDARDS (REGULATION YY)

■ 41. The authority citation for part 252 continues to read as follows:

Authority: 12 U.S.C. 321–338a, 481–486, 1467a, 1818, 1828, 1831n, 1831o, 1831p–1, 1831w, 1835, 1844(b), 1844(c), 3101 *et seq.*, 3101 note, 3904, 3906–3909, 4808, 5361, 5362, 5365, 5366, 5367, 5368, 5371.

Subpart H—Single-Counterparty Credit Limits**§ 252.74 [Amended]**

■ 42. In paragraph (h)(1) of § 252.74, remove the words “§ 217.37(c)(3)(ii)” and add in their place “§ 217.37(d)(2)”.

Subpart Q—Single-Counterparty Credit Limits**§ 252.174 [Amended]**

■ 43. In paragraph (h)(1) of § 252.174, remove the words “§ 217.37(c)(3)(ii)” and add in their place “§ 217.37(d)(2)”.

FEDERAL DEPOSIT INSURANCE CORPORATION**12 CFR Chapter III****Authority and Issuance**

For the reasons stated in the preamble, the Federal Deposit Insurance Corporation proposes to amend 12 CFR part 324 as follows:

PART 324—CAPITAL ADEQUACY OF FDIC-SUPERVISED INSTITUTIONS

■ 44. The authority citation for part 324 continues to read as follows:

Authority: 12 U.S.C. 1815(a), 1815(b), 1816, 1818(a), 1818(b), 1818(c), 1818(t), 1819 (Tenth), 1828(c), 1828(d), 1828(i), 1828(n), 1828(o), 1831o, 1835, 3907, 3909, 4808; 5371; 5412; Pub. L. 102–233, 105 Stat. 1761, 1789, 1790 (12 U.S.C. 1831n note); Pub. L. 102–242, 105 Stat. 2236, 2355, as amended by Pub. L. 103–325, 108 Stat. 2160, 2233 (12 U.S.C. 1828 note); Pub. L. 102–242, 105 Stat. 2236, 2386, as amended by Pub. L. 102–550, 106 Stat. 3672, 4089 (12 U.S.C. 1828 note); Pub. L. 111–203, 124 Stat. 1376, 1887 (15 U.S.C. 78o–7 note), Pub. L. 115–174; section 4014 § 201, Pub. L. 116–136, 134 Stat. 281 (15 U.S.C. 9052).

Subpart A—General Provisions

■ 45. In § 324.1:

■ a. Revise paragraphs (c)(4)(i), (e) and (f); and

■ b. Add paragraph (g).

The addition and revision read as follows:

§ 324.1 Purpose, applicability, reservations of authority, and timing.

* * * * *

(4) * * *

(i) Except for an advanced approaches FDIC-supervised institution that is making public disclosures pursuant to the requirements in subpart E of this part, each FDIC-supervised institution with total consolidated assets of \$50 billion or more, as adjusted pursuant to § 324.4, must make the public disclosures described in subpart D of this part.

* * * * *

(e) *Notice and response procedures.* In making a determination under this part, unless more specifically provided for, the FDIC will apply notice and response procedures in the same manner and to the same extent as the notice and response procedures in 12 CFR 324.7(c).

* * * * *

(f) *Transitions and timing*—(1) *Transitions.* Notwithstanding any other provision of this part, an FDIC-supervised institution must make any adjustments provided in subpart G of this part for purposes of implementing this part.

(2) *Timing.* An FDIC-supervised institution that changes from one category to another category, or that changes from having no category to having a category, must comply with the requirements of its category in this part, including applicable transition provisions of the requirements in this part, no later than on the first day of the second quarter following the change in the FDIC-supervised institution's category.

* * * * *

(g) *Severability.* If any provision of this part, or the application thereof to any FDIC-supervised institution, is held invalid, such invalidity shall not affect the validity of other provisions or the application of such provision to other FDIC-supervised institutions that can be given effect without the invalid provision or application.

* * * * *

■ 46. In § 324.2:

■ a. Revise the definition for “Adjusted allowances for credit losses (AACL)”;

■ b. Remove the definition for “Allowances for loan and lease losses (ALLL)”;

■ c. Revise the definition for “Carrying value”;

■ d. Revise the definition for “Category III FDIC-supervised institution (324.2);

■ e. Add, in alphabetical order, the definition for “Category IV FDIC-supervised institution”;

■ f. Revise the definition for “Commitment”;

■ g. Add, in alphabetical order, the definition for “Dependent on the cash flows generated by the real estate”;

■ h. Revise the definitions for “Effective notional amount”, “Eligible clean-up call”, and “Eligible guarantee”;

■ i. Add, in alphabetical order, the definition for “Eligible prepaid credit protection arrangement”;

■ j. Revise paragraph (4)(i)(A) in the definition of “Financial institution”;

■ k. Revise the definition for “Netting set”;

■ l. Add, in alphabetical order, definitions for “Non-performing loan securitization (NPL securitization)”, “Nonrefundable purchase price discount (NRPPD)”, and “Prepaid credit protection arrangement”;

■ m. Revise the definition for “Protection amount (P)”;

■ n. Add, in alphabetical order, the definition for “Qualifying Cross-Product Master Netting Agreement”;

■ o. Revise paragraph (1)(ii) of the definition for “Residential mortgage exposure”;

■ p. Remove the definition for “Securitization special purpose entity (SPE)”;

■ q. Add, in alphabetical order, the definitions for “Senior securitization exposure” and “Specified supranational entity”;

■ r. Revise the definition for “Speculative grade”;

■ s. In the definition of “Standardized total risk-weighted assets”, remove the words “§ 324.42” and add, in their place, the words “§ 324.43”;

■ t. Revise the definition for “Sub-speculative grade”;

■ u. Add, in alphabetical order, the definition for “Synthetic excess spread”;

■ v. Revise the definitions for “Synthetic securitization”, and “Traditional securitization”.

The additions and revisions read as follows:

§ 324.2 Definitions.

Adjusted allowances for credit losses (AACL) means valuation allowances that have been established through a charge against earnings or retained earnings for expected credit losses on financial assets measured at amortized cost and a lessor's net investment in leases that have been established to reduce the amortized cost basis of the assets to amounts expected to be collected as determined in accordance with GAAP. For purposes of this part, adjusted allowances for credit losses include allowances for expected credit losses on off-balance sheet credit exposures not accounted for as insurance as determined in accordance with GAAP. Adjusted allowances for credit losses exclude allocated transfer risk reserves and allowances created that reflect credit losses on purchased credit deteriorated assets, purchased seasoned loans, assets required to record an allowance for credit losses through a gross-up adjustment to the purchase price of the asset, and available-for-sale debt securities.

* * * * *

Carrying value means, with respect to an asset, the value of the asset on the balance sheet of the FDIC-supervised institution as determined in accordance with GAAP. For all assets other than available-for-sale debt securities, purchased credit deteriorated assets, purchased seasoned loans, or assets required to record an allowance for credit losses through a gross-up adjustment to the purchase price of the asset, the carrying value is not reduced by any associated credit loss allowance

that is determined in accordance with GAAP.

* * * * *

Category III FDIC-supervised institution means an FDIC-supervised institution that is not a Category II FDIC-supervised institution and that

(1) Is a subsidiary of a Category III banking organization, as defined pursuant to 12 CFR 252.5 or 12 CFR 238.10, as applicable; or

(2)(i) 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 \$250 billion or more. 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 average of the most recent quarters, as applicable; or

(ii)(A) 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, of \$100 billion or more but less than \$250 billion. 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 average of the most recent quarters, as applicable; and

(B) Has at least one of the following in paragraphs (2)(ii)(B)(1) through (3) of this definition, each calculated as the average of the four most recent calendar quarters, or if the FDIC-supervised institution has not filed each applicable reporting form for each of the four most recent calendar quarters, for the most recent quarter or quarters, as applicable:

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

(2) Off-balance sheet exposure equal to \$75 billion or more. Off-balance sheet exposure is the FDIC-supervised institution's total exposure, calculated in accordance with the instructions to the FR Y-15 or equivalent reporting form, minus the FDIC-supervised institution's total consolidated assets, as reported on the Call Report; or

(3) 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 paragraph (2)(ii) of this definition, an

FDIC-supervised institution continues to be a Category III FDIC-supervised institution until the FDIC-supervised institution:

(A) Has:

(1) Less than \$250 billion in total consolidated assets, as reported on the Call Report, for each of the four most recent calendar quarters;

(2) 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) 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; and

(4) Less than \$75 billion in off-balance sheet exposure for each of the four most recent calendar quarters. Off-balance sheet exposure is an FDIC-supervised institution's total exposure, calculated in accordance with the instructions to the FR Y-15 or equivalent reporting form, minus the total consolidated assets of the FDIC-supervised institution, as reported on the Call Report; 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 Category II FDIC-supervised institution.

Category IV FDIC-supervised institution means an FDIC-supervised institution that is not a Category II FDIC-supervised institution or a Category III FDIC-supervised institution, and that:

(1) Is a subsidiary of a Category IV banking organization, as defined pursuant to 12 CFR 252.5 or 12 CFR 238.10, as applicable; or

(2) 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, of \$100 billion or more. 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 the average of its total consolidated assets, as reported on the Call Report, for the most recent quarter(s) available.

(3) After meeting the criterion in paragraph (2) of this definition, an FDIC-supervised institution continues to be a Category IV FDIC-supervised institution until it:

(i) 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

(ii) Is a Category II FDIC-supervised institution or Category III FDIC-supervised institution.

* * * * *

Commitment means a contractual arrangement, under which an FDIC-supervised institution and an obligor agree to terms applicable to one or more future extensions of credit, purchases of assets, or issuances of credit substitutes by the FDIC-supervised institution, whether or not such arrangement is unconditionally cancelable. A commitment is unconditionally cancelable if, by its terms, it either: (a) provides that an FDIC-supervised institution is not obligated to extend credit, purchase assets, or issue credit substitutes; or (b) permits an FDIC-supervised institution, at any time, with or without cause, to refuse to extend credit, purchase assets, or issue credit substitutes under the arrangement (to the extent permitted under applicable law).

* * * * *

Dependent on the cash flows generated by the real estate means, for a real estate exposure, the underwriting, at the time of origination, considers the cash flows generated by lease, rental, or sale of the real estate securing the loan as a source of repayment. For purposes of this definition, a residential mortgage exposure that is secured by the borrower's principal residence is deemed not dependent on the cash flows generated by the real estate.

* * * * *

Effective notional amount means for an eligible guarantee, eligible credit derivative, or eligible prepaid credit protection arrangement, the lesser of the contractual notional amount of the credit risk mitigant and the exposure amount of the hedged exposure, multiplied by the percentage coverage of the credit risk mitigant.

* * * * *

Eligible clean-up call means a clean-up call that:

(1) Is exercisable solely at the discretion of the originating FDIC-supervised institution or servicer;

(2) Is not structured to avoid allocating losses to securitization exposures held by investors or otherwise structured to provide credit enhancement to the securitization; and

(3) Is only exercisable:

(i) For a traditional securitization, when 10 percent or less of the principal amount of the underlying exposures or securitization exposures (determined as of the inception of the securitization) is outstanding;

(ii) For a synthetic securitization, when 10 percent or less of the principal amount of the reference portfolio of underlying exposures (determined as of the inception of the securitization) is outstanding;

(iii) Upon the occurrence of a regulatory event that significantly changes the risk-weighted asset amount for the securitization exposure under applicable risk-weighted asset standards; or

(iv) Upon the occurrence of a tax event that significantly changes the tax treatment of the securitization exposure under applicable tax laws.

* * * * *

Eligible guarantee means a guarantee that:

(1) Is written;

(2) Is either:

(i) Unconditional, or

(ii) A contingent obligation of the U.S. government or its agencies, the enforceability of which is dependent upon some affirmative action on the part of the beneficiary of the guarantee or a third party (for example, meeting servicing requirements);

(3) Covers all or a pro rata portion of all contractual payments of the obligated party on the reference exposure;

(4) Gives the beneficiary a direct claim against the protection provider;

(5) Is not unilaterally cancelable by the protection provider for reasons other than the breach of the contract by the beneficiary;

(6) Except for a guarantee by a sovereign, is legally enforceable against the protection provider in a jurisdiction where the protection provider has sufficient assets against which a judgment may be attached and enforced;

(7) Requires the protection provider to make payment to the beneficiary on the occurrence of a default (as defined in the guarantee) of the obligated party on the reference exposure in a timely manner without the beneficiary first having to take legal actions to pursue the obligor for payment;

(8) Does not increase the beneficiary's cost of credit protection on the guarantee in response to deterioration in the credit quality of the reference exposure;

(9) Is not provided by an affiliate of the FDIC-supervised institution, unless the affiliate is an insured depository institution, foreign bank, securities broker or dealer, or insurance company that:

(i) Does not control the FDIC-supervised institution; and

(ii) Is subject to consolidated supervision and regulation comparable

to that imposed on depository institutions, U.S. securities broker-dealers, or U.S. insurance companies (as the case may be); and

(10) Is provided by an eligible guarantor.

* * * * *

Eligible prepaid credit protection arrangement means a prepaid credit protection arrangement that:

(1) Is written;

(2) Is unconditional;

(3) Covers all or a pro rata portion of all contractual payments due to be paid on the reference exposure or reference exposures;

(4) Provides that the amount and timing of payments due from the protection purchaser to the protection provider are incorporated into the arrangement and the arrangement only allows these terms to change in the event of a breach of the arrangement by the protection purchaser;

(5) Provides that entry of the protection provider into receivership, insolvency, liquidation, conservatorship, or similar proceeding does not change the amounts or timing of payments due to be paid by the protection purchaser under the arrangement;

(6) Is legally valid and enforceable under applicable law of the relevant jurisdictions;

(7) Upon a failure by the obligor on the one or more reference exposures to make a contractually required payment, or the occurrence of other credit events as described in the arrangement, allows the protection purchaser promptly to reduce the outstanding balance of the initial principal amount due to the protection provider by the loss of the protection purchaser on the reference exposures without input from the protection provider; and

(8) Does not increase the protection purchaser's cost of credit protection in response to deterioration in the credit quality of any of the reference exposure.

* * * * *

Financial institution means:

* * * * *

(4) * * *

(i) * * *

(A) An investment in GAAP equity instruments of the company with an adjusted carrying value or exposure amount equal to or greater than \$10 million, as adjusted pursuant to § 324.4; or

* * * * *

Netting set means a group of transactions with a single counterparty that are subject to a qualifying master netting agreement. For derivative contracts, netting set also includes a

single derivative contract between an FDIC-supervised institution and a single counterparty.

* * * * *

Non-performing loan securitization (NPL securitization) means a traditional securitization, that is not a rescuitization, where parameter *W* (as defined in § 324.44(b)(1)) for the underlying exposures in a pool is greater than or equal to 90 percent at the origination cut-off date and at any subsequent date on which exposures are added to or removed from the pool of underlying exposures due to replenishment or restructuring.

Nonrefundable purchase price discount (NRPPD) means the difference between the outstanding principal balance of the underlying exposures at the time of sale and the price at which these exposures are sold by the originator to a company the activities of which are limited to those appropriate for the specific purpose of holding the underlying exposures of a securitization, when neither originator nor the original lender are reimbursed for this difference. In cases where the originator underwrites tranches of an NPL securitization for subsequent sale, the NRPPD may include the differences between the outstanding principal balance of the underlying exposures at the time of sale and the price at which all of the tranches are first sold to unrelated third parties. For any given piece of a securitization tranche, only its initial sale from the originator to investors is taken into account in the determination of NRPPD. The purchase prices of subsequent re-sales of a securitization tranche are not considered.

* * * * *

Prepaid credit protection arrangement means a contractual arrangement under which a protection purchaser transfers the credit risk of one or more reference exposures to a protection provider where:

(1) The protection provider pays an initial principal amount in cash to the protection purchaser at the inception of the transaction; and

(2) The protection purchaser is obligated to repay the initial principal amount to the protection provider on or before the maturity date of the transaction, less any losses that the protection purchaser realizes or otherwise recognizes due to nonpayment of all contractual payments due to be paid on the reference exposure or reference exposures by the obligors.

* * * * *

Protection amount (P) means, with respect to an exposure hedged by an

eligible guarantee, eligible credit derivative, or eligible prepaid credit protection arrangement, or secured by financial collateral, the effective notional amount of the guarantee, credit derivative, or prepaid credit protection arrangement, or the fair value of the financial collateral, reduced to reflect any currency mismatch, maturity mismatch, or lack of restructuring coverage (as provided in §§ 324.36–324.37 or § 324.120–121, as applicable).

Qualifying cross-product master netting agreement means a qualifying master netting agreement that provides for termination and close-out netting across multiple types of financial transactions or qualifying master netting agreements in the event of a counterparty's default, provided that the underlying financial transactions are derivative contracts or repo-style transactions that are not cleared transactions. In order to treat an agreement as a qualifying cross-product master netting agreement, an FDIC-supervised institution must comply with the requirements of § 324.3(c) of this part with respect to that agreement.

Residential mortgage exposure means an exposure (other than a securitization exposure, equity exposure, statutory multifamily mortgage, or presold construction loan):

(1) * * *

(ii) With an original and outstanding amount of \$1 million or less, as adjusted pursuant to § 324.4, that is primarily secured by a first or subsequent lien on residential property that is not one-to-four family; and

* * * * *

Senior securitization exposure means a securitization exposure that has a first-priority claim on the cash flows from the underlying exposures. When determining whether a securitization exposure has a first-priority claim on the cash flows from the underlying exposures, an FDIC-supervised institution is not required to consider amounts due under interest rate derivative, currency derivative, and servicer cash advance facility contracts; fees due; and other similar payments. Both the most senior commercial paper issued by an ABCP program and a liquidity facility that supports the ABCP program may be senior securitization exposures if the liquidity facility provider's right to reimbursement of the drawn amounts is senior to all claims on the cash flows from the underlying exposures except amounts due under interest rate derivative, currency derivative, and servicer cash advance

facility contracts; fees due; and other similar payments.

* * * * *

Specified supranational entity means the Bank for International Settlements, the European Central Bank, the European Commission, the International Monetary Fund, the European Stability Mechanism, or the European Financial Stability Facility.

* * * * *

Speculative grade means that the entity to which the FDIC-supervised institution is exposed through a loan or security, or the reference entity with respect to a credit derivative, has adequate capacity to meet financial commitments in the near term, but is vulnerable to adverse economic conditions, such that should economic conditions deteriorate, the issuer or the reference entity would present an elevated default risk.

* * * * *

Sub-speculative grade means that the entity to which the FDIC-supervised institution is exposed through a loan or security, or the reference entity with respect to a credit derivative, depends on favorable economic conditions to meet its financial commitments, such that should such economic conditions deteriorate the issuer or the reference entity likely would default on its financial commitments.

* * * * *

Synthetic excess spread means any contractual provisions in a synthetic securitization that are designed to absorb losses prior to any of the tranches of the securitization structure.

* * * * *

Synthetic securitization means a transaction in which:

(1) All or a portion of the credit risk of one or more underlying exposures is retained or transferred to one or more third parties through the use of one or more credit derivatives, guarantees (other than a guarantee that transfers only the credit risk of an individual retail exposure), or prepaid credit protection arrangements;

(2) The credit risk associated with the underlying exposures has been separated into at least two tranches reflecting different levels of seniority;

(3) Performance of the securitization exposures depends solely upon the performance of the underlying exposures; and

(4) All or substantially all of the underlying exposures are financial exposures (such as loans, commitments, credit derivatives, guarantees, receivables, asset-backed securities,

mortgage-backed securities, other debt securities, or equity securities).

* * * * *

Traditional securitization means a transaction in which:

(1) All or a portion of the credit or equity risk of one or more underlying exposures is transferred to one or more third parties other than through the use of credit derivatives, guarantees, or prepaid credit protection arrangements;

(2) The credit risk associated with the underlying exposures has been separated into at least two tranches reflecting different levels of seniority;

(3) Performance of the securitization exposures depends solely upon the performance of the underlying exposures;

(4) All or substantially all of the underlying exposures are financial exposures (such as loans, commitments, credit derivatives, guarantees, receivables, asset-backed securities, mortgage-backed securities, other debt securities, or equity securities);

(5) The underlying exposures are not owned by an operating company;

(6) The underlying exposures are not owned by a small business investment company defined in section 302 of the Small Business Investment Act;

(7) The underlying exposures are not owned by a firm an investment in which qualifies as a community development investment under section 24(Eleventh) of the National Bank Act;

(8) The FDIC may determine that a transaction in which the underlying exposures are owned by an investment firm that exercises substantially unfettered control over the size and composition of its assets, liabilities, and off-balance sheet exposures is not a traditional securitization based on the transaction's leverage, risk profile, or economic substance;

(9) The FDIC may deem a transaction that meets the definition of a traditional securitization, notwithstanding paragraph (5), (6), or (7) of this definition, to be a traditional securitization based on the transaction's leverage, risk profile, or economic substance; and

(10) The transaction is not:

(i) An investment fund;

(ii) A collective investment fund (as defined in 12 CFR 344.3 (state nonmember bank), and 12 CFR 390.203 (state savings association));

(iii) An employee benefit plan (as defined in paragraphs (3) and (32) of section 3 of ERISA), 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;

(iv) A synthetic exposure to the capital of a financial institution to the extent deducted from capital under § 324.22; or

(v) Registered with the SEC under the Investment Company Act of 1940 (15 U.S.C. 80a–1) or foreign equivalents thereof.

* * * * *

■ 47. Redesignate § 324.4 as § 324.6 and § 324.5 as § 324.7.

■ 48. Add § 324.4 to read as follows:

§ 324.4 Threshold Indexing.

(a) *Methodology.* The dollar thresholds specified in paragraph (c) of this section shall be adjusted by multiplying the baseline threshold values specified in paragraph (c) of this section by one plus the cumulative percent change in the non-seasonally adjusted Consumer Price Index for Urban Wage Earners and Clerical Workers, measured from the effective date of this rule, as further described in paragraph (b) of this section, and shall be rounded in accordance with paragraph (d) of this section.

(b) *Frequency.* (1) *In general—biennial adjustments.* Except as otherwise provided in paragraph (b)(2) and (b)(3) of this section, the adjustments described in paragraph (a) of this section shall be effective on October 1 following each consecutive two year period ending August 30, and using the non-seasonally adjusted Consumer Price Index for Urban Wage Earners and Clerical Workers as of August 30 of that year.

(2) *Off-year adjustments.* In the event that the FDIC determines, during a year where no adjustment would be made under paragraph (b)(1), that the non-seasonally adjusted Consumer Price Index for Urban Wage Earners and Clerical Workers, measured over the twelve month period ending August 30 of that year, is such that an adjustment under this section would be appropriate for that year, the FDIC may make an adjustment under this section for that year.

(3) *Periods of negative inflation.* Notwithstanding paragraph (b)(1) or (b)(2) of this section, if an adjustment of dollar thresholds using the cumulative percent change of the non-seasonally adjusted Consumer Price Index for Urban Wage Earners and Clerical Workers from the effective date of this rule or the most recent adjustment, as applicable, would not result in an increase from the current dollar thresholds, no adjustment will be made pursuant to paragraph (a) of this section.

(c) *Specified thresholds.* The thresholds in the following sections shall be adjusted in accordance with paragraph (a) of this section relative to the baseline threshold values as specified below.

(1) Section 324.1(c)(4)(i), baseline threshold value \$50 billion;

(2) Section 324.2, paragraph (4)(i)(A) of the definition of “Financial institution,” baseline threshold value \$10 million;

(3) Section 324.2, definition of “Residential mortgage exposure,” baseline threshold value \$1 million; and

(4) Section 324.61, baseline threshold value \$50 billion.

(d) *Rounding.* When adjusting thresholds under this section, each threshold shall be rounded based on the size of the threshold (e.g., thousands, millions, billions) to the nearest number with two significant digits.

(e) *Effective date of threshold adjustments.* The FDIC shall announce the thresholds adjusted in accordance with this section by publication in the **Federal Register**. Such adjusted thresholds shall be effective on October 1 of the year during which an adjustment is made.

(f) *Failure to publish in the **Federal Register**.* In the event, for any reason, the thresholds adjusted in accordance with this section are not published in the **Federal Register** in a year in which an adjustment is made under this section, the thresholds specified in paragraph (c) of this section will adjust as provided in this section and be effective on October 1, notwithstanding the lack of publication in the **Federal Register**.

* * * * *

■ 49. Add § 324.5 to read as follows:

§ 324.5 Calculation of loan-to-value (LTV) ratio.

(a) *Loan-to-value ratio.* The loan-to-value (LTV) ratio must be calculated as the extension of credit divided by the value of the property.

(b) *Extension of credit.* For purposes of a LTV ratio calculated under this § 324.5, the extension of credit is equal to the total outstanding amount of the loan including any undrawn committed amount of the loan.

(c) *Value of the property.* (1) For purposes of a LTV ratio calculated under this § 324.5, the value of the property is the market value of all real estate properties securing or being improved by the extension of credit plus the amount of any readily marketable collateral and other acceptable collateral, as defined in 12 CFR part 365, subpart A, Appendix A, that

secures the extension of credit, subject to the following:

(i) For exposures subject to 12 CFR part 323, subpart A, the market value of property is a valuation that meets all requirements of that rule.

(ii) For exposures not subject to 12 CFR part 323, subpart A:

(A) The market value of real estate must be obtained from an independent valuation of the property using prudently conservative valuation criteria;

(B) The valuation must be done independently from the FDIC-supervised institution’s origination and underwriting process; and

(C) To ensure that the market value of the real estate is determined in a prudently conservative manner, the valuation must exclude expectations of price increases and must be adjusted downward to account for the potential for the current market price to be significantly above the value that would be sustainable over the life of the loan.

(2) In the case where the exposure includes the financing to purchase the property, the value of the property is the lower of the market value obtained under paragraph (c)(1)(i) or (c)(1)(ii) of this section, as applicable, and the actual acquisition cost.

(3) The value of the property must be measured at the time of origination, except in the following circumstances:

(i) The FDIC requires an FDIC-supervised institution to revise the value of the property downward;

(ii) The value of the property must be adjusted downward due to an extraordinary event that results in a permanent reduction of the property value; or

(iii) The value of the property may be increased to reflect modifications made to the property that increase the market value, as determined according to the requirements in paragraphs (c)(1)(i) or (c)(1)(ii) of this section.

(4) Readily marketable collateral and other acceptable collateral, as defined in 12 CFR part 365, subpart A, Appendix A, must be appropriately discounted by the FDIC-supervised institution consistent with the FDIC-supervised institution’s usual practices for making loans secured by such collateral.

Subpart C—Definition of Capital

■ 50. Amend § 324.22 by:

■ a. Redesignating footnotes 22 through 31 as footnotes 1 through 10, respectively;

■ b. Revising paragraph (b), the heading of paragraph (d), and paragraph (d)(1).

The revisions read as follows:

§ 324.22 Regulatory capital adjustments and deductions.

* * * *

(b) Regulatory adjustments to common equity tier 1 capital.

(1) An FDIC-supervised institution must adjust the sum of common equity tier 1 capital elements pursuant to the requirements set forth in this paragraph (b). Such adjustments to common equity tier 1 capital must be made net of the associated deferred tax effects.

(i) An FDIC-supervised institution that makes an AOCI opt-out election (as defined in paragraph (b)(2) of this section), must make the adjustments required under paragraph (b)(2)(i) of this section.

(ii) An FDIC-supervised institution that is an advanced approaches FDIC-supervised institution, Category III FDIC-supervised institution, or Category IV FDIC-supervised institution, and an FDIC-supervised institution that has not made an AOCI opt-out election (as defined in paragraph (b)(2) of this section), must deduct any accumulated net gains and add any accumulated net losses on cash flow hedges included in AOCI that relate to the hedging of items that are not recognized at fair value on the balance sheet.

(iii) An FDIC-supervised institution must deduct any net gain and add any net loss related to changes in the fair value of liabilities that are due to changes in the FDIC-supervised institution's own credit risk. An advanced approaches FDIC-supervised institution, Category III FDIC-supervised institution, or Category IV FDIC-supervised institution must deduct the difference between its credit spread premium and the risk-free rate for derivatives that are liabilities as part of this adjustment.

(2) AOCI opt-out election.

(i) An FDIC-supervised institution that is not an advanced approaches FDIC-supervised institution, Category III FDIC-supervised institution, or Category IV FDIC-supervised institution may make a one-time election to opt out of the requirement to include all components of AOCI (with the exception of accumulated net gains and losses on cash flow hedges related to items that are not fair-valued on the balance sheet) in common equity tier 1 capital (AOCI opt-out election). An FDIC-supervised institution that makes an AOCI opt-out election in accordance with this paragraph (b)(2) must adjust common equity tier 1 capital as follows:

(A) Subtract any net unrealized gains and add any net unrealized losses on available-for-sale securities;

(B) Subtract any accumulated net gains and add any accumulated net losses on cash flow hedges;

(C) Subtract any amounts recorded in AOCI attributed to defined benefit postretirement plans resulting from the initial and subsequent application of the relevant GAAP standards that pertain to such plans (excluding, at the FDIC-supervised institution's option, the portion relating to pension assets deducted under paragraph (a)(5) of this section); and

(D) Subtract any net unrealized gains and add any net unrealized losses on held-to-maturity securities that are included in AOCI.

(ii) (A) An FDIC-supervised institution that is not an advanced approaches FDIC-supervised institution, Category III FDIC-supervised institution, or Category IV FDIC-supervised institution must make its AOCI opt-out election in the Call Report, during the first reporting period after the FDIC-supervised institution is required to comply with subpart A of this part as set forth in § 324.1(f).

(B) Notwithstanding paragraph (b)(ii)(A) of this section, if an FDIC-supervised institution was previously an advanced approaches FDIC-supervised institution, Category III FDIC-supervised institution, or Category IV FDIC-supervised institution, the FDIC-supervised institution must make its AOCI opt-out election in the Call Report, during the first reporting period after the FDIC-supervised institution ceased to be an advanced approaches FDIC-supervised institution, Category III FDIC-supervised institution, or Category IV FDIC-supervised institution.

(iii) Each depository institution subsidiary of an FDIC-supervised institution that is not an advanced approaches FDIC-supervised institution, Category III FDIC-supervised institution, or Category IV FDIC-supervised institution must elect the same option as the FDIC-supervised institution pursuant to paragraph (b)(2) of this section.

(iv) With prior notice to the FDIC, an FDIC-supervised institution resulting from a merger, acquisition, or purchase transaction and that is not an advanced approaches FDIC-supervised institution, Category III FDIC-supervised institution, or Category IV FDIC-supervised institution may make a new AOCI opt-out election in its Call Report filed by the resulting FDIC-supervised institution for the first reporting period after it is required to comply with subpart A of this part as set forth in § 324.1(f) if:

(A) Other than as set forth in paragraph (b)(2)(iv)(C) of this section,

the merger, acquisition, or purchase transaction involved the acquisition or purchase of all or substantially all of either the assets or voting stock of another banking organization that is subject to regulatory capital requirements issued by the Federal Reserve, the FDIC, or the OCC;¹

(B) Prior to the merger, acquisition, or purchase transaction, only one of the banking organizations involved in the transaction made an AOCI opt-out election under this section; and

(C) An FDIC-supervised institution may, with the prior approval of the FDIC, change its AOCI opt-out election under this paragraph (b) in the case of a merger, acquisition, or purchase transaction that meets the requirements set forth at paragraph (b)(2)(iv)(B) of this section, but does not meet the requirements of paragraph (b)(2)(iv)(A) of this section. In making such a determination, the FDIC may consider the terms of the merger, acquisition, or purchase transaction, as well as the extent of any changes to the risk profile, complexity, and scope of operations of the FDIC-supervised institution resulting from the merger, acquisition, or purchase transaction.

* * * *

(d) Certain DTAs subject to common equity tier 1 capital deduction thresholds.

(1) A FDIC institution that is not an advanced approaches FDIC-supervised institution must make deductions from regulatory capital as described in this paragraph (d)(1).

(i) The FDIC-supervised institution must deduct from common equity tier 1 capital elements the amount of DTAs as described in paragraph (d)(1)(ii) of this section that exceeds 25 percent of the sum of the FDIC-supervised institution's common equity tier 1 capital elements, less adjustments to and deductions from common equity tier 1 capital required under paragraphs (a) through (c)(3) of this section (the 25 percent common equity tier 1 capital deduction threshold).⁸

(ii) The FDIC-supervised institution must deduct from common equity tier 1 capital elements the amount of DTAs arising from temporary differences that the FDIC-supervised institution could not realize through net operating loss carrybacks, net of any related valuation allowances and net of DTLs, in accordance with paragraph (e) of this section. An FDIC-supervised institution is not required to deduct from the sum of its common equity tier 1 capital elements DTAs (net of any related valuation allowances and net of DTLs, in accordance with § 324.22(e)) arising

from timing differences that the FDIC-supervised institution could realize through net operating loss carrybacks. The FDIC-supervised institution must risk weight these assets at 100 percent. For an FDIC-supervised institution that is a member of a consolidated group for tax purposes, the amount of DTAs that could be realized through net operating loss carrybacks may not exceed the amount that the FDIC-supervised institution could reasonably expect to have refunded by its parent holding company.

(iii) For purposes of calculating the amount of DTAs subject to deduction pursuant to paragraph (d)(1) of this section, an FDIC-supervised institution may exclude DTAs and DTLs relating to adjustments made to common equity tier 1 capital under paragraph (b) of this section. An FDIC-supervised institution that elects to exclude DTAs relating to adjustments under paragraph (b) of this section also must exclude DTLs and must do so consistently in all future calculations. An FDIC-supervised institution may change its exclusion

preference only after obtaining the prior approval of the FDIC.

* * * * *

¹ These rules include the regulatory capital requirements set forth at 12 CFR part 3 (OCC); 12 CFR part 217 (Board); 12 CFR part 324 (FDIC).

* * * * *

⁸ The amount of the items in paragraph (d)(1) of this section that is not deducted from common equity tier 1 capital must be included in the risk-weighted assets of the FDIC-supervised institution and assigned a 250 percent risk weight.

* * * * *

Subpart D—Risk-Weighted Assets—Standardized Approach

* * * * *

■ 51. In § 324.32:

■ a. Revise paragraph (f)(1);

■ b. Revise paragraph (g);

■ c. Revise paragraph (l)(5).

The revisions read as follows:

§ 324.32 General risk weights.

* * * * *

(f) Corporate exposures.

(1) An FDIC-supervised institution must assign a 95 percent risk weight to all its corporate exposures, except as provided in paragraphs (f)(2) and (f)(3) of this section.

* * * * *

(g) Residential mortgage exposures.

(1) An FDIC-supervised institution must assign a risk weight in accordance with Table 5 to § 324.32 or Table 6 to § 324.32, as applicable, to a first-lien residential mortgage exposure that:

(i) Is secured by a property that is either owner-occupied or rented;

(ii) Is made in accordance with prudent underwriting standards, including relating to the loan amount as a percent of the appraised value of the property;

(iii) Is not 90 days or more past due or carried in nonaccrual status; and

(iv) Is not restructured or modified, provided that a loan modified or restructured solely pursuant to the U.S. Treasury's Home Affordable Mortgage Program is not modified or restructured for purposes of this section.

TABLE 5—RISK WEIGHTS FOR RESIDENTIAL MORTGAGES THAT ARE NOT DEPENDENT ON THE CASH FLOWS GENERATED BY THE REAL ESTATE BASED ON LTV ¹

	LTV ratio ≤50%	50% < LTV ratio ≤60%	60% < LTV ratio ≤80%	80% < LTV ratio ≤90%	90% < LTV ratio ≤100%	LTV ratio >100%
Risk Weight	25	30	35	45	55	75

¹ LTV is calculated in accordance with § 324.5.

TABLE 6—PROPOSED RISK WEIGHTS FOR RESIDENTIAL MORTGAGE EXPOSURES DEPENDENT ON THE CASH FLOWS GENERATED BY THE REAL ESTATE AND BASED ON LTV ¹

	LTV ratio ≤50%	50% < LTV ratio ≤60%	60% < LTV ratio ≤80%	80% < LTV ratio ≤90%	90% < LTV ratio ≤100%	LTV ratio > 100%
Risk Weight	35	40	50	65	80	110

¹ LTV is calculated in accordance with § 324.5.

(2) An FDIC-supervised institution must assign a 100 percent risk weight to a first-lien residential mortgage exposure that does not meet the criteria in paragraph (g)(1) of this section or for which the FDIC-supervised institution cannot calculate the LTV in accordance with 12 CFR 324.5, and to junior-lien residential mortgage exposures.

(3) For the purpose of this paragraph (g), if an FDIC-supervised institution holds the first-lien and junior-lien(s) residential mortgage exposures, and no other party holds an intervening lien, the FDIC-supervised institution must combine the exposures and treat them as a single first-lien residential mortgage exposure.

* * * * *

(l) * * *

(5) An FDIC-supervised institution must assign a 90 percent risk weight to all assets not specifically assigned a different risk weight under this subpart and that are not deducted from tier 1 or tier 2 capital pursuant to § 324.22.

* * * * *

■ 52. Amend § 324.33 by:

■ a. Adding paragraph (a)(5); and

■ b. Revising paragraph (b).

The revisions read as follows:

§ 324.33 Off-balance sheet exposures.

(a) * * *

(5) For purposes of this section, if a commitment does not have an express contractual maximum amount that can be drawn, the committed but undrawn amount of the commitment is equal to the highest total drawn amount over the

period since the commitment was created or the prior 24 months, whichever period is shorter, minus the current drawn amount.

* * * * *

(b) *Credit conversion factors*—

(1) *Zero percent CCF.* An FDIC-supervised institution must apply a zero percent CCF to the unused portion of a commitment that is unconditionally cancelable by the FDIC-supervised institution.

(2) *20 percent CCF.* An FDIC-supervised institution must apply a 20 percent CCF to the amount of self-liquidating trade-related contingent items that arise from the movement of goods, with an original maturity of one year or less.

(3) *40 percent CCF.* An FDIC-supervised institution must apply a 40 percent CCF to commitments, regardless of the maturity of the facility, unless they qualify for a lower or higher CCF.

(4) *50 percent CCF.* An FDIC-supervised institution must apply a 50 percent CCF to the amount of:

(i) Transaction-related contingent items, including performance bonds, bid bonds, warranties, and performance standby letters of credit; and

(ii) Note issuance facilities and revolving underwriting facilities.

(5) *100 percent CCF.* An FDIC-supervised institution must apply a 100 percent CCF to the amount of the following off-balance-sheet items and other similar transactions:

(i) Guarantees;

(ii) Repurchase agreements (the off-balance sheet component of which equals the sum of the current fair values of all positions the FDIC-supervised institution has sold subject to repurchase);

(iii) Credit-enhancing representations and warranties that are not securitization exposures;

(iv) Off-balance sheet securities lending transactions (the off-balance sheet component of which equals the sum of the current fair values of all positions the FDIC-supervised institution has lent under the transaction);

(v) Off-balance sheet securities borrowing transactions (the off-balance sheet component of which equals the sum of the current fair values of all non-cash positions the FDIC-supervised institution has posted as collateral under the transaction);

(vi) Financial standby letters of credit; and

(vii) Forward agreements.

* * * * *

■ 53. Amend § 324.34 by revising paragraph (c)(2) to read as follows:

§ 324.34 Derivative contracts.

* * * * *

(c) * * *

(2) As an alternative to the simple approach, an FDIC-supervised institution using CEM under paragraph (b) of this section may recognize the credit risk mitigation benefits of financial collateral that secures such a contract or netting set if the financial collateral is marked-to-fair value on a daily basis and subject to a daily margin maintenance requirement by applying a risk weight to the uncollateralized portion of the exposure, after adjusting the exposure amount calculated under paragraph (b)(1) or (2) of this section using the collateral haircut approach in § 324.37(e). The FDIC-supervised

institution must substitute the exposure amount calculated under paragraph (b)(1) or (2) of this section for $\Sigma_i E_i$ in the equation in § 324.37(e)(2).

* * * * *

■ 54. Amend § 324.36 by revising paragraph (e) to read as follows:

§ 324.36 Guarantees and credit derivatives: substitution treatment.

* * * * *

(e) *Adjustment for credit derivatives without restructuring as a credit event.*

(1) If an FDIC-supervised institution recognizes an eligible credit derivative that does not include as a credit event a restructuring of the hedged exposure involving forgiveness or postponement of principal, interest, or fees that results in a credit loss event (that is, a charge-off, specific provision, or other similar debit to the profit and loss account), the FDIC-supervised institution must apply the adjustment in paragraph (e)(2) of this section to reduce the effective notional amount of the credit derivative unless:

(i) The terms of the hedged exposure and the reference exposure, if different from the hedged exposure, allow the maturity, principal, coupon, currency, or seniority status of the exposure to be amended outside of receivership, insolvency, liquidation, or similar proceeding only by unanimous consent of all parties; and

(ii) The FDIC-supervised institution has conducted sufficient legal review to conclude with a well-founded basis (and maintains sufficient written documentation of that legal review) that the hedged exposure is subject to the U.S. Bankruptcy Code, the Federal Deposit Insurance Act, or a domestic or foreign insolvency regime with similar features that allow for a company to liquidate, reorganize, or restructure and provides for an orderly settlement of creditor claims.

(2) The FDIC-supervised institution must apply the following adjustment to reduce the effective notional amount of any eligible credit derivative that is subject to adjustment under paragraph (e)(1) of this section:

$$Pr = Pm \times 0.60$$

Where:

- (i) Pr = effective notional amount of the credit risk mitigant, adjusted for lack of restructuring event (and maturity mismatch, if applicable); and
- (ii) Pm = effective notional amount of the credit risk mitigant (adjusted for maturity mismatch, if applicable).

* * * * *

■ 55. Amend § 324.37 to read as follows:

§ 324.37 Collateralized transactions and prepaid credit protection arrangements.

(a) *Financial Collateral.* (1) To recognize the risk-mitigating effects of financial collateral, an FDIC-supervised institution may use:

(i) The simple approach in paragraph (b) of this section; or

(ii) The collateral haircut approach in paragraph (e) of this section for repo-style transactions, eligible margin loans, collateralized derivative contracts, and single-product netting sets of such transactions, subject to paragraph (a)(3) of this section.

(2) An FDIC-supervised institution must use the same approach to recognize the risk-mitigating effects of financial collateral for similar exposures or transactions.

(3) An FDIC-supervised institution that has elected under § 324.34(a)(1)(ii) to use the standardized approach for counterparty credit risk (SA-CCR) for derivative contracts may elect to also use SA-CCR for repo-style transactions that are subject to a qualifying cross-product master netting agreement with derivative contracts, subject to the requirements of paragraph (f) of this section. An FDIC-supervised institution that uses SA-CCR to determine the exposure amount of a derivative contract or netting set may use not the simple approach in paragraph (b) of this section or the collateral haircut approach under paragraph (e) of this section for the exposures for which SA-CCR is used.

(b) *The simple approach*—(1) *General requirements.* To qualify for the simple approach under this paragraph (b), the financial collateral must meet the following requirements:

(i) The collateral must be revalued at least every six months;

(ii) The legal mechanism by which financial collateral is pledged or transferred must be enforceable in the relevant jurisdictions and ensure that the FDIC-supervised institution has the contractual right, as applicable to the characteristics of the financial collateral and exposure, to liquidate or take legal possession of the financial collateral, setoff amounts owed to the obligor against amounts owed to the FDIC-supervised institution and close out any transaction giving rise to the secured exposure, in a timely manner, in the event of the default, insolvency or bankruptcy (or one or more otherwise-defined credit events set out in the transaction documentation) of the obligor; and

(iii) The FDIC-supervised institution must be able to reasonably demonstrate the ability to protect and enforce its

rights in respect of any financial collateral.

(2) *Risk weight substitution.* (i) An FDIC-supervised institution may apply a risk weight to the portion of an exposure that is secured by financial collateral that meets the requirements of paragraph (b) of this section, up to the protection amount of the financial collateral as adjusted by paragraph (d) of this section, based on the risk weight assigned to the collateral under this subpart. For repurchase agreements, reverse repurchase agreements, and securities lending and borrowing transactions, the collateral is the instruments, gold, and cash the FDIC-supervised institution has borrowed, purchased subject to resale, or taken as collateral from the counterparty under the transaction. Except as provided in paragraph (b)(3) of this section, the risk weight assigned to the protected portion of the exposure may not be less than 20 percent.

(ii) An FDIC-supervised institution must apply a risk weight to the amount of an exposure in excess of the protection amount of financial collateral securing the exposure based on the risk weight applicable to the exposure under this subpart.

(3) *Exceptions to the 20 percent risk-weight floor and other requirements.* Notwithstanding paragraph (b)(2)(i) of this section, an FDIC-supervised institution may assign a zero percent risk weight up to the protection amount of the financial collateral where:

(i) The financial collateral is cash on deposit; or

(ii) The financial collateral is an exposure to a sovereign that qualifies for a zero percent risk weight under § 324.32, and the FDIC-supervised institution has discounted the fair value of the collateral by 20 percent.

(c) *Eligible prepaid credit protection arrangements.* (1) *Scope.* An FDIC-supervised institution may recognize the credit risk mitigation benefits of an eligible prepaid credit protection arrangement as provided under this paragraph.

(2) *Application.* This paragraph applies to exposures, including securitization exposures, for which:

(i) Credit risk is fully covered by an eligible prepaid credit protection arrangement; or

(ii) Credit risk is covered on a pro rata basis (that is, on a basis in which the FDIC-supervised institution and the protection provider share losses proportionately) by an eligible prepaid credit protection arrangement.

(3) *Tranching of credit risk.* Exposures on which there is a tranching of credit risk (reflecting at least two different

levels of seniority) generally are securitization exposures subject to § 324.41 through § 324.45.

(4) *Multiple eligible prepaid credit protection arrangements.* If multiple eligible prepaid credit protection arrangements cover a single exposure, an FDIC-supervised institution may treat the hedged exposure as multiple separate exposures each covered by a single eligible credit protection arrangement and may calculate a separate risk-weighted asset amount for each separate exposure as described in paragraph (c)(6) of this section.

(5) *Single eligible credit protection arrangements.* If a single eligible credit protection arrangement covers multiple hedged exposures, an FDIC-supervised institution must treat each hedged exposure as covered by a separate eligible credit protection arrangement and must calculate a separate risk-weighted asset amount for each exposure as described in paragraph (c)(6) of this section.

(6) *Prepaid credit protection arrangements—The substitution approach.* (i) *Full coverage.* If an eligible prepaid credit protection arrangement meets the conditions in paragraphs (c)(1) through (5) of this section and the protection amount (P) of the prepaid credit protection arrangement is greater than or equal to the exposure amount of the reference exposure, an FDIC-supervised institution may assign a zero percent risk weight to the reference exposure.

(ii) *Partial coverage.* If an eligible prepaid credit protection arrangement meets the conditions in paragraphs (c)(1) through (5) of this section and the protection amount (P) of the prepaid credit protection arrangement is less than the exposure amount of the reference exposure, the FDIC-supervised institution must treat the reference exposure as two separate exposures (protected and unprotected) in order to recognize the credit risk mitigation benefit of the prepaid credit protection arrangement.

(A) The FDIC-supervised institution may apply a risk-weight of zero percent for the protected exposure.

(B) The FDIC-supervised institution must calculate the risk-weighted asset amount for the unprotected exposure under this subpart D, where the applicable risk weight is that of the unprotected portion of the reference exposure.

(C) The treatment provided in this section is applicable when the credit risk of a reference exposure is covered on a partial pro rata basis and may be applicable when an adjustment is made to the effective notional amount of the

prepaid credit protection arrangement under paragraph (d) of this section.

(d) *Required adjustments—(1)*

Maturity mismatch adjustment. (i) An FDIC-supervised institution that recognizes the credit risk mitigation benefits of financial collateral under paragraph (b) of this section or of an eligible prepaid credit protection arrangement under paragraph (c) of this section must adjust the amount of credit risk mitigation recognized to reflect any maturity mismatch.

(ii) A maturity mismatch occurs when:

(A) The residual maturity of the legal mechanism by which financial collateral is pledged is less than that of the secured exposure(s); or

(B) The residual maturity of an eligible prepaid credit protection arrangement is less than that of the reference exposure.

(iii) The residual maturity of a secured exposure under paragraph (b) of this section or a reference exposure under paragraph (c) of this section is the longest possible remaining time before the obligated party of the secured exposure or reference exposure is scheduled to fulfill its obligation on the exposure. For purposes of this paragraph (d)(1)(iii):

(A) For an eligible prepaid credit protection arrangement, if the terms of the arrangement include embedded options that may reduce its term, the FDIC-supervised institution (protection purchaser) must adjust the residual maturity. If a call is at the discretion of the protection provider, the residual maturity is at the first call date. If the call is at the discretion of the FDIC-supervised institution (protection purchaser), but the terms of the arrangement at origination contain a positive incentive for the FDIC-supervised institution to cancel the arrangement before contractual maturity, the remaining time to the first call date is the residual maturity.

(B) For financial collateral that is not cash on deposit at the FDIC-supervised institution, but including cash held for the FDIC-supervised institution by a third-party custodian or trustee, the residual maturity of any amount of such financial collateral is the earliest date on which the FDIC-supervised institution's rights in respect of such amount of financial collateral may be terminated without the pledgor being subject to a contemporaneous requirement to pledge additional financial collateral. For financial collateral that is cash on deposit at the FDIC-supervised institution, the residual maturity of any amount of such cash collateral is the earliest date on which a depositor may

withdraw such amount, notwithstanding any notice requirements or early withdrawal fees or penalties.

(iv) The credit risk mitigation benefits of financial collateral or an eligible prepaid credit protection arrangement with a maturity mismatch may be recognized only if the original maturity of the legal mechanism by which financial collateral is pledged or the eligible prepaid credit protection arrangement is greater than or equal to one year and its residual maturity is greater than three months.

(v) When a maturity mismatch exists, the FDIC-supervised institution must apply the following adjustment to reduce the protection amount:

$$P_m = E \times (t - 0.25) / (T - 0.25)$$

Where:

- (A) P_m = fair value of the financial collateral or effective notional amount of the eligible prepaid credit protection arrangement, adjusted for maturity mismatch;
- (B) E = fair value of the financial collateral or effective notional amount of the

eligible prepaid credit protection arrangement;

- (C) t = the lesser of T or the residual maturity of the arrangement, expressed in years; and
- (D) T = the lesser of five or the residual maturity of the secured exposure or reference exposure, expressed in years.

(2) *Currency mismatch adjustment.* (i) If an FDIC-supervised institution recognizes the credit risk mitigation benefits of financial collateral under paragraph (b) of this section or of an eligible prepaid credit protection arrangement under paragraph (c) of this section that is denominated in a currency different from that in which the secured or reference exposure is denominated, the FDIC-supervised institution must apply the following formula to the fair value of the financial collateral or the effective notional amount of the eligible prepaid credit protection arrangement:

$$P_c = P_r \times (1 - H_{FX})$$

Where:

- (A) P_c = fair value of the financial collateral or the effective notional amount of the

eligible prepaid credit protection arrangement, adjusted for currency mismatch (and maturity mismatch, if applicable);

- (B) P_r = fair value of the financial collateral or the effective notional amount of the eligible prepaid credit protection arrangement (adjusted for maturity mismatch, if applicable); and
- (C) H_{FX} = haircut appropriate for the currency mismatch between the financial collateral and the secured exposure or the eligible prepaid credit protection arrangement and the reference exposure, as determined under paragraphs (d)(2)(ii) through (iii) of this section.

(ii) Subject to paragraph (d)(2)(iii) of this section, an FDIC-supervised institution must set H_{FX} equal to eight percent.

(iii) An FDIC-supervised institution must increase H_{FX} as determined under paragraph (d)(2)(ii) of this section if the FDIC-supervised institution revalues the financial collateral or eligible prepaid credit protection arrangement less frequently than once every 10 business days using the following formula:

$$H_{FX} = 8\% \times \sqrt{\frac{T_M}{10}}, \text{ where } T_M \text{ equals the greater of 10 or the number of business days}$$

between revaluations.

(e) *Collateral haircut approach—Exposure amount for eligible margin loans and repo-style transactions.* (1) *General.* An FDIC-supervised institution may recognize the credit risk mitigation benefits of financial collateral that secures an eligible margin loan, repo-style transaction, collateralized derivative contract, or netting set of eligible margin loans, repo-style

transactions, or collateralized derivative contracts, and of any collateral that secures a repo-style transaction that is included in the FDIC-supervised institution's measure for market risk under subpart F of this part, by using the collateral haircut approach covered in this paragraph (e) of this section.

(2) *Exposure amount calculation.* For purposes of the collateral haircut

approach, an FDIC-supervised institution must determine the exposure amount for an eligible margin loan, repo-style transaction, collateralized derivative contract, or netting set of eligible margin loans, repo-style transactions, or collateralized derivative contracts according to the following formula:

$$E^* = \max \left\{ 0; (\sum_i E_i - \sum_i C_i) + (0.4 \times \text{net}_{\text{exposure}}) + \left(0.6 \times \frac{\text{gross}_{\text{exposure}}}{\sqrt{N}} \right) + \right.$$

$$\left. (\sum_{fx} (E_{fx} \times H_{fx})) \right\} \text{ where:}$$

(i) E^* is the exposure amount of the eligible margin loan, repo-style transaction, collateralized derivative contract, or netting set after credit risk mitigation;

(ii) E_i is:

(A) For eligible margin loans and repo-style transactions and netting sets thereof, the current fair value of the instrument, cash, or gold the FDIC-supervised institution has lent, sold subject to repurchase, or posted as collateral to the counterparty; and

(B) For collateralized derivative contracts and netting sets thereof, the exposure amount

of the OTC derivative contract or netting set calculated under § 324.34(b)(1) or (2);

(iii) C_i is the current fair value of the instrument, cash, or gold the banking organization has borrowed, purchased subject to resale, or taken as collateral from the counterparty;

(iv) $\text{net}_{\text{exposure}} = \sum_s E_s H_s$;

(v) $\text{gross}_{\text{exposure}} = \sum_s E_s |H_s|$;

(vi) E_s is the absolute value of the net position in a given instrument or in gold, where the net position in a given instrument or gold equals the sum of the current fair values of the instrument or gold the FDIC-

supervised institution has lent, sold subject to repurchase, or posted as collateral to the counterparty, minus the sum of the current fair values of that same instrument or gold the FDIC-supervised institution has borrowed, purchased subject to resale, or taken as collateral from the counterparty;

(vii) H_s is the haircut appropriate to E_s , as described in Table 1 to § 324.37, as applicable. H_s has a positive sign if the instrument or gold is net lent, sold subject to repurchase, or posted as collateral to the counterparty; H_s has a negative sign if the instrument or gold is net borrowed,

purchased subject to resale, or taken as collateral from the counterparty;

(viii) N is the number of instruments with a unique Committee on Uniform Securities Identification Procedures (CUSIP) designation or foreign equivalent that the FDIC-supervised institution lends, sells subject to repurchase, posts as collateral, borrows, purchases subject to resale, or takes as collateral in the eligible margin loan, repo-style transaction, collateralized derivative contract, or netting set, including all

collateral that the FDIC-supervised institution elects to include within the credit risk mitigation framework, except that instruments where the value E_s is less than one tenth of the value of the largest E_s in the eligible margin loan, repo-style transaction, collateralized derivative contract, or netting set are not included in the count or gold, with any amount of gold given a value of one;

(ix) E_{fx} is the absolute value of the net position in each currency f_x different from the settlement currency;

(x) H_{fx} is the haircut appropriate for currency mismatch of currency f_x .

(3) *Market price volatility and currency mismatch haircuts.* (i) An FDIC-supervised institution must use the haircuts for market price volatility (H_s) in Table 1 to § 324.37, as adjusted in certain circumstances as provided in paragraphs (e)(3)(iii) through (v) of this section.

TABLE 1 TO § 324.37—MARKET PRICE VOLATILITY HAIRCUTS

Residual maturity	Securities issued by a sovereign or an issuer described in § 324.32(b) ¹ (percent)				Other investment-grade securities (percent)	
	Issuer risk weight of 0%	Issuer risk weight of 20 or 50%	Issuer risk weight of 100%	GSE exposures	Exposures other than GSE exposures or securitization exposures	Senior securitization exposures with risk weight <100%
Debt Securities:						
Less than or equal to 1 year	0.5	1.0	15.0	1.0	2.0	4.0
Greater than 1 year and less than or equal to 3 years	2.0	3.0	15.0	4.0	4.0	12.0
Greater than 3 years and less than or equal to 5 years					6.0	
Greater than 5 years and less than or equal to 10 years	4.0	6.0	15.0	8.0	12.0	24.0
Greater than 10 years					20.0	
Main index equities (including convertible bonds) and gold				20.0		
Other publicly traded equities and convertible bonds				30.0		
Mutual funds and exchange traded funds				Highest haircut applicable to any security in which the fund can invest, unless the banking organization can apply the full look-through approach for equity investments in funds § 324.53(b), in which case the banking organization may use a weighted average of haircuts applicable to the securities held by the fund.		
Cash on deposit				0.0		
Other exposure types ²				30.0		

¹ Includes a foreign PSE that receives a zero percent risk weight.

² Includes senior securitization exposures with a risk weight greater than or equal to 100 percent and sovereign exposures with a risk weight greater than 100 percent.

(ii) For currency mismatches, an FDIC-supervised institution must use a haircut for foreign exchange rate volatility (H_{fx}) of 8.0 percent, as adjusted in certain circumstances under paragraphs (e)(3)(iii) and (iv) of this section.

(iii) For repo-style transactions, an FDIC-supervised institution may multiply the haircuts provided in paragraphs (e)(3)(i) and (ii) of this section by the square root of $\frac{1}{2}$ (which equals 0.707107).

(iv) An FDIC-supervised institution must adjust the haircuts provided in paragraphs (e)(3)(i) and (ii) of this section upward on the basis of a holding period longer than ten business days for eligible margin loans and derivative contracts that are not client-facing derivative transactions or a holding period longer than five business days for repo-style transactions and client-facing derivative transactions that are not cleared transactions under the following conditions. If the number of trades in a netting set exceeds 5,000 at any time during a quarter, an FDIC-supervised institution must adjust the haircuts provided in paragraphs (e)(3)(i) and (ii) of this section upward on the basis of a

holding period of twenty business days for the following quarter except in the calculation of exposure amount for purposes of § 324.35. If a netting set contains one or more trades involving illiquid collateral, an FDIC-supervised institution must adjust the haircuts provided in paragraphs (e)(3)(i) and (ii) of this section upward on the basis of a holding period of twenty business days. If over the two previous quarters more than two margin disputes on a netting set have occurred that lasted longer than the holding period, then the FDIC-supervised institution must adjust the haircuts provided in paragraphs (e)(3)(i) and (ii) of this section upward for that netting set on the basis of a holding period that is at least two times the minimum holding period for that netting set. The FDIC-supervised institution must adjust the haircuts upward using the following formula:

$$H_a = H_s \sqrt{T_m / T_s}$$

Where:

(A) T_m equals a holding period of longer than 10 business days for eligible margin loans and derivative contracts other than client-facing derivative transactions or longer than 5 business days for repo-

style transactions and client-facing derivative transactions;

(B) H_s equals the market price volatility haircut provided in Table 1 to § 324.37 or to the foreign exchange rate volatility haircut provided in paragraph (e)(3)(ii) of this section; and

(C) T_s equals 10 business days for eligible margin loans and derivative contracts other than client-facing derivative transactions or 5 business days for repo-style transactions and client-facing derivative transactions.

(v) If the instruments an FDIC-supervised institution has lent, sold subject to repurchase, or posted as collateral do not meet the definition of financial collateral, the FDIC-supervised institution must use a 30.0 percent haircut for market price volatility (H_s).

(f) *Election to apply SA-CCR to certain repo-style transactions.* (1) An FDIC-supervised institution that elects to determine the exposure amount using SA-CCR for its derivative contracts under paragraph (a)(1)(ii) of § 324.34 may elect under paragraph (a)(3) of this section to use SA-CCR to determine the exposure amount for a set of repo-style transactions and derivative contracts that are subject to a qualifying cross-product master netting agreement. An

FDIC-supervised institution that makes such an election with respect to a qualifying cross-product master netting agreement must make the adjustments described in paragraphs (f)(2) and (3) in

order to determine the exposure amount of the set of repo-style transactions and derivative contracts under SA-CCR.

(2) The exposure amount of a set of transactions subject to a qualifying

cross-product master netting agreement for purposes of (f)(1), *Exposure Amount_{NSCP}*, must be calculated as follows:

Exposure Amount_{NSCP}

$$= (1 - MR_{NSCP})$$

$$* (Exposure Amount_{repo-style transactions} + Exposure Amount_{derivatives})$$

$$+ MR_{NSCP} * Extended SA - CCR Exposure Amount$$

Where:

(i) *Exposure Amount_{repo-style transactions}* is the exposure amount for repo-style transactions in the netting set that is subject to a qualifying cross-product master netting agreement, calculated using the collateral haircut approach, under paragraph (e) of this section;

(ii) *Exposure Amount_{derivatives}* is the exposure amount for derivatives in the netting set that is subject to a qualifying cross-product master netting agreement, calculated using the standardized approach to counterparty credit risk, under § 324.132(c)(5);

(iii) *Extended SA-CCR Exposure Amount* is the exposure amount for both repo-style transactions and derivatives that are in

the netting set that is subject to a qualifying cross-product master netting agreement, calculated using the standardized approach to counterparty credit risk, under § 324.132(c)(5); and
(iv) *MR_{NSCP}* is the Maturity Ratio for a given netting set that is subject to a qualifying cross-product master netting agreement, calculated as follows:

MR_{NSCP}

$$= \frac{\sum NAWM \text{ of the repo - style transactions}_i}{\max (\sum NAWM \text{ of the repo - style transactions}_i, \sum NAWM \text{ of the derivative transactions}_i)}$$

Where:

(A) $\sum NAWM \text{ of the repo-style transactions}_i$ is the notional average weighted maturity of all i repo-style transactions subject to the qualifying cross-product master netting agreement, subject to a minimum maturity of 10 business days and a maximum maturity of one year for purposes of this calculation.

(B) $\sum NAWM \text{ of the derivative transactions}_i$ is the notional average weighted maturity of all i derivative transactions subject to the qualifying cross-product master netting agreement subject to a minimum maturity of 10 business days and a maximum maturity of one year for purposes of this calculation.

(3) For purposes of applying SA-CCR to a repo-style transaction, the FDIC-supervised must make the adjustments described in paragraphs (f)(3)(i) through (iii) of this section.

(i) For purposes of this section, the FDIC-supervised institution must:

(A) Treat a repo-style transaction that has multiple underlying instruments as separate repo-style transactions for each distinct underlying instrument;

(B) Treat a repo-style transaction with a debt instrument as the underlying instrument as either a credit derivative that references the underlying debt

instrument or an interest rate derivative that references the interest rate of the underlying debt instrument, based on the primary risk factor of the repo-style transaction;

(C) Treat a repo-style transaction with an equity instrument as the underlying instrument as an equity derivative that references the underlying equity instrument;

(D) Not apply paragraph (c)(4) of § 324.132 to a repo-style transaction with an equity instrument as the underlying instrument; and

(E) Treat a repo-style transaction as a client-facing derivative transaction where the FDIC-supervised institution is either acting as a financial intermediary and enters into an offsetting transaction with a qualifying central counterparty (QCCP) or where the FDIC-supervised institution provides a guarantee on the performance of a client on a transaction between the client and a QCCP.

(ii) For purposes of the supervisory delta under paragraph (c)(9)(iii) of § 324.132, an FDIC-supervised institution must use a supervisory delta of 1 for a repurchase transaction or a securities lending transaction, and must use a supervisory delta of -1 for a

reverse repurchase transaction or a securities borrowing transaction;

(iii) For purposes of the maturity factor under paragraph (c)(9)(iv) of § 324.132, MPOR cannot be less than five business days plus the periodicity of re-margining expressed in business days minus one business day.

* * * * *

■ 56. Amend § 324.41 to read as follows:

§ 324.41 Operational criteria for recognizing the transfer of risk.

(a) *Operational criteria for traditional securitizations.* An FDIC-supervised institution that transfers exposures it has originated or purchased to a third party in connection with a traditional securitization may exclude the exposures from the calculation of its risk-weighted assets only if each condition in this section is satisfied. An FDIC-supervised institution that meets these conditions must hold risk-based capital against any credit risk it retains in connection with the securitization. An FDIC-supervised institution that fails to meet these conditions must hold risk-based capital against the transferred exposures as if they had not been securitized and must deduct from

common equity tier 1 capital any after-tax gain-on-sale resulting from the transaction and any portion of a CEIO strip that does not constitute after-tax gain-on-sale. If the transferred exposures are in connection with a resecuritization and all of the conditions in this paragraph (a) are satisfied, the FDIC-supervised institution must exclude the exposures from the calculation of its risk-weighted assets and must hold risk-based capital against any credit risk it retains in connection with the resecuritization. The conditions are:

(1) The exposures are not reported on the FDIC-supervised institution's consolidated balance sheet under GAAP;

(2) The FDIC-supervised institution has transferred to one or more third parties credit risk associated with the underlying exposures;

(3) Any clean-up calls relating to the securitization are eligible clean-up calls; and

(4) The securitization does not:

(i) Include one or more underlying exposures in which the borrower is permitted to vary the drawn amount within an agreed limit under a line of credit; and

(ii) Contain an early amortization provision.

(b) *Operational criteria for synthetic securitizations.* For synthetic securitizations, an FDIC-supervised institution may recognize for risk-based capital purposes the use of a credit risk mitigant to hedge underlying exposures only if each condition in this paragraph (b) is satisfied. An FDIC-supervised institution that meets these conditions must hold risk-based capital against any credit risk of the exposures it retains in connection with the synthetic securitization. An FDIC-supervised institution that fails to meet these conditions or chooses not to recognize the credit risk mitigant for purposes of this section must instead hold risk-based capital against the underlying exposures as if they had not been synthetically securitized. If the synthetic securitization is a resecuritization and all of the conditions in this paragraph (b) are satisfied, the FDIC-supervised institution must exclude the underlying securitization exposures from the calculation of its risk-weighted assets and must hold risk-based capital against any credit risk it retains in connection with the resecuritization. The conditions are:

(1) The credit risk mitigant is:

(i) Financial collateral;

(ii) A guarantee that meets all criteria as set forth in the definition of "eligible guarantee" in § 324.2, except for the

criteria in paragraph (3) of that definition;

(iii) A credit derivative that is not an nth-to-default credit derivative and that meets all criteria as set forth in the definition of "eligible credit derivative" in § 324.2, except for the criteria in paragraph (3) of the definition of "eligible guarantee" in § 324.2; or

(iv) A prepaid credit protection arrangement that meets all criteria as set forth in the definition of "eligible prepaid credit protection arrangement" in § 324.2, except for the criteria in paragraph (3) of that definition.

(2) The FDIC-supervised institution transfers credit risk associated with the underlying exposures to one or more third parties, and the terms and conditions in the credit risk mitigants employed do not include provisions that:

(i) Allow for the termination of the credit protection due to deterioration in the credit quality of the underlying exposures;

(ii) Require the FDIC-supervised institution to alter or replace the underlying exposures to improve the credit quality of the underlying exposures;

(iii) Increase the FDIC-supervised institution's cost of credit protection in response to deterioration in the credit quality of the underlying exposures;

(iv) Increase the yield payable to parties other than the FDIC-supervised institution in response to a deterioration in the credit quality of the underlying exposures; or

(v) Provide for increases in a retained first loss position or credit enhancement provided by the FDIC-supervised institution after the inception of the securitization;

(3) The FDIC-supervised institution obtains a well-reasoned opinion from legal counsel that confirms the enforceability of the credit risk mitigant in all relevant jurisdictions;

(4) Any clean-up calls relating to the securitization are eligible clean-up calls;

(5) No synthetic excess spread is permitted within the synthetic securitization;

(6) Any applicable minimum payment threshold for the credit risk mitigant is consistent with standard market practice; and

(7) The securitization does not:

(i) Include one or more underlying exposures in which the borrower is permitted to vary the drawn amount within an agreed limit under a line of credit; and

(ii) Contain an early amortization provision.

(c) *Due diligence requirements for securitization exposures.* (1) Except for

exposures that are deducted from common equity tier 1 capital and exposures subject to § 324.43(h), if an FDIC-supervised institution is unable to demonstrate to the satisfaction of the FDIC a comprehensive understanding of the features of a securitization exposure that would materially affect the performance of the exposure, the FDIC-supervised institution must assign the securitization exposure a risk weight of 1,250 percent. The FDIC-supervised institution's analysis must be commensurate with the complexity of the securitization exposure and the materiality of the exposure in relation to its capital.

(2) An FDIC-supervised institution must demonstrate its comprehensive understanding of a securitization exposure under paragraph (c)(1) of this section, for each securitization exposure by:

(i) Conducting an analysis of the risk characteristics of a securitization exposure prior to acquiring the exposure, and documenting such analysis within 3 business days after acquiring the exposure, considering:

(A) Structural features of the securitization that would materially impact the performance of the exposure, for example, the contractual cash flow waterfall, waterfall-related triggers, credit enhancements, liquidity enhancements, fair value triggers, the performance of organizations that service the exposure, and deal-specific definitions of default;

(B) Relevant information regarding—

(1) The performance of the underlying credit exposure(s), for example, the percentage of loans 30, 60, and 90 days past due; default rates; prepayment rates; loans in foreclosure; property types; occupancy; average credit score or other measures of creditworthiness; average LTV ratio; and industry and geographic diversification data on the underlying exposure(s); and

(2) For resecuritization exposures, in addition to the information described in paragraph (c)(2)(i)(B)(1) of this section, performance information on the underlying securitization exposures, which may include the issuer name and credit quality, and the characteristics and performance of the exposures underlying the securitization exposures; and

(C) Relevant market data of the securitization, for example, bid-ask spread, most recent sales price and historic price volatility, trading volume, implied market rating, and size, depth and concentration level of the market for the securitization; and

(ii) On an on-going basis (no less frequently than quarterly), evaluating,

reviewing, and updating as appropriate the analysis required under paragraph (c)(1) of this section for each securitization exposure.

* * * * *

■ 57. Amend § 324.42 to read as follows:

§ 324.42 Exposure amount of a securitization exposure.

(a) *On-balance sheet securitization exposure.* (1) The exposure amount of an on-balance sheet securitization exposure (excluding an available-for-sale or held-to-maturity security where the FDIC-supervised institution has made an AOCI opt-out election under § 324.22(b)(2), a repo-style transaction, eligible margin loan, OTC derivative contract that is not a credit derivative, or cleared transaction that is not a credit derivative) is equal to the FDIC-supervised institution's carrying value of the exposure. For a credit derivative, an FDIC-supervised institution must apply § 324.43(i) or (j), as applicable.

(2) The exposure amount of an on-balance sheet securitization exposure that is an available-for-sale or held-to-maturity security held by an FDIC-supervised institution that has made an AOCI opt-out election under § 324.22(b)(2) is the Board-regulated institution's carrying value (including net accrued but unpaid interest and fees), less any net unrealized gains on the exposure and plus any net unrealized losses on the exposure.

(b) *Off-balance sheet securitization exposure.* Except as provided in § 324.43(h), the exposure amount of an off-balance sheet securitization exposure that is not a repo-style transaction, eligible margin loan, OTC derivative contract (other than a credit derivative), or cleared transaction (other than a credit derivative) is the notional amount of the exposure. For an off-balance sheet securitization exposure to an ABCP program, such as an eligible ABCP liquidity facility, the notional amount may be reduced to the maximum potential amount that the FDIC-supervised institution could be required to fund given the ABCP program's current underlying assets (calculated without regard to the current credit quality of those assets).

(c) *Repo-style transaction, eligible margin loan, OTC derivative contract that is not a credit derivative, or cleared transaction that is not a credit derivative.* The exposure amount of a securitization exposure that is a repo-style transaction, eligible margin loan, or OTC derivative contract (other than a credit derivative) is the exposure amount as calculated in accordance with §§ 324.34 or 324.37, or § 324.33 as applicable, and the exposure amount of

a securitization exposure that is a cleared transaction that is not a credit derivative is the exposure amount as calculated in § 324.35.

* * * * *

■ 58. Amend § 324.43 to read as follows:

§ 324.43 Risk-weighted assets for securitization exposures.

(a) *General approach.* Except as provided elsewhere in this section and in § 324.41:

(1) An FDIC-supervised institution may, subject to the limitation under paragraph (e) of this section, apply the securitization standardized approach (SEC-SA) in § 324.44 to the exposure if the exposure meets the following requirements:

(i) The FDIC-supervised institution has accurate information on *A*, *D*, *W*, and *K_G* (as defined in § 324.44) for the exposure. Data used to assign the parameters described in this paragraph (a)(1)(i) must be the most currently available data. If the contracts governing the underlying exposures of the securitization require payments on a monthly or quarterly basis, the data used to assign the parameters described in this paragraph (a)(1)(i) must be no more than 91 calendar days old.

(ii) The FDIC-supervised institution has accurate information regarding whether the exposure is a resecuritization exposure.

(2) If the securitization exposure is an interest rate derivative contract, an exchange rate derivative contract, or a cash collateral account related to an interest rate or exchange rate derivative contract, the FDIC-supervised institution must assign a risk weight to the exposure equal to the risk weight of a securitization exposure that is *pari passu* to the interest rate derivative contract or exchange rate derivative contract or, if such an exposure does not exist, the risk weight of any subordinate securitization exposure.

(3) If the FDIC-supervised institution cannot apply, or chooses not to apply, the securitization standardized approach in § 324.44, the FDIC-supervised institution must apply a 1,250 percent risk weight to the exposure.

(b) *Total risk-weighted assets for securitization exposures.* An FDIC-supervised institution's total risk-weighted assets for securitization exposures equals the sum of the risk-weighted asset amount for securitization exposures that the FDIC-supervised institution risk weights under §§ 324.43 through 324.45, as applicable.

(c) *After-tax gain-on-sale resulting from a securitization.* Notwithstanding any other provision of this subpart, an

FDIC-supervised institution must deduct from common equity tier 1 capital any after-tax gain-on-sale resulting from a securitization as well as the portion of a CEIO that does not constitute an after-tax gain-on-sale.

(d) *Overlapping exposures.* (1) If an FDIC-supervised institution has multiple securitization exposures that provide duplicative coverage to the underlying exposures of a securitization (such as when an FDIC-supervised institution provides a program-wide credit enhancement and multiple pool-specific liquidity facilities to an ABCP program), the FDIC-supervised institution is not required to hold duplicative risk-based capital against the overlapping position. Instead, the FDIC-supervised institution may apply to the overlapping position the applicable risk-based capital treatment that results in the highest risk-based capital requirement.

(2) If an FDIC-supervised institution has two or more securitization exposures that partially overlap with each other, the FDIC-supervised institution may treat the exposures as overlapping and apply the treatment under paragraph (d)(1). For purposes of such a treatment under this paragraph (d)(2), the FDIC-supervised institution must include in expanded total risk-weighted assets the risk-weighted asset amount for a hypothetical securitization exposure that would fully overlap with all of the partially overlapping exposures.

(3) If an FDIC-supervised institution has a securitization exposure under this subpart that is an overlapping exposure with a securitization exposure that is a market risk covered position under subpart F of this part, the FDIC-supervised institution may assign to the overlapping securitization exposure the applicable risk-based capital treatment under either this subpart or subpart F, whichever results in the highest risk-based capital requirement.

(e) *Implicit support.* If an FDIC-supervised institution provides support to a securitization in excess of the FDIC-supervised institution's contractual obligation to provide credit support to the securitization:

(1) The FDIC-supervised institution must calculate a risk-weighted asset amount for underlying exposures associated with the securitization as if the exposures had not been securitized and must deduct from common equity tier 1 capital any after-tax gain-on-sale resulting from the securitization and any portion of a CEIO strip that does not constitute after-tax gain-on-sale; and

(2) The FDIC-supervised institution must disclose publicly:

(i) That it has provided implicit support to the securitization; and

(ii) The risk-based capital impact to the FDIC-supervised institution of providing such implicit support.

(f) *Undrawn portion of a servicer cash advance facility.*

(1) Notwithstanding any other provision of this subpart, an FDIC-supervised institution that is a servicer under an eligible servicer cash advance facility is not required to hold risk-based capital against potential future cash advance payments that it may be required to provide under the contract governing the facility.

(2) For an FDIC-supervised institution that acts as a servicer, the exposure amount for a servicer cash advance facility that is not an eligible servicer cash advance facility is equal to the amount of all potential future cash advance payments that the FDIC-supervised institution may be contractually required to provide during the subsequent 12 month period under the contract governing the facility.

(g) *Interest-only mortgage-backed securities.* Notwithstanding any other provision of this subpart, the risk weight for a non-credit-enhancing interest-only mortgage-backed security may not be less than 100 percent.

(h) *Small-business loans and leases on personal property transferred with retained contractual exposure.*

(1) Regardless of any other provision of this subpart, an FDIC-supervised institution that has transferred small-business loans and leases on personal property (small-business obligations) with recourse must include in risk-weighted assets only its contractual exposure to the small-business obligations if all the following conditions are met:

(i) The transaction must be treated as a sale under GAAP.

(ii) The FDIC-supervised institution establishes and maintains, pursuant to GAAP, a non-capital reserve sufficient to meet the FDIC-supervised institution's reasonably estimated liability under the contractual obligation.

(iii) The small-business obligations are to businesses that meet the criteria for a small-business concern established by the Small Business Administration under section 3(a) of the Small Business Act (15 U.S.C. 632 *et seq.*); and

(iv) The FDIC-supervised institution is well capitalized for purposes of the Prompt Corrective Action framework (12 U.S.C. 1831o). For purposes of determining whether an FDIC-supervised institution is well capitalized for purposes of this paragraph (h), the FDIC-supervised

institution's capital ratios must be calculated without regard to the capital treatment for transfers of small-business obligations under this paragraph (h).

(2) The total outstanding amount of contractual exposure retained by an FDIC-supervised institution on transfers of small-business obligations receiving the capital treatment specified in paragraph (h)(1) of this section cannot exceed 15 percent of the FDIC-supervised institution's total capital.

(3) If an FDIC-supervised institution ceases to be well capitalized under subpart H of this part or exceeds the 15 percent capital limitation provided in paragraph (h)(2) of this section, the capital treatment specified in paragraph (h)(1) of this section will continue to apply to any transfers of small-business obligations with retained contractual exposure that occurred during the time that the FDIC-supervised institution was well capitalized and did not exceed the capital limit.

(4) The risk-based capital ratios of the FDIC-supervised institution must be calculated without regard to the capital treatment for transfers of small-business obligations specified in paragraph (h)(1) of this section for purposes of:

(i) Determining whether an FDIC-supervised institution is adequately capitalized, undercapitalized, significantly undercapitalized, or critically undercapitalized under subpart H of this part; and

(ii) Reclassifying a well-capitalized FDIC-supervised institution to adequately capitalized and requiring an adequately capitalized FDIC-supervised institution to comply with certain mandatory or discretionary supervisory actions as if the FDIC-supervised institution were in the next lower prompt-corrective-action category.

(i) *Nth-to-default credit derivatives—*

(1) *Protection provider.* An FDIC-supervised institution providing protection through a first-to-default or second-or-later-to-default derivative is subject to capital requirements on such instruments under this paragraph (i)(1).

(i) *First-to-default.* For first-to-default derivatives, an FDIC-supervised institution must aggregate by simple summation the risk weights of the assets covered up to a maximum of 1,250 percent and multiply by the nominal amount of the protection provided by the credit derivative to obtain the risk-weighted asset amount.

(ii) *Nth-to-default.* For second-or-later-to-default derivatives, in aggregating the risk weights, an FDIC-supervised institution may exclude the asset with the lowest risk-weighted amount from the risk-weighted capital calculation. This risk-based capital

treatment applies for nth-to-default derivatives for which the n-1 assets with the lowest risk-weighted amounts can be excluded from the risk-weighted capital calculation.

(2) *Protection purchaser.* An FDIC-supervised institution is not permitted to recognize purchased protection in the form of an nth-to-default credit derivative as a credit risk mitigant. An FDIC-supervised institution must calculate the counterparty credit risk of a purchased nth-to-default credit derivative under § 324.34.

(j) *Guarantees, credit derivatives other than nth-to-default credit derivatives, and prepaid credit protection arrangements—*(1) *Protection provider.* For a guarantee, credit derivative (other than an nth-to-default credit derivative), or prepaid credit protection arrangement provided by an FDIC-supervised institution that covers the full amount or a pro rata share of a securitization exposure's principal and interest, the FDIC-supervised institution must risk weight the guarantee, credit derivative, or prepaid credit protection arrangement under paragraph (a) of this section as if it held the portion of the securitization exposure covered by the guarantee, credit derivative, or prepaid credit protection arrangement.

(2) *Protection purchaser.* (i) An FDIC-supervised institution that purchases a credit derivative (other than an nth-to-default credit derivative) that is recognized under § 324.45 as a credit risk mitigant (including via recognized collateral) is not required to compute a separate counterparty credit risk capital requirement under § 324.34.

(ii) If an FDIC-supervised institution cannot, or chooses not to, recognize protection purchased in the form of a credit derivative as a credit risk mitigant under § 324.45, the FDIC-supervised institution must determine the exposure amount of the credit derivative under § 324.34.

(A) If the FDIC-supervised institution purchases credit protection from a counterparty the activities of which are limited to those appropriate for the specific purpose of holding the underlying exposures of a securitization, the FDIC-supervised institution must determine the risk weight for the exposure according to § 324.32.

(B) If the FDIC-supervised institution purchases credit protection from a counterparty the activities of which are limited to those appropriate for the specific purpose of holding the underlying exposures of a securitization, the FDIC-supervised institution must determine the risk

weight for the exposure according to this section.

(k) *Look-through approach.* (1) Subject to paragraph (k)(2) of this section, an FDIC-supervised institution may assign a risk weight to a senior securitization exposure that is not a resecuritization exposure equal to the greater of:

(i) The weighted-average risk weight, calculated without reference to, or the use of, the risk weight under § 324.52(b)(3)(iii), of all the underlying exposures where the weight for each exposure in the weighted-average calculation is determined by the unpaid principal amount of the exposure; and

(ii) 15 percent.

(2) An FDIC-supervised institution may assign a risk weight under this

paragraph (k) only if the FDIC-supervised institution has knowledge of the composition of all of the underlying exposures.

(l) *NPL securitization.*

Notwithstanding any other provision of this subpart except for paragraph (e) of this section:

(1) If the nonrefundable purchase price discount for the NPL securitization is greater than or equal to 50 percent of the unpaid principal balance of the pool of exposures, the risk weight for a senior securitization exposure to an NPL securitization is 100 percent.

(2) If the FDIC-supervised institution is an originating FDIC-supervised institution with respect to the NPL

securitization, the FDIC-supervised institution may hold risk-based capital against the transferred exposures as if they had not been securitized and must deduct from common equity tier 1 capital any after-tax gain-on-sale resulting from the transaction and any portion of a CEIO that does not constitute an after-tax gain-on-sale.

* * * * *

■ 59. Amend § 324.44 to read as follows:

§ 324.44 Securitization standardized approach (SEC-SA).

(a) *In general.* The risk weight RW_{SEC-SA} assigned to a securitization exposure, or portion of a securitization exposure, is calculated according to the following formula:

$$RW_{SEC-SA} = \begin{cases} \max(RW_{FLOOR}, 1,250\% \cdot K_{SEC-SA}), & K_A \leq A \\ \max\left(RW_{FLOOR}, \left(\frac{K_A - A}{D - A}\right) \cdot 1,250\% + \left(\frac{D - K_A}{D - A}\right) \cdot 1,250\% \cdot K_{SEC-SA}\right), & A < K_A < D \\ 1,250\%, & D \leq K_A \end{cases}$$

Where:

- (1) K_A is calculated under paragraph (b) of this section;
- (2) A (attachment point) equals the greater of zero and the ratio, expressed as a decimal value between zero and one, of the current dollar amount of underlying exposures that are subordinated to the exposure of the FDIC-supervised institution to the current dollar amount of the underlying exposures, as adjusted

in accordance with paragraph (a)(6) of this section;

- (3) D (detachment point) equals the greater of zero and the sum of parameter A and the ratio, expressed as a decimal value between zero and one, of the current dollar amount of the securitization exposures that are ranked senior or pari passu with the exposure (that is, have equal seniority with respect to credit risk) to the current dollar amount of the

underlying exposures, as adjusted in accordance with paragraph (a)(6) of this section;

- (4) RW_{FLOOR} equals 100 percent for resecuritization exposures and NPL securitization exposures and 15 percent for all other securitization exposures; and
- (5) K_{SEC-SA} is calculated according to the following formula:

$$K_{SEC-SA} = \frac{e^{a \cdot u} - e^{a \cdot l}}{a \cdot (u - l)}$$

Where:

(i) a equals $-\frac{1}{p \cdot K_A}$ (as K_A is defined in this paragraph (a)), where p equals 1.5 for a

resecuritization exposure and 0.5 for all other securitization exposures;

- (ii) u equals $D - K_A$ (as D and K_A are defined in paragraph (a) of this section);
- (iii) l equals $\max(A - K_A, 0)$ (as A and K_A are defined in paragraph (a) of this section); and
- (iv) e equals the base of the natural logarithm.

(6) An FDIC-supervised institution must include in the calculation of A and D the funded portion of any reserve account funded by the accumulated cash flows from the underlying exposures that is subordinated to the

FDIC-supervised institution's securitization exposure. Interest rate derivative contracts, exchange rate derivative contracts, and cash collateral accounts related to these contracts must not be included in the calculation of A

and *D*. If the securitization exposure includes a nonrefundable purchase price discount, the nonrefundable purchase price discount must be included in the numerator and denominator of *A* and *D*.

(b) *Calculation of K_A* . K_A is calculated under this paragraph (b) according to the following formula:

$$K_A = (1 - W) \cdot K_G + (W \cdot 0.5)$$

Where:

- (1) *W* equals the ratio, expressed as a decimal value between zero and one, of the sum of the dollar amounts of any underlying exposures of the securitization that are not securitization exposures and that meet any of the criteria in paragraphs (b)(1)(i) through (vii) of this section to the outstanding balance, measured in dollars, of all underlying exposures:
 - (i) Ninety days or more past due;
 - (ii) Subject to a bankruptcy or insolvency proceeding;
 - (iii) In the process of foreclosure;
 - (iv) Held as real estate owned;
 - (v) Has contractually deferred payments for 90 days or more, other than principal or interest payments deferred on:
 - (A) Federally guaranteed student loans, in accordance with the terms of those guarantee programs; or
 - (B) Consumer loans, including non-federally guaranteed student loans, provided that such payments are deferred pursuant to provisions included in the contract at the time funds are disbursed that provide for period(s) of deferral that are not initiated based on changes in the creditworthiness of the borrower; or
 - (vi) Is in default; and
 - (vii) Notwithstanding paragraphs (1)(i) through (vi) of this paragraph, an exposure that is directly and unconditionally guaranteed by the U.S. Government, its central bank, or a U.S. Government agency may be excluded from the calculation of *W* up to the amount of the guarantee; and
- (2) K_G equals the weighted average (with unpaid principal used as the weight for each credit exposure and fair value used for each equity exposure) total capital requirement, expressed as a decimal value between zero and one, of the underlying exposures calculated using this subpart D (that is, an average risk weight of 100 percent represents a value of K_G equal to 0.08), as adjusted in accordance with this paragraph (b)(2). For purposes of K_G , the determination of the capital requirement associated with an underlying exposure that is an equity exposure cannot use the risk weight under § 324.52(b)(3)(iii). For interest rate derivative contracts and exchange rate derivative contracts, the positive current exposure times the risk weight of the counterparty multiplied by 0.08 must be included in the numerator of K_G but must be excluded from the denominator of K_G .

* * * * *

■ 60. Amend § 324.45 by:

■ a. Adding paragraphs (a)(3) and (a)(4).

■ b. Revising paragraph (b).

The additions and revisions read as follows:

§ 324.45 Recognition of credit risk mitigants for securitization exposures.

* * * * *

(3) If the recognized credit risk mitigant hedges a portion of the FDIC-supervised institution's securitization exposure, the FDIC-supervised institution must calculate its capital requirements for the hedged and unhedged portions of the exposure separately. For each unhedged portion, the FDIC-supervised institution must calculate capital requirements according to § 324.42 and § 324.43. For each hedged portion, the FDIC-supervised institution may recognize the credit risk mitigant under § 324.36 or § 324.37, but only as provided in this section.

(4) When an FDIC-supervised institution purchases or sells credit protection on a portion of a senior tranche, the lower-priority portion, whether hedged or unhedged, must be considered a non-senior securitization exposure.

(b) *Mismatches*. An FDIC-supervised institution must make any applicable adjustment to the protection amount as required in § 324.36 for any hedged securitization exposure. In the context of a synthetic securitization, when a credit risk mitigant described in § 324.41(b)(1)(ii) through (iv) covers multiple hedged exposures that have different residual maturities, the FDIC-supervised institution must use the longest residual maturity of any of the hedged exposures as the residual maturity of all hedged exposures.

* * * * *

■ 61. Revise § 324.51(b)(4) to read as follows:

§ 324.51 Introduction and exposure measurement.

* * * * *

(b) * * *

(4) For a commitment to acquire an equity exposure (an equity commitment), the effective notional principal amount of the exposure is multiplied by the following conversion factors (CFs):

(i) Conditional equity commitments receive a 40 percent conversion factor.

(ii) Unconditional equity commitments receive a 100 percent conversion factor.

* * * * *

■ 62. Revise § 324.61 to read as follows:

§ 324.61 Purpose and scope.

Sections 324.61 through 324.63 of this subpart establish public disclosure requirements related to the capital

requirements described in subpart B of this part for an FDIC-supervised institution with total consolidated assets of \$50 billion, as adjusted pursuant to § 324.4, or more as reported on the FDIC-supervised institution's most recent year-end Call Report that is not an advanced approaches FDIC-supervised institution making public disclosures pursuant to § 324.172. An advanced approaches FDIC-supervised institution that has not received approval from the FDIC to exit parallel run pursuant to § 324.121(d) is subject to the disclosure requirements described in §§ 324.62 and 324.63. An FDIC-supervised institution with total consolidated assets of \$50 billion, as adjusted pursuant to § 324.4, or more as reported on the FDIC-supervised institution's most recent year-end Call Report that is not an advanced approaches FDIC-supervised institution making public disclosures subject to § 324.172 must comply with § 324.62 unless it is a consolidated subsidiary of a bank holding company, savings and loan holding company, or depository institution that is subject to the disclosure requirements of § 324.62 or a subsidiary of a non-U.S. banking organization that is subject to comparable public disclosure requirements in its home jurisdiction. For purposes of this section, total consolidated assets are determined based on the average of the FDIC-supervised institution's total consolidated assets in the four most recent quarters as reported on the Call Report; or the average of the FDIC-supervised institution's total consolidated assets in the most recent consecutive quarters as reported quarterly on the FDIC-supervised institution's Call Report if the FDIC-supervised institution has not filed such a report for each of the most recent four quarters.

* * * * *

■ 63. Amend § 324.300 by revising paragraph (a) to read as follows:

§ 324.300 Transitions.

(a) *Transition adjustments for AOCI*. Beginning [January 1, 2027], a Category III FDIC-supervised institution or a Category IV FDIC-supervised institution that had made an AOCI opt-out election under § 324.22(b)(2) effective [December 31, 2026], must subtract from the sum of its common equity tier 1 elements, before making deductions required under § 324.22(c) or (d), the transition AOCI adjustment amount multiplied by the percentage provided in Table 1 to § 324.300. The transition AOCI adjustment amount is the sum of:

(1) Net unrealized gains or losses on available-for-sale securities, plus

(2) Accumulated net gains or losses on cash flow hedges, plus

(3) Any amounts recorded in AOCI attributed to defined benefit postretirement plans resulting from the initial and subsequent application of the

relevant GAAP standards that pertain to such plans, plus

(4) Net unrealized holding gains or losses on held-to-maturity securities that are included in AOCI.

TABLE 1 TO § 324.300

Transition AOCI adjustment	
Transition period	Percentage applicable to transition AOCI adjustment amount
January 1, 2027 to December 31, 2027	100
January 1, 2028 to December 31, 2028	80
January 1, 2029 to December 31, 2029	60
January 1, 2030 to December 31, 2030	40
January 1, 2031 to December 31, 2031	20
January 1, 2032 and thereafter	0

* * * * *

Jonathan V. Gould,

Comptroller of the Currency.

By order of the Board of Governors of the Federal Reserve System.

Benjamin W. McDonough,

Secretary of the Board.

Federal Deposit Insurance Corporation.

By order of the Board of Directors,

Dated at Washington, DC, on March 19, 2026.

Jennifer M. Jones,

Deputy Executive Secretary.

[FR Doc. 2026–05960 Filed 3–26–26; 8:45 am]

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Part V

Department of Labor

Employment and Training Administration

20 CFR Parts 655 and 656

Improving Wage Protections for the Temporary and Permanent
Employment of Certain Foreign Nationals in the United States; Proposed
Rule

DEPARTMENT OF LABOR**Employment and Training
Administration****20 CFR Parts 655 and 656**

[DOL Docket No. ETA–2026–0001]

RIN 1205–AC30

**Improving Wage Protections for the
Temporary and Permanent
Employment of Certain Foreign
Nationals in the United States****AGENCY:** Employment and Training
Administration, Department of Labor.**ACTION:** Notice of proposed rulemaking
(NPRM).

SUMMARY: The Department of Labor (DOL or the Department) is issuing this Notice of Proposed Rulemaking (NPRM) to solicit comments and public input regarding its proposal to revise Employment and Training Administration (ETA) regulations governing the prevailing wages for employment opportunities that United States (U.S.) employers seek to fill with alien workers on a permanent or temporary basis through certain EB–2 and EB–3 employment-based immigrant visas via the Permanent Labor Certification (PERM) program or through H–1B, H–1B1, or E–3 nonimmigrant visas. Specifically, DOL is proposing to amend its regulations governing the PERM program and Labor Condition Applications (LCAs) to incorporate changes to the computation of wage levels under the Department's four-tiered prevailing wage structure based on the Occupational Employment and Wage Statistics (OEWS) wage survey administered by the Department's Bureau of Labor Statistics (BLS). These proposed revisions aim to better align prevailing wage levels with the wages paid to U.S. workers who are similarly employed in the occupation and area of intended employment. The Department's proposed revisions also seek to strengthen program integrity by reducing the incentive for employers to use these programs to replace, rather than supplement, U.S. workers by employing lower-paid alien workers. In addition, the revision would enable the Department to more effectively ensure that the employment of immigrant and nonimmigrant workers admitted or otherwise provided one of the covered statuses does not adversely affect the wages and working conditions of U.S. workers.

DATES: Interested persons are invited to submit written comments on this

proposed rule on or before May 26, 2026.

ADDRESSES: You may submit comments electronically by the following method:

Federal eRulemaking Portal: <https://www.regulations.gov>. Follow the instructions on the website for submitting comments. A plain language summary of the proposed rule is also available on that website.

Instructions: Comments should be confined to issues pertinent to the NPRM, identify the agency's name and public docket number ETA–2026–0001, explain the reasons for any recommended changes, and reference the specific section and wording being addressed, where possible.

Please be advised that the Department will post comments that relate to this NPRM to <https://www.regulations.gov>, including any personal information provided. The <https://www.regulations.gov> website is the Federal e-Rulemaking Portal and all comments posted there are available and accessible to the public. Please do not submit comments containing trade secrets, confidential or proprietary commercial or financial information, personal health information, sensitive personally identifiable information (for example, social security numbers, driver's license or state identification numbers, passport numbers, or financial account numbers), or other information that you do not want to be made available to the public. Should the agency become aware of such information, the agency reserves the right to redact or refrain from posting such personally sensitive or other sensitive information, or comments that contain threatening language. Please note that depending on how information is submitted, the agency may not be able to redact the information and instead reserves the right to refrain from posting the information or comment in such situations.

FOR FURTHER INFORMATION CONTACT: For further information, contact Brian Pasternak, Administrator, Office of Foreign Labor Certification, Employment and Training Administration, Department of Labor, 200 Constitution Avenue NW, Room N–5311, Washington, DC 20210, email: OFLC.Regulations@dol.gov.

SUPPLEMENTARY INFORMATION:**I. Background***A. Legal Framework*

The Immigration and Nationality Act (INA), as amended, assigns responsibilities to the Secretary of Labor (Secretary) relating to the entry and

employment of certain categories of immigrants and nonimmigrants.¹ This NPRM concerns the calculation of the prevailing wage levels for job opportunities in the PERM,² E–3, H–1B, and H–1B1 programs for which employers seek labor certification from the Secretary.³ The Department of Labor uses a unified four-tiered prevailing wage methodology based on data obtained from employers under the Occupational Employment and Wage Statistics (OEWS) survey administered by the Department's Bureau of Labor Statistics (BLS) to determine wage levels for certain temporary (H–1B, H–1B1, E–3) and permanent (EB–2 and EB–3) labor certification processes.

1. Overview of Labor Certification and Labor Condition Applications

Labor certifications and labor condition applications are requirements under the INA for certain alien workers seeking employment in the United States. To issue a labor certification, the Secretary of Labor must determine that there are not sufficient able, willing, and qualified workers available at the time of application for a visa and admission into the country and that the hiring of the alien worker will not adversely affect the wages or working conditions of workers in the United States similarly employed.⁴ The Department's statutory obligations under the INA are specifically designed to ensure that the introduction of alien labor into the United States supplements, rather than displaces, U.S. workers and that the current prevailing wage structure protects U.S. labor market conditions.⁵

The labor condition application (LCA) is a requirement for the H–1B, H–1B1, and E–3 nonimmigrant visa classifications.⁶ To be able to employ an alien as an H–1B, H–1B1, or E–3 nonimmigrant, the employer must have filed with the Secretary of Labor an application that makes a number of critical attestations surrounding wages and working conditions, including that

¹ There are two general categories of U.S. visas: immigrant and nonimmigrant. Immigrant visas are issued to foreign nationals who intend to live permanently in the United States. Nonimmigrant visas are for foreign nationals who enter the United States on a temporary basis—for tourism, medical treatment, business, temporary work, study, or other reasons.

² PERM stands for Permanent Electronic Review Management.

³ 8 U.S.C. 1101(a)(15)(E)(iii), (H)(i)(b), (H)(i)(b1).

⁴ INA § 212(a)(5)(A), 8 U.S.C. 1182(a)(5)(A)(i)–(ii) (labor certification requirement).

⁵ See 8 U.S.C. 1182(a)(5)(A)(ii); 20 CFR 656.1(a) (purpose of PERM regulations).

⁶ 8 U.S.C. 1182(n), 1182(t). Two subsections titled “(t)” have been enacted. Here, the Department cites to the first, titled “Nonimmigrant professionals; labor attestations.”

the employer is offering and will offer wages that are at least the actual wage paid by the employer to individuals with similar experience and qualifications or the prevailing wage as determined by the Department, whichever is greater, and will provide working conditions that will not adversely affect the working conditions of U.S. workers similarly employed.⁷

The H-1B, H-1B1, and E-3 programs are temporary nonimmigrant classifications that generally allow U.S. employers to hire alien workers in “specialty occupations,” generally defined as those jobs which require the theoretical and practical application of highly specialized knowledge and at least a bachelor’s degree or its equivalent.⁸ By contrast, the EB-2 and EB-3 programs are permanent immigrant visa categories that generally require labor certification before an employer can sponsor an alien worker for lawful permanent residence.⁹ These programs, however, are intimately connected. Many alien workers initially enter the U.S. in a temporary H-1B status and later adjust their status to permanent residency through the EB-2 or EB-3 categories using the PERM process. In FY 2024, approximately 57.6 percent of PERM applications were filed on behalf of workers already employed in H-1B status, underscoring the overlap between temporary and permanent programs.

To ensure consistency and prevent wage-setting disparities across these interrelated programs, the Department applies a unified four-tier prevailing wage structure across all the programs based on the BLS OEWS survey. This structure, required by the INA, establishes wage levels which are commensurate with experience, education, and level of supervision and that are implemented through ETA regulations.¹⁰ In FY 2024, the Department certified 502,374 H-1B applications, accounting for the vast majority of temporary labor certifications.¹¹ By comparison, H-1B1 applications totaled 3,368 and E-3

applications totaled 9,154.¹² For permanent employment, the Department certified 35,505 PERM applications during the same period.¹³ These figures highlight the scale of the H-1B program relative to other visa classifications and underscore the importance of consistent wage protections across temporary and permanent programs.

Among all LCAs certified in FY 2024, 19 percent were assigned to Wage Level I, 44 percent to Level II, 21 percent to Level III, and 16 percent to Level IV.¹⁴ These levels reflect the Department’s four-tier structure, which differentiates wages based on the education, experience, and level of supervision required for the position: Level I corresponds to entry-level roles, while Level IV represents the most experienced and highly skilled positions.¹⁵

2. Permanent Labor Certification

The INA prohibits the admission of certain employment-based immigrants unless the Secretary of Labor has determined and certified to the Secretary of State and the Secretary of Homeland Security that (1) there are not sufficient workers who are able, willing, qualified, and available at the time of application for a visa and admission to the United States and at the place where the alien is to perform such skilled or unskilled labor; and (2) the employment of such alien will not adversely affect the wages and working conditions of workers in the United States similarly employed.¹⁶

This “labor certification” requirement does not apply to all employment-based immigrants. The INA provides for five “preference” categories, or immigrant visa classes, only two of which—the second and third preference

employment categories (commonly called the EB-2 and EB-3 immigrant visa classifications)—generally require a labor certification.¹⁷ An employer seeking to sponsor an alien worker for an immigrant visa under the EB-2 or EB-3 preference categories generally must file a visa petition with the Department of Homeland Security on the worker’s behalf, and the petition must include a labor certification from the Secretary of Labor.¹⁸ Further, the Department of State (DOS) may not issue a visa unless the Secretary of Labor has issued a labor certification in conformity with the relevant provisions of the INA.¹⁹ If the Secretary determines both that there are not sufficient able, willing, qualified, and available U.S. workers and that employment of the alien worker will not adversely affect the wages and working conditions of similarly employed U.S. workers, the Secretary so certifies to DHS and DOS by issuing a permanent labor certification. If the Secretary cannot make one or both of the above findings, the application for permanent employment certification is denied.

Under the INA, the EB-2 classification applies to aliens who are “members of the professions holding advanced degrees or their equivalent or who because of their exceptional ability in the sciences, arts, or business, will substantially benefit prospectively the national economy, cultural or educational interests, or welfare of the United States.”²⁰ DHS regulations, in turn, define an “advanced degree” as any United States academic or professional degree, or a foreign equivalent degree above that of a bachelor’s degree. A United States bachelor’s degree or a foreign equivalent

¹² Id.

¹³ Office of Foreign Labor Certification, FY 2024 PERM data: available at <https://www.dol.gov/agencies/eta/foreign-labor/performance>.

¹⁴ Office of Foreign Labor Certification, FY 2024 LCA data: available at <https://www.dol.gov/agencies/eta/foreign-labor/performance>.

¹⁵ See INA § 212(p)(4), 8 U.S.C. 1182(p)(4) (requiring four wage levels commensurate with experience, education, and supervision); 20 CFR 655.731(a)(2)(ii) and 656.40(b)(2) (prevailing wage methodology).

¹⁶ 8 U.S.C. 1182(a)(5)(A). Although this provision references the Attorney General, the authority to adjudicate immigrant visa petitions was transferred to the Director of the Bureau of Citizenship and Immigration Services (an agency within the Department of Homeland Security)—now known as U.S. Citizenship and Immigration Service (USCIS)—by the Homeland Security Act of 2002, Public Law 107-296, 451(b) (codified at 6 U.S.C. 271(b)). Under 6 U.S.C. 557, references in federal law to any agency or officer whose functions have been transferred to the Department of Homeland Security shall be deemed to refer to the Secretary of Homeland Security or other official or component to which the functions were transferred.

¹⁷ See 8 U.S.C. 1153(b)(2)–(3), 1182(a)(5)(D). Section 1153(b)(2) governs the EB-2 classification of immigrant visas granted to foreign workers who are either professionals holding advanced degrees (master’s degree or above or foreign equivalent degree, or a bachelor degree or foreign equivalent degree plus five years of progressive experience in the specialty) or persons of “exceptional ability” in the sciences, arts, or business. To gain entry in this category, the foreign worker must have prearranged an offer of employment with a U.S. employer that meets the requirements of labor certification, unless the work he or she is seeking admission to perform is in the “national interest,” such as to qualify for a waiver of the job offer (and hence, the labor certification) requirement under 8 U.S.C. 1153(b)(2)(B). Section 1153(b)(3) governs the EB-3 classification of immigrant work visas granted to foreign workers who are either “skilled workers,” “professionals,” or “other” (unskilled) workers, as defined by the statute. To gain entry in this category, the foreign worker must have a prearranged offer of employment with a U.S. employer that meets the requirements of labor certification, without exception.

¹⁸ 8 U.S.C. 1154(a)(1)(F), 1182(a)(5)(A) and (D).

¹⁹ 8 U.S.C. 1153(b)(2), (b)(3)(C), 1201(g).

²⁰ 8 U.S.C. 1153(b)(2)(A).

⁷ 8 U.S.C. 1182(n), 1182(t).

⁸ INA § 101(a)(15)(E)(iii), (H)(i)(b), (H)(i)(b1), 8 U.S.C. 1101(a)(15)(E)(iii), (H)(i)(b), (H)(i)(b1); INA § 214(i), 8 U.S.C. 1184(i)(1)–(2) (definition of “specialty occupation” and degree requirement).

⁹ INA § 203(b)(2)–(3), 8 U.S.C. 1153(b)(2)–(3) (EB-2 and EB-3 classifications); INA § 212(a)(5)(A), 8 U.S.C. 1182(a)(5)(A) (labor certification requirement); 20 CFR part 656 (PERM regulations).

¹⁰ INA § 212(p)(4), 8 U.S.C. 1182(p)(4) (requiring four wage levels commensurate with experience, education, and supervision); see also 20 CFR 656.40(b)(2) and 655.731(a)(2)(ii) (prevailing wage methodology).

¹¹ Office of Foreign Labor Certification, FY 2024 LCA data: available at <https://www.dol.gov/agencies/eta/foreign-labor/performance>.

degree followed by at least five years of progressive experience in the specialty shall be considered the equivalent of a master's degree.²¹ If a doctoral degree customarily is required by the specialty, the alien must have a United States doctorate or a foreign equivalent degree.²² The regulations go on to define "exceptional ability" as "a degree of expertise significantly above that ordinarily encountered in the sciences, arts, or business."²³

The EB-3 program consists of three discrete classifications: "skilled worker," defined as aliens who are "capable . . . of performing skilled labor (requiring at least two years training or experience), not of a temporary or seasonal nature, for which qualified workers are not available in the United States;" "professional," defined as "a qualified alien who holds at least a United States baccalaureate degree or a foreign equivalent degree and who is a member of the professions;" and "other worker," defined as aliens who are "capable . . . of performing unskilled labor (requiring less than two years training or experience), not of a temporary or seasonal nature, for which qualified workers are not available in the United States."²⁴

3. Labor Condition Application

The Secretary must certify an LCA filed by a U.S. employer before the employer may employ an alien worker under the E-3, H-1B, or H-1B1 programs.²⁵ LCAs apply only to temporary nonimmigrant visa classifications; permanent sponsorship is pursued through the PERM labor certification process under INA § 212(a)(5)(A). Because many H-1B workers later adjust to permanent residence under the EB-2 or EB-3 classification, this NPRM maintains a unified wage framework across temporary and permanent programs to ensure consistent protections, as described below.

As noted above, the LCA is submitted by an employer to the Secretary of Labor and states, among other things, that the employer is offering and will offer wages that are at least the actual wage paid by the employer to individuals

with similar experience and qualifications or the prevailing wage for the occupational classification in the area of employment, whichever is greater, and will provide working conditions that will not adversely affect the working conditions of workers similarly employed.²⁶

Unlike the PERM program, the H-1B, H-1B1, and E-3 programs allow U.S. employers to employ alien workers temporarily in specialty occupations. "Specialty occupation" is defined as an occupation that requires the theoretical and practical application of a body of "highly specialized knowledge" and at least a bachelor's degree in the specific specialty, or its foreign equivalent, as a minimum requirement for entry into the U.S.-based occupation, meaning that the position must require at least a bachelor's degree in a specific specialty (or its equivalent) and the attainment of such a degree must be a standard minimum requirement for entry into the occupation.²⁷ The H-1B1 and E-3 nonimmigrant visa classifications also allow U.S. employers to temporarily employ alien workers in specialty occupations, except that these classifications specifically apply to the nationals of certain countries: The H-1B1 classification applies to alien workers in specialty occupations from Chile and Singapore,²⁸ while the E-3 visa classification applies to alien workers in specialty occupations from Australia.

B. Description of the Permanent Labor Certification Process

The Department's regulations at 20 CFR part 656 govern the PERM labor certification process and set forth the responsibilities of employers who desire to employ, on a permanent basis, alien workers covered by the INA's labor certification requirement.²⁹ The Department processes labor certification applications for employers seeking to sponsor alien workers for permanent

employment under the EB-2 and EB-3 immigrant visa preference categories. Aliens seeking admission under, or adjustment of status to, the EB-2 or EB-3 preference categories are inadmissible "unless the Secretary of Labor has determined and certified . . . that—(I) there are not sufficient workers who are able, willing, qualified . . . and available at the time of application for a visa and admission to the United States and at the place where the alien is to perform such skilled or unskilled labor, and (II) the employment of such alien will not adversely affect the wages and working conditions of workers in the United States similarly employed."³⁰

The Secretary makes this determination in the PERM programs by, among other things, requiring the alien worker's sponsoring employer to recruit U.S. workers by offering a wage that equals or exceeds the prevailing wage and to further assure that the employer will pay the alien worker a wage equal to or exceeding the prevailing wage.³¹ Prior to filing a labor certification application, the employer first must obtain a Prevailing Wage Determination (PWD) for its job opportunity from the Office of Foreign Labor Certification (OFLC).³² The standards and procedures governing the PWD process in connection with the permanent labor certification program are set forth in the Department's regulations at 20 CFR 656.40 and 656.41. If the job opportunity is covered by a collective bargaining agreement (CBA) that was negotiated at arm's length between a union and the employer, the wage rate set forth in the CBA is considered the prevailing wage for labor certification purposes.³³ In the absence of a prevailing wage rate derived from an applicable CBA, the employer may elect to use an applicable wage determination under the Davis-Bacon Act (DBA) or McNamara-O'Hara Service Contract Act (SCA), or provide a wage survey that complies with the Department's regulations.³⁴ In the absence of any of the above sources, the OFLC will use the BLS OEWS survey to determine the prevailing wage for the job opportunity based on the most

²⁶ 8 U.S.C. 1182(n), 1182(t).

²⁷ See 8 U.S.C. 1184(i)(1)(A)–(B).

²⁸ 8 U.S.C. 1101(a)(15)(H)(i)(b1), 1184(g)(8)(A).

²⁹ The current regulations were issued through a final rule implementing the streamlined permanent labor certification program through revisions to 20 CFR part 656. The final rule was published on December 27, 2004, and took effect on March 28, 2005. See *Labor Certification for the Permanent Employment of Aliens in the United States; Implementation of New System*, 69 FR 77326–01 (Dec. 27, 2004). The Department published a final rule on May 17, 2007, to enhance program integrity and reduce the incentives and opportunities for fraud and abuse related to permanent labor certification, commonly known as "the fraud rule." *Labor Certification for the Permanent Employment of Aliens in the United States; Reducing the Incentives and Opportunities for Fraud and Abuse and Enhancing Program Integrity*, 72 FR 27904–01 (May 17, 2007).

²¹ 8 CFR 204.5(k)(2). Note that this equivalency is defined by DHS regulations for the purposes of EB-2 classification. The Department is not expressing a view on the substantive equivalence of these qualifications outside of that regulatory framework.

²² *Id.*

²³ *Id.*

²⁴ 8 U.S.C. 1153(b)(3); 8 CFR 204.5(l)(2).

²⁵ See 8 U.S.C. 1101(a)(15)(E)(iii), (H)(i)(b), (H)(i)(b1); 8 CFR 214.2(h)(2)(i)(E); see also 8 U.S.C. 1182(n)(1)(A)(i)–(ii); 8 U.S.C. 1182(n), (t); 20 CFR part 655, subpart H.

³⁰ 8 U.S.C. 1182(a)(5)(A)(i).

³¹ 20 CFR 656.10(c)(1). In addition to the prevailing wage requirement, employers must comply with other regulatory obligations under 20 CFR 656.10, including attesting that the job opportunity has been and is clearly open to U.S. workers, that all U.S. workers who applied were rejected only for lawful, job-related reasons, and that the employer has conducted the mandatory recruitment steps required by the PERM regulations.

³² 20 CFR 656.15(b)(1), 656.40(a).

³³ See 20 CFR 656.40(b)(1).

³⁴ 20 CFR 656.40(b), (g).

specific occupation and geographic area available.³⁵ After reviewing the employer's application, OFLC will determine the prevailing wage and specify the validity period, which may be no less than 90 days and no more than one year from the determination date.³⁶

Once the U.S. employer has received a PWD, the process for obtaining a permanent labor certification generally begins with the U.S. employer filing an *Application for Permanent Employment Certification*, Form ETA-9089, with OFLC.³⁷ As part of the standard application process, the employer must include, among other things, the labor or services to be performed and actual minimum job requirements contained on the valid PWD, the wage it is offering to pay for such labor or services the geographic location(s) where the work is expected to be performed, and the efforts it made to recruit qualified and available U.S. workers prior to filing the Form ETA-9089. Additionally, the employer must attest to certain labor condition statements on the Form ETA-9089, including that the "offered wage equals or exceeds the prevailing wage determined pursuant to 20 CFR 656.40 and 656.41, and the wage the employer will pay to the alien worker will equal or exceed the prevailing wage that is applicable at the time the alien begins work or from the time the alien is admitted to take up the certified employment."³⁸

Through the requisite test of the labor market, the employer also attests, at the time of filing the Form ETA-9089, that the job opportunity has been, and is, clearly open to any U.S. worker, and that all U.S. workers who applied for the job opportunity were rejected for lawful, job-related reasons. OFLC performs a review of the Form ETA-9089 and may either grant or deny a permanent labor certification. When OFLC grants a permanent labor certification, the employer must submit proof of the certified Form ETA-9089 along with an *Immigrant Petition for Alien Workers* (Form I-140 petition) to DHS. A permanent labor certification is valid only for the job opportunity, employer, alien worker, and area of intended employment named on the Form ETA-9089 and must be filed in support of a Form I-140 petition within

180 calendar days of the date on which OFLC granted the certification.³⁹

C. Description of the Temporary Labor Condition Application Process

The Department's regulations at 20 CFR part 655, subpart H, govern the process for obtaining a certified LCA and set forth the responsibilities of employers who desire to temporarily employ alien workers in H-1B, H-1B1, and E-3 nonimmigrant classifications.

For H-1B petitions subject to the annual numerical cap, employers must first register with U.S. Citizenship and Immigration Services (USCIS) during the designated registration period. This electronic registration process does not require a certified Labor Condition Application (LCA). When USCIS determines that there is more than a sufficient number of unique beneficiaries on whose behalf registrations were properly submitted to meet the H-1B cap, USCIS conducts a lottery to select registrations eligible to file petitions. This lottery process is administered independently of the Department of Labor. Employers must obtain a certified LCA from the Department of Labor before filing the H-1B petition (Form I-129, *Petition for Nonimmigrant Worker*) with USCIS; however, employers can obtain an LCA prior to or after the USCIS registration lottery process. In December 2025, DHS finalized a rule establishing a weighted selection process based on offered wage levels for cap-subject H-1B registrations to favor higher-skilled, higher-paid aliens and strengthen program integrity.⁴⁰

A prospective employer must attest on the LCA that (1) it is offering to and will pay the nonimmigrant, during the period of authorized employment, wages that are at least the actual wage level paid by the employer to all other employees with similar experience and qualifications for the specific employment in question, or the prevailing wage level for the occupational classification in the area of intended employment, whichever is greater (based on the best information available at the time of filing the attestation); (2) it will provide working conditions for the nonimmigrant worker that will not adversely affect working conditions for similarly employed U.S. workers; (3) there is no strike or lockout in the course of a labor dispute in the occupational classification at the

worksite; and (4) it has provided notice of its filing of an LCA to its employees' bargaining representative for the occupational classification affected or, if there is no bargaining representative, it has provided notice to its employees in the affected occupational classification by posting the notice in a conspicuous location at the worksite or through other means such as electronic notification.⁴¹

As relevant here, the prevailing wage must be determined as of the time the LCA is filed.⁴² In contrast to the permanent labor certification process, an employer is not required to obtain a PWD from the OFLC.⁴³ Rather, an employer may base the prevailing wage on one of several sources: an applicable CBA that was negotiated at arm's length between a union and the employer and contains a wage rate applicable to the occupation; a PWD from the OFLC; a wage determination under the Davis-Bacon Act or Service Contract Act; an independent authoritative source—such as a private wage survey—that satisfies the requirements in 20 CFR 655.731(b)(3)(iii)(B); or another legitimate source of wage data—such as an industry compensation study—that satisfies the requirements in 20 CFR 655.731(b)(3)(iii)(C).⁴⁴

An employer may not file an LCA more than six months prior to their selected start date.⁴⁵ Unless the Secretary finds the LCA is incomplete or obviously inaccurate, the Secretary must certify it within seven working days of its filing.⁴⁶ Once an employer receives a certified LCA, it must file the Form I-129, *Petition for a Nonimmigrant Worker*, with USCIS if seeking classification of the alien as an H-1B worker.⁴⁷ During the course of adjudicating the nonimmigrant petition, USCIS determines, among other things, whether the petition is supported by a certified LCA that properly corresponds to the petition, whether the employer's position qualifies as a specialty occupation and, if so, whether the alien is qualified for the position.

⁴¹ 8 U.S.C. 1182(n)(1)(A)–(C), (t)(1)(A)–(C); 20 CFR 655.705(c)(1), 655.730(d).

⁴² 20 CFR 655.731(a)(2).

⁴³ *Id.*

⁴⁴ 20 CFR 655.731(a)(2)(ii)(A)–(C).

⁴⁵ 20 CFR 655.730.

⁴⁶ 8 U.S.C. 1182(t)(2)(C); 20 CFR 655.740(a)(1).

⁴⁷ For aliens seeking H-1B1 or E-3 classification, the alien may apply directly to the State Department for a visa once the LCA has been certified.

³⁵ 20 CFR 656.40(b)(2).

³⁶ 20 CFR 656.40(c).

³⁷ Applications for Schedule A occupations are eligible to receive pre-certification and bypass the standard applications review process. In those cases, employers file the appropriate documentation directly with DHS. 20 CFR 656.5, 656.15.

³⁸ 20 CFR 656.10(c)(1).

³⁹ 20 CFR 656.30(b)(1).

⁴⁰ See Department of Homeland Security, U.S. Citizenship & Immigration Services, *Weighted Selection Process for Registrants and Petitioners Seeking to File Cap-Subject H-1B Petitions*, 90 FR 60864 (Dec. 29, 2025).

D. Brief History on Use of the BLS OEWS and Current Prevailing Wage Methodology

1. The Department's Methodology for Establishing Prevailing Wages From 1997 to 2020

The Department has always sought to use the best available information on occupational wages representing workers in the United States similarly employed. The BLS OEWS survey remains the largest ongoing statistical survey program of the federal government, producing employment and gross wage estimates for more than 830 SOC codes, and is used as the primary wage source for establishing skill-based prevailing wage determinations in the nonimmigrant and immigrant visa programs administered by the Department. The BLS produces survey materials and selects the employer establishments to be surveyed using the list of establishments maintained by State Workforce Agencies (SWAs) for unemployment insurance purposes. Wage information based on geographic areas are available at the national and State levels and for certain territories in which statistical validity can be ascertained, including the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands. Wage information is also made available at the metropolitan and nonmetropolitan area levels within a State.

The OEWS survey primarily covers wage and salary workers in non-farm establishments and does not include the self-employed, owners and partners in unincorporated firms, household workers, or unpaid family workers. The survey is conducted primarily by mail, with telephone follow-ups to nonrespondents, or, if needed, to clarify written responses. Each year, two semiannual panels of approximately 179,000 to 187,000 sampled establishments are contacted, one panel in May and the other in November. Thus, the OEWS employment and gross wage estimates are constructed from a sample of about 1.1 million establishments collected over a 3-year period, which allows the production of data at detailed levels of geography, industry, and occupation and accounts for approximately 57 percent of employers in the United States. OEWS data are published annually with a May reference date. Wages are defined as straight-time, gross pay, including piece rates, but excludes other forms of pay such as overtime, shift differentials, and non-production or any year-end bonuses. Further, because it collects the gross wages paid to each worker in each

occupation during the reference period, the OEWS can consistently report more precise wage estimates for any occupation-specific wage distribution to approximate wage differentials paid to U.S. workers similarly employed in a particular occupation and state.

The OEWS survey consists of two components: employment estimates and wage estimates. The employment component provides data on the estimated number of full- and part-time jobs in an occupation and geographic area, offering insight into workforce distribution and occupational demand across industries and regions. This component measures full- and part-time wage and salary employees in nonfarm industries, but excludes self-employed workers, owners and partners in unincorporated firms, employees of private households, and unpaid family workers. The wage component provides estimates of straight-time, gross pay for employees in an occupation, excluding premium pay such as overtime. The Department incorporated the wage component of the OEWS survey into its prevailing wage guidance in 1997.⁴⁸ At the time, the Department divided OEWS wage data into two skill levels: a Level I wage for "beginning level employees" and a Level II wage for "fully competent employees." Because the OEWS survey does not provide data about skill differentials within each Standard Occupational Classification (SOC) code, the Department established the entry and experienced skill levels mathematically.⁴⁹

Specifically, under a Memorandum of Understanding (MOU), BLS computed a Level I wage calculated as the mean of the lowest paid one-third of workers in a given occupation (approximately the 17th percentile of the OEWS wage distribution)⁵⁰ and a Level II wage calculated as the mean wage of the highest paid upper two-thirds of workers (approximately the 67th

percentile).⁵¹ This two-tier wage structure was based on a practical, informal method of using the mean wage of the lowest paid one-third of the workers surveyed in each occupation to approximate the typical compensation for "beginning level employees," and the mean wage of the upper two-thirds of the workers surveyed in the occupation to approximate the typical compensation for "fully competent employees."⁵²

To implement the INA's four-tier prevailing wage provision, the Department published comprehensive Prevailing Wage Determination Policy Guidance for Nonagricultural Immigration Programs (2005 Guidance), which expanded the two-tier OEWS wage level system to include four "skill levels": Level I "entry," Level II "qualified," Level III "experienced," and Level IV "fully competent."⁵³ The Department applied the formula specified in the INA to its two existing wage levels to set Levels I through IV, respectively, at approximately the 17th percentile, the 34th percentile, the 50th percentile, and the 67th percentile.⁵⁴ The Department's adoption of the four-tiered wage structure is grounded in the INA's statutory mandate, which requires that government surveys used to determine prevailing wages "provide at least four levels of wages commensurate with experience, education, and the level of supervision,"⁵⁵ and is consistent with the statutory requirement that wage levels be commensurate with experience, education, and the level of supervision, ensuring that wage determinations meaningfully differentiate among workers based on these factors. This differentiation is part of the statutory scheme wherein the Department is

⁵¹ Intra-Agency Memorandum of Understanding executed by Mr. John R. Beverly, III, Director, U.S. Employment Service, ETA, and Ms. Katharine Newman, Chief, Division of Financial Planning and Management, Office of Administration, BLS (Sept. 30, 1998).

⁵² GAL 2–98 at 5. See also *Wage Methodology for the Temporary Non-agricultural Employment H–2B Program*, 76 FR 3452, 3453 (Jan. 19, 2011); *Wage Methodology for the Temporary Non-Agricultural Employment H–2B Program, Part 2*, 78 FR 24047, 24051 (Apr. 24, 2013).

⁵³ ETA Prevailing Wage Determination Policy Guidance, Nonagricultural Immigration Programs 7 (May 9, 2005), available at https://www.dol.gov/sites/dolgov/files/ETA/oflc/pdfs/policy_nonag_progs.pdf; see also 85 FR at 63874–76 for a discussion of the development of the prevailing wage determination process. See INA § 212(p)(4), 8 U.S.C. 1182(p)(4) (requiring that any government survey used to determine prevailing wages provide at least four levels of wages commensurate with experience, education, and level of supervision).

⁵⁴ See, ETA Prevailing Wage Determination Policy Guidance, Nonagricultural Immigration Programs 1 (May 9, 2005).

⁵⁵ 8 U.S.C. 1182(p)(4).

⁴⁸ *Prevailing Wage Policy for Nonagricultural Immigration Programs*, General Administration Letter No. 2–98 (GAL 2–98) (Oct. 31, 1997), available at <https://www.dol.gov/agencies/eta/advisories/general-administration-letter-no-2-98> and https://www.dol.gov/sites/dolgov/files/ETA/advisories/GAL/1997/GAL2-98_attach.pdf.

⁴⁹ GAL 2–98 at 5.

⁵⁰ To clarify, the Department notes that, because the old wage methodology took the mean of a portion of the OEWS wage distribution, the precise wage it produced will not always fall at 17th percentile. Rather, the 17th percentile is the midpoint or median of the distribution for which a mean was produced, and is therefore only an approximation for what the actual wage rates would be. The same is true of the old wage methodology for calculating the Level IV wage, which used the mean of the upper two thirds of the OEWS distribution, the midpoint of which is the 67th percentile.

charged with certifying a lack of sufficient workers and that employment of alien workers will not adversely affect the wages or working conditions of U.S. workers.

In 2010, the Department centralized the prevailing wage determination process for nonagricultural labor certification programs within OFLC's National Prevailing Wage Center (NPWC).⁵⁶ In preparation for this transition, the Department issued new Prevailing Wage Determination Policy Guidance for Nonagricultural Immigration Programs (2009 Guidance),⁵⁷ which currently informs OFLC's PWD process for the PERM, H-1B, H-1B1, and E-3 visa programs and will continue to inform OFLC's PWD process for these programs. When assigning a prevailing wage using OEWS data, the NPWC examines the nature of the job offer, the area of intended employment, and job duties for workers that are similarly employed.⁵⁸ In particular, the NPWC uses the SOC taxonomy to classify the employer's job opportunity into an occupation by comparing the employer's job description, title, and requirements to occupational information provided in sources like the Department's Occupational Information Network (O*Net).⁵⁹ Once the NPWC identifies the applicable SOC code, it determines the appropriate wage level for the job opportunity by comparing the employer's job description, title, and requirements to those normally required for the occupation, as reported in sources like O*Net. This determination involves a step-by-step process in which each job opportunity begins at Level I (entry level) and may progress to Level II (experienced), Level III (qualified), or Level IV (fully competent) based on the NPWC's comparison of the job

opportunity to occupational requirements, including the education, training, experience, skills, knowledge, and tasks required in the occupation.⁶⁰ After determining the prevailing wage level, the NPWC issues a PWD to the employer using the OEWS wage for that level in the occupation and area of intended employment.

2. Regulatory Changes to the Prevailing Wage Methodology in 2020 and Litigation

As discussed in Section I.D.1, the Department has long relied on the BLS OEWS survey to determine prevailing wages for the H-1B, H-1B1, E-3, and PERM programs. The prevailing wage determination process, first implemented through guidance in 2005, was designed to reflect four tiers of wages commensurate with the experience, education, and level of supervision for the job opportunity and to be consistent with the statutory requirements of 8 U.S.C. 1182(p)(4). However, as is detailed further in this NPRM, the methodology adopted in 2005 did not adequately protect U.S. workers from adverse wage effects and deleterious job conditions.⁶¹ The Department also did not clearly articulate a rationale for choosing levels as low as the 17th percentile for Level I and did not similarly provide a reasoned justification for selecting the 67th percentile for Level IV. In addition to these substantive and procedural shortcomings, a growing body of evidence, which is presented below under Section II.B.3, indicates that the 2005 methodology was adversely affecting the wages of U.S. workers.

Therefore, on October 8, 2020, the Department published an Interim Final Rule (IFR) in the **Federal Register** revising the methodology used to determine prevailing wage levels for the H-1B, H-1B1, E-3, and PERM programs.⁶² As explained in the IFR, the Department concluded that the existing wage levels were not consistent with the relevant statutory requirement that a government survey used to determine the prevailing wage should provide four wage levels commensurate with experience, education, and level of supervision.⁶³ The Department also determined that the existing wage levels

were artificially low and provided an opportunity for employers to hire and retain alien workers at wages well below what their U.S. counterparts earn, creating an adverse incentive to prefer the hiring of alien workers to U.S. workers, an incentive that is at odds with the statutory scheme and which causes downward pressure on the wages of the domestic workforce. Therefore, the Department revised wage provisions at 20 CFR 655.731 and 656.40 to adjust the existing wage levels to ensure the wage levels would reflect the wages paid to U.S. workers with similar experience, education, and responsibility to those possessed by similarly employed alien workers.

In particular, the IFR amended paragraphs (a), (b)(2), and (b)(3) of 20 CFR 656.40, codifying the four-tier wage practice and revising the wage level computation methodology. A new § 656.40(b)(2)(i) specified the four new levels (Levels I through IV) to be applied. Paragraph (b)(2)(i)(A) explained the Level I wage would be calculated as the mean of the fifth decile of the wage distribution for the most specific occupation and geographic area available, rather than calculated as the mean of the bottom third of the OEWS wage distribution, as was the case prior to the IFR. Paragraph (b)(2)(i)(D) provided that the Level IV wage would be calculated as the mean of the upper decile of the wage distribution for the most specific occupation and geographic area available, rather than using the mean of the upper two-thirds of the distribution. As a result of these changes, the wage levels were increased, respectively, from approximately the 17th, 34th, 50th, and 67th percentiles to approximately the 45th, 62nd, 78th, and 95th percentiles. The IFR also made minor technical and clarifying amendments to sections 656.40 and 655.731.

The Department promulgated the IFR pursuant to 5 U.S.C. 553(b)(B) and 553(d)(3)⁶⁴ due to exigent circumstances created by the coronavirus public health emergency that threatened immediate harm to the

⁵⁶ See Labor Certification Process and Enforcement for Temporary Employment in Occupations Other Than Agriculture or Registered Nursing in the United States (H-2B Workers), and Other Technical Changes, 73 FR 78020 (Dec. 19, 2008); Prevailing Wage Determinations for Use in the H-1B, H-1B1 (Chile/Singapore), H-1C, H-2B, E-3 (Australia), and Permanent Labor Certification Programs; Prevailing Wage Determinations for Use in the Commonwealth of the Northern Mariana Islands, 74 FR 63796-01 (Dec. 4, 2009).

⁵⁷ Employment and Training Administration; Prevailing Wage Determination Policy Guidance, Nonagricultural Immigration Programs (Revised Nov. 2009) (2009 Guidance), available at https://www.dol.gov/sites/dolgov/files/eta/oflc/pdfs/nprwhc_guidance_revised_11_2009.pdf.

⁵⁸ *Id.* at 3-4.

⁵⁹ *Id.* at 1-7; see also Occupational Information Network, available at <https://www.onetonline.org/>. O*Net provides information on skills, abilities, knowledge, tasks, work activities, and specific vocational preparation levels associated with occupations and stratifies occupations based on shared skill, education, and training indicators.

⁶⁰ 2009 Guidance at 6.

⁶¹ While the Department issued updated guidance in 2009 to centralize processing and clarify procedures, that guidance retained the methodology adopted in 2005. Because the NPRM proposes to revise the percentile-based formula introduced in 2005, this section uses the 2005 guidance as the basis of comparison.

⁶² 85 FR 63872.

⁶³ See 8 U.S.C. 1182(p)(4).

⁶⁴ The Administrative Procedure Act (APA), 5 U.S.C. 551 *et seq.*, authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." 5 U.S.C. 553(b)(B). The good cause exception for forgoing notice and comment rulemaking "excuses notice and comment in emergency situations, or where delay could result in serious harm." *Jifry v. F.A.A.*, 370 F.3d 1174, 1179 (D.C. Cir. 2004) (internal citations omitted).

⁶⁵ See Strengthening Wage Protections for the Temporary and Permanent Employment of Certain Aliens in the United States, 5 FR 63872, 63898-63902 (Oct. 8, 2020).

wages and job prospects of U.S. workers, as well as the need to avoid evasion by employers of the new wage rates. The Department requested public input on all aspects of the IFR during a post-promulgation 30-day public comment period.

Four groups of plaintiffs separately challenged the Department's IFR. The plaintiffs claimed the Department lacked good cause to issue the IFR without undergoing notice and comment procedures under the APA and that the IFR was arbitrary and capricious and in violation of the INA. These plaintiffs further requested that the IFR be enjoined and the Department prevented from implementing it. In three of the four cases, the district court approved the parties' stipulation to convert plaintiffs' motion for a preliminary injunction into a motion for partial summary judgment on the notice and comment claim. In *Chamber of Commerce*, the district court issued a decision on December 1, 2020, granting plaintiffs' motion for partial summary judgment on their notice and comment claim and setting aside the Department's IFR.⁶⁶ In *Purdue University and Stellar IT* (which were consolidated), the district court issued a decision on December 14, 2020, granting partial summary judgment to the plaintiffs on the basis that the Department lacked good cause to issue the IFR, and ordered the Department to re-issue prevailing wage determinations issued under the IFR on a mutually agreeable schedule.⁶⁷ In the fourth case, *ITServe Alliance*, the district court issued a preliminary injunction on December 3, 2020, prohibiting the Department from enforcing the IFR against the plaintiffs in that case.⁶⁸ In discussing plaintiffs' likelihood of success on the merits in that case, the court limited its analysis to plaintiffs' claim that the Department lacked good cause to forgo advance notice and comment.⁶⁹ Following the district court's decisions in *Chamber of Commerce* and *ITServe Alliance*, OFLC took immediate action to comply with the courts' directives, including issuing a public announcement on its website on December 3, 2020, outlining the steps it was taking in response to the courts' orders. Notably, none of these

rulings addressed the merits of the plaintiffs' challenges to the substance of the IFR.

The Department issued a Final Rule on January 14, 2021, which adopted the IFR's provisions with modifications that were responsive to both public comments and issues raised during litigation.⁷⁰ The Final Rule adjusted the wage percentiles and incorporated changes based on public feedback to the 35th and 90th percentiles for Level I and Level IV wages, respectively. The Final Rule's effective date was set for March 15, 2021. On February 1, 2021, the Department proposed to delay the effective date of the final rule for a period of 60 days to May 14, 2021, in response to a Presidential directive.⁷¹ On March 12, 2021, the Department issued a final rule confirming the delay, wherein it cited the need to finish a "comprehensive review of this rulemaking" and the "complexity of this issue" as its rationale for proceeding with the proposed delay.⁷² On March 22, 2021, the Department issued a proposal to further delay the effective date of the rule by eighteen months to November 14, 2022.⁷³ The Department again cited the need to have "sufficient time to engage in its comprehensive review of the [Jan. 14, 2021 Final Rule]."⁷⁴ The Department acknowledged that "delaying the implementation of the Final Rule is likely to have an impact on the wages paid to workers."⁷⁵ Nonetheless, on May 13, 2021, the Department promulgated a final rule confirming the 18-month delay of the effective date.⁷⁶ While many commenters supported the delay, "[m]any individual commenters opposed the proposed delay and supported implementing policies that favor and attract higher skilled workers."⁷⁷ The Department again "acknowledge[d] the potential substantial economic impact of this delay not only on employers but also on U.S. and alien workers."⁷⁸ "[M]any commenters expressed general opposition to the proposed delay or

opposed the proposed delay and urged the Department to implement the higher wage levels as soon as possible. . . ."⁷⁹

On April 2, 2021, the Department also issued a Request for Information (RFI) "to provide information on the sources of data and methodologies for determining prevailing wage levels covering employment opportunities that United States (U.S.) employers seek to fill with alien workers on a permanent or temporary basis through certain employment-based immigrant visas or through H-1B, H-1B1, E-3 nonimmigrant visas."⁸⁰ While the comments received on the RFI generally support the Department's assessment of the limitations of the prior methodology and reinforced the need for a revised approach that better aligns with statutory requirements and labor market realities, the comments received did not inform the methodology proposed here.

On June 23, 2021, the Northern District of California vacated and remanded the January 14, 2021 Final Rule, pursuant to the Department's unopposed voluntary request for vacatur and remand.⁸¹ On December 13, 2021, the Department promulgated a final rule "effectuat[ing] a Federal district court order vacating a January 14, 2021 Final Rule." 86 FR 70729 (Dec. 13, 2021). Subsequently, the Department engaged in no further rulemaking regarding the employment-based immigrant visa or the H-1B, H-1B1, and E-3 nonimmigrant visas that are the subject of this NPRM.

II. Discussion of the Department's Proposed Amendments to the Prevailing Wage Methodology

The Department is issuing this NPRM to solicit public comment on proposed amendments to the prevailing wage computation methodology relied upon in several labor certification programs, specifically the H-1B, H-1B1, and E-3 nonimmigrant visa classifications, as well as the PERM program for employment-based immigrant visas. The Department proposes to increase the prevailing wage floors for Wage Level I from the 17th percentile to the 34th percentile, for Wage Level II from the 34th to the 52nd, for Wage Level III from the 50th to the 70th, and for Wage Level IV from the 67th to the 88th, relying upon wage data provided by the OEWS survey. The Department believes that these increases in the prevailing wage levels are needed because the previous

⁶⁶ *Chamber of Com. of United States v. United States Dep't of Homeland Sec.*, 504 F. Supp. 3d 1077 (N.D. Cal. 2020). The plaintiffs in this case also challenged an interim final rule issued by DHS, Strengthening the H-1B Nonimmigrant Visa Classification Program, 85 FR 63, 918 (Oct. 8, 2020).

⁶⁷ *Purdue University, et al. v. Scalia, et al.*, 20-cv-03006, 2020 WL 7340156 (D.D.C. Dec. 14, 2020).

⁶⁸ *ITServe All., Inc. v. Scalia*, No. CV 20-14604 (SRC), 2020 WL 7074391 (D.N.J. Dec. 3, 2020).

⁶⁹ *Id.* at 3-8.

⁷⁰ Strengthening Wage Protections for the Temporary and Permanent Employment of Certain Aliens in the United States, 86 FR 3608 (January 14, 2021).

⁷¹ Memorandum from Ronald A. Klain, Chief of Staff, White House to Heads of Agencies Regarding Regulatory Freeze Pending Review (Jan. 20, 2021), available at <https://bidenwhitehouse.archives.gov/briefing-room/presidential-actions/2021/01/20/regulatory-freeze-pending-review/>.

⁷² 86 FR 13995 (Mar. 12, 2021).

⁷³ 86 FR 15154 (Mar. 22, 2021).

⁷⁴ 86 FR 15155.

⁷⁵ *Id.* at 15156.

⁷⁶ 86 FR 26164 (May 13, 2021).

⁷⁷ *Id.* at 26170-71.

⁷⁸ *Id.* at 26171.

⁷⁹ *Id.*

⁸⁰ 86 FR 17343 (Apr. 2, 2021).

⁸¹ See *Chamber of Commerce, et al. v. Dep't of Homeland Sec., et al.*, No. 4:20-cv-07331 (N.D. Cal. June 23, 2021), ECF No. 139.

methodology set the prevailing wages too low by relying on a methodology that did not take into account the experience, education, and level of supervision, as required by the INA. As a result, employers were permitted to hire alien workers at wage levels below those that similarly employed U.S. workers were paid, resulting in adverse effects to the wages and working conditions of U.S. workers.

A. Statutory Authority for Amending the Methodology for Computing the Prevailing Wage Levels

The Department's authority to revise the prevailing wage methodology is grounded in its longstanding role of administering the labor certification process and in the discretion afforded to the Department regarding the establishment of prevailing wage levels for the H-1B, H-1B1, E-3, and PERM programs.

Section 1182(a)(5)(A)(i) of the INA provides that, “[a]ny alien who seeks to enter the United States for the purpose of performing skilled or unskilled labor is inadmissible, unless the Secretary of Labor has determined and certified to the Secretary of State and the Attorney General that . . . there are not sufficient workers who are able, willing, qualified (or equally qualified in the case of an alien described in clause (ii)) and available at the time of application for a visa and admission to the United States and at the place where the alien is to perform such skilled or unskilled labor, and the employment of such alien will not adversely affect the wages and working conditions of workers in the United States similarly employed.”

Section 1182(n)(1) of the INA provides that “[n]o alien may be admitted or provided status as an H-1B nonimmigrant . . . unless the employer has filed with the Secretary of Labor an application stating the following . . . [that] the employer is offering and will offer during the period of authorized employment to aliens admitted or provided status as an H-1B nonimmigrant wages that are at least (I) the actual wage level paid by the employer to all other individuals with similar experience and qualifications for the specific employment in question, or (II) the prevailing wage level for the occupational classification in the area of employment, whichever is greater. . . .” 1182(n)(1); 1182(n)(1)(A); 1182(n)(1)(A)(i); 1182(n)(1)(A)(i)(II); *see also* 1182(n)(2). Section 1182(t)(1) contains nearly-identical language with respect to H-1B1 and E-3 and nonimmigrants. 8 U.S.C. 1182(t)(1); 1182(t)(1)(A); 1182(t)(1)(A)(i); 1182(t)(1)(A)(i)(II).

In turn, Section 1182(p)(4) of the INA provides that the Secretary of Labor may “use, or make available to employers, a governmental survey to determine the prevailing wage.” This section also provides that the “survey shall provide at least 4 levels of wages commensurate with experience, education, and the level of supervision.” Section 1182(p)(3) requires that the “prevailing wage required to be paid pursuant to subsections (a)(5)(A), (n)(1)(A)(i)(II), and (t)(1)(A)(i)(II) shall be 100 percent of the wage determined pursuant to those sections.” These statutory requirements are discussed in further detail in Section II.B.2 of this NPRM.

Congress “often enact[s] statutes in which the agency is authorized to exercise a degree of discretion.” *Loper Bright Enter. v. Raimondo*, 144 S. Ct. 2244, 2263 (2024). “[S]ome statutes ‘expressly delegate[]’ to an agency the authority to give meaning to a particular statutory term.” *Id.* (citation omitted). “Others empower an agency to prescribe rules to ‘fill up the details’ of a statutory scheme, or to regulate subject to the limits imposed by a term or phrase that ‘leaves agencies with flexibility.’” *Id.* (citation omitted). The statutory provisions listed above are of the type identified by the Supreme Court in *Loper Bright* that “delegate[] discretionary authority” to the Department on how best to determine prevailing wages such that the employment of alien workers will not adversely affect U.S. workers. The Department’s authority to set wage levels is also necessary for it to fulfill its statutory functions and duties under Sections 1182(a)(5)(A), 1182(n)(1), 1182(n)(2)(A),⁸² 1182(t)(1), and 1182(t)(2)(A), as well as its role in the overall statutory scheme.⁸³

B. Reasons for Adjusting the Prevailing Wage Levels

1. Summary

On September 19, 2025, the President issued Proclamation 10973

⁸² Moreover, the Secretary’s duty under 8 U.S.C. 1182(n)(2)(A) to establish procedures for receiving, investigating, and resolving LCA-related complaints includes the authority to promulgate regulations to ensure employer compliance with LCAs. *See, e.g., Aleutian Cap. Partners, LLC v. Scalia*, 975 F.3d 220, 230 (2d Cir. 2020). The Department’s authority to promulgate prevailing wage rates is also part of its express enforcement authority.

⁸³ *C.f., e.g., N. Carolina Farm Bureau Fed’n v. U.S. Dep’t of Labor*, 781 F. Supp. 3d 455; 2025 WL 1296245, *12 (E.D.N.C. 2025) (“NCFBF”) (the Department has broad authority to “‘fill up the details’ of its statutory directive.”); *Kansas v. U.S. Dep’t of Labor*, 749 F. Supp. 3d 1363, 1374 (S.D. Ga. 2024) (reaffirming the Department’s authority to “‘issue regulations to ensure that any certifications it issues for H-2A visas do not ‘adversely affect’ American agricultural workers”).

(“Proclamation”), “Restriction on Entry of Certain Nonimmigrant Workers,” which, among other provisions, directed the Secretary of Labor to initiate rulemaking to revise prevailing wage levels under the H-1B program.⁸⁴ The Proclamation explained that the H-1B program “has been deliberately exploited to replace, rather than supplement, U.S. workers with lower-paid, lower-skilled labor.” The Proclamation cited longstanding concerns that the H-1B program, as currently administered, may be used in ways that undermine U.S. labor standards, create downward pressure on wages, and displace U.S. workers. The Proclamation further noted that the current wage structure may incentivize the hiring of alien workers at significantly lower wages than their U.S. counterparts, thereby undermining the program’s original intent which was to allow employers to obtain temporary specialized labor when equally skilled and qualified U.S. workers could not be found.

The Department is proposing this rule because the current methodology for setting prevailing wages often allows employers to pay alien workers significantly less than what similarly qualified U.S. workers earn for the same jobs in the same area of intended employment. This not only results in unfair competition for U.S. workers, particularly in high-skill sectors like the STEM (science, technology, engineering, and mathematics) fields, and adverse effects on the wages of U.S. workers, but also undermines the integrity of the immigration system by incentivizing the use of lower-paid and lower-skilled alien workers over available domestic talent. This misuse of the H-1B program undermines its original statutory purpose—which is to allow employers to temporarily hire alien workers in specialty occupations requiring the “theoretical and practical application of a body of highly specialized knowledge”⁸⁵—by transforming it into a mechanism for importing lower-cost labor. The current methodology further undermines the Department’s statutory duties under Section 1182(a)(5)(A) of the INA to ensure that the employment of alien workers does not impose adverse effects onto the wages and working conditions of American workers. By updating how wage levels

⁸⁴ Proclamation No. 10973, 90 FR 46027 (Sept. 19, 2025).

⁸⁵ 8 U.S.C. 1184(i)(1)(A). Additionally, the term “specialty occupation” is also defined to require “attainment of a bachelor’s or higher degree in the specific specialty (or its equivalent) as a minimum for entry into the occupation in the United States.” *Id.* at (i)(1)(B).

are calculated, the Department aims to ensure that alien workers are paid fairly and that U.S. workers are not displaced or undercut—helping to restore balance, fairness, and public confidence in the labor certification process.

Similarly, as is described in more detail below in Section II.B.3, the Department has determined that the current prevailing wage methodology does not adequately reflect labor market realities and may suppress wages and displace U.S. workers. As the Department has noted previously, “prevailing wage rates produced by the four-tier wage structure should approximate actual market wages to the greatest extent possible.” 86 FR 3634.

In response to these concerns, the Department of Labor is proposing to revise the methodology used to determine prevailing wage levels under the H-1B, H-1B1, E-3, and PERM programs. The proposed changes are intended to ensure that the employment of alien workers does not adversely affect the wages and working conditions of U.S. workers, consistent with the Department’s statutory obligations in section 1182(a)(5)(A), 1182(n), and 1182(t) of the INA. When prevailing wage rates are set below what comparable U.S. workers would typically earn, it creates an incentive for employers to hire alien workers who cost less, which in turn, reduces job opportunities for equally qualified U.S. workers.⁸⁶

While the Presidential Proclamation only identifies the H-1B program for regulatory overhaul, any adjustment to prevailing wage levels in this program will also implicate prevailing wage levels in the H-1B1, E-3, and PERM programs because the Department of Labor uses a unified four-tiered wage structure across all of these visa programs. The same OEWS data and percentile-based methodology are used to determine wage levels for both temporary (H-1B, H-1B1, E-3) and permanent (PERM) labor certification processes. Given that over 58% of FY 2024 PERM applications were filed on behalf of aliens already employed in H-1B status, maintaining consistency in wage determinations across these programs is essential to ensure that the statutory requirement—that the employment of alien workers not adversely affect the wages and working conditions of U.S. workers—is met uniformly.⁸⁷ Divergent wage structures

would create perverse incentives for employers to exploit lower wage thresholds in one program to circumvent higher prevailing wages being offered in the other, ultimately undermining the integrity of all visa programs that utilize the current prevailing wage methodology. The Department therefore believes that revising the wage level for these other programs that are intertwined with the H-1B program, therefore, is also necessary and appropriate.

2. The Relationship Between the Prevailing Wage Levels, OEWS Survey, and the INA

The Department’s prevailing wage determinations serve as a critical safeguard in both the H-1B and PERM programs, ensuring that the employment of alien workers does not adversely affect the wages and working conditions of U.S. workers. These determinations rely heavily on data from the Occupational Employment and Wage Statistics (OEWS) survey, which provides wage estimates across occupations and geographic areas. However, because the OEWS survey was not originally designed to reflect the statutory requirements of the Immigration and Nationality Act (INA), the Department must carefully evaluate how to align OEWS-based wage levels with the INA’s mandate to protect U.S. workers.

As noted, the INA requires employers to pay H-1B workers the greater of “the actual wage level paid by the employer to all other individuals with similar experience and qualifications for the specific employment in question,” or “the prevailing wage level for the occupational classification in the area of employment.” The statute further provides that, when a government survey is used to establish the wage levels, “such survey shall provide at least 4 levels of wages commensurate with experience, education, and the level of supervision.” If an existing government survey produces only two levels, the statute provides a formula to calculate two intermediate levels. Thus, similar to the statute’s actual wage clause, the prevailing wage requirement, when calculated based on a government survey, makes the qualifications possessed by workers in the occupation, namely education, experience, and responsibility, an important part of the wage calculation. Put slightly differently, both clauses yield wage requirements that are meant to align with the wages that similarly employed

U.S. workers are being compensated with a requirement that employers pay the higher available wage. In this way, the statutory scheme is meant to “protect U.S. workers’ wages and eliminate any economic incentive or advantage in hiring temporary alien workers.” If employers are required to pay H-1B workers approximately the same wage paid to U.S. workers who perform the same type of work in the same geographic area and with similar levels of education, experience, and responsibility as the H-1B workers, employers will have significantly diminished incentives to prefer H-1B workers over U.S. workers. By reducing the perverse incentive to favor alien H-1B workers over the domestic workforce, U.S. workers’ wages will not be suppressed by the presence of alien workers in the relevant labor market.

To set appropriate prevailing wage levels consistent with the purpose of the relevant statutory provisions and statutory mandate on the Department, as discussed below, the Department has concluded that it is appropriate to focus on the wages of those U.S. workers that are most similarly employed to alien workers in the H-1B program, those receiving an EB-2 visa, and higher skilled EB-3 visa recipients.

Based on the statutory qualifications to be eligible to receive H-1B status, the Department thinks that while the OEWS survey is the best source of wage data available for use in the Department’s foreign labor certification programs, the wage data for any particular occupation does not perfectly align with the requirement that workers in the H-1B program possess highly specialized knowledge. This fact necessarily shapes how the Department integrates the OEWS survey into its foreign labor programs and also demonstrates the existing wage levels’ inconsistency with the INA.

At the outset, the Department notes that much of its assessment of how best to adjust the prevailing wage levels gives special attention to the H-1B program. The H-1B program accounts, by order of magnitude, for the largest share of alien workers covered by the Department’s four-tier wage structure. Upwards of 80 percent of all workers admitted or otherwise authorized to work under the programs covered by the wage structure are H-1B workers.⁸⁸

⁸⁸ See Department of Homeland Security, 2017 Yearbook of Immigration Statistics, Table 7. Persons Obtaining Lawful Permanent Resident Status by Type and Detailed Class of Admission: Fiscal Year 2017, available at <https://ohss.dhs.gov/topics/immigration/yearbook/2017/table7>; United States Citizenship and Immigration Services, Characteristics of H-1B Specialty Occupation

⁸⁶ Ron Hira, Is There Really a STEM Workforce Shortage?, *Issues in Science and Technology*, Vol. XXXVIII, No. 4, Summer 2022, available at <https://issues.org/stem-workforce-shortage-data-hira/>.

⁸⁷ Department of Labor, Employment and Training Administration, FY 2024 PERM

Performance Data, available at <https://www.dol.gov/agencies/eta/foreign-labor/performance>.

This, in combination with the fact that, as explained below, the risk of adverse effects to U.S. workers posed by the presence of alien workers is most acute where there are high concentrations of such workers, supports the Department's determination to focus on the H-1B program. Because the wage structure governs, and, for reasons explained below, will continue to govern wages for hundreds of thousands of workers across five different foreign labor programs and hundreds of different occupations, no wage methodology will be perfectly tailored to the unique circumstances of every job opportunity.⁸⁹ Accordingly, the Department thinks that it is appropriate to focus its analysis on the H-1B program and those occupations in which the vast majority of H-1B workers are employed.

Relatedly, the Department notes that the H-1B program is closely linked to the PERM programs that are also covered by the Department's wage structure. A majority of workers covered by PERM labor certification applications are already working in the U.S. as H-1B nonimmigrants, and there is significant overlap in the types of occupations in which H-1B and PERM workers are employed.⁹⁰ It is also clear that H-1B status often serves as a pathway to employment-based lawful permanent resident status for many alien workers.⁹¹ The programs have thus long been regulated in connection with one another.⁹² For these reasons, giving

particular attention to the H-1B program and the determination of how wages for H-1B workers are calculated is intimately connected with how the wages for alien workers in the PERM program are calculated, given that many H-1B workers find themselves eventually in the PERM program. It is therefore appropriate that the Department's analysis applies with equal force to both programs.

Under the INA, H-1B, H-1B1, and E-3 classification can, in most cases, only be granted to aliens entering the U.S. to perform services "in a specialty occupation."⁹³ The statute defines "specialty occupation" as an occupation that requires theoretical and practical application of a body of "highly specialized knowledge" and the "attainment of a bachelor's or higher degree in the specific specialty (or its equivalent) as a minimum for entry into the occupation in the United States."⁹⁴ An alien may be classified as an H-1B specialty occupation worker if the alien possesses "full state licensure to practice in the occupation, if such licensure is required to practice in the occupation," "completion of [a bachelor's or higher degree in the specific specialty (or its equivalent)]," or "(i) experience in the specialty equivalent to the completion of such degree, and (ii) recognition of expertise in the specialty through progressively responsible positions relating to the specialty."⁹⁵ DHS regulations further clarify the requirements for establishing that the position is a specialty occupation and that the beneficiary of an H-1B petition must be qualified for a specialty occupation.⁹⁶ The Department's regulations restate the statute's definition of specialty occupation essentially verbatim.⁹⁷

A few features of the definition bear emphasizing. First, the INA sets the attainment of a bachelor's degree in a specific specialty, or experience that would give an individual expertise equivalent to that associated with a bachelor's degree in the specific specialty, as the baseline, minimum requirement for an alien to qualify for the classification. Of even greater importance, having "any bachelor's degree" as a job requirement is not sufficient to qualify a job as a specialty occupation position—the bachelor's degree or equivalent required to perform

the job must be "in the specific specialty." In other words, the bachelor's degree required, or equivalent, must be specialized to the particular needs of the job, and impart a particularized level of expertise tailored to a given field.⁹⁸ These aspects of the definition play an important role in how the Department will use data from the BLS OEWS survey to set appropriate prevailing wage levels.

The Department has long relied on OEWS data to establish prevailing wage levels. That is because it is a comprehensive, statistically valid survey that, in many respects, is the best source of wage data available for satisfying the Department's purposes in setting wages in most immigrant and nonimmigrant visa programs. As the Department has previously noted the OEWS wage survey is among the largest continuous statistical survey programs administered by the federal government. BLS produces the survey materials and selects the nonfarm establishments to be surveyed using the list of establishments maintained by State Workforce Agencies (SWAs) for unemployment insurance purposes. The OEWS collects data from over 1 million establishments. Salary levels based on geographic areas are available at the national and State levels and for certain territories in which statistical validity can be ascertained, including the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands. Salary information is also made available at the metropolitan and nonmetropolitan area levels within a State. Wages for the OEWS survey are straight-time, gross pay, exclusive of premium pay. Base rate, cost-of-living allowances, guaranteed pay, hazardous duty pay, incentive pay including commissions and production bonuses, tips, and on-call pay are included. The features described above are unique to the OEWS survey, which is a comprehensive, statistically valid, and useable wage reference.⁹⁹

Put simply, the OEWS survey's quality and characteristics have made it, and continue to make it, a useful tool for

Workers: Fiscal Year 2017 Annual Report to Congress October 1, 2016–September 30, 2017 (Apr. 9, 2018), available at <https://www.uscis.gov/sites/default/files/document/reports/Characteristics-of-Specialty-Occupation-Workers-H-1B-Fiscal-Year-2017.pdf>.

⁸⁹ Cf. Wage Methodology for the Temporary Non-agricultural Employment H-2B Program, 76 FR 3452, 3461 (Jan. 19, 2011) (justifying wage methodology designed for lower-skilled workers that was adopted in the H-2B program on grounds that the program "is overwhelmingly used for work requiring lesser skilled workers," while also acknowledging that "not all positions requested through the H-2B program are for low-skilled labor.").

⁹⁰ In FY2024, 57.6 percent of all PERM labor certification applications filed were for H-1B workers already working in the United States. Department of Labor, Employment and Training Administration, *Performance Data*, available at <https://www.dol.gov/agencies/eta/foreign-labor/performance>.

⁹¹ See Sadikshya Nepal, *The Convoluted Pathway from H-1B to Permanent Residency: A Primer*, Bipartisan Policy Center (July 7, 2020), available at <https://bipartisanpolicy.org/article/the-convoluted-path-from-h-1b-to-permanent-residency-a-primer/>.

⁹² See 144 Cong. Rec. S12741, S12756 (explaining that 8 U.S.C. 1182(p) "spells out how [the prevailing] wage is to be calculated in the context of both the H-1B program and the permanent employment program in two circumstances."); Retention of EB-1, EB-2, and EB-3 Immigrant Workers and Program Improvements Affecting

High-Skilled Nonimmigrant Workers, 81 FR 82398–01 (November 18, 2016).

⁹³ 8 U.S.C. 1101(a)(15)(H)(i)(b).

⁹⁴ 8 U.S.C. 1184(i)(1)(i)–(ii).

⁹⁵ 8 U.S.C. 1184(i)(2)(C)(i)–(ii).

⁹⁶ 8 CFR 214.2(h)(4)(iii)(A), (C).

⁹⁷ Compare 20 CFR 655.715 with 8 U.S.C. 1184(i)(1)(i)–(ii).

⁹⁸ See *Chung Song Ja Corp. v. U.S. Citizenship & Immigration Servs.*, 96 F. Supp. 3d 1191, 1197–98 (W.D. Wash. 2015) ("Permitting an occupation to qualify simply by requiring a generalized bachelor degree would run contrary to congressional intent to provide a visa program for specialized, as opposed to merely educated, workers."); *Caremax Inc v. Holder*, 40 F. Supp. 3d 1182, 1187–88 (N.D. Cal. 2014) ("A position that requires applicants to have any bachelor's degree, or a bachelor's degree in a large subset of fields, can hardly be considered specialized.") (citing *Fred 26 Importers, Inc. v. Dept. of Homeland Sec.*, 445 F.Supp.2d 1174, 1179–80 (C.D. Cal. 2006)).

⁹⁹ Wage Methodology for the Temporary Non-agricultural Employment H-2B Program, 76 FR 3452, 3463 (Jan. 19, 2011).

setting prevailing wage levels in the Department's foreign labor programs. There are no alternative surveys or sources of wage data that would provide DOL with wage information at the same level of granularity needed to properly administer the H-1B and PERM programs. In response to the Department's 2021 Request for Information, no commenter identified a more suitable and comprehensive data source than the OEWS for determining prevailing wages, further reinforcing the Department's continued reliance on this dataset.

That said, the OEWS survey is not specifically designed to serve these programs. For one thing, "the OEWS survey captures no information about differences within the [occupational] groupings based on skills, training, experience or responsibility levels of the workers whose wages are being reported"¹⁰⁰—the factors the INA requires the Department to rely on in setting prevailing wage levels.¹⁰¹ Relatedly, "there are factors in addition to skill level that can account for OEWS wage variation for the same occupation and location."¹⁰² Further, the geographic areas used by BLS to calculate local wages do not always match up exactly with the "area of employment" for which wage rates are set, as that term is defined by the INA for purposes of the H-1B program.¹⁰³ So while the OEWS survey is the best available source of wage data for the Department's purposes, and the Department is proposing to continue using it as the data source, the Department's use of the OEWS data must be done in a way that aligns with the requirements in the INA.

Because the wage methodology will, by statute, be used to establish the prevailing wage for the H-1B program and highly skilled workers that are the beneficiaries of PERM applications, as discussed above, the INA's definition of "specialty occupation" is relevant to how the wage levels are set using the OEWS wage survey. The survey categorizes workers into occupational groups defined by the SOC system, a federal statistical standard used by federal agencies to classify workers into occupational categories for the purpose of collecting, calculating, or

disseminating data.¹⁰⁴ An informative source on the duties and educational requirements of a wide variety of occupations, including those in the SOC system, is the Department's Occupational Outlook Handbook (OOH), which, among other things, details for various occupations the baseline qualifications needed to work in each occupation. A review of the OOH shows that only a portion of the workers covered by many of the occupational classifications used in the OEWS survey likely have levels of education and experience similar to those of H-1B workers in the same occupation.¹⁰⁵ Some share of workers in these classifications do not have the education or experience qualifications necessary to be considered similarly employed to specialty occupation workers. Because the INA requires the prevailing wage levels for the H-1B, H-1B1, and E-3, and PERM programs to be set based on the wages of U.S. workers based on the levels of education, experience, and supervision in the relevant occupation, the Department must take this into account when using OEWS data to determine prevailing wages.

For example, a common occupational classification in which employers seek to employ H-1B nonimmigrants is Software Developer.¹⁰⁶ The OOH's entry

for Software Developer notes that Software Developers *typically* have a bachelor's degree.¹⁰⁷ In other words, while typical, a bachelor's degree-level education, or its equivalent, is not always a prerequisite for working in this occupation. Because a person without a specialized bachelor's degree can still be employed as a Software Developer, some portion of Software Developers captured by the OEWS survey are not similarly situated to H-1B workers because the baseline qualifications to enter the occupation based on the OOH do not match the statutory requirements for H-1B workers.

A similar analysis applies to the occupation of Registered Nurse (RN). According to the OOH, entry into the RN occupation may be achieved through a bachelor's degree in nursing (BSN), an associate's degree in nursing (ADN), or a diploma from an approved nursing program.¹⁰⁸ For prevailing wage purposes, the Department's methodology considers the broader population of RNs—including those with associate's degrees and diplomas—when determining the wages of U.S. workers who are similarly situated in terms of education, experience, and job duties.¹⁰⁹ In cases where an employer seeks a prevailing wage determination for a nursing position that requires higher qualifications, such as advanced practice or management roles, the prevailing wage determination may reflect the higher educational or experiential requirements, provided the employer demonstrates that such requirements are normal for the occupation and the position.¹¹⁰ This approach ensures that prevailing wage determinations for nursing occupations are aligned with labor market realities and statutory requirements.

A review of the OOH entries for the occupations in which H-1B nonimmigrants most commonly work demonstrates that most H-1B workers fall within SOC classifications that

¹⁰⁴ U.S. Bureau of Labor Statistics, Standard Occupational Classification, available at <https://www.bls.gov/soc/>.

¹⁰⁵ The five most common SOC codes represented in LCAs in FY 2024 were Software Developers (15-1252), Computer Systems Engineers/Architects (15-1299.08), Information Technology Project Managers (15-1299.09), Electronics Engineers, Except Computer (17-2072.00) and Software Quality Assurance Analysts and Testers (15-1253.00) FY 2024 LCA Performance data. These occupations accounted for approximately 47 percent of all LCA's filed in FY 2024.

For each of these occupations, for which data was available, at least some of the respondents to the BLS surveys underlying their data reported educational requirements below the baccalaureate threshold: Software Developers (5%—Associate's degree required); Computer Systems Engineers/Architects (68%—either a Post-secondary certificate or Associate's degree required); Information Technology Project Managers (43%—either a Post-secondary certificate or Associate's degree required); Electronics Engineers, Except Computer (14%—Associate's degree required); and Software Quality Assurance Analysts and Testers (35%—either a Post-secondary certificate or Associate's degree required). See, <https://www.onetonline.org/link/summary/15-1252.00>; <https://www.onetonline.org/link/summary/15-1299.08>; <https://www.onetonline.org/link/summary/15-1299.09>; <https://www.onetonline.org/link/summary/17-2072.00>; and <https://www.onetonline.org/link/summary/15-1253.00>, respectively.

¹⁰⁶ See Office of Foreign Labor Certification, LCA (H-1B, H-1B1, and E-3) Temporary Specialty Occupations Labor Condition Program—Selected Statistics, FY 2024, available at https://www.dol.gov/sites/dolgov/files/ETA/oflc/pdfs/LCA_Selected_Statistics_FY2024_Q4.pdf.

¹⁰⁷ Bureau of Labor Statistics, Occupational Outlook Handbook, Software Developers, Quality Assurance Analysts, and Testers, available at <https://www.bls.gov/ooh/computer-and-information-technology/software-developers.htm>.

¹⁰⁸ Bureau of Labor Statistics, U.S. Department of Labor, Occupational Outlook Handbook, Registered Nurses, available at <https://www.bls.gov/ooh/healthcare/registered-nurses.htm>.

¹⁰⁹ See 20 CFR 656.40(b)(2) (prevailing wage determinations are based on the wages of workers "similarly employed" in the occupation and area of intended employment, as reflected in the OEWS survey).

¹¹⁰ See 20 CFR 656.40(b)(2); see also DOL Prevailing Wage Determination Policy Guidance, Nonagricultural Immigration Programs (2009), at 4-5 (explaining that the wage level may be adjusted based on the requirements of the position and the normal requirements for the occupation).

¹⁰⁰ Wage Methodology for the Temporary Non-Agricultural Employment H-2B Program, 80 FR 24146, 24155 (Apr. 29, 2015).

¹⁰¹ 8 U.S.C. 1182(p)(4).

¹⁰² Wage Methodology for the Temporary Non-Agricultural Employment H-2B Program, 80 FR at 24159.

¹⁰³ 8 U.S.C. 1182(n)(4)(A).

include some number of workers who would not qualify for employment in a specialty occupation. For instance, the OOH entries for Software Developers—an occupation accounting for over 32 percent of all certified LCAs¹¹¹—provides that a bachelor's degree is the *typical* level of education that most workers need” to become one. Computer Systems Analysts, which make up approximately 2.8 percent of all certified LCAs,¹¹² “typically need a bachelor's degree. . .”¹¹³ Moreover, O*Net does not differentiate between jobs that require bachelor's degrees in specific specialties and those that accept a general bachelor's degree. Because prevailing wages must reflect the wages paid to U.S. workers who are similarly employed—that is, those with comparable education, experience, and responsibility—the Department's analysis focuses only on the subset of U.S. workers in each occupation who would meet the statutory qualifications for H-1B employment, rather than the broader population included in OEWS wage data.¹¹⁴

Simply put, the universe of workers surveyed by the OEWS for some of the most common occupational classifications in which H-1B workers are employed is larger than the pool of workers who can be said to have levels of education and experience comparable to those of even the least skilled H-1B workers performing work within that occupational classification. Because this methodology will substantially apply to H-1B petitions and PERM applications for H-1B worker beneficiaries, to allow for a more direct comparison and

therefore set a more accurate prevailing wage, it would be inappropriate to consider the wages of the least educated and experienced workers in these occupational classifications in setting the prevailing wage levels. To conclude otherwise would place the Department at odds with one of the purposes of the INA's core wage protections—to prevent employers from using alien workers to depress wage levels, which in turn reduces pay and job opportunities for U.S. workers.

This consideration also demonstrates the problems with the existing wage levels. As noted above, the Department's first wage level is currently set by calculating the mean of the bottom third of the OEWS wage distribution. Because the majority of LCAs receive a Level I or II wage, the wages for many H-1B workers are set based on a calculation that takes into account wages paid to workers who almost certainly would not qualify to work in a “specialty occupation,” as defined by the INA.¹¹⁵ The Department has noted previously that “workers in occupations that require sophisticated skills and training receive higher wages based on those skills.”¹¹⁶ As a worker's education and skills increase, his wages are expected to as well.¹¹⁷ For that reason, it is likely that workers at the lowest end of an occupation's wage distribution generally have the lowest levels of education, experience, and responsibility in the occupation. In consequence, if the occupation by definition includes workers who do not have the level of specialized knowledge required of H-1B workers, because of the prevalence of Level I and Level II wages assigned to LCAs at the very bottom of the wage distribution should be discounted in determining the appropriate baseline along the OEWS wage distribution to establish the entry-level wage under the four-tiered wage structure. Yet the existing wage structure makes such

workers a central component of the prevailing wage calculation.¹¹⁸

Similarly, the current Level IV wage is set by calculating the mean of the upper two-thirds of the wage distribution. That means that the wage level provided for the most experienced and highly educated H-1B workers is determined, in part, by taking into account a sizeable number of workers who do not even make more than the median wage of the occupation. The Department is concerned that workers making less than the median wage of the occupation are unlikely to possess commensurate experience, education, and requirements for supervision as are the alien workers who would be regarded as typical of Wage Level IV. The Department's analysis of OEWS wage distributions confirms that the current Level IV methodology includes a substantial share of workers whose wages—and likely qualifications—fall below what would be expected for the most advanced roles, thereby undermining the intended purpose of the highest wage tier.

The same reasons for discounting a portion of the workers at the bottom of the OEWS wage distribution in order to compute appropriate entry-level wages, based on the fact that such workers are not similarly employed to even the least skilled H-1B workers, also applies to the wages for the EB-2 immigrant visa preference classification and the E-3 and H-1B1 nonimmigrant programs, for which the Department also uses the four-tier prevailing wage structure.

The E-3 and H-1B1 classifications, like the H-1B classification, require that the alien work in a specialty occupation.¹¹⁹ Thus these programs' relation to the OEWS wage data is essentially identical to that of the H-1B program. Although E-3 and H-1B1 workers may not necessarily be concentrated in the same occupational categories as H-1B workers, the statutory requirement that they be employed in specialty occupations

¹¹¹ Office of Foreign Labor Certification, H-1B Temporary Specialty Occupations Labor Condition Program—Selected Statistics, FY 2024, available at https://www.dol.gov/sites/dolgov/files/ETA/oflc/pdfs/LCA_Selected_Statistics_FY2024_Q4.pdf.

¹¹² Office of Foreign Labor Certification, H-1B Temporary Specialty Occupations Labor Condition Program—Selected Statistics, FY 2024, available at https://www.dol.gov/sites/dolgov/files/ETA/oflc/pdfs/LCA_Selected_Statistics_FY2024_Q4.pdf.

¹¹³ Bureau of Labor Statistics, Occupational Outlook Handbook, Computer Systems Analysts, available at <https://www.bls.gov/ooi/computer-and-information-technology/computer-systems-analysts.htm>; Office of Foreign Labor Certification, LCA (H-1B, H-1B1, and E-3) Temporary Specialty Occupations Labor Condition Program—Selected Statistics, FY 2024, available at https://www.dol.gov/sites/dolgov/files/ETA/oflc/pdfs/LCA_Selected_Statistics_FY2024_Q4.pdf.

¹¹⁴ The Occupational Information Network (ONET), developed by the U.S. Department of Labor, provides detailed information on the knowledge, skills, abilities, education, and work activities associated with occupations classified under the Standard Occupational Classification (SOC) system. In the context of prevailing wage determinations, ONET is used by the Department to help assess the complexity and requirements of job duties, which informs the appropriate wage level assignment based on the education, experience, and supervision required for the position.

¹¹⁵ Indeed, even in the Department's original 2005 guidance setting the current prevailing wage methodology, the Department observed that “[e]mployer requests for foreign workers are frequently for fully qualified workers who possess special skills. Wage Level I would not be assigned in those situations.” See Employment and Training Administration, Prevailing Wage Determination Policy Guidance for Nonagricultural Immigration Programs 6 (Mar. 1, 2005), available at <https://www.eila.org/files/o-files/view-file/84809966-67A1-4645-95CB-CB8F826C1F3C>.

¹¹⁶ Wage Methodology for the Temporary Non-Agricultural Employment H-2B Program, Part 2, 78 FR 24047, 24051 (Apr. 24, 2013).

¹¹⁷ See Bureau of Labor Statistics, Learn more, earn more: Education leads to higher wages, lower unemployment, available at <https://www.bls.gov/careeroutlook/2020/data-on-display/education-pays.htm>.

¹¹⁸ For example, the occupation of Software Developers, which accounts for a large number of H-1B workers, does not, as explained above, require the same degree of specialized knowledge as a baseline entry requirement as does the INA's definition of “specialty occupation.” Yet approximately 10 percent of all LCAs filed with the Department for software developer positions classify those positions as entry-level, meaning that under the current wage levels the wages paid to such specialty occupation workers are calculated based, at least in part, on the wages paid to some workers who do not have comparable specialized knowledge and expertise. This outcome directly contravenes the INA's requirement that H-1B workers be paid wages commensurate with the wages paid to U.S. workers with similar levels of education, experience, and responsibility.

¹¹⁹ See 8 U.S.C. 1184(i).

means they must possess comparable levels of skill, specialization, and responsibility. As such, the level of skill, specialization, and responsibility required for E-3 and H-1B1 positions is often comparable to that required for H-1B positions. Applying the same prevailing wage structure across these classifications ensures consistency in how the Department protects U.S. workers and prevents employers from selecting among visa categories based on wage-setting advantages rather than legitimate labor needs.

As for the EB-2 classification, the reasons for discounting the lower end of the OEWS wage distribution for setting the baseline to establish an entry-level wage for the classification are even more apparent than they are for the specialty occupation programs. Under the INA, the EB-2 classification applies to individuals who are “members of the professions holding advanced degrees or their equivalent or who because of their exceptional ability in the sciences, arts, or business, will substantially benefit prospectively the national economy, cultural or educational interests, or welfare of the United States.”¹²⁰ DHS regulations, in turn, define an “advanced degree” as any United States academic or professional degree or a foreign equivalent degree above that of a bachelor’s degree. A United States bachelor’s degree or a foreign equivalent degree followed by at least five years of progressive experience in the specialty shall be considered the equivalent of a master’s degree. If a doctoral degree is customarily required by the specialty, the alien must have a United States doctorate or a foreign equivalent degree.¹²¹

The regulation goes on to define “exceptional ability” to mean “a degree of expertise significantly above that ordinarily encountered in the sciences, arts, or business.”¹²²

As is the case for H-1B nonimmigrants, the baseline, minimum qualifications that an EB-2 immigrant must possess exceed the educational and experiential requirements the OOH describes as generally necessary to enter some of the most common SOC occupational classifications in which EB-2 immigrants work. For example, the most common occupation in which PERM labor certifications—of which applications for EB-2 immigrants represent a substantial share—are sought is Software Developers, which accounts for nearly 21 percent of all

approved PERM applications.¹²³ As already noted, according to the OOH, a bachelor’s degree is the “[t]ypical level of education” for Software Developers.¹²⁴ A master’s degree, generally a requirement for obtaining EB-2 immigrant status, is therefore substantially above the typical, baseline qualifications needed to work as a Software Developer. Similarly, a Software Developer who satisfies the regulatory definition of “exceptional ability” would be, ipso facto, more highly skilled than the typical entry-level-worker in that occupation. This pattern holds for most of the top occupations into which PERM applications fall.¹²⁵

By contrast, EB-3 immigrants—who may qualify as “skilled workers” (requiring at least two years of training or experience) or “professionals” (holding a bachelor’s degree)—do not necessarily exceed the baseline qualifications for many of these occupations to the same degree as EB-2 workers. For example, in occupations where a bachelor’s degree is the typical requirement, EB-3 professionals align more closely with the median qualifications described in the OOH, while EB-3 skilled workers may fall below that threshold in some cases. Accordingly, while the Department’s methodology accounts for differences in education and experience across visa categories, prevailing wage levels for EB-3 workers should reflect that these workers are not uniformly as specialized as EB-2 workers, even though they must still meet statutory requirements and should not be paid wages that undercut similarly employed U.S. workers.

Accordingly, because EB-2 workers are required to possess qualifications that exceed those of the average worker in these occupations, it is appropriate to set their prevailing wage levels higher on the wage distribution to reflect their advanced education, experience, and skill.

In sum, the eligibility criteria established by the INA for most of the immigrant and nonimmigrant programs to which the Department’s prevailing

wage levels apply set a higher baseline for the minimum qualifications an alien must possess than the minimum qualification requirements that exist for U.S. workers generally in most of the occupations in which these aliens most commonly work. The H-1B, H-1B1, E-3, and EB-2 classifications are for workers with specialized knowledge and skills and/or advanced degrees.¹²⁶ Because the prevailing wage levels should take into account the experience, education, and level of supervision of occupational classifications, to ensure that those prevailing wage rates are an appropriate wage floor for positions that require specialized knowledge and skills and/or advanced degrees, the prevailing wage rates should be formulated based on the wages paid to workers who similarly possess specialized knowledge and skills in their occupations. Given that not every worker in a given OEWS occupation is likely to meet that standard, and that workers at the lower end of the wage distribution are also likely to be the workers with the lowest levels of education and experience, the Department has determined it is appropriate to discount the lower portion of the OEWS distribution in setting the wage levels. The Department should instead identify where within the distribution workers are to be found who possess the same kinds of specialized education and experience possessed by aliens working in the H-1B, H-1B1, E-3, and EB-2 classifications. The wages paid to those U.S. workers can serve as the basis for appropriately adjusting the prevailing wage levels to ensure the employment of alien workers does not adversely affect the wages and job opportunities of U.S. workers. Although the EB-3 category is not included in this analysis because its minimum qualifications for skilled workers or professionals with a bachelors’ degrees do not uniformly exceed the baseline requirements for many occupations, the Department notes that some EB-3 workers may also qualify for H-1B, H-1B1, or E-3 status, and vice versa. For this reason, and because EB-3 accounts for a small share of PERM applications, the Department applies the same prevailing wage structure to EB-3 to avoid creating incentives for employers to select visa categories based on lower wage

¹²³ Employment and Training Administration, Office of Foreign Labor Certification, Permanent Employment Program—Selected Statistics, Fiscal Year (FY) 2024, available at https://www.dol.gov/sites/dolgov/files/ETA/oflc/pdfs/PERM_Selected_Statistics_FY2024_Q4.pdf.

¹²⁴ Bureau of Labor Statistics, Occupational Outlook Handbook, Software Developers, available at <https://www.bls.gov/ooh/computer-and-information-technology/software-developers.htm>.

¹²⁵ See Office of Foreign Labor Certification, Permanent Labor Certification Program—Selected Statistics, FY 24, available at https://www.dol.gov/sites/dolgov/files/ETA/oflc/pdfs/PERM_Selected_Statistics_FY2024_Q4.pdf.

¹²⁶ The Department notes that its assessment of the appropriateness of adjusting the prevailing wage levels in the manner described by this rule with respect to the EB-3 classification is governed by distinct considerations, which are described more fully below.

¹²⁰ 8 U.S.C. 1153(b)(2)(A).

¹²¹ 8 CFR 204.5(k)(2).

¹²² *Id.*

thresholds rather than legitimate business needs.

The Department recognizes that applying a unified prevailing wage structure may result in higher wage requirements for some EB-3 positions that do not require the same level of education or specialization as H-1B or EB-2 roles; however, particularly given the prevalence of higher skilled workers in H-1B and PERM, maintaining a consistent wage framework across programs is necessary to prevent program shopping and to uphold the statutory requirement that alien workers be paid at least the prevailing wage for similarly employed U.S. workers, particularly in occupations where job duties and responsibilities may overlap despite differing formal entry requirements.

3. Adverse Effects of Current Prevailing Wage Levels

This section evaluates the comprehensive analysis that the Department has undertaken to understand, assess, and evince the deleterious effects that the current prevailing wage methodology has had on U.S. workers' wages and working conditions. This analysis includes an extensive review of the economic and programmatic data, qualitative evidence consisting of reports and investigations into the H-1B program, and litigation. Based on the evidence, the Department believes that the current prevailing wage methodology sets prevailing wages at levels that may not adequately reflect the Department's statutory requirements.

a. Economic Analysis of Adverse Effects on the Wages of U.S. Workers

As one research organization noted in a recent study of the H-1B program, “[t]he evidence strongly suggests that the H-1B program is not working as intended.”¹²⁷ The study pointed out that “in certain occupations, H-1B holders earn significantly less than their American counterparts.” The Department's data also indicates that the majority of H-1B positions are concentrated in the lower wage tiers. Sixty-three percent of certified LCAs in FY 2024 were for positions classified at wage levels I and II—levels typically associated with entry-level roles.¹²⁸

¹²⁷ Frei, Alexander P., *Rethinking the H-1B Visa Program: A Data-Driven Look at Structural Failures and the High-Skill Illusion*, Heritage Foundation (Aug. 8, 2025), available at <https://www.heritage.org/border-security/report/rethinking-the-h-1b-visa-program-data-driven-look-structural-failures-and#>.

¹²⁸ Office of Foreign Labor Certification, H-1B Temporary Specialty Occupations Labor Condition

This wage distribution raises concerns that the program is being used to fill mostly lower-paid positions and not serving its intended purpose of protecting U.S. workers from adverse effects by preventing employers from using alien workers to undercut wages and job opportunities for American workers.¹²⁹

The Department conducted a comprehensive analysis comparing certified LCA wages¹³⁰ to OEWS data,¹³¹ matched by SOC code, state, and year. This analysis is documented below, in Section II.C.1. This comparison revealed that the average wage offered to H-1B workers was approximately \$10,191 lower than the OEWS average wage for workers for similarly classified occupations. This differential may reflect a range of factors, including experience levels, geographic variation, and employer-specific compensation practices. The disparity is even more pronounced in computer-related occupations, where the average wage gap was \$10,972. These findings suggest that employers are leveraging the H-1B program to access a lower-cost labor pool, even in occupations that nominally require high levels of skill and education. This underpayment further supports the Department's conclusion that the current prevailing wage structure does not adequately reflect market wages and is in urgent need of reform. These same labor market dynamics are relevant to the PERM program, where underpayment of alien workers can similarly distort hiring incentives and erode labor standards. Using the same wage levels in both programs ensures that employers cannot use the permanent labor certification process to institutionalize wage disparities that originated in the temporary visa context.

Additionally, the Department's current prevailing wage methodology permits employers to classify a substantial share of H-1B positions, particularly in high-demand occupations such as software development, as “entry-level.” Because

Program—Selected Statistics in FY 2024, available at <https://www.dol.gov/agencies/eta/foreign-labor/performance>.

¹²⁹ See 8 U.S.C. 1101(a)(15)(H)(i)(b); 8 U.S.C. 1184(i)(1)(A) (describing the term “specialty occupation” as requiring “theoretical and practical application of a body of highly specialized knowledge” among other educational requirements).

¹³⁰ See generally Office of Foreign Labor Certification, H-1B Temporary Specialty Occupations Labor Condition Program—Selected Statistics, available at <https://www.dol.gov/agencies/eta/foreign-labor/performance>.

¹³¹ See generally U.S. Bureau of Labor Statistics, *Occupational employment and wage statistics* (BLS Occupational Employment Statistics), available at <https://www.bls.gov/oes/>.

the current methodology places Level I wages near the bottom of the OEWS distribution, which includes workers who do not possess the specialized education and experience required for H-1B eligibility, Level I wages are often set far below what specialized H-1B workers and comparably qualified workers would earn. Compounding this issue is the existence of a large pool of alien workers willing to accept lower wages because the cost of living in their home countries is substantially lower and other factors that make U.S. wages attractive even at discounted rates. This dynamic exerts downward pressure on wages for U.S. workers, as employers can classify H-1B roles as entry-level and thus pay wages that do not reflect the qualifications of the alien worker. Moreover, if the same employer hires all similarly qualified workers at the entry-level prevailing wage, then the “actual wage paid” by the employer would be the same as the prevailing wage. This structural flaw creates a systemic cost advantage for hiring H-1B workers over domestic talent, effectively enabling employers to substitute lower-paid alien workers for U.S. workers and institutionalizing wage arbitrage under the guise of legal compliance.

The adjustment to Level IV, in turn, was based on statistical modeling of OEWS wage distributions and is intended to correct for the current methodology's mismatch of mid-level and high-level earners with prevailing wage levels that did not properly compare them to U.S. earners of the same experience, education and level of supervision. This caused dilution of the wage standard for top-tier talent and failed to reflect the wages of workers with the greatest levels of education, experience, and responsibility. By revising the Level IV wages to better reflect the actual compensation of U.S. workers with equivalent qualifications, the Department aims to restore labor market fairness and ensure that the employment of alien workers does not suppress wages or displace U.S. workers.

b. Other Relevant Evidence, Reports, Investigations, and Litigation Demonstrating Adverse Effects of Current Prevailing Wages

The Department's analysis is grounded in its own administrative data and statutory responsibilities. However, other evidence, including investigative reporting and academic research, has supported many of the Department's conclusions.

Academic research indicates that the influx of low-cost alien workers into a labor market suppresses wages, and this

effect increases significantly as the number of alien workers increases. In particular, some empirical research, when inputted into a rough simulation, suggests that a substantial increase (more specifically, a 10 percent increase) in the labor supply due to the presence of alien workers could reduce the wages of the average U.S. worker by 3.2 percent, a rate that grew to 4.9 percent for college graduates.¹³² The current prevailing wage structure distorts hiring incentives and compensation by setting entry-level wages far below market rates for positions requiring specialized skills, which incentivizes employers to classify jobs at the lowest permissible level. This NPRM proposes to recalibrate wage levels to better reflect the education, experience, and responsibility required for H-1B positions, thereby reducing the opportunity for wage arbitrage.

The Department has also reviewed evidence indicating that the intent of the H-1B “actual wage” requirement can be undermined when end-clients obtain labor through outsourcing or staffing firms (sometimes called “job shops”). In such arrangements, the H-1B employer of record is the outsourcing firm, not the end-client; consequently, the “actual wage” analysis compares the H-1B worker’s pay only to other workers at the outsourcing firm—who may be predominantly workers with H-1B visas and paid at or near prevailing-wage floors—rather than to the higher-paid, similarly employed U.S. workers at the end-client company. Government reports and public reporting have documented this dynamic and show it can facilitate large pay gaps between outsourced H-1B workers and client-site employees performing substantially similar functions.¹³³ Although this

rulemaking would not directly change how “actual wage” determinations are applied in third-party placement scenarios, by raising prevailing wage levels it would increase the wage floor and, in turn, reduce the magnitude of these gaps in cases where outsourcing companies pay at or near the prevailing wage. Another report revealed that certain outsourcing firms exploited the H-1B registration system by submitting multiple registrations for the same beneficiaries, thereby gaining an unfair advantage in the selection process.¹³⁴ This report demonstrated how some companies would manipulate the lottery by flooding the system with duplicate or coordinated entries for individual workers, often through affiliated entities or shell companies. This practice significantly increased their odds of selection while disadvantaging employers who followed the rules and submitted a single registration per candidate. The result was a distorted allocation process that undermined the integrity of the H-1B program and enabled a small group of companies to cannibalize access to scarce visa slots. Although registrations do not represent actual employment and do not capture wages, evidence that the system can be gamed—even outside the Department’s direct purview—despite the availability of ample entry-level U.S. workers suggests that some employers view H-1B workers as a lower-cost alternative. This underscores the importance of ensuring that prevailing wage levels are set appropriately to eliminate incentives for wage arbitrage and protect U.S. workers from being undercut.

Between 2019 and 2025, a significant share of LCAs were filed in technology-related occupations, particularly software engineering roles. During this same period, major technology firms and outsourcing companies that are among the largest users of the H-1B program also conducted large-scale layoffs of U.S. workers. A 2023 study by the Economic Policy Institute found that the top 30 H-1B employers laid off at least 85,000 workers in 2022 and early 2023 while simultaneously hiring 34,000 H-1B workers.¹³⁵ And recently,

were paid salaries that were tens of thousands of dollars less”).

¹³⁴ Bloomberg News, *Outsourcing Firms Monopolize H-1B Visa Program*, BLOOMBERG (Aug. 13, 2024), available at <https://unity-connect.com/our-resources/news/bloomberg-reveals-outsourcing-firms-monopolize-h-1b-visa-program/>.

¹³⁵ Daniel Costa and Ron Hira (2023), *Tech and outsourcing companies continue to exploit the H-1B visa program at a time of mass layoffs*, Economic Policy Institute (Apr. 11, 2023), available at <https://www.epi.org/blog/tech-and-outsourcing-companies-continue-to-exploit-the-h-1b-visa-program-at-a->

in a lawsuit brought by a class of current and former employees of a significant employer of H-1B workers, a federal jury found that the employer’s reliance on employees with H-1B status unlawfully discriminated against non-Indian and non-South Indian employees.¹³⁶

And while the data indicate that H-1B workers are rapidly replacing U.S. workers, especially in STEM-related fields, recent U.S. graduates in computer science and engineering are facing elevated unemployment and underemployment rates. Unemployment rates for recent graduates in these fields were 7.5% and 6.1%, respectively, with underemployment rates exceeding 17%.¹³⁷ For example, employment for domestic software developers aged 22–25 declined by nearly 20% compared to its peak in late 2022, suggesting that qualified U.S. workers are struggling to access opportunities in sectors heavily reliant on H-1B labor.¹³⁸

This trend is particularly pronounced in the technology sector, where alien workers plays an outsized role in shaping labor market dynamics.¹³⁹ A 2025 report found that two-thirds of Silicon Valley tech workers are foreign-born, underscoring the extent to which the region’s workforce is shaped by

time-of-mass-layoffs-the-top-30-h-1b-employers-hired-34000-new-h-1b-workers-in-2022-and-laid-off-at-least-85000-workers/.

¹³⁶ See *Palmer v. Cognizant Tech. Sols. Company*, No. 17–cv–6848, 2025 WL 3154720 (C.D. Cal. Oct. 6, 2025). The jury found that the employer had “engaged in a pattern or practice of intentional discrimination against” both “non-South Asian employees on the basis of race who were terminated from the bench,” and “non-Indian employees on the basis of national origin who were terminated from the bench.” *Id.* In a subsequent ruling, the court found, based on expert evidence, that “non-South Asians were approximately seven times more likely to be subject to an involuntary termination.” *Palmer v. Cognizant Tech. Sols. Company*, No. 17–cv–6848, 2025 WL 3496682, 24 (C.D. Cal. Dec. 5, 2025). The analysis also showed that “non-South Asian and non-Indian employees were 8.4 more likely to be terminated from the bench than South Asian and Indian employees.” *Id.* at 27. The court also found that Cognizant replaced U.S. employees with visa-holding, South Asian employees “with a lower grade and experience.” *Id.* at 31.

¹³⁷ Federal Reserve Bank of New York, *The Labor Market for Recent College Graduates*, available at <https://www.newyorkfed.org/research/college-labor-market>. Latest release: February 20, 2025, based on data from 2023. <https://www.newyorkfed.org/research/college-labor-market#:~:explore=unemployment>.

¹³⁸ Erik Brynjolfsson, Bharat Chandar, and Ruyu Chen, *Canaries in the Coal Mine? Six Facts about the Recent Employment Effects of Artificial Intelligence*, Stanford University (Aug. 26, 2025) at 9, available at https://digitaleconomy.stanford.edu/wp-content/uploads/2025/08/Canaries_BrynjolfssonChandarChen.pdf.

¹³⁹ Based on the LCA Performance Data, which is cited throughout this NPRM, over 50% of the LCA’s certified by the Department in FY 2024 were for Computer and Information Technology occupations.

¹³² Borjas, George J. (2003). “The Labor Demand Curve Is Downward Sloping: Reexamining the Impact of Immigration on the Labor Market.” *The Quarterly Journal of Economics*, 118(4), 1335–1374.

¹³³ See U.S. Gov’t Accountability Office, *H-1B Visa Program: Reforms Are Needed to Minimize the Risks and Costs of Current Program* 20 (2011), <https://www.gao.gov/assets/320/314501.pdf>, at 52–56 (raising concerns that the H-1B program lacks an explicit mechanism for holding employers accountable when they obtain H-1B workers through a staffing company); Ron Hira and Daniel Costa, *Economic Policy Inst., The H-1B Visa Program Remains the “Outsourcing Visa”* (Mar. 31, 2021), <https://www.epi.org/blog/the-h-1b-visa-program-remains-the-outsourcing-visa-more-than-half-of-the-top-30-h-1b-employers-were-outsourcing-firms/> (noting that “H-1B outsourcing companies . . . replace incumbent U.S. workers with H-1B workers and typically pay their H-1B workers the lowest wages permitted by law, far below market wage rates”) and that large companies have “[laid] off hundreds of their well-paid employees and contract[ed] with major outsourcing firms . . . to replace those employees with H-1B workers who

immigration and the potential for wage-setting distortions in occupations with high concentrations of H-1B workers.¹⁴⁰ The pool of U.S. workers with relevant credentials has grown rapidly. Bachelor's attainment is higher among younger cohorts, and Computer and Information Sciences (CIS) degree completions more than doubled over the past decade—from about 55,000 in 2013–2014 to roughly 108,500 in 2021–2022.¹⁴¹ Including Master's (24,514 to 51,338 in the same period) and Doctoral (1,982 to 2,790 in the same period) degrees, the number of degrees conferred in the U.S. increased from 81,767 to 162,658, nearly doubling during that time. Another factor, related to some of the layoff activity of larger technology firms in recent years, has been the impact of generative AI, which a number of early studies indicates is decreasing demand for lower-level technology workers.¹⁴² So, while the potential supply of workers in occupations that are central to the programs affected by prevailing wages have increased, almost doubling since 2014, dramatic improvements in technology have and will continue to decrease demand, especially at the entry-level, for workers in these fields. Indeed, ADP, a leading source of payroll data, reported that employment of software developers, the single largest

occupational category in the H-1B system, was lower in 2024 than it was in 2018.¹⁴³ ADP data show that employment of software developers peaked in 2022 but declined sharply thereafter, falling below 2018 levels by 2024.¹⁴⁴

Another factor that shapes the nature of the labor market for workers who are subject to the prevailing wages at issue in this NPRM is their proclivity, due to being concentrated in technology or management occupations, to have more opportunities for remote work. According to BLS data as of September 2025, while 22.5% of workers reported working some or all hours remotely, Management, professional and related occupations reported 36.5%, while Computer and mathematical occupations reported 65.7%.¹⁴⁵ By contrast, Farming, fishing and forestry occupations reported a telework rate of 5.7%, far lower than average. With respect to other Specialty Occupations, the likelihood of teleworking strongly correlates with educational attainment, indicating in general that workers with higher levels of education—such as those in management, professional, and technical fields—are more likely to work in jobs that permit telework.¹⁴⁶ Teleworking increases the geographical scope of a particular workplace in which a worker can work, which the Department believes contributes not only to guest workers in these programs being able to seek employment at a broader array of employers, but also contributes to labor market mobility on the part of U.S. workers, which makes for more liquid and efficient labor market than in workplaces with fewer telework opportunities.¹⁴⁷

The data are not an exhaustive analysis of all of the impacts of guest worker programs on the U.S. workforce.¹⁴⁸ They do demonstrate the prevalence of guest workers, and indicia of how this prevalence may be resulting in adverse impacts on the U.S. workforce, in addition to the extensive

analysis that the Department has conducted. In turn, this suggests that U.S. workers are vulnerable to a prevailing wage methodology that is set too low, or set without being aligned with labor market data, as the Department contends the current methodology is.¹⁴⁹ Without regulatory intervention, similar instances will continue to erode the integrity of the labor certification process and undermine public confidence in the Department's stewardship of the H-1B and PERM programs.

In short, contrary to the H-1B program's goals, prevailing wage levels that, in many cases, do not accurately reflect the wages of comparable U.S. workers have permitted some firms to displace, rather than supplement, U.S. workers with H-1B workers. While allowing firms to access high-skilled workers to fill specialized positions can help U.S. workers' job opportunities in some instances, particularly when there are actual labor shortages in a certain industry or occupation, the benefits of this policy diminish significantly when the prevailing wage levels do not accurately reflect the wages of similarly employed workers in the U.S. labor market. The resulting distortions from a prevailing wage methodology untethered from rigorous mathematical analysis allow some firms to replace qualified U.S. workers with lower-cost alien workers, defeating the purpose of the INA's wage protections and suppressing the wages for U.S. workers who remain employed in occupations saturated by H-1B workers.

These concerns are not new. Congress has long recognized the need to protect U.S. workers from adverse effects associated with the employment of alien workers, as reflected in the statutory language of the Immigration and Nationality Act (INA). See 8 U.S.C. 1182(a)(5) (labor certification and qualifications for certain immigrants), 1182(n) (labor condition application), 1182(p)(2) (professional athletes), 1182(t) (nonimmigrant professionals). The Department has a statutory obligation to ensure that prevailing wage determinations are consistent with this mandate, and therefore this rulemaking is a necessary step toward restoring balance in the labor market and ensuring that alien workers are used to supplement—not displace—the domestic workforce.

¹⁴⁹ Employers seeking to employ H-1B workers must attest on the Labor Condition Application (Form ETA-9035) that the employment of the foreign worker “will not adversely affect the wages and working conditions of workers in the United States similarly employed.” 8 U.S.C. 1182(n)(1)(A)(ii); see also 20 CFR 655.731(a)(1).

¹⁴⁰ Joint Venture Silicon Valley, “2025 Silicon Valley Index,” https://jointventure.org/publications/silicon-valley-index?mc_cid=fbf9996b7f&mc_eid=4049bbd06a; Ethan Baron, “Two-thirds of Silicon Valley tech workers are foreign-born, new report says,” *SiliconValley.com*, March 11, 2025. <https://www.siliconvalley.com/2025/03/11/two-thirds-of-silicon-valley-tech-workers-foreign-new-report>.

¹⁴¹ National Center for Education Statistics, Digest of Education Statistics, Table 325.35: Bachelor's Degrees Conferred by Postsecondary Institutions, by Field of Study: 1970–71 through 2021–22, <https://nces.ed.gov/ipeds/data/digest/d23/tables/1.asp?current=yes> (last visited Jan. 2, 2026). Data include all graduates, including international students who may later enter the H-1B program. Thus, a portion of the observed growth reflects international STEM graduates, whose numbers have increased significantly over the past decade.

¹⁴² See e.g., Tomlison, Kiran, Jaffe, Sonia, Wang, Will, Counts, Scott, and Siddharth, Suri, *Working with AI: Measuring the Occupational Implications of Generative AI* (finding that Computer and Mathematical occupations had the highest “AI applicability score,” a measure which describes “if there is non-trivial AI usage that successfully completes activities corresponding to significant portions of an occupation's tasks.”) <https://www.microsoft.com/en-us/research/publication/working-with-ai-measuring-the-occupational-implications-of-generative-ai/>; Brynjolfsson, Erik, Chandar, Bharat, Chen, Ruyu, *Canaries in the Coal Mine? Six Facts about the Recent Employment Effects of Artificial Intelligence* (finding “substantial declines in employment for early-career occupations most exposed to AI, such as software development and customer support” among other conclusions) https://digitaleconomy.stanford.edu/wp-content/uploads/2025/08/Canaries_BrynjolfssonChandarChen.pdf.

¹⁴³ Neza, Jeff “The rise—and fall—of the software developer” <https://www.adpresearch.com/the-rise-and-fall-of-the-software-developer/>.

¹⁴⁴ *Ibid.*

¹⁴⁵ Labor Force Statistics from the Current Population Survey, BLS, <https://www.bls.gov/web/empsit/cpseea42.htm>.

¹⁴⁶ Telework Trends, BLS, <https://www.bls.gov/opub/btn/volume-14/telework-trends.htm>.

¹⁴⁷ See e.g., Ravalet, Emmanuel, Rerat, Patrick, *Teleworking: Decreasing Mobility or Increasing Tolerance of Commuting Distances?*, <https://www.jstor.org/stable/45237778>.

¹⁴⁸ See also, *Macks USA, Inc. v. United States Dep't of Lab.*, No. 23–CV–7476 (JGK), 2024 WL 4728902, at *12 (S.D.N.Y. Nov. 8, 2024) (affirming award of over \$100,000 of back wages to an employee who was improperly denied wages due to being “benched”).

The NPRM is based on a substantial body of economic and administrative data, including labor market trends, wage survey data, and evidence of program outcomes that the Department believes evince adverse outcomes towards U.S. workers. It reflects a reasoned policy judgment that the current wage structure does not adequately reflect the wages paid to U.S. workers similarly employed in comparison to the wages paid to H-1B workers, and concludes that reform is necessary to fulfill the Department's statutory mandate. After careful consideration of these data, and the potential economic impacts of the proposed changes, the Department has developed and now proposes a methodology that would better protect U.S. workers from unfair competition created by the importation of alien workers, as required by law. Indeed, the H-1B crisis has prompted the Equal Employment Opportunity Commission to issue guidance warning employers that discriminating *in favor of* H-1B applicants or against American-born workers is illegal.¹⁵⁰

This rulemaking is designed to ensure that the H-1B and related programs operate in a manner that is fair, transparent, and protective of U.S. workers, while still allowing employers to access alien workers where appropriate wages are paid.

C. Identifying the Appropriate Prevailing Wage Levels

1. Revisions to the Existing Methodology

The Department proposes to revise the existing methodology used to determine prevailing wage levels in the H-1B, H-1B1, E-3, and PERM programs. Specifically, the Department proposes adjusting the wage percentiles used to define Levels I and IV and refining the use of BLS data to ensure that prevailing wages more accurately reflect the wages paid to U.S. workers similarly employed to ensure that the employment of alien workers does not

adversely affect the wages and working conditions of U.S. workers.

In order to determine the prevailing wage percentiles that most closely satisfy the statutory requirements, the Department conducted an extensive statistical labor market analysis using historical data involving the immigrant and non-immigrant guest worker programs that are the subject of this NPRM. At a high level, the Department developed the proposed prevailing wage levels to align workers in the relevant programs with comparable labor market outcomes for the U.S. workforce as a whole. As part of its analysis, the Department finds a wide (over \$19,000 per worker on average) discrepancy between the wages earned by U.S. workers in the same occupations and locations and the prevailing wage levels assigned to corresponding LCA applicants. The Department's proposed adjustments would eliminate this gap using statistically grounded recalibration of wage percentiles.

The Department proceeded in three steps: (1) to analyze aggregate LCA data to understand the prevailing wages, actual wages, and occupational composition of H-1B workers over the last five years; (2) to compare LCA data with OEWS data, the most reliable and comprehensive publicly available data that reflects overall labor market compensation on an occupational basis, to determine the going wage of occupations for U.S. workers adjusted for region; and (3) to use this quantitative analysis to determine wage levels that would re-align the H-1B wage levels with corresponding U.S. workers. At this final step, the Department also relied on qualitative evidence and its long-standing expertise administering these programs, particularly in setting Wage Levels I and IV.

a. Step 1—The Department's Analysis of LCA Data

As has been described above, the first step for the H-1B petition process (and for other guest worker programs, although this statistical analysis focused exclusively on H-1B petitions, the most numerous of all programs that use LCAs in terms of both number of LCAs filed and number of individuals employed) is for the employer to submit an LCA to the Department. These LCAs are the best data of labor market information for what prevailing wage applies to any particular H-1B employee, what wage they are offered by their employer, and the SOC code that describes their occupation. In the aggregate, they are the best data source for labor market information regarding H-1B

occupations. These LCAs are made under penalty of perjury¹⁵¹ by the hiring entity, who must attest that "to the best of my knowledge, the information contained therein is true and accurate." For purposes of this analysis, the Department used all LCA data for FY2020–2025.¹⁵²

The Department took extensive measures to ensure that the LCA data was useable and reliable. These measures included various steps to clean the data, such as removing trailing annotations and any decimal artifacts introduced during earlier processing, trimming whitespace, and dropping entries that clearly did not match the SOC 6-digit code structure. For example, in one instance, a SOC code was entered as "151252"; this was corrected to "15–1252." The Department discarded a handful of data points that had clear errors.

The LCAs contain several data points that the Department used in its analysis. These include: (1) the SOC (O*NET/OEWS Code);¹⁵³ (2) Number of Workers;¹⁵⁴ (3) State/District/Territory;¹⁵⁵ (4) Wage Rate Paid to Nonimmigrant Workers;¹⁵⁶ (5) the Prevailing Wage Rate;¹⁵⁸ (6) Wage Level.¹⁵⁹ As is standard practice in any statistical analysis, the Department eliminated a small number of outliers,¹⁶⁰ and observations that had missing data.

To illustrate the Department's process, consider an example Labor Condition Application (LCA) for a Data Scientist. From each LCA, the Department extracted key data elements,

¹⁵¹ LCA Section J. Additionally, the employer must "develop sufficient documentation to meet its burden of proof with respect to the validity of the statements made in its LCA and the accuracy of information provided." LCA Section J(B).

¹⁵² For FY 2025, the Department used all available data, which at the time of this NPRM included but ended with Q3.

¹⁵³ LCA Box B(2).

¹⁵⁴ LCA Box F(a)(1). Note that, as explained above, an LCA applicant can file an LCA on behalf of multiple putative H-1B/H-1B employees.

¹⁵⁵ LCA Box F(a)(8).

¹⁵⁶ LCA Boxes F(a)(10) and 10a. The field on the LCA for the wage rate offered to the nonimmigrant worker has a field labeled "From" and "To" with "From" being the lower range and "To" the upper range. Since filling out the upper range is optional, only approximately 50% of LCAs have data in that field. Therefore, the Department used the number indicated in the "From" field as the sole datapoint from F(a)(10).

¹⁵⁷ To create a single comparable wage variable, the Department converted all forms of payment into annual pay using standard period multipliers. The Department performed this adjustment as needed for both the offered wage and the prevailing wage.

¹⁵⁸ LCA Boxes F(a)(11) and 11a.

¹⁵⁹ LCA Box F(13)(a).

¹⁶⁰ The Department removed observations that reported wages smaller than \$20,000 and larger than \$500,000.

¹⁵⁰ Equal Employment Opportunity Commission, Discrimination Against American Workers Is Against The Law, available at <https://www.eeoc.gov/discrimination-against-american-workers-against-law>. This guidance notes that discrimination in favor of visa guest workers (and against U.S. workers) is illegal, and can include discriminatory job advertisements (such as "H-1B preferred" job openings), disparate treatment (such as subjecting American-born workers to higher rates of termination for staying on "bench" status than visa guest workers), while observing that common business reasons such as customer or client preference, lower cost of labor, and beliefs regarding "work ethic" do not excuse an employer's decision to hire foreign workers over U.S. workers.

including the standard occupational code (SOC), number of workers, state of employment, offered wage, prevailing wage, and wage level. All wage values were standardized to annual amounts for consistency. The Department applied this process across more than 3 million LCAs filed between FY 2020 and FY 2025, cleaning the data to remove errors and outliers (e.g., wages below \$20,000 or above \$500,000) and ensuring accurate SOC coding. This standardized dataset formed the basis for the statistical analysis described below.

In this instance, the State/District/Territory would have been coded as Florida, based on Box 8; the Wage Rate Paid would have been coded as \$119,028 from Box 10; and the Prevailing Wage Rate would have been coded as \$75,691 from Box 11.¹⁶¹ This was done for over 3 million LCA's filed during the time period of FY2020–2025.

Using these data, the Department calculated that the average prevailing wage, for all LCAs from FY2020–2025, was \$111,717. The Department also calculated that the average wage rate paid to the beneficiaries of the same LCAs was \$121,908.¹⁶² In other words, the average LCA-program employee was paid an actual wage, and thus commanding, a \$10,191 premium over the prevailing wage level offered—a gap that indicates that the prevailing wage is set below the market value of comparable U.S. workers.

b. Step 2—Comparing the LCA Data to General Labor Market Data

The Department next compared the compensation paid to the beneficiaries of H–1B applications with the compensation paid to equivalent U.S. workers. To do this, the Department conducted a statistical analysis comparing the above LCA data with data for the U.S. workforce in general,

narrowed down to the same occupation and geographical region.

The best available data source for benchmarking the U.S. workforce is the OEWS,¹⁶³ which as explained above, is the most comprehensive and consistently administered analysis of labor market data that is indexed to occupational codes. The OEWS data reflects labor market conditions for the U.S. workforce as a whole, and not just non-immigrant programs. For each occupation—classified using the same SOC codes that appear in LCAs—the OEWS reports mean wages, which can be adjusted for geographic region, including state.

For example, for Software Developers (SOC Code 15–1252), which is the most common SOC code for which an LCA was sought between FY2020–2025, the average wage in California is \$170,910; for Alabama, it is \$113,020, and for Wisconsin, it is \$103,360.¹⁶⁴ As was explained above, the LCAs also report SOC Code and state—the same data that any user can input into the OEWS system to receive an average wage for workers in that occupational classification and location.

To compare LCA data and the OEWS data, the Department coded each LCA with the corresponding mean wage reported by the OEWS, for the same occupation and state, to create an “apples-to-apples” comparison. So, for example, if a given LCA was for a Software Developer in the state of Alabama for FY2024, they would have been coded with \$113,020—the average annualized salary for the same occupation in the same place. This coding was done, in this exact same way, to millions of LCAs.

To return to the previous LCA example, the LCA was coded as a Data Scientist (SOC Code 15–2051), and was located in Florida, FY 2024. In the Department's analysis, this would have been coded using the corresponding

OEWS wage rate for the same SOC Code, state, and year, for an average wage of \$105,820.¹⁶⁵

While some LCA applicants' employees earned more and others less than the OEWS mean, the Department initially assumed these differences would offset across Wage Levels I–IV. In theory, if LCAs reflected a balanced distribution of job levels, the average offered wage should approximate the OEWS average for the occupation. However, LCAs are disproportionately concentrated at Level I and Level II—the lowest wage tiers—which are both set significantly below the median or average wage. This concentration is not unexpected, as employers often classify positions at these levels, and H–1B workers tend to be placed in roles designated as entry-level or lower-tier positions. In fact, 63 percent of LCAs certified in FY 2024 were at Level I or Level II, according to the Department's LCA performance data.¹⁶⁶ Because these levels are far below the OEWS mean, the aggregate wages of H–1B workers skew lower than the overall occupational average. While this rule does not alter how employers classify job levels, raising prevailing wage thresholds will help ensure that wage levels better reflect the qualifications required for specialty occupations and reduce incentives to select the lowest permissible wage level.

However, the average of the mean OEWS occupational salaries, across the LCAs, was \$130,219, which is slightly over \$9,000 higher than the wage rate paid, and over \$19,000 higher than the prevailing wage rate based on the current wage levels. This \$130,219 represents the average of all salaries by occupation, state, and fiscal year, that match with the millions of LCAs in the Department's data set. As is shown later, it was used as the Department's Benchmark Value¹⁶⁷ for setting the prevailing wage levels in Step 3 of the analysis.

c. Step 3—Using the Labor Market Analysis To Revise the Prevailing Wage System

¹⁶⁵ <https://www.onetonline.org/link/localwages/15-2051.00?st=FL>.

¹⁶⁶ See U.S. Department of Labor, Office of Foreign Labor Certification, Labor Condition Application Performance Data, FY 2024, available at <https://www.dol.gov/agencies/eta/foreign-labor/performance>.

¹⁶⁷ This value is referred to as the Benchmark Value in the next subsection.

¹⁶¹ The Wage Level, II, is not visible in this image due to size limitations.

¹⁶² The Department acknowledges that LCA applicants must go through further processing, notably, in many cases the H–1B lottery, before they receive a visa, and that many LCA's ultimately do not receive work visas. However, the Department does not believe that this distinction matters for purposes of the analysis that it conducted. Many LCAs are for H–1B applicants who are cap-exempt, which means that the observation should be largely consistent with the ultimate visa grants. Regarding non-cap-exempt H–1B applicants, the Department has no reason to assume that the distribution of cap-exempt employees is different from the distribution of non-cap-exempt LCAs, but welcomes comment if any member of the public has data that indicate a significant discrepancy between these numbers.

¹⁶³ The nature and relevant history of the OEWS is explained in greater detail in Section I.D.

¹⁶⁴ These data are publicly accessible at <https://data.bls.gov/oesprofile/> and reflect data for May 2024, the most recently available data as of the time of this NPRM. For purposes of conducting its analysis comparing these data to the FY2020–2025 LCA data, the Department obtained historical BLS data and compared the BLS data of a specific year to the corresponding year wherein the LCA was received. This has led to an overall underestimate of the gap between compensation received by immigrants and non-immigrants bound by the prevailing wages, and U.S. workers, because it effectively does not account for inflation, as many of these workers do not commence work until the next fiscal year.

Given the existence of a variety of skill levels, occupations, and regions, the significant gap between the Benchmark Value and the average prevailing wage and wage paid data should not exist unless the LCA-program itself were causing a discrepancy. In other words, the average U.S. worker in the same occupation and region is commanding a nearly \$19,000 wage premium above what the similarly situated non-U.S. worker is required to be paid using the prevailing wage system, which, in many of the non-immigrant programs, such as the H-1B program, are restricted to individuals seeking to work in specialty occupations that should perhaps be commanding *higher*, not *lower* wages.

The Department believes that these significant discrepancies between labor market outcomes of U.S. workers, represented by the Benchmark Value, and the labor market outcomes of LCA-program employees specifically, as represented by the actual wages paid, and the prevailing wages that apply, indicates both the existence of a problem—that the wage discrepancy will adversely impact the wages of similarly employed U.S. workers—and the proposed solution—which is to

revise the prevailing wage structure to be more in line with the average wages earned by equivalent U.S. workers.

In order to align LCA-program wage rates with the general U.S. labor market, the Department seeks to set a prevailing wage level that yields an average, using the same mathematical approach as described above, that would be approximately the same as the average of the mean salaries of the typical LCA-program occupations. Using the Department's proposed revised prevailing wage methodology, which sets Wage Level I from the 17th to the 34th percentile; Wage Level II from the 34th to the 52nd percentile; Wage Level III from the 50th to the 70th percentile; and Wage Level IV from the 67th to the 88th percentile, the Department achieves this alignment, arriving at the Benchmark Value—and thus, approximately the same as if the Department drew a random sample of similarly-situated U.S. workers.

To identify these levels, the Department created a statistical model, using the known composition of the LCA-programs in terms of the same factors described above: wages, locations, and occupations, and used well-known statistical methods to set

prevailing wage levels that would result in an average prevailing wage level that was equal to the average of the mean salaries assuming the same composition as the LCA-program. Put differently, the model answered the following question: if the same employers with the same occupations, state locations, and wage levels, were to apply for the LCA-programs in the next fiscal year, as they did in the most recent fiscal year, what prevailing wage levels are needed to ensure that the average prevailing wage is the same as the Benchmark Value?

i. The Mathematics Behind Step 2 of the Department's Analysis

Numerical methods are computational techniques used to find approximate solutions to complex mathematical problems that lack closed-form solutions. For example, the equation ($x + y = 1$) cannot be solved uniquely, as (x) and (y) can take infinitely many values that satisfy the equation (*e.g.*, ($x = 0.5$, $y = 0.5$) or ($x = 1$, $y = 0$), etc.).¹⁶⁸ Similarly, the loss function, which reflects the difference between the predicted mean wage and the target mean wage W_{target} , is defined as:

$$\mathcal{L}(p_1, p_4) = \left| \frac{1}{N} \sum_{i=1}^N W_i(p_1, p_4) - W_{\text{target}} \right|.$$

Here, $W_i(p_1, p_4)$ is the interpolated wage for the (i)-th row based on the assigned percentiles, and (N) is the total number of rows.

The optimization uses the Broyden-Fletcher-Goldfarb-Shanno algorithm method, a gradient-based algorithm, to minimize the loss. Constraints are applied to ensure that:

$10 \leq p_1 < p_4 \leq 90$ and $p_4 - p_1 \geq 10$.

The initial values for (p_1) and (p_4) are set to 35 and 90,¹⁶⁹ respectively. These were approximately the values that the Department believed would achieve the policy goals for Wage Levels I and IV, respectively, (as discussed below) and also represented the same values that the Department set in a previous rulemaking. However, 35 and 90 did not create the solution; the solution they created was above the Benchmark

Value. Then, the Department applied the Broyden-Fletcher-Goldfarb-Shanno algorithm, which takes an initial "estimate" and repeatedly attempts to match that set of values to the desired solution, until eventually that is reached. After this optimization, the solution yields the optimized wage levels (p_1 , p_2 , p_3 , p_4), corresponding to Levels I–IV, which were 34, 52, 70 and 88, such that the solution approximately achieves the Benchmark Value. The final difference between the predicted mean and the target mean is reported as the result of the optimization.

As discussed below, this solution is not the only set of values that would allow the Department to match the Benchmark Value. The next section discusses the Department's rationale for setting Levels I and IV at the 34th and

88th percentile instead of sliding up or down the wage scale to achieve the Benchmark Value.

ii. The Department's Setting of Wage Level I to the 34th Percentile

As explained above, Wage Levels II and III are set arithmetically as required by the INA; Level II will be calculated by dividing by three, the difference between Levels I and IV, and adding the quotient to the computed value for Level I. Level III will be calculated by dividing by three the difference between Levels I and IV, and subtracting the quotient from the computed value for Level IV. Therefore, the Department effectively has to choose two wage

¹⁶⁸ To approximate these levels, the department combined Limited-memory Broyden-Fletcher-Goldfarb-Shanno, which is a quasi-Newton optimization algorithm with linear interpolation to estimate percentile wage levels (I–IV) that align with a target average wage defined by the data. The algorithm seeks to minimize the difference between the mean wage predicted by the assigned percentiles and the Benchmark Value. The

approach exploits the piecewise interpolation of percentile values and the properties of linear optimization. First, each row's wage is predicted based on its reported percentile wage distribution. Using the known percentiles 10, 25, 50, 75 and 90 for each occupation (SOC code), and a given percentile (t) (*e.g.*, 35th percentile for Level I), the wage at (t) is estimated using linear interpolation.

¹⁶⁹ The Department also ran the same simulation with the starting values and being set to 17 and 67, which correspond to current Levels I and IV. However, picking these numbers would result in Wage Levels at the 45th, 56th, 66th and 76th percentiles. The Department believes these levels fail to sufficiently differentiate from one another to be useful.

levels: Wage Level I and Wage Level IV.¹⁷⁰

The Department is proposing to increase Wage Level I from the 17th to the 34th percentile for a variety of reasons. To start, retaining Level I at the 17th percentile would have produced, under the statutory formula described above, a wage-level structure that was excessively skewed to the right, which would have been less granular, distorted, and less consistent with statutory requirements.¹⁷¹ More importantly, as the Department has explained in detail in Section II.B, many of the most common occupations in LCA programs, and especially in the H-1B program, frequently report requiring education less than a Bachelor's degree. For example, Computer Systems Engineers/Architects (SOC Code 15-1299.08), which is one of the most commonly applied-for jobs across all LCA programs, is a Job Zone Three job, meaning that "[m]ost occupations in this zone require training in vocational schools, related on-the-job experience, or an associate's degree" and that 68% of respondents reported that the occupation required sub-baccalaureate requirements of either an Associate's degree or other post-secondary education.¹⁷² By establishing Wage Level I at the 17th percentile, the current methodology sets a prevailing wage that is directly comparable to individuals who do not work in high-skill positions within that occupational category that are the only ones eligible to use most of the LCA programs.¹⁷³

¹⁷⁰ The Department notes that, although Wage Levels II and III are arithmetically set by Wage Levels I and IV, that the Department believes that the increases of Wage Levels II and III that this methodology achieves are necessary and appropriate to carry out its statutory requirements for all of the same reasons as are stated below and throughout this NPRM.

¹⁷¹ If the Department sought to increase the prevailing wage rates more than it proposes to do so here, which it believes is justifiable to avoid adverse wage effects on U.S. workers, it would simply opt for an increase in the Wage Level I prevailing wage to preserve a sufficiently differentiated wage level system to permit employers to obtain more granular wage levels that reflect all of the statutory factors.

¹⁷² <https://www.onetonline.org/link/summary/15-1299.08>.

¹⁷³ The Department acknowledges that other common occupations among the LCA-programs, such as Software Developer, have much higher educational requirements. However, the prevailing wages are set for all occupations, and must reflect the qualifications needed for them on an aggregate level. The Department finds that, for all of the reasons stated throughout this rule, that on an aggregate level, among the occupations that are the most significant LCA-program occupations, a significant percentage of these jobs do not require a bachelor's degree and perhaps do not even require the application of a body of "highly specialized knowledge." Thus, these jobs are generally not the kind of positions that should be the basis for

In addition to these findings, the Department also notes indicia that the relevant labor market is balanced, or perhaps even tilted towards supply of labor rather than shortage. First, the Department notes that the average wages paid versus prevailing wage premium for Wage Level I is particularly high. As shown below in Exhibit 5, while the average prevailing wage set for Wage Level I was \$73,804, the average offered wage was \$83,055. This approximately \$10,000 gap shows that workers assigned to Wage Level I are commanding very large premiums compared to the assigned prevailing wage—the largest premiums, in fact, by percentage, among the four Wage Levels. Second, the Department notes labor market data indicating unemployment among U.S. recent college graduates and tech workers which is described above in Section II.B. Third, the Department notes the mass layoffs of U.S. workers by many of the same companies that are applying for LCA-program visas, as is documented in Section II.B.

By contrast, when the Department originally set Wage Level I at the 17th percentile in 2005, it offered no findings, no data, and no justification for this figure. But, at the same time, the Department acknowledges that, although all jobs in the H-1B system in particular require the theoretical and practical application of a body of "highly specialized knowledge," its historical position has been that Wage Level I is for wage rates for "beginning level employees."¹⁷⁴ However, these entry-level occupations must nonetheless conform with the other requirements of the LCA programs, including that they be specialty occupations. At this time, the Department believes that the 34th percentile strikes the correct balance by aligning LCA-program workers with proper comparators, while also retaining the entry-level quality of the Wage Level. The Department welcomes evidence regarding the supply of U.S. workers, or the impact of technologies including artificial intelligence, that would indicate the need for Wage Level I to be pushed higher to prevent adverse impacts.

Another reason why the Department is proposing to set Wage Level I at the 34th percentile, and not lower (or higher), is because it also, for reasons

comparison against LCA-program workers. The Department also considered but rejected a more granular, occupation-specific approach to setting prevailing wages, because such an approach would be unworkable.

¹⁷⁴ https://www.dol.gov/sites/dolgov/files/eta/oflc/pdfs/npwhc_guidance_revised_11_2009.pdf.

stated below, believes that Wage Level IV should be set at the 88th percentile. Using the above mathematical formula that arranges the prevailing wages to match the Benchmark Value, if the Department set Wage Level I lower, it would require Level IV to be set higher. This would pose a practical problem as in certain occupational and geographic arrangements, OEWS data may not be sufficiently granular to supply the needed information. Conversely, if Wage Level I were set higher, it would force Wage Level IV to be lower. This would be undesirable because it would water down the prevailing wage requirement for Wage Level IV and force the other Wage Levels to be truncated.

iii. The Department's Setting of Wage Level IV to the 88th Percentile

While the Department's proposed change of Wage Level I from the 17th to the 34th percentile requires Wage Level IV to be set to the 88th percentile, it also believes that this change also enhances the prevailing wage methodology's alignment with the INA. The Department believes that Level IV should be increased from the 67th percentile to the 88th percentile, because most LCAs that are assigned a Level IV prevailing wage already offer actual wages significantly above the Level IV prevailing wage, suggesting that the Level IV prevailing wage does not align with the education and experience of the highest skilled workers in specialty occupations. In Fiscal Year 2024, the Department observed that employers filed Labor Condition Applications (LCAs) for over 100,000 H-1B positions classified at Wage Level IV, representing the highest skill tier under the current prevailing wage structure. The average wage paid to these workers was \$172,714, while the average prevailing wage certified for these positions was \$151,095—a difference of \$21,619, or approximately 14 percent.¹⁷⁵ This also indicates that this actual wage is more consistent with that which is paid to similarly employed U.S. workers than is the prevailing wage rate.

The highest wage level should be commensurate with the wages paid to the most highly compensated workers in any given occupation because such workers are also generally the workers with the most advanced skills, education, and competence in the occupation, whereas the current methodology more likely includes in the

¹⁷⁵ Employment and Training Administration, Office of Foreign Labor Certification, Performance Data, available at <https://www.dol.gov/agencies/eta/foreign-labor/performance>.

Level IV wage tier some workers who may not be described as “specialty” workers possessing the most specialized knowledge and the highest degree of competence. It is generally the case that, as a worker’s education and experience increase, so too do his wages. Further, while the INA places baseline, minimum skills-based qualifications on who can obtain an H–1B or EB–2 classification, it does not place any limit on how highly-skilled a worker can be within these programs.¹⁷⁶ Thus, while the Department necessarily discounted the lower end of the OEWS wage distribution in determining the entry-level wage, full consideration must be given to the uppermost portion of the distribution in adjusting the Level IV wage.

Indeed, H–1B workers can be, and at least in some cases already are, among the most highly paid workers, and therefore likely fall among the most highly skilled workers within their respective occupations.¹⁷⁷ This is demonstrated by a review of the highest salaries paid to H–1B workers in the most common occupations in which H–1B workers are employed. In FY 2024, for example, the most highly compensated H–1B nonimmigrants employed as Computer Systems Analysts earned annual wages over \$500,000. The wages of workers at the 90th percentile of the OEWS distribution for these occupations, by contrast, are significantly lower. Computer Systems Analysts at the 90th percentile in the OEWS distribution make approximately \$166,030.¹⁷⁸ In other words, H–1B workers in some instances make wages far in excess of those earned by 90 percent of all U.S. workers in the same occupation. This indicates that the 67th percentile is simply not commensurate with the wages paid to similarly employed U.S. workers. While OEWS data does not directly report the education and experience levels of the highest-paid U.S. workers, the Department reasonably infers that workers earning at or above the 90th percentile are likely to possess advanced degrees, substantial experience, and significant responsibility—characteristics that closely align with those of the most

highly compensated H–1B workers in the same occupational categories.

Further demonstrating that H–1B workers can be and sometimes are among the most skilled and competent workers in their occupations, an examination of the top end of the wage distribution within the H–1B program shows that, for H–1B nonimmigrants with graduate and bachelor’s degrees, the association between education and income level begins to break down to some extent. An analysis of the highest earners within the H–1B program reveals that H–1B workers—particularly those with bachelor’s and graduate degrees—can be among the most skilled and capable in their fields. Interestingly, at this top end of the wage distribution, the typical link between education level and income begins to weaken. Among the most highly compensated H–1B workers, the higher the income level, the more likely the alien worker only has a bachelor’s degree.¹⁷⁹ This strongly suggests that individuals at the fourth wage level possess the most advanced skills and competence—the only remaining parameters that can reasonably account for significant wage differentials—within their occupations, as additional years of education are largely irrelevant in explaining wages among top earners.

Furthermore, because Levels II and III are set according to a statutory formula, prescribed by the INA, the Department has selected the 88th percentile for Level IV to ensure that Levels II and III are set at a sufficiently high level. This approach improves alignment with labor market conditions while preserving the Department’s longstanding reliance on OEWS data and its statutory obligations to ensure that the employment of alien workers does not adversely affect the wages and working conditions of U.S. workers.

In cases where the OEWS survey does not provide a computable Level IV wage due to top-coding or data limitations, DOL proposes that the OFLC Administrator would determine the Level IV wage using the greater of: (1) the current hourly wage rate applicable to the highest OEWS wage interval for the specific occupation and geographic area; or (2) the arithmetic mean of the wages of all workers for the most specific occupation and geographic area available. This approach ensures that prevailing wage determinations remain consistent with the statutory requirement to reflect wages commensurate with experience, education, and level of supervision,

while avoiding distortions caused by incomplete data.

iv. Wage Levels II and III

The Department will continue to calculate the two intermediate wage levels in accordance with 8 U.S.C. 1182(p)(4), which provides that, in establishing a four-tier wage structure, “[w]here an existing government survey has only 2 levels, 2 intermediate levels may be created by dividing by 3, the difference between the 2 levels offered, adding the quotient thus obtained to the first level and subtracting that quotient from the second level.”¹⁸⁰ The BLS OES survey is, as provided in the statute, an existing survey that has long provided two wage levels for the Department’s use in setting the prevailing wage rates.¹⁸¹

The Department applies the statutory formula as follows: The difference between the two levels provided by the OEWS survey data is 54 percentiles. Dividing this by three yields a quotient of 18. This quotient, added to the value of the Level I wage at the 34th percentile, yields a Level II wage at approximately the 52nd percentile. When subtracted from the value of the Level IV wage at the 88th percentile, the quotient yields a Level III wage at approximately the 70th percentile of the OEWS distribution.

The Department invites public comment on whether these levels appropriately reflect the statutory requirements and labor market realities, or whether alternative prevailing wage levels would more comprehensively aid the Department in fulfilling its statutory and regulatory requirements. The Department is particularly interested in feedback on whether the proposed methodology appropriately accounts for education, experience, and responsibility levels as required by the INA in 8 U.S.C. 1182(p)(4).

2. The EB–3 Immigrant Classification

The Department emphasizes that both the H–1B and EB–2 programs are, by statutory design and regulatory implementation, intended for highly skilled workers. The INA defines a “specialty occupation” for H–1B purposes as one that requires the theoretical and practical application of a body of highly specialized knowledge

¹⁷⁶ 8 U.S.C. 1184(i)(1) and 8 U.S.C. 1153(b)(2).

¹⁷⁷ Data on the actual wages paid to H–1B workers shows that in some cases such workers are paid at or near the very top of the OEWS wage distribution.

¹⁷⁸ O*NET, Computer Systems Analyst (last accessed on 12/5/2025 at 12:52 p.m.), available at <https://www.onetonline.org/link/localwages/15-1211.00?st=>.

¹⁷⁹ This analysis is based on data provided by 2024 OFLC Disclosure Data.

¹⁸⁰ 8 U.S.C. 1182(p)(4).

¹⁸¹ BLS also produces data for the public from the OES survey that is divided into five different wage levels. However, the public data BLS produces is not broken down with the level of granularity by area of employment needed to administer the Department’s immigrant and nonimmigrant programs, which is why BLS has also long produced a separate dataset with two wage levels for the Department’s use.

and the attainment of at least a bachelor's degree in a specific specialty.¹⁸² Similarly, the EB-2 immigrant visa classification is generally limited to individuals who possess advanced degrees or equivalent or demonstrate exceptional ability in the sciences, arts, or business.¹⁸³ These statutory definitions are reinforced by Department regulations, which require that qualifying positions demand education and expertise beyond that of the general labor market. Consistent with these requirements, OFLC data from FY 2024 show that over 89 percent of H-1B positions and 68 percent of PERM applications were for occupations in Job Zones 4 and 5—categories defined by the Department's O*NET system as requiring considerable to extensive preparation, including advanced education, training, and experience. This concentration in high-preparation occupations underscores the programs' focus on high-skill labor and supports the Department's approach to calibrating prevailing wage levels accordingly.

As noted previously, the Department's four-tier wage structure is used to set the prevailing wage in five different immigrant and nonimmigrant programs. Having explained the Department's reasoning for how the adjusted wage levels are appropriate for the programs that consist of more highly skilled workers with advanced degrees and/or specialized knowledge—namely the EB-2 immigrant classification and the H-1B, E-3, and H-1B1 nonimmigrant programs—the Department now turns to explaining the appropriateness of using those same wage levels for the EB-3 classification, which consists of lower-skilled workers, professionals with bachelor's degrees, and individuals capable of performing unskilled labor. The Department concludes that the adjusted wage levels under the four-tiered structure are appropriate for use in occupations and with applications for work falling within the EB-3 classification.

At the outset, the Department notes that the close connections between the EB-3 classification and the other programs covered by the Department's wage structure make it inadvisable and impractical to treat the EB-3 classification differently. As detailed above, many H-1B workers adjust status to that of lawful permanent residents through the EB-3 classification, and the manner in which the programs operate means that, in many cases, alien workers can, in some sense, have one

foot in each program simultaneously for extended periods of time. Using different wage methodologies in the programs would therefore result in the undesirable possibility of a worker doing the same job for the same employer suddenly receiving a different wage upon adjusting status. Similarly, while having somewhat different eligibility criteria, the EB-2 and EB-3 classifications are not mutually exclusive—many workers that satisfy the eligibility criteria for one would also do so for the other.¹⁸⁴ Applying the same wage methodology in both classifications is therefore important to ensure consistent treatment of similarly situated workers and prevent the creation of incentives for employers to prefer one classification over the other, to the detriment of U.S. workers that may be interested in the relevant job opportunity, because different wage methodologies yield different wages.¹⁸⁵ These considerations make it important to treat the EB-3 classification the same as the EB-2 and H-1B programs. The question then becomes whether the EB-3 classification is properly accounted for by the adjusted wage levels. The Department believes it is.

The Department acknowledges that applying the four-tier wage structure in five different immigrant and nonimmigrant programs with varying populations, and across hundreds of different occupational classifications, presents inherent challenges. The breadth of occupations to which the wage levels apply means that the prevailing wages established by the wage structure will not be perfectly tailored to the circumstances of each individual job opportunity or each occupation.¹⁸⁶ The Department has sought to address this challenge by adopting a methodology that is best tailored to the largest share of the immigrant and nonimmigrant populations covered by the programs that use the four-tier wage structure. Doing so is, in the Department's judgment, the best approach to addressing variations across the programs that is most consistent with

the INA. The wage protections in the H-1B and PERM programs are designed to guard against the displacement of, or adverse effect on U.S. workers caused by the employment of alien workers.¹⁸⁷ As noted above, the risk that the presence of lower-wage alien workers in a labor market would undercut U.S. workers' wages and job opportunities is greatest when there are larger concentrations of such workers.¹⁸⁸ Adjusting the wage levels with particular attention to those occupations and visa classifications with the largest numbers of alien workers therefore puts the focus on addressing the danger the statutory scheme is intended to guard against—adverse effects on U.S. workers—where it is most acute.

Thus, as previously explained, in ascertaining the wages paid to U.S. workers similarly employed to H-1B workers, the Department's analysis focused, to the greatest extent possible, on those occupations that account for 1 percent or more of the total H-1B population, and which also account for a significant share of the PERM population.¹⁸⁹ Similarly, the Department has given due weight in its analysis of where to set the prevailing wage levels to the fact that the EB-3 classification represents an exceedingly small share of the overall alien worker population covered by the wage structure. The H-1B program is America's largest guest worker program.¹⁹⁰ In FY2023, the Department of Homeland Security approved 386,318 H-1B petitions.¹⁹¹ That same year, 27,760 workers were admitted for lawful permanent residence in the EB-2 classification.¹⁹² A total of only 27,590 EB-3 immigrant workers were admitted that year.¹⁹³ Thus, the EB-3 program

¹⁸⁷ See, e.g., *Cyberworld Enter. Techs., Inc. v. Napolitano*, 602 F.3d 189, 199 (3d Cir. 2010).

¹⁸⁸ George J. Borjas, *Immigration Economics* (2014).

¹⁸⁹ In some instances, particularly when analyzing the NSF data, the Department was constrained in its ability to analyze wages for all top H-1B occupations because of discrepancies between how the NSF and BLS surveys classify workers by occupation.

¹⁹⁰ Nicole Torres, *The H-1B Debate, Explained*, Harvard Business Review (May 4, 2017), available at <https://hbr.org/2017/05/the-h-1b-visa-debate-explained>.

¹⁹¹ U.S. Citizenship and Immigration Services, *Characteristics of H-1B Specialty Occupation Workers* (Mar. 6, 2024), available at <https://ohss.dhs.gov/topics/immigration/yearbook/2023>.

¹⁹² Department of Homeland Security, 2023 Yearbook of Immigration Statistics, Table 7, Persons Obtaining Lawful Permanent Resident Status by Type and Detailed Class of Admission: Fiscal Year 2023, available at <https://ohss.dhs.gov/topics/immigration/yearbook-immigration-statistics/yearbook-2023>.

¹⁹³ *Id.*

¹⁸² 8 U.S.C. 1184(i)(1).

¹⁸³ 8 U.S.C. 1153(b)(2).

¹⁸⁴ See *Musunuru v. Lynch*, 831 F.3d 880, 885 (7th Cir. 2016) (describing a person applying for both EB-2 and EB-3 status).

¹⁸⁵ See *Comite' De Apoyo A Los Trabajadores Agrícolas v. Perez*, 774 F.3d 173, 185–6 (3d Cir. 2014) (noting loopholes that can be created if employers are able to use different methodologies to calculate wages for the same types of workers, to the detriment of U.S. workers).

¹⁸⁶ Cf. *Wage Methodology for the Temporary Non-agricultural Employment H-2B Program*, 76 FR 3452, 3461 (Jan. 19, 2011) (explaining that “particular industries, such as forestry, will fare poorly based on a change to a mean-based OEWS wage rate.”).

accounts for, at most, approximately 5 to 10 percent of the total immigrant and nonimmigrant population governed by the four-tier wage structure that is admitted or otherwise provided status in a given year.¹⁹⁴ That does not mean that the Department has not given full consideration to the EB-3 classification in assessing how best to adjust the wage levels. It only means that the Department has appropriately weighed the size of the program, and therefore the risk it poses to U.S. workers, in identifying a solution to the adverse effects caused by the existing wage levels—an approach the Department regards as the best way to take into account the variations across the programs covered by the wage structure in effectuating the purpose of the INA's wage protections. Moreover, because H-1B workers may later pursue lawful permanent resident status based on an approved immigrant visa petition in the EB-3 preference category, maintaining misaligned wage levels across these categories could create a financial incentive for employers to pursue the classification with the lower wage requirement, thereby undermining the integrity of the wage structure and the Department's efforts to ensure consistent labor market protections across programs.

After assessing the nature of the EB-3 immigrant population, the Department has determined that the adjusted wage levels under the four-tiered structure adequately take into account the experience, education, and level of supervision of EB-3 workers, in light of the purpose of the INA's wage safeguards. The EB-3 program consists of three discrete classifications: "skilled workers," defined as aliens who are "capable . . . of performing skilled labor (requiring at least two years training or experience), not of a temporary or seasonal nature, for which

qualified workers are not available in the United States;" "professionals," defined as aliens "who hold baccalaureate degrees and who are members of the professions;" and "other workers," defined as aliens who are "capable . . . of performing unskilled labor, not of a temporary or seasonal nature, for which qualified workers are not available in the United States."¹⁹⁵ For each of these classifications, the revised wage levels, set at approximately the 34th, 52nd, 70th, and 88th percentiles, provide an appropriate method for calculating the prevailing wage. While some EB-3 workers may not meet the statutory requirements for H-1B classification, an H-1B worker would generally qualify for EB-3 classification. As such, and consistent with the Department's approach to the H-1B1 and E-3 programs, the Department does not believe it is appropriate to bifurcate the wage structure across programs. Maintaining a unified four-tier wage methodology ensures consistency in wage determinations, prevents program shopping, and promotes equitable treatment of similarly employed alien workers across visa classifications.

As for the lower-skill classifications, the Department has previously recognized that lower-skilled workers are less likely to vary in the wages they are paid based on differences in skill levels.¹⁹⁶ This is because skill levels themselves are less likely to vary in such occupations. A job that requires limited skills, such as can be acquired through two years of training or less, can likely be performed with similar proficiency by someone with lower levels of education and experience as by someone with greater experience and education.¹⁹⁷ Meaningful differentiation between workers based on skills in such occupations is therefore reduced. From this, the Department has previously concluded that setting prevailing wages for lower-skilled workers closer to the mean of the overall OEWS wage distribution is a more appropriate way of guarding against adverse wage effects.¹⁹⁸ Since most workers in lower-skilled occupations have similar levels of skill, a wage that approximates the average wage for all workers in the occupation is more likely to ensure that similarly employed workers make similar wages. For example, in FY 2024, the Department certified PERM

applications for occupations such as food service managers, meat processing workers, and mushroom pickers—roles that typically require limited formal education or training. In these occupations, the range of skills and qualifications among workers is relatively narrow, supporting the Department's conclusion that prevailing wages for such roles should be set closer to the mean of the OEWS wage distribution to reflect the limited variation in worker qualifications.

That reasoning holds true for the lower-skilled classifications in the EB-3 immigrant visa preference category, which include workers whose jobs are unskilled or require two years of experience or training. These workers are far more likely to fall within the lower two wage levels given their relative lack of education and experience.¹⁹⁹ Under the new wage levels, they would thus likely be placed at either the 34th or the 52nd percentiles of the OEWS wage distributions. Both levels, while not perfectly tailored to the lower-skilled component of the EB-3 classification, fall near the middle part of the wage distribution, and are therefore generally appropriate for lower-skilled workers.

For separate reasons, the Department concludes that the newly adjusted wage levels also adequately satisfy the Department's obligations in setting the wage levels under the INA with respect to EB-3 professionals. Unlike lower-skilled EB-3 workers, professionals with bachelor's degrees in the EB-3 classification do possess a level of skill that allows for greater differentiation within the occupation. It is also the case that such workers will likely have lower levels of education and experience than EB-2 workers, who are required to possess a master's degree or equivalent. An entry-level wage at the 34th percentile, while more closely tailored to the education and experience of an EB-2 or H-1B worker, may be on the higher end for an EB-3 professional in some cases.²⁰⁰ But other considerations demonstrate the appropriateness of the 34th percentile of the OEWS wage distribution as the entry-level wage for such workers.

The Department emphasizes that the labor certification process in the PERM

¹⁹⁴ The Department notes that the total number of approved H-1B petitions "exceeds the number of individual H-1B workers sponsored because of the different types of petitions that can be filed (e.g., requests for concurrent employment with another employer, requests for extension of stay, amended petitions)." U.S. Citizenship and Immigration Services, *Characteristics of H-1B Specialty Occupation Workers Fiscal Year 2023 Annual Report to Congress* October 1, 2022–September 30, 2023, (2024), available at https://www.uscis.gov/sites/default/files/document/reports/OLA_Signed_H-1B_Characteristics_Congressional_Report_FY2023.pdf. The filing of these types of petitions means that some nonimmigrants are counted multiple times in the total number of approved petitions. The total number of petitions for initial employment in FY23 was 118,948. However, that number does not account for the petitions filed on behalf of H-1B nonimmigrants to extend their status, and thus undercounts the total number of actual H-1B workers who were authorized to work in FY23.

¹⁹⁵ 8 U.S.C. 1153(b)(3)(iii); 8 CFR 204.5(l)(2).

¹⁹⁶ See *Wage Methodology for the Temporary Non-agricultural Employment H-2B Program*, 76 FR 3452, 3461 (January 19, 2011).

¹⁹⁷ *Id.* at 3458.

¹⁹⁸ *Id.* at 3459.

¹⁹⁹ LCA Performance Data, available at <https://www.dol.gov/agencies/eta/foreign-labor/performance>.

²⁰⁰ The Department also notes that, in some cases, EB-3 workers may in fact have higher levels of formal education than H-1B workers, given that H-1B workers can demonstrate specialized knowledge through experience and training, whereas possession of a bachelor's degree is required for all EB-3 immigrants. See *Employment-Based Immigrants*, 56 FR 60897, 60900 (Nov. 29, 1991).

programs is designed to ensure that there are not available and willing U.S. workers and that the wages and working conditions of U.S. workers will not be adversely affected by the employment of the immigrant worker(s). From the time that the INA was first enacted, its labor certification provisions were designed “to provide strong safeguards for American labor and to provide American labor protection against an influx of aliens entering the United States for the purpose of performing skilled or unskilled labor where the economy of individual localities is not capable of absorbing them at the time they desire to enter this country.”²⁰¹ The availability of U.S. workers to fill jobs for which alien workers are sought, being a guiding consideration behind the INA’s wage protections, the adequacy of the prevailing wage levels for EB–3 professionals is an essential component of the Department’s certification.

Within the U.S. workforce, the credentials associated with the EB–3 professional classification are significantly more common than the credentials associated with the EB–2 classification. As of 2019, 36 percent of people age 25 and older in the United States possessed a bachelor’s degree or higher.²⁰² That is compared to only 13.4 percent of native-born Americans and 14.1 percent of the foreign born population who possess an advanced degree, such as a master’s degree or doctorate.²⁰³ It follows that employers seeking to recruit individuals with only a bachelor’s degree should be more likely to find qualified and available U.S. workers than if they are recruiting for a position that requires a master’s degree. The pool of available workers in such cases is significantly larger.

As noted above, the Department is required to determine and certify that “there are not sufficient workers who are able, willing, qualified” and available to fill the position for which an EB–3 worker is sought.²⁰⁴ This requirement is critical to the INA’s “core objective[] [of] balanc[ing] certain industries’ temporary need for alien workers against a policy interest in protecting U.S. workers’ jobs, salaries, and working conditions.”²⁰⁵ In the case

of EB–3 professionals, the adjusted wage levels, which may in some cases place a slight premium on the wages paid to professionals with bachelor’s degrees, will better allow the Department to issue a certification that no U.S. workers are available for the job opportunity.

Finally, the Department notes that continuing to employ the same wage structure in this manner across both the H–1B and PERM programs advances the Department’s interest in administrative consistency and efficiency. As noted already, there is significant overlap between the H–1B and PERM programs. In FY2024, 57.6 percent of all PERM applications were for aliens that at the time the applications were filed were already working in the U.S. on H–1B visa classification.²⁰⁶ Further, the top ten most common H–1B occupations include six of the ten most common PERM occupations. In FY 2024, 68 percent of PERM cases were for jobs in Job Zones 4 and 5²⁰⁷—the most highly skilled job categories, which also account for over 89 percent of all H–1B cases.²⁰⁸ In sum, the close connection between the types of jobs and aliens that are covered by the two programs further supports using the same wage structure for both the PERM and H–1B programs.

For these reasons, the Department has concluded that using the adjusted wage levels for the EB–3 preference category is in keeping with the relevant statutory considerations that govern how the Department sets prevailing wage levels.

D. Explanation of Proposed Amendments To Adjust the Prevailing Wage Levels

1. Proposed Revisions to the Computation of the Wage Levels Based on the OEWS in the Permanent Labor Certification Program (20 CFR 656.40)

The Department is proposing to revise paragraphs (a), (b)(2), and (3) of 20 CFR 656.40. The most substantial changes are those made to paragraphs (b)(2). First, the Department is proposing revisions to § 656.40(b)(2) by adding new paragraphs (b)(2)(i) and (ii) to codify the practice of using four wage levels and to specify the manner in which the wage levels are calculated.

Specifically, new paragraph (b)(2)(i) stipulates that “[t]he BLS shall provide the OFLC Administrator with the OEWS wage data by occupational classification and geographic area” and goes on to specify the four new levels (Levels I through IV) to be applied.

The proposed new paragraph (b)(2)(i)(A) describes the Level I Wage. This first wage level—currently calculated as the mean of the bottom third of the OEWS wage distribution—is proposed to be calculated as the 34th percentile of the wage distribution for the most specific occupation and geographic area available. Next, new paragraph (b)(2)(i)(D) provides that the Level IV Wage—currently calculated as the mean of the upper two-thirds of the OEWS wage distribution—is proposed to be calculated as the 88th percentile of the wage distribution for the most specific occupation and geographic area available.

For the two intermediate levels, II and III, the Department proposes to continue relying on the mathematical formula Congress provided in the INA, as previously described in detail above. Thus, proposed new paragraph (b)(2)(i)(B) states that the Level II Wage shall be determined by first dividing the difference between Levels I and IV by three and then adding the quotient to the computed value for Level I. The Level III Wage is defined in proposed new paragraph (b)(2)(i)(C) as a level determined by first dividing the difference between Levels I and IV by three and then subtracting the quotient from the computed value for Level IV. This yields second and third wage levels at approximately the 52nd and 70th percentiles, respectively, as compared to the current computation, which places Level II at approximately the 34th percentile and Level III at approximately the 50th percentile.

The proposed new paragraph (b)(2)(ii) states that the OFLC Administrator would publish, at least once in each calendar year, on a date to be determined by the OFLC Administrator, the prevailing wage rates produced under the new paragraph (b)(2)(i) of section 656.40 as a notice posted on the OFLC website. This continues the Department’s practice of having the OFLC Administrator announce, via a notice of implementation, updates to OEWS wage data. Currently, OFLC publishes a routine announcement each year implementing updated OEWS prevailing wages for the new wage year and discussing any other significant related updates, including changes to OEWS survey areas and relevant updates to the SOC system. These announcements also serve as notice to

²⁰¹ *Econo Inn Corp. v. Rosenberg*, 145 F. Supp. 3d 708, 713 (E.D. Mich. 2015) (quoting H.R. Rep. No. 1365, 82nd Cong. 2nd Session (1952)).

²⁰² United States Census Bureau, U.S. Census Bureau Releases New Educational Attainment Data, available at <https://www.census.gov/newsroom/press-releases/2020/educational-attainment.html>.

²⁰³ *Id.*

²⁰⁴ 8 U.S.C. 1182(a)(5)(A)(i)(I).

²⁰⁵ *Comite de Apoyo a los Trabajadores Agrícolas v. Solis*, 933 F. Supp. 2d 700, 712 (E.D. Pa. 2013).

²⁰⁶ Office of Foreign Labor Certification, Permanent Labor Certification Program—Selected Statistics, FY 24.

²⁰⁷ Under the O*Net system a job zone is a group of occupations that are similar in the amount of education, experience, and on the job training that is required for a worker to fill a position in the occupation. Job Zone 4 includes occupations that require considerable preparation; Job Zone 5 includes occupations that require extensive preparation.

²⁰⁸ This information is based on data collected by the Department’s Office of Foreign Labor Certification on LCAs filed in FY 2024.

employers of changes they need to make to the wage information on applications to reflect the changes to the OEWS.

The proposed revisions align with OFLC's current practice for notifying employers directly, rather than through the **Federal Register**, because publishing multiple prevailing wage rates in the **Federal Register** would be administratively burdensome. Moreover, posting the wage levels on the OFLC website is more user-friendly: it allows employers and stakeholders to more easily locate and access the relevant wage information. In practice, users are far more likely to find the applicable wage data quickly and accurately on the OFLC website than by navigating the **Federal Register**.

Further, the proposed revisions to paragraph (b)(2) would provide greater precision in the language used by changing the term "DOL" to "BLS" when describing which entity administers the OEWS survey and eliminate redundancy by deleting the language "except as provided in (b)(3) of this section." Because the Department is now specifying within the regulation exactly how the prevailing wage levels are calculated, the proposed revision would also remove the existing reference to how the levels are calculated—namely the reference to the "arithmetic mean"—and would instead provide that if the job opportunity is not covered by a CBA, the prevailing wage for labor certification purposes shall be based on the wages of workers similarly employed using the wage component of the OEWS survey, in accordance with paragraph (b)(2)(i), unless the employer provides an acceptable survey under paragraphs (b)(3) and (g) of this section or elects to utilize a wage permitted under paragraph (b)(4).

Finally, proposed revisions to paragraph (a) would remove an out-of-date reference, explained further below, to a SWAs' role in the prevailing wage determination process. The changes to paragraph (b)(3) account for the elimination of the reference to the "arithmetic mean" in (b)(2).

2. Proposed Revisions to the Wage Requirement for LCAs in the H-1B, H-1B1, and E-3 Visa Classifications (20 CFR 655.731)

The Department proposes amendments in section 655.731 to more clearly explain that it would use BLS's OEWS survey to determine the prevailing wages under this paragraph and proposes to add a sentence to specify that these determinations would be made in a manner consistent with the amended section 656.40(b)(2). In addition, the proposed revisions in

paragraphs (a)(2)(ii) introductory text, (a)(2)(ii)(A) introductory text, and (a)(2)(ii)(A)(2) also include technical and clarifying revisions regarding other permissible wage sources (*i.e.*, applicable wage determinations under the Davis-Bacon Act or McNamara-O'Hara Service Contract Act, as well as other independent authoritative or legitimate sources of wage data in accordance with paragraph (a)(2)(ii)(B) or (C)). The new language also proposes to remove the reference to "arithmetic mean" in paragraph (a)(2)(ii) and now states ". . . the prevailing wage shall be based on the wage component of the Bureau of Labor Statistics (BLS) Occupational Employment and Wage Statistics Survey (OEWS) in accordance with 20 CFR 656.40(b)(2)(i) . . ."

The Department also proposes to amend section 655.731 by making technical revisions to paragraph (a)(2)(ii)(A) to remove another out-of-date reference to a SWA's role in the prevailing wage determination process. Non-agricultural PWD requests are no longer processed by SWAs; since 2010 they have solely been processed by the Department through an OFLC National Processing Center (NPC). The proposed amendments reflect this historical practice.

And finally, the proposed revisions provide technical corrections to paragraph (a)(2)(ii)(A)(2). Specifically, the Department is proposing to replace the incorrect reference to "H-2B nonimmigrant(s)" with "H-1B nonimmigrant(s)." Additionally, in situations where the employer relies on other legitimate sources of wage information due to inability to wait for the NPC to produce the requested prevailing wage for the occupation in question, or for the CO and/or the BALCA to issue a decision, the Department is proposing to add the word "not" in the last sentence to correctly describe the situation where a wage violation would not be found where retroactive compensation by the employer to the H-1B nonimmigrant(s) is timely provided. Thus, the Department proposes that the sentence now state ". . . the employer was not paying the NPC-determined wage, no wage violation will be found if the employer retroactively compensates the H-1B nonimmigrant(s) for the difference between the wage paid and the prevailing wage, within 30 days of the employer's receipt of the PWD."

These proposed revisions further provide that an NPC would continue to determine whether a job is covered by a collective bargaining agreement that was negotiated at arm's length, but in the event the position for which the

employer is filing the LCA is not covered by such agreement, an NPC would determine the wages of workers similarly employed using the wage component of the BLS OEWS, unless the employer provides an acceptable survey. The proposed revisions direct that an NPC would determine the wage in accordance with secs. 212(n), 212(p), and 212(t) of the INA and in a manner consistent with the newly revised section 656.40(b)(2).

3. Implementation of the Proposed Rule

This proposed rule would only apply to *Applications for Prevailing Wage Determinations* pending with the OFLC NPC as of the proposed effective date of the regulation. *Applications for Prevailing Wage Determinations* submitted to the OFLC NPC on or after the effective date of the regulation as well as LCAs filed with the Department on or after the effective date of the regulation where the OEWS survey data is the prevailing wage source and where the employer did not obtain the PWD from the NPWC prior to the effective date of the regulation, would be subject to the new prevailing wage methodology. Conversely, the Department does not propose to apply the new regulations to any previously-approved prevailing wage determinations, permanent labor certification applications, or LCAs, either through reopening or through issuing supplemental prevailing wage determinations or through notices of suspension, invalidation, or revocation.

E. Reliance Interests

The Department acknowledges that the existing wage levels—set at approximately the 17th, 34th, 50th, and 67th percentiles—have been in place for over 20 years, and that many employers likely have longstanding practices of operating their businesses based on the current wage rates. Adjusting the levels to the 34th, 52nd, 70th, and 88th percentiles represents a significant change, and may result in some employers modifying their use of the H-1B and PERM programs. It would also likely result in higher personnel costs for some employers, as detailed below. However, to the extent employers have serious and legitimate reliance interests in the existing levels, the Department has determined that setting the wage levels in a manner that is consistent with the text of the INA and that advances the statute's purpose of protecting U.S. workers outweighs such interests and justifies such increased costs. Additionally, by applying the new prevailing wage methodology prospectively, it would afford

employers the necessary latitude they need to adjust their business needs accordingly.

In effecting an adjustment to the wage levels previously used to set the prevailing wage in the H-1B and PERM programs, the Department is obligated to consider whether “its prior policy has engendered serious reliance interests.”²⁰⁹

As explained above, the Department continues to believe that the old wage levels are the source, in many cases, of serious, adverse effects on U.S. workers’ wages and job opportunities. Adjusting the levels to bring them in line with the wages paid to U.S. workers with levels of education, experience, and responsibility comparable to H-1B workers—and thereby reducing the danger posed to U.S. workers by the employment of alien workers—remains the principal aim of this rulemaking. Ensuring that the Department’s wage structure is set in accordance with the relevant statutory factors is also necessarily a controlling objective in the Department’s assessment of how best to reform the prevailing wage levels. The old levels have never been justified by economic analysis, and, as detailed above, are in tension with the statutory scheme insofar as they are based, in many instances, on data about the earnings of workers who cannot be regarded as similarly employed to workers in specialty occupations.²¹⁰

In considering how best to implement these changes, the Department also evaluated whether to eliminate the option for employers to use private wage surveys. This option has historically provided flexibility where government data sources do not fully capture niche labor markets or unique job requirements. Eliminating it entirely could disrupt longstanding compliance practices and impose disproportionate burdens on employers in specialized industries or geographic areas—particularly start-ups and small businesses that often rely on highly specialized roles or emerging occupations not well represented in OEWS datasets. For these employers, private surveys may offer the most accurate reflection of market wages. At the same time, the Department considered that private surveys can be expensive for smaller businesses to commission and administratively complex to validate, creating compliance challenges. Additionally, historical data indicate that private surveys typically produce wages

approximately [20 percent higher than OEWS-based prevailing wages,²¹¹] which could significantly increase costs for employers relying on this option.

Ultimately, while the Department continues to believe that OEWS should serve as the primary source for prevailing wage determinations, it has chosen to retain the use of private surveys in limited circumstances. This approach preserves employer flexibility, mitigates potential adverse impacts on businesses operating in specialized labor markets, and balances reliance interests with the statutory mandate to protect U.S. workers. To ensure integrity, the Department would monitor the use of private surveys to prevent abuse and ensure compliance, and it already reserves the right to reject any private survey that does not meet methodological standards or otherwise fails to satisfy regulatory requirements.²¹²

The Department invites public comment as to interested parties’ legitimate and serious reliance interests in the previous wage methodology.

F. The Department Requests Comments on All Aspects of Its Revised Methodology for Establishing Prevailing Wage Levels and Regulatory Alternatives

The Department invites comments on all aspects of the proposed methodology changes. The Department is open to adopting any of the regulatory alternatives discussed under Section III.A.6 in this NPRM and therefore is particularly interested in comments on those alternatives, especially the Experience Benchmarking alternative. The Department is also interested in comments on the continued use of the OEWS to support the computation of prevailing wage levels, identifying other surveys conducted by the United States government or other data sources and methods that can provide comparable information on the wages of U.S. workers by occupation and geographic area, and determining the prevailing wages at Levels I and IV to approximate the level of education, experience, and

supervision in the occupational classification. Comments supported by reliable and objective data or other quantifiable studies will be more helpful to the Department in drafting a final rule than comments consisting of qualitative anecdotal evidence.

III. Administrative Information

A. Executive Order 12866: Regulatory Planning and Review, Executive Order 13563: Improving Regulation and Regulatory Review, and Executive Order 14192: Unleashing Prosperity Through Deregulation

1. Introduction

Under E.O. 12866, the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB) determines whether a regulatory action is significant and, therefore, subject to the requirements of the Executive Order and review by OMB. Regulatory Planning and Review, 58 FR 51735 (Oct. 4, 1993). Section 3(f) of E.O. 12866 defines a “significant regulatory action” as an action that is likely to result in a rule that may: (1) have an annual effect on the economy of \$100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in the Executive Order. A regulatory impact analysis (RIA) must be prepared for a regulatory action that is significant under section 3(f)(1). OIRA has reviewed this rule and designated it a significant regulatory action under 3(f)(1) of E.O. 12866.

E.O. 13563 directs agencies to, among other things, propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs; the regulation is tailored to impose the least burden on society, consistent with achieving the regulatory objectives; and in choosing among alternative regulatory approaches, the agency has selected those approaches that maximize net benefits. Improving Regulation and Regulatory Review, 76 FR 3821, 3821 (Jan. 21, 2011), E.O. 13563 recognizes that some costs and benefits are difficult to quantify and provides that, where appropriate and permitted by law, agencies may

²⁰⁹ *F.C.C. v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009).

²¹⁰ See, 86 FR 3642.

²¹¹ The 20% figure represents the average percentage difference between Survey-based and OES (Occupational Employment Statistics) prevailing wages across five key SOC codes (15–1121, 15–1132, 15–1199, 15–1252, 15–1299) in FY 2024 H-1B LCA data. For each SOC code, the department calculated the mean prevailing wage for both Survey and OES sources, then computed the percentage difference relative to the OES baseline. The overall 20% is the mean of these five individual percentage differences, which ranged from 10.1% (15–1199) to 29.2% (15–1252).

²¹² See 20 CFR 656.40(b)(3) and 655.731(a)(2)(ii)(B)–(C), which authorize the Department to review and reject private surveys that do not meet established criteria.

consider and discuss qualitative values that are difficult or impossible to quantify, including equity, human dignity, fairness, and distributive impacts. *Id.* This proposed rule, if finalized as proposed, is expected to qualify for an exemption from E.O. 14192’s otherwise-applicable requirements, due to its immigration-related function.

a. Outline of the Analysis

Section III.A.3 describes the need for the NPRM, and section III.A.4 describes the process used to estimate the costs of the rule and the general inputs used to reach these estimates, such as wages

and number of affected entities. Section III.C.3 explains how the provisions of the NPRM would result in costs and transfer payments, and presents the calculations the Department used to reach the cost and transfer payment estimates. In addition, this section describes the non-quantified transfer payments and benefits of the changes contained in this NPRM. Section III.B.5 summarizes the estimated first-year and 10-year total and annualized costs, and transfer payments of the NPRM. Finally, section III.B.6 describes the regulatory alternatives that were considered during the development of the NPRM.

2. Summary of the Analysis

The Department expects that the proposed rule, if finalized, would result in costs and transfer payments. As shown in Exhibit 1, the proposed rule would have an annualized cost of \$3.53 million and a total 10-year cost of \$24.59 million at a discount rate of 7 percent in 2024 dollars.²¹³ The NPRM would result in annualized transfer payments (U.S. employers to other entities and individuals, including alien workers) of up to \$6.56 billion and total 10-year transfer payments of up to \$46.09 billion at a discount rate of 7 percent in 2024 dollars.²¹⁴

Exhibit 1—Estimated Monetized Costs and Transfer Payments of the NPRM

[2024 \$ million]

	Costs	Transfer payments (upper bound)
10-Year Total with a Discount Rate of 3%	28.38	58.46
10-Year Total with a Discount Rate of 7%	24.59	46.09
Annualized at a Discount Rate of 3%	3.33	6.85
Annualized at a Discount Rate of 7%	3.53	6.56

The total cost associated with the NPRM includes only rule familiarization. The rule is not expected to result in any cost savings. Transfer payments are the result of changes to the computation of prevailing wage rates for employment opportunities that U.S. employers seek to fill with alien workers on a temporary basis through H–1B, H–1B1, and E–3 nonimmigrant programs.²¹⁵ See the costs and transfer payments subsections of section III.B (Subject-by-Subject Analysis) below for a detailed explanation.

In addition to the rule familiarization cost, based on internal simulation using FY2023—FY2025 LCA data, the Department estimates that the proposed wage level adjustments would increase

the average certified wage by approximately \$14,000 per year. This increase, when applied across the volume of certified LCAs, suggests a material economic effect that supports classification of this rule as economically significant under Executive Order 12866.

The Department was unable to quantify some transfer payments and benefits of the NPRM. The Department describes them qualitatively in section III.B (Subject-by-Subject Analysis). The Department invites comments regarding the assumptions, data sources, and methodologies used to estimate the costs and transfer payments of the NPRM. The Department invites public

comments on any additional benefits or costs that could result from the NPRM.

3. Need for Regulation

The Department determined that issuance of this NPRM was necessary to address systemic deficiencies in the prevailing wage determination methodology used in the H–1B, H–1B1, E–3, and PERM programs. These deficiencies have contributed to wage suppression and displacement of U.S. workers in sectors heavily reliant on alien workers. The NPRM was prompted by a confluence of factors:

- *Statutory Misalignment:* The Department concluded that the existing wage levels were not adequately aligned with the statutory requirement under 8 U.S.C. 1182(p)(4) to provide four wage

²¹³ The proposed rule will have an annualized net cost of 3.33 million and a total 10-year cost of 28.38 million at a discount rate of 3 percent in 2024 dollars.

²¹⁴ The proposed rule will result in annualized transfer payments of up to \$6.85 billion and total

10-year transfer payments of up to \$58.46 billion at a discount rate of 3 percent in 2024 dollars.

²¹⁵ As explained, *infra*, the Department did not quantify transfer payments associated with new certifications under the Permanent Labor Certification Program (*e.g.*, EB–2 and EB–3

classifications) because they are expected to be de minimis due to the comparatively low number of program participants.

levels commensurate with experience, education, and level of supervision. The prior methodology, which relied on outdated percentile thresholds (approximately the 17th, 34th, 50th, and 67th percentiles), failed to reflect actual labor market conditions and allowed employers to pay alien workers significantly less than their U.S. counterparts.

- **Labor Market Disruption:** Evidence showed that major users of the H-1B program were simultaneously conducting large-scale layoffs of U.S. workers while continuing to hire alien workers at lower wage levels. This raised serious concerns about the program being used to undercut domestic labor.

- **Wage Disparities and Program Abuse:** Departmental analysis of FY2020–FY2024 LCA data revealed that the average wage offered to H-1B workers per year was approximately \$10,191 lower than the average wage for similarly classified U.S. workers. Investigative reports and whistleblower complaints further documented widespread underpayment and misuse of the program, including cases where U.S. workers were laid off and required to train their lower-paid H-1B replacements.

- **Presidential Proclamation:** On September 19, 2025, the President issued a Proclamation directing the Secretary of Labor to initiate rulemaking

to revise prevailing wage levels under the H-1B program. The Proclamation cited longstanding concerns that the current wage structure incentivized the hiring of alien workers at below-market wages, undermining the program's intent and adversely affecting U.S. workers.

Given these factors, the Department concluded that immediate regulatory action was necessary to prevent further harm to U.S. workers and to restore integrity to the prevailing wage system.

4. Analysis

The Department estimated the costs and transfer payments of the NPRM relative to the analytic baseline defined as the state of the world reflecting current and recently finalized practices for complying, at a minimum, with the regulations governing permanent labor certifications at 20 CFR part 656 and labor condition applications at 20 CFR part 655, subpart H. The baseline should also incorporate the effects of the recently published USCIS H-1B rule, including its weighted lottery system and any associated changes to visa allocation, wage levels, and employer behavior. Accordingly, the regulatory analysis presented here discusses potential refinements toward the goal of reflecting the incremental impacts of the Department's proposed rule, above and beyond those attributable to the USCIS rule.

In accordance with the regulatory analysis guidance articulated in OMB's Circular A-4 and consistent with the Department's practices in previous rulemakings, this regulatory analysis focuses on the likely consequences if this rulemaking is finalized as proposed (*i.e.*, costs and transfer payments experienced by entities affected). The analysis covers 10 years (from 2026 through 2035) to ensure it captures major costs and transfer payments that accrue over time. The Department expresses all quantifiable impacts in 2024 dollars and uses discount rates of 3 and 7 percent, pursuant to Circular A-4.

Unless otherwise noted, the same methods, inputs and assumptions are used to analyze all transfers, benefits and costs associated with the relevant work programs, regardless of visa status. The Department requests comment on whether and how effects would differ as a function of visa-based participation (including due to regulatory interaction with statutory visa caps) versus program participation for which visa issuance is unnecessary.

Exhibit 2 presents the number of entities affected by the NPRM. The number of affected entities is calculated using OFLC performance data from fiscal years (FYs) 2020–2025. The Department uses them throughout this analysis to estimate the costs and transfer payments of the NPRM.

Exhibit 2—Number of Affected Entities by Type [FY 2020-2025 annual average]

Entity type	Number
Unique H-1B Program Certified Employers ²¹⁶	63,686
PERM + H-1B Program Certified Worker Positions with Prevailing Wage Set by OEWS ²¹⁷	1,091,205
Unique PERM Employers ²¹⁸	26,169

a. Estimated Number of Workers and Change in Hours

The Department presents the estimated average number of applicants

²¹⁶ The total unique LCA employers in 2020, 2021, 2022, 2023, 2024 and 2025 were 60,890, 58,358, 63,558, 61,506, 65,830 and 71,971 respectively.

²¹⁷ The total number of worker positions associated with LCA certifications that use OEWS prevailing wages in 2020, 2021, 2022, 2023, 2024 and 2025 were 829,752, 1,592,194, 1,010,848, 1,071,320, 1,156,595 and 886,520 respectively.

and the change in burden hours required for rule familiarization in section III.B (Subject-by-Subject Analysis).

b. Compensation Rates

In section III.B (Subject-by-Subject Analysis), the Department used the

²¹⁸ The unique employers in 2020, 2021, 2022, 2023, 2024 and 2025 were 23,934, 26,233, 23,502, 23,779, 22,195 and 37,372 respectively.

hourly compensation rate presented in Exhibit 3 to estimate rule familiarization costs. The Department used the BLS mean hourly wage rate for private sector human resources specialists.²¹⁹ We adjust the wage rates to reflect total compensation, which includes non-

²¹⁹ BLS, Occupational Employment and Wage Statistics, SOC Code 13-1071, May 2024, Occupational Employment and Wage Statistics (last visited August 21, 2025).

wage factors such as overhead and fringe benefits (e.g., health and retirement benefits). We use an overhead rate of 17 percent²²⁰ and a fringe benefits rate based on the ratio of average total compensation to average wages and salaries in 2024. For the private sector employees, we use a fringe benefits rate of 42 percent.²²¹

The fringe wage rate is based on Employer Costs for Employee

Compensation data which includes paid leave; supplemental pay (i.e., overtime and premium, shift differentials, and nonproduction bonuses); insurance (i.e., life, health, short-term disability, and long-term disability); retirement and savings; and legally required benefits (i.e., Social Security, Medicare, federal unemployment insurance, state unemployment insurance, and workers' compensation). As wages increase the

costs associated with paid leave, retirement savings, and supplemental pay will also increase.

BLS's OEWS data show that the mean hourly wage of Human Resources Specialists is \$38.33.²²² The Department applied a 42-percent benefits rate²²³ and a 17-percent overhead rate,²²⁴ resulting in a fully loaded hourly wage of \$60.94 [= \$38.33 + (\$38.33 × 42%) + (\$38.33 × 17%)].

Exhibit 3—Compensation Rates [2025 Dollars]²²⁵

Position	Base hourly wage rate	Loaded wage factor	Overhead costs	Hourly compensation rate
	(a)	(b)	(c)	d = a + b + c
HR Specialist	\$38.33	\$16.10 (\$38.33 × 0.42)	\$6.52 (\$38.33 × 0.17)	\$60.94

B. Subject-by-Subject Analysis

The Department’s analysis below covers the estimated costs and transfer payments of the NPRM. In accordance with Circular A–4, the Department considers transfer payments as payments from one group to another that do not affect total resources available to society (or, if resources are affected, it is through incentive effects uncaptured without more extensive analysis). The regulatory impact analysis focuses on the costs and transfer payments that can be attributed exclusively to the new requirements in the NPRM.

1. Costs

The following section describes the costs of the NPRM.

2. Rule Familiarization

When the changes proposed in a final rule take effect, existing employers of alien workers with H–1B, H–1B1, E–3 visas, and those employers sponsoring alien workers for permanent employment, will need to familiarize themselves with the new regulations. Consequently, this will impose a one-time cost for existing employers in the temporary and permanent visa programs in the first year. Each year, there are

new employers that participate in the temporary and permanent visa programs. Therefore, in each year subsequent to the first year, new employers will need to familiarize themselves with the new regulations.

To estimate the first-year cost of rule familiarization, the Department calculated the average number of unique employers requesting H–1B certifications and PERM certifications. The average number of unique H–1B and PERM employers 89,855 was multiplied by the estimated amount of time required to review the rule (1 hour).²²⁶ This number was then multiplied by the hourly, fully loaded compensation rate of Human Resources Specialists (\$60.94 per hour). This calculation results in an initial cost of \$5.17 million in the first year after the final rule takes effect. Each year after the first year the same calculation is done for the average number of new unique employers requesting H–1B or PERM certifications in FY 2021–2025 and FY 2024 (42,896).²²⁷ This calculation results in a continuing annual undiscounted cost of \$2.98 million in years 2 to \$3.32 in years 6–10 of the analysis. The one-time and continuing cost yields a total average annual undiscounted cost of \$3.2million. The

annualized cost over the 10-year period is \$3.33 million and \$3.53 million at discount rates of 3 and 7 percent, respectively.

3. Transfer Payments

a. Quantifiable Transfer Payments

This section discusses the quantifiable transfer payments related to changes to the computation of the prevailing wage levels.

As discussed in the preamble, the Department determined that current prevailing wage rates for H–1B workers are often far below what their U.S. counterparts are paid, which suppresses the wages of similarly employed U.S. workers. While allowing employers to access high-skilled workers to fill specialized positions can benefit U.S. workers in some instances, these benefits diminish or disappear when the prevailing wage levels do not accurately reflect the wages paid to similarly situated workers in the U.S. labor market. When prevailing wage levels are artificially low, firms can replace qualified U.S. workers with lower-cost alien workers.

Therefore, the Department is amending § 656.40(b) to codify four prevailing wage levels and their calculations. New paragraph (b)(2)(i)

²²⁰ Cody Rice, U.S. Environmental Protection Agency, “Wage Rates for Economic Analyses of the Toxics Release Inventory Program,” June 10, 2002, <https://www.regulations.gov/document?D=EPA-HQ-OPPT-2014-0650-0005>.

²²¹ BLS. (2024). “2024 Employer Costs for Employee Compensation.” Retrieved from: <https://www.bls.gov/bls/news-release/ecec.htm>. Ratio of total compensation to wages and salaries for all private industry workers.

²²² BLS, Occupational Employment and Wage Statistics, SOC Code 13–1071, May 2024,

Occupational Employment and Wage Statistics (last visited August 21, 2025).

²²³ BLS, “National Compensation Survey, Employer Costs for Employee Compensation,” <https://www.bls.gov/ecec/factsheets/compensation-percentile-estimates.htm> (last visited November 10, 2025). For private sector workers, wages averaged \$31.10 per hour worked in 2024, while benefit costs averaged \$13.10, which is a benefits rate of 42 percent.

²²⁴ Cody Rice, U.S. Environmental Protection Agency, “Wage Rates for Economic Analyses of the

Toxics Release Inventory Program,” June 10, 2002, <https://www.regulations.gov/document/EPA-HQ-OPPT-2014-0650-0005> (last visited May 8, 2025).

²²⁵ Numbers may slightly differ due to rounding.

²²⁶ This proposed rule amends parts of an existing regulation. Therefore, the Department estimates 1-hour to review the rule assuming a high number of readers familiar with the existing regulation.

²²⁷ The total number of new employers in FY23 was 49,096 (33,059H1B + 16,037PERM), and in FY24 was 38,646 (29,027H1B + 9,619PERM).

provides that the OFLC Administrator will determine prevailing wages at four levels (Levels I through IV). Level I—currently calculated as the mean of the bottom third of the OEWS wage distribution—would be adjusted from the 17th percentile to the 34th percentile. Level IV—currently calculated as the mean of the upper two thirds of the OEWS wage distribution—would increase approximately from the 67th percentile to the 88th percentile.

Consistent with the formula provided in the INA, Level II would be calculated by dividing by three, the difference between Levels I and IV, and adding the quotient to the computed value for Level I. Level III would be calculated by dividing by three the difference between Levels I and IV, and subtracting the quotient from the computed value for Level IV. This yields a Level II prevailing wage at approximately the 52nd percentile and a Level III prevailing wage at approximately the 70th percentile, as compared to the current computation, which places Level II at approximately the 34th percentile and Level III at approximately the 50th percentile.

Finally, the Department is revising § 655.731 to explain that it will use the BLS's OEWS survey wage data to establish the prevailing wages in the H-1B, H-1B1, and E-3 visa classifications, and adding a sentence to explain that these determinations will be made by the OFLC NPC in a manner consistent with § 656.40(b)(2).

The Department calculated the impact on wages that would occur from implementation of the prevailing wage computation changes contained in the NPRM. It is expected that the increase in prevailing wages under the NPRM would induce some employers to employ U.S. workers instead of alien workers from the H-1B program, but nonetheless the Department still expects that the same number of H-1B visas would be granted under the annual caps. For example, in FY2024 USCIS received approximately 781,000 registrations for 85,000 available slots—more than nine times the supply—and the cap was reached within the first five business days each year from FY2019 through FY2025. Higher prevailing wage levels do not necessarily mean that demand for temporary alien workers would fall below the available supply of visas.²²⁸ Under existing prevailing wage

levels, which the Department has shown are too low and do not accurately reflect the wages paid to similarly situated U.S. workers, demand for temporary alien workers far exceeds the statutory limits on supply. Usually, prices rise in a market when demand exceeds supply. However, given the statutory design of the H-1B system, along with the lower wages for comparable work in many other countries and the non-pecuniary benefits of participating in the H-1B program, prices for temporary alien workers under the H-1B program have stayed too low to depress overall employer demand.

For the purposes of this regulatory analysis, it is helpful to distinguish between labor sub-markets characterized by differing levels of worker productivity. Suppose an alien worker is highly productive and therefore could be profitably hired at a wage at least as high as a proposed wage threshold (for example, the Level IV proposal). In the presence of the numerical cap on the H-1B program, that profit may be forgone due to the worker not being able to acquire a visa; instead, in some such cases, the visa would instead be allocated to the hiring of a less-productive alien worker at a wage that is lower (but still above an *existing* wage threshold relevant to the H-1B program). The proposed rule, interacting with the H-1B visa cap, would generate transfers from U.S. employers that, in the baseline, would employ relatively low-productivity guest workers; these transfers would flow to some combination of: (a) relatively low-productivity workers, who may be foreign or from the United States,²²⁹ and (b) U.S. employers newly able to hire high-productivity alien workers.²³⁰ The quantification presented below does not reflect the probable response by employers of hiring higher-productivity guest workers; as such, it yields an upper bound, and possibly an extreme upper bound, on the aggregate losses experienced by U.S. employers. Similarly, a shift in H-1B visa allocation from relatively low-productivity to high-

productivity workers is an anticipated effect of a recently published final rule issued by DHS (RIN 1615-AD01; 90 FR 60864); that final rule and this proposal's overlapping effects are combined in the quantification presented below, thus generating an additional tendency toward overestimation of the effects specifically attributable to this proposed rule. The Department notes that the number of H-1B visas that could be affected by DHS's final rule represents a fraction of the total number of certified H-1B visas each year.²³¹ The Department welcomes public comment on how DHS's final rule could affect the cost-benefit analysis of this proposal.

Given that participation in temporary labor certification programs is voluntary and there exists an alternative labor market of U.S. workers who are not being prevented from accepting work offered at potentially lower market-based wages, there is some uncertainty around the extent to which an increase in prevailing wages would lead to an efficiency loss. Due to data limitations on the expected change in labor demand and supply of U.S. workers, the Department cannot measure accurately the efficiency losses to the U.S. labor market created by the new prevailing wage system. While the Department discusses this potential impact qualitatively, it welcomes comments on how to estimate changes to efficiency from the new prevailing wage levels.

For each H-1B certification in FY 2023, FY 2024, and FY 2025, the Department used the difference between the estimated prevailing wage level under the NPRM and the wage offered under the current baseline to establish an estimated bound on the wage impact of the prevailing wage computation changes in each calendar year of the certification's employment period. Under the H-1B classification, employment periods for certifications can last up to three years and generally begin up to six months after a certification is issued by the Department. Therefore, a given fiscal year can have wage impacts that start in that calendar year and last up to three years, or could start in the following calendar year and have an end-date up to four calendar years past the fiscal year. For example, if an application certified in FY 2023 is used for employment beginning in March 2024 and lasting three years, the wage impacts would extend through March

²²⁸ Data on H-1B electronic registrations and selection numbers for FY 2024 are published by U.S. Citizenship and Immigration Services (USCIS). See FY 2024 H-1B Initial Registration Period Updates, available at <https://www.uscis.gov/sites/default/files/document/outreach-engagements/FY2024H1BInitialRegistrationPeriodUpdates.pdf>.

²²⁹ The NPRM is still inducing a wage transfer under these cases where U.S. workers are employed instead of H-1B workers and therefore no adjustments to the wage estimates are necessary due to this effect. However, it is possible that prevailing wage increases will induce some employers to train and provide more working hours for incumbent workers, resulting in no increase in employment but an increase in earnings (with other accompanying effects, such as the cost of the newly-provided training).

²³⁰ Related transfers (in the former of worker surplus—the difference between wage received and reservation wage) would flow from lower- to higher-productivity foreign workers and possibly from higher- to lower-productivity U.S. workers.

²³¹ Preliminary calculations suggest that a shift toward Levels III and IV and away from Level I, to the extent indicated in the analysis of the DHS rule, might decrease overall estimates of this proposed rule's effect by approximately 3 percent.

2027. The NPRM does not retroactively impact certified wages, so there would be new H-1B applications certified by the Department during FY 2025 that may extend well into the analysis period. Therefore, the rule would only impact new certifications in its first year, new and continuing certifications from one year prior in its second year, and both new and continuing certifications from two years prior in its third year.

To account for this pattern of wage impacts, we classify certifications into three cohorts based on the length of their employment period and calculate annual wage impacts for each cohort using FY 2023–FY 2025 certification data. These cohorts are: (1) certifications lasting less than one year, (2) certifications lasting one to two years, and (3) certifications lasting two to three

years. While this three-cohort structure helps organize the analysis, it does not imply that all impacts stabilize after three years. Because new certifications continue to enter each year and some multi-year certifications extend beyond the initial three-year horizon, a steady-state impact is not reached until approximately Year 8 of implementation. This clarification ensures that readers understand the cohorts are a modeling tool, not a representation of when the rule’s effects fully level off.

H-1B, H-1B1, or E-3 applications certified by the Department do not necessarily result in employment and employer wage obligations. After obtaining a certification, employers must then submit a Form I-129, Petition for a Nonimmigrant Worker, for approval by USCIS. DHS may approve

or deny the H-1B visa petition. DHS approval data represents approvals of petitions based on both certifications issued by the Department that used OEWS data for the prevailing wage or that were based on other approved sources to determine the prevailing wage (e.g., Collective Bargaining Agreements, employer-provided surveys). In FY 2024, approximately 93.5% percent of workers associated with H-1B, H-1B1, and E-3 certifications had prevailing wages based on the OEWS survey. To estimate OEWS-based approvals, we multiplied total DHS approvals by 93.5 percent and then computed the approval rates.²³² 2023 and FY 2024 data on H-1B, H-1B1, and E-3 certifications with their prevailing wage based on the OEWS survey, adjusted DHS approvals, and approval rate.

Exhibit 4—LCA and I-129 H-1B, H-1B1, and E-3 Approvals and Denials

	FY 2023			FY 2024			Average percent approved
	LCA certified	DHS approved +	Percent approved	LCA certified	DHS approved +	Percent approved	
Total	1,091,874	362,039	33	1,285,721	374,281	29	31
New	432,083	109,786	25	407,987	130,907	32	28
Continuing *	659,791	252,252	38	877,734	243,374	28	33
* Includes: “Continued Employment,” “Change Previous Employment,” “Change Employer,” “Amended Petition,” “New Concurrent Employment”							
+ Approval numbers multiplied by 93.5% to account for approvals with prevailing wages set by sources other than OEWS.							

To estimate the wage impacts of new percentiles contained in this NPRM, the Department used publicly available BLS OEWS data that reports the 10th, 25th, 50th, 75th, and 90th percentile wages by SOC code and State.²³³ In order to estimate wages for the new NPRM levels of 34th, 52nd, 70th, and 88th percentiles, the Department linearly interpolated between relevant percentiles for reported wages at each

SOC code and geographic area combination.²³⁴ LCA and OEWS data from fiscal years 2020–2024 suggest that 22.5% of LCA certified positions offered wages above the new proposed policy. This suggests that when calculating transfers not every employer would be affected. Furthermore, many employers offered wages relatively close to the new proposed prevailing wage levels,

suggesting that not every employer would be affected in the same way. The department estimates that for fiscal years 2020–2024, the average wage offered by LCA position is around \$121,908. This is significantly higher than the mean of the prevailing wage for the same data set which was only \$111,717 or \$10,191 less than the offered wage.

²³² Form I-129 data for H-1B is obtained from the USCIS H-1B data hub. Retrieved from: <https://www.uscis.gov/tools/reports-and-studies/h-1b-employer-data-hub>.

²³³ BLS OEWS data for Metropolitan and Nonmetropolitan Areas acquired for each year required for the analysis: [May 2020–May 2024]. Retrieved from <https://www.bls.gov/oes/>.

²³⁴ For example, if OEWS reports a wage of \$30 per hour at the 25th percentile and \$40 per hour at the 50th percentile then the 34th percentile is interpolated as $\$30 + (\$40 - \$30) * ((34 - 25) / (50 - 25)) = \$33.60$ per hour.

Exhibit 5—Comparison of New Prevailing Wage and Old Prevailing Wage under**Proposed Rule Changes by Wage Level**

Wage Level	Old PW	Offered Wage	New PW	Pct Increase Over Old PW	Pct Increase over Offered Wage
I	73,279	82,607	97,746	33.39%	18.33%
II	98,987	109,583	123,212	24.47%	12.44%
III	121,979	134,853	147,333	20.79%	9.25%
IV	144,202	162,807	175,464	21.68%	7.77%

Exhibit 5 presents a comparison of historical and proposed prevailing wage levels alongside offered wages from LCA data spanning 2020 to 2024. The column labeled “Pct Increase PW” reflects the percentage increase from the old to the new prevailing wage levels. For example, at Wage Level I, this represents the shift from the 17th percentile to the 34th percentile of the

OEWS wage distribution—an increase of approximately 33.39%. In contrast, “Pct Increase Offered Wage” measures the percentage increase between the average offered wage and the new prevailing wage level. This metric represents the minimum theoretical wage adjustment required under the proposed rule. While “Pct Increase PW” reflects the maximum potential impact—assuming

all workers, including those already earning above the new prevailing wage, receive increases—“Pct Increase Offered Wage” provides a more refined estimate. Because these figures are derived from a merged OEWS–LCA dataset rather than the full LCA dataset used in Exhibit 4, the calculated percentages serve as proxies to estimate wage differentials across the broader dataset.

Exhibit 6—Comparison of Proposed Prevailing Wage Levels and Wage Offered by**Wage Level**

Fiscal Year	Mean Offered Wage	New Prevailing Wage	Difference
2023	122,241	135,549	13,308
2024	127,312	141,031	13,720
2025	133,850	148,439	14,589

To estimate the policy’s impact, the Department assumes that wages of workers whose wages are already above the new prevailing wage remain unchanged, while those below the new prevailing wage are raised to exactly the new prevailing wage. It is unlikely that the full wage increase would apply to the majority of workers currently earning below the new prevailing wage (approximately 80%). These inputs and assumptions yield an estimated annual wage transfer of approximately \$14,000 per worker.

To model annual impacts, the Department grouped into cohorts based on the year their certification was issued, recognizing that the revised prevailing wage applies only to newly issued visas. While the initial discussion referenced three cohorts for simplicity, the actual transition involves overlapping cohorts across multiple years. In Year 1, only new certifications issued under the revised wage standard are affected. In Year 2, impacts include both new certifications and continuing approvals from Year 1. This pattern

continues as additional cohorts enter each year, with cumulative effects increasing until all legacy visas under the previous wage standard have expired. Because H–1B employment periods can last up to three years, steady state is not reached until approximately Year 6, when all active visas reflect the revised prevailing wage. Exhibit 7 and accompanying notes set forth that the model accounts for these overlapping cohorts and the gradual progression to steady state.

Exhibit 7—Estimated Annual Wage Transfer Impact by Year

Year	Affected Approvals*	Prior Cohort 1	Prior Cohort 2+	Total Cohort Affected	Average Wage Difference for Cohort Members <i>Not</i> in Prior Cohort	Total Wage Transfer Calculation	Notes
1 (using FY23 data)	109,786	—	—	109,786	\$13,308	=109,786×\$13,308	Only new approvals affected; first cohort
2 (using FY24 data)	130,907	109,786	—	240,693	\$13,720	=130,907×\$ 13,720 + Year 1 total	First and second cohorts
3	106,325	130,907	109,786	347,018	\$14,589 (using FY25 data)	=106,325×\$ 14,589 + Years 1-2 total	Cumulative across three cohorts
4	106,325	106,325	240,693 =109,786 + 130,907	453,343	\$14,589	=106,325× \$14,589 + Years 1-3 total	
5	106,325	106,325	347,018	559,668	\$14,589	=106,325× \$14,589 + Years 1-4 total	
6	106,325	106,325	453,343	665,993	\$14,589	=106,325×\$ 14,589 + Years 1-5 total	
7	106,325	106,325	449,882	662,532	\$14,589	=106,325×\$ 14,589 + Years 2-6 total	
8+	106,325	106,325	425,300	637,950	\$14,589	=106,325×\$14,589 + Years 3-7 total	Steady state: no legacy approvals
* Approval numbers multiplied by 93.5% to account for approvals with prevailing wages set by sources other than OEWS.							

From FY 2025, the Department's calculations reflect the total number of DHS-approved H-1B petitions for that year. For FY 2025, DHS approved 380,796 total petitions. Approximately 93.5% of new certifications (106,325) were based on LCAs using OEWS data, reflecting that about 6.5% rely on permitted alternative sources such as private wage surveys. Performing the calculations listed in Exhibit 7 results in an annual wage transfer of approximately \$1.46 billion in Year 1, \$6.3 billion in Year 4, and rising to over \$9.3 billion in Year 6 and beyond.

Existing prevailing wage data from the Foreign Labor Certification (FLC) Data Center, accessible at <https://flag.dol.gov>, contains wage data for each SOC code and geographic area combination that are not readily available in the public OEWS data used to estimate new prevailing wage levels. For example, when a wage is not releasable for a geographic area, the prevailing wage available through the FLC Data Center may be computed by BLS for the geographic area plus its contiguous areas. Additionally, in publicly available OEWS data, some percentiles are missing for certain combinations of SOC codes and geographic areas. These two factors result in a small number of

certifications that cannot be matched to a new prevailing wage level.²³⁵ For these unmatched certifications, we estimate wage impacts as follows: First, we calculate the average wage impact per worker for the relevant cohort and fiscal year. Second, we apply this average to all workers associated with unmatched certifications, producing estimated annual wage impacts for each calendar year of employment. Finally, we add these estimated impacts to the directly calculated wage impacts from matched certifications to produce the total wage impact for each cohort in each calendar year.

The Department determined the total impact of the NPRM prevailing wage levels for each length cohort in each calendar year by summing the wage impacts for all certifications in each year and averaging the totals. The wage impacts for each cohort and calendar year are presented in Exhibit 7. Some calendar years are excluded from the inputs underlying the exhibit because the available data (FY 2023–2025 certifications) does not capture all certifications active during those years. For example, calendar year 2025

²³⁵ In FY 2022, 10.87 percent of certifications do not match, in FY 2023 11.41 percent, and FY 2024 17.02 percent.

includes workers from FY 2025 certifications but would also include workers from FY 2026 certifications, which are not yet available. Therefore, calendar year 2025 is excluded to avoid incomplete estimates.

With the increases in prevailing wage levels under this NPRM, some employers may reduce their demand for labor—either by hiring fewer alien workers or by adjusting staffing patterns—because higher wages increase the cost of employment. These adjustments could include substituting toward incumbent workers or reallocating hours, which may partially offset the expected increase in new hires. While the precise magnitude of these behavioral responses is uncertain, the Department provides a discussion of these potential effects and their implications in the following analysis.

The labor economics literature contains substantial research on how wages affect demand for labor. In the context of the H-1B program, the relevant measure is the long-run own-wage elasticity of labor demand, which describes how firms adjust their labor demand in response to wage changes. Estimates of labor demand elasticities vary considerably depending on industry, skill-level, region, and other

factors. A commonly cited average long-run own-wage elasticity of labor demand is -0.3 ²³⁶ meaning a 10 percent increase in an employer's total wage payments would be expected to result in a 3% decrease in the quantity of labor demanded by the employer in the long run, on average.²³⁷

The Department's baseline analysis projects an average annual undiscounted wage transfer of \$7.07 billion under the proposed rule (see Exhibit 7 and accompanying text). The average annual increase in wage transfers is a 6.1 percent increase in wage payments, which would imply a potential reduction in labor demand of 1.83 percent ($6.1 \times .3$). U.S. employers would likely pay higher wages to H-1B workers or replace them with U.S.

workers where possible. However, if U.S. employers were constrained in their ability to pay higher wages and reduced demand accordingly, the wage transfer would decline by approximately 1.83 percent, from \$7.07 billion to approximately \$6.94 billion.

b. Non-Quantifiable Transfer Payments

This section discusses the non-quantifiable transfer payments related to changes to the computation of the prevailing wage levels. Specifically, the Department did not quantify transfer payments associated with certifications under the Permanent Labor Certification Program because they are expected to be de minimis.

The PERM programs have a large proportion of certifications issued

annually to alien workers that are working in the U.S. at the time of certification and would have changes to wages under the NPRM prevailing wage. Prior to the PERM certification, these beneficiaries are typically working under H-1B, H-1B1, and E-3 temporary visas and wage transfers for these PERM certifications are therefore already factored into our wage transfer calculations for H-1B, H-1B1, and E-3 temporary visas. Below, Exhibit 8 illustrates the percentage of PERM certifications that are on H-1B, H-1B1, or E-3 temporary visas, the percent that are not on a temporary visa and/or are not currently in the U.S. and would therefore enter on an EB-2 or EB-3 visa, and all other visa classes.

Exhibit 8—PERM Certifications by Class of Admission, FY20-FY24

Category	FY20	FY21	FY22	FY23	FY24	Average percentage of total
Not on a temporary visa/not currently residing in the United States	1946	2166	2,196	3,653	3,692	5.5
H-1B nonimmigrant	36570	46328	27,351	32,875	20,588	65.5
H-1B1 nonimmigrant	61	64	36	32	25	0.1
E-3 nonimmigrant	180	262	101	113	72	0.3
All Other Visa Classifications*	14957	18661	10,778	16,042	11,128	28.6
Total	53714	67481	40,462	52,715	35,505	100
* Other classes of admission include: A1/A2, L-1, F-1, A-3, B-1, C-1, TN, C-3, E-2, B-2, D-1, D-2, H-4, O-1, E-1, EWI, J-1, TPS, F-2, L-2, G-4, H-2A, G-1, G-5, H-1A, Parolee, P-1, J-2, H-3, I, M-1, R-1, O-2, M-2, P-3, O-3, VWT, TD, P-2, P-4, Q, VWB, R-2, N, S-6, T-1, V-2, T-2, K-4, U-1.						

About 10 percent of PERM certifications are issued annually by OFLC to alien workers who do not currently reside in the U.S. and would enter on immigrant visas in the EB-2 or EB-3 preference category. Employment-based immigrant visa availability and corresponding wait times change regularly for different preference categories and countries. Alien workers from countries with significant visa

demand consistently experience delays, at times over a decade. Therefore, employers would not have wage obligations until at the earliest, the very end of the 10-year analysis period and the number of relevant certifications is a relatively small percent of all PERM certifications; the Department therefore has not included associated wage transfers in the analysis.

4. Benefits Discussion

This section discusses the non-quantifiable benefits related to changes to the computation of the prevailing wage levels.²³⁸

The Department's increase in the prevailing wages for the four wage levels is expected to result in multiple benefits that the Department is unable to quantify but discusses qualitatively. One benefit of the NPRM's increase in

²³⁶ For a full discussion of labor demand elasticity heterogeneity see Lichter, A., Peichl, A., & Sieglöcher, S. (2015). The own-wage elasticity of labor demand: A meta-regression analysis. *European Economic Review*, 94–119. Retrieved from: <https://www.econstor.eu/bitstream/10419/93299/1/dp7958.pdf>.

²³⁷ This value is the best-guess in seminal work by Hamermesh, D.H. (1993). *Labor Demand*. Princeton University Press.

²³⁸ As noted elsewhere in this analysis, the proposed rule would be expected to shift the allocation of H-1B visas from lower-productivity to higher-productivity workers, and given the existing

cap on such visas, may have little or no effect on the number granted. Thus, analysis of changes in societal surplus would not be as straightforward here, where the result would be a negative benefit, as it was for the Department's recent rulemaking related to H-2A visas (RIN 1205-AC24; 90 FR 47914).

prevailing wages is the economic incentive to increase employee retention, training, and productivity which would increase benefits to both employers and U.S. workers. The increase in prevailing wages is expected to induce employers—particularly those using the permanent and temporary visa programs—to fill critical skill shortages, to minimize labor costs by implementing retention initiatives to reduce employee turnover, and/or to increase the number of work hours offered to similarly employed U.S. workers. Furthermore, for employers in the technology and health care sectors, this could mean using higher wages to attract and hire the industry's most productive U.S. workers and to provide them with the most advanced equipment and technologies to perform their work in the most efficient manner.

Ensuring that skilled occupations are not performed at below-market wage rates by alien workers would provide greater incentives for firms to expand education and job training programs. These programs can attract and develop the skills of a younger generation of U.S. workers to enter occupations that currently rely on elevated levels of alien workers. (The Department requests comment on not-yet-quantified costs—for example, costs of training programs or equipment upgrades—that would accompany any such benefits.) There is some evidence that the existing prevailing wage levels offer opportunities to use lower-cost

alternatives to U.S. workers doing similar jobs by offering two wage levels below the median wage. For example, in FY 2024, 62.6 percent of H-1B workers filed LCAs at either the first or second wage level, meaning a substantial majority of workers in the program could be paid wages well below the median wage for their occupational classification. While this analysis uses the existing distribution of wage levels as a baseline, the Department acknowledges that the composition of H-1B wage levels could shift under the proposed rule. Specifically, the DHS weighted lottery and higher prevailing wage requirements may increase the share of Level III and Level IV positions over time. This potential change is discussed qualitatively in the analysis.

Glennon's (2024) literature review touches on relevant issues, including the variety of productivity contributions associated with the H-1B program—as illustrated by, for example, estimates of innovation-related outcomes differing substantially depending on whether the analyzed data set includes employers who submit applications promptly (on a rolling basis) or focuses only on employers who wait until the last potential application day.²³⁹ Because workers with greater skills tend to be more productive, and therefore command higher wages, raising the

prevailing wage levels would lead to the limited number of H-1B visas going to higher-skilled alien workers, which would likely increase the spillover economic benefits associated with high-skilled immigration. This reallocation is expected to increase not only direct output per worker but also broader economic spillovers, such as higher rates of patenting, technology diffusion, and firm-level productivity growth documented in the literature. By concentrating visa allocations among workers at the upper end of the skill distribution, the proposed rule amplifies these benefits, which extend beyond the hiring firm to the wider economy through innovation and knowledge transfer.²⁴⁰

5. Summary of the Analysis

Exhibit 9 below summarizes the costs and transfer payments of the NPRM. The Department estimates the annualized cost of the NPRM at \$3.53 million and the annualized transfer payments (from H-1B, H-1B1, and E-3 employers to some combination of other such employers and workers) at an upper bound of \$6.56 billion, at a discount rate of 7 percent. The Department did not estimate any cost savings.

²³⁹ Glennon, Britta (2024), "Skilled Immigrants, Firms, and the Global Geography of Innovation," *Journal of Economic Perspectives* 38(1), pp. 3–26. See, especially, Glennon's footnote 3.

²⁴⁰ Barabuffi, G., Chabert, M., & Izzo, F. (2025). Knowledge Spillovers through High-Skilled Migration Networks. *Industry and Innovation*, 32(8), 884–914. <https://doi.org/10.1080/13662716.2025.2451398>.

Exhibit 9—Estimated Monetized Costs and Transfer Payments of the NPRM

	Costs (million \$)	Transfer payments (billion \$) (upper bound)
2026	5.17	1.46
2027	2.98	3.26
2028	2.57	4.81
2029	2.1	6.36
2030	2.09	7.91
2031	3.32	9.46
2032	2.32	9.55
2033	2.32	9.31
2034	2.32	9.31
2035	2.32	9.31
Undiscounted Total	32	70.73
10-Year Total with a Discount Rate of 3%	28.38	58.46
10-Year Total with a Discount Rate of 7%	24.59	46.09
10-Year Average	3.2	7.07
Annualized with a Discount Rate of 3%	3.33	6.85
Annualized with a Discount Rate of 7%	3.53	6.56

6. Regulatory Alternatives

In developing this rule, the Department considered several alternative approaches to revising the prevailing wage level methodology. Each alternative was evaluated for its consistency with the Department's statutory obligations under the Immigration and Nationality Act (INA), its responsiveness to the policy direction set forth in the September 19, 2025 Presidential Proclamation, and its administrative feasibility and legal defensibility. The Department ultimately selected the proposed percentile structure (34th, 52nd, 70th, and 88th percentiles) as the most balanced and effective approach. However, the following alternatives were considered:

a. Alternative 1: Using Experience Benchmarking for Adjusting Wage Levels

The Department also seeks public comment on an alternative approach to revising prevailing wage levels using a methodology called Experience Benchmarking. Under this alternative,

prevailing wage levels for the H-1B, H-1B1, E-3, and PERM programs would be adjusted using a methodology that benchmarks wages to workers with comparable education and experience in the same occupation and geographic area.

Experience Benchmarking seeks to adjust prevailing wage levels by merging the occupational and geographic specificity of the BLS OEWS with education- and experience-adjusted wage estimates derived from the American Community Survey (ACS) of the Census Bureau.²⁴¹ The relationship between these data sources would be modeled using the Mincer earnings equation, which is a natural logarithm

²⁴¹ The ACS is the largest ongoing household survey in the United States, surveying approximately 3.5 million households each year. It is administered by the U.S. Census Bureau in the Department of Commerce, collects detailed information on earnings, educational attainment, age, occupation, and geography, and widely used for federal program administration. For more information on the ACS, please see <https://www.census.gov/programs-surveys/acs.html>.

of wages as a function of education and experience.²⁴²

The Department is considering this alternative to potentially improve the comparison of the wages of alien workers to those of similarly qualified U.S. workers. As noted previously, today prevailing wage levels are derived from the overall wage distribution within an occupation and geographic area and are applied based on the employer's description of the minimum job requirements for the position. Because the underlying OEWS data do

²⁴² The Mincer logarithm of wages equation is the foundational model in empirical labor economics for estimating the returns to education and experience. See Thomas Lemieux, "The 'Mincer Equation' Thirty Years After Schooling, Experience, and Earnings," in Shoshana Grossbard, ed., *Jacob Mincer: A Pioneer of Modern Labor Economics* (New York: Springer, 2006), ch. 11 (calling the Mincer equation "one of the most widely used models in empirical economics" and concluding it "remains an accurate benchmark for estimating wage determination equations"). See also Solomon W. Polachek, "Earnings Over the Life Cycle: The Mincer Earnings Function and Its Applications," *Foundations and Trends in Microeconomics* 4, no. 3 (2008): 165–272. Also see George J. Borjas, *Labor Economics*, 7th ed. (New York: McGraw-Hill, 2016), p. 244.

not collect information on worker education or experience, the methodology employed under the current rule may allow positions to be classified at wage levels that are less comparable to the actual education and experience of the alien worker. As a result, an alien worker with significantly higher education or professional experience could be paid a wage benchmarked to U.S. workers with comparably lower levels of education and experience. Experience Benchmarking seeks to address this limitation by comparing the sponsored alien worker's wage to the wages earned by U.S. workers with comparable education and experience in the same occupation and geographic area, thereby producing prevailing wages that more closely reflect the wages paid to similarly qualified workers in the U.S. labor market.

Because the ACS does not directly measure actual labor market experience, the methodology would estimate "potential experience" using a commonly accepted definition as age minus years of schooling minus age when schooling begins (often six).²⁴³ Using the OEWS 50th (median), 62nd, 75th, and 90th percentiles for each occupation and geographic area as the base wages, the Department would use public-use microdata from the ACS to generate Mincer wage equations for each occupation among native-born American workers only, modelling the relationship between (log) earnings, educational attainment, and potential experience (measured by age) within each occupation, controlling for area of employment fixed effects. The output of these models would be a matrix of ratios (or wage premia) comparing the expected earnings of U.S. workers with each combination of education and potential experience to the overall occupational median, as measured in the ACS. The Department would then apply these ACS-derived ratios to each

of the OEWS percentiles to produce Experience Benchmarked wage levels.

Under this alternative, the four OEWS wage levels would reflect variations attributable to characteristics of both the occupation and of the alien worker that the Department will not measure directly such as specialized skills, industry-specific premia, position-specific duties, and the level of supervision received or provided. Each combination of education and experience in each occupation and geographic area would generate a set of four wage levels, one at each level, as follows:

- **Level I:** Typical (50th percentile among workers with same occupation, area, education, and experience). Level I reflects the median level of skills and typical duties for workers in the occupation and location with comparable education and experience. This would be the prevailing wage due an alien worker with a given credential profile. For example, the prevailing wage for a software developer with a master's degree and five years of experience would be the median wage (that is, the new OEWS Level I wage) for software developers in the same area who also have a master's degree and approximately five years of experience—not the median for all software developers regardless of credentials.

- **Level II:** Specialized (62nd percentile among workers with same occupation, area, education, and experience). Level II reflects a position requiring specialized knowledge, duties, or other characteristics that command a premium above the typical wage for workers with comparable credentials.

- **Level III:** Demanding (75th percentile among workers with same occupation, area, education, and experience). Level III reflects a position requiring a notably higher degree of proficiency, specialized expertise, or responsibility than is typical, commanding more than what three-quarters of similarly qualified workers earn in the same occupation and area.

- **Level IV:** Highly Demanding (90th percentile among workers with same occupation, area, education, and experience). Level IV reflects the highest-skilled positions among similarly qualified workers, representing the upper tier of complexity, responsibility, and autonomy within the occupation at the relevant education and experience level. Such positions may involve substantially less supervision from a manager than is typical, or may involve the incumbent providing active supervision of a greater number of

subordinates than is typical for comparably qualified workers in that occupation.

Under experience benchmarking, the Level I requirement at the 50th percentile guarantees that an alien worker is never paid less than the median native-born worker with the same occupation, education, and experience in the same location. The higher wage levels (Levels II–IV) allow an employer to pay for exceptional talent to have more chances in the lottery. The reason for these specific percentiles (50th, 62nd, 75th, and 90th) is that they are close to dividing the upper half of the distribution equally. These levels differ from the levels as proposed because the adjustments for experience and education are based directly on real data.

To illustrate how the methodology would work, consider a hypothetical example. If ACS data and Mincer wage equation estimated that U.S. accountants with 10 years of experience and a master's degree typically earn 20 percent more than the median accountant nationwide, the Experienced Benchmarked ratio for that education-experience combination in accounting would be expressed as a wage premia factor of 1.2. Then, to compute the Level I prevailing wage for an employer seeking visa labor certification to employ an alien worker as an accountant in Dayton, Ohio, with 10 years of experience and a master's degree, the Department would take the OEWS 50th percentile for accountants in the Dayton MSA (currently \$78,710) and multiply it by 1.2, yielding an experience-benchmarked Level I prevailing wage of \$94,452. The Level II prevailing wage would apply the same 1.2 ratio to the OEWS 62nd percentile; Level III to the 75th percentile; and Level IV to the 90th percentile. This calculation would be repeated for every education-experience combination, in every occupation, in every geographic area covered by the OEWS, and separately for the American Competitiveness and Workforce Investment Act (ACWIA) industries, as required by statute. Thus, under this alternative, experience and education would be considered explicitly, with the wage levels corresponding to the remainder of those factors that determine earnings in the occupational classification: skills, level of supervision, and any other factors that might determine the wage premium that an individual worker can command compared to other workers in the same occupation, area, and with the same level of experience and education. If this approach were adopted for PERM,

²⁴³ The concept of "potential experience," defined as age minus years of schooling minus age when schooling begins (often six) was introduced by Mincer (1974) and has been the standard approach in labor economics for over fifty years when direct experience data are unavailable. See Lemieux (2006), *supra* (noting that "potential experience" is the standard measure in the Mincer specification). In addition, Zoghi (2010) directly compared labor composition indexes calculated with imputed experience measures versus age groups and found that the results were "nearly identical," concluding "it seems reasonable to use the simpler and more transparent age group variable." See Cindy Zoghi, "Measuring Labor Composition: A Comparison of Alternate Methodologies," in Katharine G. Abraham, James R. Spletzer, and Michael Harper, eds., *Labor in the New Economy* (Chicago: University of Chicago Press for NBER, 2010), ch. 12, pp. 457–485.

the prevailing wage associated with the LCA would be the higher of: (1) the Level I OEWS Level corresponding to the minimum education and experience requirements of the position, and (2) if the alien worker is an H-1B, H-1B1, or E-3 worker, the prevailing wage identified on the Labor Condition Application certified by DOL and listed on the DHS/USCIS I-129 Petition for Nonimmigrant Worker approved for that alien worker.

For LCA under this alternative, the OFLC search would be updated to reflect the prevailing wage levels of different education and experience profiles, and the employer would reference this when submitting the LCA. If the employer did not have an alien worker identified, it would file the LCA for each education-experience profile it would be considering for the role, and the eventual hire would be paid under the relevant LCA matching that alien worker's education-experience profile.

The Department invites public comment on all aspects of this alternative, including any strengths and limitations (e.g., sample size, occupational and geographic area coverage) of using the ACS; effectiveness of using age as a proxy for experience; efficacy of employing Mincer wage equations for Experience Benchmarking prevailing wage levels; appropriateness of establishing the base OEWS wage levels at the 50th, 62nd, 75th, and 90th percentiles for each occupation and geographic area; and statistical validity of applying the resulting ratios from the ACS to the corresponding OEWS wage levels.

The primary benefits are threefold. First, the proposal essentially ends the practice of wage arbitrage which improves the standing of American workers and the benefits that flow from strong middle-class employment. Second, the proposal substantially improves the ability of the visa programs to screen for exceptional talent and ability. Third, the proposal reduces the ability of employers to under classify workers using strategic job descriptions.

The Department also invites comment on whether there are other readily accessible and appropriate sources of data and methods for estimating education-experience wage premia, and on whether other federal data sources—including but not limited to administrative records that may enable direct tabulations rather than a model-based approach—could provide more precise or more comprehensive estimates of the returns to education and experience within occupations in relation to the OEWS wage levels.

Finally, the Department acknowledges that determining prevailing wages under this alternative will require employers to collect information about the alien worker's actual education and experience when the employer submits an application. For the H-1B, H-1B1, and E-3 visa classifications, this information could be collected on a revised information collection for the ETA-9035, *Labor Condition Application for Nonimmigrant Workers* (OMB Control No. 1205-0310). In the PERM program, this information could be collected through revisions to the ETA-9141 Application for Prevailing Wage Determination (OMB Control No. 1205-0508), which would also cover employers seeking a prevailing wage determination from the Department under the H-1B, H-1B1, and E-3 visa classifications, and, where relevant, through forms used in related programs, in a manner similar to Appendix A (Foreign Worker Information) of the Form ETA-9089, *Application for Permanent Employment Certification* (OMB Control No. 1205-0451). Because this alternative would base prevailing wage determinations on the alien worker's actual education and experience rather than the employer's description of the minimum job requirements for the position, the Department invites public comment on whether this approach is more consistent with the statutory requirements for both the H-1B and PERM programs, the administrative feasibility and burden on employers and applicants to provide information about the alien worker's qualifications on revised Forms ETA-9035 and 9141 and in a manner similar to the current authorized collection on the Form ETA-9089, Appendix A, and whether this alternative better protects similarly employed U.S. workers from adverse effects. The primary burdens we anticipate are that employers will need to learn a new system and no longer be able to commit wage arbitrage.

b. Alternative 2: Eliminate the Ability To Use Private Wage Surveys

Under this alternative, the Department would remove the option for employers to submit private wage surveys and instead require all prevailing wage determinations to rely exclusively on the Bureau of Labor Statistics' Occupational Employment and Wage Statistics (OEWS) survey. This approach would create a single streamlined source for prevailing wages, reducing administrative complexity and compliance costs for employers—particularly small businesses—by eliminating the need to commission,

validate, and submit private surveys. Private surveys often impose significant costs on employers, including fees for survey data and legal expenses to ensure methodological compliance. By standardizing wage determinations through OEWS, the Department would minimize these burdens while maintaining consistency and transparency in wage-setting practices. This alternative therefore represents a less economically burdensome option for small entities compared to the current system, which allows for multiple wage sources and associated compliance obligations.

Private wage surveys have historically been permitted to provide employers flexibility in cases where government data sources were unavailable or insufficiently granular for certain occupations or geographic areas. The rationale was that private surveys could capture niche labor markets and specialized roles not fully reflected in OEWS data. However, the Department's analysis indicates that OEWS now provides comprehensive coverage across occupations and regions, reducing the need for alternative sources.

Despite these benefits, the Department ultimately rejected this alternative. As discussed earlier in this NPRM, retaining private wage surveys in limited circumstances preserves employer flexibility, mitigates potential adverse impacts on businesses operating in specialized labor markets, and balances reliance interests with the statutory mandate to protect U.S. workers. For some employers—particularly start-ups, small businesses, or those operating in emerging or highly specialized fields—private surveys may offer the most accurate reflection of market wages when OEWS data is insufficient or unavailable. Eliminating this option entirely could disrupt longstanding compliance practices and impose disproportionate burdens on such employers.

Additionally, while private surveys can be expensive and administratively complex to validate, historical data indicate that they typically produce wages approximately 20 percent higher than OEWS-based prevailing wages, which could significantly increase costs for employers relying on this option. The Department recognizes these trade-offs and, therefore, has chosen to retain the use of private surveys in limited circumstances. This approach preserves employer flexibility, mitigates potential adverse impacts on businesses operating in specialized labor markets, and balances reliance interests with the statutory mandate to protect U.S. workers. To ensure integrity, the

Department will monitor the use of private surveys to prevent abuse and ensure compliance, reserving the right to reject any private survey that does not meet methodological standards or otherwise fails to satisfy regulatory requirements.

In summary, while the benefits of allowing private wage surveys have diminished as OEWS coverage has improved, the Department determined that a complete elimination of private surveys would not adequately account for the needs of employers in specialized labor markets or those with legitimate reliance interests. The Department invites public comment on this approach and on whether further limitations or safeguards on the use of private wage surveys would be appropriate.

c. Alternative 3: National Wage Standard for Remote and Distributed Work

In response to the structural shift toward remote work, the Department considered replacing area-specific prevailing wages with a national wage standard for each occupational classification. This approach would simplify compliance and reflect the nationalization of high-skill labor markets. However, the Department declined to adopt this alternative due to:

- Statutory language in the INA requiring prevailing wages to be based on the “area of intended employment.”
- The need for further stakeholder engagement and legal analysis to assess the feasibility of redefining geographic wage standards.

The Department may revisit this alternative in future rulemakings as remote work trends continue to evolve.

Under this alternative, the Department would replace area-specific prevailing wages with a single national wage standard for each occupational classification. This approach would simplify compliance and reflect the increasing prevalence of remote work, which has reduced the relevance of geographic wage differentials. However, this alternative would likely result in significant cost increases for employers in lower-wage regions, as they would be required to pay wages aligned with national averages rather than local market rates. Preliminary modeling suggests that adopting this alternative could reduce employer labor costs by an incremental approximately \$10,000 annually, which is substantially higher than the costs projected under the

proposed rule.²⁴⁴ While this approach could enhance equity and reduce administrative complexity, the Department determined that the statutory requirement to base prevailing wages on the “area of intended employment” and the potential for disproportionate impacts on employers in lower-cost regions outweighed the benefits at this time.

C. Regulatory Flexibility Act, Small Business Regulatory Enforcement Fairness Act of 1996, and Executive Order 13272 (Proper Consideration of Small Entities in Agency Rulemaking)

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Public Law 104–121 (Mar. 29, 1996), hereafter jointly referred to as the RFA, requires agencies to prepare an initial regulatory flexibility analysis (IRFA) when proposing, and a final regulatory flexibility analysis (FRFA) when issuing, regulations that will have a significant economic impact on a substantial number of small entities. The Department conducted the analysis below of the effect on small entities from the proposed rule and, based on that analysis, expects that this rule will have a significant economic impact on a substantial number of small entities that employ H–1B workers.

1. Why the Department Is Considering Action

The Department is considering action to revise the prevailing wage determination methodology because the current wage levels do not adequately reflect the wages paid to U.S. workers similarly employed to alien workers in the H–1B, H–1B1, E–3, and PERM programs. The Department has determined that the existing methodology, which was developed without formal rulemaking and lacks a robust economic justification, may contribute to wage suppression and displacement of U.S. workers, particularly in sectors with high concentrations of alien workers. Evidence from academic research, government data, and investigative reporting indicates that prevailing wages under the current structure are often set below market rates. This creates incentives for employers to prefer lower-paid alien workers over comparably qualified U.S. workers, undermining the statutory intent of the INA to protect the wages and working

conditions of U.S. workers. For example, studies have shown that H–1B workers are frequently paid less than their U.S. counterparts, and that some employers use the program to replace U.S. workers rather than to supplement the domestic workforce.

Moreover, the Department has concluded that the current four-tier wage structure, as implemented, does not sufficiently differentiate among workers based on experience, education, and responsibility, as required by 8 U.S.C. 1182(p)(4). The Department’s analysis also found that the methodology used to calculate wage levels—particularly the use of the mean of the bottom third of the wage distribution for Level I—does not align with labor market realities or the statutory requirement to prevent adverse effects on U.S. workers.

Given these findings, and consistent with the Department’s statutory obligations and the President’s directive to strengthen wage protections for U.S. workers, the Department is proposing to revise the prevailing wage methodology to better reflect actual market wages and ensure that the employment of alien workers does not adversely affect the wages and job opportunities of U.S. workers.

2. Objectives of and Legal Basis for the NPRM

The Department’s objective in issuing this NPRM is to strengthen wage protections for U.S. workers by revising the methodology used to determine prevailing wage levels under the H–1B, H–1B1, E–3, and PERM programs. The current wage structure, which has remained largely unchanged since its inception, does not adequately reflect the wages paid to U.S. workers similarly employed to alien workers in these programs. As a result, it may contribute to wage suppression, displacement of U.S. workers, and distortion of labor market conditions in high-skill sectors. This NPRM seeks to ensure that the employment of alien workers does not adversely affect the wages and working conditions of U.S. workers, consistent with the Department’s statutory obligations under the INA. Specifically, section 212(a)(5)(A) of the INA (8 U.S.C. 1182(a)(5)(A)) requires the Secretary of Labor to certify that the employment of alien workers would not adversely affect the wages and working conditions of similarly employed U.S. workers. In the context of the H–1B, H–1B1, and E–3 programs, section 212(n)(1)(A) and 212(t)(1)(A) (8 U.S.C. 1182(n)(1)(A) and 1182(t)(1)(A)) further requires that employers pay the greater of the actual wage or the prevailing wage for the

²⁴⁴ Analysis based on FY 2020–2024 LCAs and uses current prevailing wage levels to determine the difference.

occupational classification in the area of intended employment.

Additionally, section 212(p)(4) of the INA (8 U.S.C. 1182(p)(4)) mandates that any government survey used to determine prevailing wages must provide at least four levels of wages commensurate with experience, education, and level of supervision. The Department has determined that the current implementation of this four-tier structure does not sufficiently differentiate among workers based on these statutory factors and may understate the true market wages for many occupations.

The NPRM is also responsive to the President's directive in the September 19, 2025, Proclamation titled "Restriction on Entry of Certain Nonimmigrant Workers," which

instructed the Secretary of Labor to initiate rulemaking to revise prevailing wage levels to better protect U.S. workers. The Department's action is grounded in its longstanding authority to administer the labor certification process and to interpret and implement the INA's wage protections through reasonable and evidence-based methodologies. In sum, the NPRM is intended to align prevailing wage levels more closely with actual market wages; reduce the incentive to prefer alien workers over U.S. workers based on wage differentials; ensure compliance with statutory requirements under 8 U.S.C. 1182(a)(5)(A), 1182(n)(1)(A), 1182(t)(1)(A), and 1182(p)(4); and promote the integrity and effectiveness of the Department's foreign labor certification programs.

3. Estimating the Number of Small Entities Affected by the Rulemaking

The Department used the FY 2024 H-1B cap-subject petitions data provided by the DHS.²⁴⁵ There were 13,602 unique small H-1B employers with data on the number of employees and annual revenue that met the Small Business Administration's size standards. These 13,602 unique small H-1B employers represent petitions with start dates on or after 10/1/2024 and before 10/1/2025.

To provide clarity on the types of industries impacted by this regulation, Exhibit 10 shows the number of unique H-1B small entity employers within the top 10 most prevalent industries at the 6-digit and 4-digit NAICS code level.

Exhibit 10—Number of H-1B Unique Small Employers by NAICS Code

6-Digit NAICS	Description	Number of H-1B Unique Small Employers	Percentage of Employers
513210	Software Publishers	143	1.05
518210	Data Processing, Hosting, and Related Services	150	1.1
541110	Office of Lawyers	237	1.74
541211	Offices of Certified Public Accountants	153	1.12
541310	Architectural Services	210	1.54
541330	Engineering Services	533	3.92
541511	Custom Computer Programming Services	7990	29.33
541512	Computer Systems Design Services	517	3.8
541519	Other Computer Related Services	288	2.12
541714	Research and Development in Bio-technology (except Nanobiotechnology)	177	1.3
Other NAICS		7,024	52.96
Total		13,602	100%

4. Compliance Requirements of the NPRM, Including Reporting and Recordkeeping

The Department has considered the incremental costs for small entities from the baseline (*i.e.*, the current practices for complying, at a minimum, with the regulations governing permanent labor certifications at 20 CFR part 656 and labor condition applications at 20 CFR part 655, subpart H) to this NPRM. We estimated the cost of (a) the time to read and review the NPRM and (b) wage costs. These estimates are consistent

with those presented in the E.O. 12866 section.

5. Calculating the Impact of the NPRM on Small Entities

The Department estimates that small entities using the H-1B program would incur a one-time cost of \$60.94 to familiarize themselves with the rule.²⁴⁶

In addition to the rule familiarization costs, each small entity using the H-1B program may have an increase in the annual wage costs due to the revisions to the wage structure if they currently

offer a wage lower than the NPRM prevailing wage levels. For each small entity, we estimated the annual wage cost and added it to the rule familiarization costs to measure the total impact of the NPRM on the small entity. The average wage cost per small entities is estimated at \$20,298. Small entities with petitions filed in FY 2024 can have wage obligations in calendar years 2024 and 2025, depending on when their employment period starts and the length of the employment period.

²⁴⁵ For the RFA analysis, three datasets were combined: DOL's LCA data for FY 2024; employer data from USCIS Form I-129 petitions filed in FY

2024; and the SBA size standards. This dataset includes Wage Levels I through IV.

²⁴⁶ \$60.94 = 1 hour × \$60.94, where \$60.94 = \$38.33 + (\$38.33 × 42%) + (\$38.33 × 17%).

The Department determined the proportion of each small entity's total revenue affected by the costs of the NPRM to determine if the NPRM would have a significant impact upon a substantial number of small entities. The cost impacts included the rule familiarization costs and the wage costs introduced by the NPRM. The Department used a total cost estimate of 3 percent of revenue as the threshold for a significant individual impact and assumed that 15 percent of impacted small entities incurring an impact that exceeds the 3 percent, "significant" threshold as the threshold for a substantial number of on small entities.

The Department has used a threshold of three percent of revenues in prior rulemakings for the definition of significant economic impact.²⁴⁷ This threshold is also consistent with that sometimes used by other agencies.²⁴⁸ The Department also believes that its assumption that 15 percent of small entities would be substantially affected experiencing a significant impact to determine whether the rule has a substantial impact on small entities is appropriate. The Department has used the same threshold in prior rulemakings for the definition of substantial number of small entities.²⁴⁹ Of the 13,538 unique small employers with revenue

data, up to 18 percent of employers would have more than 3 percent of their total revenue affected in 2025 (2,394/13,538). As such, the Department expects that this rule would have a significant economic impact on a substantial number of small entities affected. Exhibit 11 provides a breakdown of small employers by the proportion of revenue affected by the costs of the NPRM. Exhibits 12 through 22 provide breakdowns of small employers by the proportion of revenue affected by the costs of the NPRM for the top ten most prevalent industries at the six-digit NAICS code level.

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Exhibit 11—Cost Impacts as a Proportion of Total Revenue for Small Entities

Proportion of Revenue Impacted						
Top 10 NAICS Codes	<1%	1% - <3%	>3%	3% - <5%	5% - 10%	>10%
513210	98 (69%)	23 (16%)	22 (15%)	6 (4%)	6 (4%)	10 (7%)
518210	94 (63%)	24 (16%)	32 (21%)	12 (8%)	5 (3%)	15 (10%)
541110	113 (48%)	73 (31%)	51 (22%)	23 (10%)	14 (6%)	14 (6%)
541211	96 (63%)	43 (28%)	14 (9%)	7 (5%)	6 (4%)	1 (1%)
541310	130 (62%)	51 (24%)	29 (14%)	18 (9%)	6 (3%)	5 (2%)
541330	380 (71%)	90 (17%)	63 (12%)	24 (5%)	20 (4%)	19 (4%)
541511	1194 (30%)	830 (21%)	1966 (49%)	395 (10%)	518 (13%)	1053 (26%)
541512	221 (43%)	107 (21%)	189 (37%)	47 (9%)	52 (10%)	90 (17%)
541519	121 (42%)	61 (21%)	106 (37%)	25 (9%)	21 (7%)	60 (21%)
541714	147 (83%)	16 (9%)	14 (8%)	5 (3%)	3 (2%)	6 (3%)
All Other NAICS	5115 (71%)	1067 (15%)	1022 (14%)	343 (5%)	303 (4%)	376 (5%)
Total	7709 (57%)	2385 (18%)	3508 (26%)	905 (7%)	954 (7%)	1649 (12%)

Exhibit 12—Cost Impacts as a Proportion of Total Revenue for Small Entities under

NAICS 513210

NAICS 513210, Software Publishers								
Revenue Size	Total Number of Employers	Average Cost Impact per Employer	<1%	1% - <3%	>3%	3% - <5%	5% - 10%	>10%
Less than \$1M	32	\$23,374	9 (28%)	4 (12%)	19 (59%)	5 (16%)	4 (12%)	10 (31%)
\$1M to less than \$5M	47	\$23,256	27 (57%)	17 (36%)	3 (6%)	1 (2%)	2 (4%)	0 (0%)
\$5M to less than \$10M	24	\$21,869	23 (96%)	1 (4%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)
\$10M to less than \$50M	40	\$23,047	39 (98%)	1 (2%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)

²⁴⁷ See, e.g., 79 FR 60634 (October 7, 2014, Establishing a Minimum Wage for Contractors), 81 FR 39108 (June 15, 2016, Discrimination on the Basis of Sex), and 84 FR 36178 (July 26, 2019, Proposed Rule for Temporary Agricultural Employment of H-2A Nonimmigrants in the United States).

²⁴⁸ See, e.g., 79 FR 27106 (May 12, 2014, Department of Health and Human Services rule stating that under its agency guidelines for conducting regulatory flexibility analyses, actions that do not negatively affect costs or revenues.

²⁴⁹ See, e.g., 79 FR 60633 (October 7, 2014, Establishing a Minimum Wage for Contractors) and 84 FR 36178 (July 26, 2019, Proposed Rule for Temporary Agricultural Employment of H-2A Nonimmigrants in the United States).

**Exhibit 13—Cost Impacts as a Proportion of Total Revenue for Small Entities under
NAICS 518210**

NAICS 518210, Data Processing, Hosting, and Related Services								
Revenue Size	Total Number of Employers	Average Cost Impact per Employer	<1%	1% - <3%	>3%	3% - <5%	5% - 10%	>10%
Less than \$1M	34	\$37,122	6 (18%)	5 (15%)	23 (68%)	5 (15%)	3 (9%)	15 (44%)
\$1M to less than \$5M	60	\$23,909	33 (55%)	18 (30%)	9 (15%)	7 (12%)	2 (3%)	0 (0%)
\$5M to less than \$10M	14	\$27,416	13 (93%)	1 (7%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)
\$10M to less than \$50M	42	\$22,200	42 (100%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)

**Exhibit 14—Cost Impacts as a Proportion of Total Revenue for Small Entities under
NAICS 541110**

NAICS 541110, Office of Lawyers								
Revenue Size	Total Number of Employers	Average Cost Impact per Employer	<1%	1% - <3%	>3%	3% - <5%	5% - 10%	>10%
Less than \$1M	83	\$21,027	7 (8%)	26 (31%)	50 (60%)	22 (27%)	14 (17%)	14 (17%)
\$1M to less than \$5M	105	\$21,129	57 (54%)	47 (45%)	1 (1%)	1 (1%)	0 (0%)	0 (0%)
\$5M to less than \$10M	36	\$14,638	36 (100%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)
\$10M to less than \$50M	13	\$17,110	13 (100%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)

**Exhibit 15—Cost Impacts as a Proportion of Total Revenue for Small Entities under
NAICS 541211**

NAICS 541211, Offices of Certified Public Accountants								
Revenue Size	Total Number of Employers	Average Cost Impact per Employer	<1%	1% - <3%	>3%	3% - <5%	5% - 10%	>10%
Less than \$1M	26	\$22,900	0 (0%)	14 (54%)	12 (46%)	6 (23%)	5 (19%)	1 (4%)
\$1M to less than \$5M	77	\$18,699	48 (62%)	27 (35%)	2 (3%)	1 (1%)	1 (1%)	0 (0%)
\$5M to less than \$10M	29	\$18,413	27 (93%)	2 (7%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)
\$10M to less than \$50M	21	\$19,667	21 (100%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)

**Exhibit 16—Cost Impacts as a Proportion of Total Revenue for Small Entities under
NAICS 541310**

NAICS 541310, Architectural Services								
Revenue Size	Total Number of Employers	Average Cost Impact per Employer	<1%	1% - <3%	>3%	3% - <5%	5% - 10%	>10%
Less than \$1M	54	\$16,361	8 (15%)	17 (31%)	29 (54%)	18 (33%)	6 (11%)	5 (9%)
\$1M to less than \$5M	103	\$14,277	69 (67%)	34 (33%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)
\$5M to less than \$10M	40	\$13,951	40 (100%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)
\$10M to less than \$50M	13	\$15,912	13 (100%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)

**Exhibit 17—Cost Impacts as a Proportion of Total Revenue for Small Entities under
NAICS 541330**

NAICS 541330, Engineering Services								
Revenue Size	Total Number of Employers	Average Cost Impact per Employer	<1%	1% - <3%	>3%	3% - <5%	5% - 10%	>10%
Less than \$1M	81	\$33,675	5 (6%)	25 (31%)	51 (63%)	18 (22%)	15 (19%)	18 (22%)
\$1M to less than \$5M	185	\$23,776	122 (66%)	52 (28%)	11 (6%)	5 (3%)	5 (3%)	1 (1%)
\$5M to less than \$10M	118	\$24,004	107 (91%)	10 (8%)	1 (1%)	1 (1%)	0 (0%)	0 (0%)
\$10M to less than \$50M	149	\$25,990	146 (98%)	3 (2%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)

**Exhibit 18—Cost Impacts as a Proportion of Total Revenue for Small Entities under
NAICS 541511**

NAICS 541511, Custom Computer Programming Services								
Revenue Size	Total Number of Employers	Average Cost Impact per Employer	<1%	1% - <3%	>3%	3% - <5%	5% - 10%	>10%
Less than \$1M	1509	\$70,698	39 (3%)	98 (6%)	1372 (91%)	151 (10%)	299 (20%)	922 (61%)
\$1M to less than \$5M	1382	\$77,256	345 (25%)	503 (36%)	534 (39%)	202 (15%)	204 (15%)	128 (9%)
\$5M to less than \$10M	587	\$78,795	364 (62%)	176 (30%)	47 (8%)	32 (5%)	12 (2%)	3 (1%)
\$10M to less than \$50M	512	\$80,095	446 (87%)	53 (10%)	13 (3%)	10 (2%)	3 (1%)	0 (0%)

**Exhibit 19—Cost Impacts as a Proportion of Total Revenue for Small Entities under
NAICS 541512**

NAICS 541512, Computer Systems Design Services								
Revenue Size	Total Number of Employers	Average Cost Impact per Employer	<1%	1% - <3%	>3%	3% - <5%	5% - 10%	>10%
Less than \$1M	165	\$50,563	7 (4%)	19 (12%)	139 (84%)	23 (14%)	35 (21%)	81 (49%)
\$1M to less than \$5M	184	\$59,240	61 (33%)	78 (42%)	45 (24%)	20 (11%)	17 (9%)	8 (4%)
\$5M to less than \$10M	80	\$47,885	67 (84%)	9 (11%)	4 (5%)	3 (4%)	0 (0%)	1 (1%)
\$10M to less than \$50M	88	\$38,912	86 (98%)	1 (1%)	1 (1%)	1 (1%)	0 (0%)	0 (0%)

**Exhibit 20—Cost Impacts as a Proportion of Total Revenue for Small Entities under
NAICS 541519**

NAICS 541519, Other Computer Related Services								
Revenue Size	Total Number of Employers	Average Cost Impact per Employer	<1%	1% - <3%	>3%	3% - <5%	5% - 10%	>10%
Less than \$1M	94	\$52,379	6 (6%)	9 (10%)	79 (84%)	14 (15%)	16 (17%)	49 (52%)
\$1M to less than \$5M	100	\$57,634	36 (36%)	40 (40%)	24 (24%)	10 (10%)	3 (3%)	11 (11%)
\$5M to less than \$10M	34	\$61,824	24 (71%)	8 (24%)	2 (6%)	1 (3%)	1 (3%)	0 (0%)
\$10M to less than \$50M	60	\$72,652	55 (92%)	4 (7%)	1 (2%)	0 (0%)	1 (2%)	0 (0%)

**Exhibit 21—Cost Impacts as a Proportion of Total Revenue for Small Entities under
NAICS 541714**

NAICS 541714, Research and Development in Bio-technology (except Nanobiotechnology)								
Revenue Size	Total Number of Employers	Average Cost Impact per Employer	<1%	1% - <3%	>3%	3% - <5%	5% - 10%	>10%
Less than \$1M	29	\$14,063	8 (28%)	7 (24%)	14 (48%)	5 (17%)	3 (10%)	6 (21%)
\$1M to less than \$5M	30	\$16,190	21 (70%)	9 (30%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)
\$5M to less than \$10M	25	\$20,583	25 (100%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)
\$10M to less than \$50M	41	\$29,852	41 (100%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)
\$40M to less than \$100M	16	\$26,027	16 (100%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)
\$100M or more	36	\$27,316	36 (100%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)

Exhibit 23—Cost Impacts as a Proportion of Total Revenue for Small Entities under Other NAICS

Other NAICS								
Revenue Size	Total Number of Employers	Average Cost Impact per Employer	<1%	1% - <3%	>3%	3% - <5%	5% - 10%	>10%
Less than \$1M	1387	\$24,919	148 (11%)	354 (26%)	885 (64%)	272 (20%)	267 (19%)	346 (25%)
\$1M to less than \$5M	2123	\$23,956	1330 (63%)	665 (31%)	128 (6%)	66 (3%)	33 (2%)	29 (1%)
\$5M to less than \$10M	930	\$22,313	888 (95%)	36 (4%)	6 (1%)	3 (0%)	3 (0%)	0 (0%)
\$10M to less than \$50M	1643	\$23,738	1628 (99%)	12 (1%)	3 (0%)	2 (0%)	0 (0%)	1 (0%)
\$40M to less than \$100M	335	\$21,532	335 (100%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)
\$100M or more	786	\$30,244	786 (100%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)

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6. Relevant Federal Rules Duplicating, Overlapping, or Conflicting With the NPRM

When creating the H–1B, H–1B1, and E–3 temporary nonimmigrant and permanent immigrant visa classifications, Congress charged the Department with, among other things, a unique responsibility to regulate the employment of nonimmigrant and immigrant alien workers to guard against adverse impact on the wages of workers in the United States similarly employed. Thus, the applicable statutes delegate broad discretion to the Department in determining the sources and methods that best allows it to meet this unique statutory mandate, which this NPRM proposes through revisions to the computation of prevailing wage levels applicable only to employers seeking temporary labor condition application under the H–1B, H–1B1, and E–3 visa classifications and permanent labor certification for skilled and unskilled immigrant employment in the United States. The Department recognizes that the recently published DHS H–1B rule ²⁵⁰ also governs alien workers employed by small businesses, and that there is overlap between these rules. However, there is no conflict between the standards proposed in this NPRM and other Federal rules; rather, each rule addresses distinct aspects of the foreign labor certification and visa process within its respective statutory and regulatory authority.

7. Alternative to the Proposed Rule

In developing this NPRM, the Department considered several alternative approaches to revising the prevailing wage level methodology for the H–1B, H–1B1, E–3, and PERM programs. Each alternative was evaluated for its consistency with the Department’s statutory obligations under the INA, its responsiveness to the policy direction set forth in the Presidential Proclamation issued on September 19, 2025, and its administrative feasibility and legal defensibility. Ultimately, the Department determined that the approach adopted in this NPRM—setting wage levels at the 34th, 52nd, 70th, and 88th percentiles—strikes the most appropriate balance between strengthening wage protections and minimizing disruption. However, the Department considered and declined to adopt the following two alternatives.

First, the Department considered removing the option for employers to use private wage surveys and requiring all prevailing wage determinations to rely solely on the Bureau of Labor Statistics’ Occupational Employment and Wage Statistics (OEWS) survey. This alternative would create a single streamlined source for prevailing wages, reducing administrative complexity and compliance costs—particularly for small businesses—by eliminating expenses associated with commissioning, validating, and submitting private surveys. While private surveys were originally permitted to provide flexibility where government data lacked granularity, OEWS now offers comprehensive coverage, making that justification less compelling. Continuing to allow private surveys introduces unnecessary complexity and disproportionate costs for small entities.

By standardizing wage determinations through OEWS, this alternative would minimize economic burden compared to the NPRM, which retains multiple permissible wage sources. Cost savings would primarily result from avoided survey procurement and legal review fees, which can range from hundreds to thousands of dollars per application. However, the Department ultimately rejected this alternative because it would remove employer flexibility in rare cases where OEWS data may not fully capture specialized labor markets.

Second, the Department considered replacing area-specific prevailing wages with a national wage standard for each occupational classification. This alternative was prompted by the structural shift toward remote and hybrid work arrangements, particularly in high-skill sectors where geographic location is increasingly decoupled from labor market dynamics. A national wage standard could simplify compliance, reduce administrative burdens, and better reflect the realities of a nationalized labor market. However, this approach relies on key assumptions and introduces uncertainties that warrant discussion. For example, it assumes that remote work will continue to expand at current rates and that geographic wage differentials will diminish over time. It also assumes that employers in lower-cost regions could absorb higher wage requirements without significant reductions in hiring or shifts in business models. These assumptions are subject to uncertainty given potential changes in remote work trends, employer practices, and statutory interpretations. The Department declined to adopt this approach due to the statutory requirement that prevailing wages be based on the “area of intended

²⁵⁰ Department of Homeland Security. (2025, December 29). Weighted Selection Process for Registrants and Petitioners Seeking To File Cap-Subject H–1B Petitions. 90 FR 60864. [CIS No. 2847–26; DHS Docket No. USCIS–2025–0040].

employment,” as well as the need for further stakeholder engagement and legal analysis. The Department may revisit this alternative in future rulemakings as remote work trends continue to evolve.

Third, in response to concerns about the economic impact of the proposed rule on small businesses and non-profits, the Department considered an alternative that would delay implementation of the new prevailing wage requirements for these entities by two years, allowing them to spread the additional costs of recruiting and retaining H-1B workers—including higher prevailing wage standards and increased USCIS application fees—over a longer period. However, the Department chose not to pursue this approach because the revised wage standards apply only to new Labor Condition Applications (LCAs) and PERM applications, not to renewals or existing certifications, thereby limiting the impact to new hires going forward. Moreover, delaying implementation for small entities would allow new hires at these organizations to persist under a prevailing wage methodology that has been shown to set wage standards too low, potentially resulting in some workers being underpaid simply because they work for small businesses or non-profits. The Department is committed to ensuring that all workers, regardless of employer size, are paid wages that reflect statutory requirements and labor market realities, and therefore determined that a delayed implementation for small entities would not be consistent with its statutory mandate to protect U.S. workers and ensure fair wage standards across all employers.

The Department welcomes commenter feedback on these regulatory alternatives and invites suggestions for any other regulatory alternatives that commenters believe would be feasible and appropriate.

D. Review Under the Paperwork Reduction Act

The purpose of the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.*, includes minimizing the paperwork burden on affected entities. The PRA requires certain actions before an agency can adopt or revise a collection of information, including publishing for public comment a summary of the collection of information and a brief description of the need for and proposed use of the information.

As part of its continuing effort to reduce paperwork and respondent burden, the Department conducts a

preclearance consultation program to provide the public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the PRA. *See* 44 U.S.C. 3506(c)(2)(A). This activity helps to ensure that the public understands the Department’s collection instructions, respondents can provide the requested data in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the Department can properly assess the impact of collection requirements on respondents.

A Federal agency may not conduct or sponsor a collection of information unless it is approved by the Office of Management and Budget (OMB) under the PRA and it displays a currently valid OMB control number. The public is also not required to respond to a collection of information unless it displays a currently valid OMB control number. In addition, notwithstanding any other provisions of law, no person would be subject to penalty for failing to comply with a collection of information if the collection of information does not display a currently valid OMB control number (44 U.S.C. 3512).

The Department has determined that the changes proposed in this NPRM to the computation of the prevailing wage levels, which are based on existing data collected under the OEWS survey by the Bureau of Labor Statistics, do not require a collection of information subject to approval by OMB under the PRA, or affect any existing collections of information. Thus, the Department is not seeking changes to the information collections covered under the Application for Prevailing Wage Determination, OMB Control Number 1205–0508, Labor Condition Application for Nonimmigrant Workers, OMB Control Number 1205–0310, or Application for Permanent Employment Certification, OMB Control Number 1205–0451, which would not require soliciting public comments in order to seek OMB approval of any clarifying changes and de minimis adjustment to the burden that the proposed changes might cause to existing information collection tools covered under these control numbers.

E. Review Under Executive Order 13132

E.O. 13132, *Federalism*, 64 FR 43255 (Aug. 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The E.O. requires agencies to examine the

constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The E.O. also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.

The Department has examined this NPRM and has determined that it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments)

The Department has reviewed this NPRM in accordance with E.O. 13175 and has determined that it does not have tribal implications. This proposed rule does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and tribal governments.

G. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of E.O. 12988, “Civil Justice Reform,” imposes on Federal agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity, (2) write regulations to minimize litigation, (3) provide a clear legal standard for affected conduct rather than a general standard, and (4) promote simplification and burden reduction. 61 FR 4729 (Feb. 7, 1996). Regarding the review required by section 3(a), section 3(b) of E.O. 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) clearly specifies the preemptive effect, if any, (2) clearly specifies any effect on existing Federal law or regulation, (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction, (4) specifies the retroactive effect, if any, (5) adequately defines key terms, and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General.

Section 3(c) of E.O. 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. The Department has completed the required review and determined that, to the extent permitted by law, this NPRM meets the relevant standards of E.O. 12988.

H. Review Under the Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4, codified at 2 U.S.C. 1501 *et seq.*) is intended, among other things, to curb the practice of imposing unfunded Federal mandates on state, local, and tribal governments. UMRA requires Federal agencies to assess a regulation's effects on state, local, and tribal governments, as well as on the private sector, except to the extent the regulation incorporates requirements specifically set forth in law. Title II of the UMRA requires each Federal agency to prepare a written statement assessing the effects of any regulation that includes any Federal mandate in a proposed or final agency rule that may result in \$100 million or more expenditure (adjusted annually for inflation) in any one year by state, local, and tribal governments, in the aggregate, or by the private sector. A Federal mandate is any provision in a regulation that imposes an enforceable duty upon State, local, or tribal governments, or upon the private sector, except as a condition of Federal assistance or a duty arising from participation in a voluntary Federal program.

The Department examined this proposed NPRM according to UMRA and its statement of policy and determined that this rule does not contain a Federal intergovernmental mandate, nor is it expected to require expenditures of \$100 million or more in any one year by state, local, and tribal governments, in the aggregate. However, due to effects on the (or by the) private sector, the analytical requirements of UMRA apply; for relevant analysis, please see section III.A, above.

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, *Governmental Actions and Interference with Constitutionally Protected Property Rights*, 53 FR 8859 (Mar. 18, 1988), the Department has determined that this NPRM would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This NPRM would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, the Department has concluded that it is not necessary to prepare a Family Policymaking Assessment.

K. Review Under the Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002). The Department has reviewed this NPRM under the OMB guidelines and has concluded that it is consistent with applicable policies in those guidelines.

List of Subjects

20 CFR Part 655

Administrative practice and procedure, Alien workers, Australia, Chile, Employment, Employment and training, Enforcement, Immigration, Singapore, Temporary labor, Unemployment, Wages, Working conditions.

20 CFR Part 656

Administrative practice and procedure, Alien workers, Employment, Employment and training, Enforcement, Immigration, Permanent labor, Unemployment, Wages, Working conditions.

Department of Labor

For the reasons stated in the preamble, the DOL proposes to amend parts 655 and 656 of Chapter V, Title 20, Code of Federal Regulations, as follows:

PART 655—TEMPORARY EMPLOYMENT OF FOREIGN WORKERS IN THE UNITED STATES

■ 1. The authority citation for part 655 will be revised to read as follows:

Authority: Section 655.0 issued under 8 U.S.C. 1101(a)(15)(E)(iii), 1101(a)(15)(H)(i) and (ii), 8 U.S.C. 1103(a)(6), 1182(m), (n), (p), and (t), 1184(c), (g), and (j), 1188, and 1288(c) and (d); sec. 3(c)(1), Pub. L. 101–238, 103

Stat. 2099, 2102 (8 U.S.C. 1182 note); sec. 221(a), Pub. L. 101–649, 104 Stat. 4978, 5027 (8 U.S.C. 1184 note); sec. 303(a)(8), Pub. L. 102–232, 105 Stat. 1733, 1748 (8 U.S.C. 1101 note); sec. 323(c), Pub. L. 103–206, 107 Stat. 2428; sec. 412(e), Pub. L. 105–277, 112 Stat. 2681 (8 U.S.C. 1182 note); sec. 2(d), Pub. L. 106–95, 113 Stat. 1312, 1316 (8 U.S.C. 1182 note); 29 U.S.C. 49k; Pub. L. 107–296, 116 Stat. 2135, as amended; Pub. L. 109–423, 120 Stat. 2900; 8 CFR 214.2(h)(4)(i); 8 CFR 214.2(h)(6)(iii); and sec. 6, Pub. L. 115–218, 132 Stat. 1547 (48 U.S.C. 1806).

Subpart A issued under 8 CFR 214.2(h).

Subpart B issued under 8 U.S.C.

1101(a)(15)(H)(ii)(a), 1184(c), and 1188; and 8 CFR 214.2(h).

Subpart E issued under 48 U.S.C. 1806.

Subparts F and G issued under 8 U.S.C. 1288(c) and (d); sec. 323(c), Pub. L. 103–206, 107 Stat. 2428; and 28 U.S.C. 2461 note, Pub. L. 114–74 at section 701.

Subparts H and I issued under 8 U.S.C. 1101(a)(15)(H)(i)(b) and (b)(1), 1182(n), (p), and (t), and 1184(g) and (j); sec. 303(a)(8), Pub. L. 102–232, 105 Stat. 1733, 1748 (8 U.S.C. 1101 note); sec. 412(e), Pub. L. 105–277, 112 Stat. 2681; 8 CFR 214.2(h); and 28 U.S.C. 2461 note, Pub. L. 114–74 at section 701.

Subparts L and M issued under 8 U.S.C. 1101(a)(15)(H)(i)(c) and 1182(m); sec. 2(d), Pub. L. 106–95, 113 Stat. 1312, 1316 (8 U.S.C. 1182 note); Pub. L. 109–423, 120 Stat. 2900; and 8 CFR 214.2(h).

■ 2. Amend § 655.731 by proposing revisions to paragraphs (a)(2)(ii), (a)(2)(ii)(A), and (a)(2)(ii)(A)(2) to read as follows:

§ 655.731 What is the first LCA requirement, regarding wages?

* * * * *

(a) * * * *

(2) * * *

(ii) If the job opportunity is not covered by paragraph (a)(2)(i) of this section, the prevailing wage shall be based on the wages of workers similarly employed as determined by the wage component of the Bureau of Labor Statistics (BLS) Occupational Employment and Wage Statistics Survey (OEWS) in accordance with 20 CFR 656.40(b)(2)(i); a current wage as determined in the area under the Davis–Bacon Act, as amended, 40 U.S.C. 3141 *et seq.* (see 29 CFR part 1), or the McNamara–O'Hara Service Contract Act of 1965, as amended, 41 U.S.C. 6701 *et seq.* (see 29 CFR part 4); an independent authoritative source in accordance with paragraph (a)(2)(ii)(B) of this section; or another legitimate source of wage data in accordance with paragraph (a)(2)(ii)(C) of this section. If an employer uses an independent authoritative source or other legitimate source of wage data, the prevailing wage shall be the arithmetic mean of the wages of workers similarly employed, except that the prevailing wage shall be

the median when provided by paragraphs (a)(2)(ii)(A), (b)(3)(iii)(B)(2), and (b)(3)(iii)(C)(2) of this section. The prevailing wage rate shall be based on the best information available. The following prevailing wage sources may be used:

(A) *OFLC National Processing Center (NPC) determination.* The NPC shall receive and process prevailing wage determination requests in accordance with these regulations and Department guidance. Upon receipt of a written request for a PWD, the NPC will determine whether the occupation is covered by a collective bargaining agreement which was negotiated at arm's length, and, if not, determine the wages of workers similarly employed using the wage component of the BLS OEWS and selecting an appropriate wage level in accordance with 20 CFR 656.40(b)(2)(i), unless the employer provides an acceptable survey. The NPC shall determine the wage in accordance with secs. 212(n), 212(p), and 212(t) of the INA and in a manner consistent with 20 CFR 656.40(b)(2). If an acceptable employer-provided wage survey provides an arithmetic mean then that wage shall be the prevailing wage; if an acceptable employer-provided wage survey provides a median and does not provide an arithmetic mean, the median shall be the prevailing wage applicable to the employer's job opportunity. In making a PWD, the NPC will follow 20 CFR 656.40 and other administrative guidelines or regulations issued by ETA. The NPC shall specify the validity period of the PWD, which in no event shall be for less than 90 days or more than 1 year from the date of the determination.

(1) * * *

(2) If the employer is unable to wait for the NPC to produce the requested prevailing wage for the occupation in question, or for the CO and/or the BALCA to issue a decision, the employer may rely on other legitimate sources of available wage information as set forth in paragraphs (a)(2)(ii)(B) and (C) of this section. If the employer later discovers, upon receipt of the PWD from the NPC, that the information relied upon produced a wage below the final PWD and the employer was not paying the NPC-determined wage, no wage violation will be found if the employer retroactively compensates the H-1B nonimmigrant(s) for the difference between the wage paid and the prevailing wage, within 30 days of the employer's receipt of the PWD.

* * * * *

PART 656—LABOR CERTIFICATION PROCESS FOR PERMANENT EMPLOYMENT OF ALIENS IN THE UNITED STATES

■ 3. The authority citation for part 656 will be revised to read as follows:

Authority: 8 U.S.C. 1182(a)(5)(A), 1182(p); sec. 122, Pub. L. 101–649, 109 Stat. 4978; and Title IV, Pub. L. 105–277, 112 Stat. 2681.

■ 4. Amend § 656.40 by proposing revisions to paragraphs (a), (b)(2), and (b)(3), and by adding paragraphs (b)(2)(i), (b)(2)(i)(A), (b)(2)(i)(B), (b)(2)(i)(C), (b)(2)(i)(D), and (b)(2)(ii) to read as follows:

§ 656.40 Determination of prevailing wage for labor certification purposes.

* * * * *

(a) *Application process.* The employer must request a PWD from the NPC, on a form or in a manner prescribed by OFLC. The NPC shall receive and process prevailing wage determination requests in accordance with these regulations and Department guidance. The NPC would provide the employer with an appropriate prevailing wage rate. The NPC shall determine the wage in accordance with sec. 212(p) of the INA. Unless the employer chooses to appeal the center's PWD under § 656.41(a) of this part, it files the Application for Permanent Employment Certification either electronically or by mail with the NPC and maintains the PWD in its files. The determination shall be submitted to the CO, if requested.

(b) * * *

(2) If the job opportunity is not covered by a CBA, the prevailing wage for labor certification purposes shall be based on the wages of workers similarly employed using the wage component of the Bureau of Labor Statistics (BLS) Occupational Employment and Wage Statistics Survey (OEWS) in accordance with subparagraph (b)(2)(i), unless the employer provides an acceptable survey under paragraphs (b)(3) and (g) of this section or elects to utilize a wage permitted under paragraph (b)(4) of this section.

(i) The BLS shall provide the OFLC Administrator with the OEWS wage data by occupational classification and geographic area, which is computed and assigned at levels set commensurate with the education, experience, and level of supervision of similarly employed workers, as determined by the Department. Based on this requirement, the prevailing wage shall be provided by the OFLC Administrator at four levels:

(A) The Level I Wage shall be computed as the thirty-fourth percentile of the OEWS wage distribution and

assigned for the most specific occupation and geographic area available.

(B) The Level II Wage shall be determined by first dividing the difference between Levels I and IV by three and then adding the quotient to the computed value for Level I and assigned for the most specific occupation and geographic area available.

(C) The Level III Wage shall be determined by first dividing the difference between Levels I and IV by three and then subtracting the quotient from the computed value for Level IV and assigned for the most specific occupation and geographic area available.

(D) The Level IV Wage shall be computed as the eighty-eighth percentile of the OEWS wage distribution and assigned for the most specific occupation and geographic area available. Where the Level IV Wage cannot be computed due to wage values exceeding the uppermost interval of the OEWS wage interval methodology, the OFLC Administrator shall determine the Level IV Wage using the current hourly wage rate applicable to the highest OEWS wage interval for the specific occupation and geographic area, or the arithmetic mean of the wages of all workers for the most specific occupation and geographic area available, whichever is highest.

(ii) The OFLC Administrator will publish, at least once in each calendar year, on a date to be determined by the OFLC Administrator, the prevailing wage levels under paragraph (b)(2)(i) of this section as a notice posted on the OFLC website.

(3) If the employer provides a survey acceptable under paragraph (g) of this section, the prevailing wage for labor certification purposes shall be the arithmetic mean of the wages of workers similarly employed in the area of intended employment. If an otherwise acceptable survey provides a median and does not provide an arithmetic mean, the prevailing wage applicable to the employer's job opportunity shall be the median of the wages of workers similarly employed in the area of intended employment.

* * * * *

Susan Frazier,

Principal Deputy Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2026–06017 Filed 3–26–26; 8:45 am]

BILLING CODE 4510–FP–P



FEDERAL REGISTER

Vol. 91

Friday,

No. 59

March 27, 2026

Part VI

The President

Proclamation 11018—Greek Independence Day: A National Day of Celebration of Greek and American Democracy, 2026

Proclamation 11019—National Agriculture Day, 2026

Executive Order 14397—Further Continuance of the Federal Emergency Management Agency Review Council

Notice of March 24, 2026—Continuation of the National Emergency With Respect to Significant Malicious Cyber-Enabled Activities

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Presidential Documents

Title 3—

Proclamation 11018 of March 24, 2026

The President

Greek Independence Day: A National Day of Celebration of Greek and American Democracy, 2026

By the President of the United States of America

A Proclamation

This Greek Independence Day, we commemorate the wisdom and resolve of the Greek people, who cast off the chains of despotism, renewed the promise of freedom first born on their ancient soil, and reasserted their rightful place as the cradle of Western civilization.

Long before our Nation took up the torch of liberty 250 years ago, the miracle of self-government first dawned in Greece, where citizens were granted a direct voice in the destiny of their country. This spirit sustained the Greek people through centuries of occupation and hardship at the hands of foreign rulers. With rugged bravery, pride in their past, and confidence in their future, they launched a revolution on March 25, 1821, embarking on a noble crusade that shattered the chains of authoritarian rule that had bound them for centuries. For almost a decade, their freedom was successfully forged in the fiery heat of conflict and sacrifice, sustained by their faith in the timeless truth that every nation is endowed with the right to self-determination.

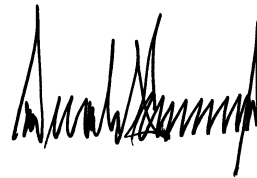
Like Greece, the United States was born in the tradition of republican self-rule and is sustained by citizens who believe that life, liberty, and the pursuit of happiness are our sacred birthright. The histories of our two nations testify that an oppressed people will endure any trial to establish a truly just government, defend their inheritance at all costs, and secure the blessings of liberty for themselves and their children.

Today, the Greek American community enriches the story of our Nation through their enterprise, faith in God, and unyielding passion for the principles that have defined the American way of life since 1776. Greece stands shoulder to shoulder with the United States in our values, our commitment to the defense of our Western ideals, and our devotion to the cause of peace throughout the world.

As America marks 250 glorious years of independence, we draw inspiration from the example of the Greek people who refused to surrender their sovereignty and preserved the flame of self-government. Together, our two nations are allies in freedom, united by history, tested by struggle, and confident in the promise of a radiant future. On this 205th Greek Independence Day, we celebrate that enduring spirit, which first stirred in Athens and inspired our Founding Fathers in Philadelphia, whose genius and devotion to the cause of human freedom will never cease to inspire people on both sides of the Atlantic.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim March 25, 2026, as Greek Independence Day: A National Day of Celebration of Greek and American Democracy. I call upon the people of the United States to observe this day with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fourth day of March, in the year of our Lord two thousand twenty-six, and of the Independence of the United States of America the two hundred and fiftieth.

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[FR Doc. 2026-06073

Filed 3-26-26; 11:15 am]

Billing code 3395-F4-P

Presidential Documents

Proclamation 11019 of March 24, 2026

National Agriculture Day, 2026

By the President of the United States of America

A Proclamation

For 250 years, hardworking farmers, ranchers, and growers have nurtured our Nation's abundant resources—feeding families, fueling communities, and sustaining the American people throughout every chapter of our national story. Today and every day, we honor the agricultural community for their deep connection to our land and steadfast commitment to shaping our prosperity, preserving our heritage, and strengthening our way of life.

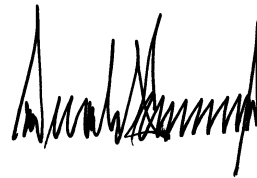
Our Nation's farmers and ranchers have always been deeply devoted to the American promise. Their lives are rooted in the sacred American principles of hard work, determination, and stewardship of our most precious resources. For generations, they have risen before dawn to invest in their communities and care for God's glorious creation. That commitment is visible everywhere—in the rows of crops stretching across the horizon, at farmers markets in small towns and big cities alike, and at dinner tables across America and around the world.

Under my leadership, we are making landmark investments to empower farmers to Make America Healthy Again by improving soil health, enhancing water quality, and strengthening our food and fiber supply—all while boosting long-term efficiency. We are forging a prosperous future defined by fair trade, new markets for homegrown commodities, and enhanced supply chain resilience to protect our Nation's most cherished resources. We are also putting an end to the era of excessive regulations that have stifled productivity, increased equipment costs, and left American farmers and ranchers behind. And to further support our incredible farmers, I proudly delivered over \$40 billion in assistance after they endured years of unfair trade practices from foreign countries and failed policies from the previous administration. I will never waver in putting American farmers, American families, and the American people first.

As the great President George Washington said in his eighth annual message to the Congress, "It will not be doubted, that with reference either to individual or national welfare, agriculture is of primary importance." This National Agriculture Day, we carry forward this commitment to the farmers, ranchers, growers, producers, and foresters who feed our Nation, fuel our prosperity, and sustain our glorious way of life.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim March 24, 2026, as National Agriculture Day. I encourage all Americans to observe this day by recognizing the preeminent role that agriculture plays in our daily lives, acknowledging agriculture's continuing importance to rural America and our country's economy, and expressing our deep appreciation of farmers, growers, ranchers, producers, national forest system stewards, private agricultural stewards, and those who work in the agriculture sector across the Nation.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fourth day of March, in the year of our Lord two thousand twenty-six, and of the Independence of the United States of America the two hundred and fiftieth.

A handwritten signature in black ink, appearing to be "Donald Trump", located in the lower right quadrant of the page.

[FR Doc. 2026-06074

Filed 3-26-26; 11:15 am]

Billing code 3395-F4-P

Presidential Documents

Executive Order 14397 of March 24, 2026

Further Continuance of the Federal Emergency Management Agency Review Council

By the authority vested in me as President by the Constitution and the laws of the United States of America, and consistent with chapter 10 of title 5, United States Code (commonly known as the Federal Advisory Committee Act), it is hereby ordered:

Section 1. The Federal Emergency Management Agency Review Council, established by Executive Order 14180 of January 24, 2025 (Council to Assess the Federal Emergency Management Agency), and continued by Executive Order 14378 of January 23, 2026 (Continuance of the Federal Emergency Management Agency Review Council), is further continued until 10 days after the report required under section 3(c) of Executive Order 14180 is submitted to the President, or May 29, 2026, whichever occurs first.

Sec. 2. Notwithstanding the provisions of any other Executive Order, the functions of the President under the Federal Advisory Committee Act that are applicable to the Federal Emergency Management Agency Review Council shall be performed by the Secretary of Homeland Security, in accordance with the regulations, guidelines, and procedures established by the Administrator of General Services.

Sec. 3. Sections 1 and 2 of Executive Order 14378 are hereby superseded by sections 1 and 2 of this order.

Sec. 4. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

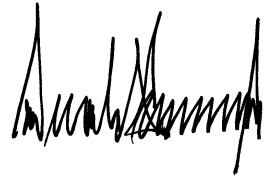
(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) The costs for publication of this order shall be borne by the Department of Homeland Security.

A handwritten signature in black ink, appearing to be "Donald Trump", located in the upper right quadrant of the page.

THE WHITE HOUSE,
March 24, 2026.

Presidential Documents

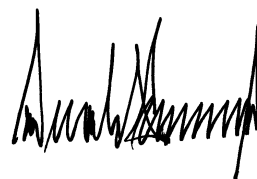
Notice of March 24, 2026

Continuation of the National Emergency With Respect to Significant Malicious Cyber-Enabled Activities

On April 1, 2015, by Executive Order 13694, the President declared a national emergency pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States constituted by the increasing prevalence and severity of malicious cyber-enabled activities originating from, or directed by persons located, in whole or in substantial part, outside the United States. The President issued Executive Order 13757 of December 28, 2016, Executive Order 13984 of January 19, 2021, Executive Order 14110 of October 30, 2023 (in relevant part), Executive Order 14144 of January 16, 2025 (in relevant part), and Executive Order 14306 of June 6, 2025, to take additional steps to address the national emergency declared in Executive Order 13694. Executive Order 14148 of January 20, 2025 (in relevant part), revoked Executive Order 14110.

These significant malicious cyber-enabled activities continue to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. For this reason, the national emergency declared in Executive Order 13694, and with respect to which additional steps were taken in Executive Order 13757, Executive Order 13984, Executive Order 14110 (revoked by Executive Order 14148), Executive Order 14144, and Executive Order 14306, must continue in effect beyond April 1, 2026. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency declared in Executive Order 13694.

This notice shall be published in the *Federal Register* and transmitted to the Congress.



THE WHITE HOUSE,
March 24, 2026.

Presidential Documents

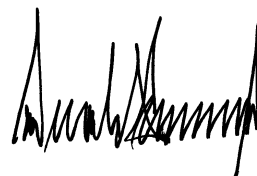
Notice of March 24, 2026

Continuation of the National Emergency With Respect to South Sudan

On April 3, 2014, by Executive Order 13664, the President declared a national emergency pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) to deal with the unusual and extraordinary threat to the national security and foreign policy of the United States constituted by the situation in and in relation to South Sudan, which has been marked by activities that threaten the peace, security, or stability of South Sudan and the surrounding region, including widespread violence and atrocities, human rights abuses, recruitment and use of child soldiers, attacks on peacekeepers, and obstruction of humanitarian operations.

The situation in and in relation to South Sudan continues to pose an unusual and extraordinary threat to the national security and foreign policy of the United States. For this reason, the national emergency declared on April 3, 2014, must continue in effect beyond April 3, 2026. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency declared in Executive Order 13664.

This notice shall be published in the *Federal Register* and transmitted to the Congress.



THE WHITE HOUSE,
March 24, 2026.

Presidential Documents

Notice of March 24, 2026

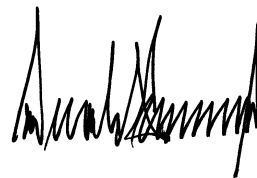
Continuation of the National Emergency With Respect to Specified Harmful Foreign Activities of the Government of the Russian Federation

On April 15, 2021, by Executive Order 14024, the President declared a national emergency pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States constituted by specified harmful foreign activities of the Government of the Russian Federation. On March 8, 2022, the President issued Executive Order 14066 to expand the scope of the national emergency declared in Executive Order 14024. On August 20, 2021, March 11, 2022, April 6, 2022, December 22, 2023, August 6, 2025, and February 6, 2026, the President issued Executive Orders 14039, 14068, 14071, 14114, 14329, and 14384, respectively, to take additional steps with respect to the national emergency declared in Executive Order 14024.

Specified harmful foreign activities of the Government of the Russian Federation—in particular, efforts to undermine the conduct of free and fair democratic elections and democratic institutions in the United States and its allies and partners; to engage in and facilitate malicious cyber-enabled activities against the United States and its allies and partners; to foster and use transnational corruption to influence foreign governments; to pursue extraterritorial activities targeting dissidents or journalists; to undermine security in countries and regions important to United States national security; and to violate well-established principles of international law, including respect for the territorial integrity of states—continue to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. For this reason, the national emergency declared in Executive Order 14024, which was expanded in scope in Executive Order 14066, and with respect to which additional steps were taken in Executive Orders 14039, 14068, 14071, 14114, 14329, and 14384, must continue in effect beyond April 15, 2026.

Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency declared in Executive Order 14024.

This notice shall be published in the *Federal Register* and transmitted to the Congress.

A handwritten signature in black ink, appearing to be a stylized name, possibly "Donald Trump", written in a cursive, slanted style.

THE WHITE HOUSE,
March 24, 2026.

[FR Doc. 2026-06078
Filed 3-26-26; 11:15 am]
Billing code 3395-F4-P

Presidential Documents

Notice of March 24, 2026

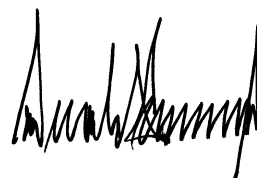
Continuation of the National Emergency With Respect to Trade Practices That Contribute to Large and Persistent Annual United States Goods Trade Deficits

On April 2, 2025, by Executive Order 14257, I declared a national emergency pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) to deal with the unusual and extraordinary threat to the national security and economy of the United States involving conditions reflected in large and persistent annual U.S. goods trade deficits, including the consequences of those deficits.

The President took additional steps pursuant to this national emergency, including in Executive Order 14259 of April 8, 2025; Executive Order 14266 of April 9, 2025; Executive Order 14309 of June 16, 2025; Executive Order 14316 of July 7, 2025; Executive Order 14324 of July 30, 2025; Executive Order 14326 of July 31, 2025; Executive Order 14334 of August 11, 2025; Executive Order 14345 of September 4, 2025; Executive Order 14346 of September 5, 2025; and Executive Order 14360 of November 14, 2025.

The circumstances related to this emergency continue to pose an unusual and extraordinary threat, which has its source in whole or in substantial part outside the United States, to the national security and economy of the United States. For this reason, the national emergency declared in Executive Order 14257 of April 2, 2025, must continue in effect beyond April 2, 2026. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency declared in Executive Order 14257.

This notice shall be published in the *Federal Register* and transmitted to the Congress.



THE WHITE HOUSE,
March 24, 2026.

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