

Rules and Regulations

Federal Register

Vol. 80, No. 135

Wednesday, July 15, 2015

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF TREASURY

Office of the Comptroller of the Currency

12 CFR Part 3

[Docket ID OCC–2014–0025]

RIN 1557–AD88

FEDERAL RESERVE SYSTEM

12 CFR Part 217

[Regulation Q; Docket No. R–1502]

RIN 7100–AE 24

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 324

RIN 3064–AE12

Regulatory Capital Rules: Regulatory Capital, Final Revisions Applicable to Banking Organizations Subject to the Advanced Approaches Risk-Based Capital Rule

AGENCIES: Office of the Comptroller of the Currency, Treasury; the Board of Governors of the Federal Reserve System; and the Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: 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) are adopting a final rule to clarify, correct, and update aspects of the regulatory capital framework applicable to certain large, internationally active banking organizations. The revisions correct technical and typographical errors and clarify certain requirements of the advanced approaches risk-based capital rule based on observations made by the agencies during the parallel run review

process of advanced approaches banking organizations. The corrections also enhance consistency of the agencies' advanced approaches risk-based capital rule with relevant international standards. The agencies proposed these changes in a notice of proposed rulemaking that was published in the **Federal Register** on December 18, 2014. The agencies are now adopting the proposed rule as final with some additional clarifications and amendments.

DATES: This rule is effective on October 1, 2015.

FOR FURTHER INFORMATION CONTACT:

OCC: Margot Schwadron, Senior Risk Expert (202) 649–6982; or Mark Ginsberg, Principal Risk Expert (202) 649–6983, Capital Policy; or Kevin Korzeniewski, Senior Attorney, Legislative and Regulatory Activities Division, (202) 649–5490, for persons who are deaf or hard of hearing, TTY, (202) 649–5597, Office of the Comptroller of the Currency, 400 7th Street SW., Washington, DC 20219.

Board: Constance M. Horsley, Assistant Director, (202) 452–5239; Juan Climent, Manager, (202) 872–7546; Andrew Willis, Supervisory Financial Analyst, (202) 912–4323, Matthew McQueeney, Senior Financial Analyst, (202) 425–2942, or Justyna Milewski, Senior Financial Analyst, (202) 452–3607, Capital and Regulatory Policy, Division of Banking Supervision and Regulation; or Christine Graham, Counsel (202) 452–3005; or David W. Alexander, Counsel (202) 452–2877, Legal Division, Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, DC 20551. For the hearing impaired only, Telecommunication Device for the Deaf (TDD), (202) 263–4869.

FDIC: Bobby R. Bean, Associate Director, bbean@fdic.gov; Ryan Billingsley, Chief, Capital Policy Section, rbillingsley@fdic.gov; or Benedetto Bosco, Capital Markets Policy Analyst, bbosco@fdic.gov; Capital Markets Branch, Division of Risk Management Supervision, (202) 898–6888; or Michael Phillips, Counsel, mphillips@fdic.gov; Rachel Ackmann, Senior Attorney, rackmann@fdic.gov; Supervision Branch, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

I. Background

In 2013, 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) comprehensively revised and strengthened the capital requirements applicable to banking organizations¹ (regulatory capital framework).² Among other changes, the regulatory capital framework revised elements of the advanced approaches risk-based capital rule (advanced approaches rule) now located at subpart E of the agencies' revised regulatory capital framework.³

The advanced approaches rule applies to large, internationally active banking organizations, generally those with \$250 billion or more in total consolidated assets or \$10 billion or more in total on-balance sheet foreign exposure, depository institution subsidiaries of those banking organizations that use the advanced approaches rule, and banking organizations that elect to use the advanced approaches rule (advanced approaches banking organizations).⁴ Before an advanced approaches banking organization may use the advanced approaches rule to determine its risk-based capital requirements, it must conduct a satisfactory parallel run.⁵ After the primary Federal supervisor determines that the banking organization fully complies with all the qualification requirements, has conducted a satisfactory parallel run, and has an adequate process to ensure ongoing compliance, the banking

¹ The term *banking organizations* includes national banks, state member banks, state nonmember banks, savings associations, and top-tier bank holding companies domiciled in the United States not subject to the Board's Small Bank Holding Company Policy Statement (12 CFR part 225, appendix C), as well as top-tier savings and loan holding companies domiciled in the United States, except for certain savings and loan holding companies that are substantially engaged in insurance underwriting or commercial activities.

² The Board and the OCC issued a joint final rule on October 11, 2013 (78 FR 62018) and the FDIC issued a substantially identical interim final rule on September 10, 2013 (78 FR 55340). In April 2014, the FDIC adopted the interim final rule as a final rule with no substantive changes. 79 FR 20754 (April 14, 2014).

³ 12 CFR part 3 (OCC), 12 CFR part 217 (Board), and 12 CFR part 324 (FDIC).

⁴ 12 CFR 3.100(b)(1) (OCC), 12 CFR 217.100(b)(1) (Board), and 12 CFR 324.100(b)(1) (FDIC).

⁵ 12 CFR 3.121(c) (OCC), 12 CFR 217.121(c) (Board), and 12 CFR 324.121(c) (FDIC).

organization will be required to use the advanced approaches rule to calculate its risk-based capital requirements.⁶

An advanced approaches banking organization that is required to calculate its risk-based capital requirements under the advanced approaches rule also must determine its risk-based capital requirements under the standardized approach in subpart D of the agencies' regulatory capital framework.⁷ In accordance with section 171 of the Dodd-Frank Act, the lower ratio (*i.e.*, the more binding ratio) for each risk-based capital requirement is the ratio the banking organization must use for regulatory capital purposes.

II. Proposed Rule and Summary of Comments

In December 2014, the agencies invited comment on a notice of proposed rulemaking designed to clarify, correct, and update aspects of the regulatory capital framework applicable to advanced approaches banking organizations (proposed rule).⁸ The proposed revisions were largely driven by observations made by the agencies during the parallel run review process of advanced approaches banking organizations, and included corrections to typographical and technical errors, clarifications and updates in light of revisions to other rules. The proposed revisions were also intended to enhance consistency of the agencies' advanced approaches rule with relevant international standards.⁹ The proposed amendments affect only those provisions of the revised capital framework that apply to advanced approaches banking organizations.

The agencies received two comment letters on the proposed revisions—one from a financial services trade association, and another from a public advocacy nonprofit organization. The financial services trade association suggested that several of the proposed changes also be applied to the standardized approach. Both commenters expressed views on the proposed treatment of cleared transactions. The financial services trade association suggested that the agencies expand the proposed treatment, while the public advocacy nonprofit organization suggested that the proposed treatment was too

generous. In addition, the public advocacy nonprofit organization disagreed with the proposed exemption for cleared transactions from the higher capital charge applicable to large nettings sets.

III. Overview of the Final Rule

1. Definitions and Applicability

A. Definition of Residential Mortgage Exposure

The proposed rule would have revised the definition of *residential mortgage exposure* in section 2 of the regulatory capital framework to clarify that an advanced approaches banking organization must manage qualifying exposures as part of a segment of exposures with homogenous risk characteristics, and not on an individual basis, for purposes of classifying an exposure as a residential mortgage exposure under the advanced approaches rule. This clarification was consistent with the agencies' intent in adopting the proposed definition of residential mortgage exposure, and with the requirement that an advanced approaches banking organization have an internal system that groups retail exposures into the appropriate retail exposure subcategory and that groups the retail exposures in each retail exposure subcategory into separate segments with homogenous risk characteristics.¹⁰ The agencies did not receive any comments on this part of the proposed rule and are adopting it as final, with a technical edit to correct a grammatical error.

B. Calculation of Total On-Balance Sheet Foreign Exposure

As mentioned above, the advanced approaches rule generally applies to a banking organization with \$250 billion or more in total consolidated assets or \$10 billion or more in on-balance sheet foreign exposure. The proposed rule would have updated the method of calculating on-balance sheet foreign exposure to reference the current line items on the regulatory reporting forms. The agencies did not receive any comments on this part of the proposed rule and are adopting it as final, with a technical edit to update a reference to the Federal Financial Institutions Examination Council (FFIEC) 009 Report instead of referencing the Call Report.

2. Disclosure Requirements

A. Disclosure Requirements for Advanced Approaches Banking Organizations

Section 173 of the regulatory capital framework requires advanced approaches banking organizations that have completed the parallel run process to provide qualitative and quantitative disclosures relating to their capital requirements. The proposed rule would have clarified two items related to disclosure requirements in the advanced approaches rule.

First, the proposed rule would have clarified that an advanced approaches banking organization would be required to disclose information related to external ratings in Table 6 to section 173 only if it considered external ratings in its internal ratings approach. An advanced approaches banking organization that did not use or consider external ratings would not be required to make such a disclosure.

Second, the proposed rule would have updated the disclosure requirement related to securitization exposures in Table 9 to reflect the treatment of credit-enhancing interest only strips (CEIOs) and after-tax gain-on-sale resulting from a securitization. Specifically, CEIOs that do not constitute after-tax gain-on-sale would be risk-weighted at 1,250 percent, and an after-tax gain-on-sale resulting from a securitization would be deducted from common equity tier 1 capital, rather than from tier 1 capital. The agencies did not receive any comments on this part of the proposed rule and are adopting it as final.

B. Application and Disclosure of the Supplementary Leverage Ratio

Advanced approaches banking organizations are subject to the supplementary leverage ratio.¹¹ The agencies proposed to clarify that the supplementary leverage ratio would apply to an advanced approaches banking organization, regardless of whether it had completed its parallel run process. The supplementary leverage ratio described in section 10(c)(4) would begin to apply to a banking organization immediately following the quarter in which the banking organization becomes subject to the advanced approaches rule pursuant to section 100(b)(1) of the advanced approaches rule.

In addition, the agencies proposed to clarify the disclosure requirements

⁶ 12 CFR 3.121(d) (OCC), 12 CFR 217.121(d) (Board), and 12 CFR 324.121(d) (FDIC).

⁷ See 12 CFR part 3.10(c) (OCC); 12 CFR part 217.10(c) (Board); and 12 CFR part 324.10(c) (FDIC).

⁸ See 79 FR 75455 (Dec. 18, 2014).

⁹ See International Convergence of Capital Measurement and Capital Standards: A Revised Framework, (June 2006) <http://www.bis.org/publ/bcbs128.htm>.

¹⁰ See 12 CFR 3.122(b)(3) (OCC), 12 CFR 217.122(b)(3) (Board), and 12 CFR 324.122(b)(3) (FDIC).

¹¹ See section 10(c)(4)(ii) of the regulatory capital framework and 79 FR 57725 (Sept. 26, 2014) (2014 SLR rule).

applicable to advanced approaches banking organizations.¹² The proposed rule clarified that advanced approaches banking organizations, not just top-tier banking organizations, would be required to publicly disclose the supplementary leverage ratio and the components thereof (that is, tier 1 capital and total leverage exposure) on a quarterly basis. A banking organization that qualified as an advanced approaches banking organization before January 1, 2015, would be required to provide these disclosures, beginning with the first quarter in 2015, while a banking organization that qualified as an advanced approaches banking organization on or after January 1, 2015, would be subject to the disclosures beginning with the calendar quarter immediately following the calendar quarter in which the banking organization became an advanced approaches banking organization. For example, a banking organization that becomes subject to the advanced approaches rule as of year-end 2015 would begin disclosing its supplementary leverage ratio and components thereof as of March 31, 2016.

In addition to the disclosure requirements above, the proposed rule clarified that all top-tier¹³ advanced approaches banking organizations, regardless of their parallel run status, would be required to publicly disclose the quantitative information described in Table 13 in section 173 of the advanced approaches rule¹⁴ for twelve consecutive quarters or a shorter period, as applicable, beginning on January 1, 2015. For example, a top-tier banking organization that became an advanced approaches banking organization prior to January 1, 2015 (therefore subject to the supplementary leverage ratio disclosure requirements beginning January 1, 2015), and remains the top-tier banking organization, would publicly disclose supplementary leverage ratio data for one quarter in the first quarterly disclosure of 2015, two quarters in the second quarterly disclosure of 2015, and so on, disclosing twelve quarters of supplementary

leverage ratio data in the quarterly disclosures for the fourth quarter of 2017. The agencies did not receive comments on this part of the proposed rule, and are finalizing it as proposed.

3. Risk Weights for Cleared Transactions

A. Risk Weights for Certain Client Cleared Transactions

The agencies proposed to revise the advanced approaches rule for clearing member banking organizations' exposures to a central counterparty (CCP) where the clearing member does not guarantee the performance of the CCP to the clearing member client. Under the advanced approaches rule, a clearing member banking organization is required to assign a two percent risk weight to the trade exposure amount for a cleared transaction with a qualifying CCP (QCCP), and a risk weight applicable to the CCP under section 32 of the regulatory capital framework for a cleared transaction with a CCP that is not a QCCP. This risk weight is applied when the banking organization is acting as a financial intermediary on behalf of its clearing member client.

The proposed rule would have permitted clearing member banking organizations to assign a zero percent risk weight under the advanced approaches rule to the trade exposure amount of a cleared transaction that arises when a clearing member banking organization does not guarantee the performance of the CCP and has no payment obligation to the clearing member client in the event of a CCP default. The proposed treatment would align the risk-based capital requirements for client-cleared transactions with the treatment under the agencies' 2014 SLR rule.

Both commenters provided views on this provision. The public advocacy nonprofit organization suggested that the agencies not finalize the zero percent risk weight, arguing that it underestimates the clearing member's risk to a CCP default. Conversely, the financial services trade association suggested that the agencies expand the zero percent risk weight to transactions cleared on behalf of clients that would not meet the eligibility criteria in sections 3(a)(3) and (3)(a)(4) of the regulatory capital framework for a cleared transaction, to the extent that the clearing member does not guarantee the performance of the CCP and has no payment obligation to the clearing member client in the event of a CCP default.

The agencies believe that requiring the clearing member banking organization to include in risk-weighted

assets a trade exposure amount for the client-cleared transactions could overstate the clearing member's risk where the clearing member is not contractually obligated to perform on the transaction to its client in the event of a CCP failure. Furthermore, the public advocacy nonprofit commenter's concerns are partially addressed by the additional capital requirement for a clearing member banking organization's exposure to the default fund of a CCP, which considers its capitalization and risk profile, and the nature of its default fund. With respect to the financial services trade association's suggestion to make an exception from the requirements in sections 3(a)(3) and 3(a)(4) of the regulatory capital framework, it is not clear that the risks in transactions where the clearing member advanced approaches banking organization does not guarantee the performance of the CCP are negligible. Thus, the agencies are finalizing the changes to the risk weight for certain client-cleared transactions as proposed.

The financial services trade association also noted that the proposed changes should apply to the standardized approach contained in subpart D of the regulatory capital framework. However, the agencies did not seek comment on revisions to the provisions in the standardized approach, and banking organizations subject to the standardized approach but not to the advanced approaches rule may not have had sufficient notice of the change. Therefore, the agencies are not adopting the change requested by the commenter, but will consider the suggested change in the context of future proposed rulemakings.

B. Margin Period of Risk in the Internal Models Methodology (IMM)

The regulatory capital framework increases the margin period of risk in the IMM for large netting sets, netting sets involving illiquid collateral or over-the-counter (OTC) derivatives that cannot easily be replaced, or netting sets with more than two margin disputes with the counterparty over the previous two quarters that lasted more than the margin period of risk.¹⁵ In the proposed rule, the agencies proposed to clarify that a cleared transaction would be exempt from the higher margin period of risk solely due to the fact that it is part of a large netting set (*i.e.*, a netting set that exceeds 5,000 trades at any time during the previous quarter). A cleared transaction would be subject to the higher margin period of risk if the netting set contained illiquid collateral,

¹² Section 172(d) was added to the regulatory capital framework as part of the 2014 SLR rule.

¹³ Disclosure requirements in section 173 of the advanced approaches rule apply only to banking organizations that are not a consolidated subsidiary of a BHC, covered SLHC, 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.

¹⁴ Table 13 in section 173 of the advanced approaches rule was adopted by the agencies in the 2014 SLR rule.

¹⁵ Section 132(d)(5)(iii)(B).

derivatives that could not easily be replaced, or the banking organization had more than two margin disputes with the counterparty over the previous two quarters that lasted more than the margin period of risk.

The public advocacy nonprofit commenter raised concerns about the exemption of cleared transactions that are part of a large netting set from the twenty business day margin-period-of-risk requirement. However, in the agencies' view, the fact that cleared transactions are part of a large netting set should not automatically subject them to a higher capital requirement. In order for trades to meet the regulatory capital framework's definition of cleared transaction, they must involve a CCP, which facilitates trades between counterparties and has a proven record of being able to efficiently process a large volume of transactions. Furthermore, most types of cleared transactions must meet the operational criteria in section 3(a) of the regulatory capital framework, including the portability requirement in section 3(a)(4). These factors sufficiently mitigate the risk to warrant not applying an increased margin-period-of-risk for a netting set of cleared transactions solely because of the size of the netting set. In addition, this change promotes international regulatory consistency by aligning the advanced approaches rule with international standards regarding the requirements for netting sets containing 5,000 or more cleared transactions. Thus, the agencies are finalizing the changes to the margin period of risk in the IMM as proposed.

C. Collateral Posted by a Clearing Member Client Banking Organization and a Clearing Member Banking Organization

The agencies proposed to correct a cross-reference related to the calculation of exposure for cleared transactions for clearing member banking organizations and for clearing member client banking organizations in section 133 of the regulatory capital framework. Prior to the proposed change, the provisions for measuring the risk-weighted asset amount for posted collateral cross-referenced only to section 131 of the regulatory capital framework, which contained the provisions for risk-weighting wholesale and retail exposures.¹⁶ Because collateral may be in the form of a securitization exposure, equity exposure, or a covered position,

¹⁶ See sections 133(b)(4)(ii) and 133(c)(4)(ii) (rules applicable to clearing member client banking organizations and clearing member banking organizations, respectively).

the proposed change would have replaced the cross-reference to section 131 with a cross-reference to subparts E and F.

The agencies did not receive any comments on this proposed revision to the advanced approaches rule, and are adopting it as final. Notably, the financial services trade association commenter noted that the proposed clarifications should be applied to the standardized approach and suggested that the agencies make a corresponding change to section 35 in subpart D of the regulatory capital framework. However, the agencies did not seek comment on revisions to the standardized approach, and non-advanced approaches banking organizations subject to the standardized approach may not have had sufficient notice of the change. Therefore, the agencies are not adopting the change requested by the commenter, but will consider the suggested change in the context of future proposed rulemakings.

4. Risk Weights for Derivatives

A. Exposure at Default Adjustment for Recognized Credit Valuation Adjustment (CVA)

In calculating risk weights for derivative contracts, banking organizations may use the IMM if they receive approval from their primary Federal supervisor, or they may use the current exposure methodology (CEM). In calculating exposure at default (EAD) for derivative contracts under the IMM, a banking organization may reduce EAD by the CVA that the banking organization has recognized in the fair value of derivative contracts reported on its balance sheet. This adjustment reflects the fair value adjustment for counterparty credit risk in the valuation of the netting set. Under the regulatory capital framework, a banking organization could not make a similar adjustment under the CEM.

In the proposed rule, the agencies proposed to adjust the CEM (section 132(c)(1)) to permit an advanced approaches banking organization to reduce the EAD by the recognized CVA on the balance sheet. The agencies noted that, for purposes of calculating standardized total risk-weighted assets as required under section 10 of the regulatory capital framework, advanced approaches banking organizations would not be permitted to reduce the EAD calculated according to the CEM. The agencies did not receive comment on this proposed revision to the advanced approaches rule and are adopting it as final, with an update in section 132(c)(1) to remove a reference

to section 132(d) and a technical edit in section 132(c)(2) to also permit an adjustment to EAD by the recognized CVA for OTC derivatives subject to a qualifying master netting agreement.

One commenter proposed that the agencies make a corresponding change to the standardized approach and permit banking organizations to reduce the EAD amount for derivative contracts by recognized CVA. The commenter argued that the current treatment under the standardized approach double counts the impact of CVA, and noted that the adjustment to the standardized approach would more closely align the regulatory capital framework with international standards. However, the agencies did not seek comment on revisions to the provisions in the standardized approach, and non-advanced approaches banking organizations subject to the standardized approach may not have had sufficient notice of the change. Therefore, the agencies are not adopting the change requested by the commenter, but will consider the suggested change in the context of future proposed rulemakings.

B. Fair Value of Liabilities due to Changes in the Banking Organization's Own Credit Risk

Section 22 of the regulatory capital framework requires a banking organization to adjust its common equity tier 1 capital for changes in the fair value of liabilities due to changes in the banking organization's own credit risk. The agencies proposed to clarify that, for derivative liabilities, an advanced approaches banking organization would deduct the difference between its credit spread premium and the risk-free rate as part of this adjustment, and not in addition to this adjustment.

The agencies did not receive any comments on this part of the proposed rule and are adopting it as final.

5. Requirements and Mechanics Applicable to Banking Organizations That Use the Advanced Approaches Rule

In February 2014 and in March 2015, the OCC and the Board granted permission to a number of advanced approaches banking organizations to begin calculating their risk-based capital requirements under the advanced approaches rule.¹⁷ During the parallel

¹⁷ Board Press Releases: <http://www.federalreserve.gov/newsevents/press/bcreg/20140221a.htm>, <http://www.federalreserve.gov/newsevents/press/bcreg/20150331a.htm>; OCC Press releases: <http://www.occ.gov/news-issuances/news-releases/2014/nr-ia-2014-21.html>, <http://www.occ.gov/news-issuances/news-releases/2014/nr-ia-2014-21.html>

run evaluation process for advanced approaches banking organizations that are calculating their risk-based capital requirements under the advanced approaches rule, the agencies concluded that several areas of the advanced approaches rule should be revised to (1) clarify the requirements and mechanics for calculating risk-weighted assets under the advanced approaches rule and (2) promote international consistency by more clearly aligning the U.S. regulations with international standards.

Sections 122 and 131 of the regulatory capital framework set forth the qualification requirements for the internal ratings-based approach (IRB) for advanced approaches banking organizations and describe the mechanics for calculating risk-weighted assets for wholesale and retail exposures under the advanced approaches rule. When the agencies initially adopted the advanced approaches rule in 2007,¹⁸ they incorporated these elements into the supervisory review process rather than into the advanced approaches rule. However, the agencies believe that certain elements of sections 122 and 131 of the regulatory capital framework should be clarified to ensure that advanced approaches banking organizations appropriately: (1) Obtain and consider all relevant and material information to estimate probability of default (PD), loss given default (LGD), and EAD; (2) quantify risk parameters for wholesale and retail exposures; and (3) establish internal requirements for collateral and risk management processes.

Accordingly, in the proposed rule, the agencies proposed incorporating new rule text to add specificity and enhance transparency regarding the IRB process and the mechanics used to calculate total wholesale and retail risk-weighted assets. More specifically, the proposed rule would have amended sections 122 and 131 of the regulatory capital framework to clarify requirements associated with: (1) The frequency for reviewing risk rating systems, (2) the independence of the systems' development, design, and implementation, (3) time horizons for default and loss data when estimating risk parameters, (4) changes in advanced approaches banking organizations' lending, payment processing, and account monitoring practices, (5) the use of all relevant available data for assigning risk ratings, and (6) the need for internal requirements for collateral

management and risk management processes. These proposed modifications are consistent with the current overarching principles in sections 122 and 131 of the regulatory capital framework under which advanced approaches banking organizations must have an internal risk rating and segmentation system that accurately and reliably differentiates among degrees of credit risk for wholesale and retail exposures, and must have a comprehensive risk-parameter quantification process that produces accurate, timely, and reliable risk-parameter estimates. The agencies emphasize that the revisions were intended to clarify, but not change, existing requirements. In fact, many of these clarifications in subpart E of the regulatory capital framework are included in agency supervisory guidance and examination materials. Therefore, because they demonstrated that they comply with the existing requirements, advanced approaches banking organizations that have already exited parallel run demonstrated that they met the proposed requirements upon exit. The agencies did not receive any comments on this part of the proposed rule and are adopting the changes as final, with a technical edit to the rule text in section 122(c)(2)(v)(11) to include language that was included in the regulatory capital framework but inadvertently omitted from the proposed revisions.

6. Technical Corrections

In addition to the revisions discussed above, the agencies proposed to make the following technical corrections:

- In section 131(e)(3)(vi), the rule would have been revised to reference section 22(d) and not section 22(a)(7);
- In Table 1 of section 132, the reference in the column heading would have been corrected to state that "Non-sovereign issuers risk weight under this section (in percent)" and "Sovereign issuers risk weight under this section (in percent)" are found in section 32.
- In section 132(d)(7)(iv)(B), the agencies would have revised the rule to reference section 132(b)(2) and not section 131(b)(2);
- In section 132(d)(9)(ii), the agencies would have revised the rule to reference section 132(e)(6) and not section 132(e)(3);
- In section 133(b)(3)(i)(B), the agencies would have revised the rule to reference section 133(b)(3)(i)(A) and not section 132(b)(3)(i)(A); and
- In section 136(e)(2)(i) and 136(e)(2)(ii), the agencies would have revised the rule to reference section

136(e)(1) and (e)(2) and not section 135(e)(1) and (e)(2).

No comments were received on the above proposed technical corrections. The agencies are finalizing these changes as proposed and are correcting an additional internal cross-reference error in section 132 that was identified after the publication of the proposed rule. Specifically, the agencies are amending section 132(d)(2)(iv)(C) to replace the reference to paragraph (d)(5) with the correct reference to paragraph (d)(6).

In addition, the FDIC has added a clarification of its prior **Federal Register** instructions regarding the regulatory capital framework. In its amendatory rule text, the FDIC is clarifying for **Federal Register** publication purposes a certain paragraph of its prompt corrective action (PCA) rules in 12 CFR 324.403(b). The FDIC has provided this clarification to ensure that its PCA rules, as published in the **Federal Register**, are identical to the current PCA rules of the Board and the OCC.

IV. Regulatory Analyses

A. Paperwork Reduction Act (PRA)

In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521) (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 agencies did not receive any comments on the proposed rule related to PRA. The agencies reviewed the final rule and determined that it would not introduce any new collection of information pursuant to the PRA.

B. Regulatory Flexibility Act Analysis

OCC: The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (RFA), requires an agency, in connection with a final rule, to prepare a Final Regulatory Flexibility Analysis describing the impact of the final rule on small entities, or to certify that the final rule would not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, the Small Business Administration (SBA) defines small entities as those with \$550 million or less in assets for commercial banks and savings institutions, and \$38.5 million or less in assets for trust companies.

As described in the **SUPPLEMENTARY INFORMATION** section of the preamble, the final rule would apply only to advanced approaches banking organizations. No OCC-supervised advanced approaches banking organization qualifies as a small

www.occ.gov/news-issuances/news-releases/2015/nr-ia-2015-47.html.

¹⁸ 72 FR 69288 (December 7, 2007).

entity as defined by the SBA. Therefore, the OCC certifies that the final rule will not have a significant economic impact on a substantial number of OCC-supervised small entities.

FDIC: The RFA requires an agency, in connection with a notice of final rulemaking, to prepare a Final Regulatory Flexibility Act analysis describing the impact of the rule on small entities (defined by the SBA for purposes of the RFA to include banking entities with total assets of \$550 million or less) or to certify that the final rule will not have a significant economic impact on a substantial number of small entities.

Using the SBA's size standards, as of March 31, 2015, the FDIC supervised 3,407 small entities. As described in the **SUPPLEMENTARY INFORMATION** section of the preamble, however, the final rule applies only to advanced approaches banking organizations. *Advanced approaches banking organization* is defined to include a state nonmember bank or a state savings association that has, or is a subsidiary of, a bank holding company or savings and loan holding company that has total consolidated assets of \$250 billion or more, total consolidated on-balance sheet foreign exposure of \$10 billion or more, or that has elected to use the advanced approaches framework. As of March 31, 2015, based on a \$550 million threshold, zero (out of 3,119) small state nonmember banks and zero (out of 288) small state savings associations were under the advanced approaches rule. Therefore, the FDIC does not believe that the final rule results in a significant economic impact on a substantial number of small entities under its supervisory jurisdiction.

The FDIC certifies that the final rule does not have a significant economic impact on a substantial number of small FDIC-supervised institutions.

Board: The Board is providing a final regulatory flexibility analysis with respect to this final rule. As discussed above, this final rule would clarify, correct, and update aspects of the agencies' regulatory capital framework applicable to banking organizations that are subject to the advanced approaches rule. The revisions are largely driven by observations made by the agencies during the parallel run review process of advanced approaches banking organizations as well as a recent assessment of the regulatory capital framework.

Under regulations issued by the SBA, a small entity includes a depository institution, bank holding company, or savings and loan holding company with total assets of \$550 million or less (a

small banking organization).¹⁹ As of March 31, 2015, there were approximately 631 small state member banks. As of December 31, 2014, there were approximately 3,833 small bank holding companies and 271 small savings and loan holding companies.

The final rule applies only to advanced approaches banking organizations, which, generally, are banking organizations with total consolidated assets of \$250 billion or more, that have total consolidated on-balance sheet foreign exposure of \$10 billion or more, are a subsidiary of an advanced approaches depository institution, or that elect to use the advanced approaches rule. Currently, no small top-tier bank holding company, top-tier savings and loan holding company, or state member bank is an advanced approaches banking organization, so there would be no additional projected compliance requirements imposed on small bank holding companies, savings and loan holding companies, or state member banks. The Board expects that any small bank holding company, savings and loan holding company, or state member bank that would be covered by this final rule would rely on its parent banking organization for compliance and would not bear additional costs.

The Board is aware of no other Federal rules that duplicate, overlap, or conflict with the final rule. The Board believes that the final rule will not have a significant economic impact on small banking organizations supervised by the Board and therefore believes that there are no significant alternatives to the final rule that would reduce the economic impact on small banking organizations supervised by the Board.

C. OCC Unfunded Mandates Reform Act of 1995 Determination

The OCC analyzed the final rule under the factors set forth in the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1532). Under this analysis, the OCC considered whether the final 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 (\$143 million adjusted for inflation).

The final rule includes clarifications, corrections, and updates for certain aspects of the agencies' regulatory capital framework applicable to national

¹⁹ See 13 CFR 121.201. Effective July 14, 2014, the Small Business Administration revised the size standards for banking organizations to \$550 million in assets from \$500 million in assets. 79 FR 33647 (June 12, 2014).

banks and Federal savings associations subject to the OCC's advanced approaches rule.

Because the final rule is designed to clarify, correct, and update existing rules, and does not introduce any new requirements, the OCC has determined that it would not result in expenditures by State, local, and Tribal governments, or by the private sector, of \$143 million or more.

D. Plain Language

Section 722 of the Gramm-Leach-Bliley Act 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 final rule in a simple and straightforward manner, and did not receive any comments on the use of plain language.

List of Subjects

12 CFR Part 3

Administrative practice and procedure, Capital, National banks, Reporting and recordkeeping requirements, Risk.

12 CFR Part 217

Administrative practice and procedure, Banks, Banking, Capital, Federal Reserve System, Holding companies, 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 common preamble and under the authority of 12 U.S.C. 93a, 1462, 1462a, 1463, 1464, 3907, 3909, 1831o, and 5412(b)(2)(B), the Office of the Comptroller of the Currency amends part 3 of chapter I of title 12, 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, and 5412(b)(2)(B).

■ 2. Section 3.2 is amended by revising the definition of “Residential mortgage exposure” to read as follows:

§ 3.2 Definitions.

* * * * *

Residential mortgage exposure means an exposure (other than a securitization exposure, equity exposure, statutory multifamily mortgage, or presold construction loan):

(1)(i) That is primarily secured by a first or subsequent lien on one-to-four family residential property; or

(ii) With an original and outstanding amount of \$1 million or less that is primarily secured by a first or subsequent lien on residential property that is not one-to-four family; and

(2) For purposes of calculating capital requirements under subpart E of this part, managed as part of a segment of exposures with homogeneous risk characteristics and not on an individual-exposure basis.

* * * * *

■ 3. Section 3.10 is amended by revising paragraph (c) introductory text to read as follows:

§ 3.10 Minimum capital requirements.

* * * * *

(c) *Advanced approaches capital ratio calculations.* An advanced approaches national bank or Federal savings association that has completed the parallel run process and received notification from the OCC pursuant to § 3.121(d) must determine its regulatory capital ratios as described in paragraphs (c)(1) through (3) of this section. An advanced approaches national bank or Federal savings association must determine its supplementary leverage ratio in accordance with paragraph (c)(4) of this section, beginning with the calendar quarter immediately following the quarter in which the national bank or Federal savings association meets any of the criteria in § 3.100(b)(1).

* * * * *

■ 4. Section 3.22 is amended by revising paragraph (b)(1)(iii) to read as follows:

§ 3.22 Regulatory capital adjustments and deductions.

* * * * *

(b) * * *

(1) * * *

(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 must deduct the

difference between its credit spread premium and the risk-free rate for derivatives that are liabilities as part of this adjustment.

* * * * *

■ 5. Section 3.100 is amended by revising paragraph (b)(1)(ii) to read as follows:

§ 3.100 Purpose, applicability, and principle of conservatism.

* * * * *

(b) * * *

(1) * * *

(ii) Has consolidated total on-balance sheet foreign exposure on its most recent year-end Federal Financial Institutions Examination Council (FFIEC) 009 Report equal to \$10 billion or more (where total on-balance sheet foreign exposure equals total foreign countries cross-border claims on an ultimate-risk basis, plus total foreign countries claims on local residents on an ultimate-risk basis, plus total foreign countries fair value of foreign exchange and derivative products), calculated in accordance with the FFIEC 009 Country Exposure Report;

* * * * *

■ 6. Section 3.122 is amended by:

■ a. Revising paragraphs (a)(3) and (b)(1);

■ b. Adding paragraph (b)(2)(iii);

■ c. Revising paragraphs (b)(3) and (5) and (c)(1), (2), (5), and (6);

■ d. Redesignating paragraphs (c)(9) and (10) as paragraphs (c)(10) and (11), revising newly redesignated paragraphs (c)(10) and (11), and adding a new paragraph (c)(9); and

■ e. Revising paragraph (i)(5).

The revisions and additions read as follows:

§ 3.122 Qualification requirements.

(a) * * *

(3) Each national bank or Federal savings association must have an appropriate infrastructure with risk measurement and management processes that meet the qualification requirements of this section and are appropriate given the national bank's or Federal savings association's size and level of complexity. Regardless of whether the systems and models that generate the risk parameters necessary for calculating a national bank's or Federal savings association's risk-based capital requirements are located at any affiliate of the national bank or Federal savings association, the national bank or Federal savings association itself must ensure that the risk parameters and reference data used to determine its risk-based capital requirements are representative of long run experience

with respect to its own credit risk and operational risk exposures.

(b) *Risk rating and segmentation systems for wholesale and retail exposures.* (1)(i) A national bank or Federal savings association must have an internal risk rating and segmentation system that accurately, reliably, and meaningfully differentiates among degrees of credit risk for the national bank's or Federal savings association's wholesale and retail exposures. When assigning an internal risk rating, a national bank or Federal savings association may consider a third-party assessment of credit risk, provided that the national bank's or Federal savings association's internal risk rating assignment does not rely solely on the external assessment.

(ii) If a national bank or Federal savings association uses multiple rating or segmentation systems, the national bank's or Federal savings association's rationale for assigning an obligor or exposure to a particular system must be documented and applied in a manner that best reflects the obligor's or exposure's level of risk. A national bank or Federal savings association must not inappropriately allocate obligors or exposures across systems to minimize regulatory capital requirements.

(iii) In assigning ratings to wholesale obligors and exposures, including loss severity ratings grades to wholesale exposures, and assigning retail exposures to retail segments, a national bank or Federal savings association must use all relevant and material information and ensure that the information is current.

(iv) When assigning an obligor to a PD rating or retail exposure to a PD segment, a national bank or Federal savings association must assess the obligor or retail borrower's ability and willingness to contractually perform, taking a conservative view of projected information.

(2) * * *

(iii) A national bank or Federal savings association must have an effective process to obtain and update in a timely manner relevant and material information on obligor and exposure characteristics that affect PD, LGD and EAD.

(3) For retail exposures:

(i) A national bank or Federal savings association must have an internal system that groups retail exposures into the appropriate retail exposure subcategory and groups the retail exposures in each retail exposure subcategory into separate segments with homogeneous risk characteristics that provide a meaningful differentiation of risk. The national bank's or Federal

savings association's system must identify and group in separate segments by subcategories exposures identified in § 3.131(c)(2)(ii) and (iii).

(ii) A national bank or Federal savings association must have an internal system that captures all relevant exposure risk characteristics, including borrower credit score, product and collateral types, as well as exposure delinquencies, and must consider cross-collateral provisions, where present.

(iii) The national bank or Federal savings association must review and, if appropriate, update assignments of individual retail exposures to segments and the loss characteristics and delinquency status of each identified risk segment. These reviews must occur whenever the national bank or Federal savings association receives new material information, but generally no less frequently than quarterly, and, in all cases, at least annually.

* * * * *

(5) The national bank's or Federal savings association's internal risk rating system for wholesale exposures must provide for the review and update (as appropriate) of each obligor rating and (if applicable) each loss severity rating whenever the national bank or Federal savings association obtains relevant and material information on the obligor or exposure that affects PD, LGD and EAD, but no less frequently than annually.

(c) *Quantification of risk parameters for wholesale and retail exposures.* (1) The national bank or Federal savings association must have a comprehensive risk parameter quantification process that produces accurate, timely, and reliable estimates of the risk parameters on a consistent basis for the national bank's or Federal savings association's wholesale and retail exposures.

(2) A national bank's or Federal savings association's estimates of PD, LGD, and EAD must incorporate all relevant, material, and available data that is reflective of the national bank's or Federal savings association's actual wholesale and retail exposures and of sufficient quality to support the determination of risk-based capital requirements for the exposures. In particular, the population of exposures in the data used for estimation purposes, the lending standards in use when the data were generated, and other relevant characteristics, should closely match or be comparable to the national bank's or Federal savings association's exposures and standards. In addition, a national bank or Federal savings association must:

(i) Demonstrate that its estimates are representative of long run experience,

including periods of economic downturn conditions, whether internal or external data are used;

(ii) Take into account any changes in lending practice or the process for pursuing recoveries over the observation period;

(iii) Promptly reflect technical advances, new data, and other information as they become available;

(iv) Demonstrate that the data used to estimate risk parameters support the accuracy and robustness of those estimates; and

(v) Demonstrate that its estimation technique performs well in out-of-sample tests whenever possible.

* * * * *

(5) The national bank or Federal savings association must be able to demonstrate which variables have been found to be statistically significant with regard to EAD. The national bank's or Federal savings association's EAD estimates must reflect its specific policies and strategies with regard to account management, including account monitoring and payment processing, and its ability and willingness to prevent further drawdowns in circumstances short of payment default. The national bank or Federal savings association must have adequate systems and procedures in place to monitor current outstanding amounts against committed lines, and changes in outstanding amounts per obligor and obligor rating grade and per retail segment. The national bank or Federal savings association must be able to monitor outstanding amounts on a daily basis.

(6) At a minimum, PD estimates for wholesale obligors and retail segments must be based on at least five years of default data. LGD estimates for wholesale exposures must be based on at least seven years of loss severity data, and LGD estimates for retail segments must be based on at least five years of loss severity data. EAD estimates for wholesale exposures must be based on at least seven years of exposure amount data, and EAD estimates for retail segments must be based on at least five years of exposure amount data. If the national bank or Federal savings association has relevant and material reference data that span a longer period of time than the minimum time periods specified above, the national bank or Federal savings association must incorporate such data in its estimates, provided that it does not place undue weight on periods of favorable or benign economic conditions relative to periods of economic downturn conditions.

* * * * *

(9) If a national bank or Federal savings association uses internal data obtained prior to becoming subject to this subpart E or external data to arrive at PD, LGD, or EAD estimates, the national bank or Federal savings association must demonstrate to the OCC that the national bank or Federal savings association has made appropriate adjustments if necessary to be consistent with the definition of default in § 3.101. Internal data obtained after the national bank or Federal savings association becomes subject to this subpart E must be consistent with the definition of default in § 3.101.

(10) The national bank or Federal savings association must review and update (as appropriate) its risk parameters and its risk parameter quantification process at least annually.

(11) The national bank or Federal savings association must, at least annually, conduct a comprehensive review and analysis of reference data to determine relevance of the reference data to the national bank's or Federal savings association's exposures, quality of reference data to support PD, LGD, and EAD estimates, and consistency of reference data to the definition of default in § 3.101.

* * * * *

(i) * * *

(5) The national bank or Federal savings association must have an internal audit function or equivalent function that is independent of business-line management that at least annually:

(i) Reviews the national bank's or Federal savings association's advanced systems and associated operations, including the operations of its credit function and estimations of PD, LGD, and EAD;

(ii) Assesses the effectiveness of the controls supporting the national bank's or Federal savings association's advanced systems; and

(iii) Documents and reports its findings to the national bank's or Federal savings association's board of directors (or a committee thereof).

* * * * *

- 7. Section 3.131 is amended by:
■ a. Revising paragraphs (d)(5)(ii) and (iii); and
■ b. In paragraph (e)(3)(vi), removing “§ 3.22(a)(7)” and adding “§ 3.22(d)” in its place.

The revisions read as follows:

§ 3.131 Mechanics for calculating total wholesale and retail risk-weighted assets.

* * * * *

(d) * * *

(5) * * *

(ii) A national bank or Federal savings association may take into account the risk reducing effects of guarantees and credit derivatives in support of retail exposures in a segment when quantifying the PD and LGD of the segment. In doing so, a national bank or Federal savings association must consider all relevant available information.

(iii) Except as provided in paragraph (d)(6) of this section, a national bank or Federal savings association may take into account the risk reducing effects of collateral in support of a wholesale exposure when quantifying the LGD of the exposure, and may take into account the risk reducing effects of collateral in support of retail exposures when quantifying the PD and LGD of the segment. In order to do so, a national bank or Federal savings association must have established internal requirements for collateral management, legal certainty, and risk management processes.

* * * * *

■ 8. Section 3.132 is amended by:

- a. In Table 1 to § 3.132, removing “this section” and adding “§ 3.32” in its place, wherever it appears;
- b. Revising paragraphs (c)(1), (c)(2) and (d)(5)(iii)(B);
- c. In paragraph (d)(2)(iv)(C), removing “(d)(5)” and adding “(d)(6)” in its place;
- d. In paragraph (d)(7)(iv)(B), removing “§ 3.131(b)(2)” and adding “§ 3.132(b)(2)” in its place; and
- d. In paragraph (d)(9)(ii), removing “paragraph (e)(3)” and adding “paragraph (e)(6)” in its place.

The revisions read as follows:

§ 3.132 Counterparty credit risk of repo-style transactions, eligible margin loans, and OTC derivative contracts.

* * * * *

(c) *EAD for OTC derivative contracts*—(1) *OTC derivative contracts not subject to a qualifying master netting agreement.* A national bank or Federal savings association must determine the EAD for an OTC derivative contract that is not subject to a qualifying master netting agreement using the current exposure methodology in paragraph (c)(5) of this section or using the internal models methodology described in paragraph (d) of this section. A national bank or Federal savings association may reduce the EAD calculated according to paragraph (c)(5) of this section by the credit valuation adjustment that the national bank or Federal savings association has recognized in its balance sheet valuation of any OTC derivative contracts in the netting set. For purposes of this paragraph (c)(1), the credit valuation

adjustment does not include any adjustments to common equity tier 1 capital attributable to changes in the fair value of the national bank’s or Federal savings association’s liabilities that are due to changes in its own credit risk since the inception of the transaction with the counterparty.

(2) *OTC derivative contracts subject to a qualifying master netting agreement.*

A national bank or Federal savings association must determine the EAD for multiple OTC derivative contracts that are subject to a qualifying master netting agreement using the current exposure methodology in paragraph (c)(6) of this section or using the internal models methodology described in paragraph (d) of this section. A national bank or Federal savings association may reduce the EAD calculated according to paragraph (c)(6) of this section by the credit valuation adjustment that the national bank or Federal savings association has recognized in its balance sheet valuation of any OTC derivative contracts in the netting set. For purposes of this paragraph (c)(2), the credit valuation adjustment does not include any adjustments to common equity tier 1 capital attributable to changes in the fair value of the national bank’s or Federal savings association’s liabilities that are due to changes in its own credit risk since the inception of the transaction with the counterparty.

* * * * *

- (d) * * *
- (5) * * *
- (iii) * * *

(B) Twenty business days if the number of trades in a netting set exceeds 5,000 at any time during the previous quarter (except if the national bank or Federal savings association is calculating EAD for a cleared transaction under § 3.133) or contains one or more trades involving illiquid collateral or any derivative contract that cannot be easily replaced. If over the two previous quarters more than two margin disputes on a netting set have occurred that lasted more than the margin period of risk, then the national bank or Federal savings association must use a margin period of risk for that netting set that is at least two times the minimum margin period of risk for that netting set. If the periodicity of the receipt of collateral is N-days, the minimum margin period of risk is the minimum margin period of risk under this paragraph (d) plus N minus 1. This period should be extended to cover any impediments to prompt re-hedging of any market risk.

* * * * *

■ 9. Section 3.133 is amended by:

- a. In paragraph (b)(3)(i)(B) removing “§ 3.132(b)(3)(i)(A)” and adding paragraph (b)(3)(i)(A) of this section” in its place;
- b. In paragraph (b)(4)(ii) removing “§ 3.131” and adding “subparts E or F of this part, as applicable” in its place;
- c. Adding paragraph (c)(3)(iii); and
- d. In paragraph (c)(4)(ii) removing “§ 3.131” and adding “subparts E or F of this part, as applicable” in its place.

The addition reads as follows:

§ 3.133 Cleared transactions.

* * * * *

- (c) * * *
- (3) * * *

(iii) Notwithstanding paragraphs (c)(3)(i) and (ii) of this section, a clearing member national bank or Federal savings association may apply a risk weight of 0 percent to the trade exposure amount for a cleared transaction with a CCP where the clearing member national bank or Federal savings association 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 § 3.3(a), and the clearing member national bank or Federal savings association is not obligated to reimburse the clearing member client in the event of the CCP default.

* * * * *

§ 3.136 [Amended]

- 10. Section 3.136 is amended by:
 - a. In paragraph (e)(2)(i), removing “§ 3.135(e)(1) and (e)(2)” and adding “paragraphs (e)(1) and (2) of this section” in its place; And
 - b. In paragraph (e)(2)(ii), removing “§§ 3.135(e)(1) and (e)(2)” and adding “paragraphs (e)(1) and (2) of this section” in its place.
- 11. Section 3.172 is amended by revising paragraph (d) to read as follows:

§ 3.172 Disclosure requirements.

* * * * *

(d)(1) A national bank or Federal savings association that meets any of the criteria in § 3.100(b)(1) before January 1, 2015, must publicly disclose each quarter its supplementary leverage ratio and the components thereof (that is, tier 1 capital and total leverage exposure) as calculated under subpart B of this part, beginning with the first quarter in 2015. This disclosure requirement applies without regard to whether the national bank or Federal savings association has completed the parallel run process and received notification from the OCC pursuant to § 3.121(d).

(2) A national bank or Federal savings association that meets any of the criteria

in § 3.100(b)(1) on or after January 1, 2015, must publicly disclose each quarter its supplementary leverage ratio and the components thereof (that is, tier 1 capital and total leverage exposure) as calculated under subpart B of this part beginning with the calendar quarter immediately following the quarter in which the national bank or Federal savings association becomes an advanced approaches national bank or Federal savings association. This disclosure requirement applies without regard to whether the national bank or Federal savings association has completed the parallel run process and has received notification from the OCC pursuant to § 3.121(d).

- 12. Section 3.173 is amended by:
- a. Redesignating paragraph (a) introductory text as paragraph (a)(1) and revising newly redesignated paragraph (a)(1);
- b. Adding paragraphs (a)(2) and (a)(3);
- c. Revising the entry for (a)(1) in Table 6 to § 3.173; and

■ d. Revising the entry for (i)(2) in Table 9 to § 3.173.

The revisions and additions read as follows:

§ 3.173 Disclosures by certain advanced approaches national banks or Federal savings associations.

(a)(1) An advanced approaches national bank or Federal savings association described in § 3.172(b) must make the disclosures described in Tables 1 through 12 to § 3.173.

(2) An advanced approaches national bank or Federal savings association that is required to publicly disclose its supplementary leverage ratio pursuant to § 3.172(d) must make the disclosures required under Table 13 to § 3.173, unless the national bank or Federal savings association is a consolidated subsidiary of a bank holding company, savings and loan holding company, or depository institution that is subject to these disclosures requirements or a subsidiary of a non-U.S. banking

organization that is subject to comparable public disclosure requirements in its home jurisdiction.

(3) The disclosures described in Tables 1 through 12 to § 3.173 must be made publicly available for twelve consecutive quarters beginning on January 1, 2014, or a shorter period, as applicable, for the quarters after the national bank or Federal savings association has completed the parallel run process and received notification from the OCC pursuant to § 3.121(d). The disclosures described in Table 13 to § 3.173 must be made publicly available for twelve consecutive quarters beginning on January 1, 2015, or a shorter period, as applicable, for the quarters after the national bank or Federal savings association becomes subject to the disclosure of the supplementary leverage ratio pursuant to § 3.172(d) and § 3.173(a)(2).

* * * * *

TABLE 6 TO § 3.173—CREDIT RISK: DISCLOSURES FOR PORTFOLIOS SUBJECT TO IRB RISK-BASED CAPITAL FORMULA

Qualitative disclosures	(a)	* * *
(1) Structure of internal rating systems and if the national bank or Federal savings association considers external ratings, the relation between internal and external ratings;		
*	*	*

* * * * *

TABLE 9 TO § 3.173—SECURITIZATION

Quantitative Disclosures	*	*	*	*	*	*
		*	*	*	*	*	*
		(i)	* * *	(2) Aggregate amount disclosed separately by type of underlying exposure in the pool of any:			
				(i) After-tax gain-on-sale on a securitization that has been deducted from common equity tier 1 capital: And			
				(ii) Credit-enhancing interest-only strip that is assigned a 1,250 percent risk weight.			
*	*	*	*	*	*	*	*

**FEDERAL RESERVE SYSTEM
12 CFR CHAPTER II
Authority and Issuance**

For the reasons set forth in the common preamble, part 217 of chapter II of title 12 of the Code of Federal Regulations is amended as follows:

PART 217—CAPITAL ADEQUACY OF BANK HOLDING COMPANIES, SAVINGS AND LOAN HOLDING COMPANIES, AND STATE MEMBER BANKS (REGULATION Q)

■ 13. 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–l, 1831w, 1835, 1844(b), 1851, 3904, 3906–3909, 4808, 5365, 5368, 5371.

■ 14. Section 217.2 is amended by revising the definition of “Residential mortgage exposure” to read as follows:

§ 217.2 Definitions.

* * * * *

Residential mortgage exposure means an exposure (other than a securitization exposure, equity exposure, statutory multifamily mortgage, or presold construction loan):

(1)(i) That is primarily secured by a first or subsequent lien on one-to-four family residential property; or

(ii) With an original and outstanding amount of \$1 million or less that is primarily secured by a first or subsequent lien on residential property that is not one-to-four family; and

(2) For purposes of calculating capital requirements under subpart E of this part, managed as part of a segment of exposures with homogeneous risk characteristics and not on an individual-exposure basis.

* * * * *

■ 15. Section 217.10 is amended by revising paragraph (c) introductory text to read as follows:

§ 217.10 Minimum capital requirements.

* * * * *

(c) *Advanced approaches capital ratio calculations.* An advanced approaches Board-regulated institution that has completed the parallel run process and received notification from the Board pursuant to § 217.121(d) must determine its regulatory capital ratios as described in paragraphs (c)(1) through (3) of this section. An advanced approaches Board-regulated institution must determine its supplementary leverage ratio in accordance with paragraph (c)(4) of this section, beginning with the calendar quarter immediately following the quarter in which the Board-regulated institution meets any of the criteria in § 217.100(b)(1).

* * * * *

■ 16. Section 217.22 is amended by revising paragraph (b)(1)(iii) to read as follows:

§ 217.22 Regulatory capital adjustments and deductions.

* * * * *

(b) * * *

(1) * * *

(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 must deduct the difference between its credit spread premium and the risk-free rate for derivatives that are liabilities as part of this adjustment.

* * * * *

■ 17. Section 217.100 is amended by revising paragraphs (b)(1)(i)(B)(2) and (b)(1)(ii)(B) to read as follows:

§ 217.100 Purpose, applicability, and principle of conservatism.

* * * * *

(b) * * *

(1) * * *

(i) * * *

(B) * * *

(2) Has consolidated total on-balance sheet foreign exposure on its most recent year-end Federal Financial Institutions Examination Council (FFIEC) 009 Report equal to \$10 billion or more (where total on-balance sheet foreign exposure equals total foreign countries cross-border claims on an ultimate-risk basis, plus total foreign countries claims on local residents on an ultimate-risk basis, plus total foreign countries fair value of foreign exchange and derivative products), calculated in accordance with the FFIEC 009 Country Exposure Report;

* * * * *

(ii) * * *

(B) Has consolidated total on-balance sheet foreign exposure on its most recent year-end Federal Financial Institutions Examination Council (FFIEC) 009 Report equal to \$10 billion or more (where total on-balance sheet foreign exposure equals total foreign countries cross-border claims on an ultimate-risk basis, plus total foreign countries claims on local residents on an ultimate-risk basis, plus total foreign countries fair value of foreign exchange and derivative products), calculated in accordance with the FFIEC 009 Country Exposure Report;

* * * * *

■ 18. Section 217.122 is amended by:

- a. Revising paragraphs (a)(3) and (b)(1);
- b. Adding paragraph (b)(2)(iii);
- c. Revising paragraphs (b)(3) and (5) and (c)(1), (2), (5), and (6);
- d. Redesignating paragraphs (c)(9) and (10) as paragraphs (c)(10) and (11), revising newly redesignated paragraphs (c)(10) and (11), and adding a new paragraph (c)(9); and
- e. Revising paragraph (i)(5).

The revisions and additions read as follows:

§ 217.122 Qualification requirements.

(a) * * *

(3) Each Board-regulated institution must have an appropriate infrastructure with risk measurement and management processes that meet the qualification requirements of this section and are appropriate given the Board-regulated institution's size and level of complexity. Regardless of whether the systems and models that generate the risk parameters necessary for calculating a Board-regulated institution's risk-based capital requirements are located at any affiliate of the Board-regulated institution, the Board-regulated institution itself must ensure that the

risk parameters and reference data used to determine its risk-based capital requirements are representative of long run experience with respect to its own credit risk and operational risk exposures.

(b) *Risk rating and segmentation systems for wholesale and retail exposures.* (1)(i) A Board-regulated institution must have an internal risk rating and segmentation system that accurately, reliably, and meaningfully differentiates among degrees of credit risk for the Board-regulated institution's wholesale and retail exposures. When assigning an internal risk rating, a Board-regulated institution may consider a third-party assessment of credit risk, provided that the Board-regulated institution's internal risk rating assignment does not rely solely on the external assessment.

(ii) If a Board-regulated institution uses multiple rating or segmentation systems, the Board-regulated institution's rationale for assigning an obligor or exposure to a particular system must be documented and applied in a manner that best reflects the obligor or exposure's level of risk. A Board-regulated institution must not inappropriately allocate obligors or exposures across systems to minimize regulatory capital requirements.

(iii) In assigning ratings to wholesale obligors and exposures, including loss severity ratings grades to wholesale exposures, and assigning retail exposures to retail segments, a Board-regulated institution must use all relevant and material information and ensure that the information is current.

(iv) When assigning an obligor to a PD rating or retail exposure to a PD segment, a Board-regulated institution must assess the obligor or retail borrower's ability and willingness to contractually perform, taking a conservative view of projected information.

(2) * * *

(iii) A Board-regulated institution must have an effective process to obtain and update in a timely manner relevant and material information on obligor and exposure characteristics that affect PD, LGD and EAD.

(3) For retail exposures:

(i) A Board-regulated institution must have an internal system that groups retail exposures into the appropriate retail exposure subcategory and groups the retail exposures in each retail exposure subcategory into separate segments with homogeneous risk characteristics that provide a meaningful differentiation of risk. The Board-regulated institution's system must identify and group in separate

segments by subcategories exposures identified in § 217.131(c)(2)(ii) and (iii).

(ii) A Board-regulated institution must have an internal system that captures all relevant exposure risk characteristics, including borrower credit score, product and collateral types, as well as exposure delinquencies, and must consider cross-collateral provisions, where present.

(iii) The Board-regulated institution must review and, if appropriate, update assignments of individual retail exposures to segments and the loss characteristics and delinquency status of each identified risk segment. These reviews must occur whenever the Board-regulated institution receives new material information, but generally no less frequently than quarterly, and, in all cases, at least annually.

(5) The Board-regulated institution's internal risk rating system for wholesale exposures must provide for the review and update (as appropriate) of each obligor rating and (if applicable) each loss severity rating whenever the Board-regulated institution obtains relevant and material information on the obligor or exposure that affects PD, LGD and EAD, but no less frequently than annually.

(c) *Quantification of risk parameters for wholesale and retail exposures.* (1) The Board-regulated institution must have a comprehensive risk parameter quantification process that produces accurate, timely, and reliable estimates of the risk parameters on a consistent basis for the Board-regulated institution's wholesale and retail exposures.

(2) A Board-regulated institution's estimates of PD, LGD, and EAD must incorporate all relevant, material, and available data that is reflective of the Board-regulated institution's actual wholesale and retail exposures and of sufficient quality to support the determination of risk-based capital requirements for the exposures. In particular, the population of exposures in the data used for estimation purposes, the lending standards in use when the data were generated, and other relevant characteristics, should closely match or be comparable to the Board-regulated institution's exposures and standards. In addition, a Board-regulated institution must:

(i) Demonstrate that its estimates are representative of long run experience, including periods of economic downturn conditions, whether internal or external data are used;

(ii) Take into account any changes in lending practice or the process for pursuing recoveries over the observation period;

(iii) Promptly reflect technical advances, new data, and other information as they become available;

(iv) Demonstrate that the data used to estimate risk parameters support the accuracy and robustness of those estimates; and

(v) Demonstrate that its estimation technique performs well in out-of-sample tests whenever possible.

(5) The Board-regulated institution must be able to demonstrate which variables have been found to be statistically significant with regard to EAD. The Board-regulated institution's EAD estimates must reflect its specific policies and strategies with regard to account management, including account monitoring and payment processing, and its ability and willingness to prevent further drawdowns in circumstances short of payment default. The Board-regulated institution must have adequate systems and procedures in place to monitor current outstanding amounts against committed lines, and changes in outstanding amounts per obligor and obligor rating grade and per retail segment. The Board-regulated institution must be able to monitor outstanding amounts on a daily basis.

(6) At a minimum, PD estimates for wholesale obligors and retail segments must be based on at least five years of default data. LGD estimates for wholesale exposures must be based on at least seven years of loss severity data, and LGD estimates for retail segments must be based on at least five years of loss severity data. EAD estimates for wholesale exposures must be based on at least seven years of exposure amount data, and EAD estimates for retail segments must be based on at least five years of exposure amount data. If the Board-regulated institution has relevant and material reference data that span a longer period of time than the minimum time periods specified above, the Board-regulated institution must incorporate such data in its estimates, provided that it does not place undue weight on periods of favorable or benign economic conditions relative to periods of economic downturn conditions.

(9) If a Board-regulated institution uses internal data obtained prior to becoming subject to this subpart E or external data to arrive at PD, LGD, or EAD estimates, the Board-regulated institution must demonstrate to the Board that the Board-regulated institution has made appropriate adjustments if necessary to be consistent with the definition of default in § 217.101. Internal data obtained after

the Board-regulated institution becomes subject to this subpart E must be consistent with the definition of default in § 217.101.

(10) The Board-regulated institution must review and update (as appropriate) its risk parameters and its risk parameter quantification process at least annually.

(11) The Board-regulated institution must, at least annually, conduct a comprehensive review and analysis of reference data to determine relevance of the reference data to the Board-regulated institution's exposures, quality of reference data to support PD, LGD, and EAD estimates, and consistency of reference data to the definition of default in § 217.101.

(5) The Board-regulated institution must have an internal audit function or equivalent function that is independent of business-line management that at least annually:

(i) Reviews the Board-regulated institution's advanced systems and associated operations, including the operations of its credit function and estimations of PD, LGD, and EAD;

(ii) Assesses the effectiveness of the controls supporting the Board-regulated institution's advanced systems; and

(iii) Documents and reports its findings to the Board-regulated institution's board of directors (or a committee thereof).

- 19. Section 217.131 is amended by:
■ a. Revising paragraphs (d)(5)(ii) and (iii); and
■ b. In paragraph (e)(3)(vi), removing "§ 217.22(a)(7)" and adding "§ 217.22(d)" in its place.

The revisions read as follows:

§ 217.131 Mechanics for calculating total wholesale and retail risk-weighted assets.

- (d) * * *
(5) * * *

(ii) A Board-regulated institution may take into account the risk reducing effects of guarantees and credit derivatives in support of retail exposures in a segment when quantifying the PD and LGD of the segment. In doing so, a Board-regulated institution must consider all relevant available information.

(iii) Except as provided in paragraph (d)(6) of this section, a Board-regulated institution may take into account the risk reducing effects of collateral in support of a wholesale exposure when quantifying the LGD of the exposure, and may take into account the risk

reducing effects of collateral in support of retail exposures when quantifying the PD and LGD of the segment. In order to do so, a Board-regulated institution must have established internal requirements for collateral management, legal certainty, and risk management processes.

* * * * *

■ 20. Section 217.132 is amended by:

■ a. In Table 1 to § 217.132, removing “this section” and adding “§ 217.32” in its place, wherever it appears;

■ b. Revising paragraphs (c)(1), (c)(2) and (d)(5)(iii)(B);

■ c. In paragraph (d)(2)(iv)(C), removing “(d)(5)” and adding “(d)(6)” in its place;

■ d. In paragraph (d)(7)(iv)(B), removing “§ 217.131(b)(2)” and adding “§ 217.132(b)(2)” in its place; and

■ e. In paragraph (d)(9)(ii), removing “paragraph (e)(3)” and adding “paragraph (e)(6)” in its place. The revisions read as follows:

§ 217.132 Counterparty credit risk of repo-style transactions, eligible margin loans, and OTC derivative contracts.

* * * * *

(c) *EAD for OTC derivative contracts*—(1) *OTC derivative contracts not subject to a qualifying master netting agreement.* A Board-regulated institution must determine the EAD for an OTC derivative contract that is not subject to a qualifying master netting agreement using the current exposure methodology in paragraph (c)(5) of this section or using the internal models methodology described in paragraph (d) of this section. A Board-regulated institution may reduce the EAD calculated according to paragraph (c)(5) of this section by the credit valuation adjustment that the Board-regulated institution has recognized in its balance sheet valuation of any OTC derivative contracts in the netting set. For purposes of this paragraph (c)(1), the credit valuation adjustment does not include any adjustments to common equity tier 1 capital attributable to changes in the fair value of the Board-regulated institution’s liabilities that are due to changes in its own credit risk since the inception of the transaction with the counterparty.

(2) *OTC derivative contracts subject to a qualifying master netting agreement.* A Board-regulated institution must determine the EAD for multiple OTC derivative contracts that are subject to a qualifying master netting agreement using the current exposure methodology in paragraph (c)(6) of this section or using the internal models methodology described in paragraph (d) of this section. A Board-regulated institution may reduce the EAD calculated

according to paragraph (c)(6) of this section by the credit valuation adjustment that the Board-regulated institution has recognized in its balance sheet valuation of any OTC derivative contracts in the netting set. For purposes of this paragraph (c)(2), the credit valuation adjustment does not include any adjustments to common equity tier 1 capital attributable to changes in the fair value of the Board-regulated institution’s liabilities that are due to changes in its own credit risk since the inception of the transaction with the counterparty.

* * * * *

(d) * * *

(5) * * *

(iii) * * *

(B) Twenty business days if the number of trades in a netting set exceeds 5,000 at any time during the previous quarter (except if the Board-regulated institution is calculating EAD for a cleared transaction under § 217.133) or contains one or more trades involving illiquid collateral or any derivative contract that cannot be easily replaced. If over the two previous quarters more than two margin disputes on a netting set have occurred that lasted more than the margin period of risk, then the Board-regulated institution must use a margin period of risk for that netting set that is at least two times the minimum margin period of risk for that netting set. If the periodicity of the receipt of collateral is N-days, the minimum margin period of risk is the minimum margin period of risk under this paragraph (d) plus N minus 1. This period should be extended to cover any impediments to prompt re-hedging of any market risk.

* * * * *

■ 21. Section 217.133 is amended by:

■ a. In paragraph (b)(3)(i)(B) removing “§ 217.132(b)(3)(i)(A)” and adding paragraph (b)(3)(i)(A) of this section” in its place;

■ b. In paragraph (b)(4)(ii) removing “§ 217.131” and adding “subparts E or F of this part, as applicable” in its place;

■ c. Adding paragraph (c)(3)(iii); and

■ d. In paragraph (c)(4)(ii) removing “§ 217.131” and adding “subparts E or F of this part, as applicable” in its place.

The addition read as follows:

§ 217.133 Cleared transactions.

* * * * *

(c) * * *

(3) * * *

(iii) Notwithstanding paragraphs (c)(3)(i) and (ii) of this section, a clearing member Board-regulated institution may apply a risk weight of 0 percent to the trade exposure amount

for a cleared transaction with a CCP where the clearing member Board-regulated institution 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 § 217.3(a), and the clearing member Board-regulated institution is not obligated to reimburse the clearing member client in the event of the CCP default.

* * * * *

§ 217.136 [Amended]

■ 22. Section 217.136 is amended by:

■ a. In paragraph (e)(2)(i), removing “§ 217.135(e)(1) and (e)(2)” and adding “paragraphs (e)(1) and (2) of this section” in its place; and

■ b. In paragraph (e)(2)(ii), removing “§§ 217.135(e)(1) and (e)(2)” and adding “paragraphs (e)(1) and (2) of this section” in its place.

■ 23. Section 217.172 is amended by revising paragraph (d) to read as follows:

§ 217.172 Disclosure requirements.

* * * * *

(d)(1) A Board-regulated institution that meets any of the criteria in § 217.100(b)(1) before January 1, 2015, must publicly disclose each quarter its supplementary leverage ratio and the components thereof (that is, tier 1 capital and total leverage exposure) as calculated under subpart B of this part, beginning with the first quarter in 2015. This disclosure requirement applies without regard to whether the Board-regulated institution has completed the parallel run process and received notification from the Board pursuant to § 217.121(d).

(2) A Board-regulated institution that meets any of the criteria in § 217.100(b)(1) on or after January 1, 2015, must publicly disclose each quarter its supplementary leverage ratio and the components thereof (that is, tier 1 capital and total leverage exposure) as calculated under subpart B of this part beginning with the calendar quarter immediately following the quarter in which the Board-regulated institution becomes an advanced approaches Board-regulated institution. This disclosure requirement applies without regard to whether the Board-regulated institution has completed the parallel run process and has received notification from the Board pursuant to § 217.121(d).

■ 24. Section 217.173 is amended by:

■ a. Designating paragraph (a) introductory text as paragraph (a)(1) and revising newly redesignated paragraph (a)(1);

- b. Adding paragraphs (a)(2) and (3);
- c. Revising the entry for (a)(1) in Table 6 to § 217.173; and
- d. Revising the entry for (i)(2) in Table 9 to § 217.173.

The revisions and additions read as follows:

§ 217.173 Disclosures by certain advanced approaches Board-regulated institutions.

(a)(1) An advanced approaches Board-regulated institution described in § 217.172(b) must make the disclosures described in Tables 1 through 12 to § 217.173.

(2) An advanced approaches Board-regulated institution that is required to publicly disclose its supplementary

leverage ratio pursuant to § 217.172(d) must make the disclosures required under Table 13 to § 217.173, unless the Board-regulated institution is a consolidated subsidiary of a bank holding company, savings and loan holding company, or depository institution that is subject to these disclosures requirements or a subsidiary of a non-U.S. banking organization that is subject to comparable public disclosure requirements in its home jurisdiction.

(3) The disclosures described in Tables 1 through 12 to § 217.173 must be made publicly available for twelve consecutive quarters beginning on

January 1, 2014, or a shorter period, as applicable, for the quarters after the Board-regulated institution has completed the parallel run process and received notification from the Board pursuant to § 217.121(d). The disclosures described in Table 13 to § 217.173 must be made publicly available for twelve consecutive quarters beginning on January 1, 2015, or a shorter period, as applicable, for the quarters after the Board-regulated institution becomes subject to the disclosure of the supplementary leverage ratio pursuant to § 217.172(d) and § 217.173(a)(2).

* * * * *

TABLE 6 TO § 217.173—CREDIT RISK: DISCLOSURES FOR PORTFOLIOS SUBJECT TO IRB RISK-BASED CAPITAL FORMULA

Qualitative disclosures	(a)	* * *
(1) Structure of internal rating systems and if the Board-regulated institution considers external ratings, the relation between internal and external ratings;		
*	*	*
*	*	*
*	*	*

TABLE 9 TO § 217.173—SECURITIZATION

Quantitative disclosures.	*	*	*	*	*	*
	*	*	(i)	* * *	*	*
				(2) Aggregate amount disclosed separately by type of underlying exposure in the pool of any:		
				(i) After-tax gain-on-sale on a securitization that has been deducted from common equity tier 1 capital; and		
				(ii) Credit-enhancing interest-only strip that is assigned a 1,250 percent risk weight.		
*	*	*	*	*	*	*

* * * * *

FEDERAL DEPOSIT INSURANCE CORPORATION
12 CFR Chapter III
Authority and Issuance
 For the reasons stated in the preamble, the Federal Deposit Insurance Corporation amends part 324 of chapter III of Title 12, Code of Federal Regulations as follows:

PART 324—CAPITAL ADEQUACY

■ 25. 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).

■ 26. Section 324.2 is amended by revising the definition of “Residential mortgage exposure” to read as follows:

§ 324.2 Definitions.

* * * * *

Residential mortgage exposure means an exposure (other than a securitization exposure, equity exposure, statutory multifamily mortgage, or presold construction loan):

(1)(i) That is primarily secured by a first or subsequent lien on one-to-four family residential property; or

(ii) With an original and outstanding amount of \$1 million or less that is primarily secured by a first or subsequent lien on residential property that is not one-to-four family; and

(2) For purposes of calculating capital requirements under subpart E of this part, managed as part of a segment of exposures with homogeneous risk characteristics and not on an individual-exposure basis.

* * * * *

■ 27. Section 324.10 is amended by revising paragraph (c) introductory text to read as follows:

§ 324.10 Minimum capital requirements.

* * * * *

(c) *Advanced approaches capital ratio calculations.* An advanced approaches FDIC-supervised institution that has

completed the parallel run process and received notification from the FDIC pursuant to § 324.121(d) must determine its regulatory capital ratios as described in paragraphs (c)(1) through (3) of this section. An advanced approaches FDIC-supervised institution must determine its supplementary leverage ratio in accordance with paragraph (c)(4) of this section, beginning with the calendar quarter immediately following the quarter in which the FDIC-supervised institution meets any of the criteria in § 324.100(b)(1).

* * * * *

■ 28. Section 324.22 is amended by revising paragraph (b)(1)(iii) to read as follows:

§ 324.22 Regulatory capital adjustments and deductions.

* * * * *

(b) * * *
(1) * * *

(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 must deduct the difference between its credit spread premium and the risk-free rate for derivatives that are liabilities as part of this adjustment.

* * * * *

■ 29. Section 324.100 is amended by revising paragraph (b)(1)(ii) to read as follows:

§ 324.100 Purpose, applicability, and principle of conservatism.

* * * * *

(b) * * *
(1) * * *

(ii) Has consolidated total on-balance sheet foreign exposure on its most recent year-end Federal Financial Institutions Examination Council (FFIEC) 009 Report equal to \$10 billion or more (where total on-balance sheet foreign exposure equals total foreign countries cross-border claims on an ultimate-risk basis, plus total foreign countries claims on local residents on an ultimate-risk basis, plus total foreign countries fair value of foreign exchange and derivative products), calculated in accordance with the FFIEC 009 Country Exposure Report;

* * * * *

■ 30. Section 324.122 is amended by:

- a. Revising paragraphs (a)(3) and (b)(1);
- b. Adding paragraph (b)(2)(iii);
- c. Revising paragraphs (b)(3) and (5), and (c)(1), (2), (5), and (6);
- d. Redesignating paragraphs (c)(9) and (c)(10) as paragraphs (c)(10) and (c)(11),

revising newly redesignated paragraphs (c)(10) and (c)(11), and adding a new paragraph (c)(9); and

- e. Revising paragraph (i)(5).

The revisions and additions read as follows:

§ 324.122 Qualification requirements.

(a) * * *

(3) Each FDIC-supervised institution must have an appropriate infrastructure with risk measurement and management processes that meet the qualification requirements of this section and are appropriate given the FDIC-supervised institution's size and level of complexity. Regardless of whether the systems and models that generate the risk parameters necessary for calculating an FDIC-supervised institution's risk-based capital requirements are located at any affiliate of the FDIC-supervised institution, the FDIC-supervised institution itself must ensure that the risk parameters and reference data used to determine its risk-based capital requirements are representative of long run experience with respect to its own credit risk and operational risk exposures.

(b) *Risk rating and segmentation systems for wholesale and retail exposures.* (1)(i) An FDIC-supervised institution must have an internal risk rating and segmentation system that accurately, reliably, and meaningfully differentiates among degrees of credit risk for the FDIC-supervised institution's wholesale and retail exposures. When assigning an internal risk rating, an FDIC-supervised institution may consider a third-party assessment of credit risk, provided that the FDIC-supervised institution's internal risk rating assignment does not rely solely on the external assessment.

(ii) If an FDIC-supervised institution uses multiple rating or segmentation systems, the FDIC-supervised institution's rationale for assigning an obligor or exposure to a particular system must be documented and applied in a manner that best reflects the obligor or exposure's level of risk. An FDIC-supervised institution must not inappropriately allocate obligors or exposures across systems to minimize regulatory capital requirements.

(iii) In assigning ratings to wholesale obligors and exposures, including loss severity ratings grades to wholesale exposures, and assigning retail exposures to retail segments, an FDIC-supervised institution must use all relevant and material information and ensure that the information is current.

(iv) When assigning an obligor to a PD rating or retail exposure to a PD segment, an FDIC-supervised institution

must assess the obligor or retail borrower's ability and willingness to contractually perform, taking a conservative view of projected information.

(2) * * *

(iii) An FDIC-supervised institution must have an effective process to obtain and update in a timely manner relevant and material information on obligor and exposure characteristics that affect PD, LGD and EAD.

(3) For retail exposures:

(i) An FDIC-supervised institution must have an internal system that groups retail exposures into the appropriate retail exposure subcategory and groups the retail exposures in each retail exposure subcategory into separate segments with homogeneous risk characteristics that provide a meaningful differentiation of risk. The FDIC-supervised institution's system must identify and group in separate segments by subcategories exposures identified in § 324.131(c)(2)(ii) and (iii).

(ii) An FDIC-supervised institution must have an internal system that captures all relevant exposure risk characteristics, including borrower credit score, product and collateral types, as well as exposure delinquencies, and must consider cross-collateral provisions, where present.

(iii) The FDIC-supervised institution must review and, if appropriate, update assignments of individual retail exposures to segments and the loss characteristics and delinquency status of each identified risk segment. These reviews must occur whenever the FDIC-supervised institution receives new material information, but generally no less frequently than quarterly, and, in all cases, at least annually.

* * * * *

(5) The FDIC-supervised institution's internal risk rating system for wholesale exposures must provide for the review and update (as appropriate) of each obligor rating and (if applicable) each loss severity rating whenever the FDIC-supervised institution obtains relevant and material information on the obligor or exposure that affects PD, LGD and EAD, but no less frequently than annually.

(c) *Quantification of risk parameters for wholesale and retail exposures.* (1) The FDIC-supervised institution must have a comprehensive risk parameter quantification process that produces accurate, timely, and reliable estimates of the risk parameters on a consistent basis for the FDIC-supervised institution's wholesale and retail exposures.

(2) An FDIC-supervised institution's estimates of PD, LGD, and EAD must

incorporate all relevant, material, and available data that is reflective of the FDIC-supervised institution's actual wholesale and retail exposures and of sufficient quality to support the determination of risk-based capital requirements for the exposures. In particular, the population of exposures in the data used for estimation purposes, the lending standards in use when the data were generated, and other relevant characteristics, should closely match or be comparable to the FDIC-supervised institution's exposures and standards. In addition, an FDIC-supervised institution must:

- (i) Demonstrate that its estimates are representative of long run experience, including periods of economic downturn conditions, whether internal or external data are used;
- (ii) Take into account any changes in lending practice or the process for pursuing recoveries over the observation period;
- (iii) Promptly reflect technical advances, new data, and other information as they become available;
- (iv) Demonstrate that the data used to estimate risk parameters support the accuracy and robustness of those estimates; and
- (v) Demonstrate that its estimation technique performs well in out-of-sample tests whenever possible.

* * * * *

(5) The FDIC-supervised institution must be able to demonstrate which variables have been found to be statistically significant with regard to EAD. The FDIC-supervised institution's EAD estimates must reflect its specific policies and strategies with regard to account management, including account monitoring and payment processing, and its ability and willingness to prevent further drawdowns in circumstances short of payment default. The FDIC-supervised institution must have adequate systems and procedures in place to monitor current outstanding amounts against committed lines, and changes in outstanding amounts per obligor and obligor rating grade and per retail segment. The FDIC-supervised institution must be able to monitor outstanding amounts on a daily basis.

(6) At a minimum, PD estimates for wholesale obligors and retail segments must be based on at least five years of default data. LGD estimates for wholesale exposures must be based on at least seven years of loss severity data, and LGD estimates for retail segments must be based on at least five years of loss severity data. EAD estimates for wholesale exposures must be based on at least seven years of exposure amount

data, and EAD estimates for retail segments must be based on at least five years of exposure amount data. If the FDIC-supervised institution has relevant and material reference data that span a longer period of time than the minimum time periods specified above, the FDIC-supervised institution must incorporate such data in its estimates, provided that it does not place undue weight on periods of favorable or benign economic conditions relative to periods of economic downturn conditions.

* * * * *

(9) If an FDIC-supervised institution uses internal data obtained prior to becoming subject to this subpart E or external data to arrive at PD, LGD, or EAD estimates, the FDIC-supervised institution must demonstrate to the FDIC that the FDIC-supervised institution has made appropriate adjustments if necessary to be consistent with the definition of default in § 324.101. Internal data obtained after the FDIC-supervised institution becomes subject to this subpart E must be consistent with the definition of default in § 324.101.

(10) The FDIC-supervised institution must review and update (as appropriate) its risk parameters and its risk parameter quantification process at least annually.

(11) The FDIC-supervised institution must, at least annually, conduct a comprehensive review and analysis of reference data to determine relevance of the reference data to the FDIC-supervised institution's exposures, quality of reference data to support PD, LGD, and EAD estimates, and consistency of reference data to the definition of default in § 324.101.

* * * * *

(i) * * *

(5) The FDIC-supervised institution must have an internal audit function or equivalent function that is independent of business-line management that at least annually:

- (i) Reviews the FDIC-supervised institution's advanced systems and associated operations, including the operations of its credit function and estimations of PD, LGD, and EAD;
- (ii) Assesses the effectiveness of the controls supporting the FDIC-supervised institution's advanced systems; and
- (iii) Documents and reports its findings to the FDIC-supervised institution's board of directors (or a committee thereof).

* * * * *

■ 31. Section 324.131 is amended by:
 ■ a. Revising paragraphs (d)(5)(ii) and (iii); and

■ b. In paragraph (e)(3)(vi), removing “§ 324.22(a)(7)” and adding “§ 324.22(d)” in its place.

The revisions read as follows:

§ 324.131 Mechanics for calculating total wholesale and retail risk-weighted assets.

* * * * *

(d) * * *

(5) * * *

(ii) An FDIC-supervised institution may take into account the risk reducing effects of guarantees and credit derivatives in support of retail exposures in a segment when quantifying the PD and LGD of the segment. In doing so, an FDIC-supervised institution must consider all relevant available information.

(iii) Except as provided in paragraph (d)(6) of this section, an FDIC-supervised institution may take into account the risk reducing effects of collateral in support of a wholesale exposure when quantifying the LGD of the exposure, and may take into account the risk reducing effects of collateral in support of retail exposures when quantifying the PD and LGD of the segment. In order to do so, an FDIC-supervised institution must have established internal requirements for collateral management, legal certainty, and risk management processes.

* * * * *

- 32. Section 324.132 is amended by:
 ■ a. In Table 1 to § 324.132, removing “this section” and adding “§ 324.32” in its place, wherever it appears;
 ■ b. Revising paragraphs (c)(1), (c)(2) and (d)(5)(iii)(B);
 ■ c. In paragraph (d)(2)(iv)(C), removing “(d)(5)” and adding “(d)(6)” in its place;
 ■ d. In paragraph (d)(7)(iv)(B), removing “§ 324.131(b)(2)” and adding “§ 324.132(b)(2)” in its place; and
 ■ e. In paragraph (d)(9)(ii), removing “paragraph (e)(3)” and adding “paragraph (e)(6)” in its place.

The revisions read as follows:

§ 324.132 Counterparty credit risk of repo-style transactions, eligible margin loans, and OTC derivative contracts.

* * * * *

(c) *EAD for OTC derivative contracts—(1) OTC derivative contracts not subject to a qualifying master netting agreement.* An FDIC-supervised institution must determine the EAD for an OTC derivative contract that is not subject to a qualifying master netting agreement using the current exposure methodology in paragraph (c)(5) of this section or using the internal models methodology described in paragraph (d) of this section. An FDIC-supervised institution may reduce the EAD calculated according to paragraph (c)(5)

of this section by the credit valuation adjustment that the FDIC-supervised institution has recognized in its balance sheet valuation of any OTC derivative contracts in the netting set. For purposes of this paragraph (c)(1), the credit valuation adjustment does not include any adjustments to common equity tier 1 capital attributable to changes in the fair value of the FDIC-supervised institution's liabilities that are due to changes in its own credit risk since the inception of the transaction with the counterparty.

(2) *OTC derivative contracts subject to a qualifying master netting agreement.* An FDIC-supervised institution must determine the EAD for multiple OTC derivative contracts that are subject to a qualifying master netting agreement using the current exposure methodology in paragraph (c)(6) of this section or using the internal models methodology described in paragraph (d) of this section. An FDIC-supervised institution may reduce the EAD calculated according to paragraph (c)(6) of this section by the credit valuation adjustment that the FDIC-supervised institution has recognized in its balance sheet valuation of any OTC derivative contracts in the netting set. For purposes of this paragraph (c)(2), the credit valuation adjustment does not include any adjustments to common equity tier 1 capital attributable to changes in the fair value of the FDIC-supervised institution's liabilities that are due to changes in its own credit risk since the inception of the transaction with the counterparty.

* * * * *

- (d) * * *
(5) * * *
(iii) * * *

(B) Twenty business days if the number of trades in a netting set exceeds 5,000 at any time during the previous quarter (except if the FDIC-supervised institution is calculating EAD for a cleared transaction under § 324.133) or contains one or more trades involving illiquid collateral or any derivative contract that cannot be easily replaced. If over the two previous quarters more than two margin disputes on a netting set have occurred that lasted more than the margin period of risk, then the FDIC-supervised institution must use a margin period of risk for that netting set that is at least two times the minimum margin period of risk for that netting set. If the periodicity of the receipt of collateral is N-days, the minimum margin period of risk is the minimum margin period of risk under this paragraph (d) plus N minus 1. This period should be

extended to cover any impediments to prompt re-hedging of any market risk.

* * * * *

- 33. Section 324.133 is amended by:
■ a. In paragraph (b)(3)(i)(B), removing “§ 324.132(b)(3)(i)(A)” and adding “paragraph (b)(3)(i)(A) of this section” in its place;
■ b. In paragraph (b)(4)(ii) removing “§ 324.131” and adding “subparts E or F of this part, as applicable” in its place;
■ c. Adding paragraph (c)(3)(iii); and
■ d. In paragraph (c)(4)(ii) removing “§ 324.131” and adding “subparts E or F of this part, as applicable” in its place.

The additions read as follows:

§ 324.133 Cleared transactions.

* * * * *

- (c) * * *
(3) * * *

(iii) Notwithstanding paragraphs (c)(3)(i) and (ii) of this section, a clearing member FDIC-supervised institution may apply a risk weight of 0 percent to the trade exposure amount for a cleared transaction with a CCP where the clearing member FDIC-supervised institution 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 § 324.3(a), and the clearing member FDIC-supervised institution is not obligated to reimburse the clearing member client in the event of the CCP default.

* * * * *

- 34. Section 324.136 is amended by,
■ a. In paragraph (e)(2)(i) removing “§ 324.135(e)(1) and (e)(2)” and adding paragraphs (e)(1) and (e)(2) of this section” in its place; and
■ b. In paragraph (e)(2)(ii) removing “§§ 324.135(e)(1) and (e)(2)” and adding paragraphs (e)(1) and (e)(2)” of this section in its place.
■ 35. Section 324.172 is amended by revising paragraph (d) to read as follows:

§ 324.172 Disclosure requirements.

* * * * *

(d)(1) An FDIC-supervised institution that meets any of the criteria in § 324.100(b)(1) before January 1, 2015, must publicly disclose each quarter its supplementary leverage ratio and the components thereof (that is, tier 1 capital and total leverage exposure) as calculated under subpart B of this part, beginning with the first quarter in 2015. This disclosure requirement applies without regard to whether the FDIC-supervised institution has completed the parallel run process and received notification from the FDIC pursuant to § 324.121(d).

(2) An FDIC-supervised institution that meets any of the criteria in § 324.100(b)(1) on or after January 1, 2015, must publicly disclose each quarter its supplementary leverage ratio and the components thereof (that is, tier 1 capital and total leverage exposure) as calculated under subpart B of this part beginning with the calendar quarter immediately following the quarter in which the FDIC-supervised institution becomes an advanced approaches FDIC-supervised institution. This disclosure requirement applies without regard to whether the FDIC-supervised institution has completed the parallel run process and has received notification from the FDIC pursuant to § 324.121(d).

- 36. Section 324.173 is amended by:
■ a. Designating paragraph (a) as paragraph (a)(1) and revising newly redesignated paragraph (a)(1);
■ b. Adding paragraphs (a)(2) and (3);
■ c. Revising the entry for (a)(1) in Table 6 to § 324.173; and
■ d. Revising the entry for (i)(2) in Table 9 in § 324.173.

The revisions and additions read as follows:

§ 324.173 Disclosures by certain advanced approaches FDIC-supervised institutions.

(a)(1) An advanced approaches FDIC-supervised institution described in § 324.172(b) must make the disclosures described in Tables 1 through 12 to § 324.173.

(2) An advanced approaches FDIC-supervised institution that is required to publicly disclose its supplementary leverage ratio pursuant to § 324.172(d) must make the disclosures required under Table 13 to § 324.173, unless the FDIC-supervised institution is a consolidated subsidiary of a bank holding company, savings and loan holding company, or depository institution that is subject to these disclosures requirements or a subsidiary of a non-U.S. banking organization that is subject to comparable public disclosure requirements in its home jurisdiction.

(3) The disclosures described in Tables 1 through 12 to § 324.173 must be made publicly available for twelve consecutive quarters beginning on January 1, 2014, or a shorter period, as applicable, for the quarters after the FDIC-supervised institution has completed the parallel run process and received notification from the FDIC pursuant to § 324.121(d). The disclosures described in Table 13 to § 324.173 must be made publicly available for twelve consecutive quarters beginning on January 1, 2015, or a shorter period, as applicable, for the quarters after the FDIC-supervised

institution becomes subject to the disclosure of the supplementary leverage ratio pursuant to § 324.172(d) and § 324.173(a)(2).
* * * * *

TABLE 6 TO § 324.173—CREDIT RISK: DISCLOSURES FOR PORTFOLIOS SUBJECT TO IRB RISK-BASED CAPITAL FORMULA

Qualitative disclosures	(a)	* * *
(1) Structure of internal rating systems and if the FDIC-supervised institution considers external ratings, the relation between internal and external ratings;		
*	*	*
*	*	*

TABLE 9 TO § 324.173—SECURITIZATION

Quantitative Disclosures.	(i)	* * *
(2) Aggregate amount disclosed separately by type of underlying exposure in the pool of any:		
(i) After-tax gain-on-sale on a securitization that has been deducted from common equity tier 1 capital; and		
(ii) Credit-enhancing interest-only strip that is assigned a 1,250 percent risk weight.		
*	*	*
*	*	*

* * * * *

■ 37. Section 324.403(b) is revised to read as follows:

§ 324.403 Capital measures and capital category definitions.
* * *

(b) *Capital categories.* For purposes of section 38 of the FDI Act and this subpart, an FDIC-supervised institution shall be deemed to be:

(1) “Well capitalized” if it:

(i) Has a total risk-based capital ratio of 10.0 percent or greater; and

(ii) Has a Tier 1 risk-based capital ratio of 8.0 percent or greater; and

(iii) Has a common equity tier 1 capital ratio of 6.5 percent or greater; and

(iv) Has a leverage ratio of 5.0 percent or greater;

(v) Is not subject to any written agreement, order, capital directive, or prompt corrective action directive issued by the FDIC pursuant to section 8 of the FDI Act (12 U.S.C. 1818), the International Lending Supervision Act of 1983 (12 U.S.C. 3907), or the Home Owners’ Loan Act (12 U.S.C. 1464(t)(6)(A)(ii)), or section 38 of the FDI Act (12 U.S.C. 1831o), or any regulation thereunder, to meet and maintain a specific capital level for any capital measure; and

(vi) Beginning on January 1, 2018 and thereafter, an FDIC-supervised institution that is a subsidiary of a

covered BHC will be deemed to be well capitalized if the FDIC-supervised institution satisfies paragraphs (b)(1)(i) through (v) of this section and has a supplementary leverage ratio of 6.0 percent or greater. For purposes of this paragraph, a covered BHC means a U.S. top-tier bank holding company with more than \$700 billion in total assets as reported on the company’s most recent Consolidated Financial Statement for Bank Holding Companies (FR Y–9C) or more than \$10 trillion in assets under custody as reported on the company’s most recent Banking Organization Systemic Risk Report (FR Y–15).
* * * * *

Dated: June 16, 2015.
Thomas J. Curry,
Comptroller of the Currency.
By order of the Board of Governors of the Federal Reserve System, June 15, 2015.
Robert deV. Frierson,
Secretary of the Board.
Dated at Washington, DC, this 16th day of June, 2015.
By order of the Board of Directors.
Federal Deposit Insurance Corporation.
Robert E. Feldman,
Executive Secretary.
[FR Doc. 2015–15748 Filed 7–14–15; 8:45 am]

BILLING CODE

DEPARTMENT OF COMMERCE
Bureau of Industry and Security
15 CFR Part 702
[Docket No. 140501396–5463–02]
RIN 0694–AG17
U.S. Industrial Base Surveys Pursuant to the Defense Production Act of 1950
AGENCY: Bureau of Industry and Security, Commerce.
ACTION: Final rule.

SUMMARY: This rule sets forth the policies and procedures of the Bureau of Industry and Security (BIS) for conducting surveys to obtain information in order to perform industry studies assessing the U.S. industrial base to support the national defense pursuant to the Defense Production Act of 1950, as amended. Specifically, this rule provides a description of BIS’s authority to issue surveys; the purpose for the surveys and the manner in which such surveys are developed; the confidential treatment of submitted information; and the penalties for non-compliance with surveys. This rule is intended to facilitate compliance with surveys, thereby resulting in stronger and more complete assessments of the U.S. industrial base.
DATES: This rule is effective August 14, 2015.