

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 46

[Docket ID. OCC-2014-0015]

RIN 1557-AD85

Annual Stress Test—Schedule Shift and Adjustments to Regulatory Capital Projections

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Proposed rule.

SUMMARY: The Office of the Comptroller of the Currency (OCC) proposes to adjust the timing of the annual stress testing cycle and to clarify the method used to calculate regulatory capital in the stress tests. The proposal would shift the dates of the annual stress testing cycle by approximately three months. The proposal also would provide that covered institutions will not have to calculate their regulatory capital requirements using the advanced approaches method in 12 CFR part 3, subpart E until the stress testing cycle beginning on January 1, 2016.

DATES: Comments must be received on or before [INSERT 60 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments by the Federal eRulemaking Portal or e-mail, if possible. Please use the title “Annual Stress Test” to facilitate the organization and distribution of the comments. You may submit comments by any of the following methods:

- Federal eRulemaking Portal—“Regulations.gov”: Go to www.regulations.gov. Enter “Docket ID OCC-2014-0015” in the Search Box and click “Search.” Results can be filtered

using the filtering tools on the left side of the screen. Click on “Comment Now” to submit public comments.

- Click on the “Help” tab on the Regulations.gov home page to get information on using Regulations.gov, including instructions for submitting public comments.

- E-mail: regs.comments@occ.treas.gov.

- Mail: Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street, SW, Suite 3E-218, Mail Stop 9W-11, Washington, DC 20219.

- Hand Delivery/Courier: 400 7th Street, SW, Suite 3E-218, Mail Stop 9W-11, Washington, DC 20219.

- Fax: (571) 465-4326.

Instructions: You must include “OCC” as the agency name and “Docket ID OCC-2014-0015” in your comment. In general, the OCC will enter all comments received into the docket and publish those comments on the Regulations.gov Web site without change, including any business or personal information that you provide such as name and address information, e-mail addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

You may review comments and other related materials that pertain to this rulemaking action by any of the following methods:

- Viewing Comments Electronically: Go to www.regulations.gov. Enter “Docket ID OCC-2014-0015” in the Search box and click "Search." Comments can be filtered by Agency using the filtering tools on the left side of the screen.

- Click on the “Help” tab on the Regulations.gov home page to get information on using Regulations.gov, including instructions for viewing public comments, viewing other supporting and related materials, and viewing the docket after the close of the comment period.

- Viewing Comments Personally: You may personally inspect and photocopy comments at the OCC, 400 7th Street, SW, Washington, DC. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649-6700. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

- Docket: You may also view or request available background documents and project summaries using the methods described above.

FOR FURTHER INFORMATION CONTACT: Robert Scavotto, Deputy Director, International Analysis and Banking Condition, (202) 649-5540; William Russell, National Bank Examiner, Large Bank Supervision, (202) 649-7157; Kari Falkenborg, National Bank Examiner, Midsize and Community Bank Supervision, (202) 649-6831; Ron Shimabukuro, Senior Counsel, or Henry Barkhausen, Attorney, Legislative and Regulatory Activities Division, (202) 649-5490; for persons who are deaf or hard of hearing, TTY, (202) 649-5597.

SUPPLEMENTARY INFORMATION:

I. Introduction and Background

Section 165(i) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”) requires two types of stress tests. Section 165(i)(1) requires the Board of Governors of the Federal Reserve (Board) to conduct annual stress tests of holding companies with \$50 billion or more in assets (“supervisory stress tests”). Section 165(i)(2) requires the federal banking agencies to issue regulations requiring financial companies with more than \$10

billion in assets to conduct annual stress tests themselves (“company-run stress tests”).

In October 2012, the OCC, the Board, and the Federal Deposit Insurance Corporation issued final rules implementing the company-run stress tests required by the Dodd-Frank Act. Under these final rules, covered institutions with \$50 billion or more in assets are required to conduct the company-run stress tests at the end of the calendar year, when there are often other demands on resources. Under the current OCC stress testing rule, the OCC distributes stress scenarios by November 15.¹ Covered institutions use their financial position as of September 30 (“as of date”) and must make projections that estimate their financial position under the different stress scenarios. Covered institutions with \$50 billion or more in assets must submit the results of their stress tests by January 5. Covered institutions with \$50 billion or more are required to publish a summary of their stress test results between March 15 and March 31. Covered institutions with between \$10 and \$50 billion in assets are required to submit their stress test results to the OCC by March 31 and publish a summary of their results between June 15 and June 30.

On October 11, 2013, the OCC published revisions to its regulatory capital rules implementing the Basel III international capital standards (Basel III framework).² The OCC is now proposing to adjust the schedule contained in its stress testing rule to relieve certain covered institutions of the burden associated with the January 5 submission deadline and to clarify the method to be used to calculate regulatory capital in the stress tests.

II. Description of the Proposed Rule

A. Shift in Stress Testing Cycle

¹ These scenarios provided by the OCC reflect a minimum of three set of economic and financial conditions, including baseline, adverse, and severely adverse scenarios.

² 78 FR 62018.

The OCC is proposing to shift the dates of the stress testing cycle by approximately three months. This will relieve covered institutions with \$50 billion or more in assets of the obligation to complete their stress testing submissions by January 5, a time of year when these institutions have other year-end obligations. The OCC believes that the annual stress test is an important risk-management tool, and covered institutions should conduct these tests at a time when they are better able to manage their resources. The stress testing cycle that, under the current rule, begins on October 1, 2015, would instead begin on January 1, 2016. The following table summarizes the proposed date changes.

**Table 1—Revised Annual Stress Test Timeline
for Covered Institutions with \$50 Billion or More in Assets**

| Action Required | Current Rule | Proposed Rule |
|---|-------------------------------|--|
| "As of" Date for Financial Data Used by Stress Test | September 30 | December 31 |
| Distribution of Stress Scenarios by OCC | By November 15 | By February 15 |
| Submission of Stress Test Results | By January 5 | By April 7 |
| Disclosure of Results Summary | Between March 15 and March 31 | Between June 15 and July 15 except no earlier than Board publication of the supervisory stress test results of the bank holding company |

**Table 2—Revised Annual Stress Test Timeline
for Covered Institutions with Between \$10 and \$50 Billion in Assets**

| Action Required | Current Rule | Proposed Rule |
|---|-----------------------------|-----------------------------------|
| "As of" Date for Financial Data Used by Stress Test | September 30 | December 31 |
| Distribution of Stress Scenarios by OCC | By November 15 | By February 15 |
| Submission of Stress Test Results | By March 31 | By July 31 |
| Disclosure of Results Summary | Between June 15 and June 30 | Between October 15 and October 31 |

Under the proposed rule, covered institutions with \$50 billion or more in assets must make the required disclosure of stress test results between June 15 and July 15; however, within this period a covered institution that is a consolidated subsidiary of a bank holding company subject to supervisory stress tests conducted by the Board pursuant to 12 CFR part 252 may not disclose its results until the Board has published the supervisory stress test results of the covered institution's parent holding company. In addition, if the Board publishes the supervisory stress test results of the covered institution's parent holding company prior to June 15, then such covered institution may satisfy its publication requirement either through actual publication by the covered institution or through publication by the parent holding company pursuant to 12 CFR 46.8(b).

With respect to covered institutions with assets between \$10 and \$50 billion, it should be noted that pursuant to 12 CFR 46.3(e) a covered institution may elect to conduct its stress test under the stress test requirements applicable to a covered institution with assets of \$50 billion and over. In that case we note that the covered institution also would be subject to the proposed disclosure requirements applicable to covered institutions with \$50 billion or more in assets.

The proposed rule would also amend the applicability provisions in § 46.3 of the Annual Stress Test rule to reflect the changed timeline. Currently, a national bank or Federal savings association that becomes a covered institution must conduct its first annual stress test beginning in the next calendar year after the date the national bank or Federal savings association becomes a covered institution. Under the new stress testing timeline, if this applicability provision were left unchanged, if a national bank or Federal savings association became a covered institution as of September 30 of a given year, the institution would be required to conduct its first stress test

in the stress testing cycle beginning the following January 1, three months after becoming a covered institution. The current Annual Stress Test rule provides a minimum of nine months between the date on which a national bank or Federal savings association becomes a covered institution and the start date of the stress testing cycle in which the covered institution must conduct its first stress test. To preserve the nine-month minimum the proposed rule would establish a March 31 cutoff date. A national bank or Federal savings association that becomes a covered institution on or before March 31 of a given year would be required to conduct its first stress test in the next calendar year. For example, a national bank or Federal savings association that becomes a covered institution on March 31, 2015 would be required to conduct its first stress test in the stress testing cycle beginning January 1, 2016. A national bank or Federal savings association that becomes a covered institution after March 31 of a given year would be required to conduct its first stress test in the second calendar year after the date the national bank or Federal savings association becomes a covered institution. For example, a national bank or Federal savings association that becomes a covered institution on June 30, 2015 would be required to conduct its first stress test in the stress testing cycle beginning January 1, 2017.

B. Clarification on the Use of Basel III Advanced Approaches

On October 11, 2013, the OCC published revised risk-based and leverage capital requirements that implement the Basel III framework.³ In light of the issuance of the Basel III framework, the OCC is clarifying when covered institutions would be required to estimate their minimum regulatory capital ratios over the stress-test planning horizon using the Basel III advanced approaches methodology. The current OCC stress testing rule requires covered institutions to estimate the impact of stress scenarios on “the covered institution’s regulatory

³ 78 FR 62018.

capital levels and ratios applicable to the covered institution under 12 CFR part 3 (for national banks) or part 167 (for Federal savings associations), as applicable, and any other capital ratios specified by the OCC.”⁴ A national bank or Federal savings association that is an advanced approaches banking organization is required to use the advanced approaches to calculate its minimum regulatory capital ratios if it has conducted a satisfactory parallel run.⁵ This proposal would provide that no covered institution is required to use the advanced approaches in its stress testing projections until the stress testing cycle beginning on January 1, 2016—even if an organization has previously exited parallel run.

On February 14, 2014, the OCC announced that certain national banks had completed a successful parallel run. Given the operational complexity associated with incorporating the advanced approaches into the stress testing process, the proposal would clarify that incorporating the advanced approaches into stress testing would be deferred for one stress testing cycle. The transition period will provide the OCC with sufficient time to integrate the advanced approaches into its stress testing examination processes and to provide guidance to advanced approaches banking organizations regarding supervisory expectations on the use of the advanced approaches in stress testing projections.

III. Request for Comment

The OCC requests comment on all aspects of the proposal.

IV. Regulatory Analysis

Paperwork Reduction Act

⁴ 12 CFR 46.6(a)(2).

⁵ A satisfactory parallel run is defined as a period of no less than four consecutive calendar quarters during which a banking organization complies with certain qualification requirements. 12 CFR 3.21(c).

Under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501-3520), the OCC may not conduct or sponsor, and a person is not required to respond to, an information collection unless the information collection displays a valid Office of Management and Budget (OMB) control number. This notice of proposed rulemaking amends 12 CFR part 46, which has an approved information collection under the PRA (OMB Control No. 1557-0311). The amendments proposed today do not introduce any new collections of information, nor do they amend 12 CFR part 46 in a way that modifies the collection of information that OMB has approved. Therefore, this proposal does not require a PRA submission to OMB.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, requires generally that, in connection with a notice of proposed rulemaking, an agency prepare and make available for public comment an initial regulatory flexibility analysis that describes the impact of a proposed rule on small entities. However, the regulatory flexibility analysis otherwise required under the RFA is not required if an agency certifies that the rule will not have a significant economic impact on a substantial number of small entities (defined in regulations promulgated by the Small Business Administration (SBA) to include banking organizations with total assets of less than or equal to \$500 million) and publishes its certification and a brief explanatory statement in the **Federal Register** together with the rule.

Approximately 1,173 OCC-supervised banks are small entities based on the SBA's definition of small entities for RFA purposes (356 federal savings associations, 796 national banks, and 21 trust companies). As discussed in the **SUPPLEMENTARY INFORMATION** above, the proposed modified dates of the annual stress test cycle will only affect institutions with more than \$10 billion in total assets. As such, pursuant to section 605(b) of the RFA, the

OCC certifies that this proposal would not have a significant economic impact on a substantial number of small entities because no small national banks or Federal savings associations would be affected by the proposal. Accordingly, an initial regulatory flexibility analysis is not required.

Unfunded Mandates Reform Act

The OCC has analyzed the proposed rule under the factors in the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1532). Under this analysis, the OCC considered whether the proposed rule includes a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year (adjusted annually for inflation). The OCC has determined that this proposed rule will not result in expenditures by State, local, and tribal governments, or the private sector, of \$100 million or more in any one year. Accordingly, this proposal is not subject to section 202 of the Unfunded Mandates Act (2 U.S.C. 1532).

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 OCC has sought to present the proposed rule in a simple and straightforward manner, and invites comment on the use of plain language. For example:

- Has the OCC organized the material to suit your needs? If not, how could the OCC present the proposed rule more clearly?

- Are the requirements in the proposed rule clearly stated? If not, how could the proposed rule be more clearly stated?

- Do the regulations contain technical language or jargon that is not clear? If so, which

language requires clarification?

- Would a different format (grouping and order of sections, use of headings, paragraphing) make the regulation easier to understand? If so, what changes would achieve that?

- Is this section format adequate? If not, which of the sections should be changed and how?

- What other changes can the OCC incorporate to make the regulation easier to understand?

List of Subjects

12 CFR Part 46

Banking, Banks, Capital, Disclosures, National banks, Recordkeeping, Risk, Savings associations, Stress test.

Authority and Issuance

For the reasons set forth in the preamble, the OCC proposes to amend 12 CFR part 46 as follows:

PART 46—ANNUAL STRESS TEST

1. The authority citation for part 46 continues to read as follows:

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

2. Section 46.3 is amended by revising paragraph (c) to read as follows:

* * * * *

(c) Covered institutions that become subject to stress testing requirements after October 9, 2012. A national bank or Federal savings association that becomes a covered institution, as

defined in § 46.2 of this part, after March 31, 2014 and on or before March 31, 2015 shall conduct its first annual stress test in the stress test beginning January 1, 2016. A national bank or Federal savings association that becomes a covered institution on or before March 31 of a given year (after 2014) shall conduct its first annual stress test under this part in the next calendar year after the date the national bank or Federal savings association becomes a covered institution. A national bank or Federal savings association that becomes a covered institution after March 31 of a given year (after 2014) shall conduct its first annual stress test under this part in the second calendar year after the date the national bank or Federal savings association becomes a covered institution.

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3. Section 46.5 is amended by revising paragraphs (a) through (c) to read as follows:

§ 46.5 Annual stress test.

* * * * *

(a) Financial data. A covered institution must use financial data as of September 30 (for the stress test beginning October 1, 2014) or December 31 (for the stress test beginning January 1, 2016, and all stress tests thereafter) of that calendar year.

(b) Scenarios provided by the OCC. In conducting the stress test under this part, each covered institution must use the scenarios provided by the OCC. The scenarios provided by the OCC will reflect a minimum of three sets of economic and financial conditions, including baseline, adverse, and severely adverse scenarios. The OCC will provide a description of the scenarios required to be used by each covered institution no later than November 15 (for the stress test beginning October 1, 2014) or February 15 (for the stress test beginning January 1, 2016, and all stress tests thereafter) of that calendar year.

(c) Significant trading activities. The OCC may require a covered institution with significant trading activities, as determined by the OCC, to include trading and counterparty components in its adverse and severely adverse scenarios. The trading and counterparty position data to be used in this component will be as of a date between October 1 and December 1 (for the stress test beginning October 1, 2014) or between January 1 and March 1 (for the stress test beginning January 1, 2016, and all stress tests thereafter) of that calendar year that will be selected by the OCC and communicated to the covered institution no later than December 1 (for the stress test beginning October 1, 2014) or March 1 (for the stress test beginning January 1, 2016, and all stress tests thereafter) of the calendar year.

* * * * *

4. Section 46.6 is amended by revising paragraph (a)(2) to read as follows:

§ 46.6 Stress test methodologies and practices.

(a) * * *

(2) The potential impact on the covered institution's regulatory capital levels and ratios applicable to the covered institution under 12 CFR part 3 or part 167, as applicable, and any other capital ratios specified by the OCC, incorporating the effects of any capital actions over the planning horizon and maintenance by the covered institution of an allowance for loan losses appropriate for credit exposures throughout the planning horizon. Until December 31, 2015, or such other date specified by the OCC, a covered institution is not required to calculate its risk-based capital requirements using the internal ratings-based and advanced measurement approaches as set forth in 12 CFR 3, subpart E.

* * * * *

5. Section 46.7 is amended by revising paragraphs (a) and (b) to read as follows:

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

(a) \$10 to \$50 billion covered institution. A \$10 to \$50 billion covered institution must report to the OCC and to the Board of Governors of the Federal Reserve System, on or before March 31 (for the stress test beginning October 1, 2014) and on or before July 31 (for the stress test beginning January 1, 2016, and all stress tests thereafter), the results of the stress test in the manner and form specified by the OCC.

(b) Over \$50 billion covered institution. An over \$50 billion covered institution must report to the OCC and to the Board of Governors of the Federal Reserve System, on or before January 5 (for the stress test beginning October 1, 2014) and on or before April 7 (for the stress test beginning January 1, 2016, and all stress tests thereafter), the results of the stress test in the manner and form specified by the OCC.

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6. Section 46.8 is amended by revising paragraphs (a)(1) and (2) to read as follows; the heading for paragraph (a) is being reprinted for reader reference

§ 46.8 Publication of disclosures

(a) Publication date. (1) Over \$50 billion covered institution. (i) Prior to January 1, 2016, an over \$50 billion covered institution must publish a summary of the results of its annual stress test in the period starting March 15 and ending March 31 (for the stress test cycle beginning October 1, 2014).

(ii) Effective January 1, 2016, an over \$50 billion covered institution must publish a summary of the results of its annual stress test in the period starting June 15 and ending July 15 (for the stress test cycle beginning January 1, 2016, and for all stress tests thereafter) provided:

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

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

(2) \$10 to \$50 billion covered institution. (i) Prior to January 1, 2016, a \$10 to \$50 billion covered institution must publish a summary of the results of its annual stress test in the period starting June 15 and ending June 30 (for the stress test cycle beginning October 1, 2014).

(ii) Effective January 1, 2016, a \$10 to \$50 billion covered institution must publish a summary of the results of its annual stress test in the period starting October 15 and ending October 31 (for the stress test cycle beginning January 1, 2016, and for all stress tests thereafter).

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[THIS SIGNATURE PAGE RELATES TO THE NOTICE OF PROPOSED RULEMAKING ENTITLED “ANNUAL STRESS TEST—SCHEDULE SHIFT AND ADJUSTMENTS TO REGULATORY CAPITAL PROJECTION”]

Dated:

Thomas J. Curry
Comptroller of the Currency