TABLE 1 TO PARAGRAPH (h)

| Softwood lumber (by HTSUS number) | Assessment $/cubic meter | Assessment $/square meter |
|---|---|---|
| 4407.11.00 | 0.1737 | 0.004412 |
| 4407.12.00 | 0.1737 | 0.004412 |
| 4407.19.05 | 0.1737 | 0.004412 |
| 4407.19.06 | 0.1737 | 0.004412 |
| 4407.19.10 | 0.1737 | 0.004412 |
| 4409.10.05 | 0.1737 | 0.004412 |
| 4409.10.10 | 0.1737 | 0.004412 |
| 4409.10.20 | 0.1737 | 0.004412 |
| 4409.10.90 | 0.1737 | 0.004412 |
| 4418.99.10 | 0.1737 | 0.004412 |

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**Bruce Summers,**

*Administrator, Agricultural Marketing Service.*

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**BILLING CODE P**

## FEDERAL DEPOSIT INSURANCE CORPORATION

### 12 CFR Part 327

**RIN 3064–AF65**

## Assessments, Amendments To Address the Temporary Deposit Insurance Assessment Effects of the Optional Regulatory Capital Transitions for Implementing the Current Expected Credit Losses Methodology

**AGENCY:** Federal Deposit Insurance Corporation (FDIC).

**ACTION:** Final rule.

**SUMMARY:** The Federal Deposit Insurance Corporation is adopting amendments to the risk-based deposit insurance assessment system applicable to all large insured depository institutions (IDIs), including highly complex IDIs, to address the temporary deposit insurance assessment effects resulting from certain optional regulatory capital transition provisions relating to the implementation of the current expected credit losses (CECL) methodology. The final rule removes the double counting of a specified portion of the CECL transitional amount or the modified CECL transitional amount, as applicable (collectively, the CECL transitional amounts), in certain financial measures that are calculated using the sum of Tier 1 capital and reserves and that are used to determine assessment rates for large or highly complex IDIs. The final rule also adjusts the calculation of the loss severity measure to remove the double counting of a specified portion of the CECL transitional amounts for a large or highly complex IDI. This final rule does not affect regulatory capital or the regulatory capital relief provided in the form of transition provisions that allow banking organizations to phase in the effects of CECL on their regulatory capital ratios.

**DATES:** The final rule is effective April 1, 2021.

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**SUPPLEMENTARY INFORMATION:**

### I. Policy Objectives and Overview of Final Rule

The Federal Deposit Insurance Act (FDI Act) requires that the FDIC establish a risk-based deposit insurance assessment system for insured depository institutions (IDIs).[1] Consistent with this statutory requirement, the FDIC's objective in finalizing this rule is to ensure that IDIs are assessed in a manner that is fair and accurate. In particular, the primary objective of this final rule is to remove a double counting issue in several financial measures used to determine deposit insurance assessment rates for large or highly complex banks, which could result in a deposit insurance assessment rate for a large or highly complex bank that does not accurately reflect the bank's risk to the deposit insurance fund (DIF), all else equal.[2]

The final rule amends the assessment regulations to remove the double counting of a portion of the CECL transitional amounts, in certain financial measures used to determine deposit insurance assessment rates for large or highly complex banks. In particular, certain financial measures are calculated by summing Tier 1 capital, which includes the CECL transitional amounts, and reserves, which already reflects the implementation of CECL. As a result, a portion of the CECL transitional amounts is being double counted in these measures, which in turn affects assessment rates for large or highly complex banks. The final rule also adjusts the calculation of the loss severity measure to remove the double counting of a portion of the CECL transitional amounts for large or highly complex banks.

This final rule amends the deposit insurance system applicable to large banks and highly complex banks only, and it does not affect regulatory capital or the regulatory capital relief provided in the form of transition provisions that allow banking organizations to phase in the effects of CECL on their regulatory capital ratios.[3] Specifically, in calculating another measure used to determine assessment rates for all IDIs, the Tier 1 leverage ratio, the FDIC will continue to apply the CECL regulatory capital transition provisions, consistent with the regulatory capital relief provided to address concerns that despite adequate capital planning, unexpected economic conditions at the time of CECL adoption could result in higher-than-anticipated increases in allowances.[4]

The FDIC did not receive any comment letters in response to the proposal and is adopting the proposed rule as final without change. Under this final rule, amendments to the deposit insurance assessment system and changes to regulatory reporting requirements will be applicable only while the regulatory capital relief described above, or any potential future amendment that may affect the

[1] 12 U.S.C. 1817(b). As used in this final rule, the term ''insured depository institution'' has the same meaning as it is used in section 3(c)(2) of the FDI Act, 12 U.S.C. 1813(c)(2). Pursuant to this requirement, the FDIC first adopted a risk-based deposit insurance assessment system effective in 1993 that applied to all IDIs. *See* 57 FR 45263 (Oct. 1, 1992). The FDIC implemented this assessment system with the goals of making the deposit insurance system fairer to well-run institutions and encouraging weaker institutions to improve their condition, and thus, promote the safety and soundness of IDIs.

[2] As used in this final rule, the term ''small bank'' is synonymous with ''small institution,'' the term ''large bank'' is synonymous with ''large institution,'' and the term ''highly complex bank'' is synonymous with ''highly complex institution,'' as the terms are defined in 12 CFR 327.8. For assessment purposes, a large bank is generally defined as an institution with $10 billion or more in total assets, a small bank is generally defined as an institution with less than $10 billion in total assets, and a highly complex bank is generally defined as an institution that has $50 billion or more in total assets and is controlled by a parent holding company that has $500 billion or more in total assets, or is a processing bank or trust company. *See* 12 CFR 327.8(e), (f), and (g).

[3] Banking organizations subject to the capital rule include national banks, state member banks, state nonmember banks, savings associations, and top-tier bank holding companies and savings and loan holding companies domiciled in the United States not subject to the Federal Reserve Board's Small Bank Holding Company Policy Statement (12 CFR part 225, appendix C), but exclude certain savings and loan holding companies that are substantially engaged in insurance underwriting or commercial activities or that are estate trusts, and bank holding companies and savings and loan holding companies that are employee stock ownership plans. *See* 12 CFR part 3 (Office of the Comptroller of the Currency)); 12 CFR part 217 (Board); 12 CFR part 324 (FDIC). *See also* 84 FR 4222 (Feb. 14, 2019) and 85 FR 61577 (Sept. 30, 2020).

[4] *See* 84 FR 4225 (Feb. 14, 2019).

calculation of CECL transitional amounts and the double counting of these amounts for deposit insurance assessment purposes, is reflected in the regulatory reports of banks.

## II. Background

### *A. Deposit Insurance Assessments*

Pursuant to Section 7 of the FDI Act, the FDIC has established a risk-based assessment system in Part 327 of its Rules and Regulations.[5] In 2006, the FDIC adopted a final rule that created different risk-based assessment systems for large IDIs and small IDIs that combined supervisory ratings with other risk measures to differentiate risk and determine assessment rates.[6] In 2011, the FDIC amended the risk-based assessment system applicable to large IDIs to, among other things, better capture risk at the time the institution assumes the risk, to better differentiate risk among large IDIs during periods of good economic and banking conditions based on how they would fare during periods of stress or economic downturns, and to better take into account the losses that the FDIC may incur if a large IDI fails.[7]

The FDIC charges all IDIs an assessment amount for deposit insurance equal to the IDI's deposit insurance assessment base multiplied by its risk-based assessment rate.[8] An IDI's assessment base and assessment rate are determined each quarter based on supervisory ratings and information collected in the Consolidated Reports of Condition and Income (Call Report) or the Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks (FFIEC 002), as appropriate. Generally, an IDI's assessment base equals its average consolidated total assets minus its average tangible equity.[9]

An IDI's assessment rate is calculated using different methods based on whether the IDI is a small, large, or highly complex bank.[10] A large or highly complex bank is assessed using a scorecard approach that combines CAMELS ratings and certain forward-looking financial measures to assess the risk that the bank poses to the DIF.[11] The score that each large or highly complex bank receives is used to determine its deposit insurance assessment rate. One scorecard applies to most large IDIs and another applies to highly complex banks. Both scorecards use quantitative financial measures that are useful in predicting a large or highly complex bank's long-term performance.[12]

As described in more detail below, the FDIC is finalizing amendments to the assessment regulations to remove the double counting of a specified portion of the CECL transitional amounts in the calculation of the loss severity measure and certain other financial measures that are calculated by summing Tier 1 capital and reserves, which are used to determine assessment rates for large or highly complex banks.

### *B. The Current Expected Credit Losses Methodology*

In 2016, the Financial Accounting Standards Board (FASB) issued Accounting Standards Update (ASU) No. 2016–13, *Financial Instruments—Credit Losses, Topic 326, Measurement of Credit Losses on Financial Instruments.*[13] The ASU resulted in significant changes to credit loss accounting under U.S. generally accepted accounting principles (GAAP). The revisions to credit loss accounting under GAAP included the introduction of CECL, which replaces the incurred loss methodology for financial assets measured at amortized cost. For these assets, CECL requires banking organizations to recognize lifetime expected credit losses and to incorporate reasonable and supportable forecasts in developing the estimate of lifetime expected credit losses, while also maintaining the current requirement that banking organizations consider past events and current conditions.

CECL allowances cover a broader range of financial assets than the allowance for loan and lease losses (ALLL) under the incurred loss methodology. Under the incurred loss methodology, the ALLL generally covers credit losses on loans held for investment and lease financing receivables, with additional allowances for certain other extensions of credit and allowances for credit losses on certain off-balance sheet credit exposures (with the latter allowances presented as liabilities).[14] These exposures will be within the scope of CECL. In addition, CECL applies to credit losses on held-to-maturity (HTM) debt securities. ASU 2016–13 also introduces new requirements for available-for-sale (AFS) debt securities. The new accounting standard requires that a banking organization recognize credit losses on individual AFS debt securities through credit loss allowances, rather than through direct write-downs, as is currently required under U.S. GAAP. The credit loss allowances attributable to debt securities are separate from the credit loss allowances attributable to loans and leases.

### *C. The 2019 CECL Rule*

Upon adoption of CECL, a banking organization will record a one-time adjustment to its credit loss allowances as of the beginning of its fiscal year of adoption equal to the difference, if any, between the amount of credit loss allowances required under the incurred loss methodology and the amount of credit loss allowances required under CECL. A banking organization's implementation of CECL will affect its retained earnings, deferred tax assets (DTAs), allowances, and, as a result, its regulatory capital ratios.

In recognition of the potential for the implementation of CECL to affect regulatory capital ratios, on February 14, 2019, the FDIC, the Office of the Comptroller of the Currency (OCC), and the Board of Governors of the Federal Reserve System (Board) (collectively, the agencies) issued a final rule that revised certain regulations, including the agencies' regulatory capital regulations (capital rule),[15] to account for the aforementioned changes to credit loss accounting under GAAP, including CECL (2019 CECL rule).[16] The 2019 CECL rule includes a transition provision that allows banking organizations to phase in over a three-year period the day-one adverse effects of CECL on their regulatory capital ratios.

[5] 12 CFR part 327.

[6] *See* 71 FR 69282 (Nov. 30, 2006).

[7] *See* 76 FR 10672 (Feb. 25, 2011).

[8] *See* 12 CFR 327.3(b)(1).

[9] *See* 12 CFR 327.5.

[10] *See* 12 CFR 327.16(a) and (b).

[11] *See* 12 CFR 327.16(b); *see also* 76 FR 10672 (Feb. 25, 2011) and 77 FR 66000 (Oct. 31, 2012).

[12] *See* 76 FR 10688. The FDIC uses a different scorecard for highly complex IDIs because those institutions are structurally and operationally complex, or pose unique challenges and risks in case of failure. 76 FR 10695.

[13] ASU 2016–13 covers measurement of credit losses on financial instruments and includes three subtopics within Topic 326: (i) Subtopic 326–10 Financial Instruments—Credit Losses—Overall; (ii) Subtopic 326–20: Financial Instruments—Credit Losses—Measured at Amortized Cost; and (iii) Subtopic 326–30: Financial Instruments—Credit Losses—Available-for-Sale Debt Securities.

[14] ''Other extensions of credit'' includes trade and reinsurance receivables, and receivables that relate to repurchase agreements and securities lending agreements. ''Off-balance sheet credit exposures'' includes off-balance sheet credit exposures not accounted for as insurance, such as loan commitments, standby letters of credit, and financial guarantees. The FDIC notes that credit losses for off-balance sheet credit exposures that are unconditionally cancellable by the issuer are not recognized under CECL.

[15] 12 CFR part 3 (OCC); 12 CFR part 217 (Board); 12 CFR part 324 (FDIC).

[16] 84 FR 4222 (Feb. 14, 2019).

*D. The 2020 CECL Rule*

As part of the efforts to address the disruption of economic activity in the United States caused by the spread of coronavirus disease 2019 (COVID–19), on March 31, 2020, the agencies adopted a second CECL transition provision through an interim final rule.[17] The agencies subsequently adopted a final rule (2020 CECL rule) on September 30, 2020, that is consistent with the interim final rule, with some clarifications and adjustments related to the calculation of the transition and the eligibility criteria for using the 2020 CECL transition provision.[18] The 2020 CECL rule provides banking organizations that adopt CECL for purposes of GAAP (as in effect January 1, 2020), for a fiscal year that begins during the 2020 calendar year, the option to delay for up to two years an estimate of CECL's effect on regulatory capital, followed by a three-year transition period (*i.e.,* a five-year transition period in total).[19] The 2020 CECL rule does not replace the three-year transition provision in the 2019 CECL rule, which remains available to any banking organization at the time that it adopts CECL.[20]

*E. Double Counting of a Portion of the CECL Transitional Amounts in Certain Financial Measures Used To Determine Assessments for Large or Highly Complex Banks*

An increase in a banking organization's allowances, including those estimated under CECL, generally will reduce the banking organization's earnings or retained earnings, and therefore, its Tier 1 capital. For banks electing the 2019 CECL rule, the CECL transitional amount is the difference between the closing balance sheet amount of retained earnings for the fiscal year-end immediately prior to the bank's adoption of CECL (pre-CECL amount) and the bank's balance sheet amount of retained earnings as of the beginning of the fiscal year in which it adopts CECL (post-CECL amount). For banks electing the 2020 CECL rule transition provision, retained earnings are increased for regulatory capital calculation purposes by a modified CECL transitional amount that is adjusted to reflect changes in retained earnings due to CECL that occur during the first two years of the five-year transition period. Under the 2020 CECL rule, the change in retained earnings due to CECL is calculated by taking the change in reported adjusted allowances for credit losses (AACL)[21] relative to the first day of the fiscal year in which CECL was adopted and applying a scaling multiplier of 25 percent during the first two years of the transition period. The resulting amount is added to the CECL transitional amount described above. Hence, the modified CECL transitional amount for banks electing the 2020 CECL rule is calculated on a quarterly basis during the first two years of the transition period. The bank reflects that modified CECL transitional amount, which includes 100 percent of the day-one impact of CECL on retained earnings plus a portion of the difference between AACL reported in the most recent regulatory report and AACL as of the beginning of the fiscal year that the banking organization adopts CECL, in the transitional amount applied to retained earnings in regulatory capital calculations.[22]

For banks electing the 2020 CECL rule transition provision that enter the third year of their transition period and for banks electing the three-year 2019 CECL rule transition provision, banks must calculate the transitional amount to phase into their retained earnings for purposes of their regulatory capital calculations over a three-year period. For banks electing the 2019 CECL rule, the CECL transitional amount is the difference between the pre-CECL amount of retained earnings and the post-CECL amount of retained earnings. For banks electing the 2020 CECL rule that enter the third year of their transition, the modified CECL transitional amount is the difference between the bank's AACL at the end of the second year of the transition period and its AACL as of the beginning of the fiscal year of CECL adoption multiplied by 25 percent plus the CECL transitional amount described above. The CECL transitional amount or, at the end of the second year of the transition period for banks electing the 2020 CECL rule, the modified CECL transitional amount, is fixed and must be phased in over the three-year transition period or the last three years of the transition period, respectively, on a straight-line basis, 25 percent in the first year (or third year for banks electing the 2020 CECL rule), and an additional 25 percent of the transitional amount over each of the next two years.[23] At the beginning of the sixth year for banks electing the 2020 CECL rule, or the beginning of the fourth year for banks electing the 2019 CECL rule, the electing bank would have completely reflected in regulatory capital the day-one effects of CECL (plus, for banks electing the 2020 CECL rule, an estimate of CECL's effect on regulatory capital, relative to the

[17] 85 FR 17723 (Mar. 31, 2020).

[18] *See* 85 FR 61577 (Sept. 30, 2020).

[19] A banking organization that is required to adopt CECL under GAAP in the 2020 calendar year, but chooses to delay use of CECL for regulatory reporting in accordance with section 4014 of the Coronavirus Aid Relief, and Economic Security Act (CARES Act), is also eligible for the 2020 CECL transition provision. The CARES Act (Pub. L. 116–136, 4014, 134 Stat. 281 (March 27, 2020)) provides banking organizations optional temporary relief from complying with CECL ending on the earlier of (1) the termination date of the current national emergency, declared by the President on March 13, 2020 under the National Emergencies Act (50 U.S.C. 1601 *et seq.*) concerning COVID–19; or (2) December 31, 2020. If a banking organization chooses to revert to the incurred loss methodology pursuant to the CARES Act in any quarter in 2020, the banking organization would not apply any transitional amounts in that quarter but would be allowed to apply the transitional amounts in subsequent quarters when the banking organization resumes use of CECL. The Consolidated Appropriations Act, 2021 (Pub. L. 116–260 (Dec. 27, 2020)) extended the optional temporary relief from complying with CECL afforded under the CARES Act, with an end date on the earlier of (1) the first day of the fiscal year of the IDI, bank holding company, or any affiliate thereof that begins after the date on which the national emergency concerning the COVID–19 outbreak declared by the President on March 13, 2020 under the National Emergencies Act (50 U.S.C. 1601 *et seq.*) terminates; or (2) January 1, 2022.

[20] *See* 85 FR 61578 (Sept. 30, 2020).

[21] The 2019 CECL rule defined a new term for regulatory capital purposes, adjusted allowances for credit losses (AACL). The meaning of the term AACL for regulatory capital purposes is different from the meaning of the term allowances of credit losses (ACL) used in applicable accounting standards. The term allowance for credit losses as used by the FASB in ASU 2016–13 applies to both financial assets measured at amortized cost and AFS debt securities. In contrast, the AACL definition includes only those allowances that have been established through a charge against earnings or retained earnings. Under the 2019 CECL rule, the term AACL, rather than ALLL, applies to a banking organization that has adopted CECL.

[22] *See* 85 FR 61580 (Sept. 30, 2020).

[23] Thus, when calculating regulatory capital, a bank electing the 2019 CECL rule transition provision would increase the retained earnings reported on its balance sheet by the applicable portion of its CECL transitional amount, *i.e.,* 75 percent of its CECL transitional amount during the first year of the transition period, 50 percent of its CECL transitional amount during the second year of the transition period, and 25 percent of its CECL transitional amount during the third year of the transition period. A bank electing the 2020 CECL rule transition provision would increase the retained earnings reported on its balance sheet by the applicable portion of its modified CECL transitional amount, *i.e.,* 100 percent of its modified CECL transitional amount during the first and second years of the transition period, 75 percent of its CECL modified transitional amount during the third year of the transition period, 50 percent of its modified CECL transitional amount during the fourth year of the transition period, and 25 percent of its CECL transitional amount during the fifth year of the transition period.

incurred loss methodology's effect on regulatory capital, during the first two years of CECL adoption).[24]

Certain financial measures that are used in the scorecard to determine assessment rates for large or highly complex banks are calculated using both Tier 1 capital and reserves. Tier 1 capital is reported in Call Report Schedule RC–R, Part I, item 26, and for banks that elect either the three-year transition provision contained in the 2019 CECL rule or the five-year transition provision contained in the 2020 CECL rule, Tier 1 capital includes (due to adjustments to the amount of retained earnings reported on the balance sheet) the applicable portion of the CECL transitional amount (or modified CECL transitional amount). For deposit insurance assessment purposes, reserves are calculated using the amount reported in Call Report Schedule RC, item 4.c, ''Allowance for loan and lease losses.'' For all banks that have adopted CECL, this Schedule RC line item reflects the allowance for credit losses on loans and leases.[25]

The issue of double counting arises in certain financial measures used to determine assessment rates for large or highly complex banks that are calculated using both Tier 1 capital and reserves because the allowance for credit losses on loans and leases is included during the transition period in both reserves and, as a portion of the CECL or modified CECL transitional amount, Tier 1 capital. For banks that elect either the three-year transition provision contained in the 2019 CECL rule or the five-year transition provision contained in the 2020 CECL rule, the CECL transitional amounts, as defined in section 301 of the regulatory capital rules, additionally include the effect on retained earnings, net of tax effect, of establishing allowances for credit losses in accordance with the CECL methodology on HTM debt securities, other financial assets measured at amortized cost, and off-balance sheet credit exposures as of the beginning of the fiscal year of adoption (plus, for banks electing the 2020 CECL rule, the change during the first two years of the transition period in reported AACLs for HTM debt securities, other financial assets measured at amortized cost, and off-balance sheet credit exposures relative to the balances of these AACLs as of the beginning of the fiscal year of CECL adoption multiplied by 25 percent). The applicable portions of the CECL transitional amounts attributable to allowances for credit losses on HTM debt securities, other financial assets measured at amortized cost, and off-balance sheet credit exposures are included in Tier 1 capital only and are not double counted with reserves for deposit insurance assessment purposes.

The CECL effective dates assigned by ASU 2016–13 as most recently amended by ASU No. 2019–10, the optional temporary relief from complying with CECL afforded by the CARES Act and as extended by the Consolidated Appropriations Act, 2021, and the transitions provided for under the 2019 CECL rule and 2020 CECL rule, provide that all banks will have completely reflected in regulatory capital the day-one effects of CECL (plus, if applicable, an estimate of CECL's effect on regulatory capital, relative to the incurred loss methodology's effect on regulatory capital, during the first two years of CECL adoption) by December 31, 2026. As a result, and as discussed below, the amendments to the deposit insurance assessment system and changes to reporting requirements pursuant to this final rule will be applicable only while the temporary regulatory capital relief described above, or any potential future amendment that may affect the calculation of CECL transitional amounts and the double counting of these amounts for deposit insurance assessment purposes, is reflected in the regulatory reports of banks.

*F. The Proposed Rule*

On December 7, 2020, the FDIC published in the **Federal Register** a notice of proposed rulemaking (the proposed rule, or proposal) [26] that would amend the risk-based deposit insurance assessment system applicable to all large IDIs, including highly complex IDIs, to address the temporary deposit insurance assessment effects resulting from certain optional regulatory capital transition provisions relating to the implementation of the CECL methodology. To address these temporary deposit insurance assessment effects, in calculating certain measures used in the scorecard for determining deposit insurance assessment rates for large or highly complex banks, the FDIC proposed to remove the applicable portions of the CECL transitional amounts added to retained earnings for regulatory capital purposes and attributable to the allowance for credit losses on loans and leases held for investment under the transitions provided for under the 2019 and 2020 CECL rules. Specifically, in certain scorecard measures which are calculated using the sum of Tier 1 capital and reserves, the FDIC proposed to remove a specified portion of the CECL transitional amount (or modified CECL transitional amount) that is added to retained earnings for regulatory capital purposes when determining deposit insurance assessment rates. The FDIC also proposed to adjust the calculation of the loss severity measure to remove the double counting of a specified portion of the CECL transitional amounts for a large or highly complex bank.

The FDIC did not receive any comment letters in response to the proposal and is adopting the proposed rule as final without change.

## III. The Final Rule

*A. Summary*

As proposed, in certain scorecard measures which are calculated using the sum of Tier 1 capital and reserves, the FDIC will remove a specified portion of the CECL transitional amounts that is added to retained earnings for regulatory capital purposes when determining deposit insurance assessment rates. The FDIC also will adjust the calculation of the loss severity measure to remove the double counting of a specified portion of the CECL transitional amounts for a large or highly complex bank.

Absent the adjustments to the calculation of certain financial measures in the large or highly complex bank scorecards under this final rule, the inclusion of the applicable portions of the CECL transitional amounts added to retained earnings for regulatory capital purposes and attributable to the allowance for credit losses on loans and leases held for investment in regulatory capital and the implementation of CECL in calculating reserves would result in temporary double counting of a portion of the CECL transitional amounts in select financial measures used to determine assessment rates for large or highly complex banks. For example, in the denominator of the higher-risk assets to Tier 1 capital and reserves ratio, the applicable portions of the CECL transitional amounts added to retained earnings for regulatory capital purposes and attributable to the allowance for credit losses on loans and leases held for investment would be included in Tier 1 capital, and these portions also would be reflected in the calculation of reserves using the allowance amount reported in Call Report Schedule RC, item 4.c. If left

[24] *See* 84 FR 4228 (Feb. 14, 2019) and 85 FR 61580 (Sept. 30, 2020).

[25] The allowance for credit losses on loans and leases held for investment also is reported in item 7, column A, of Call Report Schedule RI–B, Part II, Changes in Allowances for Credit Losses.

[26] 85 FR 78794 (Dec. 7, 2020).

uncorrected, this temporary double counting could result in a deposit insurance assessment rate for a large or highly complex bank that does not accurately reflect the bank's risk to the DIF, all else equal.

In the following simplified, stylized example, illustrated in Table 1 below, consider a hypothetical large bank that has a CECL effective date of January 1, 2020, and elects a five-year transition.[27] On the closing balance sheet date immediately prior to adopting CECL (*i.e.,* December 31, 2019), the electing bank has $1 million of ALLL and $10 million of Tier 1 capital. On the opening balance sheet date immediately after adopting CECL (*i.e.,* January 1, 2020), the electing bank has $1.2 million of allowances for credit losses, of which the entire $1.2 million qualifies as AACL for regulatory capital purposes and is attributable to the allowance for credit losses on loans and leases held for investment.[28] The bank would recognize the adoption of CECL as of January 1, 2020, by recording an increase in its allowances for credit losses, and in its AACL for regulatory capital purposes, of $200,000, with a reduction in beginning retained earnings of $200,000, which flows through and results in Tier 1 capital of $9.8 million. For each of the quarterly reporting periods in year 1 of the five-year transition period (*i.e.,* 2020), the electing bank would increase the retained earnings reported on its balance sheet by $200,000 for purposes of calculating its regulatory capital ratios, resulting in an increase in its Tier 1 capital of $200,000 to $10 million, all else equal.[29]

In this example, in determining the hypothetical large bank's deposit insurance assessment rate, the bank's Tier 1 capital of $10 million would include the $200,000 addition to the bank's reported retained earnings due to the CECL transition (entirely attributable to the allowance for credit losses on loans and leases), and its reserves would equal $1.2 million, the entire amount of which is attributable to the allowance for credit losses on loans and leases held for investment. Its combined Tier 1 capital and reserves would equal $11.2 million ($10 million plus $1.2 million), reflecting double counting of the $200,000 applicable portion of the bank's CECL transitional amount attributable to the allowance for credit losses on loans and leases.[30]

Under the final rule, for purposes of calculating assessments for large or highly complex banks, the FDIC would subtract $200,000 from the denominator of financial measures that sum Tier 1 capital and reserves, since the amount of $200,000 is incorporated in both Tier 1 capital (as the applicable portion of the CECL transitional amount in year one of the five-year transition period) and reserves in the denominator. The bank's adjusted Tier 1 capital and reserves would equal $11 million. The FDIC also would adjust the calculation of the loss severity measure by $200,000, as described below.

TABLE 1—STYLIZED EXAMPLE[1] OF FIRST-QUARTER APPLICATION OF A FIVE-YEAR CECL TRANSITION IN CALCULATING TIER 1 CAPITAL AND RESERVES FOR DEPOSIT INSURANCE ASSESSMENT PURPOSES

| In thousands | Dec. 31, 2019 | Jan. 1, 2020 |
|---|---|---|
| Reserves | $1,000 (ALLL) | $1,200 (AACL). |
| Tier 1 Capital | $10,000 | $10,000. |
| Tier 1 Capital and Reserves *(absent final rule)* | $11,000 | $11,200. |
| Applicable Portion of the CECL Transitional Amount | | $200. |
| Tier 1 Capital and Reserves (*under final rule)* | | $11,000. |

[1] This stylized example reflects the first-quarter application of a hypothetical bank that has adopted a five-year CECL transition under the 2020 CECL rule and assumes that the full amount of the CECL transitional amount is attributable to the allowance for credit losses on loans and leases. The example does not reflect any changes over the course of the first quarter of 2020 (*i.e.,* no changes in the amounts reported on the bank's balance sheet between January 1 and March 31, 2020, the end of the reporting period for the first quarter). As a consequence, the bank's modified CECL transitional amount as of March 31, 2020, equals its CECL transitional amount. This stylized example omits the effects of deferred tax assets, which are addressed in the agencies' capital rule, the 2019 CECL rule, and the 2020 CECL rule.

The final rule amends the deposit insurance system applicable to large banks and highly complex banks only, and does not affect regulatory capital or the regulatory capital relief provided under the 2019 CECL rule or 2020 CECL

[27] This stylized example is included to illustrate the effect of the final rule and omits the effects of deferred tax assets on regulatory capital calculations, which are addressed in the agencies' capital rule, the 2019 CECL rule, and the 2020 CECL rule. The example reflects the first-quarter 2020 application by a hypothetical large bank (with no purchased credit-deteriorated assets) that has adopted the five-year CECL transition under the 2020 CECL rule and assumes that the full amount of the CECL transitional amount is attributable to the allowance for credit losses on loans and leases. The example does not reflect any changes over the course of the first quarterly reporting period in year 1 (*i.e.,* no changes in the amounts reported on the bank's balance sheet between January 1 and March 31, 2020, the end of the reporting period for the first quarter). As a consequence, the example bank's modified CECL transitional amount as of March 31, 2020 equals its CECL transitional amount. *See* 12 CFR part 3 (OCC); 12 CFR part 217 (Board); 12 CFR part 324 (FDIC). *See also* 84 FR 4222 (Feb. 14, 2019) and 85 FR 61577 (Sept. 30, 2020).

[28] While the CECL transitional amount is calculated using the difference between the closing balance sheet amount of retained earnings for the fiscal year-end immediately prior to a bank's adoption of CECL and the balance sheet amount of retained earnings as of the beginning of the fiscal year in which the bank adopts CECL, the FDIC calculates financial measures used to determine deposit insurance assessment rates using data reported as of each quarter end.

[29] Under the 2019 CECL rule, when calculating regulatory capital ratios during the first year of an electing bank's CECL adoption date, the bank must phase in 25 percent of the transitional amounts. The bank would phase in an additional 25 percent of the transitional amounts over each of the next two years so that the bank would have phased in 75 percent of the day-one adverse effects of adopting CECL during year three. At the beginning of the fourth year, the bank would have completely reflected in regulatory capital the day-one effects of CECL. Under the 2020 CECL rule, the modified CECL transitional amount is calculated on a quarterly basis during the first two years of the transition period. *See* 12 CFR part 3 (OCC); 12 CFR part 217 (Board); 12 CFR part 324 (FDIC). *See also* 84 FR 4222 (Feb. 14, 2019) and 85 FR 61577 (Sept. 30, 2020).

[30] In this stylized example, the entirety of the CECL transitional amount is attributable to the allowance for credit losses on loans and leases and it equals the modified CECL transitional amount during the first quarter of the transition period. The applicable portion of the CECL transitional amounts is the amount that is double counted in certain financial measures used to determine deposit insurance assessment rates and that the FDIC will remove from those financial measures. However, CECL transitional amounts may also include amounts attributable to allowances for credit losses under CECL on HTM debt securities, other financial assets measured at amortized cost, and off-balance sheet credit exposures. Under the final rule, in determining a large or highly complex bank's deposit insurance assessment rate, the FDIC will continue to include in Tier 1 capital the applicable portion of any CECL transitional amounts attributable to allowances for credit losses on items other than loans and leases held for investment.

rule.[31] The FDIC will continue the application of the transition provisions provided for under the 2019 and 2020 CECL rules to the Tier 1 leverage ratio used in determining deposit insurance assessment rates for all IDIs.

Temporary changes to the Call Report forms and instructions are required to implement the amendments to the assessment system to remove the double counting under the final rule. These changes are being effectuated in coordination with the other member entities of the Federal Financial Institutions Examination Council (FFIEC).[32] Changes to regulatory reporting requirements pursuant to this final rule will be required only while the regulatory capital relief is reflected in the regulatory reports of banks.

*B. Adjustments to Certain Measures Used in the Scorecard Approach for Determining Assessment Rates for Large or Highly Complex Banks*

Under the final rule, the FDIC will adjust the calculations of certain financial measures used to determine deposit insurance assessment rates for large or highly complex banks to remove the applicable portions of the CECL transitional amounts added to retained earnings that is attributable to the allowance for credit losses on loans and leases held for investment. The FDIC is removing this part of the CECL transitional amounts because, for large or highly complex banks that have adopted CECL, the measure of reserves used in the scorecard is the allowance for credit losses on loans and leases reported in Call Report Schedule RC, item 4.c.

This amount, which will be reported in a new line item in Schedule RC–O only on the FFIEC 031 and FFIEC 041 versions of the Call Report, will be removed from scorecard measures that are calculated using the sum of Tier 1 capital and reserves, as described in more detail below. The FDIC also will adjust the calculation of the loss severity measure to remove the double counting by removing the applicable portions of the CECL transitional amounts added to retained earnings for regulatory capital purposes and attributable to the allowance for credit losses on loans and leases held for investment for large or highly complex banks.

While the FDIC recognizes that by the April 1, 2021, effective date for this final rule, numerous large or highly complex banks will have implemented CECL and many will have elected the transition provided under either the 2019 CECL rule or 2020 CECL rule, the FDIC is not making adjustments to prior quarterly assessments.

1. Credit Quality Measure

The score for the credit quality measure, applicable to both large banks and highly complex banks, is the greater of (1) the ratio of criticized and classified items to Tier 1 capital and reserves score or (2) the ratio of underperforming assets to Tier 1 capital and reserves score.[33] The double counting results in lower ratios and a credit quality measure that reflects less risk than a bank actually poses to the DIF. Under the final rule, the FDIC is adjusting the denominator, Tier 1 capital and reserves, used in both ratios by removing the applicable portions of the CECL transitional amounts added to retained earnings for regulatory capital purposes and attributable to the allowance for credit losses on loans and leases held for investment.

2. Concentration Measure

For large banks, the concentration measure is the higher of (1) the ratio of higher-risk assets to Tier 1 capital and reserves or (2) the growth-adjusted portfolio concentration measure. The growth-adjusted portfolio concentration measure includes the ratio of concentration levels for several loan portfolios to Tier 1 capital and reserves.

For highly complex banks, the concentration measure is the highest of three measures: (1) The ratio of higher-risk assets to Tier 1 capital and reserves, (2) the ratio of top 20 counterparty exposures to Tier 1 capital and reserves, or (3) the ratio of the largest counterparty exposure to Tier 1 capital and reserves.[34]

The double counting results in lower ratios and a concentration measure that reflects less risk than a bank actually poses to the DIF. Under the final rule, the FDIC is adjusting the denominator, Tier 1 capital and reserves, used in each of these ratios by removing the applicable portions of the CECL transitional amounts added to retained earnings for regulatory capital purposes and attributable to the allowance for credit losses on loans and leases held for investment.

3. Loss Severity Measure

The loss severity measure estimates the relative magnitude of potential losses to the DIF in the event of an IDI's failure.[35] In calculating this measure, the FDIC applies a standardized set of assumptions based on historical failures regarding liability runoffs and the recovery value of asset categories to simulate possible losses to the FDIC, reducing capital and assets until the Tier 1 leverage ratio declines to 2 percent. The double counting results in a greater reduction of assets during the capital reduction phase and therefore a lower resolution value of assets at the time of failure, which in turn results in a higher loss severity measure that reflects more risk than a bank actually poses to the DIF. Under the final rule, the FDIC is adjusting the calculation of the capital adjustment in the loss severity measure to remove the double counting of the applicable portion of the CECL transitional amounts added to retained earnings for regulatory capital purposes and attributable to the allowance for credit losses on loans and leases held for investment for both large banks and highly complex banks.[36]

*C. Other Conforming Amendments to the Assessment Regulations*

Under the final rule, the FDIC is making conforming amendments to the FDIC's assessment regulations to effectuate the adjustments described above and consistent with the proposed rule. These conforming amendments ensure that the adjustments to the financial measures used to calculate a large or highly complex bank's assessment rate are properly incorporated into the assessment regulations.

*D. Regulatory Reporting Changes*

A bank electing a transition under either the 2019 CECL rule or the 2020 CECL rule must indicate its election to use the 3-year 2019 or the 5-year 2020 CECL transition provision in Call Report

[31] *See* 12 CFR part 3 (OCC); 12 CFR part 217 (Board); 12 CFR part 324 (FDIC). *See also* 84 FR 4222 (Feb. 14, 2019) and 85 FR 61577 (Sept. 30, 2020).

[32] As discussed in the section on the Paperwork Reduction Act below, the agencies published a joint notice and request for comment (85 FR 82580 (Dec. 18, 2020)) requesting one additional temporary item on the Call Report (FFIEC 031 and FFIEC 041 only) to make the adjustments described below.

[33] *See* 12 CFR 327.16(b)(ii)(A)(2)(iv).

[34] *See* Appendix A to subpart A of 23 CFR 327.

[35] Appendix D to subpart A of 12 CFR part 327 describes the calculation of the loss severity measure.

[36] The loss severity measure is an average loss severity ratio for the three most recent quarters of data available. It is anticipated that the temporary reporting changes proposed pursuant to this final rule would be implemented no earlier than the first applicable reporting period following the anticipated effective date of this final rule. As such, the FDIC will adjust the calculation of the loss severity measure to remove the double counting of the specified portion of the CECL transitional amounts for one of the three quarters averaged in the first reporting period following the effective date, for two of the three quarters averaged in the second reporting period following the effective date, and for all three quarters averaged in all subsequent reporting periods, as applicable.

Schedule RC–R, Part I, item 2.a. In addition, such an electing bank must report the applicable portions of the transitional amounts under the 2019 CECL rule or the 2020 CECL rule in the affected Call Report items during the transition period. For example, an electing bank would add the applicable portion of the CECL transitional amount (or the modified CECL transitional amount) when calculating the amount of retained earnings it would report in Schedule RC–R, Part I, item 2, of the Call Report.[37]

In calculating certain measures used in the scorecard approach for determining deposit insurance assessments for large or highly complex banks, under the final rule the FDIC will remove a specified portion of the CECL transitional amounts added to retained earnings under the transitions provided for under the 2020 and 2019 CECL rules. Specifically, in certain measures used in the scorecard approach for determining assessments for large or highly complex banks, the FDIC will remove the applicable portion of the CECL transitional amount (or modified CECL transitional amount) added to retained earnings for regulatory capital purposes (Call Report Schedule RC–R, Part I, Item 2), attributable to the allowance for credits losses on loans and leases held for investment and included in the amount reported on the Call Report balance sheet in Schedule RC, item 4.c.

However, large or highly complex banks that have elected a CECL transition provision do not currently report these specific portions of the CECL transitional amounts in the Call Report. Thus, implementing the finalized amendments to the risk-based deposit insurance assessment system applicable to large or highly complex banks requires temporary changes to the reporting requirements applicable to the Call Report and its related instructions. These reporting changes have been proposed and are being effectuated in coordination with the other member entities of the FFIEC.[38] As previously described, changes to reporting requirements for large or highly complex banks pursuant to this final rule will be required only while the temporary relief is reflected in banks' regulatory reports.

*E. Expected Effects*

The final rule removes the applicable portions of the CECL transitional amounts added to retained earnings for regulatory capital purposes and attributable to the allowance for credit losses on loans and leases held for investment from certain financial measures used in the scorecards that determine deposit insurance assessment rates for large or highly complex banks. Absent the final rule, this amount would be temporarily double counted and could result in a deposit insurance assessment rate for a large or highly complex bank that does not accurately reflect the bank's risk to the DIF, all else equal. Furthermore, the double counting could result in inequitable deposit insurance assessments, as a large or highly complex bank that has not yet implemented CECL or that does not utilize a transition provision could pay a higher or lower assessment rate than a bank that has implemented CECL and utilizes a transition provision, even if both banks pose equal risk to the DIF. The FDIC estimates that the majority of large or highly complex banks affected by the double counting are currently paying a lower rate than they would absent the final rule. However, the FDIC also estimates that a few banks are currently paying a higher rate than they otherwise would pay if the issue of double counting is corrected. The FDIC estimates that the rate these latter banks are paying is higher by only a *de minimis* amount, and occurs where the double counting on the loss severity measure more than offsets the effect of double counting on the other scorecard measures that are calculated using the sum of Tier 1 capital and reserves.

Based on FDIC data as of September 30, 2020, the FDIC estimates that this double counting could result in approximately $55 million in annual foregone assessment revenue, or 0.047 percent of the DIF balance as of that date. This estimate includes the majority of large or highly complex banks that are paying a lower rate due to the double counting and the few banks that are paying a higher rate absent correction of double counting. The FDIC expects that absent this final rule, the estimated amount of foregone assessment revenue would increase as additional large or highly complex banks adopt CECL, to the extent those large or highly complex banks elect to apply a transition. Absent the final rule, the FDIC expects that this amount of foregone assessment revenue also may increase as large or highly complex banks electing the 2020 CECL rule include in their modified CECL transitional amounts an estimate of CECL's effect on regulatory capital, relative to the incurred loss methodology's effect on regulatory capital, during the first two years of CECL adoption. As of September 30, 2020, the FDIC estimates that 109 of 139 large or highly complex banks had implemented CECL, and that 94 had elected a transition provided under either the 2019 CECL rule or the 2020 CECL rule. As banks phase out the transitional amounts over time, the assessment effect also will decline. As described previously, the optional temporary relief from CECL afforded by the CARES Act and as extended by the Consolidated Appropriations Act, 2021, and the transitions provided for under the 2019 CECL rule and 2020 CECL rule, provide that all banks will have completely reflected in regulatory capital the day-one effects of CECL (plus, if applicable, an estimate of CECL's effect on regulatory capital, relative to the incurred loss methodology's effect on regulatory capital, during the first two years of CECL adoption) by December 31, 2026, thereby eliminating the double counting effects from the scorecard for large or highly complex banks. These above estimates are subject to uncertainty given differing CECL implementation dates and the option for large or highly complex banks to choose between the transitions offered under the 2019 CECL rule or the 2020 CECL rule, or to recognize the full impact of CECL on regulatory capital upon implementation.

The final rule could pose some additional regulatory costs for large or highly complex banks that elect a transition under either the 2019 CECL rule or the 2020 CECL rule associated with changes to internal systems or processes, or changes to reporting requirements. It is the FDIC's understanding that banks already calculate, for internal purposes, the portion of the CECL transitional amount (or modified CECL transitional amount) added to retained earnings for regulatory capital purposes that is attributable to the allowance for credit losses on loans and leases held for investment. As such, the FDIC anticipates that the addition of this temporary item to the Call Report would not impose significant additional burden and any additional costs are likely to be *de minimis.*

## IV. Effective Date of the Final Rule

The FDIC is issuing this final rule with an effective date of April 1, 2021, and applicable to the second quarterly assessment period of 2021 (*i.e.,* April 1–June 30, 2021). Based on this effective date, the temporary effects of the double counting of the applicable portions of the CECL transitional amounts in select financial measures used in the scorecard approach for determining assessments for large or highly complex banks will

[37] *See* 84 FR 4227 and 85 FR 17726.

[38] 85 FR 82580 (Dec. 18, 2020).

be corrected beginning with the second quarterly assessment period of 2021.

## V. Administrative Law Matters

### *A. Administrative Procedure Act*

Under the Administrative Procedure Act (APA),[39] ''[t]he required publication or service of a substantive rule shall be made not less than 30 days before its effective date, except as otherwise provided by the agency for good cause found and published with the rule.'' [40]

An effective date of April 1, 2021 would mean that the temporary effects of the double counting of the applicable portions of the CECL transitional amounts in select financial measures used in the scorecard approach for determining assessments for large or highly complex banks are corrected, beginning with the second quarterly assessment period of 2021 (*i.e.,* April 1–June 30, 2021), with a payment due date of September 30, 2021.

### *B. Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.,* generally requires an agency, in connection with a final rule, to prepare and make available for public comment a final regulatory flexibility analysis that describes the impact of a final rule on small entities.[41] However, a regulatory flexibility analysis is not required if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The U.S. Small Business Administration (SBA) has defined ''small entities'' to include banking organizations with total assets of less than or equal to $600 million.[42] Certain types of rules, such as rules of particular applicability relating to rates, corporate or financial structures, or practices relating to such rates or structures, are expressly excluded from the definition of ''rule'' for purposes of the RFA.[43] Because the final rule relates directly to the rates imposed on IDIs for deposit insurance and to the deposit insurance assessment system that measures risk and determines each bank's assessment rate, the final rule is not subject to the RFA. Nonetheless, the FDIC is voluntarily presenting information in this RFA section.

Based on Call Report data as of September 30, 2020, the FDIC insures 5,042 depository institutions, of which 3,585 are defined as small entities by the terms of the RFA.[44] The final rule, however, only applies to institutions with $10 billion or greater in total assets. Consequently, small entities for purposes of the RFA will experience no economic impact as a result of the implementation of this final rule.

### *C. Riegle Community Development and Regulatory Improvement Act of 1994*

Section 302(a) of the Riegle Community Development and Regulatory Improvement Act (RCDRIA) requires that the Federal banking agencies, including the FDIC, in determining the effective date and administrative compliance requirements of new regulations that impose additional reporting, disclosure, or other requirements on IDIs, consider, consistent with principles of safety and soundness and the public interest, any administrative burdens that such regulations would place on depository institutions, including small depository institutions, and customers of depository institutions, as well as the benefits of such regulations. In addition, section 302(b) of RCDRIA requires new regulations and amendments to regulations that impose additional reporting, disclosures, or other new requirements on IDIs generally to take effect on the first day of a calendar quarter that begins on or after the date on which the regulations are published in final form, with certain exceptions, including for good cause.[45]

The amendments to the FDIC's deposit insurance assessment regulations under this final rule do impose additional reporting, disclosures, or other new requirements. As discussed above, the FDIC is making temporary changes to the FFIEC 031 and FFIEC 041 Call Report forms and instructions to implement the amendments to the assessment system to remove the double counting under the final rule. These changes are being effectuated in coordination with the other member entities of the FFIEC. As such, the FDIC considered the requirements of the RCDRIA and are finalizing this rule with an effective date of April 1, 2021. The FDIC invited comments regarding the application of RCDRIA to the final rule, but did not receive comments on this topic.

### *D. Paperwork Reduction Act*

The Paperwork Reduction Act of 1995 (PRA) states that no agency may conduct or sponsor, nor is the respondent required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number.[46] The FDIC's OMB control numbers for its assessment regulations are 3064–0057, 3064–0151, and 3064–0179. The final rule does not revise any of these existing assessment information collections pursuant to the PRA and consequently, no submissions in connection with these OMB control numbers will be made to the OMB for review. However, the final rule affects the agencies' current information collections for the Call Report (FFIEC 031 and FFIEC 041, but not FFIEC 051). The agencies' OMB control numbers for the Call Reports are: OCC OMB No. 1557–0081; Board OMB No. 7100–0036; and FDIC OMB No. 3064–0052. The changes to the Call Report forms and instructions have been addressed in a separate **Federal Register** notice or notices.[47]

### *E. Plain Language*

Section 722 of the Gramm-Leach-Bliley Act [48] requires the Federal banking agencies to use plain language in all proposed and final rulemakings published in the **Federal Register** after January 1, 2000. The FDIC invited comment regarding the use of plain language, but did not receive any comments on this topic.

### *E. The Congressional Review Act*

For purposes of Congressional Review Act, the OMB makes a determination as to whether a final rule constitutes a ''major'' rule. The OMB has determined that the final rule is not a major rule for purposes of the Congressional Review Act.

If a rule is deemed a ''major rule'' by the OMB, the Congressional Review Act generally provides that the rule may not take effect until at least 60 days following its publication. The Congressional Review Act defines a

[39] 5 U.S.C. 553.

[40] 5 U.S.C. 553(d).

[41] 5 U.S.C. 601 *et seq.*

[42] The SBA defines a small banking organization as having $600 million or less in assets, where an organization's ''assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year.'' *See* 13 CFR 121.201 (as amended, effective August 19, 2019). In its determination, the SBA ''counts the receipts, employees, or other measure of size of the concern whose size is at issue and all of its domestic and foreign affiliates.'' 13 CFR 121.103. Following these regulations, the FDIC uses a covered entity's affiliated and acquired assets, averaged over the preceding four quarters, to determine whether the covered entity is ''small'' for the purposes of RFA.

[43] 5 U.S.C. 601.

[44] FDIC Call Report data, September 30, 2020.

[45] 5 U.S.C. 553(b)(B).

[45] U.S.C. 553(d).

[45] U.S.C. 601 *et seq.*

[45] U.S.C. 801 *et seq.*

[45] U.S.C. 801(a)(3).

[45] U.S.C. 804(2).

[45] U.S.C. 808(2).

[45] 12 U.S.C. 4802(a).

[45] 12 U.S.C. 4802(b).

[46] 4 U.S.C. 3501–3521.

[47] 85 FR 82580 (Dec. 18, 2020).

[48] 12 U.S.C. 4809.

''major rule'' as any rule that the Administrator of the Office of Information and Regulatory Affairs of the OMB finds has resulted in or is likely to result in—(A) an annual effect on the economy of $100,000,000 or more; (B) a major increase in costs or prices for consumers, individual industries, Federal, State, or Local government agencies or geographic regions, or (C) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. As required by the Congressional Review Act, the FDIC will submit the final rule and other appropriate reports to Congress and the Government Accountability Office for review.

**List of Subjects in 12 CFR Part 327**

Bank deposit insurance, Banks, Banking, Savings associations.

**Authority and Issuance**

For the reasons stated in the preamble, the Federal Deposit Insurance Corporation amends 12 CFR part 327 as follows:

## PART 327—ASSESSMENTS

■ 1. The authority citation for part 327 continues to read as follows:

**Authority:** 12 U.S.C. 1813, 1815, 1817–19, 1821.

■ 2. In Appendix A to Subpart A, revise the table under the heading, ''VI. Description of Scorecard Measures'' to read as follows:

**Appendix A to Subpart A of Part 327—Method To Derive Pricing Multipliers and Uniform Amount**

* * * * *

**VI. Description of Scorecard Measures**

| Scorecard measures [1] | Description |
|---|---|
| Leverage Ratio | Tier 1 capital for Prompt Corrective Action (PCA) divided by adjusted average assets based on the definition for prompt corrective action. |
| Concentration Measure for Large Insured depository institutions (excluding Highly Complex Institutions). | The concentration score for large institutions is the higher of the following two scores: |
| (1) Higher-Risk Assets/Tier 1 Capital and Reserves [2]. | Sum of construction and land development (C&D) loans (funded and unfunded), higher-risk C&I loans (funded and unfunded), nontraditional mortgages, higher-risk consumer loans, and higher-risk securitizations divided by Tier 1 capital and reserves. See Appendix C for the detailed description of the ratio. |
| (2) Growth-Adjusted Portfolio Concentrations [2]. | The measure is calculated in the following steps:<br>(1) Concentration levels (as a ratio to Tier 1 capital and reserves) are calculated for each broad portfolio category:<br>• C&D,<br>• Other commercial real estate loans,<br>• First lien residential mortgages (including non-agency residential mortgage-backed securities),<br>• Closed-end junior liens and home equity lines of credit (HELOCs),<br>• Commercial and industrial loans,<br>• Credit card loans, and<br>• Other consumer loans.<br>(2) Risk weights are assigned to each loan category based on historical loss rates.<br>(3) Concentration levels are multiplied by risk weights and squared to produce a risk-adjusted concentration ratio for each portfolio.<br>(4) Three-year merger-adjusted portfolio growth rates are then scaled to a growth factor of 1 to 1.2 where a 3-year cumulative growth rate of 20 percent or less equals a factor of 1 and a growth rate of 80 percent or greater equals a factor of 1.2. If three years of data are not available, a growth factor of 1 will be assigned.<br>(5) The risk-adjusted concentration ratio for each portfolio is multiplied by the growth factor and resulting values are summed.<br>See Appendix C for the detailed description of the measure. |
| Concentration Measure for Highly Complex Institutions. | Concentration score for highly complex institutions is the highest of the following three scores: |
| (1) Higher-Risk Assets/Tier 1 Capital and Reserves [2]. | Sum of C&D loans (funded and unfunded), higher-risk C&I loans (funded and unfunded), nontraditional mortgages, higher-risk consumer loans, and higher-risk securitizations divided by Tier 1 capital and reserves. See Appendix C for the detailed description of the measure. |
| (2) Top 20 Counterparty Exposure/Tier 1 Capital and Reserves [2]. | Sum of the 20 largest total exposure amounts to counterparties divided by Tier 1 capital and reserves. The total exposure amount is equal to the sum of the institution's exposure amounts to one counterparty (or borrower) for derivatives, securities financing transactions (SFTs), and cleared transactions, and its gross lending exposure (including all unfunded commitments) to that counterparty (or borrower). A counterparty includes an entity's own affiliates. Exposures to entities that are affiliates of each other are treated as exposures to one counterparty (or borrower). Counterparty exposure excludes all counterparty exposure to the U.S. Government and departments or agencies of the U.S. Government that is unconditionally guaranteed by the full faith and credit of the United States. The exposure amount for derivatives, including OTC derivatives, cleared transactions that are derivative contracts, and netting sets of derivative contracts, must be calculated using the methodology set forth in 12 CFR 324.34(b), but without any reduction for collateral other than cash collateral that is all or part of variation margin and that satisfies the requirements of 12 CFR 324.10(c)(4)(ii)(C)(*1*)(*ii*) and (*iii*) and 324.10(c)(4)(ii)(C)(*3*) through (*7*). The exposure amount associated with SFTs, including cleared transactions that are SFTs, must be calculated using the standardized approach set forth in 12 CFR 324.37(b) or (c). For both derivatives and SFT exposures, the exposure amount to central counterparties must also include the default fund contribution.[3] |

| Scorecard measures [1] | Description |
|---|---|
| (3) Largest Counterparty Exposure/Tier 1 Capital and Reserves [2]. | The largest total exposure amount to one counterparty divided by Tier 1 capital and reserves. The total exposure amount is equal to the sum of the institution's exposure amounts to one counterparty (or borrower) for derivatives, SFTs, and cleared transactions, and its gross lending exposure (including all unfunded commitments) to that counterparty (or borrower). A counterparty includes an entity's own affiliates. Exposures to entities that are affiliates of each other are treated as exposures to one counterparty (or borrower). Counterparty exposure excludes all counterparty exposure to the U.S. Government and departments or agencies of the U.S. Government that is unconditionally guaranteed by the full faith and credit of the United States. The exposure amount for derivatives, including OTC derivatives, cleared transactions that are derivative contracts, and netting sets of derivative contracts, must be calculated using the methodology set forth in 12 CFR 324.34(b), but without any reduction for collateral other than cash collateral that is all or part of variation margin and that satisfies the requirements of 12 CFR 324.10(c)(4)(ii)(C)(*1*)(*ii*) and (*iii*) and 324.10(c)(4)(ii)(C)(*3*) through (*7*). The exposure amount associated with SFTs, including cleared transactions that are SFTs, must be calculated using the standardized approach set forth in 12 CFR 324.37(b) or (c). For both derivatives and SFT exposures, the exposure amount to central counterparties must also include the default fund contribution.[3] |
| Core Earnings/Average Quarter-End Total Assets. | Core earnings are defined as net income less extraordinary items and tax-adjusted realized gains and losses on available-for-sale (AFS) and held-to-maturity (HTM) securities, adjusted for mergers. The ratio takes a four-quarter sum of merger-adjusted core earnings and divides it by an average of five quarter-end total assets (most recent and four prior quarters). If four quarters of data on core earnings are not available, data for quarters that are available will be added and annualized. If five quarters of data on total assets are not available, data for quarters that are available will be averaged. |
| Credit Quality Measure ..... | The credit quality score is the higher of the following two scores: |
| (1) Criticized and Classified Items/Tier 1 Capital and Reserves [2]. | Sum of criticized and classified items divided by the sum of Tier 1 capital and reserves. Criticized and classified items include items an institution or its primary federal regulator have graded "Special Mention" or worse and include retail items under Uniform Retail Classification Guidelines, securities, funded and unfunded loans, other real estate owned (ORE), other assets, and marked-to-market counterparty positions, less credit valuation adjustments.[4] Criticized and classified items exclude loans and securities in trading books, and the amount recoverable from the U.S. government, its agencies, or government-sponsored enterprises, under guarantee or insurance provisions. |
| (2) Underperforming Assets/Tier 1 Capital and Reserves [2]. | Sum of loans that are 30 days or more past due and still accruing interest, nonaccrual loans, restructured loans (including restructured 1–4 family loans), and ORE, excluding the maximum amount recoverable from the U.S. government, its agencies, or government-sponsored enterprises, under guarantee or insurance provisions, divided by a sum of Tier 1 capital and reserves. |
| Core Deposits/Total Liabilities. | Total domestic deposits excluding brokered deposits and uninsured non-brokered time deposits divided by total liabilities. |
| Balance Sheet Liquidity Ratio. | Sum of cash and balances due from depository institutions, federal funds sold and securities purchased under agreements to resell, and the market value of available for sale and held to maturity agency securities (excludes agency mortgage-backed securities but includes all other agency securities issued by the U.S. Treasury, U.S. government agencies, and U.S. government-sponsored enterprises) divided by the sum of federal funds purchased and repurchase agreements, other borrowings (including FHLB) with a remaining maturity of one year or less, 5 percent of insured domestic deposits, and 10 percent of uninsured domestic and foreign deposits.[5] |
| Potential Losses/Total Domestic Deposits (Loss Severity Measure) [6]. | Potential losses to the DIF in the event of failure divided by total domestic deposits. Appendix D describes the calculation of the loss severity measure in detail. |
| Market Risk Measure for Highly Complex Institutions. | The market risk score is a weighted average of the following three scores: |
| (1) Trading Revenue Volatility/Tier 1 Capital. | Trailing 4-quarter standard deviation of quarterly trading revenue (merger-adjusted) divided by Tier 1 capital. |
| (2) Market Risk Capital/Tier 1 Capital. | Market risk capital divided by Tier 1 capital.[7] |
| (3) Level 3 Trading Assets/Tier 1 Capital. | Level 3 trading assets divided by Tier 1 capital. |
| Average Short-term Funding/Average Total Assets. | Quarterly average of federal funds purchased and repurchase agreements divided by the quarterly average of total assets as reported on Schedule RC–K of the Call Reports. |

[1] The FDIC retains the flexibility, as part of the risk-based assessment system, without the necessity of additional notice-and-comment rulemaking, to update the minimum and maximum cutoff values for all measures used in the scorecard. The FDIC may update the minimum and maximum cutoff values for the higher-risk assets to Tier 1 capital and reserves ratio in order to maintain an approximately similar distribution of higher-risk assets to Tier 1 capital and reserves ratio scores as reported prior to April 1, 2013, or to avoid changing the overall amount of assessment revenue collected. 76 FR 10672, 10700 (February 25, 2011). The FDIC will review changes in the distribution of the higher-risk assets to Tier 1 capital and reserves ratio scores and the resulting effect on total assessments and risk differentiation between banks when determining changes to the cutoffs. The FDIC may update the cutoff values for the higher-risk assets to Tier 1 capital and reserves ratio more frequently than annually. The FDIC will provide banks with a minimum one quarter advance notice of changes in the cutoff values for the higher-risk assets to Tier 1 capital and reserves ratio with their quarterly deposit insurance invoice.

[2] The applicable portions of the current expected credit loss methodology (CECL) transitional amounts attributable to the allowance for credit losses on loans and leases held for investment and added to retained earnings for regulatory capital purposes pursuant to the regulatory capital regulations, as they may be amended from time to time (12 CFR part 3, 12 CFR part 217, 12 CFR part 324, 85 FR 61577 (Sept. 30, 2020), and 84 FR 4222 (Feb. 14, 2019)), will be removed from the sum of Tier 1 capital and reserves.

[3] SFTs include repurchase agreements, reverse repurchase agreements, security lending and borrowing, and margin lending transactions, where the value of the transactions depends on market valuations and the transactions are often subject to margin agreements. The default fund contribution is the funds contributed or commitments made by a clearing member to a central counterparty's mutualized loss sharing arrangement. The other terms used in this description are as defined in 12 CFR part 324, subparts A and D, unless defined otherwise in 12 CFR part 327.

[4] A marked-to-market counterparty position is equal to the sum of the net marked-to-market derivative exposures for each counterparty. The net marked-to-market derivative exposure equals the sum of all positive marked-to-market exposures net of legally enforceable netting provisions and net of all collateral held under a legally enforceable CSA plus any exposure where excess collateral has been posted to the counterparty. For purposes of the Criticized and Classified Items/Tier 1 Capital and Reserves definition a marked-to-market counterparty position less any credit valuation adjustment can never be less than zero.

[5] Deposit runoff rates for the balance sheet liquidity ratio reflect changes issued by the Basel Committee on Banking Supervision in its December 2010 document, ''Basel III: International Framework for liquidity risk measurement, standards, and monitoring,'' *http://www.bis.org/publ/bcbs188.pdf*.

[6] The applicable portions of the CECL transitional amounts attributable to the allowance for credit losses on loans and leases held for investment and added to retained earnings for regulatory capital purposes will be removed from the calculation of the loss severity measure.

[7] *Market risk* is defined in 12 CFR 324.202.

* * * * *

■ 3. Amend Appendix C to Subpart A by:

■ a. Redesignating footnotes 2 through 16 as footnotes 3 through 17; and

■ b. Revising the paragraph under the heading, ''I. Concentration Measures,'' to read as follows:

## Appendix C to Subpart A of Part 327—Description of Concentration Measures

### I. Concentration Measures

The concentration score for large banks is the higher of the higher-risk assets to Tier 1 capital and reserves score or the growth-adjusted portfolio concentrations score.[1] The concentration score for highly complex institutions is the highest of the higher-risk assets to Tier 1 capital and reserves score, the Top 20 counterparty exposure to Tier 1 capital and reserves score, or the largest counterparty to Tier 1 capital and reserves score.[2] The higher-risk assets to Tier 1 capital and reserves ratio and the growth-adjusted portfolio concentration measure are described herein.

[1] For the purposes of this Appendix, the term ''bank'' means insured depository institution.

[2] As described in Appendix A to this subpart, the applicable portions of the current expected credit loss methodology (CECL) transitional amounts attributable to the allowance for credit losses on loans and leases held for investment and added to retained earnings for regulatory capital purposes pursuant to the regulatory capital regulations, as they may be amended from time to time (12 CFR part 3, 12 CFR part 217, 12 CFR part 324, 85 FR 61577 (Sept. 30, 2020), and 84 FR 4222 (Feb. 14, 2019)), will be removed from the sum of Tier 1 capital and reserves throughout the large bank and highly complex bank scorecards, including in the ratio of Higher-Risk Assets to Tier 1 Capital and Reserves, the Growth-Adjusted Portfolio Concentrations Measure, the ratio of Top 20 Counterparty Exposure to Tier 1 Capital and Reserves, and the Ratio of Largest Counterparty Exposure to Tier 1 Capital and Reserves.

* * * * *

■ 4. In Appendix D to Subpart A, revise the introductory text to read as follows:

## Appendix D to Subpart A of Part 327—Description of the Loss Severity Measure

The loss severity measure applies a standardized set of assumptions to an institution's balance sheet to measure possible losses to the FDIC in the event of an institution's failure. To determine an institution's loss severity rate, the FDIC first applies assumptions about uninsured deposit and other unsecured liability runoff, and growth in insured deposits, to adjust the size and composition of the institution's liabilities. Assets are then reduced to match any reduction in liabilities.[1] The institution's asset values are then further reduced so that the Leverage ratio reaches 2 percent.[2] [3] In both cases, assets are adjusted pro rata to preserve the institution's asset composition. Assumptions regarding loss rates at failure for a given asset category and the extent of secured liabilities are then applied to estimated assets and liabilities at failure to determine whether the institution has enough unencumbered assets to cover domestic deposits. Any projected shortfall is divided by current domestic deposits to obtain an end-of-period loss severity ratio. The loss severity measure is an average loss severity ratio for the three most recent quarters of data available.

[1] In most cases, the model would yield reductions in liabilities and assets prior to failure. Exceptions may occur for institutions primarily funded through insured deposits which the model assumes to grow prior to failure.

[2] Of course, in reality, runoff and capital declines occur more or less simultaneously as an institution approaches failure. The loss severity measure assumptions simplify this process for ease of modeling.

[3] The applicable portions of the current expected credit loss methodology (CECL) transitional amounts attributable to the allowance for credit losses on loans and leases held for investment and added to retained earnings for regulatory capital purposes pursuant to the regulatory capital regulations, as they may be amended from time to time (12 CFR part 3, 12 CFR part 217, 12 CFR part 324, 85 FR 61577 (Sept. 30, 2020), and 84 FR 4222 (Feb. 14, 2019)), will be removed from the calculation of the loss severity measure.

* * * * *

■ 5. In Appendix E to subpart A, under the heading ''II. Mitigating the Assessment Effects of Paycheck Protection Program Loans for Large or Highly Complex Institutions'', revise Table E.2 and paragraph (a) to read as follows:

TABLE E.2—EXCLUSIONS FROM CERTAIN RISK MEASURES USED TO CALCULATE THE ASSESSMENT RATE FOR LARGE OR HIGHLY COMPLEX INSTITUTIONS

| Scorecard measures [1] | Description | Exclusions |
|---|---|---|
| Leverage Ratio ..... | Tier 1 capital for Prompt Corrective Action (PCA) divided by adjusted average assets based on the definition for prompt corrective action. | No Exclusion. |
| Concentration Measure for Large Insured depository institutions (excluding Highly Complex Institutions). | The concentration score for large institutions is the higher of the following two scores: | |
| (1) Higher-Risk Assets/ Tier 1 Capital and Reserves. | Sum of construction and land development (C&D) loans (funded and unfunded), higher-risk commercial and industrial (C&I) loans (funded and unfunded), nontraditional mortgages, higher-risk consumer loans, and higher-risk securitizations divided by Tier 1 capital and reserves. See Appendix C for the detailed description of the ratio. | No Exclusion. |
| (2) Growth-Adjusted Portfolio Concentrations. | The measure is calculated in the following steps: | |
| | (1) Concentration levels (as a ratio to Tier 1 capital and reserves) are calculated for each broad portfolio category: | |

TABLE E.2—EXCLUSIONS FROM CERTAIN RISK MEASURES USED TO CALCULATE THE ASSESSMENT RATE FOR LARGE OR HIGHLY COMPLEX INSTITUTIONS—Continued

| Scorecard measures [1] | Description | Exclusions |
|---|---|---|
| | • Constructions and land development (C&D),<br>• Other commercial real estate loans,<br>• First lien residential mortgages (including non-agency residential mortgage-backed securities),<br>• Closed-end junior liens and home equity lines of credit (HELOCs),<br>• Commercial and industrial loans (C&I),<br>• Credit card loans, and<br>• Other consumer loans.<br>(2) Risk weights are assigned to each loan category based on historical loss rates.<br>(3) Concentration levels are multiplied by risk weights and squared to produce a risk-adjusted concentration ratio for each portfolio. | |
| | (4) Three-year merger-adjusted portfolio growth rates are then scaled to a growth factor of 1 to 1.2 where a 3-year cumulative growth rate of 20 percent or less equals a factor of 1 and a growth rate of 80 percent or greater equals a factor of 1.2. If three years of data are not available, a growth factor of 1 will be assigned. | Exclude from C&I loan growth rate the outstanding amount of loans provided under the Paycheck Protection Program. |
| | (5) The risk-adjusted concentration ratio for each portfolio is multiplied by the growth factor and resulting values are summed.<br>See Appendix C for the detailed description of the measure. | |
| Concentration Measure for Highly Complex Institutions. | Concentration score for highly complex institutions is the highest of the following three scores: | |
| (1) Higher-Risk Assets/Tier 1 Capital and Reserves. | Sum of C&D loans (funded and unfunded), higher-risk C&I loans (funded and unfunded), nontraditional mortgages, higher-risk consumer loans, and higher-risk securitizations divided by Tier 1 capital and reserves. See Appendix C for the detailed description of the measure. | No Exclusion. |
| (2) Top 20 Counterparty Exposure/Tier 1 Capital and Reserves. | Sum of the 20 largest total exposure amounts to counterparties divided by Tier 1 capital and reserves. The total exposure amount is equal to the sum of the institution's exposure amounts to one counterparty (or borrower) for derivatives, securities financing transactions (SFTs), and cleared transactions, and its gross lending exposure (including all unfunded commitments) to that counterparty (or borrower). A counterparty includes an entity's own affiliates. Exposures to entities that are affiliates of each other are treated as exposures to one counterparty (or borrower). Counterparty exposure excludes all counterparty exposure to the U.S. Government and departments or agencies of the U.S. Government that is unconditionally guaranteed by the full faith and credit of the United States. The exposure amount for derivatives, including OTC derivatives, cleared transactions that are derivative contracts, and netting sets of derivative contracts, must be calculated using the methodology set forth in 12 CFR 324.34(b), but without any reduction for collateral other than cash collateral that is all or part of variation margin and that satisfies the requirements of 12 CFR 324.10(c)(4)(ii)(C)(1)(ii) and (iii) and 324.10(c)(4)(ii)(C)(3) through (7). The exposure amount associated with SFTs, including cleared transactions that are SFTs, must be calculated using the standardized approach set forth in 12 CFR 324.37(b) or (c). For both derivatives and SFT exposures, the exposure amount to central counterparties must also include the default fund contribution. | No Exclusion. |
| (3) Largest Counterparty Exposure/Tier 1 Capital and Reserves. | The largest total exposure amount to one counterparty divided by Tier 1 capital and reserves. The total exposure amount is equal to the sum of the institution's exposure amounts to one counterparty (or borrower) for derivatives, SFTs, and cleared transactions, and its gross lending exposure (including all unfunded commitments) to that counterparty (or borrower). A counterparty includes an entity's own affiliates. Exposures to entities that are affiliates of each other are treated as exposures to one counterparty (or borrower). Counterparty exposure excludes all counterparty exposure to the U.S. Government and departments or agencies of the U.S. Government that is unconditionally guaranteed by the full faith and credit of the United States. The exposure amount for derivatives, including OTC derivatives, cleared transactions that are derivative contracts, and netting sets of derivative contracts, must be calculated using the methodology set forth in 12 CFR 324.34(b), but without any reduction for collateral other than cash collateral that is all or part of variation margin and that satisfies the requirements of 12 CFR 324.10(c)(4)(ii)(C)(1)(ii) and (iii) and 324.10(c)(4)(ii)(C)(3) through (7). The exposure amount associated with SFTs, including cleared transactions that are SFTs, must be calculated using the standardized approach set forth in 12 CFR 324.37(b) or (c). For both derivatives and SFT exposures, the exposure amount to central counterparties must also include the default fund contribution. | No Exclusion. |

TABLE E.2—EXCLUSIONS FROM CERTAIN RISK MEASURES USED TO CALCULATE THE ASSESSMENT RATE FOR LARGE OR HIGHLY COMPLEX INSTITUTIONS—Continued

| Scorecard measures [1] | Description | Exclusions |
|---|---|---|
| Core Earnings/Average Quarter-End Total Assets. | Core earnings are defined as net income less extraordinary items and tax-adjusted realized gains and losses on available-for-sale (AFS) and held-to-maturity (HTM) securities, adjusted for mergers. The ratio takes a four-quarter sum of merger-adjusted core earnings and divides it by an average of five quarter-end total assets (most recent and four prior quarters). If four quarters of data on core earnings are not available, data for quarters that are available will be added and annualized. If five quarters of data on total assets are not available, data for quarters that are available will be averaged. | Prior to averaging, exclude from total assets for the applicable quarter-end periods the outstanding balance of loans provided under the Paycheck Protection Program. |
| Credit Quality Measure. [2] | The credit quality score is the higher of the following two scores: | |
| (1) Criticized and Classified Items/Tier 1 Capital and Reserves. | Sum of criticized and classified items divided by the sum of Tier 1 capital and reserves. Criticized and classified items include items an institution or its primary federal regulator have graded ''Special Mention'' or worse and include retail items under Uniform Retail Classification Guidelines, securities, funded and unfunded loans, other real estate owned (ORE), other assets, and marked-to-market counterparty positions, less credit valuation adjustments. Criticized and classified items exclude loans and securities in trading books, and the amount recoverable from the U.S. government, its agencies, or government-sponsored enterprises, under guarantee or insurance provisions. | No Exclusion. |
| (2) Underperforming Assets/Tier 1 Capital and Reserves. | Sum of loans that are 30 days or more past due and still accruing interest, nonaccrual loans, restructured loans (including restructured 1–4 family loans), and ORE, excluding the maximum amount recoverable from the U.S. government, its agencies, or government-sponsored enterprises, under guarantee or insurance provisions, divided by a sum of Tier 1 capital and reserves. | No Exclusion. |
| Core Deposits/Total Liabilities | Total domestic deposits excluding brokered deposits and uninsured non-brokered time deposits divided by total liabilities. | Exclude from total liabilities outstanding borrowings from Federal Reserve Banks under the Paycheck Protection Program Liquidity Facility with a maturity of one year or less and outstanding borrowings from the Federal Reserve Banks under the Paycheck Protection Program Liquidity Facility with a maturity of greater than one year. |
| Balance Sheet Liquidity Ratio | Sum of cash and balances due from depository institutions, federal funds sold and securities purchased under agreements to resell, and the market value of available for sale and held to maturity agency securities (excludes agency mortgage-backed securities but includes all other agency securities issued by the U.S. Treasury, U.S. government agencies, and U.S. government sponsored enterprises) divided by the sum of federal funds purchased and repurchase agreements, other borrowings (including FHLB) with a remaining maturity of one year or less, 5 percent of insured domestic deposits, and 10 percent of uninsured domestic and foreign deposits. | Include in highly liquid assets the outstanding balance of PPP loans that exceed borrowings from the Federal Reserve Banks under the PPPLF, until September 30, 2020, or if extended by the Board of Governors of the Federal Reserve System and the Secretary of the Treasury, until such date of extension.<br>Exclude from other borrowings with a remaining maturity of one year or less the balance of outstanding borrowings from the Federal Reserve Banks under the Paycheck Protection Program Liquidity Facility with a remaining maturity of one year or less. |
| Potential Losses/Total Domestic Deposits (Loss Severity Measure). | Potential losses to the DIF in the event of failure divided by total domestic deposits. Paragraph (a) of this section describes the calculation of the loss severity measure in detail. | Exclusions are described in paragraph (a) of this section. |
| Market Risk Measure for Highly Complex Institutions [2]. | The market risk score is a weighted average of the following three scores: | |

TABLE E.2—EXCLUSIONS FROM CERTAIN RISK MEASURES USED TO CALCULATE THE ASSESSMENT RATE FOR LARGE OR HIGHLY COMPLEX INSTITUTIONS—Continued

| Scorecard measures [1] | Description | Exclusions |
|---|---|---|
| (1) Trading Revenue Volatility/Tier 1 Capital. | Trailing 4-quarter standard deviation of quarterly trading revenue (merger-adjusted) divided by Tier 1 capital. | No Exclusion. |
| (2) Market Risk Capital/Tier 1 Capital. | Market risk capital divided by Tier 1 capital | No Exclusion. |
| (3) Level 3 Trading Assets/Tier 1 Capital. | Level 3 trading assets divided by Tier 1 capital | No Exclusion. |
| Average Short-term Funding/Average Total Assets. | Quarterly average of federal funds purchased and repurchase agreements divided by the quarterly average of total assets as reported on Schedule RC–K of the Call Reports. | Exclude from the quarterly average of total assets the outstanding balance of loans provided under the Paycheck Protection Program. |

[1] The applicable portions of the current expected credit loss methodology (CECL) transitional amounts attributable to the allowance for credit losses on loans and leases held for investment and added to retained earnings for regulatory capital purposes pursuant to the regulatory capital regulations, as they may be amended from time to time (12 CFR part 3, 12 CFR part 217, 12 CFR part 324, 85 FR 61577 (Sept. 30, 2020), and 84 FR 4222 (Feb. 14, 2019)), will be removed from the sum of Tier 1 capital and reserves throughout the large bank and highly complex bank scorecards, including in the ratio of Higher-Risk Assets to Tier 1 Capital and Reserves, the Growth-Adjusted Portfolio Concentrations Measure, the ratio of Top 20 Counterparty Exposure to Tier 1 Capital and Reserves, the Ratio of Largest Counterparty Exposure to Tier 1 Capital and Reserves, the ratio of Criticized and Classified Items to Tier 1 Capital and Reserves, and the ratio of Underperforming Assets to Tier 1 Capital and Reserves. All of these ratios are described in appendix A of this subpart.

[2] The credit quality score is the greater of the criticized and classified items to Tier 1 capital and reserves score or the underperforming assets to Tier 1 capital and reserves score. The market risk score is the weighted average of three scores—the trading revenue volatility to Tier 1 capital score, the market risk capital to Tier 1 capital score, and the level 3 trading assets to Tier 1 capital score. All of these ratios are described in appendix A of this subpart and the method of calculating the scores is described in appendix B of this subpart. Each score is multiplied by its respective weight, and the resulting weighted score is summed to compute the score for the market risk measure. An overall weight of 35 percent is allocated between the scores for the credit quality measure and market risk measure. The allocation depends on the ratio of average trading assets to the sum of average securities, loans and trading assets (trading asset ratio) as follows: (1) Weight for credit quality score = 35 percent * (1—trading asset ratio); and, (2) Weight for market risk score = 35 percent * trading asset ratio. In calculating the trading asset ratio, exclude from the balance of loans the outstanding balance of loans provided under the Paycheck Protection Program.

(a) *Description of the loss severity measure.* The loss severity measure applies a standardized set of assumptions to an institution's balance sheet to measure possible losses to the FDIC in the event of an institution's failure. To determine an institution's loss severity rate, the FDIC first applies assumptions about uninsured deposit and other liability runoff, and growth in insured deposits, to adjust the size and composition of the institution's liabilities. Exclude total outstanding borrowings from Federal Reserve Banks under the Paycheck Protection Program Liquidity Facility from short-and long-term secured borrowings, as appropriate. Assets are then reduced to match any reduction in liabilities. Exclude from an institution's balance of commercial and industrial loans the outstanding balance of loans provided under the Paycheck Protection Program. In the event that the outstanding balance of loans provided under the Paycheck Protection Program exceeds the balance of commercial and industrial loans, exclude any remaining balance of loans provided under the Paycheck Protection Program first from the balance of all other loans, up to the total amount of all other loans, followed by the balance of agricultural loans, up to the total amount of agricultural loans. Increase cash balances by outstanding loans provided under the Paycheck Protection Program that exceed total outstanding borrowings from Federal Reserve Banks under the Paycheck Protection Program Liquidity Facility, if any. The institution's asset values are then further reduced so that the Leverage Ratio reaches 2 percent. In both cases, assets are adjusted pro rata to preserve the institution's asset composition. Assumptions regarding loss rates at failure for a given asset category and the extent of secured liabilities are then applied to estimated assets and liabilities at failure to determine whether the institution has enough unencumbered assets to cover domestic deposits. Any projected shortfall is divided by current domestic deposits to obtain an end-of-period loss severity ratio. The loss severity measure is an average loss severity ratio for the three most recent quarters of data available. The applicable portions of the current expected credit loss methodology (CECL) transitional amounts attributable to the allowance for credit losses on loans and leases held for investment and added to retained earnings for regulatory capital purposes pursuant to the regulatory capital regulations, as they may be amended from time to time (12 CFR part 3, 12 CFR part 217, 12 CFR part 324, 85 FR 61577 (Sept. 30, 2020), and 84 FR 4222 (Feb. 14, 2019)), will be removed from the calculation of the loss severity measure.

* * * * *

Federal Deposit Insurance Corporation.

By order of the Board of Directors.

Dated at Washington, DC, on February 16, 2021.

**James P. Sheesley,**

*Assistant Executive Secretary.*

[FR Doc. 2021–03456 Filed 2–23–21; 11:15 am]

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2020–0503; Product Identifier 2018–SW–006–AD; Amendment 39–21386; AD 2021–02–03]**

**RIN 2120–AA64**

## Airworthiness Directives; Leonardo S.p.a. Helicopters

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for certain Leonardo S.p.a. (Leonardo) Model AW189 helicopters. This AD requires various repetitive inspections of the