

**BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM**

12 CFR Chapter II

**Authority and Issuance**

For the reasons stated in the joint preamble, the Board of Governors of the Federal Reserve System amends 12 CFR chapter II as follows:

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

■ 3. The authority citation for part 217 continues to read as follows:

**Authority:** 12 U.S.C. 248(a), 321–338a, 481–486, 1462a, 1467a, 1818, 1828, 1831n, 1831o, 1831p–1, 1831w, 1835, 1844(b), 1851, 3904, 3906–3909, 4808, 5365, 5368, 5371, and 5371 note.

■ 4. Section 217.11 is amended by revising paragraph (a)(2)(i) to read as follows:

**§ 217.11 Capital conservation buffer, countercyclical capital buffer amount, and GSIB surcharge.**

- (a) \* \* \*
- (2) \* \* \*

(i) *Eligible retained income.* The eligible retained income of a Board-regulated institution is the greater of:

(A) The Board-regulated institution’s net income, calculated in accordance with the instructions to the FR Y–9C or Call Report, as applicable, for the four calendar quarters preceding the current calendar quarter, net of any distributions and associated tax effects not already reflected in net income; and

(B) The average of the Board-regulated institution’s net income, calculated in accordance with the instructions to the FR Y–9C or Call Report, as applicable, for the four calendar quarters preceding the current calendar quarter.

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**Federal Deposit Insurance Corporation**

12 CFR Chapter III

**Authority and Issuance**

For the reasons set forth in the joint preamble, chapter III of title 12 of the Code of Federal Regulations is amended as follows:

**PART 324—CAPITAL ADEQUACY OF FDIC—SUPERVISED INSTITUTIONS**

■ 5. The authority citation for part 324 continues to read as follows:

**Authority:** 12 U.S.C. 1815(a), 1815(b), 1816, 1818(a), 1818(b), 1818(c), 1818(t), 1819(Tenth), 1828(c), 1828(d), 1828(i), 1828(n), 1828(o), 1831o, 1835, 3907, 3909,

4808; 5371; 5412; Pub. L. 102–233, 105 Stat. 1761, 1789, 1790 (12 U.S.C. 1831n note); Pub. L. 102–242, 105 Stat. 2236, 2355, as amended by Pub. L. 103–325, 108 Stat. 2160, 2233 (12 U.S.C. 1828 note); Pub. L. 102–242, 105 Stat. 2236, 2386, as amended by Pub. L. 102–550, 106 Stat. 3672, 4089 (12 U.S.C. 1828 note); Pub. L. 111–203, 124 Stat. 1376, 1887 (15 U.S.C. 78o–7 note).

■ 6. Section 324.11 is amended by revising paragraph (a)(2)(i) to read as follows:

**§ 324.11 Capital conservation buffer and countercyclical capital buffer amount.**

- (a) \* \* \*
- (2) \* \* \*

(i) *Eligible retained income.* The eligible retained income of an FDIC-supervised institution is the greater of:

(A) The FDIC-supervised institution’s net income, calculated in accordance with the instructions to the Call Report, for the four calendar quarters preceding the current calendar quarter, net of any distributions and associated tax effects not already reflected in net income; and

(B) The average of the FDIC-supervised institution’s net income, calculated in accordance with the instructions to Call Report, for the four calendar quarters preceding the current calendar quarter.

\* \* \* \* \*

Dated: March 17, 2020.

**Morris R. Morgan,**

*First Deputy Comptroller, Comptroller of the Currency.*

By order of the Board of Governors of the Federal Reserve System.

**Ann E. Misback,**

*Secretary of the Board.*

Federal Deposit Insurance Corporation.

By order of the Board of Directors.

Dated at Washington, DC, on March 16, 2020.

**Robert E. Feldman,**

*Executive Secretary.*

[FR Doc. 2020–06051 Filed 3–19–20; 8:45 am]

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**FEDERAL DEPOSIT INSURANCE CORPORATION**

**12 CFR Part 365**

**RIN 3064–AE91**

**Regulatory Capital Rule: Capital Simplification for Qualifying Community Banking Organizations; Correction**

**AGENCY:** Federal Deposit Insurance Corporation.

**ACTION:** Correcting amendment.

**SUMMARY:** The Federal Deposit Insurance Corporation (FDIC) is

correcting an interagency final rule that appeared in the **Federal Register** on November 13, 2019, regarding the final rule titled “Regulatory Capital Rule: Capital Simplification for Qualifying Community Banking Organizations.” These corrections are necessary to conform a footnote citation in the FDIC’s amendment to its codified appendix for the Interagency Guidelines for Real Estate Lending Policies with the footnote citation in the regulations of the other federal banking agencies that issued that final rule.

**DATES:** Effective March 20, 2020.

**FOR FURTHER INFORMATION CONTACT:** **FDIC:** Beverlea S. Gardner, Senior Examination Specialist, *bgardner@fdic.gov*, 202–898–3640; Policy and Program Development Section, Division of Risk Management Supervision; or Michael Phillips, Counsel, *mphillips@fdic.gov*; Catherine Wood, Counsel, *cawood@fdic.gov*; Francis Kuo, Counsel, *fkuo@fdic.gov*, Supervision Branch, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

**SUPPLEMENTARY INFORMATION:** On November 13, 2019, the Office of the Comptroller of the Currency (OCC), Board of Governors of the Federal Reserve System (Board), and the FDIC (collectively, the agencies) published a final rule “Regulatory Capital Rule: Capital Simplification for Qualifying Community Banking Organizations” (CBLR final rule).<sup>1</sup> The CBLR final rule provides for a simple measure of capital adequacy for certain community banking organizations, consistent with section 201 of the Economic Growth, Regulatory Relief, and Consumer Protection Act.

Under the CBLR final rule, depository institutions and depository institution holding companies that have less than \$10 billion in total consolidated assets and meet other qualifying criteria, including a leverage ratio of greater than 9 percent, will be eligible to opt into the community bank leverage ratio framework (CBLR banks). In addition, under the CBLR final rule, the community bank leverage ratio framework incorporates tier I capital in the numerator of that leverage ratio. The CBLR final rule also amends standards referencing total capital so that an electing CBLR bank uses tier I capital in the numerator of that leverage ratio instead of total capital, which includes tier 2 capital.<sup>2</sup>

This correcting amendment will conform appendix A to subpart A of

<sup>1</sup> 84 FR 61776 (Nov. 13, 2019).

<sup>2</sup> See the definition of “total capital” in the FDIC’s capital rules in 12 CFR 324.2.

part 365 of the FDIC's Real Estate Lending Standards regulation to that of the other Federal banking agencies.

#### List of Subjects in 12 CFR Part 365

Banks, Banking, Mortgages.

For the reasons stated in the preamble, the FDIC corrects 12 CFR part 365 by making the following correcting amendment:

#### PART 365—REAL ESTATE LENDING STANDARDS

■ 1. The authority citation for part 365 is revised to read as follows:

**Authority:** 12 U.S.C. 1828(o) and 5101 *et seq.*

■ 2. Amend appendix A to subpart A of part 365 by revising footnote 4 to read as follows:

#### Appendix A to Subpart A of Part 365—Interagency Guidelines for Real Estate Lending Policies

\* \* \* \* \*

<sup>4</sup> For state non-member banks and state savings associations, "total capital" refers to that term described in § 324.2 of this chapter.

\* \* \* \* \*

Federal Deposit Insurance Corporation.

Dated in Washington, DC, on March 12, 2020.

**Robert E. Feldman,**  
*Executive Secretary.*

[FR Doc. 2020-05441 Filed 3-19-20; 8:45 am]

**BILLING CODE 6714-01-P**

#### BUREAU OF CONSUMER FINANCIAL PROTECTION

#### 12 CFR Chapter X

#### Responsible Business Conduct: Self-Assessing, Self-Reporting, Remediating, and Cooperating (CFPB BULLETIN 2020-01)

**AGENCY:** Bureau of Consumer Financial Protection.

**ACTION:** Bulletin.

**SUMMARY:** In 2013, the Bureau of Consumer Financial Protection (Bureau) issued a Bulletin that identified several activities that businesses could engage in that could prevent and minimize harm to consumers, referring to these activities as "responsible conduct." The Bureau is issuing this updated Bulletin to clarify its approach to responsible conduct and to reiterate the importance of such conduct.

**DATES:** This Bulletin is applicable on March 20, 2020.

**FOR FURTHER INFORMATION CONTACT:** Colin Reardon, Division of Supervision, Enforcement, and Fair Lending, at (202)

435-9668. If you require this document in an alternative electronic format, please contact [CFPB\\_Accessibility@cfpb.gov](mailto:CFPB_Accessibility@cfpb.gov).

**SUPPLEMENTARY INFORMATION:** In executing its statutory responsibilities, the Bureau places primary emphasis on preventing harm to consumers. Preventing harm to consumers is among the most effective and efficient ways of ensuring consumer access to a fair, transparent, and competitive financial market. In 2013, the Bureau issued a Bulletin that identified several activities that individuals or businesses, collectively "entities," could engage in that could prevent and minimize harm to consumers, referring to these activities as "responsible conduct." The Bureau is issuing this updated Bulletin to clarify its approach to responsible conduct and to reiterate the importance of such conduct.

In the first instance, the Bureau's focus is on building a culture of compliance among entities, including covered persons and service providers, in order to minimize the likelihood of a violation of Federal consumer financial law, and thereby prevent harm to consumers. When a violation of law does occur, swift and effective actions taken by an entity to address the violation can minimize resulting harm to consumers. Specifically, an entity may self-assess its compliance with Federal consumer financial law, self-report to the Bureau when it identifies likely violations, remediate the harm resulting from these likely violations, and cooperate above and beyond what is required by law with any Bureau review or investigation.

Such activities are in the public interest. Depending on its form and substance, responsible conduct can improve the Bureau's ability to promptly detect violations of Federal consumer financial law, increase the effectiveness and efficiency of its supervisory and enforcement work, enable the Bureau to focus its finite resources on their best use for the mission, and help more consumers in more matters promptly receive financial redress and additional meaningful remedies for any harm they experienced.

Because responsible conduct is in the public interest, the Bureau seeks to encourage it. Accordingly, if an entity meaningfully engages in responsible conduct, the Bureau intends to favorably consider such conduct, along with other relevant factors, in addressing violations of Federal consumer financial law in supervisory

and enforcement matters.<sup>1</sup> Depending on the nature and extent of an entity's actions, the Bureau has a wide range of options available to properly account for responsible conduct. For example, in light of an entity's responsible conduct, the Bureau could exercise its discretion to close an enforcement investigation with no action or decide not to include Matters Requiring Attention in an exam report or supervisory letter. Even if the Bureau does take action, those who engage in responsible conduct may receive other types of credit for engaging in such behavior. For entities within the Bureau's supervisory authority, the Bureau's Division of Supervision, Enforcement, and Fair Lending makes determinations of whether violations should be resolved through non-public supervisory action or a possible public enforcement action through its Action Review Committee (ARC) process. The ARC process includes factors that are closely aligned with the elements of responsible conduct. Thus, for entities under the Bureau's supervisory authority, responsible conduct could result in resolving violations non-publicly through the supervisory process. Responsible conduct also could result in the Bureau's reducing the number of violations pursued or reducing the sanctions or penalties sought by the Bureau in any public enforcement action. The Bureau intends to consider the extent and significance of an entity's responsible conduct, with more extensive and important responsible conduct leading to more substantial consideration.

This guidance, and its description of factors that may warrant favorable consideration, is not adopting any rule or formula to be applied in all matters. The importance of each factor in a given matter, and the way in which the Bureau evaluates each factor, will depend on the circumstances. The Bureau is not in any way limiting its discretion and responsibility to evaluate each matter individually on its own facts and circumstances. In short, the fact that an entity may argue it has satisfied some or even all of the factors set forth in this guidance will not necessarily foreclose the Bureau from bringing any enforcement action or

<sup>1</sup> Other factors the Bureau considers in determining how to resolve violations of Federal consumer financial law include, without limitation, (1) the nature, extent, and severity of the violations identified and any associated consumer harm; (2) an entity's demonstrated effectiveness and willingness to address the violations; and (3) the importance of deterrence, considering the significance and pervasiveness of the potential consumer harm.