Statement by FDIC Chairman Jelena McWilliams on the Interim Final Rule to Temporarily Change Asset Thresholds for the Applicability of Certain Rules

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Since the beginning of the COVID-19 pandemic earlier this year, the FDIC has taken a number of actions to show flexibility in its regulatory approach in response to the unprecedented economic conditions and unique government response.

For example, last month, the FDIC issued an interim final rule (IFR) providing that an insured depository institution (IDI) is permitted to temporarily “freeze” its total consolidated assets for purposes of determining whether the IDI is subject to the audit and reporting requirements of Part 363 of the FDIC regulations for fiscal years ending in 2021. In issuing the rule, the FDIC acknowledged that many community banks have experienced significant, temporary asset growth due to participation in the Paycheck Protection Program (PPP) and other government programs established in response to the pandemic, along with other factors.

Consistent with that action last month and the principle of targeted regulatory flexibility the FDIC is joining the Federal Reserve Board and Office of the Comptroller of the Currency in issuing an interim final rule that would similarly “freeze” an IDI’s asset size for purposes of determining applicability of certain regulations applicable to community banks. The rule approved today provides that an IDI generally can calculate its asset size for applicable thresholds during calendar years 2020 and 2021 based on the lower of either total assets as of December 31, 2019, or total assets as of the normal measurement date.

The rule only applies to regulatory thresholds of $10 billion or less. Specific to the FDIC, the rule applies to specified regulatory thresholds contained in the community bank leverage ratio, management interlocks, Call Reports, and examination frequency rules.

The rule includes, for some of the amended regulations, a reservation of authority allowing the agencies to make institution-specific determinations that a community bank is not eligible for the temporary relief. The preamble of the rule makes clear the agencies expect to use this reservation of authority only in limited circumstances, such as when there is significant growth due to a merger or acquisition or when there is a material change in the business model, risk profile, or complexity of the community banking organization.

The preamble of the rule also notes that the agencies agreed to not provide relief from the Volcker Rule because the statute provides a two year conformance period before banks that cross the $10 billion asset threshold are required to comply with the Volcker Rule. As a result, any bank that experiences temporary growth due to PPP lending or other factors should have adequate time to return below the $10 billion asset threshold before becoming subject to the Volcker Rule.

I am pleased to support the IFR, which provides community banks with temporary relief from incurring material costs to comply with new regulatory requirements during a time of difficult economic challenges.

Thank you to the staff for all their work on this rulemaking.