FEDERAL RESERVE SYSTEM

12 CFR Parts 225, 238, 242, and 252

[Regulations Y, LL, PP, and YY; Docket No. R–1627]

RIN 7100–AF20

Prudential Standards for Large Bank Holding Companies and Savings and Loan Holding Companies

AGENCY: Board of Governors of the Federal Reserve System (Board).

ACTION: Proposed rule.

SUMMARY: The Board is requesting comment on a proposed rule that would establish risk-based categories for determining prudential standards for large U.S. banking organizations, consistent with section 401 of the Economic Growth, Regulatory Relief, and Consumer Protection Act. The proposal would also amend certain prudential standards, including standards relating to liquidity, risk management, stress testing, and single-counterparty credit limits, to reflect the risk profiles of banking organizations under each proposed category of standards and would apply prudential standards to certain large savings and loan holding companies using the same categories. In addition, the proposal would make corresponding changes to reporting forms. Separately, the Board, the Office of the Comptroller of the Currency (OCC) and the Federal Deposit Insurance Corporation (FDIC, and together with the Board and the OCC, the agencies), are proposing amendments to the agencies' capital and liquidity requirements based on the same categories. The proposal would not apply to foreign banking organizations, including to an intermediate holding company of a foreign banking organization.

DATES: Comments must be received on or before January 22, 2019.

ADDRESSES: You may submit comments, identified by Docket No. R–1627 and RIN 7100–AF20, by any of the following methods:

- *Agency website: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Email: regs.comments@federalreserve.gov.* Include docket number and RIN in the subject line of the message.
- *Fax:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available from the Board's website at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons or to remove sensitive PII at the commenter's request. Public comments may also be viewed electronically or in paper form in Room 3515, 1801 K Street NW, Washington, DC 20006 between 9:00 a.m. and 5:00 p.m. on weekdays.

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SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
A. Background
B. Tailoring Enhanced Prudential Standards
II. Overview of the Proposal
A. Proposed Approach to Tailoring
B. Scope of Application
1. Bank Holding Companies
2. Savings and Loan Holding Companies
III. Scoping Criteria for Proposed Categories
A. Size
B. Other Risk-Based Indicators
1. Cross-Jurisdictional Activity
2. Weighted Short-Term Wholesale Funding
3. Nonbank Assets
4. Off-Balance Sheet Exposure
C. Alternative Scoping Criteria
D. Determination of Applicable Category of Standards
IV. Enhanced Prudential Standards for Bank Holding Companies and Depository Savings and Loan Holding Companies
A. Category I Standards
B. Category II Standards
C. Category III Standards
D. Category IV Standards
E. Covered Savings and Loan Holding Companies
F. Risk Management and Risk Committee Requirements
V. Changes to Dodd-Frank Act Definitions
VI. Proposed Reporting Changes
VII. Impact Assessment
A. Capital Planning and Stress Testing
B. Liquidity
C. Covered Savings and Loan Holding Companies
VIII. Administrative Law Matters
A. Solicitation of Comments and Use of Plain Language
B. Paperwork Reduction Act Analysis
C. Regulatory Flexibility Act Analysis

I. Introduction

The Board of Governors of the Federal Reserve System (Board) is requesting comment on a proposed rule (the proposal) that would establish a revised framework for determining the prudential standards that apply to large U.S. banking organizations, based on the risk profiles of these firms.[1] The proposal would build on the Board's existing tailoring of its rules and account for changes made by section 401 of the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA) regarding enhanced prudential standards for these firms.[2]

A. Background

The 2007–2009 financial crisis revealed significant weaknesses in resiliency and risk management in the financial sector, and demonstrated how the failure or distress of large, leveraged, and interconnected financial companies could pose a threat to financial stability. The imprudent risk taking of major financial companies, and their subsequent distress—and in some cases disorderly failure—led to severe consequences for U.S. and global households and businesses.

To address weaknesses in the banking sector that were evident in the financial crisis, the Board has strengthened capital, liquidity, risk management, and other prudential standards for banking organizations. Consistent with section 165 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act),[3] the Board applied a broad set of standards to bank holding companies with $50 billion or more in total consolidated assets to help prevent or mitigate risks to U.S. financial stability that could arise from the material financial distress or failure, or ongoing activities of, these firms, as well as to better ensure these firms' safety and soundness. These standards include capital planning requirements; supervisory and company-run stress testing; liquidity risk management, stress testing, and buffer requirements; risk management and risk committee requirements; and single counterparty

[1] The proposal would not apply to a foreign banking organization, including to an intermediate holding company of a foreign banking organization. *See* section II.B of this Supplementary Information section.

[2] Public Law 115–174, 132 Stat. 1296 (2018).

[3] 12 U.S.C. 5365.

credit limits.[4] In addition, with the Federal Deposit Insurance Corporation (FDIC), the Board implemented resolution planning requirements,[5] and with the Office of the Comptroller of the Currency (OCC) and the FDIC (together with the Board and the OCC, the agencies), the Board adopted a revised regulatory capital rule [6] and standardized liquidity requirement (the liquidity coverage ratio (LCR) rule) [7] and proposed a stable funding requirement (the net stable funding ratio (NSFR) proposed rule).[8]

The standards are tailored based on the size and complexity of a firm. For example, heightened capital requirements apply to firms with $250 billion or more in total consolidated assets or $10 billion or more in on-balance-sheet foreign exposure, including the requirement to calculate regulatory capital requirements using internal models and meet a minimum supplementary leverage ratio requirement.[9] In addition to these heightened capital requirements, U.S. global systemically important bank holding companies (GSIBs) are subject to a risk-based capital surcharge [10] and leverage buffer.[11] With respect to liquidity requirements, the Board applies a less stringent, modified liquidity coverage ratio (LCR) requirement to bank holding companies and certain savings and loan holding companies with $50 billion or more, but less than $250 billion, in total consolidated assets and less than $10 billion in total on-balance sheet foreign exposure,[12] and has proposed a less stringent modified net stable funding ratio (NSFR) requirement for these firms.[13]

Post-crisis financial regulations have resulted in substantial gains in resiliency for individual firms and for the financial system as a whole. Notable advances include higher amounts of better quality capital, a robust framework for assessing the capital adequacy of banking organizations under stressful financial and economic conditions, higher buffers of liquid assets and more stable funding profiles, and improvements in resolvability. Firms have also made significant improvements in independent risk identification and management, data infrastructure, and controls. These improvements have helped to build a more resilient financial system that is better positioned to provide American consumers, businesses, and communities access to the credit they need even under challenging economic conditions.

B. Tailoring Enhanced Prudential Standards

The Board conducts periodic reviews of its rules to update, reduce unnecessary costs associated with, and streamline regulatory requirements based on its experience implementing the rules and consistent with the statutory provisions that motivated the rules. These efforts include assessing the costs and benefits of regulations as well as exploring alternative approaches that achieve regulatory objectives but improve upon the simplicity, transparency, and efficiency of requirements. The proposal is the result of this practice and would reflect amendments made by EGRRCPA to the Dodd-Frank Act regarding the application of enhanced prudential standards for large banking organizations.

Specifically, EGRRCPA raised the $50 billion minimum asset threshold for general application of enhanced prudential standards to $250 billion, and provides the Board with discretion to apply standards to bank holding companies with total consolidated assets of $100 billion or more, but less than $250 billion.[14] The threshold increase occurs in two stages. Immediately on the date of enactment, bank holding companies with total consolidated assets of less than $100 billion were no longer subject to section 165, with the exception of section 165's risk committee requirement. The statute requires a risk committee for publicly traded bank holding companies with $50 billion or more in total consolidated assets.[15]

Eighteen months after the date of EGRRCPA's enactment, the threshold is raised to $250 billion.[16] However, EGRRCPA provides the Board with authority to apply any enhanced prudential standard to bank holding companies with total consolidated assets equal to or greater than $100 billion and less than $250 billion.[17] Specifically, under section 165(a)(2)(C) of the Dodd-Frank Act, as revised by EGRRCPA, the Board may, by order or rule, apply any prudential standard established under section 165 to any bank holding company or bank holding companies with total consolidated assets of $100 billion or more if the Board determines that application of the prudential standard is appropriate to prevent or mitigate risks to the financial stability of the United States, or promote the safety and soundness of the bank holding company or bank holding companies. In making this determination, the Board must take into consideration certain statutory factors (capital structure, riskiness, complexity, financial activities (including financial activities of subsidiaries), size, and any other risk-related factors that the Board deems appropriate).[18]

Section 165 also directs the Board, in prescribing enhanced prudential standards, to differentiate among companies on an individual basis or by category, taking into consideration the same risk-related factors.[19]

II. Overview of the Proposal

A. Proposed Approach to Tailoring

The Board is proposing modifications to its rules to further and more consistently differentiate the application of prudential standards to large U.S. banking organizations, consistent with

[4] *See* 12 CFR 225.8, 12 CFR part 252.

[5] *See* 12 CFR part 243.

[6] *See* 12 CFR part 217.

[7] *See* 12 CFR part 249.

[8] *See* Net Stable Funding Ratio: Liquidity Risk Measurement Standards and Disclosure Requirements, 81 FR 35123 (proposed June 1, 2016) (NSFR proposed rule).

[9] *See, e.g.,* 12 CFR 217.10(c), 217.11(b), and 217.100–217.174 (subpart E).

[10] *See* 12 CFR 217 subpart H. In addition, in 2017, the Board amended its capital plan rule to apply more limited capital planning requirements to bank holding companies that are not U.S. GSIBs and that have less than $250 billion in total consolidated assets and less than $75 billion in nonbank assets, as compared to larger, more complex bank holding companies. *See* 12 CFR 225.8.

[11] *See* 12 CFR 217.11(c).

[12] *See* 12 CFR part 249, subpart G.

[13] *See* NSFR proposed rule, proposed subpart M.

[14] EGRRCPA also provides that any bank holding company, regardless of asset size, that has been identified as a GSIB under the Board's GSIB surcharge rule shall be considered a bank holding company with $250 billion or more in total consolidated assets for purposes of the application of standards under section 165 and certain other provisions. EGRRCPA section 401(f).

[15] The Board issued two statements—one individually, and the other jointly with the FDIC and OCC—that provided information on regulations and associated reporting requirements that the Board administers and EGRRCPA immediately affected. *See* Board and Interagency statements regarding the impact of the Economic Growth, Regulatory Relief, and Consumer Protection Act, July 6, 2018, available at *https://www.federalreserve.gov/newsevents/pressreleases/files/bcreg20180706a1.pdf; https://www.federalreserve.gov/newsevents/pressreleases/files/bcreg20180706b1.pdf.* The statements describe interim positions that the Board and other agencies have taken until the agencies finalize amendments to their regulations to implement EGRRCPA.

[16] On that same date, certain other financial companies with total consolidated assets of less than $250 billion, such as savings and loan holding companies, will no longer be subject to the company-run stress test requirements in section 165(i)(2) of the Dodd-Frank Act. EGRRCPA section 401(a)(5)(B) (to be codified at 12 U.S.C. 5365(i)(2)).

[17] EGRRCPA section 401(d)(4).

[18] 12 U.S.C. 5365(a); EGRRCPA section 401(a)(1)(B)(iii) (to be codified at 12 U.S.C. 5365(a)(2)(C)).

[19] *Id.* at section 401(a)(1)(B)(i) (to be codified at 12 U.S.C. 5365(a)(2)(A)).

EGRRCPA. The proposal builds on the Board's existing practice of tailoring capital, liquidity, and other requirements based on the size, complexity, and overall risk of banking organizations. Specifically, the proposal would establish categories of prudential standards to align requirements with a firm's risk profile and apply consistent standards across similarly situated firms. The proposal would amend the Board's enhanced prudential standards rule [20] to modify the application of requirements relating to supervisory and company-run stress testing; liquidity risk management, stress testing, and buffer maintenance; risk committee and risk management; and single-counterparty credit limits.[21] The proposal would also apply similar standards and categories to large savings and loan holding companies (other than those substantially engaged in insurance underwriting or commercial activities) (covered savings and loan holding companies) to increase their resiliency and strengthen their risk management, which supports their safety and soundness and improves the consistency of standards across banking organizations.

While the proposal would amend only the Board's enhanced prudential standards rule and certain related regulations, it sets forth a framework that would be used throughout the Board's prudential standards framework for large financial institutions. Concurrently with this proposal, the Board, with the OCC and FDIC, is separately proposing amendments to the capital and liquidity requirements of the agencies, including the regulatory capital rule, LCR rule, and NSFR proposed rule, to introduce the same risk-based categories for tailoring standards (the interagency capital and liquidity proposal). As described in section IV.D of this Supplementary Information section, the Board also intends to propose at a later date similar amendments to its capital plan rule [22] (the capital plan proposal). In the future, the Board also intends to seek public comment on a proposal that would address the applicability of resolution planning requirements to firms with total consolidated assets in the range of $100 billion to $250 billion. In connection with that process, the Board is working with the FDIC to amend their joint resolution plan rules to, among other things, adjust the scope and applicability of the resolution plan requirements for companies that remain subject to the resolution plan requirement.[23]

The proposal would establish four categories of prudential standards for large U.S. banking organizations. For firms with total consolidated assets of $100 billion or more but less than $250 billion and that are not U.S. GSIBs, EGRRCPA provides the Board with greater flexibility in its application of enhanced prudential standards. Section 165 also directs the Board to consider certain risk-based factors for differentiating the application of enhanced prudential standards to bank holding companies. The proposed categories would set forth a framework for determining the application of prudential standards to firms with total consolidated assets of $100 billion or more but less than $250 billion, and for differentiating the standards that apply to all firms subject to prudential standards based on their size, complexity, and other risk-based factors.

Under the proposed approach, the most stringent set of standards (Category I) would apply to U.S. GSIBs. These firms have the potential to pose the greatest risks to U.S. financial stability, and EGRRCPA requires these firms to be subject to enhanced prudential standards. The existing post-financial crisis framework for U.S. GSIBs has resulted in significant gains in resiliency and risk management. The proposal accordingly would maintain the most stringent standards for these firms.

The second set of standards (Category II) would apply to U.S. banking organizations that are very large or have significant international activity. Like Category I, this category would include standards that are based on standards developed by the Basel Committee on Banking Supervision (BCBS) and other standards appropriate to very large or internationally active banking organizations.[24] The application of consistent prudential standards across jurisdictions to banking organizations with significant size or cross-jurisdictional activity helps to promote competitive equity among U.S. banking organizations and their foreign peers and competitors, and to reduce opportunities for regulatory arbitrage, while applying standards that appropriately reflect the risk profiles of firms in this category. In addition, consistency of standards can facilitate U.S. banking organizations' regulatory compliance in foreign markets. Category II standards would also reflect the risks associated with these firms' very large size or cross-border operations.

The third set of standards (Category III) would apply to bank holding companies that EGRRCPA requires to be subject to enhanced prudential standards, but that do not meet the criteria for Category I or II, and to other firms whose risk profiles warrant the application of similar standards. In particular, these standards would apply to firms with $250 billion or more in total consolidated assets that do not meet the criteria for Category I or II standards. They would also apply to firms with total consolidated assets of $100 billion or more, but less than $250 billion, that meet or exceed specified risk-based indicators. Category III standards would reflect these firms' heightened risk profiles relative to smaller and less complex firms.

The fourth set of standards (Category IV) would apply to banking organizations with total consolidated assets of $100 billion or more that do not meet the thresholds for one of the other categories. These firms generally have greater scale and operational and managerial complexity relative to smaller banking organizations, but less than firms that would be subject to Category I, II, or III standards. In addition, the failure or distress of one or more firms that would be subject to Category IV standards, while not likely to have as significant of an impact on financial stability as the failure or distress of a firm subject to Category I, II or III standards, could nonetheless have a more significant negative effect on economic growth and employment relative to the failure or distress of smaller firms. Category IV standards would accordingly incorporate additional tailoring to reflect the lower risk profile of these firms relative to other firms with $100 billion or more in total consolidated assets. For example, the proposal would maintain liquidity risk management, stress testing, and buffer requirements for these firms, but, commensurate with their size and risk profile, would reduce the required minimum frequency of liquidity stress tests and the granularity of certain liquidity risk management requirements.

[20] 12 CFR part 252.

[21] While the Board intends to separately propose modifications at a future date to capital planning requirements to incorporate the proposed risk-based categories, the proposal would make certain conforming changes to the capital plan rule. *See* section IV of this Supplementary Information section.

[22] 12 CFR 225.8.

[23] 12 CFR part 243; 12 CFR part 381.

[24] The BCBS is a committee of banking supervisory authorities, which was established by the central bank governors of the G–10 countries in 1975. More information regarding the BCBS and its membership is available at *http://www.bis.org/bcbs/about.htm*. Documents issued by the BCBS are available through the Bank for International Settlements website at *http://www.bis.org*.

Section III of this Supplementary Information section discusses the proposed criteria for determining which category of standards would apply to a firm. Section IV of this Supplementary Information section discusses the standards that would apply under each category. Other than risk management requirements, the proposal would not apply enhanced prudential standards to firms with total consolidated assets less than $100 billion, consistent with EGRRCPA.[25]

B. Scope of Application

The proposal would apply to top-tier U.S. bank holding companies and covered savings and loan holding companies.[26] The proposal would not apply to a foreign banking organization, including to an intermediate holding company of a foreign banking organization. The Board continues to consider the appropriate way to assign the U.S. operations of foreign banking organizations to the categories of prudential standards described in this proposal, in light of the special structures through which these firms conduct business in the United States. The Board plans to develop a separate proposal relating to foreign banking organizations that would implement section 401 of EGRRCPA for these firms and reflect the principles of national treatment and equality of competitive opportunity. For the time being, the current enhanced standards that apply to the U.S. operations of foreign banking organizations would continue to apply.[27]

1. Bank Holding Companies

As noted above, EGRRCPA amended section 165 of the Dodd-Frank Act to increase the minimum asset thresholds for the application of enhanced prudential standards to bank holding companies. The proposal would revise the Board's enhanced prudential standard rule to reflect the new thresholds for U.S. top-tier bank holding companies. Under the proposal, a bank holding company with less than $100 billion in total consolidated assets would no longer be subject to the capital stress testing and liquidity risk management, liquidity stress testing, and liquidity buffer requirements of the enhanced prudential standards rule, and a bank holding company with less than $50 billion in total consolidated assets would no longer be subject to risk committee requirements. To maintain consistency with the threshold for application of enhanced prudential standards,[28] the proposal would also raise the applicability threshold for bank holding company capital planning requirements in the Board's Regulation Y from $50 billion to $100 billion in total consolidated assets.[29]

2. Savings and Loan Holding Companies

It is the view of the Board that any company that owns or controls a depository institution should be held to appropriate capital, liquidity, and risk management standards. As with bank holding companies, the Board's objective is to ensure that a savings and loan holding company and any nondepository subsidiaries are effectively supervised and do not threaten the soundness of the subsidiary depository institutions. Furthermore, the Board's rules require a savings and loan holding company to serve as a source of strength for its subsidiary depository institutions.[30] To the greatest extent possible, the Board currently assesses the condition, performance, and activities of savings and loan holding companies on a consolidated, risk-based basis in the same manner that the Board assesses the condition, performance, and activities of a bank holding company, taking into account any unique characteristics of savings and loan holding companies and the requirements of the Home Owners' Loan Act (HOLA).[31]

To further improve the resiliency of savings and loan holding companies and reduce the risk of future failures of large savings and loan holding companies, as well as to reduce risks to the Deposit Insurance Fund, the proposal would build on the regulatory measures currently in effect for covered savings and loan holding companies. Specifically, the proposal would apply supervisory and company-run stress testing; risk management; liquidity risk management, stress testing, and buffer; and single-counterparty credit limits requirements to covered savings and loan holding companies to the same extent as if they were bank holding companies, based on the same categories as would apply to bank holding companies.[32] In addition, the proposal would expand the scope of applicability of the Capital Assessments and Stress Testing (FR Y–14) series of reports to apply to covered savings and loan holding companies with total consolidated assets of $100 billion or more.[33]

The Board previously has applied certain heightened standards to savings and loan holding companies, pursuant to the Board's statutory authority under HOLA.[34] In 2013, the agencies adopted a final rule that updated the Board's capital requirements for banking organizations, including covered

[25] All firms with $50 billion or more in total consolidated assets would remain subject to the risk committee and chief risk officer requirements, which reflect standard risk management practices. *See* section IV.F of this Supplementary Information section.

[26] Section 165 of the Dodd-Frank Act also provides for the application of enhanced prudential standards to nonbank financial companies supervised by the Board. *See* 12 U.S.C. 5365(a). The proposal does not include any changes with respect to the application of enhanced prudential standards for these firms. In addition, under section 165 of the Dodd-Frank Act, state member banks are required to comply with company-run stress testing requirements. *See* 12 U.S.C. 5365(i)(2). This proposal would not alter the implementation of this requirement in the enhanced prudential standards rule. The Board plans to amend these provisions to conform with changes made by EGRRCPA at a later date.

[27] For purposes of the application of enhanced prudential standards under section 165 of the Dodd-Frank Act, bank holding companies include foreign banking organizations with a U.S. subsidiary bank or a U.S. branch or agency. The Dodd-Frank Act requires the Board to give due regard to national treatment and equality of competitive opportunity, which generally means that foreign banking organizations operating in the United States should be treated no less favorably than similarly situated U.S. banking organizations and should generally be subject to the same restrictions and obligations in the United States as those that apply to the domestic operations of U.S. banking organizations. *See* 12 U.S.C. 5365(b)(2).

[28] In 2009, the Board conducted the Supervisory Capital Assessment Program (SCAP), a ''stress test'' of 19 domestic bank holding companies with total consolidated assets of $100 billion or more. *See* Board of Governors of the Federal Reserve System, The Supervisory Capital Assessment Program: Overview of Results (May 7, 2009), available at *http://www.federalreserve.gov/bankinforeg/bcreg20090507a1.pdf.* In 2011, to establish consistency with section 165 of the Dodd-Frank Act, the Board adopted an asset threshold of $50 billion for the application of the capital plan rule and the Board's Comprehensive Capital Review and Analysis (CCAR). Raising the threshold for application of CCAR and the capital plan rule from $50 billion to $100 billion would maintain consistency with the threshold as amended by EGRRCPA.

[29] Section IV of this Supplementary Information section describes additional changes the Board is considering proposing at a later date in the capital plan proposal to tailor Category IV standards to align with the proposed changes to stress testing provisions and consistent with EGRRCPA.

[30] 12 CFR 238.8(a).

[31] 12 U.S.C. 1461 *et seq.*

[32] The Board also plans to propose applying capital planning requirements to covered savings and loan holding companies with $100 billion or more in total consolidated assets in the capital plan proposal.

[33] Savings and loan holding companies would not be required in connection with this proposal to report certain FR Y–14 schedules related to capital planning. *See* section IV.E of this Supplementary Information section.

[34] HOLA authorizes the Board to issue such regulations and orders, including regulations and orders relating to capital requirements for savings and loan holding companies, as the Board deems necessary or appropriate to enable the Board to administer and carry out the purposes of HOLA, and to require compliance therewith and prevent evasions thereof. 12 U.S.C. 1467a(g)(1).

savings and loan holding companies.[35] This was the first time that any savings and loan holding companies were subject to capital requirements. In 2014, the agencies adopted the LCR rule for large and internationally active banking organizations, including covered savings and loan holding companies, and in 2016, the agencies proposed the NSFR rule for the same set of firms.[36]

Greater parity in the regulation of covered savings and loan holding companies and bank holding companies would be appropriate in light of the significant similarities between the activities and risk profiles of these firms. Large covered savings and loan holding companies engage in many of the same activities, face similar risks, and serve substantially similar economic roles as large bank holding companies.[37] Accordingly, the Board is proposing to apply prudential standards to large savings and loan holding companies that are similar to those applied to large bank holding companies.

The financial crisis revealed weaknesses in resiliency and risk management at large banking organizations, including savings and loan holding companies, that supports application of stronger capital, liquidity, and risk management standards and counterparty limits for these firms. For example, Washington Mutual, a savings and loan holding company, had approximately $300 billion in total consolidated assets at the time of failure. After the collapse of Lehman Brothers, Washington Mutual experienced significant deposit outflows and was unable to raise funds to improve its liquidity position.[38] In September 2008, the Office of Thrift Supervision, Washington Mutual's primary regulator, determined that the firm had insufficient liquidity to meet its obligations, closed the firm, and appointed the FDIC as the receiver. Washington Mutual was thereafter acquired by another firm. The FDIC estimated that it would have cost $42 billion to liquidate Washington Mutual, a sum that would have depleted the entire balance of the Deposit Insurance Fund at the time.[39] Likewise, Countrywide Financial, a savings and loan holding company with approximately $200 billion in total consolidated assets in the third quarter of 2007, experienced significant reported losses during the financial crisis and had difficulty rolling over short-term funding, upon which it heavily relied as a funding source, and was sold in distress to another firm.[40]

III. Scoping Criteria for Proposed Categories

As described above, the proposal would establish four categories for purposes of determining applicable prudential standards for bank holding companies and covered savings and loan holding companies with total consolidated assets of $100 billion or more. To summarize, these categories would be defined based on the following criteria:

- Category I standards would apply to U.S. GSIBs.
- Category II standards would apply to firms with $700 billion or more in total consolidated assets or $75 billion or more in cross-jurisdictional activity, and that are not subject to Category I standards.
- Category III standards would apply to firms that are not subject to Category I or II standards and that have $250 billion or more in total consolidated assets or $75 billion or more in any of the following indicators: Nonbank assets, weighted short-term wholesale funding, or off-balance-sheet exposures.
- Category IV standards would apply to firms with at least $100 billion in total consolidated assets that do not meet any of the thresholds specified for Categories I through III.

To determine which firms are subject to the most stringent standards under Category I, the proposal would use the existing methodology under the Board's GSIB surcharge rule.[41] Under EGRRCPA, firms identified as U.S. GSIBs are subject to enhanced prudential standards, regardless of asset size.[42] The inputs to the GSIB identification methodology calculation also closely align with the risk-based factors specified in section 165 of the Dodd-Frank Act for differentiating among firms.[43] To date, the Board has applied the most stringent prudential standards to U.S. GSIBs because the failure or material distress of a GSIB presents the greatest risks to U.S. financial stability.

To determine the applicability of the remaining categories of standards, the Board is proposing to differentiate requirements based on a firm's level of specific risk-based indicators.[44] This approach is intended to allow firms and the public to easily identify and predict what requirements will apply to a firm, and what requirements would apply if the characteristics of a firm change. Under the proposed approach, Categories II through IV would be defined by five indicators linked to a firm's risk profile: Size, cross-jurisdictional activity, weighted short-term wholesale funding, nonbank assets, and off-balance sheet exposure. By taking into consideration the relative presence or absence of each risk factor, the proposal would provide a basis for assessing a banking organization's financial stability and safety and soundness risks.[45] These indicators

[35] *See* Regulatory Capital Rules: Regulatory Capital, Implementation of Basel III, Capital Adequacy, Transition Provisions, Prompt Corrective Action, Standardized Approach for Risk-weighted Assets, Market Discipline and Disclosure Requirements, Advanced Approaches Risk-Based Capital Rule, and Market Risk Capital Rule, 78 FR 62017 (October 11, 2013). *See also* 12 CFR 217.1(c)(1)(iii) (applicability of part 217), .2 (definition of covered savings and loan holding company).

[36] 12 CFR part 249. *See also* Liquidity Coverage Ratio: Liquidity Risk Management Standards, 79 FR 61523 (Oct. 10, 2014); NSFR proposed rule.

[37] *See, e.g.,* U.S. Department of the Treasury, Blueprint for a Modernized Financial Regulatory Structure (March 2008), available at: *https://www.treasury.gov/press-center/press-releases/Documents/Blueprint.pdf.* (''In the past, the thrift (or savings and loan) and banking industries had distinctly different missions, authorities, regulators, and deposit insurance entities. Now, however, the differences between the two industries have substantially diminished and their respective activities and authorities have converged.'')

[38] Offices of Inspector General, U.S. Department of Treasury and FDIC, Evaluation of Federal Regulatory Oversight of Washington Mutual Bank (April 2010), available at: *https://www.fdicig.gov/sites/default/files/publications/10-002EV.pdf.*

[39] *Id.*

[40] Financial Crisis Inquiry Commission, The Financial Crisis Inquiry Report: Final Report of the National Commission on the Causes of the Financial and Economic Crisis in the United States (2011), available at *http://purl.fdlp.gov/GPO/gpo50165.*

[41] *See* 12 CFR part 217 subpart H; *see also* Regulatory Capital Rules: Implementation of Risk-Based Capital Surcharges for Global Systemically Important Bank Holding Companies, 80 FR 49082 (August 14, 2015).

[42] *See* EGRRCPA section 401(f).

[43] *See* 12 U.S.C. 5365(a)(2)(A). The GSIB identification methodology uses five broad categories that are correlated with systemic risk—size, interconnectedness, cross-jurisdictional activity, substitutability, and complexity—and equally weights each category in order to calculate a firm's score. 12 CFR 217.404; *see also* Regulatory Capital Rules: Implementation of Risk-Based Capital Surcharges for Global Systemically Important Bank Holding Companies, 80 FR 49082 (Aug. 14, 2015).

[44] As an alternative, the Board is also requesting comment on a score-based approach, which would differentiate requirements for firms using an aggregated ''score'' across multiple measures of risk. Section III.C of this Supplementary Information section describes this proposed alternative.

[45] When reviewing agency interpretations of statutes that require an agency to ''take into account'' or ''take into consideration'' a number of factors, courts generally defer to the expertise of the agency in determining how to apply the factors and the relative weight given to each factor. *See, e.g.,* National Wildlife Federation v. EPA, 286 F.3d 554, 570 (D.C. Cir. 2002); Lignite Energy v. EPA, 198 F.3d 930, 933 (D.C. Cir. 1999); Trans World Airlines, Inc. v. Civil Aeronautics Board, 637 F.2d 62, 67–68 (2d Cir. 1980); Weyerhaeuser v. EPA, 590 F.2d 1011, 1046 (D.C. Cir. 1978); Sec'y of Agric. v. Cent. Roig Ref. Co., 338 U.S. 604, 611–12 (1950).

generally track measures already used in the Board's existing regulatory framework and that firms that would be covered by the proposal already publicly report, in order to maintain simplicity, predictability, and transparency of the framework and minimize incremental compliance costs. The proposed thresholds would apply based on the level of each indicator over the preceding four calendar quarters, as described further below, in order to capture significant changes in a firm's risk profile, rather than temporary fluctuations.

A. Size

The proposal would measure size based on a firm's total consolidated assets. The use of an asset size threshold would be consistent with section 165 of the Dodd-Frank Act, as amended by EGRRCPA, which differentiates among firms by asset size for purposes of application of enhanced prudential standards.[46] Size is also among the factors that the Board must take into consideration in differentiating among firms under section 165.[47] The Board has previously used size as a simple measure of a firm's potential systemic impact as well as safety and soundness risks.[48]

The effect of a large banking organization's failure on the economy is likely to be greater than that which occurs when a smaller banking organization fails, even though the two banking organizations might be engaged in similar business lines.[49] Board staff estimates that stress at a single large banking organization with an assumed $100 billion in deposits would result in approximately a 107 percent decline in quarterly real GDP growth, whereas stress among five smaller banking organizations—each with an assumed $20 billion in deposits—would result in roughly a 22 percent decline in quarterly real GDP growth.[50] While both scenarios assume $100 billion in total deposits, the negative impact is greatest when larger banking organizations fail.

In general, a firm's size also provides a measure of the extent to which customers or counterparties may be exposed to a risk of loss or suffer a disruption in the provision of services if a firm were to experience distress, and the extent to which asset fire sales by a firm could transmit distress to other market participants, given that a larger firm has more assets to sell. In addition, the large size of a banking organization may give rise to challenges that complicate resolution of the firm if it were to fail.

The size of a banking organization can also be an indication of operational and managerial complexity, which can present safety and soundness risks even when a firm is not engaged in complex business lines. A larger banking organization operates on a larger scale, has a broader geographic scope, and generally will have more complex internal operations than a smaller banking organization. These differences can increase the likelihood that an organization has operational or control gaps that would raise its probability of severe stress or default if left unaddressed, as well as the risk that such gaps will go undetected. Strong prudential standards—including relating to capital planning, stress testing, liquidity, risk management, and single-counterparty credit limits—accordingly also help to manage these safety and soundness risks for both bank holding companies and savings and loan holding companies.

The proposal would establish thresholds of $700 billion, $250 billion, and $100 billion in total consolidated assets for Category II, III, and IV requirements, respectively, for firms that are not U.S. GSIBs. A firm with $700 billion or more in total consolidated assets would be subject to Category II requirements, in order to address the substantial risks that can arise from the activities and potential distress of very large firms that are not U.S. GSIBs. Historical examples suggest that a firm of this size should be subject to stringent prudential standards. For example, during the financial crisis, significant losses at Wachovia Corporation, which had $780 billion in total consolidated assets at the time of being acquired in distress, had a destabilizing effect on the financial system. A threshold of $700 billion or more in total consolidated assets would ensure that a firm with a size of similar magnitude would be subject to Category II standards.

A firm with $250 billion or more in total consolidated assets that does not meet the requirements for Category II would be subject to Category III requirements. As discussed above, the failure or distress of a firm of this size would likely have a greater economic and financial stability impact than that of a smaller firm,[51] and Category III standards would also further the safety and soundness of a firm of this size. The application of strong prudential standards would also be consistent with weaknesses and risks highlighted during the financial crisis with firms of this size, such as Washington Mutual. A threshold of this level would also align with the $250 billion statutory asset threshold under EGRRCPA, above which the Board must apply enhanced prudential standards to a bank holding company.

A firm with $100 billion or more in total consolidated assets that does not meet the criteria for Categories I, II, or III would be subject to Category IV standards. While the material distress or failure of a firm in this category would likely pose less significant risk to U.S. financial stability, consistent with the considerations and empirical analysis described above, it could still have an amplified negative effect on economic growth, employment, and financial stability relative to the distress or failure of a smaller firm.[52] In addition, these firms generally have greater scale and operational and managerial complexity than smaller firms, and associated safety and soundness risks.

Thresholds of these orders of magnitude would reflect observed levels of operational and managerial complexity and operational risk among firms of these sizes. For example, firms with over $700 billion in assets tend to have the broadest array of business lines and a large amount of employees, with significant operational and managerial complexity. Firms with less than $700 billion in assets, but more than $250 billion in assets tend to have less operational complexity than the largest firms, as they tend to focus on select business lines. In addition, these firms tend to have fewer employees and less managerial complexity. Firms with assets of $100 billion or more, but less than $250 billion, tend to be regionally focused or focus on only one or two business lines, with less operational and managerial complexity than larger firms but more than smaller firms.

Question 1: What are the advantages and disadvantages of using size thresholds to tailor prudential standards? In what ways does the inclusion of asset size thresholds in prudential standards drive changes in bank business models and risk profiles

[46] *See generally* 12 U.S.C. 5635 and EGRRCPA § 401.

[47] EGRRCPA section 401(a)(1)(B)(i) (to be codified at 12 U.S.C. 5365(a)(2)(A)).

[48] For example, advanced approaches capital requirements, the supplementary leverage ratio, and the LCR requirement generally apply to firms with total consolidated assets of $250 billion or more or total consolidated on-balance sheet foreign exposure of $10 billion or more.

[49] *See* Lorenc, Amy G., and Jeffery Y. Zhang (2018). ''The Differential Impact of Bank Size on Systemic Risk,'' *Finance and Economics Discussion Series* 2018–066. Washington: Board of Governors of the Federal Reserve System, available at: *https://doi.org/10.17016/FEDS.2018.066.*

[50] *Id.*

[51] *Id.*

[52] *Id.*

in ways that differ from the effects of thresholds based on other risk-based indicators? To what extent can other factors alone adequately differentiate between the risk profiles of firms and serve as the primary tool to tailor prudential standards?

B. Other Risk-Based Indicators

In addition to size, the proposal would consider a firm's level of cross-jurisdictional activity, weighted short-term wholesale funding, nonbank assets, and off-balance sheet exposure to determine the applicable category of standards. The Board is proposing to apply a uniform threshold of $75 billion for each of these risk-based indicators, based on the degree of concentration this amount would represent for each firm and the proportion of the risk factor among all firms with at least $100 billion in total consolidated assets that would be included by the threshold. In each case, a threshold of $75 billion would represent at least 30 percent and as much as 75 percent of total consolidated assets for firms with between $100 billion and $250 billion in total consolidated assets.[53] Setting the indicators at $75 billion would also ensure that firms that account for the vast majority—over 85 percent—of the total amount of each risk factor among all U.S. depository institution holding companies with $100 billion or more in total consolidated assets would be subject to prudential standards that account for the associated risks of these factors, which facilitates consistent treatment of these risks across firms. To the extent levels and the distribution of an indicator substantially change in the future, the Board may consider modifications if appropriate.

Category II standards would apply to a firm with $100 billion or more in total consolidated assets and $75 billion or more in cross-jurisdictional activity to promote parallel treatment among firms with large global operations. Category III standards would apply to a firm with $100 billion or more in total consolidated assets and at least $75 billion in weighted short-term wholesale funding, nonbank assets, or off-balance sheet exposure.

1. Cross-Jurisdictional Activity

Cross-jurisdictional activity would be defined as the sum of cross-jurisdictional assets and liabilities, as each is reported on the Banking Organization Systemic Risk Report (FR Y–15). Cross-jurisdictional activity can affect the complexity of a firm and give rise to challenges that may complicate the resolution of such a firm if it were to fail. In particular, foreign operations and cross-border positions add operational complexity in normal times and complicate the ability of a firm to undergo an orderly resolution in times of stress, generating both safety and soundness and financial stability risks. For example, a firm with significant cross-border operations may require more sophisticated management relating to risks of ring-fencing by one or more jurisdictions during stress, which could impede the firm's ability to move resources in one jurisdiction to meet needs in another.

The Board's capital and liquidity regulations currently use total on-balance sheet foreign exposure as a metric to determine the application of certain requirements, such as the requirement to use the internal models-based advanced approaches for calculating risk-based capital rule (advanced approaches capital requirements)[54] and the LCR requirement.[55] In the interagency capital and liquidity proposal, the Board is proposing, with the OCC and FDIC, to amend certain of the agencies' capital and liquidity regulations to replace the current $10 billion foreign exposure threshold with a $75 billion cross-jurisdictional activity threshold that would align with the proposal. Compared to the current foreign exposure measure, the proposed cross-jurisdictional activity indicator would include foreign liabilities in addition to foreign assets. In addition, compared to the foreign exposure measure, the proposed cross-jurisdictional activity indicator does not include the assets and liabilities from positions in derivative contracts. Measuring cross-jurisdictional activity using both assets and liabilities—instead of just assets—would provide a broader gauge of the scale of a firm's foreign operations and associated risks, as it includes both borrowing and lending activities outside of the United States.

2. Weighted Short-Term Wholesale Funding

The proposed weighted short-term wholesale funding indicator would track the measure currently reported on the FR Y–15 and be consistent with the calculation used for purposes of the GSIB surcharge rule.[56] This indicator provides a measure of a firm's liquidity risk, as reliance on short-term, generally uninsured funding from more sophisticated counterparties can make a firm vulnerable to large-scale funding runs. In particular, banking organizations that fund long-term assets with short-term liabilities from financial intermediaries such as investment funds may need to rapidly sell less liquid assets to meet withdrawals and maintain their operations in a time of stress, which they may be able to do only at ''fire sale'' prices. Such asset fire sales can cause rapid deterioration in a firm's financial condition and negatively affect broader financial stability by driving down asset prices across the market. As a result, weighted short-term wholesale funding reflects both safety and soundness and financial stability risks. Short-term wholesale funding also provides a measure of interconnectedness among market participants, including other financial sector entities, which can provide a mechanism for transmission of distress.

3. Nonbank Assets

Under the proposal, nonbank assets would be measured as the average amount of equity investments in nonbank subsidiaries.[57] The proposed nonbank assets indicator would align with the measure of nonbank assets currently used in the capital plan rule to tailor certain requirements.[58]

[53] Because a size threshold of $250 billion in total consolidated assets also would apply for Category III, the weighted short-term wholesale funding, nonbank assets, and off-balance sheet exposure indicators would only have effect for a firm with total consolidated assets of $100 billion or more, but less than $250 billion. Similarly, the proposed cross-jurisdictional activity threshold would only have effect for a firm with total consolidated assets of $100 billion or more, but less than $700 billion.

[54] *See* 12 CFR 217.100(b)(1).

[55] *See* 12 CFR 249.1(b)(1)(ii).

[56] Specifically, short-term wholesale funding is the amount of a firm's funding obtained from wholesale counterparties or retail brokered deposits and sweeps with a remaining maturity of one year or less. Categories of short-term wholesale funding are then weighted based on four residual maturity buckets; the asset class of collateral, if any, backing the funding; and characteristics of the counterparty. Weightings reflect risk of runs and attendant fire sales. *See* 12 CFR 217.406 and Regulatory Capital Rules: Implementation of Risk-Based Capital Surcharges for Global Systemically Important Bank Holding Companies, 80 FR 49082 (August 14, 2015).

[57] The proposed measure of nonbank assets would include the assets in each Edge or Agreement Corporation, but would exclude assets in a federal savings association, federal savings bank, or thrift.

[58] The capital plan rule defines ''average total nonbank assets'' as the average of the total nonbank assets of a holding company subject to the capital plan rule, calculated in accordance with the instructions to the Parent Company Only Financial Statements for Large Holding Companies (FR Y–9LP), for the four most recent consecutive quarters or, if the bank holding company has not filed the FR Y–9LP for each of the four most recent consecutive quarters, for the most recent quarter or consecutive quarters, as applicable. 12 CFR 225.8(d)(2). In connection with the proposal, the Board is proposing to require covered savings and loan holding companies with total consolidated

The level of a firm's investment in nonbank subsidiaries provides a measure of the organization's business and operational complexity. Specifically, banking organizations with significant investments in nonbank subsidiaries are more likely to have complex corporate structures, inter-affiliate transactions, and funding relationships. A firm's complexity is positively correlated with the impact of a banking organization's failure or distress. Because nonbank subsidiaries will not be resolved through the FDIC's receivership process, significant investments in nonbank subsidiaries present heightened resolvability risk.

Nonbank activities may involve a broader range of risks than those associated with purely banking activities, and can increase interconnectedness with other financial firms, requiring sophisticated risk management and governance, including capital planning, stress testing, and liquidity risk management. If not adequately managed, the risks associated with nonbanking activities could present significant safety and soundness concerns and increase financial stability risks. The failure of a nonbank subsidiary could be destabilizing to a banking organization, and cause counterparties and creditors to lose confidence in the firm. Nonbank assets also reflect the degree to which a firm may be engaged in activities through legal entities that are not subject to separate capital requirements or to the direct regulation and supervision applicable to a regulated banking entity.

The proposal would accordingly apply more stringent Category III standards to a firm with a significant level of nonbank assets than the less stringent Category IV standards that would otherwise apply based on the firm's size alone.

4. Off-Balance Sheet Exposure

Off-balance sheet assets complements the measure of size by taking into consideration financial and banking activities not reflected on a banking organization's balance sheet. Like a firm's size, off-balance sheet exposure provides a measure of the extent to which customers or counterparties may be exposed to a risk of loss or suffer a disruption in the provision of services. In addition, off-balance sheet exposure can lead to significant future draws on capital and liquidity, particularly in times of stress. In the financial crisis, for example, vulnerabilities at individual firms were exacerbated by margin calls on derivative exposures and calls on commitments. These exposures can be a source of safety and soundness risk, as firms with significant off-balance sheet exposure may have to fund these positions in the market in a time of stress, which can put a strain on both capital and liquidity. The nature of these risks for firms of this size and complexity can also lead to financial stability risk, as they can manifest rapidly and with less transparency to other market participants. In addition, because draws on off-balance sheet exposures such as committed credit and liquidity facilities tend to increase in times of stress, they can exacerbate the effects of stress on a banking organization.[59]

Off-balance sheet exposures may also serve as a measure of a banking organization's interconnectedness. Some off-balance sheet exposures, such as derivatives, are concentrated among the largest financial firms.[60] The distress or failure of one party to a financial contract, such as a derivative or securities financing transaction, can trigger disruptive terminations of these contracts that destabilize the defaulting party's otherwise solvent affiliates.[61] Such a default also can lead to disruptions in markets for financial contracts, including by resulting in rapid market-wide unwinding of trading positions.[62] In this way, the effects of one party's failure or distress can be amplified by its off-balance sheet connections with other financial market participants.

The proposal would define off-balance sheet exposure consistently with measures currently reported by covered firms, as total exposure, as defined on FR Y–15, minus total consolidated assets, as reported on Consolidated Financial Statements for Holding Companies (FR Y–9C).[63] Total exposure includes a firm's on-balance sheet assets plus certain off-balance sheet exposures, including derivative exposures, repo-style transactions, and other off-balance sheet exposures (such as commitments).

Question 2: What would be the advantages and disadvantages of having similar applicable prudential standards for bank holding companies and covered savings and loan holding companies with total consolidated assets of $100 billion or more based on the proposed categories? What would be the advantages and disadvantages of having different standards?

Question 3: What are the advantages and disadvantages of the proposed risk-based indicators? What different indicators should the Board use, and why?

Question 4: At what level should the threshold for each indicator be set, and why? Commenters are encouraged to provide data supporting their recommendations.

Question 5: The Board is considering whether Category II standards should apply based on a firm's weighted short-term wholesale funding, nonbank assets, and off-balance sheet exposure, using a higher threshold than the $75 billion that would apply for Category III standards, in addition to the thresholds discussed above based on asset size and cross-jurisdictional activity. For example, a firm could be subject to Category II standards if one or more of these indicators equaled or exceeded a level such as $100 billion or $200 billion. A threshold of $200 billion would represent at least 30 percent and as much as 80 percent of total assets for firms with between $250 billion and $700 billion in assets. If the Board were to adopt additional indicators for purposes of identifying firms that should be subject to Category II standards, at what level should the threshold for each indicator be set, and why? Commenters are encouraged to provide data supporting their recommendations.

C. Alternative Scoping Criteria

An alternative approach for assessing the risk profile and systemic footprint of a banking organization for purposes of

assets of $100 billion or more to report this information, as well.

[59] *See* William F. Bassett, Simon Gilchrist, Gretchen C. Weinbach, Egon Zakrajšek, ''Improving Our Ability to Monitor Bank Lending,'' in Risk Topography: Systemic Risk and Macro Modeling 149–161 (Markus Brunnermeier and Arvind Krishnamurthy, eds. 2014), available at: *http://www.nber.org/chapters/c12554.*

[60] *See, e.g.,* Sheri M. Markose, Systemic Risk from Global Financial Derivatives: A Network Analysis of Contagion and its Mitigation with Super-Spreader Tax, IMF Working Papers (Nov. 30, 2012), available at: *https://www.imf.org/en/Publications/WP/Issues/2016/12/31/Systemic-Risk-from-Global-Financial-Derivatives-A-Network-Analysis-of-Contagion-and-Its-40130.*

[61] To address these risks, the agencies have established restrictions relating to the qualified financial contracts of U.S. GSIBs, the insured depository institution subsidiaries of U.S. GSIBs, and the U.S. operations of systemically important foreign banking organizations. *See* 12 CFR part 252, subpart I (Board); 12 CFR part 47 (OCC); and 12 CFR part 382 (FDIC). That rule does not apply to savings and loan holding companies or to other large bank holding companies.

[62] *See, e.g.,* The Orderly Liquidation of Lehman Brothers Holdings Inc. under the Dodd-Frank Act, 5 FDIC Quarterly No. 2, 31 (2011), *https://www.fdic.gov/bank/analytical/quarterly/2011-vol5-2/article2.pdf.*

[63] In connection with the proposal, the Board is proposing to add this measure of off-balance sheet exposure to the FR Y–15 reporting form as a separate line item.

tailoring prudential standards would be to use a single, comprehensive score. The Board uses a GSIB identification methodology (scoring methodology) to identify global systemically important bank holding companies and apply risk-based capital surcharges to these firms. The Board could use this same scoring methodology to tailor prudential standards for large, but not globally systemic, bank holding companies.

The scoring methodology calculates a GSIB's capital surcharge under two methods.[64] The first method is based on the sum of a firm's systemic indicator scores reflecting its size, interconnectedness, cross-jurisdictional activity, substitutability, and complexity (method 1). The second method is based on the sum of these same measures of risk, except that the substitutability measures are replaced with a measure of the firm's reliance on short-term wholesale funding (method 2).[65]

The Board designed the scoring methodology to provide a single, comprehensive, integrated assessment of a large bank holding company's systemic footprint. Accordingly, the indicators in the scoring methodology measure the extent to which the failure or distress of a bank holding company could pose a threat to financial stability or inflict material damage on the broader economy. The indicators used in the scoring methodology also could be used to help identify banking organizations that have heightened risk profiles and would closely align with the risk-based factors specified in section 165 of the Dodd-Frank Act for applying enhanced prudential standards and differentiating among firms to which the enhanced prudential standards apply.[66] Importantly, large bank holding companies already submit to the Board periodic public reports on their indicator scores in the scoring methodology. Accordingly, use of the scoring methodology more broadly for tailoring of prudential standards would promote transparency and would economize on compliance costs for large bank holding companies.

Under the alternative scoring approach, a banking organization's size and either its method 1 or method 2 score from the scoring methodology would be used to determine which category of standards would apply to the firm. In light of the changes made by EGRRCPA, the Board conducted an analysis of the distribution of method 1 and method 2 scores of bank holding companies and covered savings and loan holding companies with at least $100 billion in total assets.[67]

Category I: As under the proposal and under the Board's existing enhanced prudential standards framework, Category I standards would continue to apply to U.S. GSIBs, which would continue to be defined as U.S. banking organizations with a method 1 score of 130 or more.

Category II: Category II firms are defined in the proposal as those whose failure or distress could impose costs on the U.S. financial system and economy that are higher than the costs imposed by the failure or distress of an average banking organization with total consolidated assets of $250 billion or more.

In selecting the ranges of method 1 or method 2 scores that could define the application of Category II standards, the Board considered the potential of a firm's material distress or failure to disrupt the U.S. financial system or economy. As noted in section III.A of this Supplementary Information section, during the financial crisis, significant losses at Wachovia Corporation, which had $780 billion in total consolidated assets at the time of being acquired in distress, had a destabilizing effect on the financial system. The Board estimated method 1 and method 2 scores for Wachovia Corporation, based on available data, and also calculated the scores of firms with more than $250 billion in total consolidated assets that are not U.S. GSIBs assuming that each had $700 billion in total consolidated assets (the asset size threshold used to define Category II in the Board's main proposal). The Board also considered the outlier method 1 and method 2 scores for firms with more than $250 billion in total consolidated assets that are not U.S. GSIBs.[68]

Based on this analysis, the Board would apply Category II standards to any non-GSIB banking organization with at least $100 billion in total consolidated assets and with a method 1 score between 60 and 80 or a method 2 score between 100 to 150. If the Board adopts a final rule that uses the scoring methodology to establish tailoring thresholds, the Board would set a single score within the listed ranges for application of Category II standards. The Board invites comment on what score within these ranges would be appropriate.

Category III: As noted, section 165 of the Dodd-Frank Act requires the Board to apply enhanced prudential standards to any bank holding company with total consolidated assets of $250 billion or more and authorizes the Board to apply these standards to bank holding companies with between $100 billion and $250 billion in total consolidated assets if the Board makes certain statutory findings. To determine a scoring methodology threshold for application of Category III standards to firms with between $100 billion and $250 billion in total consolidated assets, the Board considered the scores of these firms as compared to the scores of firms with greater than $250 billion in total consolidated assets that are not U.S. GSIBs. Based on this analysis, the Board determined that, under a scoring methodology approach to tailoring, Category III standards would be applied to banking organizations with total consolidated assets between $100 billion and $250 billion that have a method 1 score between 25 to 45. Banking organizations with a score in this range would have a score similar to that of the average firm with greater than $250 billion in total consolidated assets. Using method 2 scores, the Board would apply Category III standards to any banking organization with assets between $100 billion and $250 billion that have a method 2 score between 50 to 85. Again, if the Board were to adopt the scoring methodology for tailoring in its final rule, the Board would pick a single score within the listed ranges. The Board invites comment on what score within these ranges would be appropriate.

Category IV: Under a score-based approach, category IV standards would apply to firms with at least $100 billion in total assets that do not meet any of the thresholds specified for Categories I through III (that is, a method 1 score of less than 25 to 45 or a method 2 score of less than 50 to 85).

Question 6: What are the advantages and disadvantages to use of the scoring methodology and category thresholds described above relative to the proposed thresholds?

[64] *See* 12 CFR part 217, subpart H.

[65] For more discussion relating to the scoring methodology, please see the Board's final rule establishing the scoring methodology. *See* Regulatory Capital Rules: Implementation of Risk-Based Capital Surcharges for Global Systemically Important Bank Holding Companies, 80 FR 49082 (Aug. 14, 2015).

[66] *See supra* note 43.

[67] In conducting its analysis, the Board considered method 1 and method 2 scores as of December 31, 2017. Consistent with the thresholds in EGRRCPA, the Board considered the scores of bank holding companies and covered savings and loan holding companies with total consolidated assets of $100 billion or more but less than $250 billion, $250 billion or more that are not GSIBs, and GSIBs.

[68] Outliers can be determined by a number of statistical methods. For these purposes, the Board computed an outlier as the third quartile plus three times the interquartile range of method 1 and method 2 scores of these U.S. bank holding companies and covered savings and loan holding companies.

Question 7: If the Board were to use the scoring methodology to differentiate non-GSIB banking organizations for purposes of tailoring prudential standards, should the Board use method 1 scores, method 2 scores, or both?

Question 8: If the Board adopted the scoring methodology, what would be the advantages or disadvantages of the Board requiring firms to calculate their scores at a frequency greater than annually, including, for example, requiring a firm to calculate its score on a quarterly basis?

Question 9: With respect to each category of firms described above, at what level should the method 1 or method 2 score thresholds be set and why, and discuss how those levels could be impacted by considering additional data, or by considering possible changes in the banking system. Commenters are encouraged to provide data supporting their recommendations.

Question 10: What are the advantages and disadvantages in using the scoring methodology to categorize firms with systemic footprints smaller than the GSIBs for purposes of tailoring prudential standards?

Question 11: What other approaches should the Board consider in setting thresholds for tailored prudential standards?

D. Determination of Applicable Category of Standards

Under the proposal, a bank holding company or covered savings and loan holding company with total consolidated assets of $100 billion or more would be required to determine the category of standards to which it is subject. The proposal would add certain defined terms to the enhanced prudential standards rule and the Board's rule on savings and loan holding companies [69] to implement the proposed categories. U.S. GSIBs would continue to be identified using the Board's GSIB surcharge methodology, and the proposal would refer to these firms as global systemically important BHCs, consistent with the term used elsewhere in the Board's regulations.[70] The proposal would also add defined terms for firms subject to Category II, III, or IV standards as Category II banking organizations, Category III banking organizations, or Category IV banking organizations, respectively.

Firms that would be subject to the proposal would be required to report size and other risk-based indicators on a quarterly basis. In order to capture significant changes in a firm's risk profile, rather than temporary fluctuations, a category of standards would apply to a firm based on the average levels of each indicator over the preceding four calendar quarters.[71] A firm would remain subject to a category of standards until the firm no longer meets the indicators for its current category in each of the four most recent calendar quarters, or until the firm meets the criteria for another category of standards based on an increase in the average value of one or more indicators over the preceding four calendar quarters. This approach would be consistent with the existing applicability and cessation requirements of the enhanced prudential standards rule.[72] Changes in requirements that result from a change in category would take effect on the first day of the second quarter following the change in the firm's category. For example, a firm that changes from Category IV to Category III based on an increase in the average value of its indicators over the first, second, third, and fourth quarters of a calendar year would be subject to Category III standards beginning on April 1 (the first day of the second quarter) of the following year.

Question 12: What are the advantages and disadvantages of a firm calculating its category on a quarterly basis? Discuss whether calculation on an annual basis would be more appropriate and why.

Question 13: What are the advantages and disadvantages of the proposed transition period for each of the standards in each of the categories? What would be the advantages or disadvantages of providing additional time to conform to new requirements? If a firm changes category because of an increase in one or more risk-based indicators, discuss the advantages and disadvantages of providing an additional quarter before applying the new category's standards.

IV. Enhanced Prudential Standards for Bank Holding Companies and Depository Savings and Loan Holding Companies

A. Category I Standards

U.S. GSIBs are subject to the most stringent prudential standards relative to other firms, which reflects the heightened risks these firms pose to U.S. financial stability. The proposal would make no changes to the requirements applicable to U.S. GSIBs set forth in the enhanced prudential standards rule, except to implement one change, consistent with EGRRCPA, as described below.

With respect to capital, U.S. GSIBs would remain subject to the most stringent capital planning and stress testing requirements, including the qualitative and quantitative assessment of a firm's capital plan through CCAR, annual supervisory stress testing, FR Y–14 reporting requirements, and a requirement to conduct company-run stress tests on an annual basis. The most stringent liquidity requirements would also continue to apply, including liquidity risk management, monthly internal liquidity stress testing, and liquidity buffer requirements under the enhanced prudential standards rule and reporting of certain liquidity data for each business day through the Complex Institution Liquidity Monitoring Report (FR 2052a). In addition, the most stringent single-counterparty credit limits would continue to apply to U.S. GSIBs without change. Under the interagency capital and liquidity proposal, U.S. GSIBs would remain subject to a capital surcharge and enhanced supplementary leverage ratio standards, as well as the LCR requirement and proposed NSFR requirement.

Prior to the enactment of EGRRCPA, section 165 of the Dodd-Frank Act required a bank holding company subject to enhanced prudential standards to conduct semi-annual company-run stress tests.[73] EGRRCPA revised this requirement to ''periodic.'' [74] In the Board's experience, the mandatory mid-cycle stress test has provided modest risk management benefits and limited incremental information to market participants beyond what the annual company-run stress test provides. Accordingly, the proposal would remove the mid-cycle stress test requirement for all bank holding companies, including U.S. GSIBs, effective in the 2020 cycle. The proposal would maintain the requirement for a U.S. GSIB to conduct an annual company-run stress test.

Question 14: What modifications, if any, should the Board consider to the proposed Category I prudential standards, and why?

B. Category II Standards

The failure or distress of firms that would be subject to Category II standards could impose significant costs on the U.S. financial system and

[69] *See* 12 CFR part 238.

[70] *See, e.g.,* 12 CFR part 217.

[71] With respect to a firm that has reported an indicator for less than four quarters, the proposal would refer to the average of the most recent quarter or quarters.

[72] *See, e.g.,* 12 CFR 252.43.

[73] 12 U.S.C. 5365(i)(2)(A) (2012).

[74] EGRRCPA section 401(a)(5)(B)(i)(I) (to be codified at 12 U.S.C. 5365(i)(2)(A)).

economy, although these firms generally do not present the same degree of systemic risk as U.S. GSIBs. Their size and cross-jurisdictional activity present risks that require more sophisticated capital planning and greater supervisory oversight through stress testing.[75] Further, size and cross-jurisdictional activity can present particularly heightened challenges in the case of a liquidity stress, which can create both financial stability and safety and soundness risks. For example, a very large firm that engages in asset fire sales to meet short-term liquidity needs is more likely to transmit distress on a broader scale because of the greater volume of assets it could sell in a short period of time. Similarly, a firm with significant international activity may be more exposed to the risk of ring-fencing of liquidity resources by one or more jurisdictions that could impede its ability to move liquidity to meet outflows.

Like Category I, Category II would apply the most stringent capital planning and stress testing requirements set forth in the capital plan and enhanced prudential standards rules. The Board would continue to require a firm subject to Category II standards to submit an annual capital plan, and the Federal Reserve would conduct a qualitative and quantitative assessment of the firm's capital plan.[76] Consistent with EGRRCPA, the proposal would maintain annual supervisory stress testing for these firms and require company-run stress testing on an annual basis.[77] In addition, these firms would remain subject to the existing FR Y–14 reporting requirements. Firms subject to Category II standards would remain subject to the most stringent liquidity risk management, stress testing, and buffer requirements under the enhanced prudential standards rule and would be subject to a requirement to report liquidity data for each business day on the FR 2052a.[78]

With respect to single-counterparty credit limits, a U.S. bank holding company with $250 billion or more in total consolidated assets that is not a U.S. GSIB is currently subject to a limit on aggregate net credit exposure to a single counterparty of no more than 25 percent of tier 1 capital.[79] The proposal would modify this threshold to apply the limitation to all firms that would be subject to Category II or III requirements, based on the risks indicated by the firm's high level of cross-jurisdictional activity, weighted short-term wholesale funding, nonbank assets, or off-balance sheet exposure, in addition to the firm's size. This change would align the thresholds for application of single-counterparty credit limits requirements with the proposed thresholds for other prudential standards, which promotes consistency and simplicity across the Board's regulatory framework for large U.S. banking organizations. As discussed above, the proposed indicators represent measures of vulnerability to safety and soundness and financial stability risks, which may be exacerbated if a firm has outsized credit exposure to a single counterparty. Accordingly, application of the limits may help to mitigate this risk. For example, firms that have high reliance on weighted short-term wholesale funding or significant concentration of nonbank assets or off-balance sheet exposure often also have a high degree of interconnectedness with other market participants, and may be likely to transmit their distress or failure to those participants. Single-counterparty credit limits may reduce the extent of that transmission. The limitation on a firm's exposure to a single counterparty also may reduce the likelihood that distress at another firm would be transmitted to the covered firm.

In the interagency capital and liquidity proposal, the Board, with the other agencies, is proposing to apply capital and liquidity standards to firms subject to Category II that are based on standards developed by the BCBS, subject to notice and comment rulemaking in the United States, and are appropriate for very large or internationally active banking organizations. These standards would include the full LCR and proposed NSFR requirements and advanced approaches capital requirements.

Question 15: What modifications, if any, should the Board consider to the proposed Category II prudential standards, and why?

C. Category III Standards

The Board's current regulatory framework generally applies the same prudential standards to all non-GSIB bank holding companies or covered savings and loan holding companies with $250 billion or more in total consolidated assets. For example, advanced approaches capital requirements, the supplementary leverage ratio, and the LCR requirement generally apply to firms with $250 billion or more in total consolidated assets or $10 billion or more in foreign exposure. The proposed framework would further differentiate among firms with $250 billion or more in total consolidated assets, consistent with EGRRCPA.[80] In particular, Categories I and II would include standards generally consistent with standards developed by the BCBS, whereas Category III would include fewer such standards, based on the relatively lower risk profiles and lesser degree of cross-border activity of firms that would be subject to Category III standards. For example, in the interagency capital and liquidity proposal, the agencies are proposing not to apply advanced approaches capital requirements and the requirement to recognize most elements of accumulated other comprehensive income (AOCI) in regulatory capital to firms subject to Category III (and Category IV) standards.

Category III standards would apply to firms with total consolidated assets of $250 billion or more that do not meet the criteria for Category I or II, as well as to certain firms with less than $250 billion in total consolidated assets, based on their risk profile. As noted above, section 165 of the Dodd-Frank

[75] *See* section III of this **SUPPLEMENTARY INFORMATION** section.

[76] For firms subject to Category II standards that have less than $250 billion in average total consolidated assets and less than $75 billion in average total nonbank assets, the proposal would increase the stringency of the capital planning standards by including these firms in the CCAR qualitative assessment.

[77] The proposal would remove the mid-cycle company-run stress testing requirement for firms subject to Category II standards the reasons discussed above for U.S. GSIBs under Category I.

[78] The proposal would revise the FR 2052a reporting requirements to require all firms subject to Category II standards to report the FR 2052a on a daily basis (daily reporting requirements would also apply to firms subject to Category I standards and firms subject to Category III standards that have weighted short-term wholesale funding of $75 billion or more). Under current reporting requirements, U.S. firms with $700 billion or more in total consolidated assets or $10 trillion or more in assets under custody must file the FR 2052a on each business day, while all other firms must file the FR 2052a on a monthly basis. For firms subject to Category II standards that have less than $700 billion in total consolidated assets, the proposal would increase the frequency of FR 2052a reporting from monthly to daily. Reporting of daily liquidity data would facilitate greater supervisory monitoring based on these firms' liquidity risk profile, as indicated by their size and cross-jurisdictional activity. The proposal would simplify the FR 2052a reporting thresholds by eliminating the threshold of $10 trillion or more in assets under custody used to identify daily filers, as a firm that meets this threshold would likely also meet one of the other proposed thresholds for daily reporting requirements.

[79] Single-Counterparty Credit Limits for Bank Holding Companies and Foreign Banking Organizations, 83 FR 38460, 38497 (Aug. 6, 2018) (to be codified at 12 CFR 252.72(a)).

[80] As noted above, Category IV standards would apply only to firms with less than $250 billion in total consolidated assets.

Act, as amended by EGRRCPA, requires the Board to apply enhanced risk-based and leverage capital requirements and annual supervisory stress testing to U.S. GSIBs and bank holding companies with $250 billion or more in total consolidated assets.[81] In addition, section 165(a)(2)(C) authorizes the Board to apply enhanced prudential standards to bank holding companies with total consolidated assets of $100 billion or more but less than $250 billion. Consistent with this authority, the proposal would apply enhanced standards to firms in this asset range that have $75 billion or more in weighted short-term wholesale funding, nonbank assets, or off-balance sheet exposure.[82]

As discussed in section III of this Supplementary Information section, weighted short-term wholesale funding, nonbank assets, and off-balance sheet exposure are factors that contribute to the systemic risk profile and safety and soundness risk profile of a firm. Each of these factors heightens the need for sophisticated capital planning and more intensive supervisory oversight through CCAR, as well as sophisticated measures to monitor and manage liquidity risk.

The proposal would largely maintain the existing capital planning and stress testing standards under the capital plan and enhanced prudential standards rules for firms that would be subject to Category III standards, but remove the mid-cycle company-run stress testing requirement and require public disclosure of company-run stress test results every other year rather than annually. The proposal would require a firm subject to Category III standards to submit an annual capital plan and be subject to the qualitative and quantitative assessment of its capital plan through CCAR.[83] The Board would continue to conduct annual supervisory stress testing of firms subject to Category III standards.

In connection with capital planning requirements, these firms would continue to be required to submit confidential data on the existing schedule for FR Y–14 reports. A firm subject to Category III standards would also be required to conduct an internal stress test (and report the results on the FR Y–14A) in connection with its annual capital plan submission. The internal stress tests and the FR Y–14 reports are inputs into the supervisory stress test and the CCAR qualitative assessment. Moreover, the internal stress tests represent an important risk management capability for firms whose size or other risk factors would meet or exceed the Category III thresholds.

The proposal would require firms subject to Category III standards to publicly disclose the results of company-run stress tests only once every two years, rather than annually.[84] Because firms subject to Category III standards would continue to be required to submit an annual capital plan (including the results of an internal capital stress test) and would be subject to annual supervisory stress testing, a reduction in the frequency of required disclosure of company-run stress test results should reduce compliance costs without a material increase in safety and soundness or financial stability risks.[85] Public disclosure of supervisory stress test results would continue to apply on an annual basis for firms subject to Category III standards.

In the interagency capital and liquidity proposal, the Board, with the other agencies, is separately proposing that firms subject to Category III standards would not be subject to advanced approaches capital requirements and the requirement to recognize most elements of AOCI in regulatory capital. Under that proposal, these firms would be subject to U.S. generally applicable risk-based capital requirements, including capital buffers, as well as the U.S. leverage ratio and the supplementary leverage ratio. The capital buffers would include any applicable countercyclical capital buffer requirement.[86]

The proposal would maintain the existing liquidity risk management, monthly internal liquidity stress testing, and liquidity buffer requirements under the enhanced prudential standards rule for firms subject to Category III standards. The liquidity risk management requirements reflect important elements of liquidity risk management in normal and stressed conditions, such as cash flow projections and contingency funding plan requirements. Similarly, internal liquidity stress testing requires a firm to model liquidity inflows and outflows based on its own risk profile, while ensuring that the firm maintains a level of conservatism in its liquidity stress testing.

The proposal would require a firm subject to Category III standards to report daily or monthly FR 2052a liquidity data depending on the firm's level of weighted short-term wholesale funding. Most firms that would be subject to this category currently report monthly FR 2052a data. However, the Board is proposing to require a firm that has $75 billion or more in weighted short-term wholesale funding to submit FR 2052a data for each business day. A heightened reporting frequency would facilitate greater supervisory monitoring based on these firms' heightened liquidity risk exposure. For example, a greater reliance on short-term wholesale funding may indicate more frequent rollover of liabilities and greater volatility in the funding profile of a firm. Because these firms are more prone to sudden swings in their liquidity position, there is a greater need for supervisory monitoring of their liquidity risk.

Similarly, in the interagency capital and liquidity proposal, the Board and the other agencies are proposing to apply tailored LCR and NSFR requirements for firms subject to Category III standards based on whether a firm has $75 billion or more in weighted short-term wholesale funding.

As discussed above, the proposed Category III standards would include the single-counterparty credit limit requirements that currently apply to bank holding companies with $250

[81] *See* EGRRCPA section 401(a)(1) (to be codified at 12 U.S.C. 5365(a)); 12 U.S.C. 5365(b)(1)(A) (2012).

[82] Section 401(e) of EGRRCPA also requires the Board to conduct periodic supervisory stress tests of bank holding companies and FBOs with $100 billion or more, but less than $250 billion, in total consolidated assets. EGRRCPA section 401(e).

[83] For firms subject to Category III standards that have less than $250 billion in average total consolidated assets and less than $75 billion in average total nonbank assets, the proposal would increase the stringency of the capital planning standards by including these firms in the CCAR qualitative assessment.

[84] The company-run stress testing requirement under the enhanced prudential standards rule includes a mandatory public disclosure component, whereas the capital plan rule does not. *Compare* 12 CFR 252.58 *with* 12 CFR 225.8. The proposal would maintain the annual internal stress test requirement under the capital plan rule, but reduce the required frequency of company-run stress testing under the enhanced prudential standards rule to every other year. As a result, in the intervening year between company-run stress tests under the enhanced prudential standards rule, the proposed Category III standards would require a firm to conduct an internal capital stress test only as part of its annual capital plan submission, without required public disclosure.

[85] As noted above, EGRRCPA altered the frequency of company-run stress testing to ''periodic.'' Consistent with EGRRCPA, the Board would differentiate among firms by requiring firms subject to Category I and II standards to conduct and publicly report the results of a company-run stress test more frequently (annually) than firms subject to Category III standards (every two years), based on the differences in size, cross-jurisdictional activity, complexity, and risk profile indicated by the scoping criteria for each of these categories. *See* EGRRCPA section 401(a)(1)(B)(i) (to be codified at 12 U.S.C. 5365(a)(2)(A)).

[86] A firm that operates below its capital buffer requirement would be subject to limitations on capital distributions and discretionary bonus payments. *See* 12 CFR 217.11.

billion or more in total consolidated assets.

Question 16: What modifications, if any, should the Board consider to the proposed Category III prudential standards, and why?

Question 17: What are the advantages and disadvantages of reducing the frequency to every other year of the requirement for firms subject to Category III standards to conduct and publicly disclose the results of a company-run stress test?

D. Category IV Standards

Under the proposal, Category IV standards would apply to firms with $100 billion or more in total consolidated assets that do not meet the criteria for Categories I, II, or III. The failure or distress of one or more firms that would be subject to Category IV standards, while not likely to have as great of an impact on financial stability as the failure or distress of a firm subject to Category I, II or III standards, could nonetheless have a more significant negative effect on economic growth and employment relative to the failure or distress of smaller firms.[87] During the financial crisis, firms of similar size and risk profiles to firms that would be subject to Category IV standards, including Countrywide Financial and National City Corp, experienced losses that exceeded three percent of risk-weighted assets.[88] While the failure or distress of these firms did not have as significant an effect on U.S. financial stability as the failure or distress of financial companies with larger systemic footprints, they still contributed to instability and stress in the system.

In addition, these firms generally have greater scale and operational and managerial complexity than smaller firms and, as a result, greater safety and soundness risks. Specifically, these firms operate at a larger scale, have broader geographic scope, and typically have more layers of management than a smaller banking organization. These differences can increase the likelihood that such a firm has operational or control gaps that would raise its probability of severe stress or default if left unaddressed, as well as the risk that such gaps will go undetected. The Category IV standards would help promote the safety and soundness of these firms.

Relative to current requirements under the enhanced prudential standards rule, the proposed Category IV standards would maintain core elements of the liquidity and capital standards, and tailor these requirements to reflect these firms' lower risk profile and lesser degree of complexity relative to other large banking organizations.

Category IV standards would include liquidity risk management, stress testing, and buffer requirements. Effective liquidity risk management helps to ensure a banking organization's ability to meet its obligations and continue operations in times of stress. The financial crisis revealed significant weaknesses in liquidity buffers and liquidity risk management practices throughout the financial system.[89] In particular, many banking organizations did not have adequate risk management practices to take into account the liquidity stresses of individual products or business lines, had not adequately accounted for draws from off-balance sheet exposures, or had not adequately planned for a disruption in funding sources.

The liquidity standards help to ensure that these firms have effective governance and risk management processes to measure and estimate liquidity needs, and sufficient liquidity positions to cover risks and exposures and to support activities through a range of conditions. In particular, internal liquidity stress testing, liquidity buffer, and liquidity risk management requirements help to ensure that a large banking organization is equipped to manage its liquidity risk and to withstand disruptions in funding sources.

Under the proposal, liquidity risk management and liquidity stress testing requirements would be further tailored to better reflect the risk profiles of banking organizations subject to Category IV standards. As a class, firms that would be subject to Category IV standards tend to have more stable funding profiles, as measured by their lower level of weighted short-term wholesale funding, and lesser degrees of liquidity risk and operational complexity associated with size, cross-jurisdictional activity, nonbank assets, and off-balance sheet exposure. Accordingly, the proposal would reduce the frequency of required internal liquidity stress testing to at least quarterly, rather than monthly.[90] Category IV standards would continue to require that a firm maintain a liquidity buffer that is sufficient to meet the projected net stressed cash-flow need over the 30-day planning horizon under the firm's internal liquidity stress test.

For these same reasons, the proposal would modify certain liquidity risk management requirements under the enhanced prudential standards rule for firms subject to Category IV standards. First, the proposal would require a firm subject to this category of standards to calculate its collateral positions on a monthly basis, rather than a weekly basis as currently required. Firms that would meet the criteria for Category IV standards tend to be less reliant on activities, such as secured funding and borrowing (*e.g.,* repurchase agreements and reverse repurchase agreements) and derivatives trading, for which greater frequency in updating collateral positions is appropriate. Second, the current enhanced prudential standards rule requires covered bank holding companies to establish risk limits to monitor sources of liquidity risk.[91] The proposal would clarify that firms subject to Category IV standards, due to their lesser size, complexity, and other risk factors relative to other large banking organizations, need not establish limits for activities that are not relevant to the firm, but must establish limits that are consistent with the firm's established liquidity risk tolerance and that reflect the firm's risk profile, complexity, activities, and size. Third, Category IV standards would specify fewer required elements of monitoring of intraday liquidity risk exposures,[92] consistent with the risk profile, complexity, activities, and size of firms subject to this category of standards. This change would reflect the generally more stable funding profiles and lower degrees of intraday risk and operational complexity of these firms relative to larger and more complex firms.

The internal liquidity stress testing, liquidity buffer, and liquidity risk management requirements are more tailored to a firm's risk profile and scope of operations than the standardized quantitative limits of the LCR rule. Continuing to apply these tailored liquidity requirements as part of Category IV standards would maintain these firms' risk management and

[87] *See* Lorenc and Zhang, *supra* note 49, and section III of this **SUPPLEMENTARY INFORMATION** section.

[88] *See* Strah, Hynes, and Shaffer, The Impact of the Recent Financial Crisis on the Capital Positions of Large U.S. Financial Institutions: An Empirical Analysis, available at: *https://www.bostonfed.org/publications/supervision-and-credit/2013/capital-positions.aspx.*

[89] *See* BCBS, Liquidity Risk: Management and Supervisory Challenges (Feb. 2008), *https://www.bis.org/publ/bcbs136.pdf; see also* BCBS, Principles for Sound Liquidity Risk Management and Supervision (Sept. 2008), *https://www.bis.org/publ/bcbs144.htm.*

[90] Firms subject to Category IV standards would remain subject to monthly, tailored FR 2052a liquidity reporting requirements.

[91] 12 CFR 252.34(g).

[92] *See* 12 CFR 252.34(h)(3).

resiliency, which supports their individual safety and soundness and reduces risks to U.S. financial stability. In the interagency capital and liquidity proposal, the Board, with the other agencies, is proposing to no longer apply the LCR and proposed NSFR rules to firms subject to Category IV standards.

The proposal would also apply tailored capital standards for firms subject to Category IV standards. Specifically, the proposal would revise the frequency of supervisory stress testing to every other year and eliminate the requirement for firms subject to Category IV standards to conduct and publicly report the results of a company-run stress test. Supervisory stress testing on a two-year cycle would implement section 401(e) of EGRRCPA, taking into account the risk profile of these firms relative to larger, more complex firms. The Board is proposing to maintain existing FR Y–14 reporting requirements for firms subject to Category IV standards in order to provide the Board with the data it needs to conduct supervisory stress testing and inform the Board's ongoing supervision of these firms.[93]

The Board continues to expect these firms to have sound capital positions and capital planning practices. Capital is central to a firm's ability to absorb unexpected losses and continue to lend to creditworthy businesses and consumers. A firm must maintain sufficient levels of capital to support the risks associated with its exposures and activities to be resilient. As a result, a firm's processes for managing and allocating its capital resources are critical to its financial strength and resiliency, and also to the stability and effective functioning of the U.S. financial system. In addition, section 401(e) of EGRRCPA requires the Board to conduct periodic supervisory stress tests of bank holding companies and foreign banking organizations with $100 billion or more, but less than $250 billion, in total consolidated assets.

In April 2018, the Board issued a proposal to apply stress buffer requirements to large bank holding companies.[94] As part of a future capital plan proposal, the Board intends to propose that the stress buffer requirements under Category IV would be calculated in a manner that aligns with the proposed two-year supervisory stress testing cycle. Specifically, the Board plans to propose that the stress buffer requirements would be updated annually to reflect planned distributions, but only every two years to reflect stress loss projections.[95]

As part of the capital plan proposal, the Board intends to provide greater flexibility to these firms to develop their annual capital plans. Under this potential approach, Category IV standards would require a firm to include in its capital plans estimates of revenues, losses, reserves, and capital levels based on a forward-looking analysis, taking into account the firm's idiosyncratic risks under a range of conditions, but would not require the firm to submit the results of company-run stress tests on the FR Y–14A. This change would align with the proposed removal of company-run stress testing requirements from Category IV standards under the enhanced prudential standards rule. The Board also intends at a future date to revise its guidance relating to capital planning to align with the proposed categories of standards and to allow more flexibility in how firms subject to Category IV standards perform capital planning.

Currently, firms that meet the proposed criteria for Category IV standards are not subject to the single-counterparty credit limits rule. The proposal would retain this treatment.

Question 18: What modifications, if any, should the Board consider to the proposed Category IV prudential standards, and why?

Question 19: What are the advantages and disadvantages of applying the prudential standards outlined here to banking organizations that meet the proposed criteria for Category IV standards? What prudential standards are appropriate for these firms, based on their risk profiles?

Question 20: What are the advantages and disadvantages of conducting a supervisory stress test every other year, rather than annually, and eliminating the company-run stress testing requirement for these firms? How should the Board think about providing these firms with additional flexibility in their capital plans?

Question 21: The proposal would revise the frequency of supervisory stress testing for firms subject to Category IV standards to every other year. What would be the advantages or disadvantages of the Board conducting supervisory stress tests for these firms on a more frequent basis?

Question 22: What are the advantages and disadvantages of the proposed liquidity risk management, liquidity stress testing requirements, and liquidity buffers for these firms?

Question 23: In the interagency capital and liquidity proposal, the agencies are proposing not to apply the LCR rule and proposed NSFR rule to firms subject to Category IV standards. What are the advantages and disadvantages of this approach? To what extent would scoping out banking organizations subject to Category IV standards from the LCR and proposed NSFR rules affect the safety and soundness of individual banking organizations or raise broader financial stability concerns? To what extent does maintaining liquidity risk management and internal liquidity stress testing and buffer requirements at the holding company level for these firms under the proposal mitigate these concerns? What are the advantages and disadvantages of maintaining standardized liquidity requirements, such as the current LCR requirement and proposed NSFR requirement, for firms subject to Category IV standards? If the Board were to apply some or all of the LCR and proposed NSFR requirements to these firms, what, if any, other regulatory requirements should the Board consider reducing or removing?

E. Covered Savings and Loan Holding Companies

Currently, covered savings and loan holding companies are subject to the Board's regulatory capital rule and LCR rule, and would be subject to the proposed NSFR rule, in the same manner as a similarly situated bank holding company. However, unlike bank holding companies of comparable size and risk profile, covered savings and loan holding companies are not otherwise subject to capital planning or supervisory stress testing requirements.[96] Under the proposal, a covered savings and loan holding company would be subject to supervisory stress testing; a requirement to conduct and publicly disclose the results of a company-run stress test; risk

[93] The Board plans to separately propose reductions in FR Y–14 reporting requirements for firms subject to Category IV standards as part of the capital plan proposal at a later date, to align with changes the Board would propose to the capital plan rule.

[94] Amendments to the Regulatory Capital, Capital Plan, and Stress Test Rules, 83 FR 18160 (proposed April 25, 2018).

[95] Under the capital plan rule, the Board may require a firm to resubmit its capital plan if there has been, or will likely be, a material change in the firm's risk profile, financial condition, or corporate structure. *See* 12 CFR 225.8(e)(4). In the event of a resubmission, the Board may conduct a quantitative evaluation of that capital plan. As noted in the April 2018 proposal, the Board may recalculate a firm's stress buffer requirements whenever the firm chooses or is required to resubmit its capital plan. 83 FR 18171.

[96] *See* 12 CFR 217.1(c)(1)(iii) (applicability of part 217), .2 (defining a covered savings and loan holding company); 12 CFR part 249; NSFR proposed rule.

management and risk committee requirements; liquidity risk management, stress testing, and buffer requirements; and single-counterparty credit limits in the same manner as a similarly situated bank holding company would be subject under the enhanced prudential standards rule.[97]

For capital, these standards would include supervisory stress testing and, for Categories II and III, company-run stress testing requirements. Similar to a bank holding company, the scale, managerial and operational complexity, and other risk factors indicated by the scoping criteria for the proposed categories warrant more sophisticated capital planning, more frequent company-run stress testing, and greater supervisory oversight through supervisory stress testing to further the safety and soundness of these firms. To implement the supervisory stress test, the Board is proposing to require covered savings and loan holding companies to report the FR Y–14 report in the same manner as a bank holding company.[98] In addition, in April 2018, the Board issued a proposal to apply stress buffer requirements to large bank holding companies and intermediate holding companies. As part of the capital plan proposal, the Board would seek comment on a proposal to apply the proposed stress buffer requirements to covered savings and loan holding companies in the same manner as a bank holding company.

HOLA authorizes the Board to issue regulations that the Board determines are necessary and appropriate to carry out the purposes of section 10 of HOLA, including regulations establishing capital requirements.[99] Like bank holding companies, savings and loan holding companies must serve as a source of strength to their subsidiary savings associations and may not conduct operations in an unsafe and unsound manner. For large banking organizations, including covered savings and loan holding companies, safe and sound operations include robust capital and liquidity risk management. The proposed capital planning and stress buffer requirements would provide covered savings and loan holding companies with comparable benefits to safety and soundness as they provide to bank holding companies subject to the requirements. These requirements help ensure that a firm maintains capital commensurate with its risk profile and activities, so that the firm can meet its obligations to creditors and other counterparties, as well as continue to serve as a financial intermediary through periods of financial and economic stress. Stress testing provides a means to better understand the financial condition of the banking organization and risks within the banking organization that may pose a threat to safety and soundness or the stability of the financial system. The capital plan rule also helps to ensure that a firm has internal processes for assessing its capital adequacy that reflect a full understanding of its risks and ensure that it maintains capital corresponding to those risks to maintain overall capital adequacy. These concepts are fundamental to the safety and soundness of all banking organizations, including covered savings and loan holding companies. In addition, stress tests can provide valuable information to market participants and reduce uncertainty about the financial condition of the participating holding companies under stress.

Currently, with respect to liquidity requirements, covered savings and loan holding companies are subject to the full LCR and proposed NSFR requirements if they have $250 billion or more in assets or $10 billion in on-balance sheet foreign exposure. Covered savings and loan holding companies are subject to the modified LCR and proposed modified NSFR requirements if they have $50 billion or more, but less than $250 billion, in assets and less than $10 billion in foreign exposure.[100] Covered savings and loan holding companies are not currently subject to the liquidity risk management, stress testing, and buffer requirements included in the enhanced prudential standards rule, but are expected to have liquidity risk management processes commensurate with their liquidity risk.[101]

The proposal would extend the liquidity risk management, stress testing, and buffer requirements to covered savings and loan holding companies. Specifically, a covered savings and loan holding company with total consolidated assets of $100 billion or more would be required to conduct internal stress tests at least monthly (or quarterly, for a firm that would be subject to Category IV standards) to measure its potential liquidity needs across overnight, 30-day, 90-day, and 1-year planning horizons during times of instability in the financial markets, and to hold highly liquid assets sufficient to meet the projected 30-day net stressed cash-flow need under internal stress scenarios. A covered savings and loan holding company with total consolidated assets of $100 billion or more also would be required to meet specified corporate governance requirements around liquidity risk management, to produce cash flow projections over various time horizons, to establish internal limits on certain liquidity metrics, and to maintain a contingency funding plan that identifies potential sources of liquidity strain and alternative sources of funding when usual sources of liquidity are unavailable. These proposed requirements are important to ensure that covered savings and loan holding companies have effective governance and risk management processes to determine the amount of liquidity to cover risks and exposures, and sufficient liquidity to support their activities through a range of conditions.

In addition, under the current framework, the single-counterparty credit limits rule applies to U.S. bank holding companies with $250 billion or more in total consolidated assets (other than U.S. GSIBs), but not to covered savings and loan holding companies. In general, that rule limits aggregate net credit exposure to a single counterparty to no more than 25 percent of tier 1 capital.[102]

As discussed above, the proposal would modify the threshold of $250 billion or more in total consolidated assets for U.S. bank holding companies that are not U.S. GSIBs to align with the new proposed thresholds for application

[97] A covered savings and loan holding company would not be subject to Category I standards, as the definition of ''global systemically important BHC'' under the GSIB surcharge rule does not include covered savings and loan holding companies. *See* 12 CFR 217.2.

[98] Covered savings and loan holding companies with total consolidated assets of $100 billion or more would be required to report the FR Y–14M and all schedules of the FR Y–14–Q except for Schedule C—Regulatory Capital Instruments and Schedule D—Regulatory Capital Transitions. These firms would also be required to report the FR Y–14A Schedule E—Operational Risk. Covered savings and loan holding companies subject to Category II or III standards would also be required to submit the FR Y–14A Schedule A—Summary and Schedule F—Business Plan Changes in connection with the company-run stress test requirement.

[99] 12 U.S.C. 1467a(g). *See* section II.B.2 of this **SUPPLEMENTARY INFORMATION** section.

[100] The Board, with the OCC and FDIC, is proposing to amend these applicability thresholds in the interagency capital and liquidity proposal.

[101] *See* Supervision and Regulation Letter SR 10–6, available at *http://www.federalreserve.gov/boarddocs/srletters/2010/sr1006.pdf;* Interagency Policy Statement on Funding and Liquidity Risk Management, 75 FR 13656 (March 22, 2010).

[102] For U.S. GSIBs, the single-counterparty credit limits rule applies a stricter requirement. *See* section IV.B of this **SUPPLEMENTARY INFORMATION** section.

of Category II and III standards. The proposal would apply the single-counterparty credit limit requirements to covered savings and loan holding companies that are subject to Category II or III standards in the same manner that the current rule applies to U.S. bank holding companies with $250 billion or more in total consolidated assets that are not U.S. GSIBs (*i.e.,* the 25 percent of tier 1 capital limit would apply for these firms). This limitation on a savings and loan holding company's exposure to a single counterparty would reduce the likelihood that distress at another firm would be transmitted to the covered savings and loan holding company.

Question 24: What are the advantages and disadvantages of applying prudential standards as outlined here to covered savings and loan holding companies? What additional standards would be appropriate for covered savings and loan holding companies?

Question 25: What are the advantages and disadvantages of covered savings and loan holding companies reporting FR Y–14 data as outlined above?

F. Risk Management and Risk Committee Requirements

Sound, enterprise-wide risk management supports the safe and sound operations of banking organizations and reduces the likelihood of their material distress or failure, and thus promotes financial stability. Section 165(h) of the Dodd-Frank Act requires certain publicly traded bank holding companies to establish a risk committee that is ''responsible for the oversight of the enterprise-wide risk management practices'' and meets other statutory requirements.[103] EGRRCPA amended the thresholds for application of the risk committee requirement to require the Board to apply risk committee requirements to publicly traded bank holding companies with $50 billion or more in total consolidated assets. The Board may also apply risk committee requirements to publicly traded bank holding companies under $50 billion in total consolidated assets, as the Board determines would be necessary or appropriate to promote sound risk management practices.

Under the current enhanced prudential standards rule, bank holding companies with total consolidated assets of $50 billion or more and publicly traded bank holding companies with total consolidated assets of $10 billion or more, but less than $50 billion, must maintain a risk committee that meets specified requirements. Consistent with EGRRCPA, the proposal would raise these thresholds for the risk committee requirement to apply to bank holding companies but would not change the substance of the risk committee requirement for these firms.[104] Under the proposal, a publicly traded or privately held bank holding company with total consolidated assets of $50 billion or more must maintain a risk committee. These standards enhance safe and sound operations by supporting independent risk management and are appropriate for all bank holding companies with total consolidated assets of $50 billion or more. The proposal would eliminate the risk committee requirements that apply for publicly traded U.S. bank holding companies with less than $50 billion in total consolidated assets.

Historically, the Board has assessed the adequacy of bank holding company risk management through the examination process as informed by supervisory guidance; the requirements in section 165(h) supplement, but do not replace, the Board's existing risk management guidance and supervisory expectations.[105] Given the activities and risk profile of bank holding companies with less than $50 billion in total consolidated assets, the Board proposes to review these firms' risk management practices through the supervisory process. The Board would continue to expect that bank holding companies with less than $50 billion in total consolidated assets would establish risk management processes and procedures commensurate with their risks.

In addition to the changes for U.S. bank holding companies, the proposal would apply the same risk committee requirements to covered savings and loan holding companies with $50 billion or more in total consolidated assets as would apply to a U.S. bank holding company of the same size. Specifically, all covered savings and loan holding companies with total consolidated assets of $50 billion or more would be required to establish and maintain a board-level risk committee and to employ a chief risk officer with appropriate expertise and stature, among other requirements. These requirements represent important risk management practices for banking organizations of this size to help ensure that the organization is operating in a safe and sound manner. As discussed above, the financial crisis revealed weaknesses in the risk management practices of large banking organizations, including both bank holding companies and savings and loan holding companies. The risk management requirements of the enhanced prudential standards rule were established to address elements of these weaknesses at bank holding companies.[106] Applying the same minimum standards to covered savings and loan holding companies would accordingly further their safety and soundness by addressing concerns that apply equally to all depository institution holding companies.

V. Changes to Dodd-Frank Act Definitions

The proposal would also make changes to the Board's implementation of certain definitions in the Dodd-Frank Act. The Dodd-Frank Act directed the Board to define the terms ''significant bank holding company'' and ''significant nonbank financial company,'' terms that are used in the credit exposure reports provision in section 165(d)(2).[107] The terms ''significant nonbank financial company'' and ''significant bank holding company'' are also used in section 113 of the Dodd-Frank Act, which specifies that the Financial Stability Oversight Council must consider the extent and nature of a nonbank company's transactions and relationships with other ''significant nonbank financial companies'' and ''significant bank holding companies,'' among other factors, in determining whether to designate a nonbank financial company for supervision by the Board.[108] The Board previously defined ''significant bank holding company'' and ''significant nonbank financial company'' using $50 billion minimum asset thresholds to conform with section 165.[109] In light of

[103] 12 U.S.C. 5363(h).

[104] Because bank holding companies with $50 billion or more, but less than $100 billion, in total consolidated assets would no longer be subject to the liquidity risk management requirements cross-referenced in the current risk committee requirements, the proposal would remove this cross-reference for these firms. In addition, to better organize the enhanced prudential standards rule, the proposal would move the risk committee requirement for bank holding companies with $50 billion or more, but less than $100 billion, in total consolidated assets to subpart C, replacing the current requirements that apply under that subpart for firms with $10 billion or more, but less than $50 billion, in total consolidated assets.

[105] *See* Enhanced Prudential Standards for Bank Holding Companies and Foreign Banking Organizations, 79 FR 17239, 17247 (Mar. 27, 2014).

[106] *Id.*

[107] 12 U.S.C. 5311(a)(7) (2012); EGRRCPA section 401(a)(3) (to be codified at U.S.C. 5365(d)(2)). EGRRCPA changed credit exposure reports from a mandatory to discretionary prudential standard under section 165.

[108] *See* 12 U.S.C. 5323.

[109] 12 CFR 242.4.

EGRRCPA's amendments, the Board proposes to amend these definitions to include minimum asset thresholds of $100 billion, and make other conforming edits in the Board's regulation on definitions in Title I of the Dodd-Frank Act.[110]

Question 26: What are the advantages and disadvantages of setting the minimum asset threshold of these definitions at $100 billion? What would be the advantages and disadvantages if the Board set the minimum asset threshold of these definitions at $250 billion?

VI. Proposed Reporting Changes

The proposal would include changes to the reporting panels and requirements of the FR Y–14, FR Y–15, FR 2052a, FR Y–9C, and FR Y–9LP reporting forms.

The proposal would require covered savings and loan holding companies with $100 billion or more in total consolidated assets to report parts of the FR Y–14. As described above, the proposal would require covered savings and loan holding companies with assets of $100 billion or more to participate in supervisory stress tests, with the frequency of supervisory stress testing depending on the category of standards that apply. Accordingly, the proposal would require all covered savings and loan holding companies with $100 billion or more in total consolidated assets to complete the elements of the FR Y–14 report that are used in conducting supervisory stress tests: (1) The FR Y–14M; (2) all schedules of the FR Y–14–Q except for Schedule C—Regulatory Capital Instruments and Schedule D—Regulatory Capital Transitions; and (3) Schedule E—Operational Risk of the FR Y–14A. The proposal would also require covered savings and loan holding companies subject to Category II or III standards to report the FR Y–14A Schedule A—Summary and Schedule F—Business Plan Changes with respect to company run stress testing. As discussed above, covered savings and loan holding companies subject to Category II or Category III standards face heightened risks given their size or level of cross-jurisdictional activity, weighted short-term wholesale funding, nonbank assets, or off-balance sheet exposure. The information from the FR Y–14A Schedules A and F on company-run stress testing would assist supervisors in determining the robustness of company-run stress tests, and thereby help ensure the safety and soundness of covered savings and loan holding companies.

With respect to the FR Y–15, the proposal would add two derived line items on Schedule A to calculate total off-balance sheet exposure, which is one of the indicators used to determine whether a firm with total consolidated assets of $100 billion or more would be subject to Category III standards. New line item M4 (total consolidated assets) would report the total consolidated on-balance sheet assets for the respondent, which is the equivalent to Schedule HC, item 12 (total consolidated assets) on the FR Y–9C. New line item M5 (total off-balance sheet exposures) would be total exposure, as currently defined on the FR Y–15, minus line item M4.

With respect to the FR 2052a report, the proposal would modify the current reporting frequency and granularity to align with the proposed tailoring framework. Specifically, the proposal would require U.S. banking organizations and covered savings and loan holding companies, each with $100 billion or more in total consolidated assets, to report the FR 2052a on a daily basis if they are: (i) Subject to Category I or II standards, or (ii) have $75 billion or more in weighted short-term wholesale funding. This would increase the frequency of reporting for firms subject to Category II standards with less than $700 billion in total consolidated assets and firms subject to Category III standards with $75 billion or more in weighted short-term wholesale funding; both groups of banking organizations currently report the FR 2052a monthly. Reporting of daily liquidity data would facilitate greater supervisory monitoring based on these firms' liquidity risk profile, as indicated by their level of weighted short-term wholesale funding and cross-jurisdictional activity. The proposal also would simplify the FR 2052a reporting thresholds by eliminating the threshold of $10 trillion or more in assets under custody used to identify daily filers, as discussed in section IV.B of this **SUPPLEMENTARY INFORMATION** section.

In addition, consistent with EGRRCPA's changes and the Board's July 2018 statement relating to EGRRCPA, the proposal would revise the reporting forms to provide that bank holding companies with less than $100 billion in total consolidated assets would no longer be required to submit the FR Y–14, FR Y–15 and the FR 2052a, and covered savings and loan holding companies with less than $100 billion in total consolidated assets would no longer be required to submit the FR Y–15 and FR 2052a.[111]

With respect to the FR Y–9C, the proposal would align the instructions and form with the proposed tailoring framework in the interagency capital and liquidity proposal. The proposed revised instructions to the FR Y–9C would clarify that Category III Board-regulated institutions are not included in the proposed definition of ''advanced approaches banking organizations'' in the interagency capital and liquidity proposal, but would be required to comply with the supplementary leverage ratio and countercyclical capital buffer requirements. The proposed revision to the FR Y–9C would amend line item 45, which concerns the supplementary leverage ratio. Previously, line item 45 was required to be completed by advanced approaches holding companies only. The proposed revised FR Y–9C would require line item 45 to be completed by ''advanced approaches banking organizations and Category III Board-regulated institutions.''

Finally, the proposal would require covered savings and loan holding companies with total consolidated assets of $100 billion or more to report total nonbank assets on line item 17, Schedule PC–B of the FR Y–9LP, as this data would be used to determine whether the firm is subject to Category III standards.

As the proposal would not apply to foreign banking organizations, the changes to the FR Y–14, FR Y–15, FR 2052a, FR Y–9C, and FR Y–9LP discussed above would not apply to an intermediate holding company of a foreign banking organization. Therefore, these intermediate holding companies would continue to report these forms as they do currently, and the forms would be amended to reflect this.

Question 27: What are the costs and benefits of the proposed changes to the FR 2052a, including the advantages and disadvantages of the proposed reporting frequency for firms subject to Category II and III standards?

VII. Impact Assessment

In general, the Board expects the proposal would reduce aggregate compliance costs for bank holding companies with $100 billion or more in total consolidated assets, with minimal effects on the safety and soundness of these firms and U.S. financial stability.[112] For additional impact

[110] 12 CFR part 242.

[111] *See* Board statement regarding the impact of the Economic Growth, Regulatory Relief, and Consumer Protection Act, July 6, 2018, available at *https://www.federalreserve.gov/newsevents/pressreleases/bcreg20180706b.htm.*

[112] Firms with less than $100 billion in total consolidated assets would have significantly reduced compliance costs, as these firms would no longer be subject to the enhanced prudential

information, commenters should also review the interagency capital and liquidity proposal.

A. Capital Planning and Stress Testing

First, while the Board expects the proposed changes to capital planning and stress testing requirements to have no material impact on the capital levels of bank holding companies with $100 billion or more in total consolidated assets, for firms that would be subject to Category III or IV standards in particular, the proposal would reduce compliance costs. These firms currently must conduct company-run stress tests on a semi-annual basis. For bank holding companies that would be subject to Category III standards, the proposal would reduce this frequency to every other year.[113] For firms that would be subject to Category IV standards, the proposal would remove this requirement altogether.[114] In addition, under the proposal the Board would conduct supervisory stress tests of firms subject to Category IV standards on a two-year, rather than annual, cycle. Firms subject to Category III or IV standards would therefore either reduce or eliminate, respectively, internal systems and resources for complying with these requirements.

B. Liquidity

The proposed changes to liquidity requirements are also expected to reduce compliance costs for firms that would be subject to Category IV standards by reducing the required frequency of internal liquidity stress tests and modifying the liquidity risk management requirements. The Board does not expect these proposed changes to materially affect the liquidity buffer levels held by these firms or these firms' exposure to liquidity risk.

C. Covered Savings and Loan Holding Companies

For covered savings and loan holding companies, the proposal would increase compliance costs and also reduce risks to the safety and soundness of these firms. By harmonizing prudential standards across similarly situated large domestic banking organizations, the proposal would also reduce opportunities for regulatory arbitrage. The Board expects the proposed new requirements for covered savings and loan holding companies to meaningfully improve the risk management capabilities of these firms and their resiliency to stress, which furthers their safety and soundness.

A covered savings and loan holding company that is subject to Category II or III standards would be required to conduct company-run stress tests, which would be a new requirement. In connection with the application of supervisory and company-run capital stress testing requirements, the Board is proposing to require covered savings and loan holding companies with total consolidated assets of $100 billion or more to report the FR Y–14 reports. In addition, the proposal would require a covered savings and loan holding company with $100 billion or more to conduct internal liquidity stress testing and maintain a liquidity buffer. While covered savings and loan holding companies would incur costs for conducting internal liquidity stress testing, this requirement would improve the capability of these firms to understand, manage, and plan for liquidity risk exposures across a range of conditions. Depending on its liquidity buffer requirement, a covered savings and loan holding company may need to increase the amount of liquid assets it holds or otherwise adjust its risk profile to reduce estimated net stressed cash-flow needs. Because covered savings and loan holding companies are already subject to the LCR rule, which also requires a firm to maintain a minimum amount of liquid assets to meet net outflows under a stress scenario, covered savings and loan holding companies would generally need to hold only an incremental amount—if any—above the levels already required to comply with the LCR rule.

VIII. Administrative Law Matters

A. Solicitation of Comments and Use of Plain Language

Section 722 of the Gramm-Leach-Bliley Act (Pub. L. 106–102, 113 Stat. 1338, 1471, 12 U.S.C. 4809) requires the federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The Board has sought to present the proposal in a simple and straightforward manner, and invites comment on the use of plain language. For example:

- Has the Board organized the material to suit your needs? If not, how could it present the proposal more clearly?
- Are the requirements in the proposal clearly stated? If not, how could the proposal be more clearly stated?
- Do the regulations contain technical language or jargon that is not clear? If so, which language requires clarification?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the regulation easier to understand? If so, what changes would achieve that?
- Would more, but shorter, sections be better? If so, which sections should be changed?
- What other changes can the Board incorporate to make the regulation easier to understand?

B. Paperwork Reduction Act Analysis

Certain provisions of the proposed rule contain ''collections of information'' within the meaning of the Paperwork Reduction Act of 1995 (PRA).[115] The Board may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The Board reviewed the proposed rule under the authority delegated to the Board by OMB.

The proposed rule contains reporting requirements subject to the PRA. To implement these requirements, the Board proposes to revise the (1) Complex Institution Liquidity Monitoring Report (FR 2052a; OMB No. 7100–0361), (2) Consolidated Financial Statements for Holding Companies (FR Y–9C; OMB No. 7100–0128), (3) Capital Assessments and Stress Testing (FR Y–14A/Q/M; OMB No. 7100–0341), and (4) Banking Organization Systemic Risk Report (FR Y–15; OMB No. 7100–0352).

Comments are invited on:

(a) Whether the proposed collections of information are necessary for the proper performance of the Board's functions, including whether the information has practical utility;

(b) The accuracy of the estimates of the burden of the proposed information

standards rule or capital plan rule, and would no longer be required to file FR Y–14 or FR Y–15 reports, or the FR 2052a. However, these firms have not been complying with these requirements since July 6, 2018, when the Board issued a statement noting that it would no longer enforce these regulations or reporting requirements with respect to these firms. *See* Board statement regarding the impact of the Economic Growth, Regulatory Relief, and Consumer Protection Act, July 6, 2018, available at *https://www.federalreserve.gov/newsevents/pressreleases/bcreg20180706b.htm*.

[113] A firm subject to Category III standards would still be required to conduct an internal capital stress test on an annual basis as part of its annual capital plan submission. *See* section IV.C of this Supplementary Information section.

[114] Although the proposal would not modify the requirement for a firm that would be subject to Category IV standards to conduct an internal capital stress test as part of its annual capital plan submission, the Board intends to propose changes in the future capital plan proposal to align with the proposed removal of company-run stress testing requirements for these firms. *See* section IV.D of this Supplementary Information section.

[115] 44 U.S.C. 3501–3521.

collections, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the information collections on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

All comments will become a matter of public record. Comments on aspects of this proposed rule that may affect reporting, recordkeeping, or disclosure requirements and burden estimates should be sent to Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551. A copy of the comments may also be submitted to the OMB desk officer to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503 or by fax to 202–395–6974.

Proposed Revision, With Extension, of the Following Information Collections

(1) *Report title:* Complex Institution Liquidity Monitoring Report.

Agency form number: FR 2052a.

OMB control number: 7100–0361.

Frequency: Monthly, each business day (daily).

Affected Public: Businesses or other for-profit.

Respondents: U.S. bank holding companies, U.S. savings and loan holding companies, and foreign banking organizations with U.S. assets.

Estimated number of respondents: Monthly: 35; Daily: 13.

Estimated average hours per response: Monthly: 120; Daily: 220.

Estimated annual burden hours: 765,400.

General description of report: The FR 2052a is used to monitor the overall liquidity profile of institutions supervised by the Board. These data provide detailed information on the liquidity risks within different business lines (*e.g.,* financing of securities positions, prime brokerage activities). In particular, these data serve as part of the Board's supervisory surveillance program in its liquidity risk management area and provide timely information on firm-specific liquidity risks during periods of stress. Analyses of systemic and idiosyncratic liquidity risk issues are then used to inform the Board's supervisory processes, including the preparation of analytical reports that detail funding vulnerabilities.

Legal authorization and confidentiality: The FR 2052a is authorized pursuant to section 5 of the Bank Holding Company Act,[116] section 8 of the International Banking Act,[117] section 10 of HOLA,[118] and section 165 of the Dodd-Frank Act [119] and is mandatory. Section 5(c) of the Bank Holding Company Act authorizes the Board to require bank holding companies (BHCs) to submit reports to the Board regarding their financial condition. Section 8(a) of the International Banking Act subjects foreign banking organizations to the provisions of the Bank Holding Company Act. Section 10(b)(2) of HOLA authorizes the Board to require savings and loan holding companies (SLHCs) to file reports with the Board concerning their operations. Section 165 of the Dodd-Frank Act requires the Board to establish prudential standards, including liquidity requirements, for certain BHCs and foreign banking organizations.

Financial institution information required by the FR 2052a is collected as part of the Board's supervisory process. Therefore, such information is entitled to confidential treatment under Exemption 8 of the Freedom of Information Act (FOIA).[120] In addition, the institution information provided by each respondent would not be otherwise available to the public and its disclosure could cause substantial competitive harm. Accordingly, it is entitled to confidential treatment under the authority of exemption 4 of the FOIA,[121] which protects from disclosure trade secrets and commercial or financial information.

Current Actions: To implement the reporting requirements of the proposed rule, the Board proposes to revise the FR 2052a (1) so that BHCs and SLHCs with less than $100 billion in total consolidated assets would no longer have to report, (2) BHCs or SLHCs subject to Category II standards ($700 billion or more in total consolidated assets or $75 billion or more in cross jurisdictional activity) would have to report FR 2052a daily, and (3) BHCs or SLHCs subject to Category III standards with $75 billion or more in weighted short-term wholesale funding would have to report FR 2052a daily, rather than monthly. The Board estimates that proposed revisions to the FR 2052a would decrease the respondent count by 4. The Board estimates that proposed revisions to the FR 2052a would increase the estimated annual burden by 47,800 hours. The draft reporting forms and instructions are available on the Board's public website at *https://www.federalreserve.gov/apps/reportforms/review.aspx.*

(2) *Report title:* Consolidated Financial Statements for Holding Companies.

Agency form number: FR Y–9C, FR Y–9LP, FR Y–9SP, FR Y–9ES, and FR Y–9CS.

OMB control number: 7100–0128.

Frequency: Quarterly, semiannually, and annually.

Affected Public: Businesses or other for-profit.

Respondents: Bank holding companies (BHCs), savings and loan holding companies (SLHCs), securities holding companies (SHCs), and U.S. Intermediate Holding Companies (IHCs) (collectively, holding companies (HCs)).

Estimated number of respondents: FR Y–9C (non-advanced approaches holding companies): 292; FR Y–9C (advanced approached holding companies): 18; FR Y–9LP: 338; FR Y–9SP: 4,238; FR Y–9ES: 82; FR Y–9CS: 236.

Estimated average hours per response: FR Y–9C (non-advanced approaches holding companies): 46.29; FR Y–9C (advanced approached holding companies): 47.54; FR Y–9LP: 5.27; FR Y–9SP: 5.40; FR Y–9ES: 0.50; FR Y–9CS: 0.50.

Estimated annual burden hours: FR Y–9C (non advanced approaches holding companies): 54,067; FR Y–9C (advanced approached holding companies): 3,423; FR Y–9LP: 7,125; FR Y–9SP: 45,770; FR Y–9ES: 41; FR Y–9CS: 472.

General description of report: The FR Y–9 family of reporting forms continues to be the primary source of financial data on HCs on which examiners rely between on-site inspections. Financial data from these reporting forms is used to detect emerging financial problems, review performance, conduct pre-inspection analysis, monitor and evaluate capital adequacy, evaluate HC mergers and acquisitions, and analyze an HC's overall financial condition to ensure the safety and soundness of its operations. The FR Y–9C, FR Y–9LP, and FR Y–9SP serve as standardized financial statements for the consolidated holding company. The Board requires HCs to provide standardized financial statements to fulfill the Board's

[116] 12 U.S.C. 1844.

[117] 12 U.S.C. 3106.

[118] 12 U.S.C. 1467a.

[119] 12 U.S.C. 5365.

[120] 5 U.S.C. 552(b)(8).

[121] 5 U.S.C. 552(b)(4).

statutory obligation to supervise these organizations. The FR Y–9ES is a financial statement for HCs that are Employee Stock Ownership Plans. The Board uses the FR Y–9CS (a free-form supplement) to collect additional information deemed to be critical and needed in an expedited manner. HCs file the FR Y–9C on a quarterly basis, the FR Y–9LP quarterly, the FR Y–9SP semiannually, the FR Y–9ES annually, and the FR Y–9CS on a schedule that is determined when this supplement is used.

Legal authorization and confidentiality: The FR Y–9 family of reports is authorized by section 5(c) of the Bank Holding Company Act,[122] section 10(b) of the Home Owners' Loan Act,[123] section 618 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act),[124] and section 165 of the Dodd-Frank Act.[125] The obligation of covered institutions to report this information is mandatory.

With respect to FR Y–9LP, FR Y–9SP, FR Y–ES, and FR Y–9CS, the information collected would generally not be accorded confidential treatment. If confidential treatment is requested by a respondent, the Board will review the request to determine if confidential treatment is appropriate.

With respect to FR Y–9C, Schedule HI's item 7(g) ''FDIC deposit insurance assessments,'' Schedule HC–P's item 7(a) ''Representation and warranty reserves for 1–4 family residential mortgage loans sold to U.S. government agencies and government sponsored agencies,'' and Schedule HC–P's item 7(b) ''Representation and warranty reserves for 1–4 family residential mortgage loans sold to other parties'' are considered confidential. Such treatment is appropriate because the data is not publicly available and the public release of this data is likely to impair the Board's ability to collect necessary information in the future and could cause substantial harm to the competitive position of the respondent. Thus, this information may be kept confidential under exemptions (b)(4) of the Freedom of Information Act, which exempts from disclosure ''trade secrets and commercial or financial information obtained from a person and privileged or confidential'' (5 U.S.C. 552(b)(4)), and (b)(8) of the Freedom of Information Act, which exempts from disclosure information related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions (5 U.S.C. 552(b)(8)).

Current Actions: To implement the reporting requirements of the proposed rule, the Board proposes to revise the FR Y–9C to clarify that Category III Board-regulated institutions are not included in the proposed definition of ''advanced approaches banking organizations'' in the interagency capital and liquidity proposal, but would be required to comply with the supplementary leverage ratio and countercyclical capital buffer requirements. The FR Y–9LP would be revised to require covered savings and loan holding companies with total consolidated assets of $100 billion or more to report total nonbank assets on Schedule PC–B, in order to determine whether the firm would be subject to Category III standards. The draft reporting forms and instructions are available on the Board's public website at *https://www.federalreserve.gov/apps/reportforms/review.aspx.*

(2) *Report title:* Capital Assessments and Stress Testing.

Agency form number: FR Y–14A/Q/M.

OMB control number: 7100–0341.

Frequency: Annually, semiannually, quarterly, and monthly.

Affected Public: Businesses or other for-profit.

Respondents: The respondent panel consists of any top-tier bank holding company (BHC) that has $100 billion or more in total consolidated assets, as determined based on (1) the average of the firm's total consolidated assets in the four most recent quarters as reported quarterly on the firm's FR Y–9C or (2) the average of the firm's total consolidated assets in the most recent consecutive quarters as reported quarterly on the firm's FR Y–9Cs, if the firm has not filed an FR Y–9C for each of the most recent four quarters. The respondent panel also consists of any U.S. intermediate holding company (IHC). Reporting is required as of the first day of the quarter immediately following the quarter in which the respondent meets this asset threshold, unless otherwise directed by the Board.

Estimated number of respondents: 37.

Estimated average hours per response: FR Y–14A: Summary, 887; Macro Scenario, 31; Operational Risk, 18; Regulatory Capital Instruments, 21; Business Plan Changes, 16; and Adjusted Capital Plan Submission, 100. FR Y–14Q: Retail, 15; Securities, 13; PPNR, 711; Wholesale, 151; Trading, 1,926; Regulatory Capital Transitions, 23; Regulatory Capital Instruments, 54; Operational Risk, 50; MSR Valuation, 23; Supplemental, 4; Retail FVO/HFS, 15; Counterparty, 514; and Balances, 16. FR Y–14M: 1st Lien Mortgage, 516; Home Equity, 516; and Credit Card, 512. FR Y–14: Implementation, 7,200; On-going Automation Revisions, 480. FR Y–14 Attestation On-going Audit and Review, 2,560.

Estimated annual burden hours: FR Y–14A: Summary, 65,638; Macro Scenario, 2,232; Operational Risk, 666; Regulatory Capital Instruments, 756; Business Plan Changes, 592; and Adjusted Capital Plan Submission, 500. FR Y–14Q: Retail, 2,200; Securities, 1,924; Pre-Provision Net Revenue (PPNR), 105,228; Wholesale, 22,348; Trading, 92,448; Regulatory Capital Transitions, 3,312; Regulatory Capital Instruments, 7,776; Operational risk, 7,400; Mortgage Servicing Rights (MSR) Valuation, 1,472; Supplemental, 592; Retail Fair Value Option/Held for Sale (Retail FVO/HFS), 1,560; Counterparty, 24,672; and Balances, 2,304. FR Y–14M: 1st Lien Mortgage, 216,720; Home Equity, 179,568; and Credit Card, 92,160. FR Y–14: Implementation, 7,200; On-going Automation Revisions, 17,760. FR Y–14 Attestation On-going Audit and Review, 33,280.

General description of report: These collections of information are applicable to top-tier BHCs with total consolidated assets of $100 billion or more and U.S. IHCs. This family of information collections is composed of the following three reports:

1. The FR Y–14A collects quantitative projections of balance sheet, income, losses, and capital across a range of macroeconomic scenarios and qualitative information on methodologies used to develop internal projections of capital across scenarios either annually or semi-annually.

2. The quarterly FR Y–14Q collects granular data on various asset classes, including loans, securities, and trading assets, and PPNR for the reporting period.

3. The monthly FR Y–14M is comprised of three retail portfolio- and loan-level schedules, and one detailed address-matching schedule to supplement two of the portfolio and loan-level schedules.

The data collected through the FR Y–14A/Q/M reports provide the Board with the information and perspective needed to help ensure that large firms have strong, firm-wide risk measurement and management processes supporting their internal assessments of capital adequacy and that their capital resources are sufficient given their business focus, activities, and resulting risk exposures. The annual CCAR exercise complements

[122] 12 U.S.C. 1844(c).

[123] 12 U.S.C. 1467a(b).

[124] 12 U.S.C. 1850a(c)(1).

[125] 12 U.S.C. 5365.

other Board supervisory efforts aimed at enhancing the continued viability of large firms, including continuous monitoring of firms' planning and management of liquidity and funding resources, as well as regular assessments of credit, market and operational risks, and associated risk management practices. Information gathered in this data collection is also used in the supervision and regulation of these financial institutions. To fully evaluate the data submissions, the Board may conduct follow-up discussions with, or request responses to follow up questions from, respondents. Respondent firms are currently required to complete and submit up to 18 filings each year: Two semi-annual FR Y–14A filings, four quarterly FR Y–14Q filings, and 12 monthly FR Y–14M filings. Compliance with the information collection is mandatory.

Legal authorization and confidentiality: The Board has the authority to require BHCs to file the FR Y–14A/Q/M reports pursuant to section 5 of the Bank Holding Company Act (BHC Act) (12 U.S.C. 1844), and to require the U.S. IHCs of FBOs to file the FR Y–14 A/Q/M reports pursuant to section 5 of the BHC Act, in conjunction with section 8 of the International Banking Act (12 U.S.C. 3106). The Board has authority to require SLHCs to file the FR Y–14A/Q/M reports pursuant to section 10 of HOLA.[126]

The information collected in these reports is collected as part of the Board's supervisory process, and therefore is afforded confidential treatment pursuant to exemption 8 of the Freedom of Information Act (FOIA) (5 U.S.C. 552(b)(8)). In addition, individual respondents may request that certain data be afforded confidential treatment pursuant to exemption 4 of FOIA if the data has not previously been publicly disclosed and the release of the data would likely cause substantial harm to the competitive position of the respondent (5 U.S.C. 552(b)(4)). Determinations of confidentiality based on exemption 4 of FOIA would be made on a case-by-case basis.

Current Actions: To implement the reporting requirements of the proposed rule, the Board proposes to revise the FR Y–14 so that (1) BHCs with less than $100 billion in total consolidated assets would no longer have to report [127] and (2) covered SLHCs with $100 billion or more in total consolidated assets are included in the reporting panel for certain FR Y–14 schedules.[128] The Board estimates that proposed revisions to the FR Y–14 would increase the estimated annual burden by 31,944 hours. The draft reporting forms and instructions are available on the Board's public website at *https://www.federalreserve.gov/apps/reportforms/review.aspx.*

(3) *Report title:* Banking Organization Systemic Risk Report.

Agency form number: FR Y–15.

OMB control number: 7100–0352.

Frequency: Quarterly.

Affected Public: Businesses or other for-profit.

Respondents: U.S. bank holding companies (BHCs), covered savings and loan holding companies (SLHCs), and U.S. intermediate holding companies (IHCs) of foreign banking organizations with $100 billion or more in total consolidated assets, and any BHC designated as a global systemically important bank holding company (GSIB) that does not otherwise meet the consolidated assets threshold for BHCs.

Estimated number of respondents: 37.

Estimated average hours per response: 401.

Estimated annual burden hours: 59,348.

General description of report: The FR Y–15 quarterly report collects systemic risk data from U.S. bank holding companies (BHCs), covered savings and loan holding companies (SLHCs), and U.S. intermediate holding companies (IHCs) with total consolidated assets of $50 billion or more, and any BHC identified as a global systemically important banking organization (GSIB) based on its method 1 score calculated as of December 31 of the previous calendar year. The Board uses the FR Y–15 data to monitor, on an ongoing basis, the systemic risk profile of institutions that are subject to enhanced prudential standards under section 165 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). In addition, the FR Y–15 is used to (1) facilitate the implementation of the GSIB surcharge rule, (2) identify other institutions that may present significant systemic risk, and (3) analyze the systemic risk implications of proposed mergers and acquisitions.

Legal authorization and confidentiality: The mandatory FR Y–15 is authorized by sections 163 and 165 of the Dodd-Frank Act,[129] the International Banking Act,[130] the Bank Holding Company Act,[131] and HOLA.[132]

Most of the data collected on the FR Y–15 is made public unless a specific request for confidentiality is submitted by the reporting entity, either on the FR Y–15 or on the form from which the data item is obtained. Such information will be accorded confidential treatment under exemption 4 of the Freedom of Information Act (FOIA) [133] if the submitter substantiates its assertion that disclosure would likely cause substantial competitive harm. In addition, items 1 through 4 of Schedule G of the FR Y–15, which contain granular information regarding the reporting entity's short-term funding, will be accorded confidential treatment under exemption 4 for observation dates that occur prior to the liquidity coverage ratio disclosure standard being implemented. To the extent confidential data collected under the FR Y–15 will be used for supervisory purposes, it may be exempt from disclosure under Exemption 8 of FOIA.[134]

Current Actions: To implement the reporting requirements of the proposed rule, the Board proposes to revise the FR Y–15 (1) so that BHCs and SLHCs with less than $100 billion in total consolidated assets would no longer have to report, (2) add a line item to measure the total off-balance sheet exposure as a separate line item (total exposure, as defined on FR Y–15, minus total consolidated assets, as reported on FR Y–9C), and (3) add a line item for total consolidated assets (to effectuate above change). The Board estimates that proposed revisions to the FR Y–15 would increase the estimated average hours per response by 0 hours and would increase the estimated annual burden by 0 hours. The draft reporting forms and instructions are available on the Board's public website at *https://www.federalreserve.gov/apps/reportforms/review.aspx.*

C. Regulatory Flexibility Act Analysis

In accordance with the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.,* the Board is publishing an initial regulatory flexibility analysis of the proposal. The RFA requires each federal agency to prepare an initial regulatory

[126] 12 U.S.C. 1467a.

[127] Conforming changes would be made to the FR Y–14 instructions.

[128] All covered savings and loan holding companies with $100 billion or more in total consolidated assets to would be required to complete: (1) The FR Y–14M; (2) all schedules of the FR Y–14–Q except for Schedule C—Regulatory Capital Instruments and Schedule D—Regulatory Capital Transitions; and (3) Schedule E—Operational Risk of the FR Y–14A. The proposal would also require covered savings and loan holding companies subject to Category II or III standards to report the FR Y–14A Schedule A—Summary and Schedule F—Business Plan Changes with respect to company run stress testing.

[129] 12 U.S.C. 5463 and 5365.

[130] 12 U.S.C. 3106 and 3108.

[131] 12 U.S.C. 1844.

[132] 12 U.S.C. 1467a.

[133] 5 U.S.C. 552(b)(4).

[134] 5 U.S.C. 552(b)(8).

flexibility analysis in connection with the promulgation of a proposed rule, or certify that the proposed rule will not have a significant economic impact on a substantial number of small entities.[135] Under regulations issued by the SBA, a small entity includes a bank, bank holding company, or savings and loan holding company with assets of $550 million or less (small banking organization).[136] Based on the Board's analysis, and for the reasons stated below, the Board believes that this proposed rule will not have a significant economic impact on a substantial of number of small banking organizations.

As discussed in the Supplementary Information section, the Board is proposing to adopt amendments to Regulations Y,[137] LL,[138] PP,[139] and YY [140] that would affect the regulatory requirements that apply to bank holding companies and covered savings and loan holding companies with $10 billion or more in total consolidated assets. Companies that are affected by the proposal therefore substantially exceed the $550 million asset threshold at which a banking entity is considered a ''small entity'' under SBA regulations.

Because the proposal is not likely to apply to any company with assets of $550 million or less if adopted in final form, the proposal is not expected to affect any small entity for purposes of the RFA. The Board does not believe that the proposal duplicates, overlaps, or conflicts with any other Federal rules. In light of the foregoing, the Board does not believe that the proposal, if adopted in final form, would have a significant economic impact on a substantial number of small entities supervised. Nonetheless, the Board seeks comment on whether the proposal would impose undue burdens on, or have unintended consequences for, small banking organizations, and whether there are ways such potential burdens or consequences could be minimized in a manner consistent the purpose of the proposal.

List of Subjects

12 CFR Part 225

Administrative practice and procedure, Banks, Banking, Capital planning, Holding companies, Reporting and recordkeeping requirements, Securities, Stress testing.

12 CFR Part 238

Administrative practice and procedure, Banks, Banking, Federal Reserve System, Holding companies, Reporting and recordkeeping requirements, Securities.

12 CFR Part 242

Administrative practice and procedure, Holding companies, Nonbank financial companies.

12 CFR Part 252

Administrative practice and procedure, Banks, Banking, Capital planning, Federal Reserve System, Holding companies, Reporting and recordkeeping requirements, Securities, Stress testing.

Authority and Issuance

For the reasons stated in the Supplementary Information, Chapter II of title 12 of the Code of Federal Regulations is proposed to be amended as follows:

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (REGULATION Y)

■ 1. The authority citation for part 225 continues to read as follows:

Authority: 12 U.S.C. 1817(j)(13), 1818, 1828(o), 1831i, 1831p–1, 1843(c)(8), 1844(b), 1972(1), 3106, 3108, 3310, 3331–3351, 3906, 3907, and 3909; 15 U.S.C. 1681s, 1681w, 6801 and 6805.

Subpart A—General Provisions

■ 2. Section 225.8(b)(1)(i), (b)(2), (b)(3), (c)(1)(i) and (ii), (d)(9) introductory text, and (d)(9)(i) and (ii) are revised to read as follows:

§ 225.8 Capital planning.

* * * * *

(b) * * *

(1) * * *

(i) Any top-tier bank holding company domiciled in the United States with average total consolidated assets of $100 billion or more ($100 billion asset threshold);

* * * * *

(2) *Average total consolidated assets.* For purposes of this section, average total consolidated assets means the average of the total consolidated assets as reported by a bank holding company on its Consolidated Financial Statements for Holding Companies (FR Y–9C) for the four most recent consecutive quarters. If the bank holding company has not filed the FR Y–9C for each of the four most recent consecutive quarters, average total consolidated assets means the average of the company's total consolidated assets, as reported on the company's FR Y–9C, for the most recent quarter or consecutive quarters, as applicable. Average total consolidated assets are measured on the as-of date of the most recent FR Y–9C used in the calculation of the average.

(3) *Ongoing applicability.* A bank holding company (including any successor bank holding company) that is subject to any requirement in this section shall remain subject to such requirements unless and until its total consolidated assets fall below $100 billion for each of four consecutive quarters, as reported on the FR Y–9C and effective on the as-of date of the fourth consecutive FR Y–9C.

* * * * *

(c) * * * (1) * * * (i) A bank holding company that meets the $100 billion asset threshold (as measured under paragraph (b) of this section) on or before September 30 of a calendar year must comply with the requirements of this section beginning on January 1 of the next calendar year, unless that time is extended by the Board in writing.

(ii) A bank holding company that meets the $100 billion asset threshold after September 30 of a calendar year must comply with the requirements of this section beginning on January 1 of the second calendar year after the bank holding company meets the $100 billion asset threshold, unless that time is extended by the Board in writing.

* * * * *

(d) * * *

(9) *Large and noncomplex bank holding company* means any bank holding company subject to this section that, as of December 31 of the calendar year prior to the capital plan cycle, is:

(i) A Category IV banking organization pursuant to 12 CFR 252.5; or

(ii) A U.S. intermediate holding company subject to this section pursuant to 12 CFR 252.153 that—

(A) Has average total consolidated assets of less than $250 billion; and

(B) Has average total nonbank assets of less than $75 billion.

* * * * *

PART 238—SAVINGS AND LOAN HOLDING COMPANIES (REGULATION LL)

■ 3. The authority citation for part 238 continues to read as follows:

Authority: 5 U.S.C. 552, 559; 12 U.S.C. 1462, 1462a, 1463, 1464, 1467, 1467a, 1468, 1813, 1817, 1829e, 1831i, 1972; 15 U.S.C. 78 l.

[135] *See* 5 U.S.C. 603, 604, and 605.

[136] *See* 13 CFR 121.201.

[137] 12 CFR part 225.

[138] 12 CFR part 238.

[139] 12 CFR part 242.

[140] 12 CFR part 252.

Subpart A—General Provisions

■ 4. Section 238.2 is amended by adding paragraphs (v) through (ss) to read as follows:

§ 238.2 Definitions.

* * * * *

(v) *Average cross-jurisdictional activity.* A banking organization's average cross-jurisdictional activity is equal to the average of its cross jurisdictional activity for the four most recent calendar quarters or, if the company has not filed the FR Y–15 for each of the four most recent calendar quarters, for the most recent quarter or quarters, as applicable. Cross-jurisdictional activity is the sum of cross-jurisdictional claims and cross-jurisdictional liabilities.

(w) *Average off-balance sheet exposure.* A banking organization's average off-balance sheet exposure is equal to the average of its off-balance sheet exposure for the four most recent calendar quarters or, if the banking organization has not filed each of the applicable reporting forms for each of the four most recent calendar quarters, for the most recent quarter or quarters, as applicable. Off-balance sheet exposure is equal to:

(1) The total exposures of the banking organization, as reported by the banking organization on the FR Y–15 for each of the four most recent calendar quarters, or for the most recent quarter or quarters, as applicable; minus

(2) The total consolidated assets of the banking organization.

(x) *Average total consolidated assets.* Average total consolidated assets of a banking organization are equal to its consolidated assets, calculated based on the average of the holding company's total consolidated assets in the four most recent quarters as reported quarterly on the FR Y–9C. If the holding company has not filed the FR Y–9C for each of the four most recent consecutive quarters, total consolidated assets means the average of its total consolidated assets, as reported on the FR Y–9C, for the most recent quarter or consecutive quarters, as applicable. Total consolidated assets are measured on the as-of date of the most recent FR Y–9C used in the calculation of the average.

(y) *Average total nonbank assets.* A banking organization's average total nonbank assets is equal to the average of the total nonbank assets of the banking organization, as reported on the FR Y–9LP, for the four most recent calendar quarters or, if the organization has not filed the FR Y–9LP for each of the four most recent calendar quarters, for the most recent quarter or quarters, as applicable.

(z) *Average weighted short-term wholesale funding.* A banking organization's average weighted short-term wholesale funding is equal to the average of the banking organization's weighted short-term wholesale funding, as reported on the FR Y–15, for each of the four most recent calendar quarters or, if the banking organization has not filed the FR Y–15 for each of the four most recent calendar quarters, for the most recent quarter or quarters, as applicable.

(aa) *Banking organization.* Banking organization means a covered savings and loan holding company that is:

(1) Incorporated in or organized under the laws of the United States or in any State; and

(2) Not a consolidated subsidiary of a covered savings and loan holding company that is incorporated in or organized under the laws of the United States or in any State.

(bb) *Category II savings and loan holding company* means a covered savings and loan holding company identified as a Category II banking organization pursuant to § 238.10.

(cc) *Category III savings and loan holding company* means a covered savings and loan holding company identified as a Category III banking organization pursuant to § 238.10.

(dd) *Category IV savings and loan holding company* means a covered savings and loan holding company identified as a Category IV banking organization pursuant to § 238.10.

(ee) *Covered savings and loan holding company* means a savings and loan holding company other than:

(1) A top-tier savings and loan holding company that is:

(i) A grandfathered unitary savings and loan holding company as defined in section 10(c)(9)(C) of the Home Owners' Loan Act (12 U.S.C. 1461 *et seq.*); and

(ii) As of June 30 of the previous calendar year, derived 50 percent or more of its total consolidated assets or 50 percent of its total revenues on an enterprise-wide basis (as calculated under GAAP) from activities that are not financial in nature under section 4(k) of the Bank Holding Company Act (12 U.S.C. 1842(k));

(2) A top-tier depository institution holding company that is an insurance underwriting company; or

(3)(i) A top-tier depository institution holding company that, as of June 30 of the previous calendar year, held 25 percent or more of its total consolidated assets in subsidiaries that are insurance underwriting companies (other than assets associated with insurance for credit risk); and

(ii) For purposes of paragraph (3)(i) of this definition, the company must calculate its total consolidated assets in accordance with GAAP, or if the company does not calculate its total consolidated assets under GAAP for any regulatory purpose (including compliance with applicable securities laws), the company may estimate its total consolidated assets, subject to review and adjustment by the Board of Governors of the Federal Reserve System.

(ff) *Cross-jurisdictional activity.* A banking organization's cross-jurisdictional activity is equal to the sum of its cross-jurisdictional claims and cross-jurisdictional liabilities, as reported on the FR Y–15.

(gg) *Foreign banking organization* has the same meaning as in § 211.21(o) of this chapter.

(hh) *FR Y–9C* means the Consolidated Financial Statements for Holding Companies reporting form.

(ii) *FR Y–15* means the Banking Organization Systemic Risk Report.

(jj) *FR Y–9LP* means the Parent Company Only Financial Statements of Large Holding Companies.

(kk) *GAAP* means generally accepted accounting principles as used in the United States.

(ll) *Off-balance sheet exposure.* A banking organization's off-balance sheet exposure is equal to:

(1) The total exposure of the banking organization, as reported by the banking organization on the FR Y–15; minus

(2) The total consolidated assets of the banking organization for the same calendar quarter.

(mm) *Section 2(h)(2) company* has the same meaning as in section 2(h)(2) of the Bank Holding Company Act (12 U.S.C. 1841(h)(2)).

(nn) *State* means any state, commonwealth, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, or the United States Virgin Islands.

(oo) *Total consolidated assets.* Total consolidated assets of a banking organization are equal to its consolidated assets, as reported on the FR Y–9C.

(pp) *Total nonbank assets.* A banking organization's total nonbank assets are equal to the total nonbank assets of the banking organization, as reported on the FR Y–9LP.

(qq) *U.S. government agency* means an agency or instrumentality of the United States whose obligations are

fully and explicitly guaranteed as to the timely payment of principal and interest by the full faith and credit of the United States.

(rr) *U.S. government-sponsored enterprise* means an entity originally established or chartered by the U.S. government to serve public purposes specified by the U.S. Congress, but whose obligations are not explicitly guaranteed by the full faith and credit of the United States.

(ss) *Weighted short-term wholesale funding.* A banking organization's weighted short-term wholesale funding is equal to the banking organization's weighted short-term wholesale funding, as reported on the FR Y–15.

■ 5. Add § 238.10 to subpart A to read as follows:

§ 238.10 Categorization of banking organizations.

(a) *General.* A banking organization with average total consolidated assets of $100 billion or more must determine its category among the three categories described in paragraphs (b) through (d) of this section at least quarterly.

(b) *Category II.* (1) A banking organization is a Category II banking organization if the banking organization has:

(i) $700 billion or more in average total consolidated assets; or

(ii)(A) $75 billion or more in average cross-jurisdictional activity; and

(B) $100 billion or more in average total consolidated assets.

(2) After meeting the criteria in paragraph (b)(1) of this section, a banking organization continues to be a Category II banking organization until the banking organization has:

(i)(A) Less than $700 billion in total consolidated assets for each of the four most recent calendar quarters; and

(B) Less than $75 billion in cross-jurisdictional activity for each of the four most recent calendar quarters; or

(ii) Less than $100 billion in total consolidated assets for each of the four most recent calendar quarters.

(c) *Category III.* (1) A banking organization is a Category III banking organization if the banking organization:

(i) Has (A) $250 billion or more in average total consolidated assets; or

(B) $100 billion or more in average total consolidated assets and at least:

(*1*) $75 billion in average total nonbank assets;

(*2*) $75 billion in average weighted short-term wholesale funding; or

(*3*) $75 billion in average off-balance sheet exposure; and

(ii) Is not a Category II banking organization.

(2) After meeting the criteria in paragraph (c)(1) of this section, a banking organization continues to be a Category III banking organization until the banking organization:

(i) Has—

(A) Less than $250 billion in total consolidated assets for each of the four most recent calendar quarters;

(B) Less than $75 billion in total nonbank assets for each of the four most recent calendar quarters;

(C) Less than $75 billion in weighted short-term wholesale funding for each of the four most recent calendar quarters; and

(D) Less than $75 billion in off-balance sheet exposure for each of the four most recent calendar quarters; or

(ii) Has less than $100 billion in total consolidated assets for each of the four most recent calendar quarters; or

(iii) Meets the criteria in paragraph (b)(1) of this section to be a Category II banking organization.

(d) *Category IV.* (1) A banking organization with average total consolidated assets of $100 billion or more is a Category IV banking organization if the banking organization:

(i) Is not a Category II banking organization; and

(ii) Is not a Category III banking organization.

(2) After meeting the criteria in paragraph (d)(1) of this section, a banking organization continues to be a Category IV banking organization until the banking organization:

(i) Has less than $100 billion in total consolidated assets for each of the four most recent calendar quarters;

(ii) Meets the criteria in paragraph (b)(1) of this section to be a Category II banking organization; or

(iii) Meets the criteria in paragraph (c)(1) of this section to be a Category III banking organization.

■ 6. Add subpart M to read as follows:

Subpart M—Risk Committee Requirement for Covered Savings and Loan Holding Companies With Total Consolidated Assets of $50 Billion or Greater and Less Than $100 Billion

Sec.

238.118 Applicability.
238.119 Risk committee requirement for covered savings and loan holding companies with total consolidated assets of $50 billion or more.

Subpart M—Risk Committee Requirement for Covered Savings and Loan Holding Companies With Total Consolidated Assets of $50 Billion or Greater and Less Than $100 Billion

§ 238.118 Applicability.

(a) *General applicability.* A covered savings and loan bank holding company must comply with the risk-committee requirements set forth in this subpart beginning on the first day of the ninth quarter following the date on which its total consolidated assets equal or exceed $50 billion.

(b) *Total consolidated assets.* Total consolidated assets of a covered savings and loan holding company for purposes of this subpart are equal to its consolidated assets, calculated based on the average of the covered savings and loan holding company's total consolidated assets in the four most recent quarters as reported quarterly on its FR Y–9C. If the covered savings and loan holding company has not filed the FR Y–9C for each of the four most recent calendar quarters, total consolidated assets means the average of its total consolidated assets, as reported on the FR Y–9C, for the most recent calendar quarter or quarters, as applicable. Total consolidated assets are measured on the as-of date of the most recent FR Y–9C used in the calculation of the average.

(c) *Cessation of requirements.* A covered savings and loan holding company will remain subject to the requirements of this subpart until the earlier of the date on which:

(1) Its reported total consolidated assets on the FR Y–9C are below $50 billion for each of four consecutive calendar quarters; and

(2) It becomes subject to the requirements of subpart N of this part.

§ 238.119 Risk committee requirement for covered savings and loan holding companies with total consolidated assets of $50 billion or more.

(a) *Risk committee*—(1) *General.* A covered savings and loan holding company with total consolidated assets of $50 billion or more must maintain a risk committee that approves and periodically reviews the risk-management policies of the covered savings and loan holding company's global operations and oversees the operation of the company's global risk-management framework.

(2) *Risk-management framework.* The covered savings and loan holding company's global risk-management framework must be commensurate with its structure, risk profile, complexity, activities, and size and must include:

(i) Policies and procedures establishing risk-management governance, risk-management procedures, and risk-control infrastructure for its global operations; and

(ii) Processes and systems for implementing and monitoring compliance with such policies and procedures, including:

(A) Processes and systems for identifying and reporting risks and risk-

management deficiencies, including regarding emerging risks, and ensuring effective and timely implementation of actions to address emerging risks and risk-management deficiencies for its global operations;

(B) Processes and systems for establishing managerial and employee responsibility for risk management;

(C) Processes and systems for ensuring the independence of the risk-management function; and

(D) Processes and systems to integrate risk management and associated controls with management goals and its compensation structure for its global operations.

(3) *Corporate governance requirements.* The risk committee must:

(i) Have a formal, written charter that is approved by the covered savings and loan holding company's board of directors;

(ii) Be an independent committee of the board of directors that has, as its sole and exclusive function, responsibility for the risk-management policies of the covered savings and loan holding company's global operations and oversight of the operation of the company's global risk-management framework;

(iii) Report directly to the covered savings and loan holding company's board of directors;

(iv) Receive and review regular reports on a not less than a quarterly basis from the covered savings and loan holding company's chief risk officer provided pursuant to paragraph (b)(3)(ii) of this section; and

(v) Meet at least quarterly, or more frequently as needed, and fully document and maintain records of its proceedings, including risk-management decisions.

(4) *Minimum member requirements.* The risk committee must:

(i) Include at least one member having experience in identifying, assessing, and managing risk exposures of large, complex financial firms; and

(ii) Be chaired by a director who:

(A) Is not an officer or employee of the covered savings and loan holding company and has not been an officer or employee of the covered savings and loan holding company during the previous three years;

(B) Is not a member of the immediate family, as defined in § 238.31(b)(3), of a person who is, or has been within the last three years, an executive officer of the covered savings and loan holding company, as defined in § 215.2(e)(1) of this chapter; and

(C)(*1*) Is an independent director under Item 407 of the Securities and Exchange Commission's Regulation S–K (17 CFR 229.407(a)), if the covered savings and loan holding company has an outstanding class of securities traded on an exchange registered with the U.S. Securities and Exchange Commission as a national securities exchange under section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f) (national securities exchange); or

(*2*) Would qualify as an independent director under the listing standards of a national securities exchange, as demonstrated to the satisfaction of the Board, if the covered savings and loan holding company does not have an outstanding class of securities traded on a national securities exchange.

(b) *Chief risk officer*—(1) *General.* A covered savings and loan holding company with total consolidated assets of $50 billion or more must appoint a chief risk officer with experience in identifying, assessing, and managing risk exposures of large, complex financial firms.

(2) *Responsibilities.* (i) The chief risk officer is responsible for overseeing:

(A) The establishment of risk limits on an enterprise-wide basis and the monitoring of compliance with such limits;

(B) The implementation of and ongoing compliance with the policies and procedures set forth in paragraph (a)(2)(i) of this section and the development and implementation of the processes and systems set forth in paragraph (a)(2)(ii) of this section; and

(C) The management of risks and risk controls within the parameters of the company's risk control framework, and monitoring and testing of the company's risk controls.

(ii) The chief risk officer is responsible for reporting risk-management deficiencies and emerging risks to the risk committee and resolving risk-management deficiencies in a timely manner.

(3) *Corporate governance requirements.* (i) The covered savings and loan holding company must ensure that the compensation and other incentives provided to the chief risk officer are consistent with providing an objective assessment of the risks taken by the company; and

(ii) The chief risk officer must report directly to both the risk committee and chief executive officer of the company.

■ 7. Add subpart N to read as follows:

Subpart N—Risk Committee, Liquidity Risk Management, and Liquidity Buffer Requirements for Covered Savings and Loan Holding Companies With Total Consolidated Assets of $100 Billion or More

Sec.

238.120 Scope.
238.121 Applicability.
238.122 Risk-management and risk committee requirements.
238.123 Liquidity risk-management requirements.
238.124 Liquidity stress testing and buffer requirements.

Subpart N—Risk Committee, Liquidity Risk Management, and Liquidity Buffer Requirements for Covered Savings and Loan Holding Companies With Total Consolidated Assets of $100 Billion or More

§ 238.120 Scope.

This subpart applies to covered savings and loan holding companies with total consolidated assets of $100 billion or more. Total consolidated assets of a covered savings and loan holding company are equal to the consolidated assets of the covered savings and loan holding company, as calculated in accordance with § 238.121(b).

§ 238.121 Applicability.

(a) *Applicability.* (1) Subject to the initial applicability provisions of paragraph (c) of this section, a covered savings and loan holding company must comply with the risk-management and risk-committee requirements set forth in § 238.122 and the liquidity risk-management and liquidity stress test requirements set forth in §§ 238.123 and 238.124 no later than the first day of the fifth quarter following the date on which its total consolidated assets equal or exceed $100 billion.

(2) *Changes in requirements following a change in category.* A covered savings and loan holding company with total consolidated assets of $100 billion or more that changes from one category of covered savings and loan holding company described in § 238.10(b) through (d) to another such category must comply with the requirements applicable to the new category no later than on the first day of the second calendar quarter following the change in the covered savings and loan holding company's category.

(b) *Total consolidated assets.* Total consolidated assets of a covered savings and loan holding company for purposes of this subpart are equal to its consolidated assets, calculated based on the average of the covered savings and loan holding company's total consolidated assets for the four most recent quarters as reported quarterly on the FR Y–9C. If the covered savings and loan holding company has not filed the FR Y–9C for each of the four most recent calendar quarters, total consolidated assets means the average of its total consolidated assets, as reported on the FR Y–9C, for the most recent calendar

quarter or quarters, as applicable. Total consolidated assets are measured on the as-of date of the most recent FR Y–9C used in the calculation of the average.

(c) *Cessation of requirements.* A covered savings and loan holding company is subject to the risk-management and risk committee requirements set forth in § 238.122 and the liquidity risk-management and liquidity stress test requirements set forth in §§ 238.123 and 238.124 until its reported total consolidated assets on the FR Y–9C are below $100 billion for each of four consecutive calendar quarters.

§ 238.122 Risk-management and risk committee requirements.

(a) *Risk committee*—(1) *General.* A covered savings and loan holding company with total consolidated assets of $100 billion or more must maintain a risk committee that approves and periodically reviews the risk-management policies of the covered savings and loan holding company's global operations and oversees the operation of the covered savings and loan holding company's global risk-management framework. The risk committee's responsibilities include liquidity risk-management as set forth in § 238.123(b).

(2) *Risk-management framework.* The covered savings and loan holding company's global risk-management framework must be commensurate with its structure, risk profile, complexity, activities, and size and must include:

(i) Policies and procedures establishing risk-management governance, risk-management procedures, and risk-control infrastructure for its global operations; and

(ii) Processes and systems for implementing and monitoring compliance with such policies and procedures, including:

(A) Processes and systems for identifying and reporting risks and risk-management deficiencies, including regarding emerging risks, and ensuring effective and timely implementation of actions to address emerging risks and risk-management deficiencies for its global operations;

(B) Processes and systems for establishing managerial and employee responsibility for risk management;

(C) Processes and systems for ensuring the independence of the risk-management function; and

(D) Processes and systems to integrate risk management and associated controls with management goals and its compensation structure for its global operations.

(3) *Corporate governance requirements.* The risk committee must:

(i) Have a formal, written charter that is approved by the covered savings and loan holding company's board of directors;

(ii) Be an independent committee of the board of directors that has, as its sole and exclusive function, responsibility for the risk-management policies of the covered savings and loan holding company's global operations and oversight of the operation of the covered savings and loan holding company's global risk-management framework;

(iii) Report directly to the covered savings and loan holding company's board of directors;

(iv) Receive and review regular reports on not less than a quarterly basis from the covered savings and loan holding company's chief risk officer provided pursuant to paragraph (b)(3)(ii) of this section; and

(v) Meet at least quarterly, or more frequently as needed, and fully document and maintain records of its proceedings, including risk-management decisions.

(4) *Minimum member requirements.* The risk committee must:

(i) Include at least one member having experience in identifying, assessing, and managing risk exposures of large, complex financial firms; and

(ii) Be chaired by a director who:

(A) Is not an officer or employee of the covered savings and loan holding company and has not been an officer or employee of the covered savings and loan holding company during the previous three years;

(B) Is not a member of the immediate family, as defined in § 238.31(b)(3), of a person who is, or has been within the last three years, an executive officer of the covered savings and loan holding company, as defined in § 215.2(e)(1) of this chapter; and

(C)(*1*) Is an independent director under Item 407 of the Securities and Exchange Commission's Regulation S–K (17 CFR 229.407(a)), if the covered savings and loan holding company has an outstanding class of securities traded on an exchange registered with the U.S. Securities and Exchange Commission as a national securities exchange under section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f) (national securities exchange); or

(*2*) Would qualify as an independent director under the listing standards of a national securities exchange, as demonstrated to the satisfaction of the Board, if the covered savings and loan holding company does not have an outstanding class of securities traded on a national securities exchange.

(b) *Chief risk officer*—(1) *General.* A covered savings and loan holding company with total consolidated assets of $100 billion or more must appoint a chief risk officer with experience in identifying, assessing, and managing risk exposures of large, complex financial firms.

(2) *Responsibilities.* (i) The chief risk officer is responsible for overseeing:

(A) The establishment of risk limits on an enterprise-wide basis and the monitoring of compliance with such limits;

(B) The implementation of and ongoing compliance with the policies and procedures set forth in paragraph (a)(2)(i) of this section and the development and implementation of the processes and systems set forth in paragraph (a)(2)(ii) of this section; and

(C) The management of risks and risk controls within the parameters of the company's risk control framework, and monitoring and testing of the company's risk controls.

(ii) The chief risk officer is responsible for reporting risk-management deficiencies and emerging risks to the risk committee and resolving risk-management deficiencies in a timely manner.

(3) *Corporate governance requirements.* (i) The covered savings and loan holding company must ensure that the compensation and other incentives provided to the chief risk officer are consistent with providing an objective assessment of the risks taken by the covered savings and loan holding company; and

(ii) The chief risk officer must report directly to both the risk committee and chief executive officer of the company.

§ 238.123 Liquidity risk-management requirements.

(a) *Responsibilities of the board of directors*—(1) *Liquidity risk tolerance.* The board of directors of a covered savings and loan holding company with total consolidated assets of $100 billion or more must:

(i) Approve the acceptable level of liquidity risk that the covered savings and loan holding company may assume in connection with its operating strategies (liquidity risk tolerance) at least annually, taking into account the covered savings and loan holding company's capital structure, risk profile, complexity, activities, and size; and

(ii) Receive and review at least semi-annually information provided by senior management to determine whether the covered savings and loan holding company is operating in

accordance with its established liquidity risk tolerance.

(b) *Responsibilities of the risk committee.* The risk committee (or a designated subcommittee of such committee composed of members of the board of directors) must approve the contingency funding plan described in paragraph (f) of this section at least annually, and must approve any material revisions to the plan prior to the implementation of such revisions.

(c) *Responsibilities of senior management*—(1) *Liquidity risk.* (i) Senior management of a covered savings and loan holding company with total consolidated assets of $100 billion or more must establish and implement strategies, policies, and procedures designed to effectively manage the risk that the covered savings and loan holding company's financial condition or safety and soundness would be adversely affected by its inability or the market's perception of its inability to meet its cash and collateral obligations (liquidity risk). The board of directors must approve the strategies, policies, and procedures pursuant to paragraph (a)(2) of this section.

(ii) Senior management must oversee the development and implementation of liquidity risk measurement and reporting systems, including those required by this section and § 238.124.

(iii) Senior management must determine at least quarterly whether the covered savings and loan holding company is operating in accordance with such policies and procedures and whether the covered savings and loan holding company is in compliance with this section and § 238.124 (or more often, if changes in market conditions or the liquidity position, risk profile, or financial condition warrant), and establish procedures regarding the preparation of such information.

(2) *Liquidity risk tolerance.* Senior management must report to the board of directors or the risk committee regarding the covered savings and loan holding company's liquidity risk profile and liquidity risk tolerance at least quarterly (or more often, if changes in market conditions or the liquidity position, risk profile, or financial condition of the company warrant).

(3) *Business lines or products.* (i) Senior management must approve new products and business lines and evaluate the liquidity costs, benefits, and risks of each new business line and each new product that could have a significant effect on the company's liquidity risk profile. The approval is required before the company implements the business line or offers the product. In determining whether to approve the new business line or product, senior management must consider whether the liquidity risk of the new business line or product (under both current and stressed conditions) is within the company's established liquidity risk tolerance.

(ii) Senior management must review at least annually significant business lines and products to determine whether any line or product creates or has created any unanticipated liquidity risk, and to determine whether the liquidity risk of each strategy or product is within the company's established liquidity risk tolerance.

(4) *Cash-flow projections.* Senior management must review the cash-flow projections produced under paragraph (e) of this section at least quarterly (or more often, if changes in market conditions or the liquidity position, risk profile, or financial condition of the covered savings and loan holding company warrant) to ensure that the liquidity risk is within the established liquidity risk tolerance.

(5) *Liquidity risk limits.* Senior management must establish liquidity risk limits as set forth in paragraph (g) of this section and review the company's compliance with those limits at least quarterly (or more often, if changes in market conditions or the liquidity position, risk profile, or financial condition of the company warrant).

(6) *Liquidity stress testing.* Senior management must:

(i) Approve the liquidity stress testing practices, methodologies, and assumptions required in § 238.124(a) at least quarterly, and whenever the covered savings and loan holding company materially revises its liquidity stress testing practices, methodologies or assumptions;

(ii) Review the liquidity stress testing results produced under § 238.124(a) at least quarterly;

(iii) Review the independent review of the liquidity stress tests under § 238.123(d) periodically; and

(iv) Approve the size and composition of the liquidity buffer established under § 238.124(b) at least quarterly.

(d) *Independent review function.* (1) A covered savings and loan holding company with total consolidated assets of $100 billion or more must establish and maintain a review function that is independent of management functions that execute funding to evaluate its liquidity risk management.

(2) The independent review function must:

(i) Regularly, but no less frequently than annually, review and evaluate the adequacy and effectiveness of the company's liquidity risk management processes, including its liquidity stress test processes and assumptions;

(ii) Assess whether the company's liquidity risk-management function complies with applicable laws and regulations, and sound business practices; and

(iii) Report material liquidity risk management issues to the board of directors or the risk committee in writing for corrective action, to the extent permitted by applicable law.

(e) *Cash-flow projections.* (1) A covered savings and loan holding company with total consolidated assets of $100 billion or more must produce comprehensive cash-flow projections that project cash flows arising from assets, liabilities, and off-balance sheet exposures over, at a minimum, short- and long-term time horizons. The covered savings and loan holding company must update short-term cash-flow projections daily and must update longer-term cash-flow projections at least monthly.

(2) The covered savings and loan holding company must establish a methodology for making cash-flow projections that results in projections that:

(i) Include cash flows arising from contractual maturities, intercompany transactions, new business, funding renewals, customer options, and other potential events that may impact liquidity;

(ii) Include reasonable assumptions regarding the future behavior of assets, liabilities, and off-balance sheet exposures;

(iii) Identify and quantify discrete and cumulative cash flow mismatches over these time periods; and

(iv) Include sufficient detail to reflect the capital structure, risk profile, complexity, currency exposure, activities, and size of the covered savings and loan holding company and include analyses by business line, currency, or legal entity as appropriate.

(3) The covered savings and loan holding company must adequately document its methodology for making cash flow projections and the included assumptions and submit such documentation to the risk committee.

(f) *Contingency funding plan.* (1) A covered savings and loan holding company with total consolidated assets of $100 billion or more must establish and maintain a contingency funding plan that sets out the company's strategies for addressing liquidity needs during liquidity stress events. The contingency funding plan must be commensurate with the company's capital structure, risk profile,

complexity, activities, size, and established liquidity risk tolerance. The company must update the contingency funding plan at least annually, and when changes to market and idiosyncratic conditions warrant.

(2) *Components of the contingency funding plan*—(i) *Quantitative assessment.* The contingency funding plan must:

(A) Identify liquidity stress events that could have a significant impact on the covered savings and loan holding company's liquidity;

(B) Assess the level and nature of the impact on the covered savings and loan holding company's liquidity that may occur during identified liquidity stress events;

(C) Identify the circumstances in which the covered savings and loan holding company would implement its action plan described in paragraph (f)(2)(ii)(A) of this section, which circumstances must include failure to meet any minimum liquidity requirement imposed by the Board;

(D) Assess available funding sources and needs during the identified liquidity stress events;

(E) Identify alternative funding sources that may be used during the identified liquidity stress events; and

(F) Incorporate information generated by the liquidity stress testing required under § 238.124(a).

(ii) *Liquidity event management process.* The contingency funding plan must include an event management process that sets out the covered savings and loan holding company's procedures for managing liquidity during identified liquidity stress events. The liquidity event management process must:

(A) Include an action plan that clearly describes the strategies the company will use to respond to liquidity shortfalls for identified liquidity stress events, including the methods that the company will use to access alternative funding sources;

(B) Identify a liquidity stress event management team that would execute the action plan described in paragraph (f)(2)(ii)(A) of this section;

(C) Specify the process, responsibilities, and triggers for invoking the contingency funding plan, describe the decision-making process during the identified liquidity stress events, and describe the process for executing contingency measures identified in the action plan; and

(D) Provide a mechanism that ensures effective reporting and communication within the covered savings and loan holding company and with outside parties, including the Board and other relevant supervisors, counterparties, and other stakeholders.

(iii) *Monitoring.* The contingency funding plan must include procedures for monitoring emerging liquidity stress events. The procedures must identify early warning indicators that are tailored to the company's capital structure, risk profile, complexity, activities, and size.

(iv) *Testing.* The covered savings and loan holding company must periodically test:

(A) The components of the contingency funding plan to assess the plan's reliability during liquidity stress events;

(B) The operational elements of the contingency funding plan, including operational simulations to test communications, coordination, and decision-making by relevant management; and

(C) The methods the covered savings and loan holding company will use to access alternative funding sources to determine whether these funding sources will be readily available when needed.

(g) *Liquidity risk limits*—(1) *General.* (i) A Category II savings and loan holding company or Category III savings and loan holding company must monitor sources of liquidity risk and establish limits on liquidity risk, including limits on:

(A) Concentrations in sources of funding by instrument type, single counterparty, counterparty type, secured and unsecured funding, and as applicable, other forms of liquidity risk;

(B) The amount of liabilities that mature within various time horizons; and

(C) Off-balance sheet exposures and other exposures that could create funding needs during liquidity stress events.

(ii) Each limit established pursuant to paragraph (g)(1) of this section must be consistent with the company's established liquidity risk tolerance and must reflect the company's capital structure, risk profile, complexity, activities, and size.

(2) *Liquidity risk limits for Category IV savings and loan holding companies.* A Category IV savings and loan holding company must monitor sources of liquidity risk and establish limits on liquidity risk that are consistent with the company's established liquidity risk tolerance and that reflect the company's capital structure, risk profile, complexity, activities, and size.

(h) *Collateral, legal entity, and intraday liquidity risk monitoring.* A covered savings and loan holding company with total consolidated assets of $100 billion or more must establish and maintain procedures for monitoring liquidity risk as set forth in this paragraph.

(1) *Collateral.* The covered savings and loan holding company must establish and maintain policies and procedures to monitor assets that have been, or are available to be, pledged as collateral in connection with transactions to which it or its affiliates are counterparties. These policies and procedures must provide that the covered savings and loan holding company:

(i) Calculates all of its collateral positions according to the frequency specified in paragraph (h)(1)(i)(A) and (B) or as directed by the Board, specifying the value of pledged assets relative to the amount of security required under the relevant contracts and the value of unencumbered assets available to be pledged:

(A) If the covered savings and loan holding company is not a Category IV savings and loan holding company, on a weekly basis;

(B) If the covered savings and loan holding company is a Category IV savings and loan holding company, on a monthly basis;

(ii) Monitors the levels of unencumbered assets available to be pledged by legal entity, jurisdiction, and currency exposure;

(iii) Monitors shifts in the covered savings and loan holding company's funding patterns, such as shifts between intraday, overnight, and term pledging of collateral; and

(iv) Tracks operational and timing requirements associated with accessing collateral at its physical location (for example, the custodian or securities settlement system that holds the collateral).

(2) *Legal entities, currencies and business lines.* The covered savings and loan holding company must establish and maintain procedures for monitoring and controlling liquidity risk exposures and funding needs within and across significant legal entities, currencies, and business lines, taking into account legal and regulatory restrictions on the transfer of liquidity between legal entities.

(3) *Intraday exposures.* The covered savings and loan holding company must establish and maintain procedures for monitoring intraday liquidity risk exposure that are consistent with the covered savings and loan holding company's capital structure, risk profile, complexity, activities, and size. If the covered savings and loan holding company is a Category II savings and loan holding company or a Category III

savings and loan holding company, these procedures must address how the management of the covered savings and loan holding company will:

(i) Monitor and measure expected daily gross liquidity inflows and outflows;

(ii) Manage and transfer collateral to obtain intraday credit;

(iii) Identify and prioritize time-specific obligations so that the covered savings and loan holding company can meet these obligations as expected and settle less critical obligations as soon as possible;

(iv) Manage the issuance of credit to customers where necessary; and

(v) Consider the amounts of collateral and liquidity needed to meet payment systems obligations when assessing the covered savings and loan holding company's overall liquidity needs.

§ 238.124 Liquidity stress testing and buffer requirements.

(a) *Liquidity stress testing requirement*—(1) *General.* A covered savings and loan holding company with total consolidated assets of $100 billion or more must conduct stress tests to assess the potential impact of the liquidity stress scenarios set forth in paragraph (a)(3) on its cash flows, liquidity position, profitability, and solvency, taking into account its current liquidity condition, risks, exposures, strategies, and activities.

(i) The covered savings and loan holding company must take into consideration its balance sheet exposures, off-balance sheet exposures, size, risk profile, complexity, business lines, organizational structure, and other characteristics of the covered savings and loan holding company that affect its liquidity risk profile in conducting its stress test.

(ii) In conducting a liquidity stress test using the scenarios described in paragraphs (a)(3)(i) and (ii) of this section, the covered savings and loan holding company must address the potential direct adverse impact of associated market disruptions on the covered savings and loan holding company and incorporate the potential actions of other market participants experiencing liquidity stresses under the market disruptions that would adversely affect the covered savings and loan holding company.

(2) *Frequency.* The covered savings and loan holding company must perform the liquidity stress tests required under paragraph (a)(1) of this section according to the frequency specified in paragraph (a)(2)(i) and (ii) or as directed by the Board:

(i) If the covered savings and loan holding company is not a Category IV savings and loan holding company, at least monthly; or

(ii) If the covered savings and loan holding company is a Category IV savings and loan holding company, at least quarterly.

(3) *Stress scenarios.* (i) Each liquidity stress test conducted under paragraph (a)(1) of this section must include, at a minimum:

(A) A scenario reflecting adverse market conditions;

(B) A scenario reflecting an idiosyncratic stress event for the covered savings and loan holding company; and

(C) A scenario reflecting combined market and idiosyncratic stresses.

(ii) The covered savings and loan holding company must incorporate additional liquidity stress scenarios into its liquidity stress test, as appropriate, based on its financial condition, size, complexity, risk profile, scope of operations, or activities. The Board may require the covered savings and loan holding company to vary the underlying assumptions and stress scenarios.

(4) *Planning horizon.* Each stress test conducted under paragraph (a)(1) of this section must include an overnight planning horizon, a 30-day planning horizon, a 90-day planning horizon, a one-year planning horizon, and any other planning horizons that are relevant to the covered savings and loan holding company's liquidity risk profile. For purposes of this section, a ''planning horizon'' is the period over which the relevant stressed projections extend. The covered savings and loan holding company must use the results of the stress test over the 30-day planning horizon to calculate the size of the liquidity buffer under paragraph (b) of this section.

(5) *Requirements for assets used as cash-flow sources in a stress test.* (i) To the extent an asset is used as a cash flow source to offset projected funding needs during the planning horizon in a liquidity stress test, the fair market value of the asset must be discounted to reflect any credit risk and market volatility of the asset.

(ii) Assets used as cash-flow sources during a planning horizon must be diversified by collateral, counterparty, borrowing capacity, and other factors associated with the liquidity risk of the assets.

(iii) A line of credit does not qualify as a cash flow source for purposes of a stress test with a planning horizon of 30 days or less. A line of credit may qualify as a cash flow source for purposes of a stress test with a planning horizon that exceeds 30 days.

(6) *Tailoring.* Stress testing must be tailored to, and provide sufficient detail to reflect, a covered savings and loan holding company's capital structure, risk profile, complexity, activities, and size.

(7) *Governance*—(i) *Policies and procedures.* A covered savings and loan holding company with total consolidated assets of $100 billion or more must establish and maintain policies and procedures governing its liquidity stress testing practices, methodologies, and assumptions that provide for the incorporation of the results of liquidity stress tests in future stress testing and for the enhancement of stress testing practices over time.

(ii) *Controls and oversight.* A covered savings and loan holding company with total consolidated assets of $100 billion or more must establish and maintain a system of controls and oversight that is designed to ensure that its liquidity stress testing processes are effective in meeting the requirements of this section. The controls and oversight must ensure that each liquidity stress test appropriately incorporates conservative assumptions with respect to the stress scenario in paragraph (a)(3) of this section and other elements of the stress test process, taking into consideration the covered savings and loan holding company's capital structure, risk profile, complexity, activities, size, business lines, legal entity or jurisdiction, and other relevant factors. The assumptions must be approved by the chief risk officer and be subject to the independent review under § 238.123(d).

(iii) *Management information systems.* The covered savings and loan holding company must maintain management information systems and data processes sufficient to enable it to effectively and reliably collect, sort, and aggregate data and other information related to liquidity stress testing.

(b) *Liquidity buffer requirement.* (1) A covered savings and loan holding company with total consolidated assets of $100 billion or more must maintain a liquidity buffer that is sufficient to meet the projected net stressed cash-flow need over the 30-day planning horizon of a liquidity stress test conducted in accordance with paragraph (a) of this section under each scenario set forth in paragraph (a)(3)(i) through (ii) of this section.

(2) *Net stressed cash-flow need.* The net stressed cash-flow need for a covered savings and loan holding company is the difference between the amount of its cash-flow need and the

amount of its cash flow sources over the 30-day planning horizon.

(3) *Asset requirements.* The liquidity buffer must consist of highly liquid assets that are unencumbered, as defined in paragraph (b)(3)(ii) of this section:

(i) *Highly liquid asset.* A highly liquid asset includes:

(A) Cash;

(B) Securities issued or guaranteed by the United States, a U.S. government agency, or a U.S. government-sponsored enterprise; or

(C) Any other asset that the covered savings and loan holding company demonstrates to the satisfaction of the Board:

(*1*) Has low credit risk and low market risk;

(*2*) Is traded in an active secondary two-way market that has committed market makers and independent bona fide offers to buy and sell so that a price reasonably related to the last sales price or current bona fide competitive bid and offer quotations can be determined within one day and settled at that price within a reasonable time period conforming with trade custom; and

(*3*) Is a type of asset that investors historically have purchased in periods of financial market distress during which market liquidity has been impaired.

(ii) *Unencumbered.* An asset is unencumbered if it:

(A) Is free of legal, regulatory, contractual, or other restrictions on the ability of such company promptly to liquidate, sell or transfer the asset; and

(B) Is either:

(*1*) Not pledged or used to secure or provide credit enhancement to any transaction; or

(*2*) Pledged to a central bank or a U.S. government-sponsored enterprise, to the extent potential credit secured by the asset is not currently extended by such central bank or U.S. government-sponsored enterprise or any of its consolidated subsidiaries.

(iii) *Calculating the amount of a highly liquid asset.* In calculating the amount of a highly liquid asset included in the liquidity buffer, the covered savings and loan holding company must discount the fair market value of the asset to reflect any credit risk and market price volatility of the asset.

(iv) *Diversification.* The liquidity buffer must not contain significant concentrations of highly liquid assets by issuer, business sector, region, or other factor related to the covered savings and loan holding company's risk, except with respect to cash and securities issued or guaranteed by the United States, a U.S. government agency, or a U.S. government-sponsored enterprise.

■ 8. Add subpart O to read as follows:

Subpart O—Supervisory Stress Test Requirements for Covered Savings and Loan Holding Companies

Sec.

238.130 Definitions.
238.131 Applicability.
238.132 Analysis conducted by the Board.
238.133 Data and information required to be submitted in support of the Board's analyses.
238.134 Review of the Board's analysis; publication of summary results.
238.135 Corporate use of stress test results.

Subpart O—Supervisory Stress Test Requirements for Covered Savings and Loan Holding Companies

§ 238.130 Definitions.

For purposes of this subpart, the following definitions apply:

Advanced approaches means the risk-weighted assets calculation methodologies at 12 CFR part 217, subpart E, as applicable.

Adverse scenario means a set of conditions that affect the U.S. economy or the financial condition of a covered company that are more adverse than those associated with the baseline scenario and may include trading or other additional components.

Baseline scenario means a set of conditions that affect the U.S. economy or the financial condition of a covered company and that reflect the consensus views of the economic and financial outlook.

Covered company means a covered savings and loan holding company (other than a foreign banking organization) with average total consolidated assets of $100 billion or more.

Planning horizon means the period of at least nine consecutive quarters, beginning on the first day of a stress test cycle over which the relevant projections extend.

Pre-provision net revenue means the sum of net interest income and non-interest income less expenses before adjusting for loss provisions.

Provision for credit losses means:

(1) Until December 31, 2019:

(i) With respect to a covered company that has not adopted the current expected credit losses methodology under GAAP, the provision for loan and lease losses as reported on the FR Y–9C (and as would be reported on the FR Y–9C in the current stress test cycle); and

(ii) With respect to a covered company that has adopted the current expected credit losses methodology under GAAP, the provision for loan and lease losses, as would be calculated and reported on the FR Y–9C by a covered company that has not adopted the current expected credit losses methodology under GAAP; and

(2) Beginning January 1, 2020:

(i) With respect to a covered company that has adopted the current expected credit losses methodology under GAAP, the provision for credit losses, as would be reported by the covered company on the FR Y–9C in the current stress test cycle; and,

(ii) With respect to a covered company that has not adopted the current expected credit losses methodology under GAAP, the provision for loan and lease losses as would be reported by the covered company on the FR Y–9C in the current stress test cycle.

Regulatory capital ratio means a capital ratio for which the Board has established minimum requirements for the covered savings and loan holding company by regulation or order, including, as applicable, the company's regulatory capital ratios calculated under 12 CFR part 217 and the deductions required under 12 CFR 248.12; except that the company shall not use the advanced approaches to calculate its regulatory capital ratios.

Scenarios are those sets of conditions that affect the U.S. economy or the financial condition of a covered company that the Board annually determines are appropriate for use in the supervisory stress tests, including, but not limited to, baseline, adverse, and severely adverse scenarios.

Severely adverse scenario means a set of conditions that affect the U.S. economy or the financial condition of a covered company and that overall are more severe than those associated with the adverse scenario and may include trading or other additional components.

Stress test cycle means the period beginning on January 1 of a calendar year and ending on December 31 of that year.

Subsidiary has the same meaning as in § 225.2(o) of this chapter.

§ 238.131 Applicability.

(a) *Scope*—(1) *Applicability.* Except as provided in paragraph (b) of this section, this subpart applies to any covered company.

(2) *Ongoing applicability.* A covered savings and loan holding company (including any successor company) that is subject to any requirement in this subpart shall remain subject to any such requirement unless and until its total consolidated assets fall below $100 billion for each of four consecutive quarters, as reported on the FR Y–9C

and, effective on the as-of date of the fourth consecutive FR Y–9C.

(b) *Transitional arrangements.* (1) A covered savings and loan holding company that becomes a covered company on or before September 30 of a calendar year must comply with the requirements of this subpart beginning on January 1 of the second calendar year after the covered savings and loan holding company becomes a covered company, unless that time is extended by the Board in writing.

(2) A covered savings and loan holding company that becomes a covered company after September 30 of a calendar year must comply with the requirements of this subpart beginning on January 1 of the third calendar year after the covered savings and loan holding company becomes a covered company, unless that time is extended by the Board in writing.

§ 238.132 Analysis conducted by the Board.

(a) *In general.* (1) The Board will conduct an analysis of each covered company's capital, on a total consolidated basis, taking into account all relevant exposures and activities of that covered company, to evaluate the ability of the covered company to absorb losses in specified economic and financial conditions.

(2) The analysis will include an assessment of the projected losses, net income, and pro forma capital levels and regulatory capital ratios and other capital ratios for the covered company and use such analytical techniques that the Board determines are appropriate to identify, measure, and monitor risks of the covered company.

(3) In conducting the analyses, the Board will coordinate with the appropriate primary financial regulatory agencies and the Federal Insurance Office, as appropriate.

(b) *Economic and financial scenarios related to the Board's analysis.* The Board will conduct its analysis using a minimum of three different scenarios, including a baseline scenario, adverse scenario, and severely adverse scenario. The Board will notify covered companies of the scenarios that the Board will apply to conduct the analysis for each stress test cycle to which the covered company is subject by no later than February 15 of that year, except with respect to trading or any other components of the scenarios and any additional scenarios that the Board will apply to conduct the analysis, which will be communicated by no later than March 1 of that year.

(c) *Frequency of analysis conducted by the Board.* (1) Except as provided in paragraph (c)(2) of this section, the Board will conduct its analysis of a covered company on an annual basis.

(2) The Board will conduct its analysis of a Category IV savings and loan holding company on a biennial basis and occurring in each year ending in an even number.

§ 238.133 Data and information required to be submitted in support of the Board's analyses.

(a) *Regular submissions.* Each covered company must submit to the Board such data, on a consolidated basis, that the Board determines is necessary in order for the Board to derive the relevant pro forma estimates of the covered company over the planning horizon under the scenarios described in § 238.132(b).

(b) *Additional submissions required by the Board.* The Board may require a covered company to submit any other information on a consolidated basis that the Board deems necessary in order to:

(1) Ensure that the Board has sufficient information to conduct its analysis under this subpart; and

(2) Project a company's pre-provision net revenue, losses, provision for credit losses, and net income; and pro forma capital levels, regulatory capital ratios, and any other capital ratio specified by the Board under the scenarios described in § 238.132(b).

(c) *Confidential treatment of information submitted.* The confidentiality of information submitted to the Board under this subpart and related materials shall be determined in accordance with the Freedom of Information Act (5 U.S.C. 552(b)) and the Board's Rules Regarding Availability of Information (12 CFR part 261).

§ 238.134 Review of the Board's analysis; publication of summary results.

(a) *Review of results.* Based on the results of the analysis conducted under this subpart, the Board will conduct an evaluation to determine whether the covered company has the capital, on a total consolidated basis, necessary to absorb losses and continue its operation by maintaining ready access to funding, meeting its obligations to creditors and other counterparties, and continuing to serve as a credit intermediary under baseline, adverse and severely adverse scenarios, and any additional scenarios.

(b) *Publication of results by the Board.* (1) The Board will publicly disclose a summary of the results of the Board's analyses of a covered company by June 30 of the calendar year in which the stress test was conducted pursuant to § 238.132.

(2) The Board will notify companies of the date on which it expects to publicly disclose a summary of the Board's analyses pursuant to paragraph (b)(1) of this section at least 14 calendar days prior to the expected disclosure date.

§ 238.135 Corporate use of stress test results.

The board of directors and senior management of each covered company must consider the results of the analysis conducted by the Board under this subpart, as appropriate:

(a) As part of the covered company's capital plan and capital planning process, including when making changes to the covered company's capital structure (including the level and composition of capital); and

(b) When assessing the covered company's exposures, concentrations, and risk positions.

■ 9. Add subpart P to read as follows:

Subpart P—Company-Run Stress Test Requirements for Savings and Loan Holding Companies

Sec.

238.140 Authority and purpose.
238.141 Definitions.
238.142 Applicability.
238.143 Stress test.
238.144 Methodologies and practices.
238.145 Reports of stress test results.
238.146 Disclosure of stress test results.

Subpart P—Company-Run Stress Test Requirements for Savings and Loan Holding Companies

§ 238.140 Authority and purpose.

(a) *Authority.* 12 U.S.C. 1467; 1467a, 1818, 5361, 5365.

(b) *Purpose.* This subpart establishes the requirement for a covered company to conduct stress tests. This subpart also establishes definitions of stress test and related terms, methodologies for conducting stress tests, and reporting and disclosure requirements.

§ 238.141 Definitions.

For purposes of this subpart, the following definitions apply:

Advanced approaches means the risk-weighted assets calculation methodologies at 12 CFR part 217, subpart E, as applicable.

Adverse scenario means a set of conditions that affect the U.S. economy or the financial condition of a covered company that are more adverse than those associated with the baseline scenario and may include trading or other additional components.

Baseline scenario means a set of conditions that affect the U.S. economy or the financial condition of a covered company and that reflect the consensus views of the economic and financial outlook.

Capital action has the same meaning as in § 225.8 of this chapter.

Covered company means:

(1) A Category II savings and loan holding company; or

(2) A Category III savings and loan holding company.

Planning horizon means the period of at least nine consecutive quarters, beginning on the first day of a stress test cycle over which the relevant projections extend.

Pre-provision net revenue means the sum of net interest income and non-interest income less expenses before adjusting for loss provisions.

Provision for credit losses means:

(1) Until December 31, 2019:

(i) With respect to a covered company that has not adopted the current expected credit losses methodology under GAAP, the provision for loan and lease losses as reported on the FR Y–9C (and as would be reported on the FR Y–9C in the current stress test cycle); and

(ii) With respect to a covered company that has adopted the current expected credit losses methodology under GAAP, the provision for loan and lease losses, as would be calculated and reported on the FR Y–9C by a covered company that has not adopted the current expected credit losses methodology under GAAP; and

(2) Beginning January 1, 2020:

(i) With respect to a covered company that has adopted the current expected credit losses methodology under GAAP, the provision for credit losses, as would be reported by the covered company on the FR Y–9C in the current stress test cycle; and

(ii) With respect to a covered company that has not adopted the current expected credit losses methodology under GAAP, the provision for loan and lease losses as would be reported by the covered company on the FR Y–9C in the current stress test cycle.

Regulatory capital ratio means a capital ratio for which the Board has established minimum requirements for the covered savings and loan holding company by regulation or order, including, as applicable, the company's regulatory capital ratios calculated under 12 CFR part 217 and the deductions required under 12 CFR 248.12; except that the company shall not use the advanced approaches to calculate its regulatory capital ratios.

Scenarios are those sets of conditions that affect the U.S. economy or the financial condition of a covered company that the Board annually or biennially determines are appropriate for use in the company-run stress tests, including, but not limited to, baseline, adverse, and severely adverse scenarios.

Severely adverse scenario means a set of conditions that affect the U.S. economy or the financial condition of a covered company and that overall are more severe than those associated with the adverse scenario and may include trading or other additional components.

Stress test means a process to assess the potential impact of scenarios on the consolidated earnings, losses, and capital of a covered company over the planning horizon, taking into account its current condition, risks, exposures, strategies, and activities.

Stress test cycle means the period beginning on January 1 of a calendar year and ending on December 31 of that year.

Subsidiary has the same meaning as in § 225.2(o) of this chapter.

§ 238.142 Applicability.

(a) *Scope*—(1) *Applicability.* Except as provided in paragraph (b) of this section, this subpart applies to any covered company, which includes:

(i) Any Category II savings and loan holding company; and

(ii) Any Category III savings and loan holding company.

(2) *Ongoing applicability.* A covered savings and loan holding company (including any successor company) that is subject to any requirement in this subpart shall remain subject to any such requirement unless and until the covered savings and loan holding company:

(i) Is not a Category II savings and loan holding company; and

(ii) Is not a Category III savings and loan holding company.

(b) *Transitional arrangements.* (1) A covered savings and loan holding company that becomes a covered company on or before September 30 of a calendar year must comply with the requirements of this subpart beginning on January 1 of the second calendar year after the covered savings and loan holding company becomes a covered company, unless that time is extended by the Board in writing.

(2) A covered savings and loan holding company that becomes a covered company after September 30 of a calendar year must comply with the requirements of this subpart beginning on January 1 of the third calendar year after the covered savings and loan holding company becomes a covered company, unless that time is extended by the Board in writing.

§ 238.143 Stress test.

(a) *Stress test requirement*—(1) *In general.* A covered company must conduct a stress test as required under this subpart.

(2) *Frequency.* (i) Except as provided in paragraph (a)(2)(ii) of this section, a covered company must conduct an annual stress test. The stress test must be conducted by April 5 of each calendar year based on data as of December 31 of the preceding calendar year, unless the time or the as-of date is extended by the Board in writing.

(ii) A Category III savings and loan holding company must conduct a biennial stress test. The stress test must be conducted by April 5 of each calendar year ending in an even number, based on data as of December 31 of the preceding calendar year, unless the time or the as-of date is extended by the Board in writing.

(b) *Scenarios provided by the Board*—(1) *In general.* In conducting a stress test under this section, a covered company must, at a minimum, use the scenarios provided by the Board. Except as provided in paragraphs (b)(2) and (3) of this section, the Board will provide a description of the scenarios to each covered company no later than February 15 of the calendar year in which the stress test is performed pursuant to this section.

(2) *Additional components.* (i) The Board may require a covered company with significant trading activity, as determined by the Board and specified in the Capital Assessments and Stress Testing report (FR Y–14), to include a trading and counterparty component in its adverse and severely adverse scenarios in the stress test required by this section. The data used in this component must be as-of a date selected by the Board between October 1 of the previous calendar year and March 1 of the calendar year in which the stress test is performed pursuant to this section, and the Board will communicate the as-of date and a description of the component to the company no later than March 1 of the calendar year in which the stress test is performed pursuant to this section.

(ii) The Board may require a covered company to include one or more additional components in its adverse and severely adverse scenarios in the stress test required by this section based on the company's financial condition, size, complexity, risk profile, scope of operations, or activities, or risks to the U.S. economy.

(3) *Additional scenarios.* The Board may require a covered company to use one or more additional scenarios in the stress test required by this section based on the company's financial condition, size, complexity, risk profile, scope of

operations, or activities, or risks to the U.S. economy.

(4) *Notice and response*—(i) *Notification of additional component.* If the Board requires a covered company to include one or more additional components in its adverse and severely adverse scenarios under paragraph (b)(2) of this section or to use one or more additional scenarios under paragraph (b)(3) of this section, the Board will notify the company in writing. The Board will provide such notification no later than December 31 of the preceding calendar year. The notification will include a general description of the additional component(s) or additional scenario(s) and the basis for requiring the company to include the additional component(s) or additional scenario(s).

(ii) *Request for reconsideration and Board response.* Within 14 calendar days of receipt of a notification under this paragraph, the covered company may request in writing that the Board reconsider the requirement that the company include the additional component(s) or additional scenario(s), including an explanation as to why the request for reconsideration should be granted. The Board will respond in writing within 14 calendar days of receipt of the company's request.

(iii) *Description of component.* The Board will provide the covered company with a description of any additional component(s) or additional scenario(s) by March 1 of the calendar year in which the stress test is performed pursuant to this section.

§ 238.144 Methodologies and practices.

(a) *Potential impact on capital.* In conducting a stress test under § 238.143, for each quarter of the planning horizon, a covered company must estimate the following for each scenario required to be used:

(1) Losses, pre-provision net revenue, provision for credit losses, and net income; and

(2) The potential impact on pro forma regulatory capital levels and pro forma capital ratios (including regulatory capital ratios and any other capital ratios specified by the Board), incorporating the effects of any capital actions over the planning horizon and maintenance of an allowance for credit losses appropriate for credit exposures throughout the planning horizon.

(b) *Assumptions regarding capital actions.* In conducting a stress test under § 238.143, a covered company is required to make the following assumptions regarding its capital actions over the planning horizon:

(1) For the first quarter of the planning horizon, the covered company must take into account its actual capital actions as of the end of that quarter; and

(2) For each of the second through ninth quarters of the planning horizon, the covered company must include in the projections of capital:

(i) Common stock dividends equal to the quarterly average dollar amount of common stock dividends that the company paid in the previous year (that is, the first quarter of the planning horizon and the preceding three calendar quarters) plus common stock dividends attributable to issuances related to expensed employee compensation or in connection with a planned merger or acquisition to the extent that the merger or acquisition is reflected in the covered company's pro forma balance sheet estimates;

(ii) Payments on any other instrument that is eligible for inclusion in the numerator of a regulatory capital ratio equal to the stated dividend, interest, or principal due on such instrument during the quarter;

(iii) An assumption of no redemption or repurchase of any capital instrument that is eligible for inclusion in the numerator of a regulatory capital ratio; and

(iv) An assumption of no issuances of common stock or preferred stock, except for issuances related to expensed employee compensation or in connection with a planned merger or acquisition to the extent that the merger or acquisition is reflected in the covered company's pro forma balance sheet estimates.

(c) *Controls and oversight of stress testing processes*—(1) *In general.* The senior management of a covered company must establish and maintain a system of controls, oversight, and documentation, including policies and procedures, that are designed to ensure that its stress testing processes are effective in meeting the requirements in this subpart. These policies and procedures must, at a minimum, describe the covered company's stress testing practices and methodologies, and processes for validating and updating the company's stress test practices and methodologies consistent with applicable laws and regulations.

(2) *Oversight of stress testing processes.* The board of directors, or a committee thereof, of a covered company must review and approve the policies and procedures of the stress testing processes as frequently as economic conditions or the condition of the covered company may warrant, but no less than annually. The board of directors and senior management of the covered company must receive a summary of the results of any stress test conducted under this subpart.

(3) *Role of stress testing results.* The board of directors and senior management of each covered company must consider the results of the analysis it conducts under this subpart, as appropriate:

(i) As part of the covered company's capital plan and capital planning process, including when making changes to the covered company's capital structure (including the level and composition of capital); and

(ii) When assessing the covered company's exposures, concentrations, and risk positions.

§ 238.145 Reports of stress test results.

(a) *Reports to the Board of stress test results.* A covered company must report the results of the stress test required under § 238.143 to the Board in the manner and form prescribed by the Board. Such results must be submitted by April 5 of the calendar year in which the stress test is performed pursuant to § 238.143, unless that time is extended by the Board in writing.

(b) *Confidential treatment of information submitted.* The confidentiality of information submitted to the Board under this subpart and related materials shall be determined in accordance with applicable exemptions under the Freedom of Information Act (5 U.S.C. 552(b)) and the Board's Rules Regarding Availability of Information (12 CFR part 261).

§ 238.146 Disclosure of stress test results.

(a) *Public disclosure of results*—(1) *In general.* A covered company must publicly disclose a summary of the results of the stress test required under § 238.143 within the period that is 15 calendar days after the Board publicly discloses the results of its supervisory stress test of the covered company pursuant to § 238.134, unless that time is extended by the Board in writing.

(2) *Disclosure method.* The summary required under this section may be disclosed on the website of a covered company, or in any other forum that is reasonably accessible to the public.

(b) *Summary of results.* The summary results must, at a minimum, contain the following information regarding the severely adverse scenario:

(1) A description of the types of risks included in the stress test;

(2) A general description of the methodologies used in the stress test, including those employed to estimate losses, revenues, provision for credit losses, and changes in capital positions over the planning horizon;

(3) Estimates of—

(i) Pre-provision net revenue and other revenue;

(ii) Provision for credit losses, realized losses or gains on available-for-sale and held-to-maturity securities, trading and counterparty losses, and other losses or gains;

(iii) Net income before taxes;

(iv) Loan losses (dollar amount and as a percentage of average portfolio balance) in the aggregate and by subportfolio, including: Domestic closed-end first-lien mortgages; domestic junior lien mortgages and home equity lines of credit; commercial and industrial loans; commercial real estate loans; credit card exposures; other consumer loans; and all other loans; and

(v) Pro forma regulatory capital ratios and any other capital ratios specified by the Board; and

(4) An explanation of the most significant causes for the changes in regulatory capital ratios; and

(5) With respect to any depository institution subsidiary that is subject to stress testing requirements pursuant to 12 U.S.C. 5365(i)(2), as implemented by subpart B of this part, 12 CFR part 46 (OCC), or 12 CFR part 325, subpart C (FDIC), changes over the planning horizon in regulatory capital ratios and any other capital ratios specified by the Board and an explanation of the most significant causes for the changes in regulatory capital ratios.

(c) *Content of results.* (1) The following disclosures required under paragraph (b) of this section must be on a cumulative basis over the planning horizon:

(i) Pre-provision net revenue and other revenue;

(ii) Provision for credit losses, realized losses/gains on available-for-sale and held-to-maturity securities, trading and counterparty losses, and other losses or gains;

(iii) Net income before taxes; and

(iv) Loan losses in the aggregate and by subportfolio.

(2) The disclosure of pro forma regulatory capital ratios and any other capital ratios specified by the Board that is required under paragraph (b) of this section must include the beginning value, ending value, and minimum value of each ratio over the planning horizon.

■ 10. Add subpart Q to read as follows:

Subpart Q—Single Counterparty Credit Limits for Covered Savings and Loan Holding Companies

Sec.

238.150 Applicability and general provisions.
238.151 Definitions.
238.152 Credit exposure limits.
238.153 Gross credit exposure.
238.154 Net credit exposure.
238.155 Investments in and exposures to securitization vehicles, investment funds, and other special purpose vehicles that are not subsidiaries of the covered company.
238.156 Aggregation of exposures to more than one counterparty due to economic interdependence or control relationships.
238.157 Exemptions.
238.158 Compliance.

Subpart Q—Single Counterparty Credit Limits for Covered Savings and Loan Holding Companies

§ 238.150 Applicability and general provisions.

(a) *In general.* (1) This subpart establishes single counterparty credit limits for a covered company.

(2) For purposes of this subpart:

(i) *Covered company* means

(A) A Category II savings and loan holding company; or

(B) A Category III savings and loan holding company.

(b) *Credit exposure limits.* (1) Section 238.152 establishes credit exposure limits for a covered company.

(2) A covered company is required to calculate its aggregate net credit exposure, gross credit exposure, and net credit exposure to a counterparty using the methods in this subpart.

(c) *Applicability of this subpart.* (1) A company that is a covered company as of [DATE 60 DAYS AFTER DATE OF PUBLICATION OF THE FINAL RULE IN THE **Federal Register**], must comply with the requirements of this subpart, including but not limited to § 238.152, beginning on July 1, 2020, unless that time is extended by the Board in writing;

(2) A covered company that becomes subject to this subpart after [DATE 60 DAYS AFTER DATE OF PUBLICATION OF THE FINAL RULE IN THE **Federal Register**] must comply with the requirements of this subpart beginning on the first day of the ninth calendar quarter after it becomes a covered company, unless that time is accelerated or extended by the Board in writing.

(d) *Cessation of requirements.* Any company that becomes a covered company will remain subject to the requirements of this subpart unless and until it is not a Category II savings and loan holding company or a Category III savings and loan holding company.

§ 238.151 Definitions.

Unless defined in this section, terms that are set forth in § 238.2 and used in this subpart have the definitions assigned in § 238.2. For purposes of this subpart:

(a) *Adjusted market value* means:

(1) With respect to the value of cash, securities, or other eligible collateral transferred by the covered company to a counterparty, the sum of:

(i) The market value of the cash, securities, or other eligible collateral; and

(ii) The product of the market value of the securities or other eligible collateral multiplied by the applicable collateral haircut in Table 1 to § 217.132 of this chapter; and

(2) With respect to cash, securities, or other eligible collateral received by the covered company from a counterparty:

(i) The market value of the cash, securities, or other eligible collateral; minus

(ii) The market value of the securities or other eligible collateral multiplied by the applicable collateral haircut in Table 1 to § 217.132 of this chapter.

(3) Prior to calculating the adjusted market value pursuant to paragraphs (a)(1) and (2) of this section, with regard to a transaction that meets the definition of ''repo-style transaction'' in § 217.2 of this chapter, the covered company would first multiply the applicable collateral haircuts in Table 1 to § 217.132 of this chapter by the square root of ½.

(b) *Affiliate* means, with respect to a company:

(1) Any subsidiary of the company and any other company that is consolidated with the company under applicable accounting standards; or

(2) For a company that is not subject to principles or standards referenced in paragraph (b)(1) of this section, any subsidiary of the company and any other company that would be consolidated with the company, if consolidation would have occurred if such principles or standards had applied.

(c) *Aggregate net credit exposure* means the sum of all net credit exposures of a covered company and all of its subsidiaries to a single counterparty as calculated under this subpart.

(d) *Bank-eligible investments* means investment securities that a national bank is permitted to purchase, sell, deal in, underwrite, and hold under 12 U.S.C. 24 (Seventh) and 12 CFR part 1.

(e) *Counterparty* means, with respect to a credit transaction:

(1) With respect to a natural person, the natural person, and, if the credit exposure of the covered company to such natural person exceeds 5 percent of the covered company's tier 1 capital, the natural person and members of the person's immediate family collectively;

(2) With respect to any company that is not a subsidiary of the covered

company, the company and its affiliates collectively;

(3) With respect to a State, the State and all of its agencies, instrumentalities, and political subdivisions (including any municipalities) collectively;

(4) With respect to a foreign sovereign entity that is not assigned a zero percent risk weight under the standardized approach in 12 CFR part 217, subpart D, the foreign sovereign entity and all of its agencies and instrumentalities (but not including any political subdivision) collectively; and

(5) With respect to a political subdivision of a foreign sovereign entity such as a state, province, or municipality, any political subdivision of the foreign sovereign entity and all of such political subdivision's agencies and instrumentalities, collectively.[1]

(f) *Covered company* is defined in § 238.150(a)(2)(i).

(g) *Credit derivative* has the same meaning as in § 217.2 of this chapter.

(h) *Credit transaction* means, with respect to a counterparty:

(1) Any extension of credit to the counterparty, including loans, deposits, and lines of credit, but excluding uncommitted lines of credit;

(2) Any repurchase agreement or reverse repurchase agreement with the counterparty;

(3) Any securities lending or securities borrowing transaction with the counterparty;

(4) Any guarantee, acceptance, or letter of credit (including any endorsement, confirmed letter of credit, or standby letter of credit) issued on behalf of the counterparty;

(5) Any purchase of securities issued by or other investment in the counterparty;

(6) Any credit exposure to the counterparty in connection with a derivative transaction between the covered company and the counterparty;

(7) Any credit exposure to the counterparty in connection with a credit derivative or equity derivative between the covered company and a third party, the reference asset of which is an obligation or equity security of, or equity investment in, the counterparty; and

(8) Any transaction that is the functional equivalent of the above, and any other similar transaction that the Board, by regulation or order, determines to be a credit transaction for purposes of this subpart.

(i) *Depository institution* has the same meaning as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)).

(j) *Derivative transaction* means any transaction that is a contract, agreement, swap, warrant, note, or option that is based, in whole or in part, on the value of, any interest in, or any quantitative measure or the occurrence of any event relating to, one or more commodities, securities, currencies, interest or other rates, indices, or other assets.

(k) *Eligible collateral* means collateral in which, notwithstanding the prior security interest of any custodial agent, the covered company has a perfected, first priority security interest (or the legal equivalent thereof, if outside of the United States), with the exception of cash on deposit, and is in the form of:

(1) Cash on deposit with the covered company or a subsidiary of the covered company (including cash in foreign currency or U.S. dollars held for the covered company by a custodian or trustee, whether inside or outside of the United States);

(2) Debt securities (other than mortgage- or asset-backed securities and resecuritization securities, unless those securities are issued by a U.S. government-sponsored enterprise) that are bank-eligible investments and that are investment grade, except for any debt securities issued by the covered company or any subsidiary of the covered company;

(3) Equity securities that are publicly traded, except for any equity securities issued by the covered company or any subsidiary of the covered company;

(4) Convertible bonds that are publicly traded, except for any convertible bonds issued by the covered company or any subsidiary of the covered company; or

(5) Gold bullion.

(l) *Eligible credit derivative* means a single-name credit derivative or a standard, non-tranched index credit derivative, provided that:

(1) The contract meets the requirements of an eligible guarantee and has been confirmed by the protection purchaser and the protection provider;

(2) Any assignment of the contract has been confirmed by all relevant parties;

(3) If the credit derivative is a credit default swap, the contract includes the following credit events:

(i) Failure to pay any amount due under the terms of the reference exposure, subject to any applicable minimal payment threshold that is consistent with standard market practice and with a grace period that is closely in line with the grace period of the reference exposure; and

(ii) Receivership, insolvency, liquidation, conservatorship, or inability of the reference exposure issuer to pay its debts, or its failure or admission in writing of its inability generally to pay its debts as they become due, and similar events;

(4) The terms and conditions dictating the manner in which the contract is to be settled are incorporated into the contract;

(5) If the contract allows for cash settlement, the contract incorporates a robust valuation process to estimate loss reliably and specifies a reasonable period for obtaining post-credit event valuations of the reference exposure;

(6) If the contract requires the protection purchaser to transfer an exposure to the protection provider at settlement, the terms of at least one of the exposures that is permitted to be transferred under the contract provide that any required consent to transfer may not be unreasonably withheld; and

(7) If the credit derivative is a credit default swap, the contract clearly identifies the parties responsible for determining whether a credit event has occurred, specifies that this determination is not the sole responsibility of the protection provider, and gives the protection purchaser the right to notify the protection provider of the occurrence of a credit event.

(m) *Eligible equity derivative* means an equity derivative, provided that:

(1) The derivative contract has been confirmed by all relevant parties;

(2) Any assignment of the derivative contract has been confirmed by all relevant parties; and

(3) The terms and conditions dictating the manner in which the derivative contract is to be settled are incorporated into the contract.

(n) *Eligible guarantee* has the same meaning as in § 217.2 of this chapter.

(o) *Eligible guarantor* has the same meaning as in § 217.2 of this chapter.

(p) *Equity derivative* has the same meaning as ''equity derivative contract'' in § 217.2 of this chapter.

(q) *Exempt counterparty* means an entity that is identified as exempt from the requirements of this subpart under § 238.157, or that is otherwise excluded from this subpart, including any sovereign entity assigned a zero percent risk weight under the standardized approach in 12 CFR part 217, subpart D.

(r) *Financial entity* means:

(1)(i) A bank holding company or an affiliate thereof; a savings and loan holding company; a U.S. intermediate holding company established or designated pursuant to 12 CFR 252.153;

[1] In addition, under § 238.156, under certain circumstances, a covered company is required to aggregate its net credit exposure to one or more counterparties for all purposes under this subpart.

or a nonbank financial company supervised by the Board;

(ii) A depository institution as defined in section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)); an organization that is organized under the laws of a foreign country and that engages directly in the business of banking outside the United States; a federal credit union or state credit union as defined in section 2 of the Federal Credit Union Act (12 U.S.C. 1752(1) and (6)); a national association, state member bank, or state nonmember bank that is not a depository institution; an institution that functions solely in a trust or fiduciary capacity as described in section 2(c)(2)(D) of the Bank Holding Company Act (12 U.S.C. 1841(c)(2)(D)); an industrial loan company, an industrial bank, or other similar institution described in section 2(c)(2)(H) of the Bank Holding Company Act (12 U.S.C. 1841(c)(2)(H));

(iii) An entity that is state-licensed or registered as:

(A) A credit or lending entity, including a finance company; money lender; installment lender; consumer lender or lending company; mortgage lender, broker, or bank; motor vehicle title pledge lender; payday or deferred deposit lender; premium finance company; commercial finance or lending company; or commercial mortgage company; except entities registered or licensed solely on account of financing the entity's direct sales of goods or services to customers;

(B) A money services business, including a check casher; money transmitter; currency dealer or exchange; or money order or traveler's check issuer;

(iv) Any person registered with the Commodity Futures Trading Commission as a swap dealer or major swap participant pursuant to the Commodity Exchange Act of 1936 (7 U.S.C. 1 *et seq.*), or an entity that is registered with the U.S. Securities and Exchange Commission as a security-based swap dealer or a major security-based swap participant pursuant to the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*);

(v) A securities holding company as defined in section 618 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 1850a); a broker or dealer as defined in sections 3(a)(4) and 3(a)(5) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4)–(5)); an investment adviser as defined in section 202(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)); an investment company registered with the U.S. Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*); or a company that has elected to be regulated as a business development company pursuant to section 54(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–53(a));

(vi) A private fund as defined in section 202(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)); an entity that would be an investment company under section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a–3) but for section 3(c)(5)(C); or an entity that is deemed not to be an investment company under section 3 of the Investment Company Act of 1940 pursuant to Investment Company Act Rule 3a–7 (17 CFR 270.3a–7) of the U.S. Securities and Exchange Commission;

(vii) A commodity pool, a commodity pool operator, or a commodity trading advisor as defined, respectively, in sections 1a(10), 1a(11), and 1a(12) of the Commodity Exchange Act of 1936 (7 U.S.C. 1a(10), 1a(11), and 1a(12)); a floor broker, a floor trader, or introducing broker as defined, respectively, in sections 1a(22), 1a(23) and 1a(31) of the Commodity Exchange Act of 1936 (7 U.S.C. 1a(22), 1a(23), and 1a(31)); or a futures commission merchant as defined in section 1a(28) of the Commodity Exchange Act of 1936 (7 U.S.C. 1a(28));

(viii) An employee benefit plan as defined in paragraphs (3) and (32) of section 3 of the Employee Retirement Income and Security Act of 1974 (29 U.S.C. 1002);

(ix) An entity that is organized as an insurance company, primarily engaged in writing insurance or reinsuring risks underwritten by insurance companies, or is subject to supervision as such by a State insurance regulator or foreign insurance regulator;

(x) Any designated financial market utility, as defined in section 803 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5462); and

(xi) An entity that would be a financial entity described in paragraphs (r)(1)(i) through (x) of this section, if it were organized under the laws of the United States or any State thereof; and

(2) Provided that, for purposes of this subpart, ''financial entity'' does not include any counterparty that is a foreign sovereign entity or multilateral development bank.

(s) *Foreign sovereign entity* means a sovereign entity other than the United States government and the entity's agencies, departments, ministries, and central bank collectively.

(t) *Gross credit exposure* means, with respect to any credit transaction, the credit exposure of the covered company before adjusting, pursuant to § 238.154, for the effect of any eligible collateral, eligible guarantee, eligible credit derivative, eligible equity derivative, other eligible hedge, and any unused portion of certain extensions of credit.

(u) *Immediate family* means the spouse of an individual, the individual's minor children, and any of the individual's children (including adults) residing in the individual's home.

(v) *Intraday credit exposure* means credit exposure of a covered company to a counterparty that by its terms is to be repaid, sold, or terminated by the end of its business day in the United States.

(w) *Investment grade* has the same meaning as in § 217.2 of this chapter.

(x) *Multilateral development bank* has the same meaning as in § 217.2 of this chapter.

(y) *Net credit exposure* means, with respect to any credit transaction, the gross credit exposure of a covered company and all of its subsidiaries calculated under § 238.153, as adjusted in accordance with § 238.154.

(z) *Qualifying central counterparty* has the same meaning as in § 217.2 of this chapter.

(aa) *Qualifying master netting agreement* has the same meaning as in § 217.2 of this chapter.

(bb) *Securities financing transaction* means any repurchase agreement, reverse repurchase agreement, securities borrowing transaction, or securities lending transaction.

(cc) *Short sale* means any sale of a security which the seller does not own or any sale which is consummated by the delivery of a security borrowed by, or for the account of, the seller.

(dd) *Sovereign entity* means a central national government (including the U.S. government) or an agency, department, ministry, or central bank, but not including any political subdivision such as a state, province, or municipality.

(ee) *Subsidiary.* A company is a *subsidiary* of another company if:

(1) The company is consolidated by the other company under applicable accounting standards; or

(2) For a company that is not subject to principles or standards referenced in paragraph (ee)(1) of this definition, consolidation would have occurred if such principles or standards had applied.

(ff) *Tier 1 capital* means common equity tier 1 capital and additional tier 1 capital, as defined in 12 CFR part 217 and as reported by the covered savings and loan holding company on the most recent FR Y–9C report on a consolidated basis.

(gg) *Total consolidated assets.* A company's total consolidated assets are determined based on:

(1) The average of the company's total consolidated assets in the four most recent consecutive quarters as reported quarterly on the FR Y–9C; or

(2) If the company has not filed an FR Y–9C for each of the four most recent consecutive quarters, the average of the company's total consolidated assets, as reported on the company's FR Y–9C, for the most recent quarter or consecutive quarters, as applicable.

§ 238.152 Credit exposure limits.

General limit on aggregate net credit exposure. No covered company may have an aggregate net credit exposure to any counterparty that exceeds 25 percent of the tier 1 capital of the covered company.

§ 238.153 Gross credit exposure.

(a) *Calculation of gross credit exposure.* The amount of gross credit exposure of a covered company to a counterparty with respect to a credit transaction is, in the case of:

(1) A deposit of the covered company held by the counterparty, loan by a covered company to the counterparty, and lease in which the covered company is the lessor and the counterparty is the lessee, equal to the amount owed by the counterparty to the covered company under the transaction.

(2) A debt security or debt investment held by the covered company that is issued by the counterparty, equal to:

(i) The market value of the securities, for trading and available-for-sale securities; and

(ii) The amortized purchase price of the securities or investments, for securities or investments held to maturity.

(3) An equity security held by the covered company that is issued by the counterparty, equity investment in a counterparty, and other direct investments in a counterparty, equal to the market value.

(4) A securities financing transaction must be valued using any of the methods that the covered company is authorized to use under 12 CFR part 217, subparts D and E to value such transactions:

(i)(A) As calculated for each transaction, in the case of a securities financing transaction between the covered company and the counterparty that is not subject to a bilateral netting agreement or does not meet the definition of ''repo-style transaction'' in § 217.2 of this chapter; or

(B) As calculated for a netting set, in the case of a securities financing transaction between the covered company and the counterparty that is subject to a bilateral netting agreement with that counterparty and meets the definition of ''repo-style transaction'' in § 217.2 of this chapter;

(ii) For purposes of paragraph (a)(4)(i) of this section, the covered company must:

(A) Assign a value of zero to any security received from the counterparty that does not meet the definition of ''eligible collateral'' in § 238.151; and

(B) Include the value of securities that are eligible collateral received by the covered company from the counterparty (including any exempt counterparty), calculated in accordance with paragraphs (a)(4)(i) through (iv) of this section, when calculating its gross credit exposure to the issuer of those securities;

(iii) Notwithstanding paragraphs (a)(4)(i) and (ii) of this section and with respect to each credit transaction, a covered company's gross credit exposure to a collateral issuer under this paragraph (a)(4) is limited to the covered company's gross credit exposure to the counterparty on the credit transaction; and

(iv) In cases where the covered company receives eligible collateral from a counterparty in addition to the cash or securities received from that counterparty, the counterparty may reduce its gross credit exposure to that counterparty in accordance with § 238.154(b).

(5) A committed credit line extended by a covered company to a counterparty, equal to the face amount of the committed credit line.

(6) A guarantee or letter of credit issued by a covered company on behalf of a counterparty, equal to the maximum potential loss to the covered company on the transaction.

(7) A derivative transaction must be valued using any of the methods that the covered company is authorized to use under 12 CFR part 217, subparts D and E to value such transactions:

(i)(A) As calculated for each transaction, in the case of a derivative transaction between the covered company and the counterparty, including an equity derivative but excluding a credit derivative described in paragraph (a)(8) of this section, that is not subject to a qualifying master netting agreement; or

(B) As calculated for a netting set, in the case of a derivative transaction between the covered company and the counterparty, including an equity derivative but excluding a credit derivative described in paragraph (a)(8) of this section, that is subject to a qualifying master netting agreement.

(ii) In cases where a covered company is required to recognize an exposure to an eligible guarantor pursuant to § 238.154(d), the covered company must exclude the relevant derivative transaction when calculating its gross exposure to the original counterparty under this section.

(8) A credit derivative between the covered company and a third party where the covered company is the protection provider and the reference asset is an obligation or debt security of the counterparty, equal to the maximum potential loss to the covered company on the transaction.

(b) *Investments in and exposures to securitization vehicles, investment funds, and other special purpose vehicles that are not subsidiaries.* Notwithstanding paragraph (a) of this section, a covered company must calculate pursuant to § 238.155 its gross credit exposure due to any investment in the debt or equity of, and any credit derivative or equity derivative between the covered company and a third party where the covered company is the protection provider and the reference asset is an obligation or equity security of, or equity investment in, a securitization vehicle, investment fund, and other special purpose vehicle that is not a subsidiary of the covered company.

(c) *Attribution rule.* Notwithstanding any other requirement in this subpart, a covered company must treat any transaction with any natural person or entity as a credit transaction with another party, to the extent that the proceeds of the transaction are used for the benefit of, or transferred to, the other party.

§ 238.154 Net credit exposure.

(a) *In general.* For purposes of this subpart, a covered company must calculate its net credit exposure to a counterparty by adjusting its gross credit exposure to that counterparty in accordance with the rules set forth in this section.

(b) *Eligible collateral.* (1) In computing its net credit exposure to a counterparty for any credit transaction other than a securities financing transaction, a covered company must reduce its gross credit exposure on the transaction by the adjusted market value of any eligible collateral.

(2) A covered company that reduces its gross credit exposure to a counterparty as required under paragraph (b)(1) of this section must include the adjusted market value of the eligible collateral, when calculating its

gross credit exposure to the collateral issuer.

(3) Notwithstanding paragraph (b)(2) of this section, a covered company's gross credit exposure to a collateral issuer under this paragraph (b) is limited to:

(i) Its gross credit exposure to the counterparty on the credit transaction, or

(ii) In the case of an exempt counterparty, the gross credit exposure that would have been attributable to that exempt counterparty on the credit transaction if valued in accordance with § 238.153(a).

(c) *Eligible guarantees.* (1) In calculating net credit exposure to a counterparty for any credit transaction, a covered company must reduce its gross credit exposure to the counterparty by the amount of any eligible guarantee from an eligible guarantor that covers the transaction.

(2) A covered company that reduces its gross credit exposure to a counterparty as required under paragraph (c)(1) of this section must include the amount of eligible guarantees when calculating its gross credit exposure to the eligible guarantor.

(3) Notwithstanding paragraph (c)(2) of this section, a covered company's gross credit exposure to an eligible guarantor with respect to an eligible guarantee under this paragraph (c) is limited to:

(i) Its gross credit exposure to the counterparty on the credit transaction prior to recognition of the eligible guarantee, or

(ii) In the case of an exempt counterparty, the gross credit exposure that would have been attributable to that exempt counterparty on the credit transaction prior to recognition of the eligible guarantee if valued in accordance with § 238.153(a).

(d) *Eligible credit and equity derivatives.* (1) In calculating net credit exposure to a counterparty for a credit transaction under this section, a covered company must reduce its gross credit exposure to the counterparty by:

(i) In the case of any eligible credit derivative from an eligible guarantor, the notional amount of the eligible credit derivative; or

(ii) In the case of any eligible equity derivative from an eligible guarantor, the gross credit exposure amount to the counterparty (calculated in accordance with § 238.153(a)(7)).

(2)(i) A covered company that reduces its gross credit exposure to a counterparty as provided under paragraph (d)(1) of this section must include, when calculating its net credit exposure to the eligible guarantor, including in instances where the underlying credit transaction would not be subject to the credit limits of § 238.152 (for example, due to an exempt counterparty), either

(A) In the case of any eligible credit derivative from an eligible guarantor, the notional amount of the eligible credit derivative; or

(B) In the case of any eligible equity derivative from an eligible guarantor, the gross credit exposure amount to the counterparty (calculated in accordance with § 238.153(a)(7)).

(ii) Notwithstanding paragraph (d)(2)(i) of this section, in cases where the eligible credit derivative or eligible equity derivative is used to hedge covered positions that are subject to the Board's market risk rule (12 CFR part 217, subpart F) and the counterparty on the hedged transaction is not a financial entity, the amount of credit exposure that a company must recognize to the eligible guarantor is the amount that would be calculated pursuant to § 238.153(a).

(3) Notwithstanding paragraph (d)(2) of this section, a covered company's gross credit exposure to an eligible guarantor with respect to an eligible credit derivative or an eligible equity derivative under this paragraph (d) is limited to:

(i) Its gross credit exposure to the counterparty on the credit transaction prior to recognition of the eligible credit derivative or the eligible equity derivative, or

(ii) In the case of an exempt counterparty, the gross credit exposure that would have been attributable to that exempt counterparty on the credit transaction prior to recognition of the eligible credit derivative or the eligible equity derivative if valued in accordance with § 238.153(a).

(e) *Other eligible hedges.* In calculating net credit exposure to a counterparty for a credit transaction under this section, a covered company may reduce its gross credit exposure to the counterparty by the face amount of a short sale of the counterparty's debt security or equity security, provided that:

(1) The instrument in which the covered company has a short position is junior to, or pari passu with, the instrument in which the covered company has the long position; and

(2) The instrument in which the covered company has a short position and the instrument in which the covered company has the long position are either both treated as trading or available-for-sale exposures or both treated as held-to-maturity exposures.

(f) *Unused portion of certain extensions of credit.* (1) In computing its net credit exposure to a counterparty for a committed credit line or revolving credit facility under this section, a covered company may reduce its gross credit exposure by the amount of the unused portion of the credit extension to the extent that the covered company does not have any legal obligation to advance additional funds under the extension of credit and the used portion of the credit extension has been fully secured by eligible collateral.

(2) To the extent that the used portion of a credit extension has been secured by eligible collateral, the covered company may reduce its gross credit exposure by the adjusted market value of any eligible collateral received from the counterparty, even if the used portion has not been fully secured by eligible collateral.

(3) To qualify for the reduction in net credit exposure under this paragraph, the credit contract must specify that any used portion of the credit extension must be fully secured by the adjusted market value of any eligible collateral.

(g) *Credit transactions involving exempt counterparties.* (1) A covered company's credit transactions with an exempt counterparty are not subject to the requirements of this subpart, including but not limited to § 238.152.

(2) Notwithstanding paragraph (g)(1) of this section, in cases where a covered company has a credit transaction with an exempt counterparty and the covered company has obtained eligible collateral from that exempt counterparty or an eligible guarantee or eligible credit or equity derivative from an eligible guarantor, the covered company must include (for purposes of this subpart) such exposure to the issuer of such eligible collateral or the eligible guarantor, as calculated in accordance with the rules set forth in this section, when calculating its gross credit exposure to that issuer of eligible collateral or eligible guarantor.

(h) *Currency mismatch adjustments.* For purposes of calculating its net credit exposure to a counterparty under this section, a covered company must apply, as applicable:

(1) When reducing its gross credit exposure to a counterparty resulting from any credit transaction due to any eligible collateral and calculating its gross credit exposure to an issuer of eligible collateral, pursuant to paragraph (b) of this section, the currency mismatch adjustment approach of § 217.37(c)(3)(ii) of this chapter; and

(2) When reducing its gross credit exposure to a counterparty resulting from any credit transaction due to any

eligible guarantee, eligible equity derivative, or eligible credit derivative from an eligible guarantor and calculating its gross credit exposure to an eligible guarantor, pursuant to paragraphs (c) and (d) of this section, the currency mismatch adjustment approach of § 217.36(f) of this chapter.

(i) *Maturity mismatch adjustments.* For purposes of calculating its net credit exposure to a counterparty under this section, a covered company must apply, as applicable, the maturity mismatch adjustment approach of § 217.36(d) of this chapter:

(1) When reducing its gross credit exposure to a counterparty resulting from any credit transaction due to any eligible collateral or any eligible guarantees, eligible equity derivatives, or eligible credit derivatives from an eligible guarantor, pursuant to paragraphs (b) through (d) of this section, and

(2) In calculating its gross credit exposure to an issuer of eligible collateral, pursuant to paragraph (b) of this section, or to an eligible guarantor, pursuant to paragraphs (c) and (d) of this section; provided that

(3) The eligible collateral, eligible guarantee, eligible equity derivative, or eligible credit derivative subject to paragraph (i)(1) of this section:

(i) Has a shorter maturity than the credit transaction;

(ii) Has an original maturity equal to or greater than one year;

(iii) Has a residual maturity of not less than three months; and

(iv) The adjustment approach is otherwise applicable.

§ 238.155 Investments in and exposures to securitization vehicles, investment funds, and other special purpose vehicles that are not subsidiaries of the covered company.

(a) *In general.* (1) For purposes of this section, the following definitions apply:

(i) *SPV* means a securitization vehicle, investment fund, or other special purpose vehicle that is not a subsidiary of the covered company.

(ii) *SPV exposure* means an investment in the debt or equity of an SPV, or a credit derivative or equity derivative between the covered company and a third party where the covered company is the protection provider and the reference asset is an obligation or equity security of, or equity investment in, an SPV.

(2)(i) A covered company must determine whether the amount of its gross credit exposure to an issuer of assets in an SPV, due to an SPV exposure, is equal to or greater than 0.25 percent of the covered company's tier 1 capital using one of the following two methods:

(A) The sum of all of the issuer's assets (with each asset valued in accordance with § 238.153(a)) in the SPV; or

(B) The application of the look-through approach described in paragraph (b) of this section.

(ii) With respect to the determination required under paragraph (a)(2)(i) of this section, a covered company must use the same method to calculate gross credit exposure to each issuer of assets in a particular SPV.

(iii) In making a determination under paragraph (a)(2)(i) of this section, the covered company must consider only the credit exposure to the issuer arising from the covered company's SPV exposure.

(iv) For purposes of this paragraph (a)(2), a covered company that is unable to identify each issuer of assets in an SPV must attribute to a single unknown counterparty the amount of its gross credit exposure to all unidentified issuers and calculate such gross credit exposure using one method in either paragraph (a)(2)(i)(A) or (a)(2)(i)(B) of this section.

(3)(i) If a covered company determines pursuant to paragraph (a)(2) of this section that the amount of its gross credit exposure to an issuer of assets in an SPV is less than 0.25 percent of the covered company's tier 1 capital, the amount of the covered company's gross credit exposure to that issuer may be attributed to either that issuer of assets or the SPV:

(A) If attributed to the issuer of assets, the issuer of assets must be identified as a counterparty, and the gross credit exposure calculated under paragraph (a)(2)(i)(A) of this section to that issuer of assets must be aggregated with any other gross credit exposures (valued in accordance with § 238.153) to that same counterparty; and

(B) If attributed to the SPV, the covered company's gross credit exposure is equal to the covered company's SPV exposure, valued in accordance with § 238.153(a).

(ii) If a covered company determines pursuant to paragraph (a)(2) of this section that the amount of its gross credit exposure to an issuer of assets in an SPV is equal to or greater than 0.25 percent of the covered company's tier 1 capital or the covered company is unable to determine that the amount of the gross credit exposure is less than 0.25 percent of the covered company's tier 1 capital:

(A) The covered company must calculate the amount of its gross credit exposure to the issuer of assets in the SPV using the look-through approach in paragraph (b) of this section;

(B) The issuer of assets in the SPV must be identified as a counterparty, and the gross credit exposure calculated in accordance with paragraph (b) must be aggregated with any other gross credit exposures (valued in accordance with § 238.153) to that same counterparty; and

(C) When applying the look-through approach in paragraph (b) of this section, a covered company that is unable to identify each issuer of assets in an SPV must attribute to a single unknown counterparty the amount of its gross credit exposure, calculated in accordance with paragraph (b) of this section, to all unidentified issuers.

(iii) For purposes of this section, a covered company must aggregate all gross credit exposures to unknown counterparties for all SPVs as if the exposures related to a single unknown counterparty; this single unknown counterparty is subject to the limits of § 238.152 as if it were a single counterparty.

(b) *Look-through approach.* A covered company that is required to calculate the amount of its gross credit exposure with respect to an issuer of assets in accordance with this paragraph (b) must calculate the amount as follows:

(1) Where all investors in the SPV rank *pari passu,* the amount of the gross credit exposure to the issuer of assets is equal to the covered company's pro rata share of the SPV multiplied by the value of the underlying asset in the SPV, valued in accordance with § 238.153(a); and

(2) Where all investors in the SPV do not rank *pari passu,* the amount of the gross credit exposure to the issuer of assets is equal to:

(i) The pro rata share of the covered company's investment in the tranche of the SPV; multiplied by

(ii) The lesser of:

(A) The market value of the tranche in which the covered company has invested, except in the case of a debt security that is held to maturity, in which case the tranche must be valued at the amortized purchase price of the securities; and

(B) The value of each underlying asset attributed to the issuer in the SPV, each as calculated pursuant to § 238.153(a).

(c) *Exposures to third parties.* (1) Notwithstanding any other requirement in this section, a covered company must recognize, for purposes of this subpart, a gross credit exposure to each third party that has a contractual obligation to provide credit or liquidity support to an SPV whose failure or material financial distress would cause a loss in the value of the covered company's SPV exposure.

(2) The amount of any gross credit exposure that is required to be recognized to a third party under paragraph (c)(1) of this section is equal to the covered company's SPV exposure, up to the maximum contractual obligation of that third party to the SPV, valued in accordance with § 238.153(a). (This gross credit exposure is in addition to the covered company's gross credit exposure to the SPV or the issuers of assets of the SPV, calculated in accordance with paragraphs (a) and (b) of this section.)

(3) A covered company must aggregate the gross credit exposure to a third party recognized in accordance with paragraphs (c)(1) and (2) of this section with its other gross credit exposures to that third party (that are unrelated to the SPV) for purposes of compliance with the limits of § 238.152.

§ 238.156 Aggregation of exposures to more than one counterparty due to economic interdependence or control relationships.

(a) *In general.* (1) If a covered company has an aggregate net credit exposure to any counterparty that exceeds 5 percent of its tier 1 capital, the covered company must assess its relationship with the counterparty under paragraph (b)(2) of this section to determine whether the counterparty is economically interdependent with one or more other counterparties of the covered company and under paragraph (c)(1) of this section to determine whether the counterparty is connected by a control relationship with one or more other counterparties.

(2) If, pursuant to an assessment required under paragraph (a)(1) of this section, the covered company determines that one or more of the factors of paragraph (b)(2) or (c)(1) of this section are met with respect to one or more counterparties, or the Board determines pursuant to paragraph (d) of this section that one or more other counterparties of a covered company are economically interdependent or that one or more other counterparties of a covered company are connected by a control relationship, the covered company must aggregate its net credit exposure to the counterparties for all purposes under this subpart, including, but not limited to, § 238.152.

(3) In connection with any request pursuant to paragraph (b)(3) or (c)(2) of this section, the Board may require the covered company to provide additional information.

(b) *Aggregation of exposures to more than one counterparty due to economic interdependence.* (1) For purposes of this paragraph, two counterparties are economically interdependent if the failure, default, insolvency, or material financial distress of one counterparty would cause the failure, default, insolvency, or material financial distress of the other counterparty, taking into account the factors in paragraph (b)(2) of this section.

(2) A covered company must assess whether the financial distress of one counterparty (counterparty A) would prevent the ability of the other counterparty (counterparty B) to fully and timely repay counterparty B's liabilities and whether the insolvency or default of counterparty A is likely to be associated with the insolvency or default of counterparty B and, therefore, these counterparties are economically interdependent, by evaluating the following:

(i) Whether 50 percent or more of one counterparty's gross revenue is derived from, or gross expenditures are directed to, transactions with the other counterparty;

(ii) Whether counterparty A has fully or partly guaranteed the credit exposure of counterparty B, or is liable by other means, in an amount that is 50 percent or more of the covered company's net credit exposure to counterparty A;

(iii) Whether 25 percent or more of one counterparty's production or output is sold to the other counterparty, which cannot easily be replaced by other customers;

(iv) Whether the expected source of funds to repay the loans of both counterparties is the same and neither counterparty has another independent source of income from which the loans may be serviced and fully repaid; [1] and

(v) Whether two or more counterparties rely on the same source for the majority of their funding and, in the event of the common provider's default, an alternative provider cannot be found.

(3)(i) Notwithstanding paragraph (b)(2) of this section, if a covered company determines that one or more of the factors in paragraph (b)(2) is met, the covered company may request in writing a determination from the Board that those counterparties are not economically interdependent and that the covered company is not required to aggregate those counterparties.

(ii) Upon a request by a covered company pursuant to paragraph (b)(3) of this section, the Board may grant temporary relief to the covered company and not require the covered company to aggregate one counterparty with another counterparty provided that the counterparty could promptly modify its business relationships, such as by reducing its reliance on the other counterparty, to address any economic interdependence concerns, and provided that such relief is in the public interest and is consistent with the purpose of this subpart.

(c) *Aggregation of exposures to more than one counterparty due to certain control relationships.* (1) For purposes of this subpart, one counterparty (counterparty A) is deemed to control the other counterparty (counterparty B) if:

(i) Counterparty A owns, controls, or holds with the power to vote 25 percent or more of any class of voting securities of counterparty B; or

(ii) Counterparty A controls in any manner the election of a majority of the directors, trustees, or general partners (or individuals exercising similar functions) of counterparty B.

(2)(i) Notwithstanding paragraph (c)(1) of this section, if a covered company determines that one or more of the factors in paragraph (c)(1) is met, the covered company may request in writing a determination from the Board that counterparty A does not control counterparty B and that the covered company is not required to aggregate those counterparties.

(ii) Upon a request by a covered company pursuant to paragraph (c)(2) of this section, the Board may grant temporary relief to the covered company and not require the covered company to aggregate counterparty A with counterparty B provided that, taking into account the specific facts and circumstances, such indicia of control does not result in the entities being connected by control relationships for purposes of this subpart, and provided that such relief is in the public interest and is consistent with the purpose of this subpart.

(d) *Board determinations for aggregation of counterparties due to economic interdependence or control relationships.* The Board may determine, after notice to the covered company and opportunity for hearing, that one or more counterparties of a covered company are:

(1) Economically interdependent for purposes of this subpart, considering the factors in paragraph (b)(2) of this section, as well as any other indicia of economic interdependence that the Board determines in its discretion to be relevant; or

(2) Connected by control relationships for purposes of this subpart, considering the factors in paragraph (c)(1) of this section and whether counterparty A:

[1] An employer will not be treated as a source of repayment under this paragraph because of wages and salaries paid to an employee.

(i) Controls the power to vote 25 percent or more of any class of voting securities of Counterparty B pursuant to a voting agreement;

(ii) Has significant influence on the appointment or dismissal of counterparty B's administrative, management, or governing body, or the fact that a majority of members of such body have been appointed solely as a result of the exercise of counterparty A's voting rights; or

(iii) Has the power to exercise a controlling influence over the management or policies of counterparty B.

(e) *Board determinations for aggregation of counterparties to prevent evasion.* Notwithstanding paragraphs (b) and (c) of this section, a covered company must aggregate its exposures to a counterparty with the covered company's exposures to another counterparty if the Board determines in writing after notice and opportunity for hearing, that the exposures to the two counterparties must be aggregated to prevent evasions of the purposes of this subpart, including, but not limited to § 238.156.

§ 238.157 Exemptions.

(a) *Exempted exposure categories.* The following categories of credit transactions are exempt from the limits on credit exposure under this subpart:

(1) Any direct claim on, and the portion of a claim that is directly and fully guaranteed as to principal and interest by, the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, only while operating under the conservatorship or receivership of the Federal Housing Finance Agency, and any additional obligation issued by a U.S. government-sponsored entity as determined by the Board;

(2) Intraday credit exposure to a counterparty;

(3) Any trade exposure to a qualifying central counterparty related to the covered company's clearing activity, including potential future exposure arising from transactions cleared by the qualifying central counterparty and pre-funded default fund contributions;

(4) Any credit transaction with the Bank for International Settlements, the International Monetary Fund, the International Bank for Reconstruction and Development, the International Finance Corporation, the International Development Association, the Multilateral Investment Guarantee Agency, or the International Centre for Settlement of Investment Disputes;

(5) Any credit transaction with the European Commission or the European Central Bank; and

(6) Any transaction that the Board exempts if the Board finds that such exemption is in the public interest and is consistent with the purpose of this subpart.

(b) *Exemption for Federal Home Loan Banks.* For purposes of this subpart, a covered company does not include any Federal Home Loan Bank.

(c) *Additional exemptions by the Board.* The Board may, by regulation or order, exempt transactions, in whole or in part, from the definition of the term ''credit exposure,'' if the Board finds that the exemption is in the public interest.

§ 238.158 Compliance.

(a) *Scope of compliance.* (1) Using all available data, including any data required to be maintained or reported to the Federal Reserve under this subpart, a covered company must comply with the requirements of this subpart on a daily basis at the end of each business day.

(2) A covered company must report its compliance to the Federal Reserve as of the end of the quarter, unless the Board determines and notifies that company in writing that more frequent reporting is required.

(3) In reporting its compliance, a covered company must calculate and include in its gross credit exposure to an issuer of eligible collateral or eligible guarantor the amounts of eligible collateral, eligible guarantees, eligible equity derivatives, and eligible credit derivatives that were provided to the covered company in connection with credit transactions with exempt counterparties, valued in accordance with and as required by § 238.154(b) through (d) and (g).

(b) *Qualifying master netting agreement.* With respect to any qualifying master netting agreement, a covered company must establish and maintain procedures that meet or exceed the requirements of § 217.3(d) of this chapter to monitor possible changes in relevant law and to ensure that the agreement continues to satisfy these requirements.

(c) *Noncompliance.* (1) Except as otherwise provided in this section, if a covered company is not in compliance with this subpart with respect to a counterparty solely due to the circumstances listed in paragraphs (c)(2)(i) through (v) of this section, the covered company will not be subject to enforcement actions for a period of 90 days (or, with prior notice to the company, such shorter or longer period determined by the Board, in its sole discretion, to be appropriate to preserve the safety and soundness of the covered company), if the covered company uses reasonable efforts to return to compliance with this subpart during this period. The covered company may not engage in any additional credit transactions with such a counterparty in contravention of this rule during the period of noncompliance, except as provided in paragraph (c)(2) of this section.

(2) A covered company may request a special temporary credit exposure limit exemption from the Board. The Board may grant approval for such exemption in cases where the Board determines that such credit transactions are necessary or appropriate to preserve the safety and soundness of the covered company. In acting on a request for an exemption, the Board will consider the following:

(i) A decrease in the covered company's capital stock and surplus;

(ii) The merger of the covered company with another covered company;

(iii) A merger of two counterparties; or

(iv) An unforeseen and abrupt change in the status of a counterparty as a result of which the covered company's credit exposure to the counterparty becomes limited by the requirements of this section; or

(v) Any other factor(s) the Board determines, in its discretion, is appropriate.

(d) *Other measures.* The Board may impose supervisory oversight and additional reporting measures that it determines are appropriate to monitor compliance with this subpart. Covered companies must furnish, in the manner and form prescribed by the Board, such information to monitor compliance with this subpart and the limits therein as the Board may require.

PART 242—DEFINITIONS RELATING TO TITLE I OF THE DODD-FRANK ACT (REGULATION PP)

■ 11. The authority citation for part 242 continues to read as follows:

Authority: 12 U.S.C. 5311.

■ 12. In § 242.1, paragraph (b)(1)(ii)(B) is revised to read as follows:

§ 242.1 Authority and purpose

* * * * *

(b) * * *

(i) * * *

(ii) * * *

(B) A bank holding company or foreign bank subject to the Bank Holding Company Act (BHC Act) (12

U.S.C. 1841 *et seq.*) that is a bank holding company described in section 165(a) of the Dodd-Frank Act (12 U.S.C. 5365(a)).

* * * * *

■ 13. Section 242.4 is revised to read as follows:

§ 242.4 Significant nonbank financial companies and significant bank holding companies

For purposes of Title I of the Dodd-Frank Act, the following definitions shall apply:

(a) *Significant nonbank financial company.* A ''significant nonbank financial company'' means—

(1) Any nonbank financial company supervised by the Board; and

(2) Any other nonbank financial company that had $100 billion or more in total consolidated assets (as determined in accordance with applicable accounting standards) as of the end of its most recently completed fiscal year.

(b) *Significant bank holding company.* A ''significant bank holding company'' means any bank holding company or company that is, or is treated in the United States as, a bank holding company, that had $100 billion or more in total consolidated assets as of the end of the most recently completed calendar year, as reported on either the Federal Reserve's FR Y–9C (Consolidated Financial Statement for Holding Companies), or any successor form thereto, or the Federal Reserve's Form FR Y–7Q (Capital and Asset Report for Foreign Banking Organizations), or any successor form thereto.

PART 252—ENHANCED PRUDENTIAL STANDARDS (REGULATION YY)

■ 14. The authority citation for part 252 continues to read as follows:

Authority: 12 U.S.C. 321–338a, 481–486, 1467a, 1818, 1828, 1831n, 1831o, 1831p–l, 1831w, 1835, 1844(b), 1844(c), 3101 *et seq.,* 3101 note, 3904, 3906–3909, 4808, 5361, 5362, 5365, 5366, 5367, 5368, 5371.

Subpart A—General Provisions

■ 15. In § 252.1, paragraph (b) is revised to read as follows:

§ 252.1 Authority and purpose.

(a) * * *

(b) *Purpose.* This part implements certain provisions of section 165 of the Dodd-Frank Act (12 U.S.C. 5365), which require the Board to establish enhanced prudential standards for certain bank holding companies, foreign banking organizations, nonbank financial companies supervised by the Board, and certain other companies.

■ 16. Section 252.2 is revised as follows:

§ 252.2 Definitions.

Unless otherwise specified, the following definitions apply for purposes of this part:

Affiliate has the same meaning as in section 2(k) of the Bank Holding Company Act (12 U.S.C. 1841(k)) and § 225.2(a) of this chapter.

Applicable accounting standards means U.S. generally accepted accounting principles, international financial reporting standards, or such other accounting standards that a company uses in the ordinary course of its business in preparing its consolidated financial statements.

Average cross-jurisdictional activity. A banking organization's average cross-jurisdictional activity is equal to the average of its cross jurisdictional activity for the four most recent calendar quarters or, if the company has not filed the FR Y–15 for each of the four most recent calendar quarters, for the most recent quarter or quarters, as applicable. Cross-jurisdictional activity is the sum of cross-jurisdictional claims and cross-jurisdictional liabilities.

Average off-balance sheet exposure. A banking organization's average off-balance sheet exposure is equal to the average of its off-balance sheet exposure for the four most recent calendar quarters or, if the banking organization has not filed each of the applicable reporting forms for each of the four most recent calendar quarters, for the most recent quarter or quarters, as applicable. Off-balance sheet exposure is equal to:

(1) The total exposures of the banking organization, as reported by the banking organization on the FR Y–15 for each of the four most recent calendar quarters, or for the most recent quarter or quarters, as applicable; minus

(2) The total consolidated assets of the banking organization.

Average total consolidated assets. Average total consolidated assets of a banking organization are equal to its consolidated assets, calculated based on the average of the holding company's total consolidated assets in the four most recent quarters as reported quarterly on the FR Y–9C. If the holding company has not filed the FR Y–9C for each of the four most recent consecutive quarters, total consolidated assets means the average of its total consolidated assets, as reported on the FR Y–9C, for the most recent quarter or consecutive quarters, as applicable. Total consolidated assets are measured on the as-of date of the most recent FR Y–9C used in the calculation of the average.

Average total nonbank assets. A banking organization's average total nonbank assets is equal to the average of the total nonbank assets of the banking organization, as reported on the FR Y–9LP, for the four most recent calendar quarters or, if the organization has not filed the FR Y–9LP for each of the four most recent calendar quarters, for the most recent quarter or quarters, as applicable.

Average weighted short-term wholesale funding. A banking organization's average weighted short-term wholesale funding is equal to the average of the banking organization's weighted short-term wholesale funding, as reported on the FR Y–15, for each of the four most recent calendar quarters or, if the banking organization has not filed the FR Y–15 for each of the four most recent calendar quarters, for the most recent quarter or quarters, as applicable.

Bank holding company has the same meaning as in section 2(a) of the Bank Holding Company Act (12 U.S.C. 1841(a)) and § 225.2(c) of this chapter.

Banking organization. Banking organization means a bank holding company that is:

(1) Incorporated in or organized under the laws of the United States or in any State;

(2) Not a consolidated subsidiary of a bank holding company that is incorporated in or organized under the laws of the United States or in any State; and

(3) Is not a U.S. intermediate holding company established or designated by a foreign banking organization.

Board means the Board of Governors of the Federal Reserve System.

Category II bank holding company means a bank holding company identified as a Category II banking organization pursuant to § 252.5.

Category III bank holding company means a bank holding company identified as a Category III banking organization pursuant to § 252.5.

Category IV bank holding company means a bank holding company identified as a Category IV banking organization pursuant to § 252.5.

Combined U.S. operations of a foreign banking organization means:

(1) Its U.S. branches and agencies, if any; and

(2)(i) If the foreign banking organization has established a U.S. intermediate holding company, the U.S. intermediate holding company and the subsidiaries of such U.S. intermediate holding company; or

(ii) If the foreign banking organization has not established a U.S. intermediate holding company, the U.S. subsidiaries of the foreign banking organization (excluding any section 2(h)(2) company,

if applicable), and subsidiaries of such U.S. subsidiaries.

Company means a corporation, partnership, limited liability company, depository institution, business trust, special purpose entity, association, or similar organization.

Control has the same meaning as in section 2(a) of the Bank Holding Company Act (12 U.S.C. 1841(a)), and the terms controlled and controlling shall be construed consistently with the term control.

Council means the Financial Stability Oversight Council established by section 111 of the Dodd-Frank Act (12 U.S.C. 5321).

Credit enhancement means a qualified financial contract of the type set forth in section 210(c)(8)(D)(ii)(XII), (iii)(X), (iv)(V), (v)(VI), or (vi)(VI) of Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5390(c)(8)(D)(ii)(XII), (iii)(X), (iv)(V), (v)(VI), or (vi)(VI)) or a credit enhancement that the Federal Deposit Insurance Corporation determines by regulation is a qualified financial contract pursuant to section 210(c)(8)(D)(i) of Title II of the act (12 U.S.C. 5390(c)(8)(D)(i)).

Cross-jurisdictional activity. A banking organization's cross-jurisdictional activity is equal to the sum of its cross-jurisdictional claims and cross-jurisdictional liabilities, as reported on the FR Y–15.

Depository institution has the same meaning as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)).

DPC branch subsidiary means any subsidiary of a U.S. branch or a U.S. agency acquired, or formed to hold assets acquired, in the ordinary course of business and for the sole purpose of securing or collecting debt previously contracted in good faith by that branch or agency.

Foreign banking organization has the same meaning as in § 211.21(o) of this chapter, provided that if the top-tier foreign banking organization is incorporated in or organized under the laws of any State, the foreign banking organization shall not be treated as a foreign banking organization for purposes of this part.

FR Y–7 means the Annual Report of Foreign Banking Organizations reporting form.

FR Y–7Q means the Capital and Asset Report for Foreign Banking Organizations reporting form.

FR Y–9C means the Consolidated Financial Statements for Holding Companies reporting form.

FR Y–9LP means the Parent Company Only Financial Statements of Large Holding Companies.

FR Y–15 means the Banking Organization Systemic Risk Report.

Global methodology means the assessment methodology and the higher loss absorbency requirement for global systemically important banks issued by the Basel Committee on Banking Supervision, as updated from time to time.

Global systemically important BHC means a bank holding company identified as a global systemically important BHC pursuant to 12 CFR 217.402.

Global systemically important banking organization means a global systemically important bank, as such term is defined in the global methodology.

Global systemically important foreign banking organization means a top-tier foreign banking organization that is identified as a global systemically important foreign banking organization under § 252.153(b)(4).

GAAP means generally accepted accounting principles as used in the United States.

Home country, with respect to a foreign banking organization, means the country in which the foreign banking organization is chartered or incorporated.

Home country resolution authority, with respect to a foreign banking organization, means the governmental entity or entities that under the laws of the foreign banking organization's home county has responsibility for the resolution of the top-tier foreign banking organization.

Home country supervisor, with respect to a foreign banking organization, means the governmental entity or entities that under the laws of the foreign banking organization's home county has responsibility for the supervision and regulation of the top-tier foreign banking organization.

Nonbank financial company supervised by the Board means a company that the Council has determined under section 113 of the Dodd-Frank Act (12 U.S.C. 5323) shall be supervised by the Board and for which such determination is still in effect.

Non-U.S. affiliate means any affiliate of a foreign banking organization that is incorporated or organized in a country other than the United States.

Off-balance sheet exposure A banking organization's off-balance sheet exposure is equal to:

(1) The total exposure of the banking organization, as reported by the banking organization on the FR Y–15; minus

(2) The total consolidated assets of the banking organization for the same calendar quarter.

Publicly traded means an instrument that is traded on:

(1) Any exchange registered with the U.S. Securities and Exchange Commission as a national securities exchange under section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f); or

(2) Any non-U.S.-based securities exchange that:

(i) Is registered with, or approved by, a non-U.S. national securities regulatory authority; and

(ii) Provides a liquid, two-way market for the instrument in question, meaning that there are enough independent bona fide offers to buy and sell so that a sales price reasonably related to the last sales price or current bona fide competitive bid and offer quotations can be determined promptly and a trade can be settled at such price within a reasonable time period conforming with trade custom.

(3) A company can rely on its determination that a particular non-U.S.-based securities exchange provides a liquid two-way market unless the Board determines that the exchange does not provide a liquid two-way market.

Section 2(h)(2) company has the same meaning as in section 2(h)(2) of the Bank Holding Company Act (12 U.S.C. 1841(h)(2)).

State means any state, commonwealth, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, or the United States Virgin Islands.

Subsidiary has the same meaning as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

Top-tier foreign banking organization, with respect to a foreign bank, means the top-tier foreign banking organization or, alternatively, a subsidiary of the top-tier foreign banking organization designated by the Board.

Total consolidated assets Total consolidated assets of a banking organization are equal to its consolidated assets, as reported on the FR Y–9C.

Total nonbank assets A banking organization's total nonbank assets are equal to the total nonbank assets of the banking organization, as reported on the FR Y–9LP.

U.S. agency has the same meaning as the term ''agency'' in § 211.21(b) of this chapter.

U.S. branch has the same meaning as the term ''branch'' in § 211.21(e) of this chapter.

U.S. branches and agencies means the U.S. branches and U.S. agencies of a foreign banking organization.

U.S. government agency means an agency or instrumentality of the United States whose obligations are fully and explicitly guaranteed as to the timely payment of principal and interest by the full faith and credit of the United States.

U.S. government-sponsored enterprise means an entity originally established or chartered by the U.S. government to serve public purposes specified by the U.S. Congress, but whose obligations are not explicitly guaranteed by the full faith and credit of the United States.

U.S. intermediate holding company means the top-tier U.S. company that is required to be established pursuant to § 252.153.

U.S. subsidiary means any subsidiary that is incorporated in or organized under the laws of the United States or in any State, commonwealth, territory, or possession of the United States, the Commonwealth of Puerto Rico, the Commonwealth of the North Mariana Islands, the American Samoa, Guam, or the United States Virgin Islands.

Weighted short-term wholesale funding means a banking organization's weighted short-term wholesale funding that is equal to the banking organization's weighted short-term wholesale funding, as reported on the FR Y–15.

■ 17. Add § 252.5 to subpart A to read as follows:

§ 252.5 Categorization of banking organizations.

(a) *General.* A banking organization with average total consolidated assets of $100 billion or more must determine its category among the four categories described in paragraphs (b) through (e) of this section at least quarterly.

(b) *Global systemically important BHC.* (1) A banking organization is a global systemically important BHC if the banking organization is identified as a global systemically important BHC pursuant to 12 CFR 217.402.

(2) After meeting the criteria in paragraph (b)(1) of this section, a banking organization continues to be a global systemically important BHC until the banking organization has not been identified as a global systemically important BHC in each of the four most recent calendar quarters.

(c) *Category II.* (1) A banking organization is a Category II banking organization if the banking organization:

(i)(A) Has $700 billion or more in average total consolidated assets; or

(B) Has $75 billion or more in average cross-jurisdictional activity and $100 billion or more in average total consolidated assets; and

(ii) Is not a global systemically important BHC.

(2) After meeting the criteria in paragraph (c)(1) of this section, a banking organization continues to be a Category II banking organization until the banking organization:

(i) Has:

(A) Less than $700 billion in total consolidated assets for each of the four most recent calendar quarters; and

(B) Less than $75 billion in cross-jurisdictional activity for each of the four most recent calendar quarters;

(ii) Has less than $100 billion in total consolidated assets for each of the four most recent calendar quarters; or

(iii) Meets the criteria in paragraph (b)(1) to be a global systemically important BHC.

(d) *Category III.* (1) A banking organization is a Category III banking organization if the banking organization:

(i) Has:

(A) $250 billion or more in average total consolidated assets; or

(B) $100 billion or more in average total consolidated assets and at least:

(*1*) $75 billion in average total nonbank assets;

(*2*) $75 billion in average weighted short-term wholesale funding; or

(*3*) $75 billion in average off-balance sheet exposure;

(ii) Is not a global systemically important BHC; and

(iii) Is not a Category II banking organization.

(2) After meeting the criteria in paragraph (d)(1) of this section, a banking organization continues to be a Category III banking organization until the banking organization:

(i) Has:

(A) Less than $250 billion in total consolidated assets for each of the four most recent calendar quarters;

(B) Less than $75 billion in total nonbank assets for each of the four most recent calendar quarters;

(C) Less than $75 billion in weighted short-term wholesale funding for each of the four most recent calendar quarters; and

(D) Less than $75 billion in off-balance sheet exposure for each of the four most recent calendar quarters; or

(ii) Has less than $100 billion in total consolidated assets for each of the four most recent calendar quarters;

(iii) Meets the criteria in paragraph (b)(1) of this section to be a global systemically important BHC; or

(iv) Meets the criteria in paragraph (c)(1) of this section to be a Category II banking organization.

(e) *Category IV.* (1) A banking organization with average total consolidated assets of $100 billion or more is a Category IV banking organization if the banking organization:

(i) Is not global systemically important BHC;

(ii) Is not a Category II banking organization; and

(iii) Is not a Category III banking organization.

(2) After meeting the criteria in paragraph (e)(1), a banking organization continues to be a Category IV banking organization until the banking organization:

(i) Has less than $100 billion in total consolidated assets for each of the four most recent calendar quarters;

(ii) Meets the criteria in paragraph (b)(1) of this section to be a global systemically important BHC;

(iii) Meets the criteria in paragraph (c)(1) of this section to be a Category II banking organization; or

(iv) Meets the criteria in paragraph (d)(1) of this section to be a Category III banking organization.

Subpart B—Company-Run Stress Test Requirements for State Member Banks With Total Consolidated Assets Over $10 Billion

■ 18. Section 252.11 is revised to read as follows:

§ 252.11 Authority and purpose

(a) *Authority.* 12 U.S.C. 321–338a, 1818, 1831p–1, 3906–3909, 5365.

(b) *Purpose.* This subpart implements section 165(i)(2) of the Dodd-Frank Act (12 U.S.C. 5365(i)(2)), which requires state member banks with total consolidated assets of greater than $10 billion to conduct annual stress tests. This subpart also establishes definitions of stress tests and related terms, methodologies for conducting stress tests, and reporting and disclosure requirements.

■ 19. In § 252.12:

■ a. Paragraphs (c), (d), (f), (g), and (n) are revised;

■ b. Paragraph (o) is removed; and

■ c. Paragraphs (p) through (u) are redesignated as paragraphs (o) through (t) and revised.

The revisions read as follows:

§ 252.12 Definitions.

* * * * *

(c) *Asset threshold* means a state member bank with average total consolidated assets of greater than $10 billion.

(d) *Average total consolidated assets* means the average of the total

consolidated assets as reported by a state member bank on its Consolidated Report of Condition and Income (Call Report) for the four most recent consecutive quarters. If the state member bank has not filed the Call Report, as applicable, for each of the four most recent consecutive quarters, average total consolidated assets means the average of the company's total consolidated assets, as reported on the state member bank's Call Report for the most recent consecutive quarters. Average total consolidated assets are measured on the as-of date of the most recent Call Report used in the calculation of the average.

* * * * *

(f) *Baseline scenario* means a set of conditions that affect the U.S. economy or the financial condition of a state member bank, and that reflect the consensus views of the economic and financial outlook.

(g) *Capital action* has the same meaning as in § 225.8 of this chapter.

* * * * *

(n) *Regulatory capital ratio* means a capital ratio for which the Board established minimum requirements for the state member bank by regulation or order, including a company's tier 1 and supplementary leverage ratio as calculated under 12 CFR part 217, including the deductions required under 12 CFR 248.12, as applicable, and the company's common equity tier 1, tier 1, and total risk-based capital ratios as calculated under 12 CFR part 217, including the deductions required under 12 CFR 248.12 and the transition provisions at 12 CFR 217.1(f)(4) and 217.300; except that the company shall not use the advanced approaches to calculate its regulatory capital ratios.

(o) *Scenarios* are those sets of conditions that affect the U.S. economy or the financial condition of a state member bank that the Board annually determines are appropriate for use in the company-run stress tests, including, but not limited to, baseline, adverse, and severely adverse scenarios.

(p) *Severely adverse scenario* means a set of conditions that affect the U.S. economy or the financial condition of a state member bank and that overall are more severe than those associated with the adverse scenario and may include trading or other additional components.

(q) *State member bank* has the same meaning as in § 208.2(g) of this chapter.

(r) *Stress test* means a process to assess the potential impact of scenarios on the consolidated earnings, losses, and capital of a state member bank over the planning horizon, taking into account the current condition, risks, exposures, strategies, and activities.

(s) *Stress test cycle* means:

(1) Until September 30, 2015, the period beginning on October 1 of a calendar year and ending on September 30 of the following calendar year, and

(2) Beginning October 1, 2015, the period beginning on January 1 of a calendar year and ending on December 31 of that year.

(t) *Subsidiary* has the same meaning as in § 225.2(o) of this chapter.

■ 20. Section 252.13 is revised to read as follows:

§ 252.13 Applicability.

(a) *Scope*—(1) *Applicability.* Except as provided in paragraph (b) of this section, this subpart applies to any state member bank with average total consolidated assets (as defined in § 252.12(d)) of greater than $10 billion.

(2) *Ongoing applicability.* A state member bank (including any successor company) that is subject to any requirement in this subpart shall remain subject to any such requirement unless and until its total consolidated assets fall below $10 billion for each of four consecutive quarters, as reported on the Call Report and effective on the as-of date of the fourth consecutive Call Report.

(b) *Transition period.* (1) A state member bank that exceeds the asset threshold for the first time on or before March 31 of a given year, must comply with the requirements of this subpart beginning on January 1 of the following year, unless that time is extended by the Board in writing.

(2) A state member bank that exceeds the asset threshold for the first time after March 31 of a given year must comply with the requirements of this subpart beginning on January 1 of the second year following that given year, unless that time is extended by the Board in writing.

(3) *Transition periods for companies subject to the supplementary leverage ratio.* Notwithstanding § 252.12(n), for purposes of the stress test cycle beginning on January 1, 2016, a company shall not include an estimate of its supplementary leverage ratio.

■ 21. Section 252.14 is revised to read as follows:

§ 252.14 Annual stress test.

(a) *General requirements*—(1) *General.* A state member bank must conduct an annual stress test in accordance with paragraphs (a)(2) and (3) of this section.

(2) *Timing for the stress test cycle beginning on October 1, 2014.* For the stress test cycle beginning on October 1, 2014:

(i) A state member bank that is a covered company subsidiary must conduct its stress test by January 5, 2015, based on data as of September 30, 2014, unless the time or the as-of date is extended by the Board in writing; and

(ii) A state member bank that is not a covered company subsidiary and a bank holding company must conduct its stress test by March 31, 2015, based on data as of September 30, 2014, unless the time or the as-of date is extended by the Board in writing.

(3) *Timing for each stress test cycle beginning after October 1, 2014.* For each stress test cycle beginning after October 1, 2014:

(i) A state member bank that is a covered company subsidiary must conduct its stress test by April 5 of each calendar year based on data as of December 31 of the preceding calendar year, unless the time or the as-of date is extended by the Board in writing; and

(ii) A state member bank that is not a covered company subsidiary must conduct its stress test by July 31 of each calendar year using financial statement data as of December 31 of the preceding calendar year, unless the time or the as-of date is extended by the Board in writing.

(b) *Scenarios provided by the Board*—(1) *In general.* In conducting a stress test under this section, a state member bank must, at a minimum, use the scenarios provided by the Board. Except as provided in paragraphs (b)(2) and (3) of this section, the Board will provide a description of the scenarios to each state member bank no later than November 15, 2014 (for the stress test cycle beginning on October 1, 2014) and no later than February 15 of that calendar year (for each stress test cycle beginning thereafter).

(2) *Additional components.* (i) The Board may require a state member bank with significant trading activity, as determined by the Board and specified in the Capital Assessments and Stress Testing report (FR Y–14), to include a trading and counterparty component in its adverse and severely adverse scenarios in the stress test required by this section. The Board may also require a state member bank that is subject to 12 CFR part 208, appendix E (or, beginning on January 1, 2015, 12 CFR part 217, subpart F) or that is a subsidiary of a bank holding company that is subject to either this paragraph or § 252.54(b)(2)(i) to include a trading and counterparty component in the state member bank's adverse and severely adverse scenarios in the stress test required by this section. For the stress test cycle beginning on October 1, 2014, the data used in this component must be

as of a date between October 1 and December 1 of 2014 selected by the Board, and the Board will communicate the as-of date and a description of the component to the company no later than December 1 of the calendar year. For each stress test cycle beginning thereafter, the data used in this component must be as of a date between January 1 and March 1 of that calendar year selected by the Board, and the Board will communicate the as-of date and a description of the component to the company no later than March 1 of that calendar year.

(ii) The Board may require a state member bank to include one or more additional components in its adverse and severely adverse scenarios in the stress test required by this section based on the company's financial condition, size, complexity, risk profile, scope of operations, or activities, or risks to the U.S. economy.

(3) *Additional scenarios.* The Board may require a state member bank to include one or more additional scenarios in the stress test required by this section based on the company's financial condition, size, complexity, risk profile, scope of operations, or activities, or risks to the U.S. economy.

(4) *Notice and response*—(i) *Notification of additional component.* If the Board requires a state member bank to include one or more additional components in its adverse and severely adverse scenarios under paragraph (b)(2) of this section or to use one or more additional scenarios under paragraph (b)(3) of this section, the Board will notify the company in writing by September 30, 2014 (for the stress test cycle beginning on October 1, 2014) and by December 31 (for each stress test cycle beginning thereafter).

(ii) *Request for reconsideration and Board response.* Within 14 calendar days of receipt of a notification under this paragraph, the state member bank may request in writing that the Board reconsider the requirement that the company include the additional component(s) or additional scenario(s), including an explanation as to why the reconsideration should be granted. The Board will respond in writing within 14 calendar days of receipt of the company's request.

(iii) *Description of component.* The Board will provide the state member bank with a description of any additional component(s) or additional scenario(s) by December 1, 2014 (for the stress test cycle beginning on October 1, 2014) and by March 1 (for each stress test cycle beginning thereafter).

■ 22. Section 252.15 is amended by:

■ a. Revising paragraph (a) introductory text;

■ b. Removing paragraph (b); and

■ c. Redesignating paragraph (c) as paragraph (b) and revising it.

The revisions read as follows:

§ 252.15 Methodologies and practices.

(a) *Potential impact on capital.* In conducting a stress test under § 252.14, for each quarter of the planning horizon, a state member bank must estimate the following for each scenario required to be used:

* * * * *

(b) *Controls and oversight of stress testing processes*—(1) *In general.* The senior management of a state member bank must establish and maintain a system of controls, oversight, and documentation, including policies and procedures, that are designed to ensure that its stress testing processes are effective in meeting the requirements in this subpart. These policies and procedures must, at a minimum, describe the company's stress testing practices and methodologies, and processes for validating and updating the company's stress test practices and methodologies consistent with applicable laws, regulations, and supervisory guidance.

(2) *Oversight of stress testing processes.* The board of directors, or a committee thereof, of a state member bank must review and approve the policies and procedures of the stress testing processes as frequently as economic conditions or the condition of the company may warrant, but no less than annually. The board of directors and senior management of the state member bank must receive a summary of the results of the stress test conducted under this section.

(3) *Role of stress testing results.* The board of directors and senior management of a state member bank must consider the results of the stress test in the normal course of business, including but not limited to, the state member bank's capital planning, assessment of capital adequacy, and risk management practices.

■ 23. Section 252.16(a)(1) and (3) are revised to read as follows:

§ 252.16 Reports of stress test results.

(a) *Reports to the Board of stress test results*—(1) *General.* A state member bank must report the results of the stress test to the Board in the manner and form prescribed by the Board, in accordance with paragraphs (a)(2) and (3) of this section.

* * * * *

(3) *Timing for each stress test cycle beginning after October 1, 2014.* For each stress test cycle beginning after October 1, 2014:

(i) A state member bank that is a covered company subsidiary must report the results of the stress test to the Board by April 5, unless that time is extended by the Board in writing; and

(ii) A state member bank that is not a covered company subsidiary must report the results of the stress test to the Board by July 31, unless that time is extended by the Board in writing.

* * * * *

■ 24. Section 252.17 is amended by:

■ a. Revising paragraph (a)(1) and the first paragraph (a)(3);

■ b. Correctly designating the second paragraph (a)(3) as paragraph (a)(4) and revising it; and

■ c. Revising paragraph (b).

The revisions read as follows:

§ 252.17 Disclosure of stress test results.

(a) *Public disclosure of results*—(1) *General.* (i) A state member bank must publicly disclose a summary of the results of the stress test required under this subpart.

(ii) [Reserved]

* * * * *

(3) *Timing for each stress test cycle beginning after October 1, 2014.* For each stress test cycle beginning after October 1, 2014:

(i) A state member bank that is a covered company subsidiary must publicly disclose a summary of the results of the stress test within 15 calendar days after the Board discloses the results of its supervisory stress test of the covered company pursuant to § 252.46(c), unless that time is extended by the Board in writing; and

(ii) A state member bank that is not a covered company subsidiary must publicly disclose a summary of the results of the stress test in the period beginning on October 15 and ending on October 31, unless that time is extended by the Board in writing.

(4) *Disclosure method.* The summary required under this section may be disclosed on the website of a state member bank, or in any other forum that is reasonably accessible to the public.

(b) *Summary of results*—(1) *State member banks that are subsidiaries of bank holding companies.* A state member bank that is a subsidiary of a bank holding company satisfies the public disclosure requirements under this subpart if the bank holding company publicly discloses summary results of its stress test pursuant to this section or § 252.58, unless the Board determines that the disclosures at the holding company level do not adequately capture the potential impact

of the scenarios on the capital of the state member bank and requires the state member bank to make public disclosures.

(2) *State member banks that are not subsidiaries of bank holding companies.* A state member bank that is not a subsidiary of a bank holding company or that is required to make disclosures under paragraph (b)(1) of this section must publicly disclose, at a minimum, the following information regarding the severely adverse scenario:

(i) A description of the types of risks being included in the stress test;

(ii) A summary description of the methodologies used in the stress test;

(iii) Estimates of—

(A) Aggregate losses;

(B) Pre-provision net revenue

(C) Provision for credit losses;

(D) Net income; and

(E) Pro forma regulatory capital ratios and any other capital ratios specified by the Board; and

(iv) An explanation of the most significant causes for the changes in regulatory capital ratios.

* * * * *

Subpart C—Risk Committee Requirement for Bank Holding Companies With Total Consolidated Assets of $50 Billion or More and Less Than $100 Billion

■ 25. The heading of subpart C is revised to read as set forth above.

■ 26. Section 252.21 paragraphs (a) through (c) are revised to read as follows:

§ 252.21 Applicability.

(a) *General applicability.* A bank holding company must comply with the risk-committee requirements set forth in this subpart beginning on the first day of the ninth quarter following the date on which its total consolidated assets equal or exceed $50 billion.

(b) *Total consolidated assets.* Total consolidated assets of a bank holding company for purposes of this subpart are equal to its consolidated assets, calculated based on the average of the bank holding company's total consolidated assets in the four most recent quarters as reported quarterly on its FR Y–9C. If the bank holding company has not filed the FR Y–9C for each of the four most recent consecutive quarters, total consolidated assets means the average of its total consolidated assets, as reported on the FR Y–9C, for the most recent quarter or consecutive quarters, as applicable. Total consolidated assets are measured on the as-of date of the most recent FR Y–9C used in the calculation of the average.

(c) *Cessation of requirements.* A bank holding company will remain subject to the requirements of this subpart until the earlier of the date on which:

(1) Its reported total consolidated assets on the FR Y–9C are below $50 billion for each of four consecutive calendar quarters; and

(2) It becomes subject to the requirements of subpart D of this part.

* * * * *

■ 27. Section 252.22 is revised to read as follows:

§ 252.22 Risk committee requirement for bank holding companies with total consolidated assets of $50 billion or more.

(a) *Risk committee*—(1) *General.* A bank holding company with total consolidated assets of $50 billion or more must maintain a risk committee that approves and periodically reviews the risk-management policies of the bank holding company's global operations and oversees the operation of the bank holding company's global risk-management framework.

(2) *Risk-management framework.* The bank holding company's global risk-management framework must be commensurate with its structure, risk profile, complexity, activities, and size and must include:

(i) Policies and procedures establishing risk-management governance, risk-management procedures, and risk-control infrastructure for its global operations; and

(ii) Processes and systems for implementing and monitoring compliance with such policies and procedures, including:

(A) Processes and systems for identifying and reporting risks and risk-management deficiencies, including regarding emerging risks, and ensuring effective and timely implementation of actions to address emerging risks and risk-management deficiencies for its global operations;

(B) Processes and systems for establishing managerial and employee responsibility for risk management;

(C) Processes and systems for ensuring the independence of the risk-management function; and

(D) Processes and systems to integrate risk management and associated controls with management goals and its compensation structure for its global operations.

(3) *Corporate governance requirements.* The risk committee must:

(i) Have a formal, written charter that is approved by the bank holding company's board of directors;

(ii) Be an independent committee of the board of directors that has, as its sole and exclusive function, responsibility for the risk-management policies of the bank holding company's global operations and oversight of the operation of the bank holding company's global risk-management framework;

(iii) Report directly to the bank holding company's board of directors;

(iv) Receive and review regular reports on not less than a quarterly basis from the bank holding company's chief risk officer provided pursuant to paragraph (b)(3)(ii) of this section; and

(v) Meet at least quarterly, or more frequently as needed, and fully document and maintain records of its proceedings, including risk-management decisions.

(4) *Minimum member requirements.* The risk committee must:

(i) Include at least one member having experience in identifying, assessing, and managing risk exposures of large, complex financial firms; and

(ii) Be chaired by a director who:

(A) Is not an officer or employee of the bank holding company and has not been an officer or employee of the bank holding company during the previous three years;

(B) Is not a member of the immediate family, as defined in § 225.41(b)(3) of this chapter, of a person who is, or has been within the last three years, an executive officer of the bank holding company, as defined in § 215.2(e)(1) of this chapter; and

(C)(*1*) Is an independent director under Item 407 of the Securities and Exchange Commission's Regulation S–K (17 CFR 229.407(a)), if the bank holding company has an outstanding class of securities traded on an exchange registered with the U.S. Securities and Exchange Commission as a national securities exchange under section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f) (national securities exchange); or

(*2*) Would qualify as an independent director under the listing standards of a national securities exchange, as demonstrated to the satisfaction of the Board, if the bank holding company does not have an outstanding class of securities traded on a national securities exchange.

(b) *Chief risk officer*—(1) *General.* A bank holding company with total consolidated assets of $50 billion or more must appoint a chief risk officer with experience in identifying, assessing, and managing risk exposures of large, complex financial firms.

(2) *Responsibilities.* (i) The chief risk officer is responsible for overseeing:

(A) The establishment of risk limits on an enterprise-wide basis and the

monitoring of compliance with such limits;

(B) The implementation of and ongoing compliance with the policies and procedures set forth in paragraph (a)(2)(i) of this section and the development and implementation of the processes and systems set forth in paragraph (a)(2)(ii) of this section; and

(C) The management of risks and risk controls within the parameters of the company's risk control framework, and monitoring and testing of the company's risk controls.

(ii) The chief risk officer is responsible for reporting risk-management deficiencies and emerging risks to the risk committee and resolving risk-management deficiencies in a timely manner.

(3) *Corporate governance requirements.* (i) The bank holding company must ensure that the compensation and other incentives provided to the chief risk officer are consistent with providing an objective assessment of the risks taken by the bank holding company; and

(ii) The chief risk officer must report directly to both the risk committee and chief executive officer of the company.

Subpart D—Enhanced Prudential Standards for Bank Holding Companies With Total Consolidated Assets of $100 Billion or More

■ 28. The heading of subpart D is revised to read as set forth above.

■ 29. Section 252.30 is revised to read as follows:

§ 252.30 Scope.

This subpart applies to bank holding companies with total consolidated assets of $100 billion or more. Total consolidated assets of a bank holding company are equal to the consolidated assets of the bank holding company, as calculated in accordance with § 252.31(b).

■ 30. Section 252.31 is revised to read as follows:

§ 252.31 Applicability.

(a) *Applicability*—(1) *Initial applicability.* Subject to paragraph (d) of this section, a bank holding company must comply with the risk-management and risk-committee requirements set forth in § 252.33 and the liquidity risk-management and liquidity stress test requirements set forth in §§ 252.34 and 252.35 no later than the first day of the fifth quarter following the date on which its total consolidated assets equal or exceed $100 billion.

(2) *Changes in requirements following a change in category.* A bank holding company with total consolidated assets of $100 billion or more that changes from one category of banking organization described in § 252.5(b) through (e) to another of such categories must comply with the requirements applicable to the new category no later than on the first day of the second quarter following the change in the bank holding company's category.

(b) *Total consolidated assets.* Total consolidated assets of a bank holding company for purposes of this subpart are equal to its consolidated assets, calculated based on the average of the bank holding company's total consolidated assets in the four most recent quarters as reported quarterly on the FR Y–9C. If the bank holding company has not filed the FR Y–9C for each of the four most recent consecutive quarters, total consolidated assets means the average of its total consolidated assets, as reported on the FR Y–9C, for the most recent quarter or consecutive quarters, as applicable. Total consolidated assets are measured on the as-of date of the most recent FR Y–9C used in the calculation of the average.

(c) *Cessation of requirements.* Except as provided in paragraph (d) of this section, a bank holding company is subject to the risk-management and risk committee requirements set forth in § 252.33 and the liquidity risk-management and liquidity stress test requirements set forth in §§ 252.34 and 252.35 until its reported total consolidated assets on the FR Y–9C are below $100 billion for each of four consecutive calendar quarters.

(d) *Applicability for bank holding companies that are subsidiaries of foreign banking organizations.* In the event that a bank holding company that has total consolidated assets of $100 billion or more is controlled by a foreign banking organization, the U.S. intermediate holding company established or designated by the foreign banking organization must comply with the risk-management and risk committee requirements set forth in § 252.153(e)(3) and the liquidity risk-management and liquidity stress test requirements set forth in § 252.153(e)(4).

■ 31. Section 252.32 is revised to read as follows:

§ 252.32 Risk-based and leverage capital and stress test requirements.

A bank holding company with total consolidated assets of $100 billion or more must comply with, and hold capital commensurate with the requirements of, any regulations adopted by the Board relating to capital planning and stress tests, in accordance with the applicability provisions set forth therein.

■ 32. Section 252.33(a)(1) and (b)(1) are revised to read as follows:

§ 252.33 Risk-management and risk committee requirements.

(a) *Risk committee*—(1) *General.* A bank holding company with total consolidated assets of $100 billion or more must maintain a risk committee that approves and periodically reviews the risk-management policies of the bank holding company's global operations and oversees the operation of the bank holding company's global risk-management framework. The risk committee's responsibilities include liquidity risk-management as set forth in § 252.34(b).

* * * * *

(b) *Chief risk officer*—(1) *General.* A bank holding company with total consolidated assets of $100 billion or more must appoint a chief risk officer with experience in identifying, assessing, and managing risk exposures of large, complex financial firms.

* * * * *

■ 33. Section 252.34(a)(1) introductory text, (c)(1)(i), (d), (e)(1), (f)(1), (f)(2)(i), (g), and (h) are revised to read as follows:

§ 252.34 Liquidity risk-management requirements.

(a) * * * (1) *Liquidity risk tolerance.* The board of directors of a bank holding company with total consolidated assets of $100 billion or more must:

* * * * *

(c) * * * (1) * * * (i) Senior management of a bank holding company with total consolidated assets of $100 billion or more must establish and implement strategies, policies, and procedures designed to effectively manage the risk that the bank holding company's financial condition or safety and soundness would be adversely affected by its inability or the market's perception of its inability to meet its cash and collateral obligations (liquidity risk). The board of directors must approve the strategies, policies, and procedures pursuant to paragraph (a)(2) of this section.

* * * * *

(d) *Independent review function.* (1) A bank holding company with total consolidated assets of $100 billion or more must establish and maintain a review function that is independent of management functions that execute funding to evaluate its liquidity risk management.

(2) The independent review function must:

(i) Regularly, but no less frequently than annually, review and evaluate the

adequacy and effectiveness of the company's liquidity risk management processes, including its liquidity stress test processes and assumptions;

(ii) Assess whether the company's liquidity risk-management function complies with applicable laws and regulations, and sound business practices; and

(iii) Report material liquidity risk management issues to the board of directors or the risk committee in writing for corrective action, to the extent permitted by applicable law.

(e) * * * (1) A bank holding company with total consolidated assets of $100 billion or more must produce comprehensive cash-flow projections that project cash flows arising from assets, liabilities, and off-balance sheet exposures over, at a minimum, short- and long-term time horizons. The bank holding company must update short-term cash-flow projections daily and must update longer-term cash-flow projections at least monthly.

* * * * *

(f) * * * (1) A bank holding company with total consolidated assets of $100 billion or more must establish and maintain a contingency funding plan that sets out the company's strategies for addressing liquidity needs during liquidity stress events. The contingency funding plan must be commensurate with the company's capital structure, risk profile, complexity, activities, size, and established liquidity risk tolerance. The company must update the contingency funding plan at least annually, and when changes to market and idiosyncratic conditions warrant.

(2) * * * (i) *Quantitative assessment.* The contingency funding plan must:

(A) Identify liquidity stress events that could have a significant impact on the bank holding company's liquidity;

(B) Assess the level and nature of the impact on the bank holding company's liquidity that may occur during identified liquidity stress events;

(C) Identify the circumstances in which the bank holding company would implement its action plan described in paragraph (f)(2)(ii)(A) of this section, which circumstances must include failure to meet any minimum liquidity requirement imposed by the Board;

(D) Assess available funding sources and needs during the identified liquidity stress events;

(E) Identify alternative funding sources that may be used during the identified liquidity stress events; and

(F) Incorporate information generated by the liquidity stress testing required under § 252.35(a).

* * * * *

(g) *Liquidity risk limits*—(1) *General.* (i) A global systemically important BHC, Category II bank holding company, or Category III bank holding company must monitor sources of liquidity risk and establish limits on liquidity risk, including limits on:

(A) Concentrations in sources of funding by instrument type, single counterparty, counterparty type, secured and unsecured funding, and as applicable, other forms of liquidity risk;

(B) The amount of liabilities that mature within various time horizons; and

(C) Off-balance sheet exposures and other exposures that could create funding needs during liquidity stress events.

(ii) Each limit established pursuant to paragraph (g)(1) of this section must be consistent with the company's established liquidity risk tolerance and must reflect the company's capital structure, risk profile, complexity, activities, and size.

(2) *Liquidity risk limits for Category IV bank holding companies.* A Category IV bank holding company must monitor sources of liquidity risk and establish limits on liquidity risk that are consistent with the company's established liquidity risk tolerance and that reflect the company's capital structure, risk profile, complexity, activities, and size.

(h) *Collateral, legal entity, and intraday liquidity risk monitoring.* A bank holding company with total consolidated assets of $100 billion or more must establish and maintain procedures for monitoring liquidity risk as set forth in this paragraph.

(1) *Collateral.* The bank holding company must establish and maintain policies and procedures to monitor assets that have been, or are available to be, pledged as collateral in connection with transactions to which it or its affiliates are counterparties. These policies and procedures must provide that the bank holding company:

(i) Calculates all of its collateral positions according to the frequency specified in paragraph (h)(1)(i)(A) and (B) or as directed by the Board, specifying the value of pledged assets relative to the amount of security required under the relevant contracts and the value of unencumbered assets available to be pledged;

(A) If the bank holding company is not a Category IV bank holding company, on a weekly basis; or

(B) If the bank holding company is a Category IV bank holding company, on a monthly basis;

(ii) Monitors the levels of unencumbered assets available to be pledged by legal entity, jurisdiction, and currency exposure;

(iii) Monitors shifts in the bank holding company's funding patterns, such as shifts between intraday, overnight, and term pledging of collateral; and

(iv) Tracks operational and timing requirements associated with accessing collateral at its physical location (for example, the custodian or securities settlement system that holds the collateral).

(2) *Legal entities, currencies, and business lines.* The bank holding company must establish and maintain procedures for monitoring and controlling liquidity risk exposures and funding needs within and across significant legal entities, currencies, and business lines, taking into account legal and regulatory restrictions on the transfer of liquidity between legal entities.

(3) *Intraday exposures.* The bank holding company must establish and maintain procedures for monitoring intraday liquidity risk exposure that are consistent with the bank holding company's capital structure, risk profile, complexity, activities, and size. If the bank holding company is a global systemically important BHC, Category II bank holding company, or a Category III bank holding company, these procedures must address how the management of the bank holding company will:

(i) Monitor and measure expected daily gross liquidity inflows and outflows;

(ii) Manage and transfer collateral to obtain intraday credit;

(iii) Identify and prioritize time-specific obligations so that the bank holding company can meet these obligations as expected and settle less critical obligations as soon as possible;

(iv) Manage the issuance of credit to customers where necessary; and

(v) Consider the amounts of collateral and liquidity needed to meet payment systems obligations when assessing the bank holding company's overall liquidity needs.

■ 34. Section 252.35 paragraphs (a)(1) introductory text, (a)(2), (a)(7)(i) and (ii), and (b)(1) are revised to read as follows:

§ 252.35 Liquidity stress testing and buffer requirements.

(a) * * * (1) *General.* A bank holding company with total consolidated assets of $100 billion or more must conduct stress tests to assess the potential impact of the liquidity stress scenarios set forth in paragraph (a)(3) of this section on its cash flows, liquidity position, profitability, and solvency, taking into

account its current liquidity condition, risks, exposures, strategies, and activities.

* * * * *

(2) *Frequency.* The bank holding company must perform the liquidity stress tests required under paragraph (a)(1) of this section according to the frequency specified in paragraph (a)(2)(i) and (ii) or as directed by the Board:

(i) If the bank holding company is not a Category IV bank holding company, at least monthly; or

(ii) If the bank holding company is a Category IV bank holding company, at least quarterly.

* * * * *

(7) * * * (i) *Policies and procedures.* A bank holding company with total consolidated assets of $100 billion or more must establish and maintain policies and procedures governing its liquidity stress testing practices, methodologies, and assumptions that provide for the incorporation of the results of liquidity stress tests in future stress testing and for the enhancement of stress testing practices over time.

(ii) *Controls and oversight.* A bank holding company with total consolidated assets of $100 billion or more must establish and maintain a system of controls and oversight that is designed to ensure that its liquidity stress testing processes are effective in meeting the requirements of this section. The controls and oversight must ensure that each liquidity stress test appropriately incorporates conservative assumptions with respect to the stress scenario in paragraph (a)(3) of this section and other elements of the stress test process, taking into consideration the bank holding company's capital structure, risk profile, complexity, activities, size, business lines, legal entity or jurisdiction, and other relevant factors. The assumptions must be approved by the chief risk officer and be subject to the independent review under § 252.34(d) of this subpart.

* * * * *

(b) *Liquidity buffer requirement.* (1) A bank holding company with total consolidated assets of $100 billion or more must maintain a liquidity buffer that is sufficient to meet the projected net stressed cash-flow need over the 30-day planning horizon of a liquidity stress test conducted in accordance with paragraph (a) of this section under each scenario set forth in paragraph (a)(3)(i) through (iii) of this section.

* * * * *

Subpart E—Supervisory Stress Test Requirements for Certain U.S. Banking Organizations With $100 Billion or More in Total Consolidated Assets and Nonbank Financial Companies Supervised by the Board

■ 35. The heading of subpart E is revised to read as set forth above.

■ 36. Section 252.41 is revised to read as follows

§ 252.41 Authority and purpose.

(a) *Authority.* 12 U.S.C. 321–338a, 1467a(g), 1818, 1831p–1, 1844(b), 1844(c), 5361, 5365, 5366, sec. 401(e), Public Law 115–174, 132 Stat. 1296.

(b) *Purpose.* This subpart implements section 165 of the Dodd-Frank Act (12 U.S.C. 5365) and section 401(e) of the Economic Growth, Regulatory Relief, and Consumer Protection Act, which requires the Board to conduct annual analyses of nonbank financial companies supervised by the Board and bank holding companies with $100 billion or more in total consolidated assets to evaluate whether such companies have the capital, on a total consolidated basis, necessary to absorb losses as a result of adverse economic conditions.

■ 37. Section 252.42 paragraphs (c), (e), (f) and (m) are revised to read as follows:

§ 252.42 Definitions.

* * * * *

(c) *Average total consolidated assets* means the average of the total consolidated assets as reported by a bank holding company on its Consolidated Financial Statements for Holding Companies (FR Y–9C) for the four most recent consecutive quarters. If the bank holding company has not filed the FR Y–9C for each of the four most recent consecutive quarters, average total consolidated assets means the average of the company's total consolidated assets, as reported on the company's FR Y–9C, for the most recent quarter or consecutive quarters. Average total consolidated assets are measured on the as-of date of the most recent FR Y–9C used in the calculation of the average.

* * * * *

(e) *Baseline scenario* means a set of conditions that affect the U.S. economy or the financial condition of a covered company and that reflect the consensus views of the economic and financial outlook.

(f) *Covered company* means:

(1) A bank holding company (other than a foreign banking organization) with average total consolidated assets of $100 billion or more;

(2) A U.S. intermediate holding company subject to this section pursuant to § 252.153; and

(3) A nonbank financial company supervised by the Board.

* * * * *

(m) *Regulatory capital ratio* means a capital ratio for which the Board has established minimum requirements for the bank holding company by regulation or order, including, as applicable, the company's regulatory capital ratios calculated under 12 CFR part 217 and the deductions required under 12 CFR 248.12; except that the company shall not use the advanced approaches to calculate its regulatory capital ratios.

* * * * *

■ 38. Section 252.43 paragraph (a) is revised to read as follows

§ 252.43 Applicability.

(a) *Scope*—(1) *Applicability.* Except as provided in paragraph (b) of this section, this subpart applies to any covered company, which includes:

(i) Any bank holding company with average total consolidated assets of $100 billion or more;

(ii) Any U.S. intermediate holding company subject to this section pursuant to § 252.153; and

(iii) Any nonbank financial company supervised by the Board that is made subject to this section pursuant to a rule or order of the Board.

(2) *Ongoing applicability.* A bank holding company (including any successor company) that is subject to any requirement in this subpart shall remain subject to any such requirement unless and until its total consolidated assets fall below $100 billion for each of four consecutive quarters, as reported on the FR Y–9C and, effective on the as-of date of the fourth consecutive FR Y–9C.

* * * * *

■ 39. Section 252.44 is amended by:

■ a. Revising the section heading and paragraphs (a)(1), (a)(3) and (b); and

■ b. Adding paragraph (c).

The revisions and addition read as follows:

§ 252.44 Analysis conducted by the Board.

(a) *In general.* (1) The Board will conduct an analysis of each covered company's capital, on a total consolidated basis, taking into account all relevant exposures and activities of that covered company, to evaluate the ability of the covered company to absorb losses in specified economic and financial conditions.

* * * * *

(3) In conducting the analyses, the Board will coordinate with the

appropriate primary financial regulatory agencies and the Federal Insurance Office, as appropriate.

(b) *Economic and financial scenarios related to the Board's analysis.* The Board will conduct its analysis using a minimum of three different scenarios, including a baseline scenario, adverse scenario, and severely adverse scenario. The Board will notify covered companies of the scenarios that the Board will apply to conduct the analysis for each stress test cycle to which the covered company is subject by no later than February 15 of that year, except with respect to trading or any other components of the scenarios and any additional scenarios that the Board will apply to conduct the analysis, which will be communicated by no later than March 1 of that year.

(c) *Frequency of analysis conducted by the Board.* (1) Except as provided in paragraph (c)(2) of this section, the Board will conduct its analysis of a covered company on an annual basis.

(2) The Board will conduct its analysis of a Category IV bank holding company on a biennial basis and occurring in each year ending in an even number.

Subpart F—Company-Run Stress Test Requirements for Certain U.S. Bank Holding Companies and Nonbank Financial Companies Supervised by the Board

■ 40. The heading of subpart F is revised to read as set forth above.

■ 41. Section 252.51 is revised to read as follows:

§ 252.51 Authority and purpose.

(a) *Authority.* 12 U.S.C. 321–338a, 1818, 1831p–1, 1844(b), 1844(c), 5361, 5365, 5366.

(b) *Purpose.* This subpart establishes the requirement for a covered company to conduct stress tests. This subpart also establishes definitions of stress test and related terms, methodologies for conducting stress tests, and reporting and disclosure requirements.

■ 42. Section 252.52 paragraphs (c), (f), (g), (n) and (o) are revised to read as follows:

§ 252.52 Definitions.

* * * * *

(c) *Average total consolidated assets* means the average of the total consolidated assets as reported by a bank holding company on its Consolidated Financial Statements for Holding Companies (FR Y–9C) for the four most recent consecutive quarters. If the bank holding company has not filed the FR Y–9C for each of the four most recent consecutive quarters, average total consolidated assets means the average of the company's total consolidated assets, as reported on the company's FR Y–9C, for the most recent quarter or consecutive quarters. Average total consolidated assets are measured on the as-of date of the most recent FR Y–9C used in the calculation of the average.

* * * * *

(f) *Capital action* has the same meaning as in § 225.8 of this chapter.

(g) *Covered company* means:

(1) A global systemically important BHC;

(2) A Category II bank holding company;

(3) A Category III bank holding company;

(4) A U.S. intermediate holding company subject to this section pursuant to § 252.153; and

(5) A nonbank financial company supervised by the Board.

* * * * *

(n) *Regulatory capital ratio* means a capital ratio for which the Board has established minimum requirements for the bank holding company by regulation or order, including, as applicable, the company's regulatory capital ratios calculated under 12 CFR part 217 and the deductions required under 12 CFR 248.12; except that the company shall not use the advanced approaches to calculate its regulatory capital ratios.

* * * * *

(o) *Scenarios* are those sets of conditions that affect the U.S. economy or the financial condition of a covered company that the Board annually or biennially determines are appropriate for use in the company-run stress tests, including, but not limited to, baseline, adverse, and severely adverse scenarios.

* * * * *

■ 43. Section 252.53(a) is revised to read as follows:

§ 252.53 Applicability.

(a) *Scope*—(1) *Applicability.* Except as provided in paragraph (b) of this section, this subpart applies to any covered company, which includes:

(i) A global systemically important BHC;

(ii) Any Category II bank holding company;

(iii) Any Category III bank holding company;

(iv) Any U.S. intermediate holding company subject to this section pursuant to § 252.153; and

(v) Any nonbank financial company supervised by the Board that is made subject to this section pursuant to a rule or order of the Board.

(2) *Ongoing applicability.* A bank holding company (including any successor company) that is subject to any requirement in this subpart shall remain subject to any such requirement unless and until the bank holding company

(i) Is not a global systemically important BHC;

(ii) Is not a Category II bank holding company; and

(iii) Is not a Category III bank holding company.

* * * * *

■ 44. Section 252.54 is amended by revising the section heading, and paragraphs (a), (b)(2)(i), and (b)(4)(ii) and (iii) to read as follows:

§ 252.54 Stress test.

(a) Stress test—(1) *In general.* A covered company must conduct a stress test as required under this subpart.

(2) *Frequency.* (i) Except as provided in paragraph (a)(2)(ii) of this section, a covered company must conduct an annual stress test. The stress test must be conducted by April 5 of each calendar year based on data as of December 31 of the preceding calendar year, unless the time or the as-of date is extended by the Board in writing.

(ii) A Category III bank holding company must conduct a biennial stress test. The stress test must be conducted by April 5 of each calendar year ending in an even number, based on data as of December 31 of the preceding calendar year, unless the time or the as-of date is extended by the Board in writing.

(b) * * *

(2) * * * (i) The Board may require a covered company with significant trading activity, as determined by the Board and specified in the Capital Assessments and Stress Testing report (FR Y–14), to include a trading and counterparty component in its adverse and severely adverse scenarios in the stress test required by this section. The data used in this component must be as of a date selected by the Board between October 1 of the previous calendar year and March 1 of the calendar year in which the stress test is performed pursuant to this section, and the Board will communicate the as-of date and a description of the component to the company no later than March 1 of the calendar year in which the stress test is performed pursuant to this section.

* * * * *

(4) * * *

(ii) *Request for reconsideration and Board response.* Within 14 calendar days of receipt of a notification under this paragraph, the covered company may request in writing that the Board reconsider the requirement that the company include the additional

component(s) or additional scenario(s), including an explanation as to why the request for reconsideration should be granted. The Board will respond in writing within 14 calendar days of receipt of the company's request.

(iii) *Description of component.* The Board will provide the covered company with a description of any additional component(s) or additional scenario(s) by March 1 of the calendar year in which the stress test is performed pursuant to this section.

■ 45. Section 252.55 is revised to read as follows:

§ 252.55 Mid-cycle stress test.

(a) *Mid-cycle stress test requirement.* In addition to the stress test required under § 252.54, a U.S. intermediate holding company must conduct a mid-cycle stress test. The stress test must be conducted by September 30 of each calendar year based on data as of June 30 of that calendar year, unless the time or the as-of date is extended by the Board in writing.

(b) *Scenarios related to mid-cycle stress tests*—(1) *In general.* A U.S. intermediate holding company must develop and employ a minimum of three scenarios, including a baseline scenario, adverse scenario, and severely adverse scenario that are appropriate for its own risk profile and operations, in conducting the stress test required by this section.

(2) *Additional components.* The Board may require a U.S. intermediate holding company to include one or more additional components in its adverse and severely adverse scenarios in the stress test required by this section based on the company's financial condition, size, complexity, risk profile, scope of operations, or activities, or risks to the U.S. economy.

(3) *Additional scenarios.* The Board may require a U.S. intermediate holding company to use one or more additional scenarios in the stress test required by this section based on the company's financial condition, size, complexity, risk profile, scope of operations, or activities, or risks to the U.S. economy.

(4) *Notice and response*—(i) *Notification of additional component.* If the Board requires a U.S. intermediate holding company to include one or more additional components in its adverse and severely adverse scenarios under paragraph (b)(2) of this section or one or more additional scenarios under paragraph (b)(3) of this section, the Board will notify the company in writing. The Board will provide such notification no later than June 30. The notification will include a general description of the additional component(s) or additional scenario(s) and the basis for requiring the company to include the additional component(s) or additional scenario(s).

(ii) *Request for reconsideration and Board response.* Within 14 calendar days of receipt of a notification under this paragraph, the U.S. intermediate holding company may request in writing that the Board reconsider the requirement that the company include the additional component(s) or additional scenario(s), including an explanation as to why the reconsideration should be granted. The Board will respond in writing within 14 calendar days of receipt of the company's request.

(iii) *Description of component.* The Board will provide the U.S. intermediate holding company with a description of any additional component(s) or additional scenario(s) by September 1 of the calendar year prior to the year in which the stress test is performed pursuant to this section.

■ 46. Section 252.56 is amended by revising the introductory text to paragraphs (a) and (b) and paragraph (c)(1) to read as follows:

§ 252.56 Methodologies and practices.

(a) *Potential impact on capital.* In conducting a stress test under §§ 252.54 and 252.55, as applicable, for each quarter of the planning horizon, a covered company must estimate the following for each scenario required to be used:

* * * * *

(b) *Assumptions regarding capital actions.* In conducting a stress test under §§ 252.54 and 252.55, as applicable, a covered company is required to make the following assumptions regarding its capital actions over the planning horizon:

* * * * *

(c) * * * (1) *In general.* The senior management of a covered company must establish and maintain a system of controls, oversight, and documentation, including policies and procedures, that are designed to ensure that its stress testing processes are effective in meeting the requirements in this subpart. These policies and procedures must, at a minimum, describe the covered company's stress testing practices and methodologies, and processes for validating and updating the company's stress test practices and methodologies consistent with applicable laws and regulations. The policies of a U.S. intermediate holding company must also describe processes for scenario development for the mid-cycle stress test required under § 252.55.

* * * * *

■ 47. Section 252.57 paragraph (a) is revised to read as follows:

§ 252.57 Reports of stress test results.

(a) *Reports to the Board of stress test results.* (1) A covered company must report the results of the stress test required under § 252.54 to the Board in the manner and form prescribed by the Board. Such results must be submitted by April 5 of the calendar year in which the stress test is performed pursuant to § 252.54, unless that time is extended by the Board in writing.

(2) A U.S. intermediate holding company must report the results of the stress test required under § 252.55 to the Board in a manner and form prescribed by the Board. Such results must be submitted by October 5 of the calendar year in which the stress test is performed pursuant to § 252.55, unless that time is extended by the Board in writing.

* * * * *

■ 48. Section 252.58 paragraph (a)(1) is revised to read as follows:

§ 252.58 Disclosure of stress test results.

(a) *Public disclosure of results*—(1) *In general.* (i) A covered company must publicly disclose a summary of the results of the stress test required under § 252.54 within the period that is 15 calendar days after the Board publicly discloses the results of its supervisory stress test of the covered company pursuant to § 252.46(c), unless that time is extended by the Board in writing.

(ii) A U.S. intermediate holding company must publicly disclose a summary of the results of the stress test required under § 252.55. This disclosure must occur in the period beginning on October 5 and ending on November 4 of the calendar year in which the stress test is performed pursuant to § 252.55, unless that time is extended by the Board in writing.

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Subpart H—Single-Counterparty Credit Limits

■ 49. Section 252.70 paragraphs (a) and (d)(1) are revised to read as follows:

§ 252.70 Applicability and general provisions.

(a) *In general.* (1) This subpart establishes single counterparty credit limits for a covered company.

(2) For purposes of this subpart:

(i) *Covered company* means

(A) A global systemically important BHC;

(B) A Category II bank holding company;

(C) A Category III bank holding company;

(ii) *Major covered company* means any covered company that is a global systemically important BHC.

* * * * *

(d) *Cessation of requirements.* (1) Any company that becomes a covered company will remain subject to the requirements of this subpart unless and until:

(i) The covered company is not a global systemically important BHC;

(ii) The covered company is not a Category II bank holding company; and

(iii) The covered company is not a Category III bank holding company.

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By order of the Board of Governors of the Federal Reserve System, November 1, 2018.

Ann Misback,

Secretary of the Board.

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