possesses and is publicly available, by any of the following methods:

- *Federal Rulemaking Web Site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2011–0161.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents''* and then select ''*Begin Web-based ADAMS Search.''* For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this notice (if that document is available in ADAMS) is provided the first time that a document is referenced.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Emily Robbins, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–492–3524, email: *Emily.Robbins@nrc.gov.*

SUPPLEMENTARY INFORMATION: On May 3, 2012 (77 FR 26149), the NRC published a direct final rule amending its regulations at Title 10 of the Code of Federal Regulations (10 CFR) part 11, ''Criteria and Procedures for Determining Eligibility for Access to or Control Over Special Nuclear Material,'' and 10 CFR part 25, ''Access Authorization.'' The NRC amended its access authorization fees charged to licensees for work performed under the MAAP and the IAAP. The amended cost is the result of an increase in the review time for each application for access authorization. The formula for calculating fees remains based on current Office of Personnel Management (OPM) billing rates for personnel background investigations. The NRC designed the formula to recover the full cost of processing a request for access authorization from the licensee. The use of the fee assessment formula tied to current OPM billing rates eliminates the need for the NRC to update its access authorization fee schedules through regular rulemaking. In the direct final rule, the NRC stated that, if it received no significant adverse comments, the direct final rule would become final on June 22, 2012.

The NRC did not receive any comments on the direct final rule. Therefore, this rule will become effective as scheduled.

Dated at Rockville, Maryland, this 19th day of June 2012.

For the Nuclear Regulatory Commission.

Cindy K. Bladey,

Chief, Rules, Announcements, and Directives Branch, Office of Administration.

[FR Doc. 2012–15274 Filed 6–21–12; 8:45 am]

BILLING CODE 7590–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 380

RIN 3064–AD84

DEPARTMENT OF THE TREASURY

31 CFR Part 149

RIN 1505–AC36

Calculation of Maximum Obligation Limitation

AGENCY: Federal Deposit Insurance Corporation; Departmental Offices, Department of the Treasury.

ACTION: Final rule.

SUMMARY: The Federal Deposit Insurance Corporation (the ''FDIC'') and the Departmental Offices of the Department of the Treasury (the ''Treasury'') (collectively, the ''Agencies'') are issuing the final rule (''Final Rule'') to implement applicable provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the ''Dodd-Frank Act'').[1] The Final Rule governs the calculation of the maximum obligation limitation (''MOL''), as specified in the Dodd-Frank Act. The MOL limits the aggregate amount of outstanding obligations that the FDIC may issue or incur in connection with the orderly liquidation of a covered financial company.

DATES: The effective date of the Final Rule is July 23, 2012.

FOR FURTHER INFORMATION CONTACT:

FDIC

Arthur D. Murphy, Senior Financial Analyst, Division of Finance (703) 562–6177 or *amurphy@fdic.gov;* Henry R.F. Griffin, Assistant General Counsel, Legal Division (703) 562–6404 or *hgriffin@fdic.gov;* or Randy W. Thomas, Counsel, Legal Division (703) 562–6454 or *ranthomas@fdic.gov.*

Treasury

Lance Auer, Deputy Assistant Secretary (Financial Institution Policy), at (202) 622–1262; Monique Rollins, Senior Policy Advisor (Office of Capital Markets), at (202) 622–1745; Peter A. Bieger, Assistant General Counsel (Banking and Finance), at (202) 622–0480; and Steven D. Laughton, Senior Counsel, Office of General Counsel, at (202) 622–8413.

SUPPLEMENTARY INFORMATION:

I. Background

The Dodd-Frank Act

Title II of the Dodd-Frank Act establishes an Orderly Liquidation Authority (''OLA'') to resolve a large interconnected financial company upon a determination that its failure and resolution under otherwise applicable law would have serious adverse effects on financial stability in the United States and the use of OLA would avoid or mitigate such adverse effects. Under the process set forth in the Dodd-Frank Act, certain designated Federal agencies,[2] on their own initiative or at the request of the Secretary of the Treasury (''Secretary''), may recommend that the Secretary appoint the FDIC as receiver of a financial company. Any written recommendation from the designated Federal agencies that the Secretary should appoint the FDIC as receiver for a financial company must include a number of specific findings, which are enumerated in section 203(a)(2) of the Dodd-Frank Act.[3] Then,

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[1] Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 12 U.S.C. 5301 *et seq.* (2010).

[2] The Board of Governors of the Federal Reserve System (''FRB'') and the Securities and Exchange Commission (''SEC'') will make the recommendation if the company or its largest U.S. subsidiary is a broker or a dealer. The FRB and the Director of the Treasury's Federal Insurance Office will make the recommendation and provide affirmative approval, respectively, if the company or its largest U.S. subsidiary is an insurance company, and the FRB and the FDIC will make the recommendation in all other cases. In cases involving the FRB and FDIC, the recommendation must be approved by at least ⅔ of the members of the FRB then serving and at least ⅔ of the members of the FDIC Board of Directors then serving.

[3] Section 203(a)(2) of the Dodd-Frank Act provides that all written recommendations from the designated Federal agencies to the Secretary must include the following:

(1) An evaluation of whether the financial company is in default or in danger of default;

(2) A description of the effect that the default of the financial company would have on financial stability in the United States;

(3) A description of the effect that the default of the financial company would have on economic conditions or financial stability for low income, minority, or underserved communities;

(4) A recommendation regarding the nature and the extent of actions to be taken under Title II of the Dodd-Frank Act regarding the financial company;

based on the written recommendation of the appropriate agencies, the Secretary, in consultation with the President, must determine whether the conditions in section 203(b) of the Dodd-Frank Act have been satisfied so that the Secretary can seek the appointment of the FDIC as receiver for the financial company.[4] In making that determination, the Secretary must document any determination and retain such documentation. This procedure is very similar to the way that systemic risk determinations are made under section 13 of the Federal Deposit Insurance Act (the ''FDIA'').[5] Under section 201(a)(8) of the Dodd-Frank Act, a ''covered financial company'' is a ''financial company''[6] for which a determination has been made pursuant to section 203(b) of the Dodd-Frank Act but does not include an insured depository institution.

Once the Secretary makes the determination, the Secretary can seek the appointment of the FDIC as receiver of the covered financial company. If the board of directors (or similar governing body) of the company consents to the appointment, the Secretary shall appoint the FDIC as receiver. If the company's governing body does not consent, section 202 of the Dodd-Frank Act requires the Secretary to petition the United States District Court for the District of Columbia for an order authorizing the Secretary to appoint the FDIC as receiver. In determining whether to grant the petition, the court will determine whether two of the Secretary's seven determinations—that the covered financial company is in default or in danger of default and that it meets the definition of financial company under Title II—are arbitrary and capricious.[7] If the court upholds the two reviewable determinations of the Secretary, the court will issue an order authorizing the Secretary to appoint the FDIC as receiver. If the court does not make a determination within twenty-four hours of receiving the Secretary's petition, then the appointment of the FDIC as receiver takes effect by operation of law.

The OLA in the Dodd-Frank Act is intended as a limited exception to bankruptcy or other applicable insolvency laws for purposes of ensuring that the resolution of a failing non-depository financial company does not have serious adverse effects on U.S. financial stability. Section 204(a) of the Dodd-Frank Act expressly provides that the purpose of the OLA is to provide the means ''to liquidate failing financial companies that pose a significant risk to the financial stability of the United States in a manner that mitigates such risk and minimizes moral hazard.'' Section 214(a) expressly provides that ''[a]ll financial companies put into receivership under this title shall be liquidated. No taxpayer funds shall be used to prevent the liquidation of any financial company under this title.'' Moreover, section 214(b) provides that ''[a]ll funds expended in the liquidation of a financial company under this title shall be recovered from the disposition of assets of such financial company, or shall be the responsibility of the financial sector, through assessments.'' Finally, section 214(c) provides that ''[t]axpayers shall bear no losses from the exercise of any authority under this title.''

To achieve the orderly liquidation of financial companies, the FDIC is given broad authority under the Dodd-Frank Act to: transfer assets or liabilities to a bridge financial company; operate or liquidate businesses; sell assets; and resolve the liabilities of a covered financial company, just after the FDIC's appointment as receiver or as soon as conditions make this appropriate.[8] This authority enables the FDIC to act immediately to sell any assets or liabilities of the covered financial company to another entity, or, if that is not possible or consistent with maximizing the value of the assets of the covered financial company, to transfer assets and liabilities to a bridge financial company established by the FDIC and sell the assets or liabilities over time while maintaining critical functions. Oftentimes, in administering a receivership, it is necessary to continue key operations, services, and transactions that will maximize the value of the firm's assets and avoid a disorderly collapse in the marketplace.

(5) An evaluation of the likelihood of a private sector alternative to prevent the default of the financial company;

(6) An evaluation of why a case under the Bankruptcy Code is not appropriate for the financial company;

(7) An evaluation of the effects on creditors, counterparties, and shareholders of the financial company and other market participants; and

(8) An evaluation of whether the company satisfies the definition of a financial company under section 201 of the Dodd-Frank Act.

[4] Section 203(b) of the Dodd-Frank Act requires the Secretary of Treasury to determine that:

(1) The financial company is in default or in danger of default;

(2) The failure of the financial company and its resolution under otherwise applicable Federal or State law would have serious adverse effects on financial stability in the United States;

(3) No viable private sector alternative is available to prevent the default of the financial company;

(4) Any effect on the claims or interests of creditors, counterparties, and shareholders of the financial company and other market participants as a result of actions taken under Title II of the Dodd-Frank Act is appropriate, given the impact that any action taken under Title II of the Dodd-Frank Act would have on financial stability in the United States;

(5) Any action under section 204 would avoid or mitigate such adverse effects, taking into consideration the effectiveness of the action in mitigating potential adverse effects on the financial system, the cost to the general fund of the Treasury, and the potential to increase excessive risk taking on the part of creditors, counterparties and shareholders in the financial company;

(6) A Federal regulatory agency has ordered the financial company to convert all of its convertible debt instruments that are subject to the regulatory order; and

(7) The company satisfies the definition of a financial company under section 201.

[5] 12 U.S.C. 1823(c)(4).

[6] Section 201(a)(11) of the Dodd Frank Act defines the term ''financial company'' to mean any company that:

(A) Is incorporated or organized under any provision of Federal law or the laws of any State;

(B) Is—

(i) A bank holding company, as defined in section 2(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(a));

(ii) A nonbank financial company supervised by the FRB;

(iii) Any company that is predominantly engaged in activities that the FRB has determined are financial in nature or incidental thereto for purposes of section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)) other than a company described in clause (i) or (ii); or

(iv) Any subsidiary of any company described in any of clauses (i) through (iii) that is predominantly engaged in activities that the FRB has determined are financial in nature or incidental thereto for purposes of section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)) (other than a subsidiary that is an insured depository institution or an insurance company); and

(C) Is not a Farm Credit System institution chartered under and subject to the provisions of the Farm Credit Act of 1971, as amended (12 U.S.C. 2001 *et seq.*), a governmental entity, or a regulated entity, as defined under section 1303(20) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4502(20)).

[7] Dodd Frank Act, section 202(a)(1)(A)(iii).

[8] Section 210 of the Dodd-Frank Act prescribes the FDIC's powers and duties once it is appointed as receiver of a covered financial company, including, *inter alia,* its powers and duties to: (1) Succeed to all rights, titles, powers and privileges of the covered financial company and its assets, and of any stockholder, member, officer or director of such company; (2) take over the assets and operate the covered financial company with all the powers of the shareholders, members, directors and officers, and conduct all business of the covered financial company; (3) liquidate the covered financial company through the sale of assets and liabilities or the transfer of assets and liabilities to a bridge financial company, as provided under section 210(h) of the Dodd-Frank Act; (4) merge the covered financial company with another company or transfer assets or liabilities; (5) pay valid obligations that come due, to the extent that funds are available; (6) exercise subpoena powers; (7) use private sector services to manage and dispose of assets; (8) terminate rights and claims of stockholders and creditors (except for the right to payment of claims consistent with the priority of claims provision); and (9) determine and pay claims. However, a receivership of an insurance company would generally be conducted in accordance with state law.

Section 210(n) of the Dodd-Frank Act establishes an Orderly Liquidation Fund (''OLF'') in the U.S. Treasury that will be available to the FDIC to carry out its responsibilities as receiver of a covered financial company and pay the costs of actions authorized under Title II of the Dodd-Frank Act. These responsibilities include: the orderly liquidation of covered financial companies; the payment of administrative expenses; and the payment of principal and interest by the FDIC on obligations issued under section 210(n)(5) of the Dodd-Frank Act. The OLF will be comprised of amounts received by the FDIC, including: the proceeds of obligations issued to Treasury pursuant to section 210(n)(5); assessments received under section 210(o); interest and other earnings from investments; and repayments to the FDIC by covered financial companies.[9]

In order for the FDIC to fulfill its obligations as receiver of a covered financial company, it may be necessary for the FDIC to borrow funds from the Treasury. Under section 210(n)(5) of the Dodd-Frank Act, the FDIC is authorized to issue obligations to Treasury upon the FDIC's appointment as receiver, and Treasury may purchase any such obligations, ''upon such terms and conditions as to yield a return at a rate determined by the Secretary, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturity, plus an interest rate surcharge to be determined by the Secretary, which shall be greater than the difference between—(i) the current average rate on an index of corporate obligations of comparable maturity; and (ii) the current average rate on outstanding marketable obligations of the United States of comparable maturity.'' Section 210(n)(9) of the Dodd-Frank Act provides that the FDIC must develop an Orderly Liquidation Plan (''OLP'') that is acceptable to the Secretary for each covered financial company for which the FDIC is appointed receiver, prior to funds in the OLF being made available to the FDIC with regard to such covered financial company. The FDIC may amend any OLP at any time with the concurrence of the Secretary. Section 210(n)(9) further requires that a mandatory repayment plan between the FDIC and Treasury be agreed to and in effect before Treasury may provide certain amounts to the FDIC within the limits defined in section 210(n)(6)(B) of the Dodd-Frank Act.

[9] Dodd Frank Act, section 210(n)(2).

The Maximum Obligation Limitation (''MOL''), as set forth in section 210(n)(6) of the Dodd-Frank Act, limits the aggregate amount of outstanding obligations that the FDIC may issue or incur in connection with the orderly liquidation of a covered financial company. Specifically, the statute provides as follows:

The [FDIC] may not, in connection with the orderly liquidation of a covered financial company, issue or incur any obligation, if, after issuing or incurring the obligation, the aggregate amount of such obligations outstanding under this subsection, for each covered financial company would exceed—

(A) an amount that is equal to 10 percent of the total consolidated assets of the covered financial company, based on the most recent financial statement available, during the 30-day period immediately following the date of appointment of the [FDIC] as receiver (or a shorter time period if the [FDIC] has calculated the amount described under subparagraph (B)); and

(B) the amount that is equal to 90 percent of the fair value of the total consolidated assets of each covered financial company that are available for repayment, after the time period described in subparagraph (A).

On November 25, 2011, the Agencies issued a notice of proposed rulemaking regarding the calculation of the MOL as specified in section 210(n)(6) of the Dodd-Frank Act (76 FR 72645, November 25, 2011). The purpose of the proposed rule (the ''Proposed Rule'') was to define certain key terms and describe the manner in which the FDIC would calculate the MOL in the event that one or more covered financial companies are placed into receivership. The notice of proposed rulemaking published in the **Federal Register** requested comments on all aspects of the Proposed Rule as well as comments relating to certain specific questions. The comment period ended on January 24, 2012.

II. Summary of Comments on the Proposed Rule

The Agencies received two comments in response to the Proposed Rule. The first commenter was supportive of the Proposed Rule, noting that it is in close alignment with the statutory language of the Dodd-Frank Act. The commenter agreed with the proposed definitions, particularly the definitions of ''fair value'' and ''obligation.'' Further, this commenter observed that during extended periods of economic distress it may not be possible to credibly or reasonably determine ''fair value'' for some assets and that the Agencies should consider appropriate contingencies and responses. The Agencies acknowledge this point and believe that the definition of ''fair value'' in the Final Rule provides the FDIC with sufficient flexibility to implement the rule in a wide range of economic and market environments, including during periods of severe economic distress. This approach will enable the determination of the fair value of assets to be adapted to a variety of circumstances that may be encountered but that cannot be foreseen at present.

The second commenter questioned why brokered deposits are immediately paid off by the FDIC and suggested that brokered deposits be transferred to the acquiring institution as a zero-cost deposit. This comment addresses issues which are outside the scope of the Proposed Rule.

III. The Final Rule

A. Overview

Section 210(n)(7) of the Dodd-Frank Act requires the Agencies, in consultation with the Financial Stability Oversight Council (''FSOC''), to jointly prescribe regulations governing the calculation of the MOL. In accordance with this section, the Agencies consulted with the FSOC, considered the two comments received, and have decided to adopt regulations that closely follow the statutory language for calculating the MOL, while defining certain terms referenced in the statute. Because the two comments received did not suggest any changes to the regulatory text, the Final Rule is identical to the Proposed Rule. The terms in the Final Rule are defined solely for the purpose of calculating the MOL and are not applicable to any other statutory or regulatory requirements.

B. Section-by-Section Analysis of the Final Rule

Definitions. In the Proposed Rule, the Agencies defined terms that are necessary to calculate the MOL. The Proposed Rule defined the terms ''fair value,'' ''most recent financial statement available,'' ''obligation'' and ''total consolidated assets of each covered financial company that are available for repayment.'' The Dodd-Frank Act does not define these terms. The Agencies did not receive any comments that requested changes to the definitions. As a result, the definitions in the Final Rule are unchanged.

Only one comment was received on these definitions. That comment agreed with the proposed definitions, particularly the definitions of ''fair value'' and ''obligation.'' That comment also observed that it may not be possible to reasonably determine fair values during a systemic crisis and recommended that the Agencies prepare appropriate contingencies. The Agencies believe that the comment is generally in accord with the discussion of ''fair value'' in the Proposed Rule insofar as it noted the FDIC's authority to conduct an orderly liquidation in order to maximize the value of assets of a covered financial company over a three-to five-year period. As noted above, the Agencies believe that the definition of ''fair value'' in the Final Rule provides the Agencies with sufficient flexibility to implement the rule in a wide range of economic and market environments, including during periods of severe economic distress. This approach will enable the determination of fair value of assets to be adapted to a variety of circumstances that may be encountered but that cannot be foreseen at present.

Maximum Obligation Limitation. In the Proposed Rule, the Agencies closely followed the statutory language in section 210(n)(6) of the Dodd-Frank Act for calculating the MOL. The Agencies did not receive any comments that suggested changes to the MOL. As a result, the MOL in the Final Rule is unchanged.

IV. Regulatory Analysis and Procedure

A. The Paperwork Reduction Act

The Final Rule provides, in part, the manner in which the Agencies will implement the maximum obligation limitation for FDIC borrowings from Treasury to fund the Orderly Liquidation Fund in the event that one or more covered financial companies are placed into receivership. The Final Rule will not involve any new collections of information pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Consequently, no information collection was submitted to the Office of Management and Budget for review. No comments were received in connection with the Paperwork Reduction Act analysis published as part of the Proposed Rule.

B. The Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Agencies hereby certify that the Final Rule will not have a significant economic impact on a substantial number of small entities and therefore a regulatory flexibility analysis is not required. The Final Rule governs the manner in which the FDIC will calculate the MOL for obligations incurred or issued by the FDIC in connection with the orderly liquidation of a covered financial company under Title II of the Dodd-Frank Act. Under Small Business Administration (SBA) size standards defining small entities, financial companies are generally considered small entities if their annual receipts do not exceed $7 million or their total assets do not exceed $175 million.[10] The Agencies do not expect that the OLA in the Dodd-Frank Act will be used to resolve financial companies that qualify as small entities, because the failure of such companies would be unlikely to have serious adverse effects on financial stability in the United States. No comments were received in connection with the Agencies' Regulatory Flexibility Act analysis published as part of the Proposed Rule.

C. Plain Language

Each Federal banking agency, such as the FDIC, is required to use plain language in all proposed and final rules published after January 1, 2000. 12 U.S.C. 4809. In addition, in 1998, the President issued a memorandum directing each agency in the Executive branch, such as Treasury, to use plain language for all new proposed and final rulemaking documents issued on or after January 1, 1999. The Agencies sought to present the Proposed Rule in a simple and straightforward manner. The Agencies received no comments on the use of plain language, and the Final Rule is identical to the Proposed Rule.

D. Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct Treasury to assess costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This Final Rule has been designated a ''significant regulatory action'' although not economically significant, under section 3(f) of Executive Order 12866. Accordingly, the rule has been reviewed by the Office of Management and Budget.

E. Small Business Regulatory Enforcement Fairness Act

The Office of Management and Budget has determined that the Final Rule is not a ''major rule'' within the meaning of the relevant sections of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) (5 U.S.C. 801, *et seq.*).

As required by SBREFA, the FDIC and Treasury will file the appropriate reports with Congress and the Government Accountability Office so that the final rule may be reviewed.

[10] 13 CFR 121.201.

List of Subjects

12 CFR Part 380

Accounting, administrative practice and procedure, finance, and loan programs.

31 CFR Part 149

Accounting, administrative practice and procedure, finance, and loan programs.

Federal Deposit Insurance Corporation

Authority and Issuance

For the reasons stated above, the Board of Directors of the Federal Deposit Insurance Corporation amends part 380 of title 12 of the Code of Federal Regulations as follows:

PART 380—ORDERLY LIQUIDATION AUTHORITY

■ 1. The authority citation for part 380 continues to read as follows:

Authority: 12 U.S.C. 5301 *et seq.*

■ 2. Add § 380.10 to read as follows:

§ 380.10 Maximum Obligation Limitation

(a) *General rule.* The FDIC shall not, in connection with the orderly liquidation of a covered financial company, issue or incur any obligation, if, after issuing or incurring the obligation, the aggregate amount of such obligations outstanding for each covered financial company would exceed—

(1) An amount that is equal to 10 percent of the total consolidated assets of the covered financial company, based on the most recent financial statement available, during the 30-day period immediately following the date of appointment of the FDIC as receiver (or a shorter time period if the FDIC has calculated the amount described under paragraph (a)(2) of this section); and

(2) The amount that is equal to 90 percent of the fair value of the total consolidated assets of each covered financial company that are available for repayment, after the time period described in paragraph (a)(1) of this section.

(b) *Definitions:* For purposes of paragraph (a) of this section:

(1) The term ''fair value'' means the expected total aggregate value of each asset, or group of assets that are managed within a portfolio, of a covered financial company on a consolidated

basis if such asset, or group of assets, was sold or otherwise disposed of in an orderly transaction.

(2) The term ''most recent financial statement available'' means a covered financial company's:

(i) Most recent financial statement filed with the Securities and Exchange Commission or any other regulatory body;

(ii) Most recent financial statement audited by an independent CPA firm; or

(iii) Other available financial statements. The FDIC and the Treasury will jointly determine the most pertinent of the above financial statements, taking into consideration the timeliness and reliability of the statements being considered.

(3) The term ''obligation'' means, with respect to any covered financial company:

(i) Any guarantee issued by the FDIC on behalf of the covered financial company;

(ii) Any amount borrowed pursuant to section 210(n)(5)(A) of the Dodd-Frank Act; and

(iii) Any other obligation with respect to the covered financial company for which the FDIC has a direct or contingent liability to pay any amount.

(4) The term ''total consolidated assets of each covered financial company that are available for repayment'' means the difference between:

(i) The total assets of the covered financial company on a consolidated basis that are available for liquidation during the operation of the receivership; and

(ii) To the extent included in (b)(4)(i) of this section, all assets that are separated from, or made unavailable to, the covered financial company by a statutory or regulatory barrier that prevents the covered financial company from possessing or selling assets and using the proceeds from the sale of such assets.

Department of the Treasury

Authority and Issuance

■ For the reasons set forth in the preamble, Treasury amends Title 31, Chapter I of the Code of Federal Regulations by adding part 149 to read as follows:

PART 149—CALCULATION OF MAXIMUM OBLIGATION LIMITATION

Authority: 31 U.S.C. 321 and 12 U.S.C. 5390.

§ 149.1 Authority and purpose.

(a) *Authority.* This part is issued by the Federal Deposit Insurance Corporation (FDIC) and the Secretary of the Department of the Treasury (Treasury) under section 210(n)(7) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Act).

(b) *Purpose.* The purpose of this part is to issue implementing regulations as required by the Act. The part governs the calculation of the maximum obligation limitation which limits the aggregate amount of outstanding obligations the FDIC may issue or incur in connection with the orderly liquidation of a covered financial company.

§ 149.2 Definitions.

As used in this part:

Fair value. The term ''fair value'' means the expected total aggregate value of each asset, or group of assets that are managed within a portfolio of a covered financial company on a consolidated basis if such asset, or group of assets, was sold or otherwise disposed of in an orderly transaction.

Most recent financial statement available. (1) The term ''most recent financial statement available'' means a covered financial company's—

(i) Most recent financial statement filed with the Securities and Exchange Commission or any other regulatory body;

(ii) Most recent financial statement audited by an independent CPA firm; or

(iii) Other available financial statements.

(2) The FDIC and the Treasury will jointly determine the most pertinent of the above financial statements, taking into consideration the timeliness and reliability of the statements being considered.

Obligation. The term ''obligation'' means, with respect to any covered financial company—

(1) Any guarantee issued by the FDIC on behalf of the covered financial company;

(2) Any amount borrowed pursuant to section 210(n)(5)(A) of the Act; and

(3) Any other obligation with respect to the covered financial company for which the FDIC has a direct or contingent liability to pay any amount.

Total consolidated assets of each covered financial company that are available for repayment. The term ''total consolidated assets of each covered financial company that are available for repayment'' means the difference between:

(1) The total assets of the covered financial company on a consolidated basis that are available for liquidation during the operation of the receivership; and

(2) To the extent included in paragraph (1) of this definition, all assets that are separated from, or made unavailable to, the covered financial company by a statutory or regulatory barrier that prevents the covered financial company from possessing or selling assets and using the proceeds from the sale of such assets.

§ 149.3 Maximum obligation limitation.

The FDIC shall not, in connection with the orderly liquidation of a covered financial company, issue or incur any obligation, if, after issuing or incurring the obligation, the aggregate amount of such obligations outstanding for each covered financial company would exceed—

(a) An amount that is equal to 10 percent of the total consolidated assets of the covered financial company, based on the most recent financial statement available, during the 30-day period immediately following the date of appointment of the FDIC as receiver (or a shorter time period if the FDIC has calculated the amount described under paragraph (b) of this section); and

(b) The amount that is equal to 90 percent of the fair value of the total consolidated assets of each covered financial company that are available for repayment, after the time period described in paragraph (a) of this section.

Dated at Washington, DC, this 23rd day of April 2012.

By order of the Board of Directors.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

Dated: June 15, 2012.

By the Department of the Treasury.

Rebecca H. Ewing,

Executive Secretary.

Dated: June 15, 2012.

[FR Doc. 2012–15310 Filed 6–21–12; 8:45 am]

BILLING CODE 6714–01–P; 4810–25–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Chapter X

[Docket No. CFPB–2011–0040]

Disclosure of Certain Credit Card Complaint Data

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice of final policy statement.

SUMMARY: The Bureau of Consumer Financial Protection (the ''Bureau'') is