DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Parts 3 and 50

[Docket ID OCC–2019–0009]

RIN 1557–AE63

FEDERAL RESERVE SYSTEM

12 CFR Parts 217 and 249

[Regulations Q, WW; Docket No. R–1628B]

RIN 7100–AF21

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 324 and 329

RIN 3064–AE96

Changes to Applicability Thresholds for Regulatory Capital Requirements for Certain U.S. Subsidiaries of Foreign Banking Organizations and Application of Liquidity Requirements to Foreign Banking Organizations, Certain U.S. Depository Institution Holding Companies, and Certain Depository Institution Subsidiaries

AGENCY: Office of the Comptroller of the Currency, Treasury; the Board of Governors of the Federal Reserve System; and the Federal Deposit Insurance Corporation.

ACTION: Notice of proposed rulemaking with request for public comment.

SUMMARY: The Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System (Board), and the Federal Deposit Insurance Corporation (collectively, the agencies) are inviting comment on a proposal that would determine the application of regulatory capital requirements to certain U.S. intermediate holding companies of foreign banking organizations and their depository institution subsidiaries and the application of standardized liquidity requirements with respect to certain U.S. operations of large foreign banking organizations and certain of their depository institution subsidiaries, each according to risk-based categories. For liquidity, the proposal would require a foreign banking organization that meets certain criteria to comply with liquidity coverage ratio and net stable funding ratio requirements with respect to any U.S. intermediate holding company and certain depository institution subsidiaries thereof; in addition, the Board is not proposing but is requesting comment on whether it should impose standardized liquidity requirements on such foreign banking organizations with respect to their U.S. branch and agency networks, as well as possible approaches for doing so. The proposal is consistent with a separate proposal issued by the Board that would apply certain prudential standards to foreign banking organizations based on the same categories, and is similar to a proposal issued by the agencies in 2018 that would determine the application of regulatory capital and standardized liquidity requirements for large U.S. banking organizations according to risk-based categories (the domestic interagency proposal). In addition, the Board is modifying one aspect of the proposed requirements under the domestic interagency proposal with respect to certain banking organizations; specifically, to propose the application of a standardized liquidity requirement to certain U.S. depository institution holding companies that meet specified criteria relating to their liquidity risk profile. The agencies are also making technical amendments to certain provisions of the domestic interagency proposal.

DATES: Comments on the proposal, including the Board's proposal to apply liquidity requirements to certain domestic holding companies discussed in section VI of the **SUPPLEMENTARY INFORMATION**, must be received by June 21, 2019.

ADDRESSES: Comments should be directed to:

OCC: You may submit comments to the OCC by any of the methods set forth below. Commenters are encouraged to submit comments through the Federal eRulemaking Portal or email, if possible. Please use the title ''Proposed changes to applicability thresholds for regulatory capital requirements for certain U.S. subsidiaries of foreign banking organizations and application of liquidity requirements for foreign banking organizations'' to facilitate the organization and distribution of the comments. You may submit comments by any of the following methods:

- *Federal eRulemaking Portal—''regulations.gov'':* Go to *www.regulations.gov.* Enter ''Docket ID OCC–2019–0009'' in the Search Box and click ''Search.'' Click on ''Comment Now'' to submit public comments. Click on the ''Help'' tab on the *Regulations.gov* home page to get information on using *Regulations.gov*, including instructions for submitting public comments.
- *Email: regs.comments@occ.treas.gov.*
- *Mail:* Chief Counsel's Office, Attention: Comment Processing, Office of the Comptroller of the Currency, 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Hand Delivery/Courier:* 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Fax:* (571) 465–4326.

Instructions: You must include ''OCC'' as the agency name and ''Docket ID OCC–2019–0009'' in your comment. In general, the OCC will enter all comments received into the docket and publish them on the *Regulations.gov* website without change, including any business or personal information that you provide such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

You may review comments and other related materials that pertain to this rulemaking action by any of the following methods:

- *Viewing Comments Electronically:* Go to *www.regulations.gov.* Enter ''Docket ID OCC–2019–0009'' in the Search box and click ''Search.'' Click on ''Open Docket Folder'' on the right side of the screen and then ''Comments.'' Comments and supporting materials can be filtered by clicking on ''View all documents and comments in this docket'' and then using the filtering tools on the left side of the screen. Click on the ''Help'' tab on the *Regulations.gov* home page to get information on using *Regulations.gov*. The docket may be viewed after the close of the comment period in the same manner as during the comment period.
- *Viewing Comments Personally:* You may personally inspect comments at the OCC, 400 7th Street SW, Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700 or, for persons who are hearing impaired, TTY, (202) 649–5597. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect comments.

Board: You may submit comments, identified by Docket No. R–1628, by any of the following methods:

- *Agency Website: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm.*

• *Email: regs.comments@federalreserve.gov.* Include docket number 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 will be made available on the Board's website at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons or to remove personally identifiable information at the commenter's request. Accordingly, comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room 146, 1709 New York Avenue, Washington, DC 20006 between 9:00 a.m. and 5:00 p.m. on weekdays.

FDIC: You may submit comments, identified by RIN 3064–AE96, by any of the following methods:

• *Agency Website: http://www.FDIC.gov/regulations/laws/federal/propose.html.* Follow instructions for submitting comments on the FDIC website.

• *Mail:* Robert E. Feldman, Executive Secretary, Attention: Comments/Legal ESS, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

• *Hand Delivered/Courier:* Comments may be hand-delivered to the guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7:00 a.m. and 5:00 p.m.

• *Email: comments@FDIC.gov.* Include RIN 3064–AE96 on the subject line of the message.

• *Public Inspection:* All comments received must include the agency name and RIN 3064–AE96 for this rulemaking. All comments received will be posted without change to *http://www.fdic.gov/regulations/laws/federal/,* including any personal information provided. Paper copies of public comments may be ordered from the FDIC Public Information Center, 3501 North Fairfax Drive, Room E–1002, Arlington, VA 22226, or by telephone at (877) 275–3342 or (703) 562–2200.

FOR FURTHER INFORMATION CONTACT:

OCC: Mark Ginsberg, Senior Risk Expert, or Venus Fan, Risk Expert, Capital and Regulatory Policy, (202) 649–6370; James Weinberger, Technical Expert, Treasury & Market Risk Policy, (202) 649–6360; or Carl Kaminski, Special Counsel, Henry Barkhausen, Counsel, or Daniel Perez, Attorney, Chief Counsel's Office, (202) 649–5490, or for persons who are hearing impaired, TTY, (202) 649–5597, Office of the Comptroller of the Currency, 400 7th Street SW, Washington, DC 20219.

Board: Constance M. Horsley, Deputy Associate Director, (202) 452–5239; Elizabeth MacDonald, Manager, (202) 475–6216; Brian Chernoff, Lead Financial Institution Policy Analyst, (202) 452–2952; J. Kevin Littler, Lead Financial Institution Policy Analyst, (202) 475–6677; Mark Handzlik, Lead Financial Institution Policy Analyst, (202) 475–6636; Matthew McQueeney, Senior Financial Institution Policy Analyst, (202) 452–2942; Christopher Powell, Senior Financial Institution Policy Analyst, (202) 452–3442, Division of Supervision and Regulation; or Benjamin McDonough, Assistant General Counsel, (202) 452–2036; Asad Kudiya, Counsel, (202) 475–6358; Jason Shafer, Counsel (202) 728–5811; Mary Watkins, Senior Attorney, (202) 452–3722; Joshua Strazanac, Attorney, (202) 452–2457; Alyssa O'Connor, Attorney, (202) 452–3886, Legal Division, Board of Governors of the Federal Reserve System, 20th and C Streets NW, Washington, DC 20551. For the hearing impaired only, Telecommunication Device for the Deaf (TDD), (202) 263–4869.

FDIC: Benedetto Bosco, Chief, Capital Policy Section, *bbosco@fdic.gov;* Michael Maloney, Senior Policy Analyst, *mmaloney@fdic.gov; regulatorycapital@fdic.gov;* Michael E. Spencer, Chief, Capital Markets Strategies Section, *michspencer@fdic.gov;* Eric W. Schatten, Senior Policy Analyst, *eschatten@fdic.gov;* Andrew D. Carayiannis, Senior Policy Analyst, *acarayiannis@fdic.gov;* Capital Markets Branch, Division of Risk Management Supervision, (202) 898–6888; Michael Phillips, Counsel, *mphillips@fdic.gov;* Catherine Wood, Acting Supervisory Counsel, *cawood@fdic.gov;* Suzanne Dawley, Counsel, *sudawley@fdic.gov;* Andrew B. Williams II, Counsel, *andwilliams@fdic.gov;* or Gregory Feder, Counsel, *gfeder@fdic.gov;* Supervision and Legislation Branch, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429. For the hearing impaired only, Telecommunication Device for the Deaf (TDD), (800) 925–4618.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

The Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (Board), and the Federal Deposit Insurance Corporation (FDIC) (collectively, the agencies) are inviting comment on a proposed rule (the proposal) that would apply regulatory capital and standardized liquidity requirements with respect to the U.S. operations of foreign banking organizations according to risk-based categories.[1] U.S. law permits foreign banking organizations to operate in the United States through a variety of structures. For example, a foreign banking organization might conduct U.S. banking activities through

[1] Foreign banking organization means a foreign bank that operates a branch, agency, or commercial lending company subsidiary in the United States; controls a bank in the United States; or controls an Edge corporation acquired after March 5, 1987; and any company of which the foreign bank is a subsidiary. *See* 12 CFR 211.21(o); 12 CFR 252.2(k).

a U.S. branch or agency,[2] a U.S. depository institution, or both. In addition, many foreign banking organizations conduct a range of nonbank activities through separately incorporated U.S. subsidiaries.

For capital requirements, the Board is proposing to modify the capital requirements applicable to large U.S. intermediate holding companies of foreign banking organizations [3]—specifically, those with at least $100 billion in total consolidated assets—and the agencies are proposing to modify the capital requirements applicable to depository institution subsidiaries of these U.S. intermediate holding companies according to the proposed risk-based categories.

For liquidity requirements, the proposed framework would apply standardized liquidity requirements to foreign banking organizations with respect to their combined U.S. operations [4] according to the proposed risk-based categories. Specifically, the Board is proposing to require a foreign banking organization that meets certain criteria—including having combined U.S. assets [5] of $100 billion or more—to comply with liquidity coverage ratio (LCR) and net stable funding ratio (NSFR) requirements with respect to any U.S. intermediate holding company. The Board is not currently proposing but is requesting comment on whether it should impose standardized liquidity requirements on foreign banking organizations with respect to their U.S. branch and agency networks, as well as possible approaches for doing so.[6] In addition, the agencies are proposing to determine the application of LCR and NSFR requirements to certain depository institution subsidiaries of a foreign banking organization according to the proposed risk-based categories.

The proposal would generally align with the framework the agencies proposed for large U.S. banking organizations (the domestic interagency proposal).[7] The agencies noted in the domestic interagency proposal that they were not at that time proposing to amend the capital and liquidity requirements currently applicable to a U.S. intermediate holding company of a foreign banking organization or to its depository institution subsidiaries. This proposal would tailor the agencies' capital and liquidity requirements for foreign banking organizations and their U.S. subsidiaries.

The Board is also modifying one aspect of the domestic interagency proposal with respect to certain banking organizations.[8] Specifically, the Board is proposing to apply standardized liquidity requirements to a U.S. depository institution holding company that would be subject to Category IV standards under the domestic interagency proposal if the depository institution holding company significantly relies on short-term wholesale funding relative to its total consolidated assets.[9] The proposed requirement for such Category IV U.S. depository institution holding companies would align with a similar requirement for foreign banking organizations under this proposal.

Concurrently with this proposal, the Board is separately inviting comment on a proposed rule (the Board-only foreign banking organization enhanced prudential standards proposal) that would revise the framework for determining the applicability of enhanced prudential standards for foreign banking organizations with total consolidated assets of $100 billion or more, based on the risk profile of their U.S. operations. The agencies encourage commenters to review this proposal together with the Board-only foreign banking organization enhanced prudential standards proposal.

[2] An agency is place of business of a foreign bank, located in any state, at which credit balances are maintained, checks are paid, money is lent, or, to the extent not prohibited by state or federal law, deposits are accepted from a person or entity that is not a citizen or resident of the United States. A branch is a place of business of a foreign bank, located in any state, at which deposits are received and that is not an agency. *See* 12 CFR 211.21(b) and (e).

[3] A foreign banking organization with U.S. non-branch assets of $50 billion or more must establish a U.S. intermediate holding company. 12 CFR 252.153.

[4] The combined U.S. operations of a foreign banking organization include any U.S. subsidiaries (including any U.S. intermediate holding company, which would reflect on a consolidated basis any U.S. depository institution subsidiaries thereof), U.S. branches, and U.S. agencies. *See* section II.C of this **SUPPLEMENTARY INFORMATION** section.

[5] Combined U.S. assets means the sum of the consolidated assets of each top-tier U.S. subsidiary of the foreign banking organization (excluding any company whose assets are held pursuant to section 2(h)(2) of the Bank Holding Company Act, 12 U.S.C. 1841(h)(2), if applicable) and the total assets of each U.S. branch and U.S. agency of the foreign banking organization, as reported by the foreign banking organization on the Capital and Asset Report for Foreign Banking Organizations (FR Y–7Q).

[6] This **SUPPLEMENTARY INFORMATION** section uses the term ''U.S. branch and agency network'' to refer to the U.S. branches and agencies of a foreign banking organization in the aggregate, including any consolidated subsidiaries thereof.

[7] Proposed Changes to Applicability Thresholds for Regulatory Capital and Liquidity Requirements, 83 FR 66024 (December 21, 2018).

[8] The agencies are also making a technical amendment to the proposed regulation text included in the domestic interagency proposal, discussed in section VII of this **SUPPLEMENTARY INFORMATION** section.

[9] Currently, no U.S. depository institution holding company that would be subject to Category IV standards has a risk profile that would meet the proposed criteria.

II. Background

A. Current Prudential Regulatory Regime

In 2013, the agencies adopted a revised regulatory capital rule (the capital rule) that, among other things, addressed weaknesses in the regulatory framework that became apparent in the 2007–2009 financial crisis.[10] The capital rule strengthened the capital requirements applicable to banking organizations,[11] including U.S. banking organization subsidiaries of foreign banking organizations, by improving both the quality and quantity of regulatory capital and increasing the risk-sensitivity of capital requirements. In addition, to improve the banking sector's resiliency to liquidity stress and the ability of large and internationally active banking organizations to monitor and manage liquidity risk, in 2014, the agencies adopted the liquidity coverage ratio rule (LCR rule).[12] Banking organizations subject to the LCR rule must maintain an amount of high-quality liquid assets (HQLA) equal to or greater than their projected total net cash outflows over a prospective 30-calendar-day period.[13] Finally, on June 1, 2016, the agencies invited comment on a proposed rule to implement an NSFR requirement for large and internationally active banking organizations (the NSFR proposed rule).[14] The NSFR proposed rule would establish a quantitative metric to measure and help ensure the stability of the funding profile of a banking organization over a one-year time horizon. During this period, the Board also implemented further enhanced capital and liquidity standards for the largest bank holding companies and foreign banking organizations, such as capital planning requirements and liquidity risk-management standards.[15]

B. Tailoring in the Current Prudential Regulatory Regime

Many of the agencies' current rules, including the capital rule, the LCR rule, and the NSFR proposed rule, differentiate requirements among banking organizations, including U.S. intermediate holding companies of foreign banking organizations, based on one or more risk indicators, such as total asset size and on-balance sheet foreign exposure.

All banking organizations subject to the capital rule must meet minimum risk-based and leverage capital requirements, among other requirements.[16] All banking organizations must calculate risk-weighted assets for purposes of their risk-based capital requirements using the generally applicable capital rule and calculate a leverage ratio that measures regulatory capital relative to on-balance sheet assets.[17] In addition, banking organizations with $250 billion or more in total consolidated assets or $10 billion or more in total on-balance sheet foreign exposure (the advanced approaches thresholds), together with depository institution subsidiaries of banking organizations meeting those thresholds (advanced approaches banking organizations),[18] are subject to additional requirements. A U.S. advanced approaches banking organization must calculate its risk-weighted assets using the advanced approaches,[19] and all advanced approaches banking organizations must calculate a supplementary leverage ratio, which measures regulatory capital relative to on-balance sheet and certain off-balance sheet exposures, in addition to the leverage ratio described above.[20] In addition, when calculating their regulatory capital levels, advanced approaches banking organizations are required to include most elements of accumulated other comprehensive income (AOCI) in regulatory capital, which better reflects the loss-absorbing capacity of a banking organization at a specific point in time, but can also result in regulatory capital volatility and require more sophisticated capital planning and asset-liability management. Advanced approaches banking organizations must also increase their capital conservation buffers by the amount of a countercyclical capital buffer under certain circumstances.

The LCR rule and NSFR proposed rule also distinguish between banking organizations based on total asset size and total on-balance sheet foreign exposure. Under the LCR rule, the full LCR requirement generally applies to depository institution holding companies and depository institutions that meet or exceed the advanced approaches thresholds and to their depository institution subsidiaries that have total consolidated assets of $10 billion or more.[21] The Board's regulations also apply a less stringent, modified LCR requirement to depository institution holding companies that do not meet the advanced approaches thresholds but have more than $50 billion in total consolidated assets. Under the NSFR proposed rule, the proposed NSFR requirement would apply to the same banking organizations as the current full LCR requirement. Similarly, under the NSFR proposed rule, the Board proposed to apply a less stringent, modified NSFR requirement

[10] The Board and OCC issued a joint final rule on October 11, 2013 (78 FR 62018), and the FDIC issued a substantially identical interim final rule on September 10, 2013 (78 FR 55340). On April 14, 2014 (79 FR 20754), the FDIC adopted the interim final rule as a final rule with no substantive changes.

[11] Banking organizations subject to the agencies' capital rule include national banks, state member banks, insured state nonmember banks, federal and state savings associations, and top-tier bank holding companies and savings and loan holding companies domiciled in the United States not subject to the Board's Small Bank Holding Company and Savings and Loan Holding Company Policy Statement (12 CFR part 225, appendix C, and 12 CFR 238.9), excluding certain savings and loan holding companies that are substantially engaged in insurance underwriting or commercial activities or that are estate trusts, and bank holding companies and savings and loan holding companies that are employee stock ownership plans.

[12] *See* Liquidity Coverage Ratio: Liquidity Risk Measurement Standards, 79 FR 61440 (October 10, 2014) (LCR FR rule), codified at 12 CFR part 50 (OCC), 12 CFR part 249 (Board), and 12 CFR part 329 (FDIC).

[13] For depository institution holding companies with $50 billion or more, but less than $250 billion, in total consolidated assets and less than $10 billion in on-balance sheet foreign exposure, the Board separately adopted a modified LCR requirement, described further below. 12 CFR part 249, subpart G.

[14] ''Net Stable Funding Ratio: Liquidity Risk Measurement Standards and Disclosure Requirements; Proposed Rule,'' 81 FR 35124 (June 1, 2016). For depository institution 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, the Board separately proposed a modified NSFR requirement.

[15] *See* Enhanced Prudential Standards for Bank Holding Companies and Foreign Banking Organizations, 79 FR 17240 (March 27, 2014) (the enhanced prudential standards rule), codified at 12 CFR part 252.

[16] *See* 12 CFR part 217 (Board); 12 CFR part 3 (OCC); 12 CFR part 324 (FDIC).

[17] *See* Subpart D of the regulatory capital rule, 12 CFR part 217 (Board); 12 CFR part 3 (OCC); 12 CFR part 324 (FDIC).

[18] *See* 12 CFR 217.1(c), 12 CFR 217.100(b) (Board); 12 CFR 3.1(c), 12 CFR 3.100(b) (OCC); 12 CFR 324.1(c), 12 CFR 324.100(b) (FDIC). U.S. global systemically important bank holding companies (GSIBs) form a sub-category of advanced approaches banking organizations.

[19] *See* Subpart E of the regulatory capital rule, 12 CFR part 217 (Board); 12 CFR part 3 (OCC); 12 CFR part 324 (FDIC).

[20] U.S. intermediate holding companies that are advanced approaches banking organizations are not required to calculate risk-weighted assets using the advanced approaches, given the costs associated with maintaining different home country and U.S. models for the calculation. Relatedly, in certain cases, U.S. depository institution subsidiaries of U.S. intermediate holding companies that are advanced approaches banking organizations also have been granted requests to be exempted from the requirement to calculate risk-weighted assets using the U.S. advanced approaches rule.

[21] *See* 12 CFR 50.1 (OCC); 12 CFR 249.1 (Board); and 12 CFR 329.1 (FDIC). The full requirements of the LCR rule include the calculation of the LCR on each business day and the inclusion of a maturity mismatch add-on in the total net cash outflow amount.

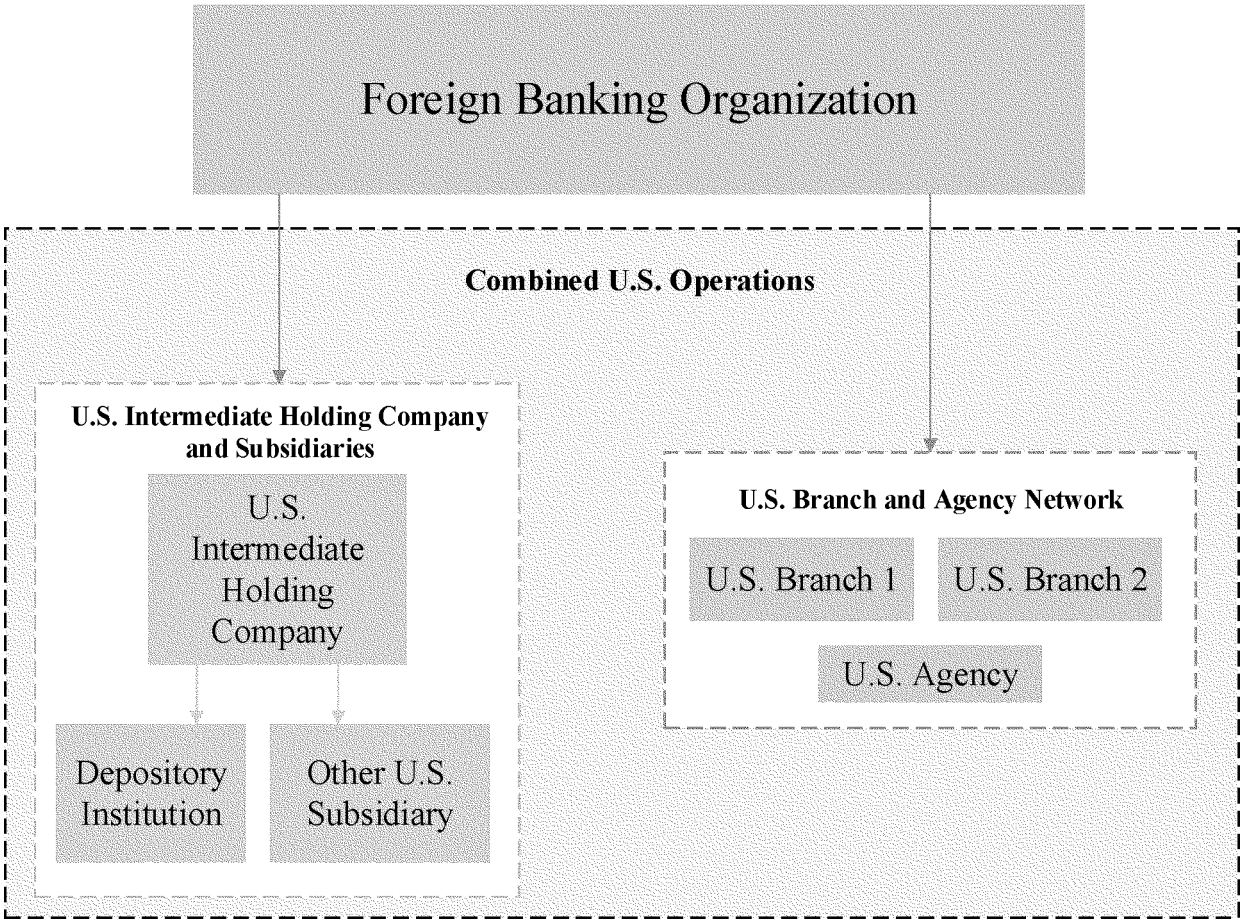
to the same depository institution holding companies that are subject to the modified LCR requirement.

The scoping criteria of the regulations described above rely on a definition of advanced approaches banking organization that the agencies introduced in 2007 in connection with the adoption of the advanced approaches risk-based capital rule. The thresholds established by this definition were designed to include the largest and most internationally active banking organizations. In implementing the liquidity rules, the agencies relied on these same thresholds, recognizing that banking organizations that meet the advanced approaches thresholds have balance sheet compositions, off-balance sheet activities, and funding profiles that lead to larger and more complex liquidity risk profiles.

C. Structure and Activities of Foreign Banking Organizations

Figure 1 provides a simplified illustration of a how a foreign banking organization may structure its U.S. operations, and depicts the portion of those operations that would comprise its combined U.S. operations for purposes of the proposal.

Figure 1: Illustrative Structure of a Foreign Banking Organization's U.S. Operations



The presence of foreign banking organizations in the United States brings competitive and countercyclical benefits to U.S. markets, as these firms serve as an important source of credit to U.S. households and businesses and contribute materially to the strength and liquidity of U.S. financial markets. Post-crisis financial regulations have resulted in substantial gains in resiliency for individual firms and the financial system as a whole. Foreign banking organizations' U.S. operations have become less fragmented, and these firms maintain greater capital and liquidity in the United States.[22]

The U.S. operations of foreign banking organizations vary in their complexity and systemic risk profile. For example, the U.S. operations of some foreign banking organizations are heavily reliant on U.S. dollar-denominated short-term wholesale funding. As demonstrated in the financial crisis, reliance on short-term wholesale funding relative to more stable funding sources (such as capital, long-term debt, and insured deposits) presents significant risks to U.S. financial stability and the safety and soundness of an individual banking organization. Among all foreign banking organizations with combined U.S. assets of $100 billion or more, weighted short-term wholesale funding[23] is equivalent to approximately 30 percent of their U.S. assets in the aggregate, ranging from 10 percent to as much as 60

[22] Sources: Consolidated Financial Statements for Holding Companies (FR Y–9C) and Complex Institution Liquidity Monitoring Report (FR 2052a).

[23] Weighted short-term wholesale funding provides a measure of a firm's reliance on certain less stable forms of funding. *See* section III.B.2.d of this Supplementary Information section.

percent at individual firms.[24] Because the U.S. branches of these foreign banking organizations have limited access to more stable funding through retail deposits, these branches in particular rely more extensively on short-term wholesale funding.

In addition, some foreign banking organizations engage in complex activities through broker-dealers in the United States, which are highly interconnected to U.S. and foreign financial intermediaries. Among foreign banking organizations with combined U.S. assets of $100 billion or more, U.S. broker-dealer subsidiaries comprise approximately 25 percent of these banking organizations' U.S. assets in aggregate, with a range of zero to 50 percent at individual firms.[25] Overall, total nonbank assets, including broker-dealer subsidiaries, in aggregate comprise approximately 25 percent of the combined U.S. assets of foreign banking organizations with combined U.S. assets of $100 billion or more, with a range of zero to 70 percent at individual firms.[26]

The U.S. operations of some foreign banking organizations also exhibit greater complexity and face risks due to significant levels of cross-jurisdictional activity and off-balance sheet exposure. Among foreign banking organizations with combined U.S. assets of $100 billion or more, cross-jurisdictional activity (excluding cross-jurisdictional liabilities to non-U.S. affiliates) [27] is equivalent to approximately 30 percent of the combined U.S. assets of these firms in the aggregate, ranging from 13 percent to as much as 81 percent at individual firms, whereas off-balance sheet exposure is equivalent to approximately 30 percent of the combined U.S. assets of these firms in the aggregate, ranging from 10 percent to as much as 51 percent at individual firms.[28] As discussed below, both cross-jurisdictional activity and off-balance sheet exposure provide a measure of a banking organization's interconnectedness, as well as other risks.

The agencies are proposing to modify the regulatory framework applicable to foreign banking organizations in a manner commensurate with the risks such organizations pose to U.S. financial stability, based on the factors set forth in this proposal. The proposal is designed to better address the risks presented by the U.S. operations of foreign banking organizations to U.S. financial stability. The proposed framework would be consistent with the framework the agencies proposed for large U.S. banking organizations, using consistent indicators of risk.

III. Overview of the Proposal

The proposal builds on the agencies' existing practice of tailoring capital, liquidity, and other requirements based on the size, complexity, and overall risk profile of banking organizations. Specifically, the proposal would establish categories of capital and liquidity standards to align requirements with a banking organization's risk profile and apply consistent standards to foreign banking organizations with similar risk profiles in the United States. The proposal generally aligns with the framework set forth in the domestic interagency proposal, with modifications to address the fact that foreign banking organizations may operate in the United States directly through U.S. branches and agencies or through subsidiaries.

For capital, the proposal would determine the application of requirements for U.S. intermediate holding companies with total consolidated assets of $100 billion or more and their depository institution subsidiaries. For liquidity, the proposal would apply LCR and NSFR requirements to certain foreign banking organizations with combined U.S. assets of $100 billion or more with respect to any U.S. intermediate holding company and to certain large depository institution subsidiaries thereof.[29] The Board is also not currently proposing but is requesting comment on whether it should impose a standardized liquidity requirement on foreign banking organizations with respect to their U.S. branch and agency networks, as well as possible approaches for doing so.

The proposal also includes a modification to the proposed standardized liquidity requirements that would apply under the domestic interagency proposal to U.S. depository institution holding companies that meet certain criteria. Specifically, the Board is proposing to apply LCR and NSFR requirements to U.S. depository institution holding companies that meet the requirements for Category IV standards under the domestic interagency proposal and have $50 billion or more in weighted short-term wholesale funding. This modification would reflect the liquidity risks of U.S. depository institution holding companies that meet these criteria and align with the liquidity requirements the Board is currently proposing for foreign banking organizations that meet the same risk-based criteria. No U.S. depository institution holding company that currently meets the criteria for Category IV standards, however, meets the proposed $50 billion weighted short-term wholesale funding threshold.

A. Categories of Standards

The proposal would establish risk-based categories for determining the application of regulatory capital and standardized liquidity requirements to the U.S. operations of foreign banking organizations. Specifically, the proposal would establish three categories of standards for foreign banking organizations with large U.S. operations—Categories II, III, and IV.[30] Capital standards would apply based on the risk profile of a foreign banking organization's U.S. intermediate holding company and liquidity standards would apply based on the risk profile of a foreign banking organization's combined U.S. operations,[31] in each case measured based on size, cross-jurisdictional activity, weighted short-term wholesale funding, off-balance sheet exposure, and nonbank assets.[32]

For capital, a U.S. intermediate holding company with $100 billion or more in total consolidated assets and each of its depository institution subsidiaries would be subject to Category II, Category III, or Category IV capital standards. The proposal would determine the applicable category of

[24] Source: FR 2052a, as of June 30, 2018.

[25] Sources: Parent Company Only Financial Statements for Large Holding Companies (FR Y–9LP), FR Y–7Q, and the Securities Exchange Commission's Financial and Operational Combined Uniform Single Report, as of September 30, 2018.

[26] *Id.*

[27] *See* section III.B.2.a of this **SUPPLEMENTARY INFORMATION** section. In addition, while the proposal would allow recognition of financial collateral in calculating intercompany claims, recognition of financial collateral is not reflected in this analysis.

[28] This analysis was based on data compiled from the FR Y–7Q, as well as information collected from certain foreign banking organizations supervised by the Board as of September 30, 2018.

[29] As discussed in section V of this Supplementary Information section, the proposal would require a foreign banking organization to calculate and maintain an LCR and NSFR for any U.S. intermediate holding company.

[30] The domestic interagency proposal also included a fourth category of standards, Category I, that would apply to U.S. GSIBs. As discussed below, the proposal would not include this category for foreign banking organizations.

[31] Accordingly, the category of capital standards that applies to a U.S. intermediate holding company of a foreign banking organization may be different from the category of liquidity standards that applies to the foreign banking organization.

[32] 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. *See* section III.B.3 of this **SUPPLEMENTARY INFORMATION** section.

capital standards based on the size, cross-jurisdictional activity, weighted short-term wholesale funding, off-balance sheet exposure, and nonbank assets of the U.S. intermediate holding company. The agencies are not proposing to apply regulatory capital standards to U.S. branches and agencies of a foreign banking organization because these branches and agencies do not maintain regulatory capital separate from their foreign parents.

For purposes of liquidity, a foreign banking organization would determine the applicable category of standards based on the risk profile of its combined U.S. operations. Therefore, a foreign banking organization with $100 billion or more in combined U.S. assets would be subject to Category II, Category III, or Category IV liquidity standards, based on the size, cross-jurisdictional activity, weighted short-term wholesale funding, off-balance sheet exposure, and nonbank assets of the foreign banking organization's combined U.S. operations, including, if applicable, any U.S. intermediate holding company and any U.S. branches and agencies. The proposal would apply LCR and NSFR requirements to a foreign banking organization with respect to a U.S. intermediate holding company, and the same category of liquidity standards would apply to any depository institution subsidiary that has $10 billion or more in assets and is a subsidiary of a U.S. intermediate holding company (covered depository institution subsidiary). In addition, the Board is not currently proposing but is requesting comment on whether it should impose standardized liquidity requirements on a foreign banking organization with respect to its U.S. branch and agency network, as well as possible approaches for doing so. During stress conditions, liquidity needs can arise suddenly and tend to manifest in all parts of an organization. For instance, funding vulnerabilities at the U.S. branches and agencies of a foreign banking organization can cause heightened liquidity risk exposure not only at the branches and agencies themselves, but also at the foreign banking organization's U.S. subsidiary operations, and vice versa. For these reasons, funding vulnerabilities at the U.S. branches and agencies of a foreign banking organization may also have an impact on broader U.S. financial stability. Accordingly, the proposal would apply liquidity standards based on the combined U.S. operations of a foreign banking organization.

The proposed categories of capital standards that would apply to a U.S. intermediate holding company with total consolidated assets of $100 billion or more and its depository institution subsidiaries, and the proposed categories of liquidity standards that would apply to a foreign banking organization with combined U.S. assets of $100 billion or more and to its covered depository institution subsidiaries, are described below.

Capital Standards

- Category II capital standards would apply to a U.S. intermediate holding company (and any depository institution subsidiary thereof) that has $700 billion or more in total consolidated assets or $75 billion or more in cross-jurisdictional activity. For purposes of determining categories of capital (and liquidity) standards, cross-jurisdictional activity would be measured excluding cross-jurisdictional liabilities to non-U.S. affiliates and cross-jurisdictional claims on non-U.S. affiliates to the extent that these claims are secured by eligible financial collateral.[33] In addition to the generally applicable capital requirements, these standards would include the supplementary leverage ratio; countercyclical capital buffer, if applicable; and the requirement to recognize most elements of AOCI in regulatory capital.[34]
- Category III capital standards would apply to a U.S. intermediate holding company (and any depository institution subsidiary thereof) that is not subject to Category II standards and that has $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 exposure.[35] In addition to the generally applicable capital requirements, these standards would include the supplementary leverage ratio and, if applicable, the countercyclical capital buffer.
- Category IV capital standards would apply to a U.S. intermediate holding company (and any depository institution subsidiary thereof) that has at least $100 billion in total consolidated assets and does not meet any of the thresholds specified for Category II or III capital standards. Category IV capital standards include the generally applicable capital requirements.[36]

Liquidity Standards

- Category II liquidity standards would apply to a foreign banking organization (and any covered depository institution subsidiary thereof) with $700 billion or more in combined U.S. assets, or $75 billion or more in cross-jurisdictional activity. For purposes of determining categories of liquidity (and capital) standards, cross-jurisdictional activity would be measured excluding cross-jurisdictional liabilities to non-U.S. affiliates and cross-jurisdictional claims on non-U.S. affiliates to the extent that these claims are secured by eligible financial collateral.[37] These standards would include full LCR and NSFR requirements for a foreign banking organization with respect to any U.S. intermediate holding company. In addition, the full LCR and NSFR requirements would apply to any covered depository institution subsidiary of a foreign banking organization subject to Category II liquidity standards.
- Category III liquidity standards would apply to a foreign banking organization (and any covered depository institution subsidiary thereof) that is not subject to Category II liquidity standards and that has $250 billion or more in combined U.S. assets or $75 billion or more in any of the following indicators: Nonbank assets, weighted short-term wholesale funding, or off-balance-sheet exposures. To the extent the combined U.S. operations of the foreign banking organization have $75 billion or more in weighted short-term wholesale funding, the foreign banking organization would be subject to the same standardized liquidity requirements as would apply under Category II liquidity standards, specifically, full LCR and NSFR

[33] *See* section III.B.2 of the **SUPPLEMENTARY INFORMATION** for discussion of the proposed cross-jurisdictional activity indicator.

[34] In the domestic interagency proposal, the agencies proposed to require U.S. banking organizations that are subject to Category II capital standards to calculate risk-based capital ratios using both the advanced approaches and the standardized approach. *See* domestic interagency proposal, 83 FR at 66034. Consistent with current requirements, a U.S. intermediate holding company (and depository institution subsidiaries thereof) would not be required to calculate risk-based capital requirements using the advanced approaches under the capital rule, and would instead use the generally applicable capital requirements for calculating risk-weighted assets. *See* section IV.A of this **SUPPLEMENTARY INFORMATION** section.

[35] For purposes of determining categories of capital and liquidity standards, weighted short-term wholesale funding would be measured including transactions with non-U.S. affiliates. *See* section III.B.2 of the **SUPPLEMENTARY INFORMATION**.

[36] U.S. intermediate holding companies with total consolidated assets of less than $100 billion and their depository institutions subsidiaries would also remain subject to the generally applicable capital requirements.

[37] *See* section III.B.2 of the **SUPPLEMENTARY INFORMATION** for discussion of the proposed cross-jurisdictional activity indicator.

requirements with respect to any U.S. intermediate holding company. To the extent the combined U.S. operations of the foreign banking organization have less than $75 billion in weighted short-term wholesale funding, the foreign banking organization would be subject to reduced LCR and NSFR requirements with respect to any U.S. intermediate holding company.[38] Full or reduced LCR and NSFR requirements would also apply to any covered depository institution subsidiary of a foreign banking organization subject to Category III liquidity standards, at the same calibration (*i.e.,* full or reduced) that would apply to the foreign banking organization for a U.S. intermediate holding company.

• Category IV liquidity standards would apply to a foreign banking organization that has combined U.S. assets of $100 billion or more and is not subject to Category II or III liquidity standards. Category IV liquidity standards would include reduced LCR and NSFR requirements only if the combined U.S. operations of a foreign banking organization have $50 billion or more in weighted short-term wholesale funding.[39] These reduced requirements would apply to the foreign banking organization, which would calculate and maintain an LCR and NSFR for any U.S. intermediate holding company. No LCR or NSFR requirement would apply to depository institution subsidiaries of foreign banking organizations subject to Category IV liquidity standards. A foreign banking organization that is not subject to Category II or III liquidity standards but has combined U.S. assets of $100 billion or more and weighted short-term wholesale funding within its U.S. operations of less than $50 billion would not be subject to standardized liquidity requirements under this proposal (but would remain subject under the Board-only foreign banking organization enhanced prudential standards proposal to enhanced liquidity requirements in the Board's enhanced prudential standards rule).

Similar to the domestic interagency proposal, the proposed approach with respect to foreign banking organizations would allow these firms to identify and predict what requirements would apply based on the current characteristics of a foreign banking organization's U.S. operations, and what requirements would apply if the characteristics of the foreign banking organization's operations were to change. By taking into consideration the materiality of each proposed risk-based indicator, the proposal would provide a basis for assessing the financial stability and safety and soundness risks of a foreign banking organization's U.S. operations.

In general, the proposed categories of capital and liquidity standards align with the categories of standards that would apply under the domestic interagency proposal to U.S. banking organizations. The domestic interagency proposal includes an additional category of standards—Category I—that would apply to U.S. global systemically important bank holding companies (U.S. GSIBs), identified using the methodology under the Board's GSIB surcharge rule.[40] Because the U.S. GSIB surcharge rule would not identify a foreign banking organization or U.S. intermediate holding company as a U.S. GSIB, Category I liquidity and capital standards would not apply to any foreign banking organization or U.S. intermediate holding company under this proposal.

Question 1: What would be the advantages and disadvantages of applying capital and liquidity standards that are more stringent than those in Category II under the proposed framework for foreign banking organizations, comparable to those of Category I under the domestic interagency proposal, to a U.S. intermediate holding company or combined U.S. operations of the foreign banking organization with comparable systemic risk profile to a U.S. GSIB? What other or different capital or liquidity standards would be appropriate to apply to such a U.S. intermediate holding company or foreign banking organization with respect to its U.S. operations, relative to the standards that would already apply under the proposal?

B. Scoping Criteria

1. Size

The proposal would tailor the application of capital and liquidity requirements based on the asset size of either a U.S. intermediate holding company or the combined U.S. operations of a foreign banking organization, as applicable. Section 165 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act),[41] as amended by the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA),[42] requires the Board to apply enhanced prudential standards to foreign banking organizations based on their total consolidated asset size.[43] Section 165 also directs the Board, in its application of enhanced prudential standards to foreign banking organizations, to give due regard to the principles of national treatment and equality of competitive opportunity and to take into account the extent to which a foreign banking organization is subject, on a consolidated basis, to home-country standards that are comparable to those applied to financial companies in the United States.[44] The agencies believe a size threshold based on a foreign banking organization's U.S. presence is appropriate for differentiating among foreign banking organizations in view of the statutory purpose, which is to prevent or mitigate risks to U.S. financial stability.[45] The agencies have also previously used size as a simple measure of a U.S. banking organization's potential systemic impact as well as safety and soundness risks.[46] The asset size thresholds set forth in this proposal are generally consistent with those that would apply to large U.S. banking organizations under the domestic interagency proposal for Categories II through IV.

In developing the asset size thresholds for the domestic interagency proposal, the Board reviewed current supervisory reports and considered the requirements of section 165 of the Dodd-Frank Act, as amended by EGRRCPA, together with historical examples of large domestic banking

[38] The agencies requested comment in the domestic interagency proposal regarding the appropriate calibration of the minimum LCR and proposed NSFR requirements within a range of 70 to 85 percent of the full liquidity requirements. This proposal would apply a calibration to foreign banking organizations that is consistent with the calibration that would apply to U.S. banking organizations, and similarly requests comment regarding the appropriate calibration.

[39] As discussed in section VI of this **SUPPLEMENTARY INFORMATION** section, the Board is also proposing to apply reduced LCR and NSFR requirements to a U.S. depository institution holding company that would be subject to Category IV standards under the domestic interagency proposal and has $100 billion or more in total consolidated assets and $50 billion or more in weighted short-term wholesale funding.

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

[41] Public Law 111–203, 124 Stat. 1376 (2010), sec. 165, codified at 12 U.S.C. 5365.

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

[43] *See generally* 12 U.S.C. 5635 and EGRRCPA sec. 401.

[44] 12 U.S.C. 5365(b)(2).

[45] 12 U.S.C. 5365(a)(1).

[46] For example, the supplementary leverage ratio and countercyclical capital buffer generally apply to U.S. intermediate holding companies with total consolidated assets of $250 billion or more or total consolidated on-balance sheet foreign exposure of $10 billion or more. *See* 12 CFR 217.10(a), 217.11(b), and 217.100(b); 252.153(e)(2)(i).

organizations that experienced significant distress or failure during the financial crisis. Analysis conducted by the Board found that the crisis experience of domestic banking organizations with total consolidated assets on the order of $100 billion, $250 billion, and $700 billion presented materially different risks to U.S. financial stability and the U.S. economy more broadly, and thus would support the differentiation of enhanced prudential standards for banking organizations included within those size groupings.[47] In addition, such significant size thresholds reflected observed differences in structural and operational complexity, and in the range and scale of financial services a banking organization provides.

To maintain comparability in the application of capital and liquidity standards to both domestic and foreign banking organizations, the agencies are proposing to use similar asset thresholds (in addition to the other risk-based indicators discussed below) to those used in the domestic interagency proposal to tailor the application of capital and liquidity standards under this proposal. Although the agencies recognize that the U.S. operations of foreign banking organizations are structured differently than domestic banking organizations, the risks to financial stability and safety and soundness that stem from size are present regardless of structure.

Like total asset size for U.S. banking organizations, the size of the U.S. operations of a foreign banking organization 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 the event that those operations are subject to an idiosyncratic stress or are affected by a systemic stress event. During the financial crisis, some large foreign banking organizations rapidly deleveraged their U.S. operations to address capital deficiencies, leaving commercial borrowers without a primary source of funding and contributing to large-scale asset fire sales. For foreign banking organizations with the largest U.S. operations, stress among those operations could be disruptive to U.S. markets and present significant risks to U.S. financial stability.

For liquidity requirements, the proposal would measure size based on the combined U.S. assets of a foreign banking organization. For capital requirements, the proposal would measure size based on the total consolidated assets of a U.S. intermediate holding company.[48] The proposal would use an asset size threshold of $700 billion or more for Category II standards; $250 billion or more but less than $700 billion for Category III standards; and $100 billion or more but less than $250 billion for Category IV standards.

Question 2: What are the advantages and disadvantages of using asset size thresholds to tailor capital and liquidity requirements? In what ways, if any, does the inclusion of asset size thresholds in capital and liquidity standards drive changes in foreign banking organizations' business models and risk profiles in ways that differ from the effects of thresholds based on other risk-based indicators? As an alternative to size thresholds, what other factors should the agencies consider to differentiate among the risk profiles of foreign banking organizations and serve as tools to tailor capital and liquidity requirements, and why?

2. Other Risk-Based Indicators

Consistent with the domestic interagency proposal, this proposal also would consider the level of cross-jurisdictional activity, nonbank assets, off-balance sheet exposure, and weighted short-term wholesale funding of the combined U.S. operations of a foreign banking organization and of any U.S. intermediate holding company to determine the applicable category of standards for liquidity and capital, respectively.[49] Each indicator would be measured as the average amount of the indicator for the four most recent calendar quarters, generally calculated in accordance with the instructions to the Banking Organization Systemic Risk Report (FR Y–15) or equivalent reporting form.[50] The agencies are proposing to apply a uniform threshold of $75 billion for each of these risk-based indicators. A threshold of $75 billion would represent at least 30 percent and as much as 75 percent of the size of the U.S. operations of a foreign banking organization or a U.S. intermediate holding company with combined U.S. assets or total consolidated assets, respectively, of between $100 billion and $250 billion. The agencies also proposed a $75 billion threshold for these indicators in the domestic interagency proposal. Under this proposal and the domestic interagency proposal, setting the thresholds for these risk-based indicators at $75 billion would ensure that domestic banking organizations and the U.S. operations of foreign banking organizations that account for the vast majority—over 70 percent—of the total amount of each risk-based indicator would be subject to liquidity and capital requirements. To the extent the levels and distribution of an indicator substantially change in the future, the agencies may consider modifications, if appropriate.

a. Cross-Jurisdictional Activity

Foreign banking organizations with U.S. operations that engage in significant cross-jurisdictional activity present complexities that support the application of more stringent standards. For example, significant cross-border activity of the U.S. operations of a foreign banking organization may require more sophisticated risk management to appropriately address the heightened interconnectivity and complexity of those operations and the diversity of risks across all jurisdictions in which the foreign banking organization provides financial services. In addition, cross-jurisdictional activity may present increased challenges in resolution because there could be legal or regulatory restrictions that prevent the transfer of financial resources across borders where multiple jurisdictions and regulatory authorities are involved. The use of a threshold based on cross-jurisdictional activity to differentiate the capital and liquidity requirements applicable to foreign banking organizations is also intended to maintain consistency with the thresholds proposed for large U.S. banking organizations under the domestic interagency proposal. The agencies' capital and liquidity regulations currently use total on-

[47] *See* domestic interagency proposal, 83 FR at 66028–66030.

[48] Combined U.S. assets are reported on the Annual Report of Foreign Banking Organizations (FR Y–7) or FR Y–7Q. Total consolidated assets of a U.S. intermediate holding company are reported on the Consolidated Statements for Holding Companies, under Form FR Y–9C. If a foreign banking organization that is required to report the FR Y–7 or Y–7Q has not filed an FR Y–7 or Y–7Q for each of the four most recent consecutive quarters, it would be required to use the most recent quarter or consecutive quarters as reported on FR Y–7 or FR Y–7Q. Similarly, if the U.S. intermediate holding company has not filed an FR Y–9C for each of the four most recent consecutive quarters, it would be required to use the most recent quarter or consecutive quarters as reported on FR Y–9C (or as determined under applicable accounting standards, if no FR Y–9C has been filed).

[49] For the discussion in the domestic interagency proposal on the other risk-based indicators, *see* 83 FR at 66030–66031.

[50] The Board is separately proposing to amend the FR Y–15 to collect risk-indicator data for the combined U.S. operations of foreign banking organizations, including any U.S. intermediate holding company. The *FR Y–15 Banking Organization Systemic Risk Report* is proposed to be renamed *FR Y–15 Systemic Risk Report.*

balance sheet foreign exposure, as reported on the Country Exposure Report (FFIEC 009), to determine the application of certain requirements for depository institution holding companies and certain of their depository institution subsidiaries, such as the supplementary leverage ratio and countercyclical capital buffer.[51]

For purposes of determining the application of capital and liquidity requirements under the proposal, a foreign banking organization would measure cross-jurisdictional activity as the sum of the cross-jurisdictional assets and liabilities of its combined U.S. operations or its U.S. intermediate holding company, as applicable, excluding intercompany liabilities and collateralized intercompany claims. Measuring cross-jurisdictional activity taking into account both assets and liabilities—instead of just assets—would provide a broader gauge of the scale of cross-border operations and associated risks, as it includes both borrowing and lending activities outside of the United States.[52] The proposal would adjust the measurement of cross-jurisdictional activity to exclude intercompany liabilities and to recognize collateral in calculating intercompany claims in order to reflect the structural differences between foreign banking organizations' operations in the United States and domestic holding companies.

Specifically, the proposed cross-jurisdictional activity indicator would exclude liabilities of the combined U.S. operations or U.S. intermediate holding company that reflect transactions with non-U.S. affiliates. Intercompany liabilities generally represent funding from the foreign banking organization to its U.S. operations and, in the case of certain long-term debt instruments, may be required by regulation.[53] The proposed exclusion recognizes the benefit of the foreign banking organization providing support to its U.S. operations. Short-term funding from affiliates, which may pose heightened liquidity risks to the U.S. operations, would be captured in the proposal's measure of weighted short-term wholesale funding.

Foreign banking organizations' U.S. operations often intermediate transactions between U.S. clients and foreign markets, including by facilitating access for foreign clients to U.S. markets, and clearing and settling U.S. dollar-denominated transactions. In addition, they engage in transactions to manage enterprise-wide risks. In these roles, they engage in substantial and regular transactions with non-U.S. affiliates. In recognition that the U.S. operations have increased cross-jurisdictional activity as a result of these activities, the proposal would include in cross-jurisdictional claims only the net exposure (*i.e.,* net of collateral value subject to haircuts) of all secured transactions with non-U.S. affiliates to the extent that these claims are collateralized by financial collateral.[54]

The proposed recognition of financial collateral would apply to all types of claims, including repurchase agreements and securities lending agreements. Specifically, claims on non-U.S. affiliates would be reduced by the value of any financial collateral in a manner consistent with the agencies' capital rule,[55] which permits, for example, banking organizations to recognize financial collateral when measuring the exposure amount of repurchase agreements and securities borrowing and securities lending transactions (together, repo-style transactions).[56] The capital rule recognizes as financial collateral certain types of high-quality collateral, including cash on deposit and securities issued by the U.S. government, as well as certain types of equity securities and debt. With the exception of cash on deposit, the banking organization also is required to have a perfected, first-priority interest in the collateral or, outside of the United States, the legal equivalent thereof.[57] Permitting the reduction of certain claims on non-U.S. affiliates if the collateral meets the definition of financial collateral would ensure that the collateral is liquid, while the use of supervisory haircuts would also limit risk associated with price volatility. In addition, relying on the capital rule's definition of financial collateral would provide clarity regarding the types of collateral eligible to reduce the amount of cross-jurisdictional claims under this approach.

As an example of how the proposed financial collateral recognition would operate, if the U.S. operations of a foreign banking organization placed cash with the parent foreign banking organization through a reverse repurchase agreement, and the parent foreign banking organization provided securities that qualified as financial collateral, the exposure of the U.S. operations would be reduced by the value of the securities in a manner consistent with the capital rule's collateral haircut approach. If the value of the claim exceeds the value of the financial collateral after taking into account supervisory haircuts, then the uncollateralized portion of the claim would be included in the foreign banking organization's measure of cross-jurisdictional activity. Conversely, if the value of the collateral after taking into account supervisory haircuts exceeds the value of the claim, the exposure to the non-U.S. affiliate would be excluded from the measure of cross-jurisdictional activity.

In addition to the proposal to exclude intercompany liabilities and certain collateralized intercompany claims from the measure of cross-jurisdictional activity, the agencies are requesting comment on alternatives to adjusting the measure for cross-jurisdictional activity to recognize that the U.S. intermediate holding company or combined U.S. operations engage in

[51] *See* 12 CFR 217.10 (requiring advanced approaches Board-regulated institutions to maintain a supplementary leverage ratio); 217.11(b) (requiring advanced approaches Board-regulated institutions to maintain a countercyclical capital buffer); 217.100(b)(1) (describing the size and on-balance sheet foreign exposure thresholds for determining an advanced approaches Board-regulated institution).

[52] The Basel Committee on Banking Supervision (BCBS) recently amended its measurement of cross-border activity to more consistently reflect derivatives, and the Board anticipates it will separately propose changes to the FR Y–15 in a manner consistent with this change. Any related changes to the proposed cross-jurisdictional activity indicator would be updated through those separately proposed changes to the FR Y–15.

[53] *See* 12 CFR 252.162 and 12 CFR 252.165.

[54] *See* the definition of ''financial collateral'' at 12 CFR 3.2 (OCC); 12 CFR 217.2 (Board); 12 CFR 324.2 (FDIC).

[55] *See* 12 CFR 3.37 (OCC); 12 CFR 217.37 (Board); 12 CFR 324.37 (FDIC).

[56] *See* the definition of ''repo-style transaction'' at 12 CFR 3.2 (OCC); 12 CFR 217.2 (Board); 12 CFR 324.2 (FDIC).

[57] *See* 12 CFR 217.2. The proposal would differ from the FFIEC 009, on which U.S. intermediate holding companies report cross-border claims, in two respects. The FFIEC 009 uses different rules to recognize collateral, using the term ''eligible collateral,'' which includes cash as well as investment grade debt or marketable equity securities. In addition, the FFIEC 009 requires reporting of repurchase agreements, securities lending agreements and other similar financing agreements at the value of the outstanding claim, regardless of the amount of collateral provided. *See* Instructions for the Preparation of the Country Exposure Report (FFIEC 009) at 12–13 (effective September 2016). The proposal would use the concept of financial collateral from the agencies' capital rule and would recognize collateral for any claim, including claims to which the collateral haircut approach applies under the agencies' capital rule.

In addition, the FFIEC 009 measures cross-jurisdictional activity on an ultimate-risk basis, whereby claims are allocated based on the country of residence of the ultimate obligor, which, in certain cases, can mean the country or residence of the collateral provided. Securities lending agreements and repurchase agreements, however, are allocated based on the residence of the counterparty, without taking into consideration the location of the collateral. The proposal would require allocation of exposures on an ultimate-risk basis (subject to the netting described above).

substantial and regular transactions with non-U.S. affiliates.

Under the first alternative, the agencies would exclude all transactions with non-U.S. affiliates from the computation of the cross-jurisdictional activity of a U.S. intermediate holding company or the combined U.S. operations of a foreign banking organization. This alternative would focus only on third-party assets and liabilities and may be a less burdensome way to account for the structural differences between foreign banking organizations' operations in the United States and large domestic holding companies.

Under the second alternative, the agencies would adjust the $75 billion threshold for the cross-jurisdictional activity indicator. For example, the agencies could apply a threshold of $100 billion for cross-jurisdictional activity such that the U.S. intermediate holding company or combined U.S. operations of a foreign banking organization would be subject to Category II capital or liquidity standards if it exceeded this threshold. This alternative would recognize the flows between a foreign banking organization's U.S. operations and its foreign affiliates without making any additional adjustments to address intercompany liabilities or collateralized intercompany claims. This alternative would not require a foreign banking organization to monitor collateral transfers or calculate supervisory haircuts in measuring its cross-jurisdictional activity.

Question 3: What are the advantages and disadvantages of recognizing the value of collateral for certain transactions with non-U.S. affiliates in the computation of the cross-jurisdictional activity of a U.S. intermediate holding company or the combined U.S. operations of a foreign banking organization? How would this recognition align with the objectives of the proposed indicator as a measure of operational complexity, scope, and risks associated with operations and activities in foreign jurisdictions and with principles of national treatment and equality of competitive opportunity?

Question 4: What would be the advantages and disadvantages of excluding from the measure of cross-jurisdictional activity liabilities to non-U.S. affiliates? How would this exclusion align with the objectives of the proposed indicator as a measure of operational complexity, scope, and risks associated with operations and activities in foreign jurisdictions and with principles of national treatment and equality of competitive opportunity?

Question 5: What are the advantages and disadvantages of recognizing collateral for all repo-style transactions and other collateralized positions? To what extent should the type of transaction determine whether collateral is recognized?

Question 6: What are the advantages and disadvantages of relying on the definition of financial collateral in the agencies' capital rule and applying supervisory haircuts in calculating the amount of cross-jurisdictional claims? What are the burdens associated with this approach and how do these burdens compare with the benefits? Are there other criteria that the agencies should consider in addition to this approach (e.g., the amount of time that would be needed to monetize the collateral) and why?

Question 7: What would be the advantages and disadvantages of other ways to define eligible collateral, such relying on the definition of HQLA in the LCR rule? Under this alternative approach, collateral would be recognized in the calculation of the exposure if the collateral is HQLA. Would relying on the definition of HQLA help ensure the collateral is liquid and provide greater clarity on the types of collateral that could be recognized? What are the burdens associated with this approach and how do these burdens compare with the benefits?

Question 8: As discussed above, measuring cross-jurisdictional activity on an ultimate risk basis takes into consideration both the type of collateral, and the location of the collateral or issuer. On the FFIEC 009, if collateral is in the form of investment grade debt or marketable securities, risk is allocated based on the residence of the issuer of the security, while cash collateral is allocated based on the residence of the legal entity where the cash is held. What would be the advantages and disadvantages of allocating cross-jurisdictional claims based on the location of the entity holding the collateral for securities and cash?

Question 9: On the FFIEC 009, repurchase agreements, securities lending agreements, and other similar financial transactions cannot be re-allocated or ''transferred'' to a different jurisdiction based on the location of the collateral or issuer. What would be the advantages and disadvantages of allowing repurchase agreements, securities financing transactions, and other similar agreements to be excluded from the measure of cross-jurisdictional activity if the collateral was issued by a U.S. entity or, for cash collateral, located in the United States? How would such treatment align with the objectives of the proposed indicator as a measure of operational complexity, scope, and risks associated with operations and activities in foreign jurisdictions and with principles of national treatment and equality of competitive opportunity?

Question 10: What are the advantages and disadvantages of measuring cross-jurisdictional activity on an immediate-counterparty basis (i.e., on the basis of the country of residence of the borrower) rather than on an ultimate-risk basis? What, if any, clarifications could be made to the measurement of cross-jurisdictional activity on an ultimate-risk basis to ensure consistency across banking organizations and more accurate assessment of risk?

Question 11: What is the most appropriate way in which the proposed cross-jurisdictional activity indicator could account for the risk of transactions with a delayed settlement date, and why? What are the advantages and disadvantages of the use of settlement date accounting versus trade date accounting for purposes of the cross-jurisdictional activity indicator?

Question 12: What are the advantages or disadvantages of the alternative approaches to measuring non-U.S. affiliate transactions for purposes of the cross-jurisdictional activity indicator? How do these alternatives compare to the proposal?

Question 13: What other positions, if any, should be excluded from or included in the cross-jurisdictional activity indicator for purposes of determining capital and liquidity standards, and why? How would excluding from the cross-jurisdictional activity measure a broader or narrower set of intercompany assets and liabilities align with the objectives of the proposed indicator as a measure of operational complexity, scope, and risks associated with operations and activities in foreign jurisdictions and with principles of national treatment and equality of competitive opportunity?

Question 14: What would be the advantages and disadvantages of including in or excluding from the proposed cross-jurisdictional activity indicator positions of the U.S. branches and agencies of a foreign banking organization with the parent foreign banking organization or other non-U.S. affiliates? For example, what would be the advantages or disadvantages of including or excluding reported gross due from and gross due to the parent

foreign banking organization or other non-U.S. affiliates?

Question 15: What modifications to the proposed cross-jurisdictional activity measure should the agencies consider to better align it with the proposed treatment for U.S. banking organizations under the domestic interagency proposal and promote consistency in the measurement of assets and liabilities across the agencies' regulatory capital and liquidity framework and applicable accounting standards, and why? How would any such modification more appropriately account for the risks of cross-jurisdictional activity for foreign banking organizations and mitigate risks to U.S. financial stability?

Question 16: To what extent would using a particular measure of cross-jurisdictional activity create incentives for foreign banking organizations to restructure relationships between U.S. subsidiaries, U.S. branches and agencies, and non-U.S. affiliates?

Question 17: What alternative indicators should the agencies consider to the proposed cross-jurisdictional activity indicator as a measure of cross-border activity of a foreign banking organization? How would any alternative indicator align with the proposed cross-jurisdictional activity measure for U.S. banking organizations under the domestic interagency proposal?

Question 18: What are the advantages and disadvantages of the proposal or the alternatives in combination with other potential changes to the measurement and reporting of cross-jurisdictional activity discussed above (e.g., ultimate-risk basis)? How would changes to the measurement and reporting of cross-jurisdictional activity in combination with the proposal or alternatives align with the objectives of the proposed indicator as a measure of operational complexity, scope, and risks associated with operations and activities in foreign jurisdictions and with principles of national treatment and equality of competitive opportunity?

Question 19: Data reported on the FR Y–15 is used to measure the systemic risk of large banking organizations, including to identify and calibrate surcharges applied to U.S. GSIBs. The Board may amend the FR Y–15 in this context, and would seek comment on the effect of any changes on the U.S. GSIB surcharge framework as well as on the advantages and disadvantages of incorporating these changes into the calculation of risk indicators. The Board also may separately amend the FR Y–15 in the context of the calculation of risk indicators. What are the advantages and disadvantages of the risk-based indicator definitions tracking the inputs to the U.S. GSIB surcharge framework?

b. Nonbank Assets

The amount of a banking organization'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 and funding relationships, and substantial inter-affiliate transactions that can add operational challenges. A banking organization's complexity is positively correlated with the impact of the organization's failure or distress.[58] U.S. intermediate holding companies can maintain significant investments in nonbank subsidiaries, and therefore may present attendant risks.

Nonbank activities may involve a broader range of risks than those associated with 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 nonbank activities could present significant safety and soundness concerns and increase financial stability risks. The distress or failure of a nonbank subsidiary could be destabilizing to the U.S. operations of a foreign banking organization and the foreign banking organization itself, and cause counterparties and creditors to lose confidence in the organization's U.S. or global operations. Nonbank assets also reflect the degree to which a foreign banking organization and its U.S. operations may be engaged in activities through legal entities that are not subject to separate capital or liquidity requirements or to the direct regulation and supervision applicable to a regulated banking entity.

Under the proposal, nonbank assets would be measured as the average amount of assets in consolidated nonbank subsidiaries [59] and any direct investments in unconsolidated nonbank subsidiaries.[60] The proposed nonbank assets indicator would align with the nonbank assets indicator in the domestic interagency proposal, as well as with the Board's capital plan rule.[61]

c. Off-Balance Sheet Exposure

Off-balance sheet exposure complements the measure of size by taking into consideration financial and banking activities not reflected on the balance sheet of a foreign banking organization's U.S. operations. Like 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 liquidity, particularly in times of stress. In the financial crisis, for example, vulnerabilities among the U.S. operations of foreign banking organizations were exacerbated by draws on commitments. These types of exposures can be a source of safety and soundness risk, as organizations with significant off-balance sheet exposure may have to fund these positions in the market in a time of stress. The nature of these risks for foreign banking organizations of significant 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 conditions.[62]

[58] *See* Regulatory Capital Rules: Implementation of Risk-Based Capital Surcharges for Global Systemically Important Bank Holding Companies, 80 FR 49082 (August 14, 2015). *See also* ''Global systemically important banks: Updated assessment methodology and the higher loss absorbency requirement'' (paragraph 25), available at *http://www.bis.org/publ/bcbs255.htm.*

[59] The proposed measure of nonbank assets would exclude assets in a national bank, state member bank, and state nonmember bank, as well as assets in other depository institutions, including a federal savings association, federal savings bank, or state savings association. The nonbank assets measure also would exclude the assets in each Edge or Agreement Corporation that is held through a banking subsidiary.

[60] The proposed measure of nonbank assets would include the assets in each Edge or Agreement Corporation not held through a banking subsidiary, and would exclude assets in a federal savings association, federal savings bank, or state savings association.

[61] *See* 12 CFR 225.8. The capital plan rule defines ''average total nonbank assets'' with respect to a U.S. intermediate holding company subject to the capital plan rule as the average of the total nonbank assets of the U.S. intermediate holding company, calculated in accordance with the instructions to the FR Y–9LP, for the four most recent consecutive quarters or, if the U.S. intermediate 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).

[62] *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.*

Off-balance sheet exposure may also amplify contagion effects. Some off-balance sheet exposures, such as derivatives, are concentrated among the largest financial firms.[63] 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.[64] Such a default also can lead to disruptions in markets for financial contracts, including by resulting in rapid market-wide unwinding of trading positions.[65] 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.

Under the proposal, off-balance sheet exposure would be measured as the difference between total exposure and on-balance sheet assets. Total exposure includes 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).

d. Weighted Short-Term Wholesale Funding

The proposed weighted short-term wholesale funding indicator would measure the level of reliance on short-term wholesale funding sources.[66] This indicator provides a measure of liquidity risk, as reliance on short-term, generally uninsured funding from more sophisticated counterparties can make those operations vulnerable to large-scale funding runs. In particular, foreign 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 foreign banking organization'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. Weighted short-term wholesale funding would include exposures between the U.S. operations of a foreign banking organization and its non-U.S. affiliates, as reliance on short-term wholesale funding from foreign affiliates can contribute to the funding vulnerability of a foreign banking organization's U.S. operations in times of stress.

Question 20: What are the advantages and disadvantages of the proposed risk-based indicators? What different indicators should the agencies consider, and why?

Question 21: At what level should the threshold for each indicator be set, and why? Commenters are encouraged to provide data supporting their recommendations.

Question 22: The agencies are considering whether Category II standards should apply based on a banking organization'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 foreign banking organization's combined U.S. operations and its depository institution subsidiaries 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 the combined U.S. assets of a foreign banking organization with between $250 billion and $700 billion in combined U.S. assets. If the agencies were to adopt additional indicators for purposes of identifying foreign banking organizations with U.S. operations 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.

3. Alternative Scoping Criteria

An alternative approach for tailoring the application of enhanced prudential standards to a foreign banking organization would be to use a single, comprehensive score to assess the risk profile and systemic footprint of a foreign banking organization's combined U.S. operations or U.S. intermediate holding company. The Board uses such an identification methodology (scoring methodology) to identify a U.S. GSIB and apply risk-based capital surcharges to these firms. As an alternative in the domestic interagency proposal, the agencies described a scoring methodology that could be used to tailor prudential standards for domestic banking organizations.

The scoring methodology in the Board's regulations is used to calculate a U.S. GSIB's capital surcharge under two methods.[67] The first method is based on the sum of a bank holding company'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 bank holding company's reliance on short-term wholesale funding (method 2).[68] Consistent with the domestic interagency proposal and as an alternative to the threshold approach under this proposal, the agencies are seeking comment on use of the scoring methodology to tailor the application of enhanced prudential standards to the U.S. operations of foreign banking organizations.

The scoring methodology was designed to identify and assess the systemic risk of large U.S. banking

[63] *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.*

[64] To address these risks at the largest and most systemically risky firms, the agencies have established restrictions relating to the qualified financial contracts of U.S. GSIBs, the 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).

[65] *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.*

[66] 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).

[67] Application of a U.S. GSIB's capital surcharge is determined based on an annual calculation. Similarly, the alternative scoping criteria under this proposal would be based on an annual calculation. *See* 12 CFR part 217, subpart H.

[68] 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).

organizations, and similarly can be used to measure the risks posed by the U.S. operations of foreign banking organizations. The component measures of the scoring methodology identify banking organizations that have heightened risk profiles, and provide a basis for assessing risk to safety and soundness and U.S. financial stability. Size, interconnectedness, cross-jurisdictional activity, substitutability, complexity, and short-term wholesale funding are indicators of risk for both foreign and domestic banking organizations. Similar to the thresholds-based approach set forth in this proposal, the indicators used in the scoring methodology closely align with the risk-based factors specified in section 165 of the Dodd-Frank Act for applying enhanced prudential standards. Because this information would be reported publicly, use of the scoring methodology would promote transparency in the application of such standards to foreign banking organizations.

The Board has previously used the scoring methodology and global methodology [69] to identify and apply enhanced prudential standards to U.S. subsidiaries and operations of foreign global systemically important banking organizations (foreign GSIBs). For example, the Board's restrictions on qualified financial contracts and total loss-absorbing capacity requirements apply to U.S. GSIBs and the U.S. operations of foreign GSIBs, with the latter identified under the Board's scoring methodology or the global methodology.[70]

Under the alternative scoring approach, the size of a foreign banking organization's combined U.S. assets, together with the method 1 or method 2 score of its U.S. operations under the scoring methodology, would be used to determine which category of liquidity standards would apply. Consistent with the proposal, most enhanced prudential standards would be based on the method 1 or method 2 score applicable to a foreign banking organization's combined U.S. operations. The application of capital standards, however, would apply based on the method 1 or method 2 score of a foreign banking organization's U.S. intermediate holding company depository institution subsidiary. U.S. intermediate holding companies already report information required to calculate method 1 and method 2 scores, and in connection with this proposal, those reporting requirements would be extended to include a foreign banking organization's combined U.S. operations.[71]

To determine which category of standards would apply under the alternative scoring methodology, the Board considered the distribution of method 1 and method 2 scores of the U.S. operations of foreign banking organizations, U.S. intermediate holding companies, domestic bank holding companies, and certain savings and loan holding companies with at least $100 billion in total consolidated assets.[72] As discussed below, the agencies are providing ranges of scores for the application of Category II and Category III standards. If the agencies adopt a final rule that uses the scoring methodology to establish tailoring thresholds, the agencies would set a single score within the listed ranges for the application of Category II and Category III standards. Like under the indicators-based approach, a subsidiary depository institution of a foreign banking organization would be subject to the same category of standards as the foreign banking organization.

Category II. 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 banking organization's material distress or failure to disrupt the U.S. financial system or economy. The Board estimated method 1 and method 2 scores for domestic banking organizations with more than $250 billion in total consolidated assets, and foreign banking organizations with more than $250 billion in combined U.S. assets. To this sample, the Board added estimates of method 1 and method 2 scores for a banking organization whose distress impacted U.S. financial stability during the crisis (Wachovia), and estimated method 1 and method 2 scores assuming significant growth in operations (*e.g.,* if one or more U.S. intermediate holding companies each had $700 billion in assets). The Board also considered the outlier method 1 and method 2 scores for domestic and foreign banking organizations with more than $250 billion in total consolidated assets that are not U.S. GSIBs.[73]

Based on this analysis and to maintain comparability to the domestic interagency proposal, under the alternative scoring approach the agencies would apply Category II liquidity standards to any foreign banking organization with at least $100 billion in combined U.S. assets and whose combined U.S. operations have (a) a method 1 score that meets or exceeds a minimum score between 60 and 80, or (b) a method 2 score that meets or exceeds a minimum score between 100 to 150. These same size thresholds and score ranges would apply to U.S. intermediate holding companies for the application of capital standards.

Category III. Under the proposal, the agencies would apply Category III liquidity standards to a foreign banking organization with combined U.S. assets of $250 billion or more, or, for capital standards, a U.S. intermediate holding company with total consolidated assets of $250 billion or more that does not meet the criteria for Category II. This reflects, among other things, the crisis experience of domestic banking organizations with total consolidated assets of $250 billion or more, which presented materially different risks to U.S. financial stability relative to banking organizations with less than $250 billion in assets. Similarly, under the domestic interagency proposal, the agencies would at a minimum apply Category III standards to a banking organization with assets of $250 billion or more, reflecting the threshold above which the Board must apply enhanced prudential standards under section 165.

The domestic interagency proposal seeks comment on an alternative scoring approach under which a banking organization with total consolidated assets between $100 billion and $250 billion that has a method 1 or method 2 score within a specified range would be subject to Category III standards. Specifically, the agencies proposed selecting a minimum score for application of Category III standards between 25 and 45 under method 1, or of between 50 and 85 under method 2.

[69] Global methodology means the assessment methodology and the higher loss absorbency requirement for global systemically important banks issued by the BCBS, as updated from time to time. 12 CFR 252.2.

[70] *See* 12 CFR 252.82(b) (definition of ''covered entity'' with regard to restrictions on qualified financial contracts); 12 CFR 252.160 (definition of ''covered IHC'' with regard to total loss-absorbing capacity requirements). *See also,* 12 CFR 252.153(b) (identification of foreign GSIBs in the enhanced prudential standards rule; 12 CFR 252.170(a)(2)(ii) (definition of ''major foreign banking organization'' in single counterparty credit limits rule).

[71] As discussed above, the Board is separately proposing to amend the FR Y–15 to collect risk-indicator data for the combined U.S. operations of foreign banking organizations.

[72] In conducting its analysis, the Board considered method 1 and method 2 scores as of September 30, 2018.

[73] 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, U.S. savings and loan holding companies, U.S. intermediate holding companies, and the combined U.S. operations of foreign banking organizations.

The maximum score for application of the Category III standards would be one point lower than the minimum score selected for application of Category II standards. In selecting these ranges, the Board compared the scores of domestic banking organizations with total consolidated assets of between $100 billion and $250 billion with those of banking organizations with total consolidated assets greater than $250 billion. The Board performed a similar analysis including the scores of foreign banking organizations and found similar results. The agencies are therefore considering the same thresholds for application of Category III standards to foreign banking organizations under the alternative scoring approach. Use of these thresholds would maintain comparable treatment between domestic banking organizations and the U.S. operations of foreign banking organizations under the alternative scoring approach.

Specifically, under the alternative scoring approach, Category III standards would apply to a foreign banking organization with combined U.S. assets between $100 billion and $250 billion with a method 1 score that meets or exceeds a minimum score between 25 and 45, or a method 2 score that meets or exceeds a minimum score between 50 and 85, and in either case is below the score threshold for Category II standards. These same size thresholds and score ranges would apply to U.S. intermediate holding companies for the application of capital standards.

Category IV: Under the alternative scoring approach, Category IV liquidity standards would apply to a foreign banking organization with at least $100 billion in combined U.S. assets whose method 1 or method 2 score for its combined U.S. operations is below the minimum score threshold for Category III. Likewise, Category IV capital standards would apply to a foreign banking organization with a U.S. intermediate holding company that has at least $100 billion in total assets and does not meet any threshold specified for Category III.

Question 23: What are the advantages and disadvantages to the use of the alternative scoring approach and category thresholds described above instead of the proposed thresholds for foreign banking organizations?

Question 24: If the agencies were to use the alternative scoring approach to differentiate foreign banking organizations' U.S. operations for purposes of tailoring prudential standards, should the agencies use method 1 scores, method 2 scores, or both? What are the challenges of applying the alternative scoring approach to the combined U.S. operations or U.S. intermediate holding company of a foreign banking organization? What modifications to the alternative scoring approach, if any, should the agencies consider (e.g., should intercompany transactions be reflected in the calculation of indicators)?

Question 25: If the agencies adopted the alternative scoring approach, what would be the advantages or disadvantages of requiring scores to be calculated for the U.S. operations of a foreign banking organization at a frequency greater than annually, including, for example, requiring scores to be calculated on a quarterly basis?

Question 26: With respect to each category of standards described above, at what level should the method 1 or method 2 score thresholds be set for the combined U.S. operations or U.S. intermediate holding company of a foreign banking organization and why? Commenters are encouraged to provide data supporting their recommendations.

Question 27: What other approaches should the agencies consider in setting thresholds for tailored prudential standards for foreign banking organizations and why? How would any such approach affect the comparability of requirements across domestic banking organizations and foreign banking organizations with U.S. operations?

C. Determination of Applicable Category of Standards

Under the proposal, a U.S. intermediate holding company with $100 billion or more in total consolidated assets, and a depository institution subsidiary thereof, would be required to determine its applicable category of capital standards based on the risk-based indicators applicable to the U.S. intermediate holding company. Similarly, the proposal would require a foreign banking organization with combined U.S. assets of $100 billion or more, and covered depository institution subsidiaries thereof, to determine the applicable category of liquidity standards based on the risk-based indicators of the combined U.S. operations. In order to capture significant changes, rather than temporary fluctuations, in the risk profile of the U.S. intermediate holding company or the foreign banking organization's combined U.S. operations, a category of standards would apply based on the levels of each risk-based indicator over the preceding four calendar quarters.

For capital standards, a category of standards would apply to a U.S. intermediate holding company and any depository institution subsidiary thereof based on the average levels of each indicator over the preceding four calendar quarters for the U.S. intermediate holding company.[74] A U.S. intermediate holding company and any depository institution subsidiary would remain subject to a category of standards until it no longer meets the indicators for that category in each of the four most recent calendar quarters, or until the U.S. intermediate holding company meets the criteria for another category of standards based on an increase in the average value of one or more risk-based indicator over the preceding four calendar quarters.

For liquidity standards, the category of standards applicable to a foreign banking organization and any covered depository institution subsidiary thereof would be based on the average levels of each indicator over the preceding four calendar quarters for the combined U.S. operations.[75] A foreign banking organization and any covered depository institution subsidiary thereof would remain subject to a category of standards until the foreign banking organization's combined U.S. operations no longer meet the indicators for that category in each of the four most recent calendar quarters, or until the foreign banking organization meets the criteria for another category of standards based on an increase in the average value of one or more risk-based indicator for the preceding four calendar quarters.[76]

Changes in capital or liquidity requirements that result from a change in category of capital or liquidity standards, respectively, would take effect on the first day of the second quarter following the change in the applicable category. For example, a U.S. intermediate holding company that changes from Category IV to Category III capital standards based on an increase

[74] With respect to a U.S. intermediate holding company that has reported a risk-based indicator for less than four quarters, the proposal would refer to the average of the most recent quarter or quarters.

[75] With respect to a foreign banking organization that has reported a risk-based indicator for less than four quarters, the proposal would refer to the average of the most recent quarter or quarters.

[76] In addition, as discussed in section V.G of this **SUPPLEMENTARY INFORMATION** section, consistent with the LCR rule and NSFR proposed rule and the domestic interagency proposal, once a foreign banking organization or any covered depository institution subsidiary is subject to LCR or NSFR requirements under the proposal, it would remain subject to the rule until the applicable agency determines that application of the rule is not appropriate in light of its asset size, level of complexity, risk profile, scope of operations, affiliation with foreign or domestic covered entities, or risk to the financial system.

in the average value of its risk-based indicators over the first, second, third, and fourth quarters of a calendar year would be subject to Category III capital standards beginning on the first day of the second quarter of the following year (April, in this example).

Under the proposal, a U.S. intermediate holding company or depository institution subsidiary of a foreign banking organization could be subject to different categories of standards for capital and liquidity. Consider, for example, a foreign banking organization with combined U.S. assets of $400 billion, cross-jurisdictional activity of $80 billion at its combined U.S. operations, and a U.S. intermediate holding company with consolidated total assets of $260 billion and cross-jurisdictional activity of $40 billion. In this example, the foreign banking organization would be subject to Category II liquidity standards, including with respect to its LCR and NSFR calculation for any U.S. intermediate holding company, because the combined U.S. operations have more than $75 billion in cross-jurisdictional activity. Any covered depository institution subsidiary of the foreign banking organization in this example would likewise be subject to Category II liquidity standards. However, the U.S. intermediate holding company and any depository institution subsidiary thereof would be subject to Category III capital standards based on the U.S. intermediate holding company's total consolidated assets, which are more than $250 billion but less than $700 billion, and cross-jurisdictional activity, which is less than $75 billion.

Question 28: What are the advantages and disadvantages of determining the category of standards applicable to a foreign banking organization's combined U.S. operations, its U.S. intermediate holding company, or its depository institution subsidiary on a quarterly basis? Discuss whether determination on an annual basis would be more appropriate and why.

Question 29: What are the advantages and disadvantages of the proposed transition period for a foreign banking organization to comply with a change in its applicable requirements due to changes in its U.S. risk profile? What would be the advantages or disadvantages of providing additional time to conform to new requirements?

IV. Capital Requirements

Under the proposal, capital requirements would continue to apply to U.S. intermediate holding companies and depository institution subsidiaries of foreign banking organizations. Applying generally applicable and tailored capital requirements to U.S. intermediate holding companies and depository institution subsidiaries of foreign banking organizations both strengthens the capital position of U.S. subsidiaries of foreign banking organizations and provides parity in the capital treatment for U.S. bank holding companies and the U.S. subsidiaries of foreign banking organizations. In addition, aligning the capital requirements between U.S. subsidiaries of foreign banking organizations and U.S. bank holding companies is consistent with international capital standards published by the BCBS.[77]

A. Category II Standards

In addition to the generally applicable capital requirements, the proposal would require a U.S. intermediate holding company and any depository institution subsidiary thereof subject to Category II standards to maintain a minimum supplementary leverage ratio of 3 percent of tier 1 capital to on-balance-sheet assets and certain off-balance sheet exposures. These banking organizations would also be required to recognize most elements of AOCI in regulatory capital. Reflecting AOCI in regulatory capital results in a more sensitive measure of capital, which is important for maintaining the resilience of these banking organizations. Additionally, these banking organizations would be subject to the countercyclical capital buffer, if applicable.

Consistent with current requirements, the U.S. intermediate holding company (and depository institution subsidiaries thereof) would not be required to calculate risk-based capital requirements using the advanced approaches under the capital rule, and would instead use the generally applicable capital requirements for calculating risk-weighted assets. The BCBS recently completed revisions to its capital standards, revising the methodologies for credit risk, operational risk, and market risk. The agencies are considering how to most appropriately implement these standards in the United States, including potentially replacing the advanced approaches with risk-based capital requirements based on the Basel standardized approaches for credit risk and operational risk. Any such changes to applicable risk-based capital requirements would be subject to notice and comment through a future rulemaking.

The agencies note that there are currently additional outstanding notices of proposed rulemaking that make reference to the advanced approaches thresholds to set the scope of application. First, in October 2017, the agencies proposed simplifications to the capital rule (simplifications proposal), proposing a simplified capital treatment for mortgage servicing assets, deferred tax assets arising from temporary differences that an institution could not realize through net operating loss carrybacks, investments in the capital of unconsolidated financial institutions, and minority interest.[78] For purposes of that pending notice, the requirements that would apply to ''advanced approaches banking organizations'' would be included as Category II capital standards under this proposal.

In addition, the agencies have separately proposed to adopt the standardized approach for counterparty credit risk for derivatives exposures (SA–CCR) and to require advanced approaches banking organizations to use SA–CCR for calculating their risk-based capital ratios and a modified version of SA–CCR for calculating total leverage exposure under the supplementary leverage ratio.[79] For purposes of the SA–CCR proposal, the requirements that would apply to ''advanced approaches banking organizations'' would be included as Category II capital standards under this proposal.

Question 30: What modifications, if any, should the agencies consider to the proposed Category II capital standards for foreign banking organizations, and why?

B. Category III Standards

In addition to the generally applicable capital requirements, the proposal would require a U.S. intermediate holding company subject to Category III standards to maintain a minimum supplementary leverage ratio of 3 percent given its size and risk profile. For example, a U.S. intermediate holding company subject to Category III standards could include a U.S. intermediate holding company with material off-balance sheet exposures that are not accounted for in the traditional U.S. tier 1 leverage ratio but are included in the supplementary leverage ratio. The supplementary

[77] *See, e.g.,* BCBS, ''International Convergence of Capital Measurement and Capital Standards,'' Sec. 781 (June 2006).

[78] *See* Simplifications to the Capital Rule Pursuant to the Economic Growth and Regulatory Paperwork Reduction; Proposed Rule, 82 FR 49984, 49985 (October 27, 2017).

[79] *See* Standardized Approach for Calculating the Exposure Amount of Derivative Contracts; Proposed Rule, 83 FR 64660 (December 17, 2018).

leverage ratio is important for these banking organizations to constrain the build-up of off-balance sheet exposures, which can contribute to instability and undermine safety and soundness of individual banking organizations. Category III standards also would include the countercyclical capital buffer, given these banking organizations' significant role in financial intermediation in the United States individually and as a group. The operations of U.S. intermediate holding companies that would be subject to Category III standards have a substantial enough footprint that the capital conservation buffer expanded to include the countercyclical capital buffer would support the prudential goals of the capital buffer requirements. Any depository institution subsidiary of a U.S. intermediate holding company that is subject to Category III capital standards would likewise be subject to Category III capital standards.

As noted above, there are currently additional outstanding notices of proposed rulemaking that make reference to the advanced approaches thresholds to set the scope of application. With respect to the simplifications proposal described in section IV.A of this **SUPPLEMENTARY INFORMATION** section, the requirements that would apply to ''non-advanced approaches banking organizations'' would be included as Category III or IV capital standards under this proposal.[80] For purposes of determining its counterparty credit risk for derivatives under the proposed SA–CCR (described above in section IV.A of this **SUPPLEMENTARY INFORMATION** section), if adopted, a U.S. intermediate holding company and its depository institution subsidiaries that are not advanced approaches banking organizations (under this proposal, that are not subject to Category II standards) could elect to use SA–CCR for calculating derivatives exposure in connection with their risk-based capital ratios and supplementary leverage ratios or to continue to use the current exposure method.

Question 31: Under the capital rule, the agencies apply certain provisions, such as the supplementary leverage ratio and countercyclical capital buffer, based on the same thresholds as advanced approaches capital requirements. The proposal would establish different applicability thresholds for the supplementary leverage ratio and countercyclical capital buffer by including these requirements as Category III standards. This approach would increase the risk-sensitivity of the framework and allow for the retention of key elements of the capital rule for U.S. intermediate holding companies and their depository institution subsidiaries subject to Category III standards. However, it would also increase the complexity of the capital rule. To what extent, if any, would this additional complexity increase compliance costs for large banking organizations (for example, by requiring banking organizations to monitor and manage the proposed risk-based indicator thresholds)? To what extent, if any, would the proposed approach add complexity for market participants when comparing the capital adequacy of U.S. intermediate holding companies and their depository institution subsidiaries in different categories? The agencies request comment on the advantages and disadvantages of establishing separate Category III capital standards for U.S. intermediate holding companies and their depository institution subsidiaries that are different from either Category II or Category IV standards, including any wider implications for financial stability.

Question 32: What are the advantages and disadvantages of applying the supplementary leverage ratio requirement to U.S. intermediate holding companies and their depository institution subsidiaries as a Category III standard? How do these advantages and disadvantages compare to any costs associated with any additional complexity to the regulatory capital framework that would result from applying this to U.S. intermediate holding companies and their depository institution subsidiaries subject to Category III standards? To what extent would application of the supplementary leverage ratio requirement to these banking organizations strengthen their safety and soundness and improve U.S. financial stability?

Question 33: What are the advantages and disadvantages of not requiring U.S. intermediate holding companies and their depository institution subsidiaries subject to Category III standards to recognize most elements of AOCI in regulatory capital? To what extent does not requiring U.S. intermediate holding companies and their depository institution subsidiaries subject to Category III standards to recognize most elements of AOCI in regulatory capital impact safety and soundness of individual U.S. intermediate holding companies or their depository institution subsidiaries, or raise broader financial stability concerns? For example, to what extent would this approach reduce the accuracy of the reported regulatory capital of these U.S. intermediate holding companies and their depository institution subsidiaries? To what extent does the recognition of most elements of AOCI in regulatory capital improve market discipline and provide for a clearer picture of the financial health of U.S. intermediate holding companies and their depository institution subsidiaries? To what extent would such recognition make comparing the financial condition of U.S. intermediate holding companies and their depository institution subsidiaries subject to Category III standards to that of U.S. intermediate holding companies and their depository institution subsidiaries subject to Category II standards more difficult?

Question 34: With respect to U.S. intermediate holding companies and their depository institution subsidiaries that currently recognize most elements of AOCI in regulatory capital, to what extent do intra-quarter variations in regulatory capital due to the inclusion of AOCI since the capital rule took effect differ from variations in reported quarter-end data over the same period? What have been the causes of variations in each?

Question 35: As discussed above, under the proposal, the agencies would not require U.S. intermediate holding companies and their depository institution subsidiaries subject to Category III standards to recognize most elements of AOCI in regulatory capital. Alternatively, the agencies could require only the U.S. intermediate holding companies to recognize most elements of AOCI in regulatory capital while exempting their depository institution subsidiary from this requirement. What are the advantages and disadvantages of this alternative approach? What would be the costs and operational challenges associated with this additional complexity, where the U.S. intermediate holding company and depository institution subsidiary implement different standards related to AOCI? In what ways would this alternative approach to AOCI reduce costs for banking organizations subject to Category III standards relative to their current AOCI requirement under the agencies' capital rule (i.e., both the top-tier U.S. intermediate holding company and depository institution subsidiary are currently required to recognize most elements of AOCI in regulatory capital)? In what ways would this alternative approach affect the transparency around, and market participants' understanding of, the financial

[80] *See* Simplifications to the Capital Rule Pursuant to the Economic Growth and Regulatory Paperwork Reduction; Proposed Rule, 82 FR 49984 (October 27, 2017).

condition of the depository institution subsidiary and the parent holding company?

Question 36: For purposes of comparability, in a final rulemaking should the agencies require all banking organizations subject to Category III standards to use SA–CCR for either risk-based or supplementary leverage ratio calculations and, if so, why?

Question 37: What would be the advantages and disadvantages of no longer applying the countercyclical capital buffer to U.S. intermediate holding companies and their depository institution subsidiaries that would be subject to Category III standards? In particular, how would narrowing the scope of application of the countercyclical buffer affect the financial stability and countercyclical objectives of the buffer? What other regulatory tools, if any, could be used to meet these objectives?

Question 38: The proposal would apply Category III standards to U.S. intermediate holding companies and their depository institution subsidiaries that exceed certain risk-based indicators, including having more than $75 billion in off-balance sheet exposures. In light of the inclusion of off-balance sheet exposures as a threshold for Category III standards, what are the advantages and disadvantages of including the supplementary leverage ratio as a Category III standard?

C. Category IV Standards

The proposal would require a U.S. intermediate holding company and any depository institution subsidiary thereof subject to Category IV standards to apply the generally applicable capital requirements. Category IV standards would not include the countercyclical capital buffer or the supplementary leverage ratio. In this manner, these standards would maintain the risk-sensitivity of the current capital regime and resiliency of these banking organizations' capital positions, and would recognize that these banking organizations' U.S. intermediate holding companies, while large, have lower indicators of risk relative to their larger peers, as set forth in the proposal. As a result, such U.S. intermediate holding companies (and their depository institution subsidiaries) would be subject to the same capital requirements as U.S. intermediate holding companies with under $100 billion in total consolidated assets.

Question 39: What modifications, if any, should the agencies consider to the proposed Category IV capital standards, and why?

V. Liquidity Requirements

The proposed framework would apply standardized liquidity requirements with respect to the U.S. operations of foreign banking organizations according to the proposed risk-based categories. Based on the risk profile of a foreign banking organization's combined U.S. operations, the proposal would require a foreign banking organization to calculate and maintain a minimum LCR and NSFR for any U.S. intermediate holding company. LCR and NSFR requirements would also apply to covered depository institution subsidiaries of foreign banking organizations subject to Category II or III liquidity standards, consistent with the requirements that would apply to the depository institution subsidiaries of large U.S. banking organizations under the domestic interagency proposal. In addition, as discussed in section V.E of this **SUPPLEMENTARY INFORMATION** section, the Board is requesting comment on whether it should impose standardized liquidity requirements on the U.S. branch and agency network of a foreign banking organization, as well as possible approaches for doing so, including an approach based on the LCR rule and an approach that would apply a requirement based on the aggregate U.S. branch and agency assets of a foreign banking organization.

The proposed standardized liquidity requirements are designed to serve as a complement to existing internal liquidity stress testing requirements, which require a foreign banking organization to assess the liquidity needs of its U.S. operations, including any U.S. intermediate holding company, under stress and to hold a liquidity buffer against projected stressed outflows reflecting the firm's idiosyncratic risks. Together with standardized liquidity requirements that the Board is considering proposing at a future date with respect to the U.S. branches and agencies of a foreign banking organization, the proposed LCR and NSFR requirements would strengthen the resilience of a foreign banking organization's U.S. operations to liquidity risks and reduce risks to U.S. financial stability. The requirements would help to ensure that similarly situated foreign banking organizations maintain a comparable, minimum amount of liquid assets within their U.S. operations. As for large U.S. banking organizations, minimum liquidity requirements are particularly important for the U.S. operations of foreign banking organizations with significant reliance on short-term wholesale funding, as disruptions to wholesale funding markets can limit such a firm's ability to satisfy liquidity demands and threaten the resiliency of the firm's U.S. operations, which can transmit distress to other market participants.

As discussed above, foreign banking organizations operate under a wide variety of business models and structures that reflect the legal, regulatory, and business climates in the home and host jurisdictions in which they operate. In the United States, foreign banking organizations operate through subsidiaries, including U.S. intermediate holding companies and depository institutions, and branches and agencies, and are permitted to engage in the United States in substantially the same banking and nonbanking activities as domestic banks and U.S. bank holding companies.

The U.S. operations of foreign banking organizations, particularly those with a large U.S. branch and agency network or large nonbank operations, generally rely on less stable, short-term wholesale funding to a greater extent than U.S. bank holding companies because of their structure and business model. Furthermore, certain foreign banking organizations conduct substantial capital markets activities in the United States through nonbank subsidiaries or branch operations, such as short-term securities financing and derivatives activities. These activities can give rise to greater interconnectedness with financial sector counterparties and increase the potential impact of a funding stress on the foreign banking organization's U.S. operations.

In response to liquidity risks observed during the crisis, the Board established liquidity risk management, internal liquidity stress testing, and liquidity buffer requirements for the combined U.S. operations of foreign banking organizations under its enhanced prudential standards rule.[81] These provisions require a foreign banking organization to assess its idiosyncratic risk profile, experience, and scope of operations. However, similar to other

[81] Under the enhanced prudential standards rule, certain foreign banking organizations are required to conduct monthly internal liquidity stress tests and determine minimum liquidity buffers to be held in the United States. A foreign banking organization must calculate and maintain a minimum liquidity buffer for its U.S. intermediate holding company sufficient to cover a modeled net stressed cash flow need over a 30-day stress horizon. A foreign banking organization must also model the 30-day net stressed cash flow need for its U.S. branches and agencies on an aggregate basis and is required to hold a minimum liquidity buffer for these branches and agencies sufficient to cover the first 14 days of the 30-day planning horizon. *See* 12 CFR 252.157.

internal model-based requirements that require a banking organization to make certain assumptions, firms' own models may overestimate cash flow sources or underestimate cash flow needs arising from a particular business line. Standardized liquidity requirements would serve as a complement to the foreign banking organization's own assessment of its idiosyncratic risks, in particular through their use of uniform inflow and outflow rates and other standardized assumptions that reflect broader industry and supervisory experience.

Currently, a foreign banking organization operating in the United States is not subject to the LCR rule, nor would it be subject to the NSFR proposed rule, with respect to its U.S. operations, except to the extent that a subsidiary depository institution holding company or a subsidiary depository institution of the foreign banking organization meets the relevant applicability criteria on a stand-alone basis.[82] The Board indicated in previous rulemakings its intent to apply standardized liquidity requirements with respect to the U.S. operations of a foreign banking organization in order to align all elements of its forward-looking liquidity regulatory regime for similarly situated domestic and foreign banking organizations. For example, when finalizing the enhanced prudential standards rule for foreign banking organizations in March 2014 and the LCR rule for U.S. banking organizations in September 2014, the Board stated that it anticipated implementing an LCR-based standard for the U.S. operations of foreign banking organizations through a future rulemaking.[83] Similarly, when proposing the NSFR rule in May 2016, the Board stated that it anticipated implementing an NSFR requirement through a future, separate rulemaking for the U.S. operations of foreign banking organizations.[84]

The proposal would require a foreign banking organization to maintain a minimum LCR and NSFR for its U.S. intermediate holding company, regardless of whether the U.S. intermediate holding company is also a depository institution holding company, in order to ensure that parallel requirements would apply with respect to all U.S. intermediate holding companies. The proposal would solicit public input on potential standardized liquidity requirements for foreign banking organizations with respect to their U.S. branch and agency networks for proposal at a later date.

The proposal would tailor the proposed U.S. intermediate holding company requirements based on the risk profile of a foreign banking organization's combined U.S. operations, using the risk-based indicators, thresholds, and categories set forth above. In addition, consistent with the standardized liquidity requirements that would apply to U.S. banking organizations under the domestic interagency proposal, the proposal would apply LCR and NSFR requirements to covered depository institution subsidiaries of foreign banking organizations that would be subject to Category II or III liquidity standards.

The LCR and NSFR requirements proposed for U.S. intermediate holding companies are generally consistent with international standards. For example, the proposed LCR calculation (including percentages used in the determination of inflow and outflow amounts, and requirements regarding the encumbrance and transferability of HQLA) would generally be consistent with the Basel III liquidity coverage ratio standard published by the BCBS.[85] Because the proposal would largely align with international standards, the proposed LCR requirement is not expected to require a foreign banking organization to acquire additional HQLA above the amount the firm currently holds to meet its global LCR requirements under the requirements of its home jurisdiction; however, the proposal would require that assets be held in the U.S. intermediate holding company to the extent that they are needed to meet the proposed requirement. Similarly, the proposed NSFR requirement is generally consistent with the Basel III net stable funding ratio standard published by the BCBS.[86]

A. Categories of Liquidity Requirements for a Foreign Banking Organization

The proposal would tailor standardized liquidity requirements for foreign banking organizations according to the risk-based indicators and thresholds described above, measured based on the combined U.S. operations of the foreign banking organization.[87] Specifically, the proposal would apply one of three categories of liquidity standards to a foreign banking organization: Category II, III, or IV. As discussed above in this Supplementary Information section, differentiation of requirements based on the risk profile of a foreign banking organization's combined U.S. operations recognizes that certain risks are more appropriately accounted for and regulated across the combined U.S. operations of a foreign banking organization to prevent or mitigate risks to U.S. financial stability. For foreign banking organizations subject to Category III or IV liquidity standards, the proposal would further tailor standardized liquidity requirements based on the weighted short-term wholesale funding of a firm's combined U.S. operations, which provides a measure of exposure to less stable funding that increases a firm's liquidity risks.

Covered depository institution subsidiaries of the U.S. intermediate holding company of a foreign banking organization subject to Category II or III liquidity standards would be subject to LCR and NSFR requirements based on the category of the foreign banking organization. The risk-based indicators for these categories reflect the systemic risk profile and resiliency of the U.S. operations of a foreign banking organization, of which a large depository institution subsidiary may be a significant part. The presence of each of these indicators heightens the need for sophisticated measures to monitor and manage liquidity risk, including at covered depository institution subsidiaries. Application of the LCR and NSFR requirements to covered depository institution subsidiaries of foreign banking organizations subject to Category II or III liquidity standards would also be consistent with the

[82] Although a foreign banking organization may be subject to liquidity requirements on a consolidated basis in its home jurisdiction, a requirement to comply with LCR and NSFR requirements with respect to a U.S. intermediate holding company would require these firms to align the location of liquid assets with the location in the United States of the liquidity risks of their U.S. intermediate holding companies, in order to ensure better protection against risks to safety and soundness and U.S. financial stability.

[83] 79 FR 17240, 17291 (March 27, 2014), 79 FR 61440, 61447 (October 10, 2014). The Board did not initially align the timing of a liquidity coverage ratio requirement for foreign banking organizations with those of domestic firms because the Board proposed the domestic LCR before it finalized the structural requirements for foreign banking organizations to form intermediate holding companies.

[84] *See* ''Net Stable Funding Ratio: Liquidity Risk Measurement Standards and Disclosure Requirements; Proposed Rule,'' 81 FR 35128 (June 1, 2016).

[85] BCBS, ''Basel III: The Liquidity Coverage Ratio and liquidity risk monitoring tools'' (January 2013) (Basel III LCR standard), available at *http://www.bis.org/publ/bcbs238.htm.*

[86] BCBS, ''Basel III: the net stable funding ratio'' (October 2014), available at *http://www.bis.org/bcbs/publ/d295.pdf.*

[87] This approach would be consistent with the Board's proposed approach to tailor liquidity requirements for foreign banking organizations under the Board's enhanced prudential standards rule in the Board-only foreign banking organization enhanced prudential standards proposal.

standardized liquidity requirements proposed for U.S. banking organizations under the domestic interagency proposal. As discussed further below, depository institution subsidiaries of foreign banking organizations subject to Category IV liquidity standards would not be subject to LCR or NSFR requirements under the proposal, also consistent with the proposed requirements for U.S. banking organizations.

1. Category II Liquidity Standards

Under the proposal, a foreign banking organization with $700 billion or more in combined U.S. assets or $75 billion or more in cross-jurisdictional activity at its combined U.S. operations would be subject to Category II liquidity standards. Foreign banking organizations subject to Category II liquidity standards have significant U.S. operations or cross-jurisdictional activity that may complicate liquidity risk management, and the failure or distress of the U.S. operations of such a firm could impose significant costs on the U.S. financial system and economy. Size and cross-jurisdictional activity can present particularly heightened challenges in the case of a liquidity stress, which can present both financial stability and safety and soundness risks. For example, a foreign banking organization with very large U.S. operations that engages in asset fire sales to meet short-term liquidity needs is likely to transmit distress in the United States on a broader scale because of the greater volume of assets it could sell in a short period of time. In addition, foreign banking organizations with U.S. operations that engage in heightened levels of cross-jurisdictional activity present operational complexities and interconnectivity concerns, and may be exposed to a greater diversity of risks as a result of the multiple jurisdictions in which they provide financial services. The risks and operational complexities associated with cross-jurisdictional activity can present significant challenges to recovery and resolution.

The proposal would require a foreign banking organization subject to Category II liquidity standards to comply with the full LCR requirement described in section V.B of this Supplementary Information section, including calculation on each business day, and the full NSFR requirement described in section V.C of this **SUPPLEMENTARY INFORMATION** section, each as applied to any U.S. intermediate holding company. Covered depository institution subsidiaries of a foreign banking organization subject to Category II liquidity standards would also be subject to the full LCR and NSFR requirements, as discussed above. The proposed liquidity standards would help to ensure resiliency of the foreign banking organization's U.S. operations to liquidity risks, and improve the ability of the foreign banking organization's management and supervisors to assess the foreign banking organization's ability to meet the projected liquidity needs of its U.S. operations, particularly during periods of liquidity stress, and take appropriate actions to address liquidity needs.

2. Category III Liquidity Standards

Category III liquidity standards would apply to a foreign banking organization that does not meet the criteria for Category II and the combined U.S. operations of which have either (i) assets of at least $250 billion, or (ii) assets of at least $100 billion and $75 billion or more in weighted short-term wholesale funding, nonbank assets, or off-balance sheet exposure.

The proposal would determine the LCR and NSFR requirements applicable to foreign banking organizations subject to Category III liquidity standards based on the weighted short-term wholesale funding of a foreign banking organization's U.S. operations. A foreign banking organization subject to Category III standards that has $75 billion or more in weighted short-term wholesale funding at its combined U.S. operations would be subject to the same standardized liquidity requirements as would apply under Category II standards—specifically, the full LCR and NSFR requirements with respect to any U.S. intermediate holding company. An elevated level of weighted short-term wholesale funding indicates that the organization's U.S. operations have greater reliance on less stable forms of funding and a higher degree of interconnectedness with other financial firms. As a consequence, these operations may generally be more vulnerable to liquidity stress and more likely to transmit stress internally within the foreign banking organization and to other firms. Accordingly, the proposal would apply the most stringent standardized liquidity requirements to these foreign banking organizations, consistent with the proposed requirements for U.S. banking organizations with similar risk profiles under the domestic interagency proposal.

Reduced LCR and NSFR requirements would apply to a foreign banking organization subject to Category III standards that has less than $75 billion in weighted short-term wholesale funding at its combined U.S. operations. The agencies are inviting comment on a range of potential calibrations for these firms (and their covered depository institution subsidiaries), equivalent to between 70 and 85 percent of the full requirements.[88] Even where a foreign banking organization has less than $75 billion in weighted short-term wholesale funding at its combined U.S. operations, standardized liquidity requirements are appropriate for a foreign banking organization with combined U.S. assets of $250 billion or more in order to increase the resiliency of the firm's U.S. operations and reduce its probability of failure. A larger U.S. footprint increases the risk that that the failure or distress of a foreign banking organization would pose heightened risks to U.S. financial stability; accordingly, the proposal would apply standardized liquidity requirements (at a reduced level) to strengthen the resiliency of such a banking organization's U.S. operations. Standardized liquidity requirements are also appropriate for foreign banking organizations with combined U.S. assets of $100 billion or more and nonbank assets or off-balance sheet exposure of $75 billion or more, as these measures can also be indicators of liquidity risk. Significant nonbank assets of a banking organization generally tend to reflect greater engagement in complex activities, such as trading and prime brokerage activities, that present heightened liquidity risk. Similarly, banking organizations with large off-balance sheet exposures could experience large outflows, the risks of which counterparties may not have fully anticipated due to their off-balance sheet nature, putting additional pressure on the firm's liquidity position and creating a risk of transmission of instability to other market participants.

As discussed above, the agencies would also apply LCR and NSFR requirements to covered depository institution subsidiaries of foreign banking organizations subject to Category III liquidity standards, at the same level (*i.e.,* full or reduced) as would apply to the foreign banking organization.

Question 40: Between a range of 70 and 85 percent of the full requirements, what calibration should the agencies adopt for the reduced LCR and NSFR

[88] The calibration within this range for foreign banking organizations (and their covered depository institution subsidiaries) would be consistent with the calibration applied under the domestic interagency proposal to U.S. banking organizations subject to Category III standards that have less than $75 billion in weighted short-term wholesale funding.

requirements for foreign banking organizations subject to Category III standards that have less than $75 billion in weighted short-term wholesale funding, and their covered depository institution subsidiaries, and why?

3. Category IV Liquidity Standards

In the domestic interagency proposal, the agencies proposed that U.S. banking organizations with total consolidated assets of $100 billion or more that do not meet any of the thresholds for a different category would be subject to Category IV standards, which did not include an LCR or NSFR requirement. As discussed in the domestic interagency proposal, firms in the current population of U.S. banking organizations that meet the criteria for this category have more traditional balance sheet structures, are largely funded by stable deposits, and have less reliance on less stable wholesale funding, indicating less liquidity risk. Accordingly, and taking into account that the Board separately proposed to maintain internal liquidity stress testing requirements and other liquidity standards at the consolidated holding company level for these banking organizations,[89] the agencies proposed not to apply standardized liquidity requirements to these banking organizations.[90] The Board also separately proposed to apply tailored internal liquidity stress testing requirements at the consolidated holding company level to these firms.

In developing this proposal, however, the Board observed that some domestic or foreign banking organizations that meet the criteria for Category IV standards could potentially have a heightened liquidity risk profile. For example, these firms may not be funded by stable deposits and may have material reliance on less-stable short-term wholesale funding. Thus, under this proposal, the Board would apply standardized liquidity requirements to a foreign banking organization subject to Category IV standards if the reliance of the firm's U.S. operations on short-term wholesale funding is significant relative to the firm's combined U.S. assets.[91]

Specifically, the Board is proposing to apply reduced LCR and NSFR requirements to a foreign banking organization that meets the criteria for Category IV liquidity standards and has $50 billion or more in weighted short-term wholesale funding at its combined U.S. operations. Like the Category II and III liquidity standards, the proposed LCR and NSFR requirements would apply with respect to the foreign banking organization's U.S. intermediate holding company. As noted below, the proposed LCR and NSFR requirements would not apply to covered depository institution subsidiaries of a foreign banking organization subject to Category IV liquidity standards. The Board requests comment on a range of potential calibrations for the LCR and NSFR requirements that would apply to these firms, equivalent to between 70 and 85 percent of the full requirements.

Given the heightened liquidity risk profile of the U.S. operations of these foreign banking organizations, as indicated by their level of relative reliance on less stable, short-term wholesale funding, the application of standardized liquidity requirements would help to ensure that these firms are appropriately monitoring and managing their liquidity risk in the United States. For a foreign banking organization subject to Category IV standards, $50 billion or more in weighted short-term wholesale funding is significant relative to the firm's combined U.S. assets, given that firms in this category by definition have less than $250 billion in combined U.S. assets. For example, $50 billion in weighted short-term wholesale funding would be equivalent to more than 20 percent of the U.S. assets of a foreign banking organization with less than $250 billion in combined U.S. assets or 50 percent of the U.S. assets of a foreign banking organization with $100 billion in combined U.S. assets. A $50 billion weighted short-term wholesale funding threshold would in this way serve to identify banking organizations in this category that do not have traditional balance sheet structures funded by stable retail deposits or that have more reliance on less stable short-term wholesale funding. In light of this liquidity risk, the application of LCR and NSFR requirements would help to ensure that these firms are holding a minimum level of liquid assets that would be available to use in the event of a liquidity stress event and that these firms maintain more stable, resilient funding profiles.

To reduce compliance costs for these firms and reflect the smaller systemic footprint of these firms' U.S. operations relative to banking organizations that would be subject to Category II or III liquidity standards, the Board is proposing to require calculation of the LCR on the last business day of the applicable month, rather than each business day. For these same reasons, the agencies are not proposing to apply an LCR or NSFR requirement to the covered depository institution subsidiaries of such firms.

Question 41: Between a range of 70 and 85 percent of the full requirements, what calibration should the Board adopt for the reduced LCR and NSFR requirements for foreign banking organizations subject to Category IV standards that have $50 billion or more in weighted short-term wholesale funding, and why?

B. LCR Requirement With Respect to Foreign Banking Organizations

Under the proposal, the Board would require a foreign banking organization that meets the applicability criteria described above to calculate and maintain a minimum LCR for any U.S. intermediate holding company. In addition, the agencies are proposing to require covered depository institution subsidiaries of foreign banking organizations subject to Category II or III liquidity standards to calculate and maintain a minimum LCR. Proposed new subpart O of part 249 would establish the LCR (and NSFR) requirements that apply to foreign banking organizations, and proposed amendments to subpart A of the current LCR rule would apply to the covered depository institution subsidiaries of foreign banking organizations subject to Category II or III liquidity standards. The proposed requirements would apply in a manner consistent with the LCR requirements for U.S. banking organizations under the LCR rule, NSFR proposed rule, and domestic interagency proposal. As discussed above, these requirements would help to ensure the resiliency of U.S. intermediate holding companies and covered depository institution subsidiaries of foreign banking organizations to liquidity stress and funding disruptions.

The proposed LCR requirement would be nearly identical to the LCR requirement that currently applies to U.S. banking organizations. Specifically, the proposal would instruct a foreign banking organization to calculate an LCR for a U.S. intermediate holding company using the same definitions that apply to U.S. banking organizations [92]

[89] *See* Prudential Standards for Large Bank Holding Companies and Savings and Loan Holding Companies; Proposed Rule, 83 FR 61408 (November 29, 2018).

[90] *See* domestic interagency proposal, 83 FR at 66037–66038.

[91] As discussed in section VI of this **SUPPLEMENTARY INFORMATION** section, the Board is also proposing to modify the domestic interagency proposal to apply standardized liquidity requirements in a consistent manner to domestic bank holding companies and certain savings and loan holding companies subject to Category IV standards that have significant reliance on short-term wholesale funding.

[92] 12 CFR 249.3.

and subparts B through E of the proposal as if the U.S. intermediate holding company (and not the foreign banking organization itself) were a top-tier Board-regulated institution.[93] (For example, a foreign banking organization would treat the U.S. intermediate holding company as a ''Board-regulated institution'' wherever that term appears in the definitions in § 249.3.) This approach would promote consistent treatment with domestic banking organizations subject to the LCR rule. The LCR requirement for a foreign banking organization with respect to its U.S. intermediate holding company would differ from the LCR requirement for domestic banking organizations in certain, limited respects, discussed below.

Question 42: What conforming changes, if any, should be made to the definitions found in § 249.3 to effectuate the purpose of the proposed requirement that a foreign banking organization calculate an LCR for a U.S. intermediate holding company using § 249.3 and subparts B through E of part 249?

1. Minimum Liquidity Coverage Ratio, Calculation Date and Time, and Shortfall

The proposal would require a foreign banking organization to maintain at its consolidated U.S. intermediate holding company an amount of HQLA meeting the criteria set forth in the proposal (HQLA amount; the numerator of the ratio) that is no less than 100 percent of the U.S. intermediate holding company's total net cash outflow amount over a 30-calendar day time horizon as calculated in accordance with the proposal (the denominator of the ratio). Consistent with the domestic interagency proposal, in the case of a foreign banking organization that would be subject to a reduced LCR requirement under Category III or IV liquidity standards, the denominator of the ratio would be reduced by an applicable outflow adjustment percentage.[94] Expressed as a ratio, the proposal would require a foreign banking organization to calculate and maintain an LCR for a U.S. intermediate holding company equal to or greater than 1.0 on each calculation date.

Under the proposal, a foreign banking organization that is subject to Category II or III liquidity standards would be required to calculate the LCR for a U.S. intermediate holding company each business day. A daily calculation requirement for these firms would reflect the heightened liquidity risk profiles of their U.S. operations, which require more sophisticated monitoring and management. The Board is proposing to require a foreign banking organization that is subject to Category IV liquidity standards and that has $50 billion or more in short-term wholesale funding to calculate an LCR for any U.S. intermediate holding company on the last business day of the applicable month. A monthly calculation for these firms would reflect the lesser systemic footprint and risk profile of these firms' U.S. operations relative to banking organizations that meet the criteria for Category II or III standards, as discussed above.

To ensure consistency of the LCR calculation by firms, the proposal would require a foreign banking organization to calculate its LCR for a U.S. intermediate holding company as of the same time (the elected calculation time) on each calculation date, selected by the foreign banking organization prior to the effective date of the rule with respect to the firm and communicated in writing to the Board. Subsequent to this initial election, a foreign banking organization may change the time at which it calculates its applicable LCR with the prior written approval of the Board.[95]

A banking organization subject to the LCR rule is required to report a shortfall in its ratio on any business day to the appropriate regulatory agency, and promptly consult with the agency on providing a plan for achieving compliance.[96] Under the proposal, a foreign banking organization would be required to conduct the LCR calculations for a U.S. intermediate holding company at the calculation date. Accordingly, proposed § 249.206 provides that a foreign banking organization must notify the Board of, and address, any shortfall in the same time frame and manner as a U.S. banking organizations subject to the LCR rule.[97]

Question 43: The proposal would require a foreign banking organization to calculate an LCR for any U.S. intermediate holding company. The Board is considering applying LCR requirements directly to a U.S. intermediate holding company, rather than requiring applying an LCR requirement to a foreign banking organization with respect to its U.S. intermediate holding company. What are the advantages and disadvantages of applying the LCR requirements in the proposed manner rather than requiring, for example, a U.S. intermediate holding company to be responsible for calculating its own LCR?

2. Numerator of the LCR: HQLA, Eligible HQLA, and the HQLA Amount

Under the LCR rule, an asset must meet the requirements of section 20 to be HQLA and section 22 to be eligible for inclusion in a banking organization's HQLA amount (the numerator of the LCR).[98] The criteria in section 20 identify assets with liquidity characteristics that indicate they are likely able to be convertible into cash with little or no loss of value in a time of stress,[99] and the criteria in section 22 serve to ensure that the LCR numerator includes only HQLA that would be readily available for use by a banking organization subject to the rule to meet liquidity needs during a liquidity stress.

Among other things, section 22 of the LCR rule requires a banking organization subject to the LCR rule to demonstrate the operational capability to monetize HQLA and to implement policies that require the HQLA to be under control of the management function of the banking organization. Section 249.205 of the proposal would maintain these requirements but would require the foreign banking organization, rather than the U.S. intermediate holding company, to satisfy these requirements.[100]

[93] Under the current LCR rule, a U.S. intermediate holding company that is a bank holding company may be subject to LCR requirements. The proposal would eliminate any such independent LCR requirements for a bank holding company subsidiary of a foreign banking organization and replace them with the requirement that the foreign banking organization calculate and maintain a minimum LCR for its U.S. intermediate holding company.

[94] As discussed in section V.A of this **SUPPLEMENTARY INFORMATION** section, the agencies are requesting comment on a range of potential calibrations for the outflow adjustment percentage for these firms, between 70 and 85 percent. For firms subject to the full LCR requirement, an outflow adjustment percentage of 100 percent would apply.

[95] In the case of a foreign banking organization that calculates multiple LCRs (for example, if the foreign banking organization has more than one U.S. intermediate holding company), the proposal would require the foreign banking organization to elect the same calculation time for each of its LCRs.

[96] *See* 12 CFR 50.40 (OCC), 12 CFR 249.40 (Board), and 12 CFR 329.40 (FDIC).

[97] *See* proposed § 249.206.

[98] 12 CFR 50.20 (OCC), 12 CFR 249.20 (Board), and 12 CFR 329.20 (FDIC).

[99] *See* LCR FR rule, 79 FR at 61450–61471.

[100] As part of the NSFR proposed rule, the agencies proposed to add the new term ''encumbered'' to the LCR rule, which would replace the criteria for an unencumbered asset set forth in section 22(b) of the LCR rule. *See* 81 FR 35124. Because the agencies have not yet finalized the NSFR proposed rule, the proposal includes two versions of regulatory text for § 249.205, one that is identical to the requirements in section 22(b) (12 CFR 249.22(b)) and another that uses the term ''encumbered.'' These two versions are being proposed so that the requirements in § 249.205 match whatever requirements exist for

Continued

Accordingly, the management function of the foreign banking organization that is charged with managing liquidity risks must evidence control over the HQLA for the purposes of covering the net cash outflows of the U.S. intermediate holding company.[101] The risks of a foreign banking organization's U.S. operations are a component of the broader risks of its global activities, and HQLA held in the United States may be managed as part of the foreign banking organization's global liquidity risk management operations. To ensure that HQLA that are held in the United States to cover potential outflows of the U.S. intermediate holding company are able to be monetized without restriction in a time of stress, the Board expects the assets must be continually available for use by the management function within the foreign banking organization's U.S. operations that is charged with managing U.S. liquidity risks. For example, eligible HQLA, including HQLA that have been borrowed (including under a secured lending transaction such as a reverse repurchase agreement) from the foreign banking organization's head office must not be controlled, transferable, or able to be monetized by an overseas entity or business function in a manner that would restrict the ability of the responsible management function to monetize the HQLA in a time of stress for use by a U.S. intermediate holding company of the foreign banking organization.

In addition to the generally applicable criteria for eligible HQLA under the current LCR rule, the proposal would require that eligible HQLA for a foreign banking organization's U.S. intermediate holding company be held in accounts in the United States.[102] This requirement would be consistent with the location requirement of a foreign banking organization's highly liquid asset buffers required under the Board's enhanced prudential standards rule.[103] Consistent with the current location requirements for these liquidity buffers, and to ensure that liquid assets are available to cover the relevant net cash outflows in a period of stress, eligible HQLA for a foreign banking organization's U.S. intermediate holding company must be held at the U.S. intermediate holding company or a consolidated subsidiary thereof.

Under the proposal, a foreign banking organization would directly utilize section 20 of the current LCR rule, which enumerates the criteria that assets must meet to qualify as HQLA.[104] Structural and regulatory issues may limit the extent to which HQLA can be treated as eligible HQLA for a foreign banking organization's calculation with respect to a U.S. intermediate holding company. For example, Reserve Bank balances held by a foreign banking organization at its U.S. branches would not be able to be included as eligible HQLA in the foreign banking organization's LCR calculation for a U.S. intermediate holding company.

Consistent with the current LCR rule, eligible HQLA would not need to be reflected on the balance sheet of a U.S. entity under the proposal; for example, securities sourced through a secured lending transaction by a U.S. entity and not reflected on its balance sheet may be eligible HQLA if the assets meet all the relevant criteria in the proposal.

In addition, consistent with the current LCR rule [105] and the domestic interagency proposal, the proposal would limit the amount of HQLA held at a consolidated subsidiary of a U.S. intermediate holding company that can be included as eligible HQLA for purposes of a foreign banking organization's LCR calculation for a U.S. intermediate holding company.[106] The LCR rule requires a single HQLA amount calculation at each calculation date for a consolidated banking organization subject to the rule. To ensure the recognition only of eligible HQLA that are usable to meet consolidated total net cash outflows of the top-tier banking organization subject to the LCR rule, the LCR rule limits the ability of a top-tier banking organization subject to the rule to include in its HQLA amount eligible HQLA held at a consolidated subsidiary in excess of the net cash outflows of the subsidiary, except to the extent an additional amount of the assets (including the proceeds of monetization of the assets) would be available for transfer to the top-tier banking organization without statutory, regulatory, contractual, or supervisory restrictions.[107]

For the same reasons, the proposal would apply consistent limitations for a foreign banking organization's LCR calculation with respect to its U.S. intermediate holding company. Consistent with the requirements for U.S. banking organizations, a foreign banking organization would be required to apply only the statutory, regulatory, contractual, or supervisory restrictions that are in effect as of the calculation date.[108]

Consistent with the domestic interagency proposal, a foreign banking organization subject to the proposed reduced LCR requirement under Category III or IV standards would not be permitted to include in the HQLA amount of its U.S. intermediate holding company eligible HQLA of a consolidated subsidiary of the U.S. intermediate holding company except up to the amount of the net cash outflows of the subsidiary (as adjusted for the factor reducing the stringency of the requirement), plus any additional amount of assets, including proceeds from the monetization of assets, that would be available for transfer to the top-tier U.S. intermediate holding company during times of stress without statutory, regulatory, contractual, or supervisory restrictions. A similar restriction would apply under the proposed NSFR requirement.[109]

Question 44: What modifications, if any, should the Board consider with respect to the definition of HQLA as it applies to a foreign banking organization's calculation of an LCR for a U.S. intermediate holding company, and why?

Question 45: What would be the advantages or disadvantages of the proposed criteria for HQLA and eligible HQLA applicable to a foreign banking organization's LCR calculation with respect to a U.S .intermediate holding company? What additional criteria, if any, should the Board consider for eligible HQLA held by a foreign banking organization to meet stressed cash outflows in the United States?

Question 46: In what ways, if any, would the proposed eligible HQLA location criteria affect a foreign banking organization's U.S. operations? If a foreign banking organization's U.S. intermediate holding company does not have a depository institution subsidiary, how should the proposal treat Reserve Bank balances held outside of the

unencumbered assets in § 249.22(b) when the proposal is finalized.

[101] Each foreign banking organization that would be subject to the proposed rule is subject to risk management and liquidity risk management requirements for its U.S. operations under the Board's enhanced prudential standards rule. *See* 12 CFR 252.155 and .156. Generally, the Board expects that the management function that is responsible for managing liquidity risks under the proposal would be the same management function that is responsible for managing liquidity risk under the enhanced prudential standards rule.

[102] *See* proposed § 249.222(c).

[103] *See* 12 CFR 252.157(c)(4).

[104] *See* 12 CFR 249.20. The proposal would also apply the LCR rule's definition of HQLA under 12 CFR 249.3 without change.

[105] *See* 12 CFR 50.22(b)(3) and (4) (OCC), 12 CFR 249.22(b)(3) and (4) (Board), and 12 CFR 329.22(b)(3) and (4) (FDIC).

[106] *See* proposed § 249.205(d).

[107] *See* 12 CFR 249.22(b).

[108] *See* LCR FR rule, 79 FR at 61470.

[109] *See* section V.C of this **SUPPLEMENTARY INFORMATION** section.

consolidated U.S. intermediate holding company (for example, at the Federal Reserve account of a U.S. branch of the foreign banking organization) for the purposes of the foreign banking organization's LCR calculation for a U.S. intermediate holding company?

Question 47: The Board requests comment regarding this proposed approach with respect to assets held at a consolidated subsidiary of a U.S. intermediate holding company, as well as potential alternative approaches to recognizing in a foreign banking organization's LCR calculation restrictions on the transferability of liquidity from a consolidated subsidiary to the U.S. intermediate holding company. What alternative approaches should the Board consider and why?

For example, should the Board consider the approach the Board currently permits for depository institution holding companies subject to a modified LCR requirement? Under this approach, a holding company may include in its HQLA amount eligible HQLA held at a subsidiary up to 100 percent of the net cash outflows of the subsidiary, plus amounts that may be transferred without restriction to the top-tier covered company. What would be the advantages and disadvantages of the proposed approach and potential alternatives? What incentives would each have with respect to the positioning of HQLA within a banking organization? What effects would the proposed approach or alternative approaches have on the safety and soundness of a U.S. intermediate holding company and its subsidiary depository institutions?

3. Denominator of the LCR—Total Net Cash Outflow Amounts for Foreign Banking Organizations

Consistent with the domestic interagency proposal, the LCR denominator for a foreign banking organization's calculation with respect to a U.S. intermediate holding company would be the total net cash outflow amount, after the application of an outflow adjustment percentage based on the foreign banking organization's category of liquidity standards.

Under this approach, the total net cash outflow amount prior to the application of any outflow adjustment percentage would be:

(i) The sum of the outflow amounts applicable to the calculation, as determined under the proposal, less

(ii) The lesser of the sum of inflow amounts applicable to the calculation, as determined under the proposal, or 75 percent of the outflow amounts in (i), plus

(iii) The applicable maturity mismatch add-on.

After calculating the net amount of these components for a U.S. intermediate holding company, the foreign banking organization would multiply that amount by the appropriate outflow adjustment percentage described in proposed § 249.203 to determine the denominator of the U.S. intermediate holding company's LCR. The applicable outflow adjustment percentage would reflect the category of liquidity standards that applies to the foreign banking organization: [110]

	Outflow adjustment percentage
Foreign banking organization subject to Category II liquidity standards	100 percent.
Foreign banking organization subject to Category III liquidity standards, with $75 billion or more in weighted short-term wholesale funding at its combined U.S. operations.	100 percent.
Foreign banking organization subject to Category III liquidity standards, with less than $75 billion in weighted short-term wholesale funding at its combined U.S. operations.	[70 to 85] percent.
Foreign banking organization subject to Category IV liquidity standards, with $50 billion or more in weighted short-term wholesale funding at its combined U.S. operations.	[70 to 85] percent.

To calculate the total net cash outflow amount for a U.S. intermediate holding company, a foreign banking organization would directly utilize § 249.30, using the same methodology that would apply under the domestic interagency proposal. For determining outflow amounts and inflow amounts, the proposal would not change any of the percentages applied to transactions, instruments, balances, or obligations used under §§ 249.32 and 249.33. Similarly, for purposes of determining the effective maturity date, if any, of instruments, transactions, and obligations included in the LCR calculation for the U.S. intermediate holding company, the foreign banking organization would apply the same provisions as apply to Board-regulated U.S. banking organizations under § 249.31.

For the purpose of the proposed requirement, a foreign banking organization would apply §§ 249.32(m) and 249.33(i) of the LCR rule to identify excluded amounts for intragroup transactions, as if the U.S. intermediate holding company were the top-tier Board-regulated institution.[111] Accordingly, the proposal would treat transactions between the consolidated U.S. intermediate holding company and any affiliates (including any U.S. branches and agencies of the foreign banking organization and subsidiaries of the foreign banking organization outside the U.S. intermediate holding company) in the same manner as it does transactions with unaffiliated third parties.

Consistent with the requirements for U.S. banking organizations,[112] the proposal would limit the sum of the inflow amounts included in the LCR denominator to 75 percent of the gross outflow amounts calculated by the foreign banking organization with respect to a U.S. intermediate holding company. This requirement would ensure that foreign banking organizations subject to the proposed LCR requirement maintain an HQLA amount to meet total net cash outflows at the U.S. intermediate holding company and are not overly reliant on inflows that may not materialize in a time of stress.

In addition to this requirement, the Board considered whether it was appropriate to propose an additional limit that would restrict the recognition of standardized inflow amounts resulting from assets, transactions, or instruments related to affiliates of the foreign banking organization's U.S. intermediate holding company (inter-affiliate inflows). Such an additional restriction would have been consistent with the requirement set forth in the Board's enhanced prudential standards rule for the determination of minimum

[110] For a foreign banking organization subject to Category II or III standards, the same outflow adjustment percentage would apply to any LCR requirement applicable to a covered depository institution subsidiary of the foreign banking organization.

[111] 12 CFR 249.32(m) and 249.33(i).

[112] *See* 12 CFR 50.30 (OCC), 12 CFR 249.30 (Board), and 12 CFR 329.30 (FDIC).

liquid asset buffers by a foreign banking organization.[113] This limit addresses the risk that an affiliate may not be willing or able to return funds in a time of stress, given that a liquidity stress may simultaneously have an impact on both the foreign banking organization's U.S. operations and the affiliate providing the inflow. This requirement remains an important part of the internal liquidity stress test and liquidity buffer requirements set forth in the Board's enhanced prudential standards rule for foreign banking organizations. However, the proposal does not include this additional limitation on recognition of inter-affiliate inflows and instead relies on the LCR's total inflow amount cap to address this risk. While the LCR's total inflow amount cap does not fully capture the risk that non-U.S. affiliates may be unable or unwilling to return funds to U.S. entities in a stress, it aligns with the Basel III LCR standard and allows more direct comparability between LCRs calculated by foreign banking organizations under the proposal and the LCRs currently calculated by large U.S. bank holding companies.

Question 48: What would be the advantages and disadvantages of preventing or otherwise limiting a foreign banking organization from assuming reliance on inter-affiliate inflows to offset third-party net cash outflows for purposes of the proposed LCR requirements? What, if any, specific approaches should the Board consider applying to prevent such reliance, and why?

C. NSFR Requirement With Respect to Foreign Banking Organizations

Proposed § 249.204 would require a foreign banking organization that is subject to Category II or III standards, or that is subject to Category IV standards and has weighted short-term wholesale funding of $50 billion or more, to calculate and maintain a minimum NSFR for its U.S. intermediate holding company.[114] Although the Board is requesting comment regarding the application of standardized liquidity requirements with respect to the U.S. branches and agencies of a foreign banking organization, including an LCR-based approach, the Board is not proposing at this time to require a foreign banking organization to calculate and maintain a minimum NSFR for its U.S. branches and agencies. The Board continues to consider whether a stable funding requirement for the U.S. branch and agency network would be appropriate.

The proposed NSFR requirement would generally be consistent with the NSFR requirement that would apply to U.S. banking organizations under the NSFR proposed rule and the domestic interagency proposal. Proposed § 249.204 would require a foreign banking organization to calculate an NSFR for its U.S. intermediate holding company using proposed subparts K through L of part 249 as if the U.S. intermediate holding company (and not the foreign banking organization itself) were a top-tier Board-regulated institution. In determining the required stable funding amount for a U.S. intermediate holding company, the foreign banking organization would apply the required stable funding adjustment percentage under proposed § 249.204 based on its category of liquidity standards. Consistent with these subparts, the foreign banking organization's NSFR calculation would take into account the transferability of available stable funding from a consolidated subsidiary to the top-tier U.S. intermediate holding company.[115] For a foreign banking organization that is subject to a reduced NSFR requirement, the foreign banking organization may include available stable funding of the consolidated subsidiary in the U.S. intermediate holding company's ASF amount up to the reduced required stable funding amount of the subsidiary, plus amounts of assets that the subsidiary may transfer without restriction to the U.S. intermediate holding company.

The proposal's requirement that a foreign banking organization calculate and maintain an NSFR for its U.S. intermediate holding company would help to strengthen the funding profiles of these entities and reduce the impact of potential disruptions in their regular sources of funding. Without an appropriately stable funding profile for its U.S. intermediate holding company, a foreign banking organization faces the risk that a liquidity stress in the United States affecting its U.S. intermediate holding company may adversely affect the U.S. operations of the foreign banking organization and U.S. financial stability.

Under the NSFR proposed rule, a U.S. bank holding company that is a subsidiary of a foreign banking organization could be subject to the existing proposed NSFR requirements if it meets certain criteria on a stand-alone basis. In all cases, such a bank holding company would also be registered as a U.S. intermediate holding company because it was established or designated as such to meet the requirements of the Board's enhanced prudential standards rule.[116] This proposal would replace any requirements that were included in the NSFR proposed rule for a U.S. intermediate holding company with a requirement that a foreign banking organization calculate and maintain an NSFR for its U.S. intermediate holding company. Similar to the proposed change in the application of LCR requirements, the Board is proposing the change in the application of the proposed NSFR requirements for U.S. intermediate holding companies in order to tailor these requirements based on a foreign banking organization's combined U.S. operations, for the reasons discussed above.

Question 49: What are the advantages and disadvantages of applying an NSFR requirement to a foreign banking organization with respect to its U.S. intermediate holding company? In what way, if any, should the Board amend the scope of the proposed requirements?

Question 50: How should the Board address the risks associated with the stable funding profile of a foreign banking organization's U.S. branch and agency network?

Question 51: What would be the advantages and disadvantages of the proposed approach, and potential alternatives, to the transferability of liquidity within a consolidated U.S intermediate holding company? What incentives would each have with respect to stable funding within a foreign banking organization's U.S. operations? What effects would the proposed approach, or alternative approaches, have on the safety and soundness of a foreign banking organization's U.S. operations?

D. LCR and NSFR Public Disclosure for Foreign Banking Organizations and U.S. Banking Organizations

The proposal would require a foreign banking organization subject to Category II or III liquidity standards, or subject to Category IV liquidity standards with $50 billion or more in weighted short-term wholesale funding, to publicly disclose its LCR and NSFR with respect to its U.S intermediate holding company, and certain components of each ratio's calculation.[117] A foreign banking organization would disclose the ratios

[113] *See* 12 CFR 252.157(c)(2)(iv)(C) and (c)(3)(iv)(C).

[114] As discussed in section V.F of this **SUPPLEMENTARY INFORMATION** section, *infra,* the proposal would also require covered depository institution subsidiaries of foreign banking organizations subject to Category II or III standards to calculate and maintain an NSFR.

[115] *See* proposed § 249.204

[116] *See* 12 CFR 252.153.

[117] *See* proposed § 249.290.

and their components on a quarterly basis in a direct and prominent manner consistent with the requirements for large U.S. depository institution holding companies under the Board's LCR rule and Board's NSFR proposed rule.[118]

The proposal would also amend the regulation text and the format of the disclosure tables used in subpart J of the LCR rule and subpart N of the NSFR proposed rule to require a banking organization to publicly disclose information related to its net cash outflow amount and required stable funding amount, respectively, before and after the application of any applicable percentage adjustment. These amendments would apply to both foreign banking organizations and U.S. banking organizations.

The Board has long supported meaningful public disclosure by banking organizations with the objectives of improving market discipline and encouraging sound risk management practices. Market discipline can mitigate risk to financial stability by creating incentives for a banking organization to internalize the costs of its liquidity profile and encouraging safe and sound banking practices. Companies with less-resilient profiles would be incentivized to improve their liquidity positions, and companies with more resilient liquidity profiles would be encouraged to maintain their sound risk management practices.

Question 52: How should the proposed public disclosure requirements with respect to a U.S. intermediate holding company be adjusted to better assist the functioning of the standardized liquidity requirements and support market discipline? In what way, if any, should the scope of public disclose be amended?

Question 53: What are the advantages and disadvantages of requiring disclosure of the LCR and NSFR for a U.S. intermediate holding company and certain of their components, consistent with the disclosure requirements applicable to a bank holding company?

Question 54: What are the advantages or disadvantages of applying the proposed public disclosure requirements to foreign banking organizations subject to Category IV standards?

E. Request for Comment on Standardized Liquidity Requirements With Respect to U.S. Branches and Agencies of a Foreign Banking Organization

The Board is currently proposing to require certain foreign banking organizations to comply with LCR and NSFR requirements with respect to any U.S. intermediate holding company, and the agencies are proposing to apply corresponding LCR and NSFR requirements to the covered depository institution subsidiaries of foreign banking organizations subject to Category II or III standards. As an additional component of the proposed liquidity framework, the Board is requesting comment on whether it should impose standardized liquidity requirements to foreign banking organizations with respect to their U.S. branch and agency networks, as well as possible approaches for doing so. The Board would propose any such requirements in a future notice of proposed rulemaking.

While the standardized liquidity requirements under the proposal would address liquidity risks at the significant U.S. subsidiaries of a foreign banking organization, liquidity vulnerabilities could still arise at the U.S. branches and agencies of a foreign banking organization, which could generate significant risks in the United States. As discussed above, risks to U.S. financial stability and liquidity risks to a foreign banking organization's U.S. operations can arise from any part of a foreign banking organization's U.S. operations. During stress conditions, liquidity needs can arise suddenly and tend to manifest in all parts of an organization. For instance, funding vulnerabilities at the U.S. branches and agencies of a foreign banking organization can cause heightened liquidity risk exposure not only at the branches and agencies themselves, but also at the foreign banking organization's U.S. subsidiaries, and vice versa. In addition, a foreign banking organization's U.S. branches and agencies can have significant scale and risk profile in the United States, and an inability to meet liquidity needs could lead to disruptions in U.S. financial stability in a similar manner to the distress or failure of other large banking organizations or segments of a foreign banking organization.

In general, the operations of foreign banking organizations conducted through U.S. branches and agencies have distinct characteristics, funding structures, and liquidity risks. U.S. branches of foreign banking organizations tend to rely on less stable, short-term wholesale funding to a greater extent than U.S. bank holding companies because of their structure and business model. For example, U.S. branches of a foreign banking organization are generally not permitted to accept retail deposits from U.S. citizens and residents.[119] As discussed above, the reliance of a large banking organization, or of the significant U.S. operations of a foreign banking organization, on short-term wholesale funding relative to more stable funding sources presents greater liquidity risks to safety and soundness and U.S. financial stability, particularly during periods of stress. In addition, foreign banking organizations often use U.S. branches to fund the larger global operations of the firm. For example, under the ''funding branch'' model, a foreign banking organization, via its U.S. branches, borrows in the U.S. wholesale funding markets to finance long-term, U.S. dollar-denominated project and trade finance around the world. This model presented challenges during the financial crisis, when disruptions in wholesale funding markets in the United States limited the ability of U.S. branches of foreign banking organizations to secure wholesale funding to satisfy the demands of their local and global operations.[120] This interaction resulted in foreign banking organizations borrowing extensively from the Federal Reserve System in order to continue operations.

In combination with the proposed LCR requirement with respect to a U.S. intermediate holding company, the goal of a standardized liquidity requirement with respect to a foreign banking organization's U.S. branch and agency network is to strengthen the overall resilience of the firm's U.S. operations to liquidity risks and help to prevent transmission of risks between the various segments of the foreign banking organization. Without appropriate liquid asset coverage for all components of the U.S. operations of a foreign banking organization, a foreign banking organization faces the risk that a liquidity stress in a single part of the firm may adversely affect the U.S. operations and U.S. financial stability. Even where a foreign banking organization with significant U.S. operations is subject to consolidated

[118] The format and content requirements for public disclosure for the LCR are described in 12 CFR part 249, subpart J. *See also* ''Liquidity Coverage Ratio: Public Disclosure Requirements; Extension of Compliance Period for Certain Companies to Meet the Liquidity Coverage Ratio Requirements,'' 81 FR 94922 (Dec. 27, 2016). The proposed format and content requirements for the disclosure of an NSFR are described in the NSFR proposed rule.

[119] *See* 12 U.S.C. 3104.

[120] *See, e.g.,* Linda Goldberg and David Skeie, ''Why Did U.S. Branches of Foreign Banks Borrow at the Discount Window during the Crisis,'' Federal Reserve Bank of New York Liberty Street Economics (April 13, 2011).

liquidity requirements in its home jurisdiction, the application of a standardized liquidity requirement with respect to its U.S. branch and agency network, in addition to its significant U.S. subsidiary operations, would require these firms to align the location of liquid assets with the location of their liquidity risks in the United States, in order to ensure better protection against risks to the U.S. operations and to U.S. financial stability.

Such requirements are designed to ensure a more level playing field for liquidity regulations across the U.S. operations of foreign banking organizations and U.S. banking organizations with similar levels of liquidity risk. As noted above, while large U.S. banking organizations are subject to both firm-specific liquidity requirements, such as internal liquidity stress testing and buffer requirements, and standardized liquidity requirements, such as the LCR rule, a foreign banking organization is not currently subject to standardized liquidity requirements with respect to its U.S. branch and agency network, despite generally significant reliance on less stable forms of funding. Application of a standardized liquidity requirement is intended to provide a more consistent framework to address such risks.

The Board is seeking comment on two potential approaches, as well as other alternatives, for standardized liquidity requirements to address the liquidity risks of the U.S. branches and agencies of a foreign banking organization with significant U.S. operations. As discussed further below, the first possible approach would be based on the LCR rule, applied to a foreign banking organization with respect to its U.S. branches and agencies in the aggregate. The second described approach would apply a requirement to a foreign banking organization tied to the asset size of the foreign banking organization's U.S. branch and agency network. The first approach would be more sensitive to liquidity risk, while the second would be simpler. The Board also requests comment on other, alternative approaches. In evaluating potential approaches to standardized liquidity requirements, the Board is mindful that U.S. branches and agencies are parts of larger global banks and play an important role in ensuring firms can meet their global U.S. dollar needs. Accordingly, the Board is seeking comment on how standardized liquidity requirements should be adjusted to reflect these factors.

1. Option 1: LCR-Based Approach for the U.S. Branch and Agency Network of a Foreign Banking Organization

As one potential approach for addressing the near-term liquidity risks of a foreign banking organization's U.S. branches and agencies, the Board requests comment on a liquid asset requirement that would be generally similar to the LCR rule. Under this option, the Board could require a foreign banking organization to calculate and maintain an LCR with respect to its U.S. branches and agencies on an aggregate basis. Requiring calculation on an aggregate basis would be consistent with the approach taken with the internal liquidity stress testing and buffer requirements that apply under the Board's enhanced prudential standards rule with respect to the U.S. branches and agencies of a foreign banking organization.[121] The liquidity requirements with respect to the U.S. branch and agency network would be based on the size and risk profile of the foreign banking organization's combined U.S. operations, consistent with the approach proposed with respect to U.S. intermediate holding companies.

Application of an LCR requirement would help to ensure a consistent minimum capability to estimate liquidity needs in stress and ensure a minimum level of liquid assets to cover such needs, which are core elements of sound liquidity risk management.[122] A standardized approach based on the risk of stressed outflows would complement a foreign banking organization's idiosyncratic risk modeling under the Board's enhanced prudential standards rule.[123]

To the extent a standardized approach were to align with the current LCR rule, such an approach could promote consistency and compliance efficiencies with LCR requirements applied with respect to a U.S. intermediate holding company of a foreign banking organization and covered depository institution subsidiaries. Such an approach would also facilitate supervisory comparisons between the liquidity risk profiles of the U.S. branch and agency networks of foreign banking organizations, the U.S. subsidiary operations of foreign banking organizations, and U.S. banking organizations. Because of the LCR rule's consistency with the Basel III LCR, an LCR-based approach would also address liquidity risk exposures of a foreign banking organization's U.S. operations in a manner generally consistent with home jurisdiction requirements for the global consolidated foreign banking organization, which could reduce operational costs and facilitate more integrated liquidity risk management. Furthermore, to the extent that the Board were to align the scope of application of any U.S. branches and agencies requirement for foreign banking organizations with the scope of application under the proposal, alignment with existing regulatory reporting by foreign banking organizations under the Board's FR 2052a Complex Institution Liquidity Monitoring Report could limit the incremental operational costs of calculating an LCR-based requirement, given that FR 2052a reporting closely aligns with the component elements of an LCR calculation.

Question 55: If the Board were to propose an LCR-based requirement for foreign banking organizations with respect to their U.S. branch and agency network, in what ways should the requirement be consistent with the LCR rule, interagency domestic proposal, or the proposed LCR requirement for the U.S. intermediate holding company of a foreign banking organization? What changes should be made to address the risks and structure of a foreign banking organization's U.S. branches and agencies?

Question 56: Which definitions in the LCR rule, if any, should the Board adjust, and in what ways, for an LCR calculation with respect to a foreign banking organization's U.S. branch and agency network?

Question 57: Any standardized liquidity requirement for U.S. branches and agencies would need to define the types and quality of assets that would be appropriate to cover the risk of potential outflows. Under an LCR-based approach, what differences, if any, should the Board apply to the definition of HQLA for U.S. branches and agencies relative to the definition under the LCR rule?

Question 58: The LCR rule includes criteria for determining eligible HQLA of a banking organization, including operational requirements and generally applicable criteria. What differences should the Board consider, if any, to ensure that eligible HQLA are available to meet the stressed cash outflows of a foreign banking organization's U.S. branch and agency network? In what ways, if any, should the operational

[121] 12 CFR 252.157(a)(1)(i)(B) and (c)(3).

[122] *See* OCC, Board, FDIC, Office of Thrift Supervision, and National Credit Union Administration, ''Interagency Policy Statement on Funding and Liquidity Risk Management,'' 75 FR 13656 (March 22, 2010) and BCBS, ''Principles of sound liquidity risk management and supervision,'' (September 2008).

[123] *See* 12 CFR 252.157.

requirements or generally applicable criteria differ in order to align with the liquidity risk management operations of foreign banking organizations?

Question 59: The generally applicable criteria in the LCR rule include certain requirements to ensure that the assets included as HQLA are free from encumbrance and may be freely monetized to meet outflows. How should an LCR approach take into account the operating structures of U.S. branches and agencies of foreign banking organizations in the United States for purposes of determining eligible HQLA? For example, a federal or state branch operating in the United States may hold amounts of HQLA to meet other regulatory requirements, such as the capital equivalency deposits (CED) requirement applicable to a federal branch.[124] *In light of the criteria for determining eligible HQLA under the LCR rule, what, if any, changes to relevant rules or policies should the agencies consider regarding the treatment of assets held for the purpose of satisfying other regulatory requirements, such as assets held to meet CED requirements or other asset maintenance requirements, and why?*

Question 60: How should an LCR-based approach take into account the transferability of assets between U.S. branches and agencies for purposes of determining the eligible HQLA of a foreign banking organization's U.S. branch and agency network? For example, a U.S. branch or agency may be subject to a regulatory restriction in place in a given state that could limit the transferability of assets from that branch or agency to another branch or agency that is part of the U.S. branch and agency network.

Question 61: In what ways, if any, should the calculation of the HQLA amount by a foreign banking organization for its U.S. branch and agency network differ from the calculation that a foreign banking organization would conduct under the proposal with respect to a U.S. intermediate holding company? For example, how should an LCR approach incorporate the haircuts and composition caps on level 2 liquid assets that are included in the current LCR rule? What adjustments, if any, would need to be made to the definitions in the LCR rule to facilitate these calculations?

Question 62: The current LCR framework uses outflow amounts and inflow amounts for a 30-day time horizon. What would be the advantages and disadvantages of using the same time horizon for the outflow amounts and inflow amounts of a foreign banking organization's U.S. branch and agency network?

Question 63: If the minimum standardized liquidity requirement for the U.S. branch and agency network of a foreign banking organization were to be calibrated based on a time horizon other than the LCR's 30-day time horizon, the approach would need to address the timing of net cash outflows. Under the LCR rule, one set of outflow amounts and inflow amounts are directly associated with a time horizon and therefore included in the net cumulative maturity outflow amount in the maturity mismatch add-on calculation. The remaining set of contractual and contingent outflow amounts and inflow amounts are not included in the net cumulative maturity outflow amount and are not directly associated with specific time horizon within the LCR's 30-day window. How should the outflow amounts and inflow amounts be calibrated for a given time horizon, and why?

Question 64: How could specific outflow amounts and inflow amounts for a foreign banking organization's U.S. branches and agencies appropriately reflect the relevant risks? What, if any, modifications would be required to the outflow amounts and inflow amounts described in §§ __. 32 and __.33 respectively of the LCR rule for a U.S. branch and agency LCR calculation? For example, the LCR rule excludes transactions between two subsidiaries of a consolidated holding company subject to the rule. For calculations involving a foreign banking organization's U.S. branch and agency network, what transactions should be excluded and why?

Question 65: Use of a standardized liquidity requirement for U.S. branches and agencies that is similar to a foreign banking organization's proposed LCR requirement for a U.S. intermediate holding company could provide greater consistency across the approaches. However, there may be outflow amounts and inflow amounts described in the proposal that need to be adapted for U.S. branches and agencies, or that may not be relevant and could be omitted. For example, the LCR rule includes a provision, the ''broker-dealer segregated account inflow amount,'' that allows a banking organization subject to the rule to determine the extent to which it may, over the course of the LCR 30-calendar day time horizon, take into account any reduction in regulatory asset maintenance requirements that would occur in a manner consistent with the LCR's outflow and inflow calculations.[125] *If the Board were to apply an LCR requirement to a foreign banking organization with respect to its U.S. branches and agencies, to what extent, if any, should such an approach be included for forms of client protection requirements or other potential reductions in regulatory requirements, such as CED requirements of a branch or other asset maintenance requirements?*

Question 66: As described in the proposal for a foreign banking organization's U.S. intermediate holding company calculation, the LCR inflow cap of 75 percent of total outflow amounts would not reflect any specific reliance of a foreign banking organization's U.S. operations on anticipated affiliate inflows. What alternative limits, if any, should be applied to the inflow amounts of a foreign banking organization's U.S. branch and agency network, and why? Given the structure of U.S. branch and agency funding, how should inflows from U.S. and foreign affiliated legal entities and offices be treated, and why? For example, what would be the advantages and disadvantages under an LCR-based approach of preventing or otherwise limiting the ability of a foreign banking organization to assume reliance on inter-affiliate inflows to offset outflows?

Question 67: When considered in combination with a foreign banking organization's LCR calculation for any U.S. intermediate holding company described in the proposal, how should a standardized approach for U.S. branches and agencies achieve comprehensive coverage of the short-term liquidity risks of a foreign banking organization's U.S. operations? In what ways, if any, should an approach to addressing the liquidity risks of a foreign banking organization's U.S. branches and agencies capture the risk of stressed cash outflows within the United States that could result from transactions, instruments and obligations booked at affiliated legal entities and offices outside of the foreign banking organization's U.S. operations?

Question 68: If the Board were to implement standardized liquidity requirements for foreign banking organizations with respect to their U.S. branch and agency networks, what would be the advantages and disadvantages of public disclosures associated with such requirements? What form should such public disclosures take and why?

[124] *See* 12 CFR 28.15.

[125] *See* 12 CFR 50.33(g) (OCC), 12 CFR 249.33(g) (Board), and 12 CFR 329.33(g) (FDIC).

2. Option 2: Simplified Liquidity Requirement Based on U.S. Branch and Agency Total Assets

An alternative approach for a minimum standardized liquidity requirement could be to require a foreign banking organization to maintain within its U.S. branch and agency network an amount of liquid assets of prescribed quality exceeding a prescribed percentage (for example 20 percent) of the total aggregate U.S. branch and agency network assets. Such a requirement could function as a floor to existing non-standardized liquidity requirements.

The minimum amount of liquid assets required under such an approach could depend on the interaction with other regulatory standards. For example, the minimum requirement could be reduced (for example, to 15 percent) to reflect assets of a foreign banking organization's U.S. branches and agencies that have appropriate liquidity characteristics and are held to meet other regulatory requirements, such as CED requirements applicable to a federal branch or other asset maintenance requirements, even if those assets might not necessarily be available to meet outflows outside of particular circumstances specified under those requirements.

The Board requests comment on all aspects of this approach, including overall calibration and potential criteria for determining which assets could be permitted to satisfy a simplified liquidity requirement. One approach could align with the criteria used under other liquidity requirements, such as the criteria for highly liquid assets used for purposes of the liquidity buffer requirements under the Board's enhanced prudential standards rule or HQLA under the LCR rule. Alternatively, a foreign banking organization could satisfy a simplified liquidity requirement with assets that meet the criteria for HQLA set forth in the LCR rule, or a simplified version of these criteria. For example, the criteria could include the HQLA criteria under section 20 of the LCR rule without regard to the additional requirements for eligible HQLA under section 22 or the standardized haircuts and liquid asset composition limits under section 21.

Question 69: Relative to an LCR-based approach, when applied to foreign banking organizations with similarly sized U.S. operations, a requirement tied only to the asset size of a foreign banking organization's U.S. branches and agencies would tend to result in lower requirements for foreign banking organizations with greater measures of liquidity risk and higher requirements for foreign banking organizations with lower measures of liquidity risk. What would be the advantages or disadvantages of such a result? What incentives could be created?

Question 70: How should a requirement based on asset size take into account off-balance sheet exposures, such as in connection with commitments and derivatives, which can represent a material source of liquidity risk to the U.S. operations of a foreign banking organization?

Question 71: What would be the advantages and disadvantages of basing a more simple branch and agency liquidity requirement on measures other than or in addition to aggregate U.S. branch and agency assets? What measures should be included and in what ways under such an approach?

Question 72: What would be the advantages and disadvantages of permitting assets held to meet another regulatory requirement to reduce the required level of liquid assets under a standardized liquidity requirement? How would such an approach align with how a foreign banking organization considers, for purposes of its internal liquidity risk management practices, assets required to be held under a particular regulation to be available to meet liquidity needs under various economic and financial market conditions?

Question 73: What criteria should be applied for liquid assets to satisfy a simplified, standardized liquidity requirement based on aggregate U.S. branch and agency assets? How should such an approach incorporate a foreign banking organization's ability to monetize these assets? What, if any, standardized haircuts to the fair market value should be applied and what aggregate composition limits, if any, should be applied, and why?

Question 74: To what extent would different approaches for a standardized liquidity requirement create incentives for a foreign banking organization to restructure the business models of U.S. branches and agencies?

Question 75: What other approaches should the Board consider for standardized liquidity requirements to address the liquidity risks of the U.S. branches and agencies of a foreign banking organization with significant U.S. operations? Please provide the rationale for any alternative approach and a detailed description of how the approach could mechanically operate in conjunction with existing statutory and regulatory requirements. What would be the advantages and disadvantages to an alternative approach for standardized liquidity requirements? Commenters are encouraged to provide data to support their responses.

F. LCR and NSFR Requirements for Certain Depository Institution Subsidiaries of a Foreign Banking Organization

The agencies are proposing to apply LCR and NSFR requirements to certain large depository institution subsidiaries of foreign banking organizations subject to Category II or III liquidity standards. Specifically, LCR and NSFR requirements would apply to any covered depository subsidiary (that is, a depository institution that has total consolidated assets of $10 billion or more and is a consolidated subsidiary of a U.S. intermediate holding company of a foreign banking organization) of a foreign banking organization that is subject to Category II or III liquidity standards.[126] The level of the LCR requirement applicable to the covered depository institution subsidiary would be the same as the level that would apply to the foreign banking organization. For example, a depository institution with $10 billion in total consolidated assets that is a subsidiary of a U.S. intermediate holding company of a foreign banking organization subject to the reduced LCR requirement under Category III liquidity standards would itself be subject to the reduced LCR requirement.

The risk-based indicators for Categories II and III reflect the systemic risk profile and safety and soundness risk profile of the U.S. operations of a foreign banking organization, of which a large depository institution subsidiary is a significant part. Each of these indicators heightens the need for sophisticated measures to monitor and manage liquidity risk, including at a covered depository institution subsidiary. Such depository institution subsidiaries are part of the U.S. operations of a foreign banking organization with a more significant liquidity risk profile and whose failure or distress could impose significant costs on the U.S. financial system and economy. The liquidity challenges of such firms therefore make it appropriate to ensure that a large depository institution subsidiary maintains sufficient liquidity to cover outflows generated from its activities rather than relying on other entities of the U.S.

[126] The proposal would measure the total consolidated assets of a subsidiary depository institution based on the average level over the previous four calendar quarters. *See* section III.C of this Supplementary Information section, regarding determination of the applicable category of standards.

operations of the foreign banking organization.

The agencies are not proposing to apply LCR or NSFR requirements to covered depository institution subsidiaries of foreign banking organizations subject to Category IV standards, based on the lesser risk profile of their U.S. operations relative to those of firms that would be subject to Category II or III standards.

G. Transition Period; Cessation of Applicability

The proposal would provide initial transition periods for foreign banking organizations and covered depository institution subsidiaries to comply with the proposed LCR requirements.[127] The compliance date for a foreign banking organization with respect to its U.S. intermediate holding company would depend on whether the U.S. intermediate holding company is subject to the LCR rule at the effective date of a final rule. Except as noted below, a covered depository institution subsidiary would be required to comply with any applicable proposed LCR requirement beginning on the same date. More specifically:

- If a U.S. intermediate holding company of a foreign banking organization is subject to the full LCR requirement as a covered company (for example, as a bank holding company) under the current LCR at the effective date of a final rule, the foreign banking organization would be required to comply with the applicable proposed LCR requirement (full or reduced) with respect to its U.S. intermediate holding company beginning on the effective date of the final rule. A covered depository institution subsidiary would be required to comply with any applicable proposed LCR requirement beginning on the same date.
- If a U.S. intermediate holding company of a foreign banking organization is subject to the modified LCR requirement (for example, as a bank holding company) under the current LCR rule at the effective date of a final rule, the foreign banking organization would be required to comply with the proposed LCR requirement with respect to its U.S. intermediate holding company beginning on the effective date. However, for one year following the effective date of the final rule, the LCR calculation with respect to the U.S. intermediate holding company would be on a monthly basis, would not include a maturity-mismatch add-on, and would use a 70 percent outflow adjustment factor. In addition, no LCR requirement would apply to a covered depository institution subsidiary of such a foreign banking organization until one year following the effective date of the final rule.[128] The foreign banking organization and any covered depository institution subsidiary would be required to comply with the maturity mismatch add-on, any applicable outflow adjustment factor, and any applicable daily calculation requirement beginning the first day of the calendar quarter that is one year following the effective date of the final rule.
- If a U.S. intermediate holding company of a foreign banking organization is not a covered company under the LCR rule at the effective date of a final rule, the foreign banking organization would be required to comply with the proposed LCR requirement with respect to the U.S. intermediate holding company beginning on the first day of the calendar quarter that is one year following the effective date. A covered depository institution subsidiary would be required to comply with any applicable proposed LCR requirement beginning on the same date.

Following the date that is one year after adoption of a final rule (or, in the case of the proposed NSFR requirement, following the effective date of that requirement), a foreign banking organization would be required to comply with the requirements based on its applicable category of standards, according to the same timing as would apply to a U.S. banking organization under the domestic interagency proposal.[129] Specifically, under the proposal, a foreign banking organization that becomes subject to the proposed LCR or NSFR requirements after the initial effective date would be required to comply with these requirements on the first day of the second quarter after the foreign banking organization became subject to these requirements, consistent with the amount of time currently provided under the LCR rule and NSFR proposed rule after the currently applicable year-end measurement date.[130]

In addition, the current LCR rule provides newly covered banking organizations with a transition period for the daily calculation requirement, recognizing that a daily calculation requirement could involve significant operational and technology demands. Specifically, under the current rule, a newly covered banking organization must calculate its LCR monthly from April 1 to December 1 of its first year of compliance. Beginning on January 1 of the following year, the banking organization must calculate its LCR daily.[131] The proposal would maintain this transition period of three calendar quarters following initial applicability of a daily LCR calculation requirement to a foreign banking organization.[132]

Under the proposal, like the current LCR rule and NSFR proposed rule, once a foreign banking organization is subject to the proposed LCR or NSFR requirements, it would remain subject to the rule until the Board determines that application of the rule would not be appropriate in light of the foreign banking organization's asset size, level of complexity, risk profile, or scope of operations. This approach would be consistent with the cessation provisions that apply to U.S. banking organizations under the current LCR rule and NSFR proposed rule, and that would continue to apply under the domestic interagency proposal.

Question 76: What would be the advantages and disadvantages of maintaining the cessation provisions of the LCR rule and NSFR proposed rule? What would be the advantages and disadvantages of aligning the cessation provisions in the LCR rule and NSFR proposed rule with the transition provisions between categories of standards? For example, the current version of the LCR rule provides that, once a banking organization becomes subject to the LCR rule, it remains subject to the LCR rule until its regulator determines in writing that application of the LCR rule is no longer appropriate. What are the advantages and disadvantages of requiring a written determination before a banking organization can move to a lower category? What would be the advantages

[127] The agencies will address the relevant effective and compliance dates of the NSFR in the final NSFR rule.

[128] This transition provision would apply to a depository institution that is not subject to the LCR rule and is a subsidiary of a covered company subject to the modified LCR requirement at the effective date of the final rule.

[129] *See* section III.C of this Supplementary Information section regarding determination of applicable category of standards.

[130] Under the LCR rule and NSFR proposed rule, a banking organization that meets the thresholds for applicability measured as of the year-end must comply with the requirement(s) beginning on April 1 of the following year, or as specified by the appropriate agency. *See* 12 CFR 50.1(b)(2) (OCC); 12 CFR 249.1(b)(2) (Board); 12 CFR 329(1)(b)(2) (FDIC); and NSFR proposed rule. *See also* LCR FR rule, 79 FR at 61447.

[131] *See id.*

[132] For clarification, the proposed 3-quarter transition period would apply only to a foreign banking organization that becomes subject to a daily LCR calculation requirement after the effective date of a final rule; the 3-quarter transition period would not be additive to any initial transition period that would apply to a foreign banking organization in connection with the effective date.

and disadvantages of automatically moving the category of a banking organization based on its size and indicators over the preceding four quarters?

VI. Re-Proposal of Standardized Liquidity Requirements for Certain U.S. Depository Institution Holding Companies Subject to Category IV Standards

The domestic interagency proposal would not have included LCR and NSFR requirements for U.S. banking organizations subject to Category IV standards, based on an assessment that these banking organizations generally have more traditional balance sheet structures, are largely funded by stable retail deposits, and have less reliance on less stable short-term wholesale funding.[133] However, as discussed above in section V.A.3 of this **SUPPLEMENTARY INFORMATION** section, the Board observed that some banking organizations that meet the criteria for Category IV standards could potentially have a heightened liquidity risk profile. Thus, this proposal includes additional tailoring of liquidity requirements for both foreign banking organizations and domestic holding companies subject to Category IV standards in order to ensure that standardized liquidity requirements apply to all banking organizations with heightened liquidity risks.[134] As a result, this proposal would modify the applicable standardized liquidity requirements for domestic holding companies described in the domestic interagency proposal. Accordingly, the Board is accepting comments and information during this reopened comment period for the domestic interagency proposal with respect to this modification.

As discussed in section V.A.3 of this **SUPPLEMENTARY INFORMATION** section, the Board is proposing to apply standardized liquidity requirements to certain foreign banking organizations subject to Category IV standards if the reliance of the foreign banking organization's U.S. operations on short-term wholesale funding is significant relative to the firm's combined U.S. assets. The proposal would also apply consistent requirements to U.S. depository institution holding companies that meet the same indicators of risk. Specifically, a U.S. depository institution holding company subject to Category IV standards would be subject to reduced LCR and NSFR requirements if the firm has $50 billion or more in weighted short-term wholesale funding. As with the proposed reduced LCR and NSFR requirements that would apply to certain banking organizations subject to Category III standards, the Board requests comment on a range of potential calibrations for the reduced requirement, between 70 and 85 percent. The proposal would require such a U.S. depository institution holding company standards to publicly disclose its LCR and NSFR and certain components of each ratio's calculation.[135]

For a U.S. banking organization subject to Category IV standards, $50 billion or more in weighted short-term wholesale funding would be significant relative to the banking organization's total assets. Such banking organizations do not have a traditional balance sheet structure, rely less on funding from stable deposits, and have material reliance on less stable wholesale funding. Accordingly, a banking organization that meets these criteria would have a higher level of liquidity risk than other banking organizations subject to Category IV standards.

However, to reflect the lesser risk profile of these banking organizations relative to U.S. banking organizations that meet the criteria for Category I, II, or III standards under the domestic interagency proposal and foreign banking organizations that meet the criteria for Category II or III standards under this proposal, the Board is proposing to require calculation of the LCR on a monthly basis, rather than each business day. In addition, the agencies are not proposing to apply an LCR or NSFR requirement to the depository institution subsidiaries of such firms.

Question 77: What are the advantages and disadvantages of applying a reduced LCR and NSFR requirement to U.S. depository institution holding companies subject to Category IV standards that have $50 billion or more in weighted short-term wholesale funding?

Question 78: Between a range of 70 and 85 percent of the full requirements, what calibration should the Board adopt for the reduced LCR and NSFR requirements for U.S. depository institution holding companies subject to Category IV standards that have $50 billion or more in weighted short-term wholesale funding, and why?

VII. Technical Amendments

In the domestic interagency proposal, the agencies stated that changes in liquidity requirements that result from a change in category would take effect on the first day of the second quarter following the change in the banking organization's category.[136] However, the domestic interagency proposal did not include proposed regulation text to give effect to this intended treatment. The agencies are making a technical amendment in the regulation text included with this proposal to provide this treatment for U.S. banking organizations. The agencies are also making a technical amendment in both the capital and liquidity regulation text to clarify that a subsidiary depository institution of a depository institution would be categorized based on the risk profile of its parent depository institution.

VIII. Impact Assessment

The Board assessed the potential impact of the proposal, taking into account current levels of capital and holdings of HQLA at affected foreign banking organizations, potential benefits in the form of reduced liquidity risk at large foreign banking organizations, and potential costs related to decreased activity in global dollar funding markets.

The Board expects the proposal to have no material impact on the capital levels of foreign banking organizations that would be subject to Category II standards. For foreign banking organizations that would be subject to Category III standards and that currently reflect AOCI in regulatory capital, the Board estimates that the proposal would slightly lower capital requirements under current conditions (depending on the data on cross-jurisdictional activity, by between $2 billion to $3 billion, or between 0.5 to 0.6 percent of total risk-weighted assets at these banking organizations), as such firms would not be required to reflect AOCI in regulatory capital.[137] This impact could vary under different economic and market conditions. For example, from 2001 to 2018, the aggregate AOCI for banking organizations that would be subject to

[133] *See* domestic interagency proposal, 83 FR 66024, 66037 (December 21, 2018).

[134] The Board is proposing consistent requirements for both U.S. and foreign banking organizations that meet these criteria. Section V.A.3 of this **SUPPLEMENTARY INFORMATION** section discusses the proposed Category IV liquidity standards for foreign banking organizations.

[135] As noted above, the format and content requirements for public disclosure for the LCR are described in 12 CFR part 249, subpart J. *See also* ''Liquidity Coverage Ratio: Public Disclosure Requirements; Extension of Compliance Period for Certain Companies to Meet the Liquidity Coverage Ratio Requirements,'' 81 FR 94922 (Dec. 27, 2016). The proposed format and content requirements for the disclosure of an NSFR are described in the NSFR proposed rule.

[136] 83 FR at 66033.

[137] The Board's analysis uses aggregate AOCI data from the FR Y–9C as of September 30, 2018.

Category III standards under the proposal that included AOCI in capital ranged from an estimated decrease of approximately 90 basis points of total risk-weighted assets to an estimated increase of approximately 70 basis points of total risk-weighted assets.[138]

For purposes of assessing the potential impact of the proposed changes to the liquidity standards, the Board's assessment focused on the impact of the proposed change in the applicability and the stringency of the LCR rule, taking into account firms' internal liquidity stress test requirements.[139] As the proposal would reduce requirements for some firms and increase requirements for others, the Board quantified the net impact of the proposal on the required HQLA of affected foreign banking organizations with respect to their U.S. intermediate holding companies.[140]

Board staff estimated that, under the proposal, liquidity requirements would be expected to increase by between $1 billion to $10 billion for foreign banking organizations in aggregate, depending on the data on cross-jurisdictional activity and on whether the reduced LCR requirement were set at 70 or 85 percent.[141] The increase in requirements would represent between a 0.5 to 4 percent increase in total liquidity requirements for the U.S. intermediate holding companies of foreign banking organizations. Foreign banking organizations affected by the proposal increased their holdings of liquid assets after the financial crisis, and most or all already hold sufficient HQLA to meet the proposed requirements at their U.S. subsidiaries. Board staff estimated that the proposal would require foreign banking organizations in the aggregate to increase U.S. HQLA by between zero to $1 billion, or by up to 0.5 percent of total HQLA holdings at affected firms for the second quarter ending June 30, 2018, in order to satisfy the proposed LCR requirement.

The Board does not expect liquidity requirements to increase for any banking organization based on the modification of the domestic interagency proposal to apply standardized liquidity requirements to U.S. depository institution holding companies subject to Category IV standards that have $50 billion or more in weighted short-term wholesale funding, as no U.S. depository institution holding companies currently meet these criteria.

In addition to assessing the potential impact of the proposal on LCR minimum requirements, the Board assessed the broader costs and benefits associated with the liquidity regulation of foreign banking organizations. One potential benefit is that the proposal would strengthen the safety and soundness of foreign banking organizations with respect to their U.S. operations. The Board estimated the relationship between holdings of liquid assets and, as a measure of liquidity stress, the usage of Federal Reserve liquidity facilities during the financial crisis, and found that, controlling for other factors, foreign banking organizations with more liquid assets were less likely to access these facilities.[142] Moreover, among foreign banking organizations that accessed these facilities, those with more liquid assets used these facilities less intensively.

A potential cost of liquidity regulation for foreign banking organizations is the reduced efficiency of global dollar markets.[143] Foreign banking organizations help integrate global dollar markets by supplying dollars in these markets or engaging in derivatives transactions, and short-term funding helps facilitate these activities. Liquidity regulation may reduce incentives for some foreign banking organizations to engage in such activities, with potentially adverse effects on the functioning of global dollar markets.

As the immediate effect of the proposed change for foreign banking organizations is estimated to be between a zero to 0.5 percent increase in HQLA, the anticipated effects on these firms' safety and soundness and the functioning of global dollar markets are likely to be mild.

Question 79: The Board invites comment on all aspects of the foregoing impact assessment associated with the proposal. What, if any, additional costs and benefits should be considered? Commenters are encouraged to submit data on potential impacts on foreign banking organizations, as well as potential costs or benefits of the proposal that the agencies may not have considered.

IX. Administrative Law Matters

A. Solicitation of Comments and Use of Plain Language

Section 722 of the Gramm-Leach-Bliley Act[144] requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The agencies have sought to present the proposed rule in a simple and straightforward manner, and invite comment on the use of plain language. For example:

- Have the agencies organized the material to suit your needs? If not, how could they present the proposed rule more clearly?
- Are the requirements in the proposed rule clearly stated? If not, how could the proposed rule 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 agencies incorporate to make the regulation easier to understand?

B. Paperwork Reduction Act Analysis

Certain provisions of the proposal contain ''collection of information'' requirements within the meaning of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521) (PRA). In accordance with the requirements of the PRA, the agencies 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 OMB control numbers for the agencies' respective LCR rules are OCC (1557–

[138] The Board's analysis uses data from the FR Y–9C between 2001 and 2018.

[139] Because the NSFR and modified NSFR requirements have not yet been finalized, banking organizations are not currently subject to those minimum requirements. As a result, the Board did not assess any changes in impact as a result of amending its scope of application.

[140] Under the proposal, two U.S. intermediate holding companies that are currently not subject to the LCR rule would be subject to the LCR for the first time, and two U.S. intermediate holding companies currently subject to the LCR rule would no longer be required to comply with an LCR requirement.

[141] The Board's analysis estimates the impact of modifying the LCR requirement for holding companies that would be subject to Category III or Category IV standards using data submitted on the FR 2052a by these holding companies for the second quarter 2018 reporting period.

[142] The Federal Reserve liquidity facilities examined comprised of the discount window and the Term Auction Facility.

[143] Foreign banking organizations account for more than 80 percent of dollar-denominated cross-border lending globally and fund nearly a quarter of their global dollar balance sheet from their U.S. operations.

[144] Public Law 106–102, sec. 722, 113 Stat. 1338, 1471 (1999).

0323), Board (7100–0367), and FDIC (3064–0197). The OMB control numbers for the agencies' respective regulatory capital rules are OCC (1557–0318), Board (7100–0313), and FDIC (3064–0153). These information collections will be extended for three years, with revision. The information collection requirements contained in this proposal have been submitted by the OCC and FDIC to OMB for review and approval under section 3507(d) of the PRA (44 U.S.C. 3507(d)) and section 1320.11 of the OMB's implementing regulations (5 CFR part 1320). The Board reviewed the proposal under the authority delegated to the Board by OMB.

Comments are invited on:

a. Whether the collections of information are necessary for the proper performance of the agencies' functions, including whether the information has practical utility;

b. The accuracy or the estimate of the burden of the information 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 notice that may affect reporting, recordkeeping, or disclosure requirements and burden estimates should be sent to the addresses listed in the **ADDRESSES** section of this document. A copy of the comments may also be submitted to the OMB desk officer for the agencies by mail to U.S. Office of Management and Budget, 725 17th Street NW, #10235, Washington, DC 20503; facsimile to (202) 395–6974; or email to *oira_submission@omb.eop.gov,* Attention, Federal Banking Board Desk Officer.

LCR Rule

Current Actions: The proposal would revise §§ __.1, __.3, __.30, __.50, and __.105 of each of the agencies' respective LCR rules and §§ 249.10, 249.90, 249.91, and 249.131 of the Board's LCR rule to require depository institution subsidiaries of certain U.S. intermediate holding companies of foreign banking organizations to calculate an LCR and NSFR. The proposal would also add subpart O of the Board's regulations, which would require certain foreign banking organizations to calculate an LCR and NSFR with respect to their U.S. intermediate holding companies. Currently, a foreign banking organization operating in the United States is not subject to the LCR rule, nor would it be subject to the NSFR proposed rule, with respect to its U.S. operations, except to the extent that a subsidiary depository institution holding company or a subsidiary depository institution of the foreign banking organization meets the relevant applicability criteria on a stand-alone basis. However, for most foreign banking organizations that would be subject to subpart O, their U.S. intermediate holding companies currently meet the relevant applicability criteria on a stand-alone basis under the current LCR rule. Subpart O contains additional reporting, recordkeeping and disclosure requirements for foreign banking organizations in §§ 249.204, 249.205, 249.206, 249.207, and 249.208.

Section 249.204 would require a foreign banking organization to maintain for each U.S. intermediate holding company a net stable funding ratio that is equal to or greater than 1.0 on an ongoing basis in accordance with § 249.3 and subparts K and L of this part as if each U.S. intermediate holding company (and not the foreign banking organization subject to this subpart) were a top-tier Board-regulated institution. In complying with § 249.204, a foreign banking organization will utilize proposed § __.108(b) of each of the agencies' respective LCR rules, which provides that if an institution includes an ASF amount in excess of the RSF amount of the consolidated subsidiary, it must implement and maintain written procedures to identify and monitor applicable statutory, regulatory, contractual, supervisory, or other restrictions on transferring assets from the consolidated subsidiaries.

Section 249.205 would be consistent with § __.22 of each the agencies' respective LCR rules. Section 249.205 requires that, with respect to each asset eligible for inclusion in the foreign banking organization' HQLA amount, the foreign banking organization must implement policies that require eligible HQLA to be under the control of the management function of the foreign banking organization that is charged with managing liquidity risk. In addition, consistent with § __.22, § 249.205 would require that a foreign banking organization have a documented methodology that results in a consistent treatment for determining that the eligible HQLA meet the requirements in § 249.205.

Section 249.206 would be consistent with § __.40 of each of the agencies' respective LCR rules. These provisions describe the reporting and recordkeeping requirements related to a shortfall in a foreign banking organization's liquidity coverage ratio.

Section 249.207 would be consistent with proposed § __.110 of the proposed NSFR rule. These provisions describe the reporting and recordkeeping requirements related to a shortfall in a foreign banking organization's net stable funding ratio.

Section 249.208 would require a foreign banking organization to disclose publicly all information for a U.S. intermediate holding company as if the U.S. intermediate holding company were subject to the disclosure requirements found in the LCR rule (§§ 249.90 and 249.91) and proposed NSFR rule (§§ 249.130 and 249.131).

For more detail on §§ __.22 and __.40, please see ''Liquidity Coverage Ratio: Liquidity Risk Measurement Standards, Final Rule,'' 79 FR 61440 (October 10, 2014). For more detail on §§ __.90 and __.91, please see ''Liquidity Coverage Ratio: Public Disclosure Requirements; Extension of Compliance Period for Certain Companies to Meet the Liquidity Coverage Ratio Requirements,'' 81 FR 94922 (Dec. 27, 2016). For more detail on §§ __.108, __.110, __.130, and __.131, please see ''Net Stable Funding Ratio: Liquidity Risk Measurement Standards and Disclosure Requirements; Proposed Rule,'' 81 FR 35124 (June 1, 2016). The disclosure requirements are only for Board supervised entities. The Board would also delete the disclosure requirements in § 249.64.

Information Collections Proposed to be Revised:

OCC

OMB control number: 1557–0323.

Title of Information Collection: Reporting and Recordkeeping Requirements Associated with Liquidity Coverage Ratio: Liquidity Risk Measurement, Standards, and Monitoring.

Frequency: Event generated, monthly, quarterly, annually.

Affected Public: National banks and federal savings associations.

Estimated average hours per response:

Sections 50.40(a), 50.110(a) (19 respondents)

Reporting (ongoing monthly)—.50

Sections 50.40(b), 50.110(b) (19 respondents)

Reporting (ongoing)—.50

Sections 50.40(b)(3)(iv), 50.110(b)(3) (19 respondents)

Reporting (quarterly)—.50

Sections 50.22(a)(2) and (5), 50.108(b) (19 respondents)
Recordkeeping (ongoing)—40
Sections 50.40(b), 50.110(b) (19 respondents)
Recordkeeping (ongoing)—200
Estimated annual burden hours: 4,722.

Board

OMB control number: 7100–0367.
Title of Information Collection: Reporting, Recordkeeping, and Disclosure Requirements Associated with the Regulation WW.
Frequency: Event generated, monthly, quarterly, annually.
Affected Public: Insured state member banks, bank holding companies, and savings and loan holding companies, and foreign banking organizations.
Estimated average hours per response:
Sections 249.40(a), 249.110(a), 249.206(a), 249.207(a) (3 respondents)
Reporting (ongoing monthly)—.50
Sections 249.40(b), 249.110(b), 249.206(b), 249.207(a) (3 respondents)
Reporting (ongoing)—.50
Sections 249.40(b)(3)(iv), 249.110(b)(3), 249.206(b)(iv),249. 207(b)(3) (3 respondents)
Reporting (quarterly)—.50
Sections 249.22(a)(2) and (5), 249.108(b), 249.204, 249.205(a)(2) and (5) (23 respondents)
Recordkeeping (ongoing)—40
Sections 249.40(b), 249.110(b), 249.206(b), 249.207(b) (3 respondents)
Recordkeeping (ongoing)—200
Sections 249.90, 249.91, 249.130, 249.131, 249.208 (19 respondents)
Disclosure (quarterly)—24
Estimated annual burden hours: 3,370.

FDIC

OMB control number: 3064–0197.
Title of Information Collection: Liquidity Coverage Ratio: Liquidity Risk Measurement, Standards, and Monitoring (LCR).
Frequency: Event generated, monthly, quarterly, annually.
Affected Public: State nonmember banks and state savings associations.
Estimated average hours per response:
Sections 329.40(a), 329.110(a) (2 respondents)
Reporting (ongoing monthly)—.50
Sections 329.40(b), 329.110(b) (2 respondents)
Reporting (ongoing)—.50
Sections 329.40(b)(3)(iv), 329.110(b)(3) (2 respondents)
Reporting (quarterly)—.50
Sections 329.22(a)(2) and (5), 329.108(b) (2 respondents)
Recordkeeping (ongoing)—40
Sections 329.40(b), 329.110(b) (2 respondents)
Recordkeeping (ongoing)—200
Estimated annual burden hours: 497.

Disclosure Burden—Advanced Approaches Banking Organizations

Current Actions

The proposal would require a U.S. intermediate holding company subject to Category III standards to maintain a minimum supplementary leverage ratio of 3 percent given its size and risk profile. As a result, these intermediate holding companies would no longer be identified as ''advanced approaches banking organizations'' for purposes of the advanced approach disclosure respondent count.
Information Collections Proposed to be Revised:

OCC

Title of Information Collection: Risk-Based Capital Standards: Advanced Capital Adequacy Framework.
Frequency: Quarterly, annual.
Affected Public: Businesses or other for-profit.
Respondents: National banks, state member banks, state nonmember banks, and state and federal savings associations.
OMB control number: 1557–0318.
Estimated number of respondents: 1,365 (of which 18 are advanced approaches institutions).
Estimated average hours per response:
Minimum Capital Ratios
Recordkeeping (Ongoing)—16
Standardized Approach
Recordkeeping (Initial setup)—122
Recordkeeping (Ongoing)—20
Disclosure (Initial setup)—226.25
Disclosure (Ongoing quarterly)—131.25
Advanced Approach
Recordkeeping (Initial setup)—460
Recordkeeping (Ongoing)—540.77
Recordkeeping (Ongoing quarterly)—20
Disclosure (Initial setup)—328
Disclosure (Ongoing)—5.78
Disclosure (Ongoing quarterly)—41
Estimated annual burden hours: 1,136 hours initial setup, 64,945 hours for ongoing.

Board

Title of Information Collection: Recordkeeping and Disclosure Requirements Associated with Regulation Q.
Frequency: Quarterly, annual.
Affected Public: Businesses or other for-profit.
Respondents: State member banks (SMBs), bank holding companies (BHCs), U.S. intermediate holding companies (IHCs), savings and loan holding companies (SLHCs), and global systemically important bank holding companies (GSIBs).
Current actions: This proposal would amend the definition of advanced approaches Board-regulated institution to include, as relevant here, a depository institution holding company that is identified as a Category II banking organization pursuant to 12 CFR 252.5 or 12 CFR 238.10, and a U.S. intermediate holding company that is identified as a Category II banking organization pursuant to 12 CFR 252.5. Category III Board-regulated institutions would not be considered advanced approaches Board-regulated institutions. As a result, the Board estimates that 1 institution will no longer be an advanced approaches Board-regulated institution under the proposal.
Legal authorization and confidentiality: This information collection is authorized by section 38(o) of the Federal Deposit Insurance Act (12 U.S.C. 1831o(c)), section 908 of the International Lending Supervision Act of 1983 (12 U.S.C. 3907(a)(1)), section 9(6) of the Federal Reserve Act (12 U.S.C. 324), and section 5(c) of the Bank Holding Company Act (12 U.S.C. 1844(c)). The obligation to respond to this information collection is mandatory. If a respondent considers the information to be trade secrets and/or privileged such information could be withheld from the public under the authority of the Freedom of Information Act (5 U.S.C. 552(b)(4)). Additionally, to the extent that such information may be contained in an examination report such information could also be withheld from the public (5 U.S.C. 552 (b)(8)).
Agency form number: FR Q.
OMB control number: 7100–0313.
Estimated number of respondents: 1,431 (of which 16 are advanced approaches institutions).
Estimated average hours per response:
Minimum Capital Ratios
Recordkeeping (Ongoing)—16
Standardized Approach
Recordkeeping (Initial setup)—122
Recordkeeping (Ongoing)—20
Disclosure (Initial setup)—226.25
Disclosure (Ongoing quarterly)—131.25
Advanced Approach
Recordkeeping (Initial setup)—460
Recordkeeping (Ongoing)—540.77
Recordkeeping (Ongoing quarterly)—20
Disclosure (Initial setup)—280
Disclosure (Ongoing)—5.78

Disclosure (Ongoing quarterly)—35
Disclosure (Table 13 quarterly)—5
Risk-based Capital Surcharge for GSIBs
Recordkeeping (Ongoing)—0.5

Current estimated annual burden hours: 1,088 hours initial setup, 78,183 hours for ongoing.

Proposed revisions estimated annual burden: (787) hours.

Total estimated annual burden: 1,088 hours initial setup, 77,396 hours for ongoing.

FDIC

Title of Information Collection: Regulatory Capital Rule.

Frequency: Quarterly, annual.

Affected Public: Businesses or other for-profit.

Respondents: State nonmember banks, state savings associations, and certain subsidiaries of those entities.

OMB control number: 3064–0153.

Estimated number of respondents: 3,489 (of which 1 is an advanced approaches institution).

Estimated average hours per response:
Minimum Capital Ratios
Recordkeeping (Ongoing)—16.
Standardized Approach
Recordkeeping (Initial setup)—122
Recordkeeping (Ongoing)—20
Disclosure (Initial setup)—226.25
Disclosure (Ongoing quarterly)—131.25
Advanced Approach
Recordkeeping (Initial setup)—460
Recordkeeping (Ongoing)—540.77
Recordkeeping (Ongoing quarterly)—20
Disclosure (Initial setup)—328
Disclosure (Ongoing)—5.78
Disclosure (Ongoing quarterly)—41

Estimated annual burden hours: 1,136 hours initial setup, 126,920 hours for ongoing.

Reporting Burden—FFIEC and Board Forms

Current Actions

The proposal would also require changes to the Consolidated Reports of Condition and Income (Call Reports) (FFIEC 031, FFIEC 041, and FFIEC 051; OMB Nos. 1557–0081 (OCC), 7100–0036 (Board), and 3064–0052 (FDIC)) and Risk-Based Capital Reporting for Institutions Subject to the Advanced Capital Adequacy Framework (FFIEC 101; OMB Nos. 1557–0239 (OCC), 7100–0319 (Board), and 3064–0159 (FDIC)), which will be addressed in a separate **Federal Register** notice.

C. Regulatory Flexibility Act Analysis

OCC: The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* (RFA), requires an agency, in connection with a proposed rule, to prepare an Initial Regulatory Flexibility Analysis describing the impact of the rule on small entities (defined by the SBA for purposes of the RFA to include commercial banks and savings institutions with total consolidated assets of $550 million or less and trust companies with total consolidated assets of $38.5 million of less) or to certify that the proposed rule would not have a significant economic impact on a substantial number of small entities.

As part of our analysis, we consider whether the proposal would have a significant economic impact on a substantial number of small entities, pursuant to the RFA. The OCC currently supervises approximately 886 small entities.[145] Because the proposal only applies to IHCs with total consolidated assets of $100 billion or more, it would not impact any OCC-supervised small entities. Therefore, the proposal would not have a significant economic impact on a substantial number of small entities.

Board: 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 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.[146] 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).[147] 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 Q[148] and WW[149] that would affect the regulatory requirements that apply to foreign banking organizations with $50 billion or more in total consolidated assets and U.S. depository institution holding companies with $100 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.

FDIC: The Regulatory Flexibility Act (RFA) generally requires an agency, in connection with a proposed rule, to prepare and make available for public comment an initial regulatory flexibility analysis that describes the impact of a proposed rule on small entities.[150] However, an initial regulatory flexibility analysis is not required if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The Small Business Administration (SBA) has defined ''small entities'' to include banking organizations with total assets of less than or equal to $550 million.[151] For the reasons described below and under section 605(b) of the RFA, the FDIC certifies that the proposal will not have a significant economic impact on a substantial number of small entities.

The FDIC supervises 3,489 institutions, of which 2,674 are

[145] The OCC calculated the number of small entities using the SBA's size thresholds for commercial banks and savings institutions, and trust companies, which are $550 million and $38.5 million, respectively. Consistent with the General Principles of Affiliation, 13 CFR 121.103(a), the OCC counted the assets of affiliated financial institutions when determining whether to classify a national bank or Federal savings association as a small entity.

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

[147] See 13 CFR 121.201.

[148] 12 CFR part 217.

[149] 12 CFR part 249.

[150] 5 U.S.C. 601 *et seq.*

[151] The SBA defines a small banking organization as having $550 million or less in assets, where an organization's ''assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year.'' See 13 CFR 121.201 (as amended, effective December 2, 2014). In its determination, the ''SBA counts the receipts, employees, or other measure of size of the concern whose size is at issue and all of its domestic and foreign affiliates.'' See 13 CFR 121.103. Following these regulations, the FDIC uses a covered entity's affiliated and acquired assets, averaged over the preceding four quarters, to determine whether the covered entity is ''small'' for the purposes of RFA.

considered small entities for the purposes of RFA.[152]

The proposed rule would change capital and liquidity requirements for certain foreign banking organizations with total combined or consolidated U.S. assets greater than $100 billion or with greater than $75 billion in one or more risk-based indicators. None of the institutions with total combined or consolidated U.S. assets greater than $100 billion or with greater than $75 billion in one or more risk-based indicators are FDIC-supervised small entities by SBA standards. Since this proposal does not affect any institutions that are defined as small entities for the purposes of the RFA, the FDIC certifies that the proposal will not have a significant economic impact on a substantial number of small entities.

The FDIC invites comments on all aspects of the supporting information provided in this RFA section. In particular, would this rule have any significant effects on small entities that the FDIC has not identified?

D. Riegle Community Development and Regulatory Improvement Act of 1994

Pursuant to section 302(a) of the Riegle Community Development and Regulatory Improvement Act (RCDRIA), in determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on insured depository institutions, each federal banking agency must consider, consistent with principles of safety and soundness and the public interest, any administrative burdens that such regulations would place on insured depository institutions, including small depository institutions, and customers of depository institutions, as well as the benefits of such regulations.[153] In addition, section 302(b) of RCDRIA requires new regulations and amendments to regulations that impose additional reporting, disclosures, or other new requirements on insured depository institutions generally to take effect on the first day of a calendar quarter that begins on or after the date on which the regulations are published in final form.[154]

The agencies note that comment on these matters has been solicited in other sections of this Supplementary Information section, and that the requirements of RCDRIA will be considered as part of the overall rulemaking process. In addition, the agencies also invite any other comments that further will inform the agencies' consideration of RCDRIA.

E. OCC Unfunded Mandates Reform Act of 1995 Determination

The OCC analyzed the proposed rule under the factors set forth in the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1532). Under this analysis, the OCC considered whether the proposed rule includes a Federal mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year (adjusted for inflation). The OCC has determined that this proposed rule would not result in expenditures by State, local, and Tribal governments, or the private sector, of $100 million or more in any one year. Accordingly, the OCC has not prepared a written statement to accompany this proposal.

List of Subjects

12 CFR Part 3

Administrative practice and procedure, Federal Reserve System, National banks, Reporting and recordkeeping requirements.

12 CFR Part 50

Administrative practice and procedure, Banks, banking, Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 217

Administrative practice and procedure, Banks, banking, Holding companies, Reporting and recordkeeping requirements, Securities.

12 CFR Part 249

Administrative practice and procedure, Banks, banking, Holding companies, Reporting and recordkeeping requirements.

12 CFR Part 324

Administrative practice and procedure, Banks, banking, Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 329

Administrative practice and procedure, Banks, banking, Reporting and recordkeeping requirements.

[152] Call Report Data for the quarter ending December 31, 2018.

[153] 12 U.S.C. 4802(a).

[154] 12 U.S.C. 4802(b).

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Chapter I

Authority and Issuance

For the reasons stated in the **SUPPLEMENTARY INFORMATION**, chapter I of title 12 of the Code of Federal Regulations is proposed to be amended as follows:

PART 3—CAPITAL ADEQUACY STANDARDS

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

Authority: 12 U.S.C. 93a, 161, 1462, 1462a, 1463, 1464, 1818, 1828(n), 1828 note, 1831n note, 1835, 3907, 3909, and 5412(b)(2)(B).

■ 2. In § 3.2, add the definitions of *Category II national bank or Federal savings association, Category III national bank or Federal savings association, FR Y–9LP,* and *FR Y–15* in alphabetical order to read as follows:

§ 3.2 Definitions.

* * * * *

Category II national bank or Federal savings association means:

(1) A national bank or Federal savings association that is a subsidiary of a Category II banking organization, as defined pursuant to 12 CFR 252.5 or 12 CFR 238.10, as applicable; or

(2) A national bank or Federal savings association that:

(i)(A) Has total consolidated assets, calculated based on the average of the national bank's or Federal savings association's total consolidated assets for the four most recent calendar quarters as reported on the Consolidated Report of Condition and Income (Call Report), equal to $700 billion or more. If the national bank or Federal savings association has not filed the Call Report for each of the four most recent calendar quarters, total consolidated assets means the average of its total consolidated assets, as reported on the Call Report, for the most recent quarter or quarters, as applicable; or

(B) Has:

(*1*) Total consolidated assets, calculated based on the average of the national bank's or Federal savings association's total consolidated assets for the four most recent calendar quarters as reported on the Call Report, of $100 billion or more but less than $700 billion. If the national bank or Federal savings association has not filed the Call Report for each of the four most recent quarters, total consolidated assets means the average of its total

consolidated assets, as reported on the Call Report, for the most recent quarter or quarters, as applicable; and

(*2*) Cross-jurisdictional activity, calculated based on the average of its cross jurisdictional activity for the four most recent calendar quarters, of $75 billion or more. Cross-jurisdictional activity is the sum of cross-jurisdictional claims and cross-jurisdictional liabilities, calculated in accordance with the instructions to the FR Y–15 or equivalent reporting form.

(ii) After meeting the criteria in paragraph (2)(i) of this definition, a national bank or Federal savings association continues to be a Category II national bank or Federal savings association until the national bank or Federal savings association has:

(A)(*1*) Less than $700 billion in total consolidated assets, as reported on the Call Report, for each of the four most recent calendar quarters; and

(*2*) Less than $75 billion in cross-jurisdictional activity for each of the four most recent calendar quarters. Cross-jurisdictional activity is the sum of cross-jurisdictional claims and cross-jurisdictional liabilities, calculated in accordance with the instructions to the FR Y–15 or equivalent reporting form; or

(B) Less than $100 billion in total consolidated assets, as reported on the Call Report, for each of the four most recent calendar quarters.

Category III national bank or Federal savings association means:

(1) A national bank or Federal savings association that is a subsidiary of a Category III banking organization as defined pursuant to 12 CFR 252.5 or 12 CFR 238.10, as applicable;

(2) A national bank or Federal savings association that meets the criteria in paragraph (3)(ii)(A) or (B) of this definition; or

(3) A depository institution that:

(i) Is a national bank or Federal savings association; and

(ii)(A) Has total consolidated assets, calculated based on the average of the depository institution's total consolidated assets for the four most recent calendar quarters as reported on the Call Report, equal to $250 billion or more. If the depository institution has not filed the Call Report for each of the four most recent calendar quarters, total consolidated assets means the average of its total consolidated assets, as reported on the Call Report, for the most recent quarter or quarters, as applicable; or

(B) Has:

(*1*) Total consolidated assets, calculated based on the average of the depository institution's total consolidated assets for the four most recent calendar quarters as reported on the Call Report, of $100 billion or more but less than $250 billion. If the depository institution has not filed the Call Report for each of the four most recent calendar quarters, total consolidated assets means the average of its total consolidated assets, as reported on the Call Report, for the most recent quarter or quarters, as applicable; and

(*2*) At least one of the following in paragraphs (3)(ii)(B)(*2*)(*i*) through (*iii*) of this definition, each calculated as the average of the four most recent consecutive quarters, or if the depository institution has not filed each applicable reporting form for each of the four most recent calendar quarters, for the most recent quarter or quarters, as applicable:

(*i*) Total nonbank assets, calculated in accordance with the instructions to the FR Y–9LP or equivalent reporting form, equal to $75 billion or more;

(*ii*) Off-balance sheet exposure equal to $75 billion or more. Off-balance sheet exposure is a depository institution's total exposure, calculated in accordance with the instructions to the FR Y–15 or equivalent reporting form, minus the total consolidated assets of the depository institution, as reported on the Call Report; or

(*iii*) Weighted short-term wholesale funding, calculated in accordance with the instructions to the FR Y–15 or equivalent reporting form, equal to $75 billion or more.

(iii) After meeting the criteria in paragraph (3)(ii) of this definition, a national bank or Federal savings association continues to be a Category III national bank or Federal savings association until the national bank or Federal savings association has:

(A)(*1*) Less than $250 billion in total consolidated assets, as reported on the Call Report, for each of the four most recent calendar quarters;

(*2*) Less than $75 billion in total nonbank assets, calculated in accordance with the instructions to the FR Y–9LP or equivalent reporting form, for each of the four most recent calendar quarters;

(*3*) Less than $75 billion in weighted short-term wholesale funding, calculated in accordance with the instructions to the FR Y–15 or equivalent reporting form, for each of the four most recent calendar quarters; and

(*4*) Less than $75 billion in off-balance sheet exposure for each of the four most recent calendar quarters. Off-balance sheet exposure is a national bank's or Federal savings association's total exposure, calculated in accordance with the instructions to the FR Y–15 or equivalent reporting form, minus the total consolidated assets of the national bank or Federal savings association, as reported on the Call Report; or

(B) Less than $100 billion in total consolidated assets, as reported on the Call Report, for each of the four most recent calendar quarters; or

(C) Is a Category II national bank or Federal savings association.

* * * * *

FR Y–15 means the Systemic Risk Report.

FR Y–9LP means the Parent Company Only Financial Statements for Large Holding Companies.

* * * * *

■ 3. In § 3.10, revise paragraphs (a)(6), (c) introductory text, and (c)(4)(i) introductory text to read as follows:

§ 3.10 Minimum capital requirements.

(a) * * *

(6) For advanced approaches national banks and Federal savings associations, and for Category III national banks and Federal savings associations, a supplementary leverage ratio of 3 percent.

* * * * *

(c) *Advanced approaches capital ratio calculations.* An advanced approaches national bank or Federal savings association that has completed the parallel run process and received notification from the OCC pursuant to § 3.121(d) must determine its regulatory capital ratios as described in paragraphs (c)(1) through (3) of this section. An advanced approaches national bank or Federal savings association must determine its supplementary leverage ratio in accordance with paragraph (c)(4) of this section, beginning with the calendar quarter immediately following the quarter in which the national bank or Federal savings association institution meets any of the criteria in § 3.100(b)(1). A Category III national bank or Federal savings association must determine its supplementary leverage ratio in accordance with paragraph (c)(4) of this section, beginning with the calendar quarter immediately following the quarter in which the national bank or Federal savings association is identified as a Category III national bank or Federal savings association.

* * * * *

(4) *Supplementary leverage ratio.* (i) An advanced approaches national bank's or Federal savings association's or a Category III national bank's or Federal savings association's supplementary leverage ratio is the ratio of its tier 1 capital to total leverage

exposure, the latter which is calculated as the sum of:

* * * * *

■ 4. In § 3.11, revise paragraphs (b)(1) introductory text and (b)(1)(ii) to read as follows:

§ 3.11 Capital conservation buffer and countercyclical capital buffer amount.

* * * * *

(b) *Countercyclical capital buffer amount*—(1) *General.* An advanced approaches national bank or Federal savings association, and a Category III national bank or Federal savings association, must calculate a countercyclical capital buffer amount in accordance with paragraphs (b)(1)(i) through (iv) of this section for purposes of determining its maximum payout ratio under Table 1 to this section.

* * * * *

(ii) *Amount.* An advanced approaches national bank or Federal savings association, and a Category III national bank or Federal savings association, has a countercyclical capital buffer amount determined by calculating the weighted average of the countercyclical capital buffer amounts established for the national jurisdictions where the national bank's or Federal savings association's private sector credit exposures are located, as specified in paragraphs (b)(2) and (3) of this section.

* * * * *

■ 5. In § 3.100, revise paragraph (b)(1) to read as follows:

§ 3.100 Purpose, applicability, and principle of conservatism.

* * * * *

(b) *Applicability.* (1) This subpart applies to a national bank or Federal savings association that:

(i) Is a subsidiary of a global systemically important BHC, as identified pursuant to 12 CFR 217.402;

(ii) Is a Category II national bank or Federal savings association;

(iii) Is a subsidiary of a depository institution that uses the advanced approaches pursuant to this subpart (OCC), 12 CFR part 217 (Board), or 12 CFR part 324 (FDIC), to calculate its risk-based capital requirements; or

(iv) Is a subsidiary of a bank holding company or savings and loan holding company that uses the advanced approaches pursuant to subpart E of 12 CFR part 217 to calculate its risk-based capital requirements; or

(v) Elects to use this subpart to calculate its risk-based capital requirements.

* * * * *

PART 50—LIQUIDITY RISK MEASUREMENT STANDARDS

■ 6. The authority citation for part 50 continues to read as follows:

Authority: 12 U.S.C. 1 *et seq.,* 93a, 481, 1818, and 1462 *et seq.*

■ 7. In § 50.1, revise paragraph (b) to read as follows:

§ 50.1 Purpose and applicability.

* * * * *

(b) *Applicability of minimum liquidity standards.* (1) A national bank or Federal savings association is subject to the minimum liquidity standard and other requirements of this part if:

(i) It is a GSIB depository institution, a Category II national bank or Federal savings association, or a Category III national bank or Federal savings association;

(ii) It is a national bank or Federal savings association that has total consolidated assets equal to $10 billion or more, calculated based on the average of the national bank's or Federal savings association's total consolidated assets for the four most recent calendar quarters as reported on the Call Report, and it is a consolidated subsidiary of a U.S. intermediate holding company of either a Category II foreign banking organization or a Category III foreign banking organization. If the depository institution has not filed the Call Report for each of the four most recent calendar quarters, total consolidated assets means the average of its total consolidated assets, as reported on the Call Report, for the most recent quarter or quarters, as applicable; and

(iii) It is a national bank or Federal savings association for which the OCC has determined that application of this part is appropriate in light of the national bank's or Federal savings association's asset size, level of complexity, risk profile, scope of operations, affiliation with foreign or domestic covered entities, or risk to the financial system.

(2)(i) A national bank or Federal savings association that initially becomes subject to the minimum liquidity standard, minimum stable funding standard, and other requirements of this part under paragraph (b)(1)(i) or (ii) of this section must comply with the requirements of this part beginning on the first day of the second calendar quarter after which the national bank or Federal savings association becomes subject to the minimum liquidity standard and other requirements of this part, except:

(A) For the first three calendar quarters after a national bank or Federal savings association begins complying with the minimum liquidity standard and other requirements of this part, a national bank or Federal savings association must calculate and maintain a liquidity coverage ratio monthly, on each calculation date that is the last business day of the applicable calendar month; and

(B) Beginning one year after the national bank or Federal savings association becomes subject to the minimum liquidity standard and other requirements of this part under paragraph (b)(1)(i) of this section, and thereafter, the national bank or Federal savings association must calculate and maintain a liquidity coverage ratio on each calculation date.

(ii) A national bank or Federal savings association that becomes subject to the minimum liquidity standard and other requirements of this part under paragraph (b)(1)(iii) of this section must comply with the requirements of this part subject to a transition period specified by the OCC.

■ 8. In § 50.3:

■ a. Add the definition of *Average weighted short-term wholesale funding* in alphabetical order;

■ b. Revise the definition for *Calculation date;*

■ c. Add the definitions of *Call Report, Category II national bank or Federal savings association, Category II foreign banking organization, Category III foreign banking organization,* and *Category III national bank or Federal savings association* in alphabetical order;

■ d. Revise the definition for *Covered depository institution holding company;*

■ e. Add the definitions of *Foreign banking organization, FR Y–9LP, FR Y–15, Global systemically important BHC,* and *GSIB depository institution* in alphabetical order;

■ f. Revise the definition for *Regulated financial company;* and

■ g. Add the definitions of *State* and *U.S. intermediate holding company* in alphabetical order.

The additions and revisions read as follows:

§ 50.3 Definitions.

* * * * *

Average weighted short-term wholesale funding means the average of the banking organization's weighted short-term wholesale funding for each of the four most recent calendar quarters as reported quarterly on the FR Y–15 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.

* * * * *

Calculation date means, for purposes of subparts A through J of this part, any date on which a national bank or Federal savings association calculates its liquidity coverage ratio under § 50.21, and for purposes of subparts K through N of this part, any date on which a national bank or Federal savings association calculates its net stable funding ratio (NSFR) under § 50.100.

Call Report means the Consolidated Reports of Condition and Income.

Category II foreign banking organization means a foreign banking organization that is identified as a Category II banking organization pursuant to 12 CFR 252.5.

Category III foreign banking organization means a foreign banking organization that is identified as a Category III banking organization pursuant to 12 CFR 252.5.

Category II national bank or Federal savings association means:

(1)(i) A national bank or Federal savings association that:

(A) Is a consolidated subsidiary of:

(*1*) A company that is defined as a Category II banking organization pursuant to 12 CFR 252.5 or 12 CFR 238.10, as applicable; or

(*2*) A depository institution that meets the criteria in paragraph (2)(ii)(A) or (B) of this definition; and

(B) Has total consolidated assets, calculated based on the average of the national bank's or Federal savings association's total consolidated assets for the four most recent calendar quarters as reported on the Call Report, equal to $10 billion or more.

(ii) If the national bank or Federal savings association has not filed the Call Report for each of the four most recent calendar quarters, total consolidated assets means the average of its total consolidated assets, as reported on the Call Report, for the most recent quarter or quarters, as applicable. After meeting the criteria under this paragraph (1), a national bank or Federal savings association continues to be a Category II national bank or Federal savings association until the national bank or Federal savings association has less than $10 billion in total consolidated assets, as reported on the Call Report, for each of the four most recent calendar quarters, or the national bank or Federal savings association is no longer a consolidated subsidiary an entity described in paragraph (1)(i)(A)(*1*) or (*2*) of this definition; or

(2) A depository institution that:

(i) Is a national bank or Federal savings association; and

(ii)(A) Has total consolidated assets, calculated based on the average of the depository institution's total consolidated assets for the four most recent calendar quarters as reported on the Consolidated Report of Condition and Income (Call Report), equal to $700 billion or more. If the depository institution has not filed the Call Report for each of the four most recent calendar quarters, total consolidated assets means the average of its total consolidated assets, as reported on the Call Report, for the most recent quarter or quarters, as applicable; or

(B) Has:

(*1*) Total consolidated assets, calculated based on the average of the depository institution's total consolidated assets for the four most recent calendar quarters as reported on the Call Report, of $100 billion or more but less than $700 billion. If the depository institution has not filed the Call Report for each of the four most recent calendar quarters, total consolidated assets means the average of its total consolidated assets, as reported on the Call Report, for the most recent quarter or quarters, as applicable; and

(*2*) Cross-jurisdictional activity, calculated based on the average of its cross-jurisdictional activity for the four most recent consecutive quarters, of $75 billion or more. Cross-jurisdictional activity is the sum of cross-jurisdictional claims and cross-jurisdictional liabilities, calculated in accordance with the instructions to the FR Y–15 or equivalent reporting form.

(iii) After meeting the criteria in paragraphs (2)(i) and (ii) of this definition, a national bank or Federal savings association continues to be a Category II national bank or Federal savings association until the national bank or Federal savings association:

(A)(*1*) Has less than $700 billion in total consolidated assets, as reported on the Call Report, for each of the four most recent calendar quarters; and

(*2*) Has less than $75 billion in cross-jurisdictional activity for each of the four most recent calendar quarters. Cross-jurisdictional activity is the sum of cross-jurisdictional claims and cross-jurisdictional liabilities, calculated in accordance with the instructions to the FR Y–15 or equivalent reporting form;

(B) Has less than $100 billion in total consolidated assets, as reported on the Call Report, for each of the four most recent calendar quarters; or

(C) Is a GSIB depository institution.

Category III national bank or Federal savings association means:

(1)(i) A national bank or Federal savings association that:

(A) Is a consolidated subsidiary of:

(1) A company that is defined as a Category III banking organization pursuant to 12 CFR 252.5 or 12 CFR 238.10, as applicable; or

(2) A depository institution that meets the criteria in paragraph (2)(ii)(A) or (B) of this definition; and

(B) has total consolidated assets, calculated based on the average of the national bank's or Federal savings association's total consolidated assets for the four most recent calendar quarters as reported on the Call Report, equal to $10 billion or more.

(ii) If the national bank or Federal savings association has not filed the Call Report for each of the four most recent calendar quarters, total consolidated assets means the average of its total consolidated assets, as reported on the Call Report, for the most recent quarter or quarters, as applicable. After meeting the criteria under this paragraph (1), a national bank or Federal savings association continues to be a Category III national bank or Federal savings association until the national bank or Federal savings association has less than $10 billion in total consolidated assets, as reported on the Call Report, for each of the four most recent calendar quarters, or the national bank or Federal savings association is no longer a consolidated subsidiary of an entity described in paragraph (1)(i)(A)(*1*) or (*2*) of this definition; or

(2) A depository institution that:

(i) Is a national bank or Federal savings association; and

(ii)(A) Has total consolidated assets, calculated based on the average of the depository institution's total consolidated assets for the four most recent calendar quarters as reported on the Consolidated Report of Condition and Income (Call Report), equal to $250 billion or more. If the depository institution has not filed the Call Report for each of the four most recent calendar quarters, total consolidated assets means the average of its total consolidated assets, as reported on the Call Report, for the most recent quarter or quarters, as applicable; or

(B) Has:

(*1*) Total consolidated assets, calculated based on the average of the depository institution's total consolidated assets for the four most recent calendar quarters as reported on the Call Report, of at least $100 billion but less than $250 billion. If the depository institution has not filed the Call Report for each of the four most recent calendar quarters, total consolidated assets means the average of its total consolidated assets, as reported on the Call Report, for the most recent quarter or quarters, as applicable; and

(*2*) One or more of the following in paragraphs (2)(ii)(B)(*2*)(*i*) through (*iii*) of

this definition, each measured as the average of the four most recent quarters, or if the depository institution has not filed each applicable reporting form for each of the four most recent calendar quarters, for the most recent quarter or quarters, as applicable:

(*i*) Total nonbank assets, calculated in accordance with instructions to the FR Y–9LP or equivalent reporting form, equal to $75 billion or more;

(*ii*) Off-balance sheet exposure, calculated in accordance with the instructions to the FR Y–15 or equivalent reporting form, minus the total consolidated assets of the depository institution, as reported on the Call Report, equal to $75 billion or more; or

(*iii*) Weighted short-term wholesale funding, calculated in accordance with the instructions to the FR Y–15 or equivalent reporting form, equal to $75 billion or more.

(iii) After meeting the criteria in paragraphs (2)(i) and (ii) of this definition, a national bank or Federal savings association continues to be a Category III national bank or Federal savings association until the national bank or Federal savings association:

(A)(*1*) Has less than $250 billion in total consolidated assets, as reported on the Call Report, for each of the four most recent calendar quarters;

(*2*) Has less than $75 billion in total nonbank assets, calculated in accordance with the instructions to the FR Y–9LP or equivalent reporting form, for each of the four most recent calendar quarters;

(*3*) Has less than $75 billion in weighted short-term wholesale funding, calculated in accordance with the instructions to the FR Y–15 or equivalent reporting form, for each of the four most recent calendar quarters; and

(*4*) Has less than $75 billion in off-balance sheet exposure for each of the four most recent calendar quarters. Off-balance sheet exposure is a national bank's or Federal savings association's total exposure, calculated in accordance with the instructions to the FR Y–15 or equivalent reporting form, minus the total consolidated assets of the national bank or Federal savings association, as reported on the Call Report; or

(B) Has less than $100 billion in total consolidated assets, as reported on the Call Report, for each of the four most recent calendar quarters; or

(C) Is a Category II national bank or Federal savings bank; or

(D) Is a GSIB depository institution.

* * * * *

Covered depository institution holding company means a top-tier bank holding company or savings and loan holding company domiciled in the United States 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)(A) 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;

(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; or

(4) A U.S. intermediate holding company.

* * * * *

Foreign banking organization has the same meaning as in 12 CFR 211.21(o) (§ 211.21(o) of the Board's Regulation K), 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–15 means the Systemic Risk Report.

FR Y–9LP means the Parent Company Only Financial Statements for Large Holding Companies.

* * * * *

Global systemically important BHC means a bank holding company identified as a global systemically important BHC pursuant to 12 CFR 217.402.

GSIB depository institution means a depository institution that is a consolidated subsidiary of a global systemically important BHC and has total consolidated assets equal to $10 billion or more, calculated based on the average of the depository institution's total consolidated assets for the four most recent calendar quarters as reported on the Call Report. If the depository institution has not filed the Call Report for each of the four most recent calendar quarters, total consolidated assets means the average of its total consolidated assets, as reported on the Call Report, for the most recent calendar quarter or quarters, as applicable. After meeting the criteria under this definition, a depository institution continues to be a GSIB depository institution until the depository institution has less than $10 billion in total consolidated assets, as reported on the Call Report, for each of the four most recent calendar quarters, or the depository institution is no longer a consolidated subsidiary of a global systemically important BHC.

* * * * *

Regulated financial company means:

(1) A depository institution holding company or designated company;

(2) A company included in the organization chart of a depository institution holding company on the Form FR Y–6, as listed in the hierarchy report of the depository institution holding company produced by the National Information Center (NIC) website,[2] provided that the top-tier depository institution holding company is subject to a minimum liquidity standard under 12 CFR part 249;

(3) A depository institution; foreign bank; credit union; industrial loan company, industrial bank, or other similar institution described in section 2 of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1841 *et seq.*); national bank, state member bank, or state non-member bank that is not a depository institution;

(4) An insurance company;

(5) A securities holding company as defined in section 618 of the Dodd-Frank Act (12 U.S.C. 1850a); broker or dealer registered with the SEC under section 15 of the Securities Exchange Act (15 U.S.C. 78o); futures commission merchant as defined in section 1a of the Commodity Exchange Act of 1936 (7 U.S.C. 1 *et seq.*); swap dealer as defined in section 1a of the Commodity Exchange Act (7 U.S.C. 1a); or security-based swap dealer as defined in section 3 of the Securities Exchange Act (15 U.S.C. 78c);

[2] *http://www.ffiec.gov/nicpubweb/nicweb/NicHome.aspx.*

(6) A designated financial market utility, as defined in section 803 of the Dodd-Frank Act (12 U.S.C. 5462);

(7) A U.S. intermediate holding company; and

(8) Any company not domiciled in the United States (or a political subdivision thereof) that is supervised and regulated in a manner similar to entities described in paragraphs (1) through (7) of this definition (*e.g.,* a foreign banking organization, foreign insurance company, foreign securities broker or dealer or foreign financial market utility).

(9) A regulated financial company does not include:

(i) U.S. government-sponsored enterprises;

(ii) Small business investment companies, as defined in section 102 of the Small Business Investment Act of 1958 (15 U.S.C. 661 *et seq.*);

(iii) Entities designated as Community Development Financial Institutions (CDFIs) under 12 U.S.C. 4701 *et seq.* and 12 CFR part 1805; or

(iv) Central banks, the Bank for International Settlements, the International Monetary Fund, or multilateral development banks.

* * * * *

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.

* * * * *

U.S. intermediate holding company means a company formed by a foreign banking organization pursuant to 12 CFR 252.153.

* * * * *

■ 9. In § 50.30, revise paragraph (a) and add paragraphs (c) and (d) to read as follows:

§ 50.30 Total net cash outflow amount.

(a) *Calculation of total net cash outflow amount.* As of the calculation date, a national bank's or Federal savings association's total net cash outflow amount equals the national bank's or Federal savings association's outflow adjustment percentage as determined under paragraph (c) of this section multiplied by:

(1) The sum of the outflow amounts calculated under § 50.32(a) through (l); minus

(2) The lesser of:

(i) The sum of the inflow amounts calculated under § 50.33(b) through (g); and

(ii) 75 percent of the amount calculated under paragraph (a)(1) of this section; plus

(3) The maturity mismatch add-on as calculated under paragraph (b) of this section.

* * * * *

(c) *Outflow adjustment percentage.* A national bank's or Federal savings association's outflow adjustment percentage is determined pursuant to Table 1 to this section.

TABLE 1 TO § 50.30—OUTFLOW ADJUSTMENT PERCENTAGES

[Outflow adjustment percentage]

A GSIB depository institution	100 percent.
Category II national bank or Federal savings association	100 percent.
Category III national bank or Federal savings association that: (1) Is a consolidated subsidiary of a Category III banking organization with $75 billion or more in average weighted short-term wholesale funding; or (2) Has $75 billion or more in average weighted short-term wholesale funding and is not consolidated under a holding company	100 percent.
Category III national bank or Federal savings association that: (1) Is a consolidated subsidiary of a Category III banking organization with less than $75 billion in average weighted short-term wholesale funding; or (2) Has less than $75 billion in average weighted short-term wholesale funding and is not consolidated under a holding company	[70 to 85] percent.
A national bank or Federal savings association that is described in § 50.1(b)(1)(ii) that is the consolidated subsidiary of a U.S. intermediate holding company of a Category II foreign banking organization.	100 percent.
A national bank or Federal savings association that is described in § 50.1(b)(1)(ii) that is the consolidated subsidiary of a U.S. intermediate holding company of a Category III foreign banking organization with $75 billion or more in average weighted short-term wholesale funding.	100 percent.
A national bank or Federal savings association that is described in § 50.1(b)(1)(ii) that is the consolidated subsidiary of a U.S. intermediate holding company of a Category III foreign banking organization with less than $75 billion in average weighted short-term wholesale funding.	[70 to 85] percent.

(d) *Transition.* A national bank or Federal savings association whose outflow adjustment percentage increases from a lower to a higher outflow adjustment percentage may continue to use its previous lower outflow adjustment percentage until the first day of the second calendar quarter after the outflow adjustment percentage increases.

■ 10. In § 50.50, revise paragraph (a) to read as follows

§ 50.50 Transitions.

(a) *Depository institution subsidiary of a U.S. intermediate holding company.* A national bank or Federal savings association that becomes subject to this part under § 50.1(b)(1)(ii) does not need to comply with the minimum liquidity standard and other requirements of this part until [one year after effective date of final rule], at which time the national bank or Federal savings association must begin to calculate and maintain a liquidity coverage ratio daily in accordance with subparts A through N of this part, if the national bank or Federal savings association is a consolidated subsidiary of a U.S. intermediate holding company that, immediately prior to [effective date of final rule]:

(1) Was domiciled in the United States;

(2) Had total consolidated assets equal to $50 billion or more (based on the average of the U.S. intermediate holding company's four most recent Consolidated Financial Statements for Holding Companies reporting forms (FR Y–9Cs));

(3) Had total consolidated assets less than $250 billion as of the 2018 year-end FR Y–9C or Call Report, as applicable; and

(4) Had total consolidated on-balance sheet foreign exposure of less than $10 billion as of year-end 2018 (where total on-balance sheet foreign exposure

equals total cross-border claims less claims with a head office or guarantor located in another country plus redistributed guaranteed amounts to the country of the head office or guarantor plus local country claims on local residents plus revaluation gains on foreign exchange and derivative transaction products, calculated in accordance with the Federal Financial Institutions Examination Council (FFIEC) 009 Country Exposure Report).

* * * * *

■ 11. Section 50.105, as proposed to be added at 81 FR 35124 (June 1, 2016), is revised to read as follows:

§ 50.105 Calculation of required stable funding amount.

(a) As of the calculation date, a national bank or Federal savings association's required stable funding (RSF) amount equals the national bank or Federal savings association's required stable funding adjustment percentage as determined under paragraph (b) of this section multiplied by the sum of:

(1) The carrying values of a national bank or Federal savings association's assets (other than amounts included in the calculation of the derivatives RSF amount pursuant to § 50.107(b)) and the undrawn amounts of a national bank or Federal savings association's credit and liquidity facilities, in each case multiplied by the RSF factors applicable in § 50.106; and

(2) The national bank or Federal savings association's derivatives RSF amount calculated pursuant to § 50.107(b).

(b) A national bank or Federal savings association's required stable funding adjustment percentage is determined pursuant to Table 1 to this section.

TABLE 1 TO § 50.105—REQUIRED STABLE FUNDING ADJUSTMENT PERCENTAGES

[Required stable funding adjustment percentage]

A GSIB depository institution	100 percent.
Category II national bank or Federal savings association	100 percent.
Category III national bank or Federal savings association that: (1) Is a consolidated subsidiary of a Category III banking organization with $75 billion or more in average weighted short-term wholesale funding; or (2) Has $75 billion or more in average weighted short-term wholesale funding and is not consolidated under a holding company	100 percent.
Category III national bank or Federal savings association that: (1) Is a consolidated subsidiary of a Category III banking organization with less than $75 billion in average weighted short-term wholesale funding; or (2) Has less than $75 billion in average weighted short-term wholesale funding and is not consolidated under a holding company	[70 to 85] percent.
A national bank or Federal savings association that is described in § 50.1(b)(1)(ii) that is the consolidated subsidiary of a U.S. intermediate holding company of a Category II foreign banking organization.	100 percent.
A national bank or Federal savings association that is described in § 50.1(b)(1)(ii) that is the consolidated subsidiary of a U.S. intermediate holding company of a Category III foreign banking organization with $75 billion or more in average weighted short-term wholesale funding.	100 percent.
A national bank or Federal savings association that is described in § 50.1(b)(1)(ii) that is the consolidated subsidiary of a U.S. intermediate holding company of a Category III foreign banking organization with less than $75 billion in average weighted short-term wholesale funding.	[70 to 85] percent.

(c) A national bank or Federal savings association whose required stable funding adjustment percentage increases from a lower to a higher required stable funding adjustment percentage may continue to use its previous lower required stable funding adjustment percentage until the first day of the second calendar quarter after the required stable funding adjustment percentage increases.

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

12 CFR Chapter II

Authority and Issuance

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

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

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

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

■ 13. Section 217.2, as proposed to be amended at 83 FR 66024 (December 21, 2018), is further amended by revising the definitions of *Advanced approaches Board-regulated institution, Category II Board-regulated institution, Category III Board-regulated institution, FR Y–15,* and *FR Y–9LP* and adding the definition of *U.S. intermediate holding company* in alphabetical order to read as follows:

§ 217.2 Definitions.

* * * * *

Advanced-approaches Board-regulated institution means a Board-regulated institution that is described in § 217.100(b)(1).

* * * * *

Category II Board-regulated institution means:

(1) A depository institution holding company that is identified as a Category II banking organization pursuant to 12 CFR 252.5 or 12 CFR 238.10, as applicable;

(2) A U.S. intermediate holding company that is identified as a Category II banking organization pursuant to 12 CFR 252.5;

(3) A state member bank that is a subsidiary of a company identified in paragraph (1) of this definition; or

(4) A state member bank that:

(i)(A) Has total consolidated assets, calculated based on the average of the state member bank's total consolidated assets for the four most recent calendar quarters as reported on the Call Report, equal to $700 billion or more. If the state member bank has not filed the Call Report for each of the four most recent calendar quarters, total consolidated assets is calculated based on the average

of its total consolidated assets, as reported on the Call Report, for the most recent quarter or quarters, as applicable; or

(B) Has:

(*1*) Total consolidated assets, calculated based on the average of the state member bank's total consolidated assets for the four most recent calendar quarters as reported on the Call Report, of $100 billion or more but less than $700 billion. If the state member bank has not filed the Call Report for each of the four most recent quarters, total consolidated assets means the average of its total consolidated assets, as reported on the Call Report, for the most recent quarter or quarters, as applicable; and

(*2*) Cross-jurisdictional activity, calculated based on the average of its cross-jurisdictional activity for the four most recent calendar quarters, of $75 billion or more. Cross-jurisdictional activity is the sum of cross-jurisdictional claims and cross-jurisdictional liabilities, calculated in accordance with the instructions to the FR Y–15 or equivalent reporting form.

(ii) After meeting the criteria in paragraph (4)(i) of this section, a state member bank continues to be a Category II Board-regulated institution until the state member bank:

(A) Has:

(*1*) Less than $700 billion in total consolidated assets, as reported on the Call Report, for each of the four most recent calendar quarters; and

(*2*) Less than $75 billion in cross-jurisdictional activity for each of the four most recent calendar quarters. Cross-jurisdictional activity is the sum of cross-jurisdictional claims and cross-jurisdictional liabilities, calculated in accordance with the instructions to the FR Y–15 or equivalent reporting form; or

(B) Has less than $100 billion in total consolidated assets, as reported on the Call Report, for each of the four most recent calendar quarters.

Category III Board-regulated institution means:

(1) A depository institution holding company that is identified as a Category III banking organization pursuant to 12 CFR 252.5 or 12 CFR 238.10, as applicable;

(2) A U.S. intermediate holding company that is identified as a Category III banking organization pursuant to 12 CFR 252.5;

(3) A state member bank that is a subsidiary of a company identified in paragraph (1) of this definition;

(4) A depository institution that:

(i)(A) Has total consolidated assets, calculated based on the average of the state member bank's total consolidated assets for the four most recent calendar quarters as reported on the Call Report, equal to $250 billion or more. If the state member bank has not filed the Call Report for each of the four most recent calendar quarters, total consolidated assets is calculated based on the average of its total consolidated assets, as reported on the Call Report, for the most recent quarter or quarters, as applicable; or

(B) Has:

(*1*) Total consolidated assets, calculated based on the average of the state member bank's total consolidated assets for the four most recent calendar quarters as reported on the Call Report, of $100 billion or more but less than $250 billion. If the state member bank has not filed the Call Report for each of the four most recent calendar quarters, total consolidated assets is calculated based on the average of its total consolidated assets, as reported on the Call Report, for the most recent quarter or quarters, as applicable; and

(*2*) At least one of the following in paragraphs (4)(i)(B)(*2*)(*i*) through (*iii*) of this definition, each calculated as the average of the four most recent calendar quarters:

(*i*) Total nonbank assets, calculated in accordance with the instructions to the FR Y–9LP or equivalent reporting form, equal to $75 billion or more;

(*ii*) Off-balance sheet exposure equal to $75 billion or more. Off-balance sheet exposure is a state member bank's total exposure, calculated in accordance with the instructions to the FR Y–15 or equivalent reporting form, minus the total consolidated assets of the state member bank, as reported on the Call Report; or

(*iii*) Weighted short-term wholesale funding, calculated in accordance with the instructions to the FR Y–15 or equivalent reporting form, equal to $75 billion or more; or

(ii) [Reserved]

(5)(i) A subsidiary of a depository institution identified in paragraph (4)(i) of this definition.

(ii) After meeting the criteria in paragraph (4)(i) of this definition, a state member bank continues to be a Category III Board-regulated institution until the state member bank:

(A) Has:

(*1*) Less than $250 billion in total consolidated assets, as reported on the Call Report, for each of the four most recent calendar quarters;

(*2*) Less than $75 billion in total nonbank assets, calculated in accordance with the instructions to the FR Y–9LP or equivalent reporting form, for each of the four most recent calendar quarters;

(*3*) Less than $75 billion in weighted short-term wholesale funding, calculated in accordance with the instructions to the FR Y–15 or equivalent reporting form, for each of the four most recent calendar quarters; and

(*4*) Less than $75 billion in off-balance sheet exposure for each of the four most recent calendar quarters. Off-balance sheet exposure is a state member bank's total exposure, calculated in accordance with the instructions to the FR Y–15 or equivalent reporting form, minus the total consolidated assets of the state member bank, as reported on the Call Report; or

(B) Has less than $100 billion in total consolidated assets, as reported on the Call Report, for each of the four most recent calendar quarters; or

(C) Is a Category II Board-regulated institution.

* * * * *

FR Y–15 means the Systemic Risk Report.

FR Y–9LP means the Parent Company Only Financial Statements for Large Holding Companies.

* * * * *

U.S. intermediate holding company means the company that is required to be established or designated pursuant to 12 CFR 252.153.

* * * * *

■ 14. In § 217.10, revise paragraphs (a)(5), (c) introductory text, and (c)(4)(i) introductory text to read as follows:

§ 217.10 Minimum capital requirements.

* * * * *

(a) * * *

(5) For advanced approaches Board-regulated institutions or, for Category III Board-regulated institutions, a supplementary leverage ratio of 3 percent.

* * * * *

(c) *Advanced approaches and Category III capital ratio calculations.* An advanced approaches Board-regulated institution that has completed the parallel run process and received notification from the Board pursuant to § 217.121(d) must determine its regulatory capital ratios as described in paragraphs (c)(1) through (3) of this section. An advanced approaches Board-regulated institution must determine its supplementary leverage ratio in accordance with paragraph (c)(4) of this section, beginning with the calendar quarter immediately following the quarter in which the Board-regulated institution meets any of the criteria in § 217.100(b)(1). A Category III Board-regulated institution must determine its supplementary leverage

ratio in accordance with paragraph (c)(4) of this section, beginning with the calendar quarter immediately following the quarter in which the Board-regulated institution is identified as a Category III Board-regulated institution.

* * * * *

(4) *Supplementary leverage ratio.* (i) An advanced approaches Board-regulated institution's or a Category III Board-regulated institution's supplementary leverage ratio is the ratio of its tier 1 capital to total leverage exposure, the latter which is calculated as the sum of:

* * * * *

■ 15. In § 217.11, revise paragraphs (b)(1) introductory text and (b)(1)(ii) to read as follows:

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

* * * * *

(b) *Countercyclical capital buffer amount*—(1) *General.* An advanced approaches Board-regulated institution or a Category III Board-regulated institution must calculate a countercyclical capital buffer amount in accordance with this paragraph (b) for purposes of determining its maximum payout ratio under Table 1 to this section.

* * * * *

(ii) *Amount.* An advanced approaches Board-regulated institution or a Category III Board-regulated institution has a countercyclical capital buffer amount determined by calculating the weighted average of the countercyclical capital buffer amounts established for the national jurisdictions where the Board-regulated institution's private sector credit exposures are located, as specified in paragraphs (b)(2) and (3) of this section.

* * * * *

■ 16. In § 217.100, revise paragraph (b)(1) to read as follows:

§ 217.100 Purpose, applicability, and principle of conservatism.

* * * * *

(b) *Applicability.* (1) This subpart applies to:

(i) A top-tier bank holding company or savings and loan holding company domiciled in the United States that:

(A) Is not a consolidated subsidiary of another bank holding company or savings and loan holding company that uses this subpart to calculate its risk-based capital requirements; and

(B) That:

(*1*) Is identified as a global systemically important BHC pursuant to § 217.402;

(*2*) Is identified as a Category II banking organization pursuant to 12 CFR 252.5 or 12 CFR 238.10; or

(*3*) Has a subsidiary depository institution that is required, or has elected, to use 12 CFR part 3, subpart E (OCC), this subpart (Board), or 12 CFR part 324, subpart E (FDIC), to calculate its risk-based capital requirements;

(ii) A state member bank that:

(A) Is a subsidiary of a global systemically important BHC;

(B) Is a Category II Board-regulated institution;

(C) Is a subsidiary of a depository institution that uses 12 CFR part 3, subpart E (OCC), this subpart E (Board), or 12 CFR part 324, subpart E (FDIC), to calculate its risk-based capital requirements; or

(D) Is a subsidiary of a bank holding company or savings and loan holding company that uses this subpart to calculate its risk-based capital requirements; or

(iii) Any Board-regulated institution that elects to use this subpart to calculate its risk-based capital requirements.

* * * * *

PART 249—LIQUIDITY RISK MEASUREMENT STANDARDS (REGULATION WW)

■ 17. Revise the authority citation for part 249 to read as follows:

Authority: 12 U.S.C. 248(a), 321–338a, 481–486, 1467a(g)(1), 1818, 1828, 1831p–1, 1831o–1, 1844(b), 5365, 5366, 5368; 12 U.S.C. 3101 *et seq.*

■ 18. Revise § 249.1 to read as follows:

§ 249.1 Purpose and applicability.

(a) *Purpose.* This part establishes a minimum liquidity standard and a minimum stable funding standard for certain Board-regulated institutions on a consolidated basis, as set forth in this part.

(b) *Applicability.* (1) A Board-regulated institution is subject to the minimum liquidity standard, minimum stable funding standard, and other requirements of this part if:

(i) It is a:

(A) Global systemically important BHC;

(B) GSIB depository institution;

(C) Category II Board-regulated institution;

(D) Category III Board-regulated institution; or

(E) Category IV Board-regulated institution with $50 billion or more in average weighted short-term wholesale funding;

(ii) It is a depository institution, other than a Federal branch or insured branch (as defined in 12 U.S.C. 1813(s)(2) and (3)), that has total consolidated assets, calculated based on the average of the depository institution's total consolidated assets for the four most recent calendar quarters as reported on the Call Report, equal to $10 billion or more and is a consolidated subsidiary of a U.S. intermediate holding company of either a Category II foreign banking organization or a Category III foreign banking organization. If the depository institution has not filed the Call Report for each of the four most recent calendar quarters, total consolidated assets is calculated based on the average of its total consolidated assets, as reported on the Call Report, for the most recent quarter or quarters, as applicable;

(iii) It is a covered nonbank company; or

(iv) The Board has determined that application of this part is appropriate in light of the Board-regulated institution's asset size, level of complexity, risk profile, scope of operations, affiliation with foreign or domestic covered entities, or risk to the financial system.

(2)(i) A Board-regulated institution that initially becomes subject to the minimum liquidity standard, minimum stable funding standard, and other requirements of this part under paragraph (b)(1)(i), (ii), or (iii) of this section must comply with the requirements of this part beginning on the first day of the second calendar quarter after which the Board-regulated institution becomes subject to this part, except that a Board-regulated institution that is not a Category IV Board-regulated institution must:

(A) For the first three calendar quarters after the Board-regulated institution begins complying with the minimum liquidity standard and other requirements of this part, calculate and maintain a liquidity coverage ratio monthly, on each calculation date that is the last business day of the applicable calendar month; and

(B) Beginning one year after the Board-regulated institution becomes subject to the minimum liquidity standard and other requirements of this part and continuing thereafter, calculate and maintain a liquidity coverage ratio on each calculation date.

(ii) A Board-regulated institution that becomes subject to the minimum liquidity standard, minimum funding standard, and other requirements of this part under paragraph (b)(1)(iv) of this section, must comply with the requirements of this part subject to a transition period specified by the Board.

(3) This part does not apply to:

(i) A bridge financial company as defined in 12 U.S.C. 5381(a)(3), or a

subsidiary of a bridge financial company; or

(ii) A new depository institution or a bridge depository institution, as defined in 12 U.S.C. 1813(i).

(4) A Board-regulated institution subject to a minimum liquidity standard, minimum stable funding standard, and other requirements of this part shall remain subject until the Board determines in writing that application of this part to the Board-regulated institution is not appropriate in light of the Board-regulated institution's asset size, level of complexity, risk profile, scope of operations, affiliation with foreign or domestic covered entities, or risk to the financial system.

(5) In making a determination under paragraph (b)(1)(iv) or (b)(4) of this section, the Board will apply, as appropriate, notice and response procedures in the same manner and to the same extent as the notice and response procedures set forth in 12 CFR 263.202.

(c) *Covered nonbank companies.* The Board will establish a minimum liquidity standard, minimum stable funding standard, and other requirements for a designated company under this part by rule or order. In establishing such standard, the Board will consider the factors set forth in sections 165(a)(2) and (b)(3) of the Dodd-Frank Act and may tailor the application of the requirements of this part to the designated company based on the nature, scope, size, scale, concentration, interconnectedness, mix of the activities of the designated company, or any other risk-related factor that the Board determines is appropriate.

■ 19. Amend § 249.3 by:

■ a. Adding the definition for ''Average weighted short-term wholesale funding'' in alphabetical order;

■ b. Revising the definitions for ''Calculation date'';

■ c. Adding the definitions for ''Call Report'', ''Category II Board-regulated institution'', ''Category III Board-regulated institution'', ''Category IV Board-regulated institution'', ''Category II foreign banking organization'', ''Category III foreign banking organization'', and ''Category IV foreign banking organization'' in alphabetical order;

■ d. Revising the definition for ''Covered depository institution holding company'';

■ e. Adding the definitions for ''Foreign banking organization'', ''FR Y–9LP'', ''FR Y–15'', ''Global systemically important BHC'', and ''GSIB depository institution'' in alphabetical order;

■ f. Revising the definition for ''Regulated financial company''; and

■ g. Adding the definitions for ''State'' and ''U.S. intermediate holding company'' in alphabetical order.

The additions and revisions read as follows:

§ 249.3 Definitions.

* * * * *

Average weighted short-term wholesale funding means the average of the weighted short-term wholesale funding for each of the four most recent calendar quarters as reported quarterly on the FR Y–15 or, if the Board-regulated institution or foreign 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.

* * * * *

Calculation date means, for purposes of subparts A through J of this part, any date on which a Board-regulated institution calculates its liquidity coverage ratio under § 249.21, and for purposes of subparts K through N of this part, any date on which a Board-regulated institution calculates its net stable funding ratio (NSFR) under § 249.100.

Call Report means the Consolidated Reports of Condition and Income.

Category II Board-regulated institution means:

(1) A covered depository institution holding company that is identified as a Category II banking organization pursuant to 12 CFR 252.5 or 12 CFR 238.10;

(2)(i) A state member bank that:

(A) Is a consolidated subsidiary of:

(*1*) A company described in paragraph (1) of this definition; or

(*2*) A depository institution that meets the criteria in paragraph (3)(ii)(A) or (B) of this definition; and

(B) That has total consolidated assets, calculated based on the average of the state member bank's total consolidated assets for the four most recent calendar quarters as reported on the Call Report, equal to $10 billion or more.

(ii) If the state member bank has not filed the Call Report for each of the four most recent calendar quarters, total consolidated assets is calculated based on the average of its total consolidated assets, as reported on the Call Report, for the most recent quarter or quarters, as applicable. After meeting the criteria under this paragraph (2), a state member bank continues to be a Category II Board-regulated institution until the state member bank has less than $10 billion in total consolidated assets, as reported on the Call Report, for each of the four most recent calendar quarters, or the state member bank is no longer a consolidated subsidiary of a company described in paragraph (2)(i)(A)(*1*) or (*2*) of this definition; or

(3) A depository institution that:

(i) Is a state member bank; and

(ii)(A) Has total consolidated assets, calculated based on the average of the depository institution's total consolidated assets for the four most recent calendar quarters as reported on the Call Report, equal to $700 billion or more. If the depository institution has not filed the Call Report for each of the four most recent calendar quarters, total consolidated assets is calculated based on the average of its total consolidated assets, as reported on the Call Report, for the most recent quarter or quarters, as applicable; or

(B) Has:

(*1*) Total consolidated assets, calculated based on the average of the depository institution's total consolidated assets for the four most recent calendar quarters as reported on the Call Report, of $100 billion or more but less than $700 billion. If the depository institution has not filed the Call Report for each of the four most recent calendar quarters, total consolidated assets means the average of its total consolidated assets, as reported on the Call Report, for the most recent quarter or quarters, as applicable; and

(*2*) Cross-jurisdictional activity, calculated based on the average of its cross-jurisdictional activity for the four most recent calendar quarters, of $75 billion or more. Cross-jurisdictional activity is the sum of cross-jurisdictional claims and cross-jurisdictional liabilities, calculated in accordance with the instructions to the FR Y–15 or equivalent reporting form.

(iii) After meeting the criteria in paragraphs (3)(i) and (ii) of this definition, a state member bank continues to be a Category II Board-regulated institution until the state member bank:

(A)(*1*) Has less than $700 billion in total consolidated assets, as reported on the Call Report, for each of the four most recent calendar quarters; and

(*2*) Has less than $75 billion in cross-jurisdictional activity for each of the four most recent calendar quarters. Cross-jurisdictional activity is the sum of cross-jurisdictional claims and cross-jurisdictional liabilities, calculated in accordance with the instructions to the FR Y–15 or equivalent reporting form;

(B) Has less than $100 billion in total consolidated assets, as reported on the Call Report, for each of the four most recent calendar quarters; or

(C) Is a GSIB depository institution.

Category III Board-regulated institution means:

(1) A covered depository institution holding company that is identified as a Category III banking organization pursuant to 12 CFR 252.5 or 12 CFR 238.10, as applicable;

(2)(i) A state member bank that is:

(A) A consolidated subsidiary of:

(*1*) A company described in paragraph (1) of this definition; or

(*2*) A depository institution that meets the criteria in paragraph (3)(ii)(A) or (B) of this definition; and

(B) Has total consolidated assets, calculated based on the average of the state member bank's total consolidated assets for the four most recent calendar quarters as reported on the Call Report, equal to $10 billion or more.

(ii) If the state member bank has not filed the Call Report for each of the four most recent calendar quarters, total consolidated assets means the average of its total consolidated assets, as reported on the Call Report, for the most recent quarter or quarters, as applicable. After meeting the criteria under this paragraph (2), a state member bank continues to be a Category III Board-regulated institution until the state member bank has less than $10 billion in total consolidated assets, as reported on the Call Report, for each of the four most recent calendar quarters, or the state member bank is no longer a consolidated subsidiary of a company an entity described in paragraph (2)(i)(A)(*1*) or (*2*) of this definition; or

(3) A depository institution that:

(i) Is a state member bank; and

(ii)(A) Has total consolidated assets, calculated based on the average of the depository institution's total consolidated assets in the four most recent quarters as reported quarterly on the most recent Call Report, equal to $250 billion or more. If the depository institution has not filed the Call Report for each of the four most recent calendar quarters, total consolidated assets means the average of its total consolidated assets, as reported on the Call Report, for the most recent quarter or quarters, as applicable; or

(B) Has:

(*1*) Total consolidated assets, calculated based on the average of the depository institution's total consolidated assets in the four most recent calendar quarters as reported quarterly on the most recent Call Report, of $100 billion or more but less than $250 billion. If the depository institution has not filed the Call Report for each of the four most recent calendar quarters, total consolidated assets means the average of its total consolidated assets, as reported on the Call Report, for the most recent quarter or quarters, as applicable; and

(*2*) One or more of the following in paragraphs (3)(ii)(B)(*2*)(*i*) through (*iii*) of this definition, each measured as the average of the four most recent calendar quarters, or if the depository institution has not filed the FR Y–9LP or equivalent reporting form, Call Report, or FR Y–15 or equivalent reporting form, as applicable, for each of the four most recent calendar quarters, for the most recent quarter or quarters, as applicable:

(*i*) Total nonbank assets, calculated in accordance with instructions to the FR Y–9LP or equivalent reporting form, equal to $75 billion or more;

(*ii*) Off-balance sheet exposure, calculated in accordance with the instructions to the FR Y–15 or equivalent reporting form, minus the total consolidated assets of the depository institution, as reported on the Call Report, equal to $75 billion or more; or

(*iii*) Weighted short-term wholesale funding, calculated in accordance with the instructions to the FR Y–15 or equivalent reporting form, equal to $75 billion or more.

(iii) After meeting the criteria in paragraphs (3)(i) and (ii) of this definition, a state member bank continues to be a Category III Board-regulated institution until the state member bank:

(A)(*1*) Has less than $250 billion in total consolidated assets, as reported on the Call Report, for each of the four most recent calendar quarters;

(*2*) Has less than $75 billion in total nonbank assets, calculated in accordance with the instructions to the FR Y–9LP or equivalent reporting form, for each of the four most recent calendar quarters;

(*3*) Has less than $75 billion in weighted short-term wholesale funding, calculated in accordance with the instructions to the FR Y–15 or equivalent reporting form, for each of the four most recent calendar quarters; and

(*4*) Has less than $75 billion in off-balance sheet exposure for each of the four most recent calendar quarters. Off-balance sheet exposure is a state member bank's total exposure, calculated in accordance with the instructions to the FR Y–15 or equivalent reporting form, minus the total consolidated assets of the state member bank, as reported on the Call Report; or

(B) Has less than $100 billion in total consolidated assets, as reported on the Call Report, for each of the four most recent calendar quarters;

(C) Is a Category II Board-regulated institution; or

(D) Is a GSIB depository institution.

Category IV Board-regulated institution means a covered depository institution holding company that is identified as a Category IV banking organization pursuant to 12 CFR 252.5 or 12 CFR 238.10, as applicable.

Category II foreign banking organization means a foreign banking organization that is identified as a Category II banking organization pursuant to 12 CFR 252.5.

Category III foreign banking organization means a foreign banking organization that is identified as a Category III banking organization pursuant to 12 CFR 252.5.

Category IV foreign banking organization means a foreign banking organization that is identified as a Category IV banking organization pursuant to 12 CFR 252.5.

* * * * *

Covered depository institution holding company means a top-tier bank holding company or savings and loan holding company domiciled in the United States 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)(A) 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. 1843(k));

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

(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; or

(4) A U.S. intermediate holding company.

* * * * *

Foreign banking organization has the same meaning as in 12 CFR 211.21(o) (§ 211.21(o) of the Board's Regulation K), 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–15 means the Systemic Risk Report.

FR Y–9LP means the Parent Company Only Financial Statements for Large Holding Companies.

* * * * *

Global systemically important BHC means a bank holding company identified as a global systemically important BHC pursuant to 12 CFR 217.402.

GSIB depository institution means a depository institution that is a consolidated subsidiary of a global systemically important BHC and has total consolidated assets equal to $10 billion or more, calculated based on the average of the depository institution's total consolidated assets for the four most recent calendar quarters as reported on the Call Report. If the depository institution has not filed the Call Report for each of the four most recent calendar quarters, total consolidated assets means the average of its total consolidated assets, as reported on the Call Report, for the most recent calendar quarter or quarters, as applicable. After meeting the criteria under this definition, a depository institution continues to be a GSIB depository institution until the depository institution has less than $10 billion in total consolidated assets, as reported on the Call Report, for each of the four most recent calendar quarters, or the depository institution is no longer a consolidated subsidiary of a global systemically important BHC.

* * * * *

Regulated financial company means:

(1) A depository institution holding company or designated company;

(2) A company included in the organization chart of a depository institution holding company on the Form FR Y–6, as listed in the hierarchy report of the depository institution holding company produced by the National Information Center (NIC) website,[2] provided that the top-tier depository institution holding company is subject to a minimum liquidity standard under this part;

(3) A depository institution; foreign bank; credit union; industrial loan company, industrial bank, or other similar institution described in section 2 of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1841 *et seq.*); national bank, state member bank, or state non-member bank that is not a depository institution;

(4) An insurance company;

(5) A securities holding company as defined in section 618 of the Dodd-Frank Act (12 U.S.C. 1850a); broker or dealer registered with the SEC under section 15 of the Securities Exchange Act (15 U.S.C. 78o); futures commission merchant as defined in section 1a of the Commodity Exchange Act of 1936 (7 U.S.C. 1 *et seq.*); swap dealer as defined in section 1a of the Commodity Exchange Act (7 U.S.C. 1a); or security-based swap dealer as defined in section 3 of the Securities Exchange Act (15 U.S.C. 78c);

(6) A designated financial market utility, as defined in section 803 of the Dodd-Frank Act (12 U.S.C. 5462);

(7) A U.S. intermediate holding company; and

(8) Any company not domiciled in the United States (or a political subdivision thereof) that is supervised and regulated in a manner similar to entities described in paragraphs (1) through (7) of this definition (*e.g.,* a foreign banking organization, foreign insurance company, foreign securities broker or dealer or foreign financial market utility).

(9) A regulated financial company does not include:

(i) U.S. government-sponsored enterprises;

(ii) Small business investment companies, as defined in section 102 of the Small Business Investment Act of 1958 (15 U.S.C. 661 *et seq.*);

(iii) Entities designated as Community Development Financial Institutions (CDFIs) under 12 U.S.C. 4701 *et seq.* and 12 CFR part 1805; or

(iv) Central banks, the Bank for International Settlements, the International Monetary Fund, or multilateral development banks.

* * * * *

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.

* * * * *

U.S. intermediate holding company means a company formed by a foreign banking organization pursuant to 12 CFR 252.153.

* * * * *

■ 20. In § 249.10, revise paragraph (a) to read as follows:

§ 249.10 Liquidity coverage ratio.

(a) *Minimum liquidity coverage ratio requirement.* Subject to the transition provisions in subpart F of this part, a Board-regulated institution must calculate and maintain a liquidity coverage ratio that is equal to or greater than 1.0 on each business day (or, in the case of a Category IV Board-regulated institution, on the last business day of the applicable month) in accordance with this part. A Board-regulated institution must calculate its liquidity coverage ratio as of the same time on each calculation date (the elected calculation time). The Board-regulated institution must select this time by written notice to the Board prior to [effective date of the final rule]. The Board-regulated institution may not thereafter change its elected calculation time without prior written approval from the Board.

* * * * *

■ 21. In § 249.30, revise paragraph (a) and add paragraphs (c) and (d) to read as follows:

§ 249.30 Total net cash outflow amount.

(a) *Calculation of total net cash outflow amount.* As of the calculation date, a Board-regulated institution's total net cash outflow amount equals the Board-regulated institution's outflow adjustment percentage as determined under paragraph (c) of this section multiplied by:

(1) The sum of the outflow amounts calculated under § 249.32(a) through (l); *minus*

(2) The lesser of:

(i) The sum of the inflow amounts calculated under § 249.33(b) through (g); and

(ii) 75 percent of the amount calculated under paragraph (a)(1) of this section; *plus*

(3) The maturity mismatch add-on as calculated under paragraph (b) of this section.

* * * * *

(c) *Outflow adjustment percentage.* A Board-regulated institution's outflow adjustment percentage is determined pursuant to Table 1 to this section.

[2] *http://www.ffiec.gov/nicpubweb/nicweb/NicHome.aspx.*

TABLE 1 TO § 249.30—OUTFLOW ADJUSTMENT PERCENTAGES

[Outflow adjustment percentage]

Global systemically important BHC or GSIB depository institution	100 percent.
Category II Board-regulated institution	100 percent.
Category III Board-regulated institution with $75 billion or more in average weighted short-term wholesale funding and any Category III Board-regulated institution that is a consolidated subsidiary of such a Category III Board-regulated institution.	100 percent.
Category III Board-regulated institution with less than $75 billion in average weighted short-term wholesale funding and any Category III Board-regulated institution that is a consolidated subsidiary of such a Category III Board-regulated institution.	[70 to 85] percent.
Category IV Board-regulated institution with $50 billion or more in average weighted short-term wholesale funding	[70 to 85] percent.
A state member bank described in § 249.1(b)(1)(ii) that is the consolidated subsidiary of a U.S. intermediate holding company of a Category II foreign banking organization.	100 percent.
A state member bank described in § 249.1(b)(1)(ii) that is the consolidated subsidiary of a U.S. intermediate holding company of a Category III foreign banking organization with $75 billion or more in average weighted short-term wholesale funding.	100 percent.
A state member bank described in § 249.1(b)(1)(ii) that is the consolidated subsidiary of a U.S. intermediate holding company of a Category III foreign banking organization with less than $75 billion in average weighted short-term wholesale funding.	[70 to 85] percent.

(d) *Transition.* A Board-regulated institution whose outflow adjustment percentage increases from a lower to a higher outflow adjustment percentage may continue to use its previous lower outflow adjustment percentage until the first day of the second calendar quarter after the outflow adjustment percentage increases.

■ 22. Revise § 249.50 to read as follows:

§ 249.50 Transitions.

(a) *Depository institution subsidiary of a U.S. intermediate holding company.* A Board-regulated institution does not need to comply with the minimum liquidity standard and other requirements of this part until [one year after the effective date of the final rule], at which time the Board-regulated institution must begin to calculate and maintain a liquidity coverage ratio daily in accordance with this part, if the Board-regulated institution:

(1) Becomes subject to this part under § 249.1(b)(1)(ii); and

(2) Is a consolidated subsidiary of a U.S. intermediate holding company that, immediately prior to [effective date of final rule]:

(i) Was domiciled in the United States;

(ii) Had total consolidated assets equal to $50 billion or more (based on the average of the U.S. intermediate holding company's four most recent Consolidated Financial Statements for Holding Companies reporting forms (FR Y–9Cs));

(iii) Had total consolidated assets less than $250 billion as of the 2018 year-end FR Y–9C or Call Report, as applicable; and

(iv) Had total consolidated on-balance sheet foreign exposure less than $10 billion as of year-end 2018 (where total on-balance sheet foreign exposure equals total cross-border claims less claims with a head office or guarantor located in another country plus redistributed guaranteed amounts to the country of the head office or guarantor plus local country claims on local residents plus revaluation gains on foreign exchange and derivative transaction products, calculated in accordance with the Federal Financial Institutions Examination Council (FFIEC) 009 Country Exposure Report).

(b) *Foreign banking organizations.* A foreign banking organization that becomes subject to subpart O of this part on [effective date of final rule] does not need to comply with the minimum liquidity standard of § 249.203 or with the public disclosure requirements of § 249.208 until [one year after the effective date of the final rule], at which time the foreign banking organization must comply with the minimum liquidity standard of § 249.203 daily (or, in the case of a Category IV foreign banking organization, on the last business day of the applicable calendar month) in accordance with this part, and with the public disclosure requirements of § 249.208, except:

(1) Beginning on [effective date of final rule] and thereafter, a foreign banking organization must comply with the minimum liquidity standard of § 249.203 and with the public disclosure requirements of § 249.208 beginning on [effective date of final rule] if the U.S. intermediate holding company:

(i) Had total consolidated assets equal to $250 billion or more, as of the 2018 year-end FR Y–9C or Call Report, as applicable; or

(ii) Had total consolidated on-balance sheet foreign exposure equal to $10 billion or more as of year-end 2018 (where total on-balance sheet foreign exposure equals total cross-border claims less claims with a head office or guarantor located in another country plus redistributed guaranteed amounts to the country of the head office or guarantor plus local country claims on local residents plus revaluation gains on foreign exchange and derivative transaction products, calculated in accordance with the Federal Financial Institutions Examination Council (FFIEC) 009 Country Exposure Report).

(2) From [effective date of final rule] to [one year after the effective date of the final rule], a foreign banking organization whose U.S. intermediate holding company, immediately prior to [effective date of final rule], was domiciled in the United States, had total consolidated assets equal to $50 billion or more (based on the average of the U.S. intermediate holding company's four most recent FR Y–9Cs), and did not meet the criteria set forth in paragraph (b)(1)(i) or (ii) of this section, must comply with the minimum liquidity standard of § 249.203 and with the public disclosure requirements of § 249.208, except:

(i) The foreign banking organization may calculate the requirement of § 249.203 on the last business day of the applicable calendar month; and

(ii) As of the calculation date, the foreign banking organization may calculate the total net cash outflow amount for the U.S. intermediate holding company to be 70 percent of:

(A) The sum of the outflow amounts for the U.S. intermediate holding company (calculated under § 249.32(a) through (l) as if the U.S. intermediate holding company and not the foreign banking organization were the top-tier Board-regulated institution); *less:*

(B) The lesser of:

(*1*) The sum of the inflow amounts (calculated under § 249.33(b) through (g) as if the U.S. intermediate holding company and not the foreign banking

organization were the top-tier Board-regulated institution); and

(*2*) 75 percent of the amount in paragraph (b)(2)(ii)(A) of this section as calculated for that calendar day.

■ 23. In § 249.90, revise paragraphs (a) and (b) to read as follows:

§ 249.90 Timing, method and retention of disclosures.

(a) *Applicability.* A covered depository institution holding company or covered nonbank company that is subject to § 249.1 must disclose publicly all the information required under this subpart.

(b) *Timing of disclosure.* (1) A covered depository institution holding company or covered nonbank company subject to this subpart must provide timely public disclosures each calendar quarter of all the information required under this subpart.

(2) A covered depository institution holding company or covered nonbank company that is subject to this subpart must provide the disclosures required by this subpart beginning with the first calendar quarter that includes the date that is 18 months after the covered depository institution holding company first became subject to this subpart.

* * * * *

■ 24. In § 249.91:

■ a. Revise Table 1 to § 249.91(a);

■ b. In paragraph (b)(1)(i)(B):

■ i. Remove ''(c)(1), (c)(5), (c)(9), (c)(14), (c)(19), (c)(23), and (c)(28)'' and add in its place ''(c)(1), (5), (9), (14), (19), (23), and (28)'' and

■ ii. Remove the semicolon at the end of the paragraph and add a period in its place.

■ c. Remove paragraph (b)(1)(ii) and redesignate paragraph (b)(1)(iii) as paragraph (b)(1)(ii);

■ d. Revise paragraphs (c)(32) and (33): and

■ e. Add paragraphs (c)(34) and (35).

The revisions and additions read as follows:

§ 249.91 Disclosure requirements.

(a) * * *

TABLE 1 TO § 249.91(a)—DISCLOSURE TEMPLATE

XX/XX/XXXX to YY/YY/YYYY (In millions of U.S. dollars)	Average unweighted amount	Average weighted amount
High-Quality Liquid Assets		
1. Total eligible high-quality liquid assets (HQLA), of which:		
2. Eligible level 1 liquid assets.		
3. Eligible level 2A liquid assets.		
4. Eligible level 2B liquid assets.		
Cash Outflow Amounts		
5. Deposit outflow from retail customers and counterparties, of which:		
6. Stable retail deposit outflow.		
7. Other retail funding.		
8. Brokered deposit outflow.		
9. Unsecured wholesale funding outflow, of which:		
10. Operational deposit outflow.		
11. Non-operational funding outflow.		
12. Unsecured debt outflow.		
13. Secured wholesale funding and asset exchange outflow.		
14. Additional outflow requirements, of which:		
15. Outflow related to derivative exposures and other collateral requirements.		
16. Outflow related to credit and liquidity facilities including unconsolidated structured transactions and mortgage commitments.		
17. Other contractual funding obligation outflow.		
18. Other contingent funding obligations outflow.		
19. Total Cash Outflow.		
Cash Inflow Amounts		
20. Secured lending and asset exchange cash inflow.		
21. Retail cash inflow.		
22. Unsecured wholesale cash inflow.		
23. Other cash inflows, of which:		
24. Net derivative cash inflow.		
25. Securities cash inflow.		
26. Broker-dealer segregated account inflow.		
27. Other cash inflow.		
28. Total Cash Inflow.		
		Average Amount [1]
29. HQLA Amount		
30. Total Net Cash Outflow Amount Excluding the Maturity Mismatch Add-On		
31. Maturity Mismatch Add-On		
32. Total Unadusted Net Cash Outflow Amount		
33. Outflow Adjustment Percentage		
34. Total Adjusted Net Cash Outflow Amount		
35. Liquidity Coverage Ratio (%)		

[1] The amounts reported in this column may not equal the calculation of those amounts using component amounts reported in rows 1–28 due to technical factors such as the application of the level 2 liquid asset caps and the total inflow cap.

* * * * *

(c) * * *

(32) The average amount of the total net cash outflow amount as calculated under § 249.30 prior to the application of the applicable outflow adjustment percentage described in Table 1 to § 249.30 (row 32);

(33) The applicable outflow adjustment percentage described in Table 1 to § 249.30 (row 33);

(34) The average amount of the total net cash outflow as calculated under § 249.30 (row 34); and

(35) The average of the liquidity coverage ratios as calculated under § 249.10(b) (row 35).

* * * * *

■ 25. Section 249.105, as proposed to be added at 81 FR 35124 (June 1, 2016), is revised to read as follows:

§ 249.105 Calculation of required stable funding amount.

(a) *Required stable funding amount.* A Board-regulated institution's required stable funding (RSF) amount equals the Board-regulated institution's required stable funding adjustment percentage as determined under paragraph (b) of this section multiplied by the sum of:

(1) The carrying values of a Board-regulated institution's assets (other than amounts included in the calculation of the derivatives RSF amount pursuant to § 249.107(b)) and the undrawn amounts of a Board-regulated institution's credit and liquidity facilities, in each case multiplied by the RSF factors applicable in § 249.106; and

(2) The Board-regulated institution's derivatives RSF amount calculated pursuant to § 249.107(b).

(b) *Required stable funding adjustment percentage.* A Board-regulated institution's required stable funding adjustment percentage is determined pursuant to Table 1 to this section.

TABLE 1 TO § 249.105—REQUIRED STABLE FUNDING ADJUSTMENT PERCENTAGES

[Required stable funding adjustment percentage]

Global systemically important BHC or GSIB depository institution	100 percent.
Category II Board-regulated institution	100 percent.
Category III Board-regulated institution with $75 billion or more in average weighted short-term wholesale funding and any Category III Board-regulated institution that is a consolidated subsidiary of such a Category III Board-regulated institution.	100 percent.
Category III Board-regulated institution with less than $75 billion in average weighted short-term wholesale funding and any Category III Board-regulated institution that is a consolidated subsidiary of such a Category III Board-regulated institution.	[70 to 85] percent.
Category IV Board-regulated institution with $50 billion or more in average weighted short-term wholesale funding	[70 to 85] percent.
A state member bank described in § 249.1(b)(1)(ii) that is the consolidated subsidiary of a U.S. intermediate holding company of a Category II foreign banking organization.	100 percent.
A state member bank described in § 249.1(b)(1)(ii) that is the consolidated subsidiary of a U.S. intermediate holding company of a Category III foreign banking organization with $75 billion or more in average weighted short-term wholesale funding.	100 percent.
A state member bank described in § 249.1(b)(1)(ii) that is the consolidated subsidiary of a U.S. intermediate holding company of a Category III foreign banking organization with less than $75 billion in average weighted short-term wholesale funding.	[70 to 85] percent.

(c) *Transition.* A Board-regulated institution whose required stable funding adjustment percentage increases from a lower to a higher required stable funding adjustment percentage may continue to use its previous lower required stable funding adjustment percentage until the first day of the second calendar quarter after the required stable funding adjustment percentage increases.

■ 26. Section 249.131, as proposed to be added at 81 FR 35124 (June 1, 2016), is further amended by revising Table 1 to § 249.131(a) and paragraph (c)(2)(xxii), adding paragraphs (c)(2)(xxiii) and (xxiv), and revising paragraph (c)(3) to read as follows:

§ 249.131 Disclosure requirements.

(a) * * *

BILLING CODE 6210–01–P; 4810–33–P; 6714–01–P;

Table 1 to § 249.131(a)-Disclosure Template

Quarter ended XX/XX/XXXX In millions of U.S. dollars		**Unweighted Amount**					**Weighted Amount**
		Open Maturity	**< 6 months**	**6 months to < 1 year**	**≥ 1 year**	**Perpetual**	
ASF ITEM							
1	Capital and securities:						
2	NSFR regulatory capital elements						
3	Other capital elements and securities						
4	Retail funding:						
5	Stable deposits						
6	Less stable deposits						
7	Retail brokered deposits						
8	Other retail funding						
9	Wholesale funding:						
10	Operational deposits						
11	Other wholesale funding						
	Other liabilities:						
12	NSFR derivatives liability amount						
13	Total derivatives liability amount						
14	All other liabilities not included in the above categories						
15	**TOTAL ASF**						
RSF ITEM							
16	Total high-quality liquid assets (HQLA)						
17	Level 1 liquid assets						
18	Level 2A liquid assets						
19	Level 2B liquid assets						
20	Zero percent RSF assets that are not level 1 liquid assets						

Quarter ended XX/XX/XXXX In millions of U.S. dollars		Unweighted Amount					Weighted Amount
		Open Maturity	< 6 months	6 months to < 1 year	≥ 1 year	Perpetual	
23	Loans to financial sector entities secured by level 1 liquid assets						
24	Loans to financial sector entities secured by assets other than level 1 liquid assets and unsecured loans to financial sector entities						
25	Loans to wholesale customers or counterparties that are not financial sector entities and loans to retail customers or counterparties						
26	Of which: With a risk weight no greater than 20 percent under [AGENCY CAPITAL REGULATION]						
27	Retail mortgages						
28	Of which: With a risk weight of no greater than 50 percent under [AGENCY CAPITAL REGULATION]						
29	Securities that do not qualify as HQLA						
	Other assets:						
30	Commodities						
31	Assets provided as initial margin for derivative transactions and contributions to CCPs' mutualized loss-sharing arrangements						

Quarter ended XX/XX/XXXX In millions of U.S. dollars		Unweighted Amount					Weighted Amount
		Open Maturity	< 6 months	6 months to < 1 year	≥ 1 year	Perpetual	
32	NSFR derivatives asset amount						
33	Total derivatives asset amount						
34	RSF for potential derivatives portfolio valuation changes						
35	All other assets not included in the above categories, including nonperforming assets						
36	Undrawn commitments						
37	**TOTAL UNADJUSTED RSF**						
38	**RSF Adjustment Percentage**						
39	**TOTAL ADJUSTED RSF**						
40	**NET STABLE FUNDING RATIO**						

BILLING CODE 6210–01–C; 4810–33–C; 6714–01–C

* * * * *

(c) * * *

(2) * * *

(xxii) The RSF amount described in § 249.105 prior to the application of the RSF adjustment percentage provided for in Table 1 to § 249.105 (row 37);

(xxiii) The applicable RSF adjustment factor as described in Table 1 to § 249.105 (row 38); and

(xxiv) The RSF amount described in § 249.105 (row 39); and

(3) The net stable funding ratio under § 249.100(b) (row 40).

* * * * *

■ 27. Add subpart O to read as follows:

Subpart O—Minimum Liquidity Standard and Minimum Stable Funding Standard for Certain Foreign Banking Organizations

Sec.

§ 249.201 Purpose and applicability.

(a) *Purpose.* This subpart establishes a minimum liquidity standard and minimum stable funding standard for certain foreign banking organizations, as set forth in this part.

(b) *Applicability.* (1) A foreign banking organization is subject to the minimum liquidity standard, minimum stable funding standard, and other requirements of this subpart if:

(i) It is a:

(A) Category II foreign banking organization;

(B) Category III foreign banking organization; or

(C) Category IV foreign banking organization with $50 billion or more in average weighted short-term wholesale funding;

(ii) The Board determines that application of this subpart is appropriate in light of the foreign banking organization's asset size, level of complexity, risk profile, scope of operations, affiliation with foreign or domestic covered entities, or risk to the financial system.

(2) Subject to the transition periods set forth in subpart F of this part:

(i) A foreign banking organization that becomes subject to the minimum liquidity standard, minimum stable funding standard, and other requirements of this subpart under paragraph (b)(1)(i) of this section must comply with such requirements beginning on the first day of the second calendar quarter after which the foreign banking organization becomes subject to such requirements, except that a foreign banking organization that is not a category IV foreign banking organization must:

(A) For the first three calendar quarters after the foreign banking organization begins complying with the minimum liquidity standard and other requirements of this subpart, calculate and maintain the liquidity coverage ratio required by § 249.203 monthly, on each calculation date that is the last business day of the applicable calendar month; and

(B) Beginning one year after the foreign banking organization becomes subject to the minimum liquidity standard and other requirements of this subpart and continuing thereafter, calculate and maintain the liquidity coverage ratios required by § 249.203 on each calculation date.

(ii) A foreign banking organization that becomes subject to the minimum liquidity standard and other requirements of this subpart under paragraph (b)(1)(ii) of this section, must comply with the requirements of this subpart subject to a transition period specified by the Board.

(3) This subpart does not apply to:

(i) A bridge financial company as defined in 12 U.S.C. 5381(a)(3), or a subsidiary of a bridge financial company; or

(ii) A new depository institution or a bridge depository institution, as defined in 12 U.S.C. 1813(i).

(4) A foreign banking organization subject to a minimum liquidity standard under this subpart shall remain subject until the Board determines in writing that application of this subpart to the foreign banking organization is not appropriate in light of the foreign banking organization's asset size, level of complexity, risk profile, scope of operations, affiliation with foreign or domestic covered entities, or risk to the financial system.

(5) In making a determination under paragraph (b)(1)(ii) or (b)(4) of this section, the Board will apply, as appropriate, notice and response procedures in the same manner and to the same extent as the notice and response procedures set forth in 12 CFR 263.202.

§ 249.202 Reservation of authority.

(a) The Board may require a foreign banking organization to hold an amount of high-quality liquid assets (HQLA) greater than otherwise required under this subpart, or to take any other measure to improve the liquidity risk profile of a U.S. intermediate holding company, if the Board determines that the liquidity requirements of the foreign banking organization as calculated under this subpart are not commensurate with the liquidity risks presented by the foreign banking organization or its U.S. intermediate holding company. In making determinations under this section, the Board will apply notice and response procedures as set forth in 12 CFR 263.202.

(b) The Board may require a foreign banking organization to maintain an amount of available stable funding (ASF) greater than otherwise required under this subpart, or to take any other measure to improve the stable funding of its U.S. intermediate holding company, if the Board determines that the foreign banking organization's stable funding requirements as calculated under this subpart are not commensurate with the funding risks of the foreign banking organization or its U.S. intermediate holding company. In making determinations under this section, the Board will apply notice and response procedures as set forth in 12 CFR 263.202.

(c) Nothing in this subpart limits the authority of the Board under any other provision of law or regulation to take supervisory or enforcement action, including action to address unsafe or unsound practices or conditions, deficient liquidity levels, or violations of law.

§ 249.203 Liquidity coverage ratio for certain foreign banking organizations.

(a) *Minimum liquidity coverage ratio requirements for foreign banking organizations.* Subject to the transition periods in subpart F of this part, a foreign banking organization must calculate and maintain a liquidity coverage ratio equal to or greater than 1.0 on each business day (or, in the case of a Category IV foreign banking organization, on the last business day of the applicable calendar month) for each U.S. intermediate holding company of the foreign banking organization in accordance with § 249.3 and subparts B through E of this part as if the U.S. intermediate holding company (and not the foreign banking organization subject to this subpart) were a top-tier Board-regulated institution, except that:

(1) A high-quality liquid asset used to meet the liquidity coverage ratio required by this paragraph (a) must satisfy the requirements in § 249.205 and not § 249.22 to be eligible HQLA; and

(2) The outflow adjustment percentage used to meet the liquidity coverage ratio required by this paragraph (a) must be determined in accordance with paragraph (c) of this section and not § 249.30(c).

(b) *Elected calculation time.* A foreign banking organization subject to this subpart must calculate any liquidity coverage ratio required by paragraph (a) of this section as of the same time on each business day, or, in the case of a Category IV foreign banking organization, as of the same time on each calculation day (the elected calculation time). The foreign banking organization must select this time by written notice to the Board prior to [effective date of the final rule]. The foreign banking organization may not thereafter change its elected calculation time without prior written approval from the Board.

(c) *Outflow adjustment percentage.* A foreign banking organization's outflow adjustment percentage is determined pursuant to Table 1 to this section.

TABLE 1 TO § 249.203—OUTFLOW ADJUSTMENT PERCENTAGES

	Outflow adjustment percentage
Category II foreign banking organization	100 percent.
Category III foreign banking organization with $75 billion or more in average weighted short-term wholesale funding	100 percent.
Category III foreign banking organization with less than $75 billion in average weighted short-term wholesale funding	[70 to 85] percent.
Category IV foreign banking organization with $50 billion or more in average weighted short-term wholesale funding	[70 to 85] percent.

§ 249.204 Net stable funding ratio.

(a) *Minimum net stable funding ratio requirement.* A foreign banking organization must maintain for each U.S. intermediate holding company a net stable funding ratio that is equal to or greater than 1.0 on an ongoing basis in accordance with § 249.3 and subparts K and L of this part as if each U.S. intermediate holding company (and not the foreign banking organization subject to this subpart) were a top-tier Board-regulated institution, except that the foreign banking organization must determine its required stable funding adjustment percentage in accordance with paragraph (b) of this section, and not § 249.105(b).

(b) *Required stable funding adjustment percentage.* A foreign banking organization's required stable funding adjustment percentage is determined pursuant to Table 1 to this section.

TABLE 1 TO § 249.204—REQUIRED STABLE FUNDING ADJUSTMENT PERCENTAGES

	Required stable funding adjustment percentage
Category II foreign banking organization	100 percent.
Category III foreign banking organization with $75 billion or more in average weighted short-term wholesale funding	100 percent.
Category III foreign banking organization with less than $75 billion in average weighted short-term wholesale funding	[70 to 85] percent.
Category IV foreign banking organization with $50 billion or more in average weighted short-term wholesale funding	[70 to 85] percent.

§ 249.205 Requirements for eligible high-quality liquid assets.

(a) *Operational requirements for eligible HQLA.* With respect to each asset that is eligible for inclusion in the HQLA amount calculated for the liquidity coverage ratio requirement in § 249.203, all of the operational requirements in this paragraph (a) must be met:

(1) The foreign banking organization must demonstrate the operational capability to monetize the HQLA by:

(i) Implementing and maintaining appropriate procedures and systems to monetize any HQLA at any time in accordance with relevant standard settlement periods and procedures; and

(ii) Periodically monetizing a sample of HQLA that reasonably reflects the composition of the eligible HQLA used to meet the liquidity coverage ratio requirement in § 249.203, including with respect to asset type, maturity, and counterparty characteristics;

(2) The foreign banking organization must implement policies that require eligible HQLA to be under the control of the management function in the foreign banking organization that is charged with managing liquidity risk, and this management function must evidence its control over the HQLA by either:

(i) Segregating the HQLA from other assets, with the sole intent to use the HQLA as a source of liquidity; or

(ii) Demonstrating the ability to monetize the assets and making the proceeds available to the liquidity management function without conflicting with a business or risk management strategy of the foreign banking organization;

(3) The fair value of the eligible HQLA must be reduced by the outflow amount that would result from the termination of any specific transaction hedging eligible HQLA;

(4) The foreign banking organization must implement and maintain policies and procedures that determine the composition of the eligible HQLA on each calculation date, by:

(i) Identifying its eligible HQLA by legal entity, geographical location, currency, account, or other relevant identifying factors as of the calculation date;

(ii) Determining that eligible HQLA meet the criteria set forth in this section; and

(iii) Ensuring the appropriate diversification of the eligible HQLA by asset type, counterparty, issuer, currency, borrowing capacity, or other factors associated with the liquidity risk of the assets; and

(5) The foreign banking organization must have a documented methodology that results in a consistent treatment for determining that the eligible HQLA meets the requirements set forth in this section.

(b) *Generally applicable criteria for eligible HQLA.* The eligible HQLA used to meet the liquidity coverage ratio requirement in § 249.203 must meet all of the criteria in this paragraph (b):

Alternative 1—Paragraph (b)(1)

(1) The assets are unencumbered in accordance with the criteria in this paragraph (b)(1):

(i) The assets are free of legal, regulatory, contractual, or other restrictions on the ability of the foreign banking organization to monetize the assets; and

(ii) The assets are not pledged, explicitly or implicitly, to secure or to provide credit enhancement to any transaction, but the assets may be considered unencumbered if the assets are pledged to a central bank or a U.S. government-sponsored enterprise where:

(A) Potential credit secured by the assets is not currently extended to the foreign banking organization or its consolidated subsidiaries; and

(B) The pledged assets are not required to support access to the payment services of a central bank;

Alternative 2—Paragraph (b)(1)

(1) The assets are not unencumbered.

(2) The asset is not:

(i) A client pool security held in a segregated account; or

(ii) An asset received from a secured funding transaction involving client pool securities that were held in a segregated account;

(3) For eligible HQLA held in a legal entity that is a U.S. consolidated subsidiary of a U.S. intermediate holding company:

(i) If the U.S. consolidated subsidiary is subject to a minimum liquidity standard under this part, 12 CFR part 50, or 12 CFR part 329, the foreign banking organization may include the eligible HQLA of the U.S. consolidated subsidiary in its HQLA amount up to:

(A) The amount of net cash outflows of the U.S. consolidated subsidiary calculated by the U.S. consolidated subsidiary for its own minimum liquidity standard under this part, 12 CFR part 50, or 12 CFR part 329; *plus*

(B) Any additional amount of assets, including proceeds from the monetization of assets, that would be available for transfer to the U.S. intermediate holding company during times of stress without statutory, regulatory, contractual, or supervisory restrictions, including sections 23A and 23B of the Federal Reserve Act (12 U.S.C. 371c and 12 U.S.C. 371c–1) and 12 CFR part 223 (Regulation W);

(ii) If the U.S. consolidated subsidiary is not subject to a minimum liquidity standard under this part, 12 CFR part 50, or 12 CFR part 329, the Board-regulated institution may include the eligible HQLA of the U.S. consolidated subsidiary in its HQLA amount up to:

(A) The amount of the net cash outflows of the U.S. consolidated subsidiary as of the 30th calendar day after the calculation date, as calculated by the foreign banking organization for its minimum liquidity standard under this part; *plus*

(B) Any additional amount of assets, including proceeds from the monetization of assets, that would be available for transfer to the U.S. intermediate holding company during times of stress without statutory, regulatory, contractual, or supervisory restrictions, including sections 23A and 23B of the Federal Reserve Act (12 U.S.C. 371c and 12 U.S.C. 371c–1) and 12 CFR part 223 (Regulation W); and

(4) For HQLA held by a consolidated subsidiary of the U.S. intermediate holding company that is organized under the laws of a foreign jurisdiction,

the foreign banking organization may include the eligible HQLA of the consolidated subsidiary organized under the laws of a foreign jurisdiction in its HQLA amount up to:

(i) The amount of net cash outflows of the consolidated subsidiary as of the 30th calendar day after the calculation date, as calculated by the foreign banking organization for its minimum liquidity standard under this part; *plus*

(ii) Any additional amount of assets that are available for transfer to the U.S. intermediate holding company during times of stress without statutory, regulatory, contractual, or supervisory restrictions;

(5) Eligible HQLA must not include any assets or HQLA resulting from transactions involving an asset that the U.S. intermediate holding company received with rehypothecation rights, if the counterparty that provided the asset or the beneficial owner of the asset has a contractual right to withdraw the assets without an obligation to pay more than de minimis remuneration at any time during the 30 calendar days following the calculation date; and

(6) The foreign banking organization has not designated the assets to cover operational costs of its U.S. intermediate holding company.

(c) *Location of eligible HQLA for the foreign banking organization.* A foreign banking organization must maintain the eligible HQLA used to meet the minimum requirements under § 249.203 in accounts in the United States.

§ 249.206 Liquidity coverage shortfall: Supervisory framework.

(a) *Notification requirements.* A foreign banking organization must notify the Board on any business day when its liquidity coverage ratio is calculated to be less than the minimum requirement in § 249.203.

(b) *Liquidity plan.* (1) For the period during which a foreign banking organization must calculate a liquidity coverage ratio on the last business day of each applicable calendar month under subpart F or O of this part, if the foreign banking organization's liquidity coverage ratio is below the minimum requirements in § 249.203 for any calculation date that is the last business day of the applicable calendar month, or if the Board has determined that the foreign banking organization is otherwise materially noncompliant with the requirements of this part, the foreign banking organization must promptly consult with the Board to determine whether the foreign banking organization must provide to the Board a plan for achieving compliance with the minimum liquidity requirement in § 249.203 and all other requirements of this subpart.

(2) For the period during which a foreign banking organization must calculate a liquidity coverage ratio each business day under subpart F or O of this part, if a foreign banking organization's liquidity coverage ratio is below the minimum requirement in § 249.203 for three consecutive business days, or if the Board has determined that the foreign banking organization is otherwise materially noncompliant with the requirements of this subpart, the foreign banking organization must promptly provide to the Board a plan for achieving compliance with the minimum liquidity requirement in § 249.203 and all other requirements of this subpart.

(3) The plan must include, as applicable:

(i) An assessment of the liquidity position of the U.S. intermediate holding company;

(ii) The actions the foreign banking organization has taken and will take to achieve full compliance with this subpart, including:

(A) A plan for adjusting the risk profile, risk management, and funding sources of the U.S. intermediate holding company in order to achieve full compliance with this subpart; and

(B) A plan for remediating any operational or management issues that contributed to noncompliance with this subpart;

(iii) An estimated time frame for achieving full compliance with this subpart; and

(iv) A commitment to report to the Board no less than weekly on progress to achieve compliance in accordance with the plan until full compliance with this subpart is achieved.

(c) *Supervisory and enforcement actions.* The Board may, at its discretion, take additional supervisory or enforcement actions to address noncompliance with the minimum liquidity standard and other requirements of this subpart.

§ 249.207 NSFR shortfall: Supervisory framework.

(a) *Notification requirements.* A foreign banking organization must notify the Board no later than 10 business days, or such other period as the Board may otherwise require by written notice, following the date that any event has occurred that would cause or has caused the foreign banking organization's net stable funding ratio to be less than 1.0 as required under § 249.204.

(b) *Liquidity plan.* (1) A foreign banking organization must within 10 business days, or such other period as the Board may otherwise require by written notice, provide to the Board a plan for achieving a net stable funding ratio equal to or greater than 1.0 as required under § 249.204 if:

(i) The foreign banking organization has or should have provided notice, pursuant to paragraph (a) of this section, that the foreign banking organization's net stable funding ratio is, or will become, less than 1.0 as required under § 249.204;

(ii) The foreign banking organization's reports or disclosures to the Board indicate that the foreign banking organization's net stable funding ratio is less than 1.0 as required under § 249.204; or

(iii) The Board notifies the foreign banking organization in writing that a plan is required and provides a reason for requiring such a plan.

(2) The plan must include, as applicable:

(i) An assessment of the U.S. intermediate holding company's liquidity profile;

(ii) The actions the foreign banking organization has taken and will take to achieve a net stable funding ratio equal to or greater than 1.0 as required under § 249.204, including:

(A) A plan for adjusting the liquidity profile of the U.S. intermediate holding company;

(B) A plan for remediating any operational or management issues that contributed to noncompliance with § 249.204; and

(iii) An estimated time frame for achieving full compliance with § 249.204.

(3) The foreign banking organization must report to the Board at least monthly, or such other frequency as required by the Board, on progress to achieve full compliance with § 249.204.

(c) *Supervisory and enforcement actions.* The Board may, at its discretion, take additional supervisory or enforcement actions to address noncompliance with the minimum net stable funding ratio and other requirements of § 249.204 (*see also* § 249.202(c)).

§ 249.208 Disclosure requirements.

(a) *Disclosure of minimum liquidity standard.* A foreign banking organization that is subject to this subpart must disclose publicly all the information for a U.S. intermediate holding company that the U.S. intermediate holding company would be required to disclose, and in the same manner that would be required of the U.S. intermediate holding company, if the U.S. intermediate holding company

were a covered depository institution holding company subject to subpart J of this part.

(b) *Disclosure of minimum stable funding standard.* A foreign banking organization that is subject to this subpart must disclose publicly all the information for a U.S. intermediate holding company that the U.S. intermediate holding company would be required to disclose, and in the same manner that would be required of the U.S. intermediate holding company, if it were a covered depository institution holding company subject to subpart N of this part.

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Chapter III

Authority and Issuance

For the reasons set forth in the Supplementary Information, chapter III of title 12 of the Code of Federal Regulations is proposed to be amended as follows:

PART 324—CAPITAL ADEQUACY OF FDIC-SUPERVISED INSTITUTIONS

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

Authority: 12 U.S.C. 1815(a), 1815(b), 1816, 1818(a), 1818(b), 1818(c), 1818(t), 1819(Tenth), 1828(c), 1828(d), 1828(i), 1828(n), 1828(o), 1831o, 1835, 3907, 3909, 4808; 5371; 5412; Pub. L. 102–233, 105 Stat. 1761, 1789, 1790 (12 U.S.C. 1831n note); Pub. L. 102–242, 105 Stat. 2236, 2355, as amended by Pub. L. 103–325, 108 Stat. 2160, 2233 (12 U.S.C. 1828 note); Pub. L. 102–242, 105 Stat. 2236, 2386, as amended by Pub. L. 102–550, 106 Stat. 3672, 4089 (12 U.S.C. 1828 note); Pub. L. 111–203, 124 Stat. 1376, 1887 (15 U.S.C. 78o–7 note).

■ 29. In § 324.2, add the definitions of *Category II FDIC-supervised institution, Category III FDIC-supervised institution, FR Y–9LP,* and *FR Y–15* in alphabetical order to read as follows:

§ 324.2 Definitions.

* * * * *

Category II FDIC-supervised institution means:

(1) An FDIC-supervised institution that is a subsidiary of a Category II banking organization, as defined pursuant to 12 CFR 252.5 or 12 CFR 238.10, as applicable; or

(2) An FDIC-supervised institution that:

(i)(A) Has total consolidated assets, calculated based on the average of the FDIC-supervised institution's total consolidated assets for the four most recent calendar quarters as reported on the Call Report, equal to $700 billion or more. If the FDIC-supervised institution has not filed the Call Report for each of the four most recent calendar quarters, total consolidated assets means the average of its total consolidated assets, as reported on the Call Report, for the most recent quarter or quarters, as applicable; or

(B) Has:

(*1*) Total consolidated assets, calculated based on the average of the FDIC-supervised institution's total consolidated assets for the four most recent calendar quarters as reported on the Call Report, of $100 billion or more but less than $700 billion. If the FDIC-supervised institution has not filed the Call Report for each of the four most recent quarters, total consolidated assets means the average of its total consolidated assets, as reported on the Call Report, for the most recent quarter or quarters, as applicable; and

(*2*) Cross-jurisdictional activity, calculated based on the average of its cross-jurisdictional activity for the four most recent calendar quarters, of $75 billion or more. Cross-jurisdictional activity is the sum of cross-jurisdictional claims and cross-jurisdictional liabilities, calculated in accordance with the instructions to the FR Y–15 or equivalent reporting form.

(ii) After meeting the criteria in paragraph (2)(i) of this definition, an FDIC-supervised institution continues to be a Category II FDIC-supervised institution until the FDIC-supervised institution:

(A) Has:

(*1*) Less than $700 billion in total consolidated assets, as reported on the Call Report, for each of the four most recent calendar quarters; and

(*2*) Less than $75 billion in cross-jurisdictional activity for each of the four most recent calendar quarters. Cross-jurisdictional activity is the sum of cross-jurisdictional claims and cross-jurisdictional liabilities, calculated in accordance with the instructions to the FR Y–15 or equivalent reporting form; or

(B) Has less than $100 billion in total consolidated assets, as reported on the Call Report, for each of the four most recent calendar quarters.

Category III FDIC-supervised institution means:

(1) An FDIC-supervised institution that is a subsidiary of a Category III banking organization, as defined pursuant to 12 CFR 252.5 or 12 CFR 238.10, as applicable;

(2) An FDIC-supervised institution that is a subsidiary of a depository institution that meets the criteria in paragraph (3)(ii)(A) or (B) of this definition; or

(3) An depository institution that:

(i) Is an FDIC-supervised institution; and

(ii)(A) Has total consolidated assets, calculated based on the average of the depository institution's total consolidated assets for the four most recent calendar quarters as reported on the Call Report, equal to $250 billion or more. If the depository institution has not filed the Call Report for each of the four most recent calendar quarters, total consolidated assets means the average of its total consolidated assets, as reported on the Call Report, for the most recent quarter or quarters, as applicable; or

(B) Has:

(*1*) Total consolidated assets, calculated based on the average of the depository institution's total consolidated assets for the four most recent calendar quarters as reported on the Call Report, of $100 billion or more but less than $250 billion. If the depository institution has not filed the Call Report for each of the four most recent calendar quarters, total consolidated assets means the average of its total consolidated assets, as reported on the Call Report, for the most recent quarter or quarters, as applicable; and

(*2*) At least one of the following in paragraphs (3)(ii)(B)(*2*)(*i*) through (*iii*) of this definition, each calculated as the average of the four most recent calendar quarters, or if the depository institution has not filed each applicable reporting form for each of the four most recent calendar quarters, for the most recent quarter or quarters, as applicable:

(*i*) Total nonbank assets, calculated in accordance with the instructions to the FR Y–9LP or equivalent reporting form, equal to $75 billion or more;

(*ii*) Off-balance sheet exposure equal to $75 billion or more. Off-balance sheet exposure is a depository institution's total exposure, calculated in accordance with the instructions to the FR Y–15 or equivalent reporting form, minus the total consolidated assets of the depository institution, as reported on the Call Report; or

(*iii*) Weighted short-term wholesale funding, calculated in accordance with the instructions to the FR Y–15 or equivalent reporting form, equal to $75 billion or more.

(iii) After meeting the criteria in paragraph (3)(ii) of this definition, an FDIC-supervised institution continues to be a Category III FDIC-supervised institution until the FDIC-supervised institution:

(A) Has:

(*1*) Less than $250 billion in total consolidated assets, as reported on the Call Report, for each of the four most recent calendar quarters;

(*2*) Less than $75 billion in total nonbank assets, calculated in accordance with the instructions to the FR Y–9LP or equivalent reporting form, for each of the four most recent calendar quarters;

(*3*) Less than $75 billion in weighted short-term wholesale funding, calculated in accordance with the instructions to the FR Y–15 or equivalent reporting form, for each of the four most recent calendar quarters; and

(*4*) Less than $75 billion in off-balance sheet exposure for each of the four most recent calendar quarters. Off-balance sheet exposure is an FDIC-supervised institution's total exposure, calculated in accordance with the instructions to the FR Y–15 or equivalent reporting form, minus the total consolidated assets of the FDIC-supervised institution, as reported on the Call Report; or

(B) Has less than $100 billion in total consolidated assets, as reported on the Call Report, for each of the four most recent calendar quarters; or

(C) Is a Category II FDIC-supervised institution.

* * * * *

FR Y–15 means the Systemic Risk Report.

FR Y–9LP means the Parent Company Only Financial Statements for Large Holding Companies.

* * * * *

■ 30. In § 324.10, revise paragraphs (a)(5), (c) introductory text, and (c)(4)(i) introductory text to read as follows:

§ 324.10 Minimum capital requirements.

(a) * * *

(5) For advanced approaches FDIC-supervised institutions or, for Category III FDIC-supervised institutions, a supplementary leverage ratio of 3 percent.

* * * * *

(c) *Advanced approaches capital ratio calculations.* An advanced approaches FDIC-supervised institution that has completed the parallel run process and received notification from the FDIC pursuant to § 324.121(d) must determine its regulatory capital ratios as described in paragraphs (c)(1) through (3) of this section. An advanced approaches FDIC-supervised institution must determine its supplementary leverage ratio in accordance with paragraph (c)(4) of this section, beginning with the calendar quarter immediately following the quarter in which the FDIC-supervised institution meets any of the criteria in § 324.100(b)(1). A Category III FDIC-supervised institution must determine its supplementary leverage ratio in accordance with paragraph (c)(4) of this section, beginning with the calendar quarter immediately following the quarter in which the FDIC-supervised institution is identified as a Category III FDIC-supervised institution.

* * * * *

(4) *Supplementary leverage ratio.* (i) An advanced approaches FDIC-supervised institution's or a Category III FDIC-supervised institution's supplementary leverage ratio is the ratio of its tier 1 capital to total leverage exposure, the latter of which is calculated as the sum of:

* * * * *

■ 31. In § 324.11, revise paragraphs (b)(1) introductory text and (b)(1)(ii) as follows:

§ 324.11 Capital conservation buffer and countercyclical capital buffer amount.

* * * * *

(b) *Countercyclical capital buffer amount*—(1) *General.* An advanced approaches FDIC-supervised institution or a Category III FDIC-supervised institution must calculate a countercyclical capital buffer amount in accordance with paragraphs (b)(1)(i) through (iv) of this section for purposes of determining its maximum payout ratio under Table 1 to this section.

* * * * *

(ii) *Amount.* An advanced approaches FDIC-supervised institution or a Category III FDIC-supervised institution has a countercyclical capital buffer amount determined by calculating the weighted average of the countercyclical capital buffer amounts established for the national jurisdictions where the FDIC-supervised institution's private sector credit exposures are located, as specified in paragraphs (b)(2) and (3) of this section.

* * * * *

■ 32. In § 324.100, revise paragraph (b)(1) to read as follows:

§ 324.100 Purpose, applicability, and principle of conservatism.

* * * * *

(b) *Applicability.* (1) This subpart applies to an FDIC-supervised institution that:

(i) Is a subsidiary of a global systemically important BHC pursuant to 12 CFR 217.402;

(ii) Is a Category II FDIC-supervised institution;

(iii) Is a subsidiary of a depository institution that uses 12 CFR part 3, subpart E (OCC), 12 CFR part 217, subpart E (Board), or this subpart (FDIC) to calculate its risk-based capital requirements;

(iv) Is a subsidiary of a bank holding company or savings and loan holding company that uses 12 CFR part 217, subpart E, to calculate its risk-based capital requirements; or

(v) Elects to use this subpart to calculate its risk-based capital requirements.

* * * * *

PART 329—LIQUIDITY RISK MEASUREMENT STANDARDS

■ 33. The authority citation for part 329 continues to read as follows:

Authority: 12 U.S.C 1815, 1816, 1818, 1819, 1828, 1831p–1, 5412.

■ 34. Revise § 329.1 to read as follows:

§ 329.1 Purpose and applicability.

(a) *Purpose.* This part establishes a minimum liquidity standard and a minimum stable funding standard for certain FDIC-supervised institutions on a consolidated basis, as set forth in this part.

(b) *Applicability.* (1) An FDIC-supervised institution is subject to the minimum liquidity standard, minimum stable funding standard, and other requirements of this part if:

(i) It is a GSIB FDIC-supervised institution, a Category II FDIC-supervised institution, or a Category III FDIC-supervised institution;

(ii) It is an FDIC-supervised institution that has total consolidated assets, calculated based on the average of the FDIC-supervised institution's total consolidated assets for the four most recent calendar quarters as reported on the Call Report, equal to $10 billion or more and is a consolidated subsidiary of a U.S. intermediate holding company of either a Category II foreign banking organization or a Category III foreign banking organization. If the FDIC-supervised institution has not filed the Call Report for each of the four most recent calendar quarters, total consolidated assets means the average of its total consolidated assets, as reported on the Call Report, for the most recent quarter or quarters, as applicable; or

(iii) It is an FDIC-supervised institution that the FDIC has determined that application of this part is appropriate in light of the FDIC-supervised institution's asset size, level of complexity, risk profile, scope of operations, affiliation with foreign or domestic covered entities, or risk to the financial system.

(2)(i) An FDIC-supervised institution that initially becomes subject to the minimum liquidity standard, minimum stable funding standard, and other requirements of this part under paragraph (b)(1)(i) or (ii) of this section must comply with the requirements of

this part beginning on the first day of the second calendar quarter after which the FDIC-supervised institution becomes subject to this part, except an FDIC-supervised institution must:

(A) For the first three calendar quarters after the FDIC-supervised institution begins complying with the minimum liquidity standard and other requirements of this part, calculate and maintain a liquidity coverage ratio monthly, on each calculation date that is the last business day of the applicable calendar month; and

(B) Beginning one year after the FDIC-supervised institution becomes subject to the minimum liquidity standard and other requirements of this part and continuing thereafter, calculate and maintain a liquidity coverage ratio on each calculation date.

(ii) An FDIC-supervised institution that becomes subject to the minimum liquidity standard and other requirements of this part under paragraph (b)(1)(iii) of this section, must comply with the requirements of this part subject to a transition period specified by the FDIC.

■ 35. Amend § 329.3 by

■ a. Adding the definition for ''Average weighted short-term wholesale funding'' in alphabetical order;

■ b. Revising the definition for ''Calculation date'';

■ c. Adding definitions for ''Call report'', ''Category II FDIC-supervised institution'', ''Category III FDIC-supervised institution'', ''Category II foreign banking organization'', and ''Category III foreign banking organization'' in alphabetical order;

■ d. Revising the definition for ''Covered depository institution holding company'';

■ e. Adding definitions for ''Foreign banking organization'', ''FR Y–9LP'', ''FR Y–15'', ''Global systemically important BHC'', and ''GSIB depository institution'' in alphabetical order;

■ f. Revising the definition for ''Regulated financial company''; and

■ g. Adding definitions for ''State'' and ''U.S. intermediate holding company'' in alphabetical order.

The additions and revisions read as follows:

§ 329.3 Definitions.

* * * * *

Average weighted short-term wholesale funding means the average of the banking organization's weighted short-term wholesale funding for each of the four most recent calendar quarters as reported quarterly on the FR Y–15 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.

* * * * *

Calculation date means, for purposes of subparts A through J of this part, any date on which an FDIC-supervised institution calculates its liquidity coverage ratio under § 329.21, and for purposes of subparts K through N of this part, any date on which an FDIC-supervised institution calculates its net stable funding ratio (NSFR) under § 329.100.

Call Report means the Consolidated Reports of Condition and Income.

Category II FDIC-supervised institution means:

(1)(i) An FDIC-supervised institution that:

(A) Is a consolidated subsidiary of:

(*1*) A company that is identified as a Category II banking organization pursuant to 12 CFR 252.5 or 12 CFR 238.10, as applicable; or

(*2*) A depository institution that meets the criteria in paragraph (2)(ii)(A) or (B) of this definition; and

(B) Has total consolidated assets, calculated based on the average of the FDIC-supervised institution's total consolidated assets for the four most recent calendar quarters as reported on the Call Report, equal to $10 billion or more.

(ii) If the FDIC-supervised institution has not filed the Call Report for each of the four most recent calendar quarters, total consolidated assets means the average of its total consolidated assets, as reported on the Call Report, for the most recent quarter or quarters, as applicable. After meeting the criteria under this paragraph (1), an FDIC-supervised institution continues to be a Category II FDIC-supervised institution until the FDIC-supervised institution has less than $10 billion in total consolidated assets, as reported on the Call Report, for each of the four most recent calendar quarters, or the FDIC-supervised institution is no longer a consolidated subsidiary of an entity described in paragraph (1)(i)(A)(*1*) or (*2*) of this definition; or

(2) A depository institution that:

(i) Is an FDIC-supervised institution; and

(ii)(A) Has total consolidated assets, calculated based on the average of the depository institution's total consolidated assets for the four most recent calendar quarters as reported on the Consolidated Report of Condition and Income (Call Report), equal to $700 billion or more. If the depository institution has not filed the Call Report for each of the four most recent calendar quarters, total consolidated assets means the average of its total consolidated assets, as reported on the Call Report, for the most recent quarter or quarters, as applicable; or

(B) Has:

(*1*) Total consolidated assets, calculated based on the average of the depository institution's total consolidated assets for the four most recent calendar quarters as reported on the Call Report, of $100 billion or more but less than $700 billion. If the depository institution has not filed the Call Report for each of the four most recent calendar quarters, total consolidated assets means the average of its total consolidated assets, as reported on the Call Report, for the most recent quarter or quarters, as applicable; and

(*2*) Cross-jurisdictional activity, calculated based on the average of its cross-jurisdictional activity for the four most recent calendar quarters, of $75 billion or more. Cross-jurisdictional activity is the sum of cross-jurisdictional claims and cross-jurisdictional liabilities, calculated in accordance with the instructions to the FR Y–15 or equivalent reporting form.

(iii) After meeting the criteria in paragraphs (2)(i) and (ii) of this definition, an FDIC-supervised institution continues to be a Category II FDIC-supervised institution until the FDIC-supervised institution:

(A)(*1*) Has less than $700 billion in total consolidated assets, as reported on the Call Report, for each of the four most recent calendar quarters; and

(*2*) Has less than $75 billion in cross-jurisdictional activity for each of the four most recent calendar quarters. Cross-jurisdictional activity is the sum of cross-jurisdictional claims and cross-jurisdictional liabilities, calculated in accordance with the instructions to the FR Y–15 or equivalent reporting form;

(B) Has less than $100 billion in total consolidated assets, as reported on the Call Report, for each of the four most recent calendar quarters; or

(C) Is a GSIB FDIC-supervised institution.

Category III FDIC-supervised institution means:

(1)(i) An FDIC-supervised institution that:

(A) Is a consolidated subsidiary of:

(*1*) A company that is identified as a Category III banking organization pursuant to 12 CFR 252.5 or 12 CFR 238.10, as applicable; or

(*2*) A depository institution that meets the criteria in paragraph (2)(ii)(A) or (B) of this definition; and

(B) Has total consolidated assets, calculated based on the average of the FDIC-supervised institution's total consolidated assets for the four most

recent calendar quarters as reported on the Call Report, equal to $10 billion or more.

(ii) If the FDIC-supervised institution has not filed the Call Report for each of the four most recent calendar quarters, total consolidated assets means the average of its total consolidated assets, as reported on the Call Report, for the most recent quarter or quarters, as applicable. After meeting the criteria under this paragraph (1), an FDIC-supervised institution continues to be a Category III FDIC-supervised institution until the FDIC-supervised institution has less than $10 billion in total consolidated assets, as reported on the Call Report, for each of the four most recent calendar quarters, or the FDIC-supervised institution is no longer a consolidated subsidiary of an entity described in paragraph (1)(i)(A)(*1*) or (*2*) of this definition; or

(2) A depository institution that:

(i) Is an FDIC-supervised institution; and

(ii)(A) Has total consolidated assets, calculated based on the average of the depository institution's total consolidated assets in the four most recent quarters as reported quarterly on the most recent Call Report, equal to $250 billion or more. If the depository institution has not filed the Call Report for each of the four most recent calendar quarters, total consolidated assets means the average of its total consolidated assets, as reported on the Call Report, for the most recent quarter or quarters, as applicable; or

(B) Has:

(*1*) Total consolidated assets, calculated based on the average of the depository institution's total consolidated assets in the four most recent calendar quarters as reported quarterly on the most recent Call Report, of at least $100 billion but less than $250 billion. If the depository institution has not filed the Call Report for each of the four most recent calendar quarters, total consolidated assets means the average of its total consolidated assets, as reported on the Call Report, for the most recent quarter or quarters, as applicable; and

(*2*) One or more of the following in paragraphs (2)(ii)(B)(*2*)(*i*) through (*iii*) of this definition, each measured as the average of the four most recent quarters, or if the depository institution has not filed each applicable reporting form for each of the four most recent calendar quarters, for the most recent quarter or quarters, as applicable:

(*i*) Total nonbank assets, calculated in accordance with instructions to the FR Y–9LP or equivalent reporting form, equal to $75 billion or more;

(*ii*) Off-balance sheet exposure, calculated in accordance with the instructions to the FR Y–15 or equivalent reporting form, minus the total consolidated assets of the depository institution, as reported on the Call Report, equal to $75 billion or more; or

(*iii*) Weighted short-term wholesale funding, calculated in accordance with the instructions to the FR Y–15 or equivalent reporting form, equal to $75 billion or more.

(iii) After meeting the criteria in paragraphs (2)(i) and (ii) of this definition, an FDIC-supervised institution continues to be a Category III FDIC-supervised institution until the FDIC-supervised institution:

(A)(*1*) Has less than $250 billion in total consolidated assets, as reported on the Call Report, for each of the four most recent calendar quarters;

(*2*) Has less than $75 billion in total nonbank assets, calculated in accordance with the instructions to the FR Y–9LP or equivalent reporting form, for each of the four most recent calendar quarters;

(*3*) Has less than $75 billion in weighted short-term wholesale funding, calculated in accordance with the instructions to the FR Y–15 or equivalent reporting form, for each of the four most recent calendar quarters; and

(*4*) Has less than $75 billion in off-balance sheet exposure for each of the four most recent calendar quarters. Off-balance sheet exposure is an FDIC-supervised institution's total exposure, calculated in accordance with the instructions to the FR Y–15 or equivalent reporting form, minus the total consolidated assets of the FDIC-supervised institution, as reported on the Call Report; or

(B) Has less than $100 billion in total consolidated assets, as reported on the Call Report, for each of the four most recent calendar quarters;

(C) Is a Category II FDIC-supervised institution; or

(D) Is a GSIB FDIC-supervised institution.

Category II foreign banking organization means a foreign banking organization that is identified as a Category II banking organization pursuant to 12 CFR 252.5 or 238.10.

Category III foreign banking organization means a foreign banking organization that is identified as a Category III banking organization pursuant to 12 CFR 252.5 or 238.10.

* * * * *

Covered depository institution holding company means a top-tier bank holding company or savings and loan holding company domiciled in the United States 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)(A) 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;

(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; or

(4) A U.S. intermediate holding company.

* * * * *

Foreign banking organization has the same meaning as in 12 CFR 211.21(o) (§ 211.21(o) of the Board's Regulation K), 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–15 means the Systemic Risk Report.

FR Y–9LP means the Parent Company Only Financial Statements for Large Holding Companies.

* * * * *

Global systemically important BHC means a bank holding company identified as a global systemically important BHC pursuant to 12 CFR 217.402.

GSIB depository institution means a depository institution that is a

consolidated subsidiary of a global systemically important BHC and has total consolidated assets equal to $10 billion or more, calculated based on the average of the depository institution's total consolidated assets for the four most recent calendar quarters as reported on the Call Report. If the depository institution has not filed the Call Report for each of the four most recent calendar quarters, total consolidated assets means the average of its total consolidated assets, as reported on the Call Report, for the most recent calendar quarter or quarters, as applicable. After meeting the criteria under this definition, a depository institution continues to be a GSIB depository institution until the depository institution has less than $10 billion in total consolidated assets, as reported on the Call Report, for each of the four most recent calendar quarters, or the depository institution is no longer a consolidated subsidiary of a global systemically important BHC.

* * * * *

Regulated financial company means:

(1) A depository institution holding company or designated company;

(2) A company included in the organization chart of a depository institution holding company on the Form FR Y–6, as listed in the hierarchy report of the depository institution holding company produced by the National Information Center (NIC) website,[2] provided that the top-tier depository institution holding company is subject to a minimum liquidity standard under 12 CFR part 249;

(3) A depository institution; foreign bank; credit union; industrial loan company, industrial bank, or other similar institution described in section 2 of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1841 *et seq.*); national bank, state member bank, or state non-member bank that is not a depository institution;

(4) An insurance company;

(5) A securities holding company as defined in section 618 of the Dodd-Frank Act (12 U.S.C. 1850a); broker or dealer registered with the SEC under section 15 of the Securities Exchange Act (15 U.S.C. 78o); futures commission merchant as defined in section 1a of the Commodity Exchange Act of 1936 (7 U.S.C. 1 *et seq.*); swap dealer as defined in section 1a of the Commodity Exchange Act (7 U.S.C. 1a); or security-based swap dealer as defined in section 3 of the Securities Exchange Act (15 U.S.C. 78c);

(6) A designated financial market utility, as defined in section 803 of the Dodd-Frank Act (12 U.S.C. 5462);

(7) A U.S. intermediate holding company; and

(8) Any company not domiciled in the United States (or a political subdivision thereof) that is supervised and regulated in a manner similar to entities described in paragraphs (1) through (7) of this definition (*e.g.,* a foreign banking organization, foreign insurance company, foreign securities broker or dealer or foreign financial market utility).

(9) A regulated financial company does not include:

(i) U.S. government-sponsored enterprises;

(ii) Small business investment companies, as defined in section 102 of the Small Business Investment Act of 1958 (15 U.S.C. 661 *et seq.*);

(iii) Entities designated as Community Development Financial Institutions (CDFIs) under 12 U.S.C. 4701 *et seq.* and 12 CFR part 1805; or

(iv) Central banks, the Bank for International Settlements, the International Monetary Fund, or multilateral development banks.

* * * * *

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.

* * * * *

U.S. intermediate holding company means a company formed by a foreign banking organization pursuant to 12 CFR 252.153.

* * * * *

■ 36. In § 329.30, revise paragraph (a) and add paragraphs (c) and (d) to read as follows:

§ 329.30 Total net cash outflow amount.

(a) *Calculation of total net cash outflow amount.* As of the calculation date, an FDIC-supervised institution's total net cash outflow amount equals the FDIC-supervised institution's outflow adjustment percentage as determined under paragraph (c) of this section multiplied by:

(1) The sum of the outflow amounts calculated under § 329.32(a) through (l); *minus*

(2) The lesser of:

(i) The sum of the inflow amounts calculated under § 329.33(b) through (g); and

(ii) 75 percent of the amount calculated under paragraph (a)(1) of this section; *plus*

(3) The maturity mismatch add-on as calculated under paragraph (b) of this section.

* * * * *

(c) *Outflow adjustment percentage.* An FDIC-supervised institution's outflow adjustment percentage is determined pursuant to Table 1 to this section.

TABLE 1 TO § 329.30—OUTFLOW ADJUSTMENT PERCENTAGES

[Outflow adjustment percentage]

GSIB FDIC-supervised institution	100 percent.
Category II FDIC-supervised institution	100 percent.
Category III FDIC-supervised institution that:	100 percent.
(1) Is a consolidated subsidiary of a Category III banking organization with $75 billion or more in average weighted short-term wholesale funding; or.	
(2) Has $75 billion or more in average weighted short-term wholesale funding and is not a consolidated subsidiary under a holding company.	
Category III FDIC-supervised institution that:	[70 to 85] percent.
(1) Is a consolidated subsidiary of a Category III banking organization with less than $75 billion in average weighted short-term wholesale funding; or.	
(2) Has less than $75 billion in average weighted short-term wholesale funding and is not a consolidated subsidiary under a holding company.	
An FDIC-supervised institution described in § 329.1(b)(1)(ii) that is the consolidated subsidiary of a U.S. intermediate holding company of a Category II foreign banking organization.	100 percent.

[2] *http://www.ffiec.gov/nicpubweb/nicweb/NicHome.aspx.*

TABLE 1 TO § 329.30—OUTFLOW ADJUSTMENT PERCENTAGES—Continued

[Outflow adjustment percentage]

An FDIC-supervised institution described in § 329.1(b)(1)(ii) that is the consolidated subsidiary of a U.S. intermediate holding company of a Category III foreign banking organization with $75 billion or more in average weighted short-term wholesale funding.	100 percent.
An FDIC-supervised institution described in § 329.1(b)(1)(ii) that is the consolidated subsidiary of a U.S. intermediate holding company of a Category III foreign banking organization with less than $75 billion in average weighted short-term wholesale funding.	[70 to 85] percent.

(d) *Transition.* An FDIC-supervised institution whose outflow adjustment percentage increases from a lower to a higher outflow adjustment percentage may continue to use its previous lower outflow adjustment percentage until the first day of the second calendar quarter after the outflow adjustment percentage increases.

■ 37. In § 329.50, revise paragraph (a) to read as follows:

§ 329.50 Transitions.

(a) *Depository institution subsidiary of a U.S. intermediate holding company.* An FDIC-supervised institution that becomes subject to this part under § 329.1(b)(1)(ii) does not need to comply with the minimum liquidity standard and other requirements of this part until [one year after the effective date of the final rule], at which time the FDIC-supervised institution must begin to calculate and maintain a liquidity coverage ratio daily in accordance with subparts A through N of this part, if the FDIC-supervised institution is a consolidated subsidiary of a U.S. intermediate holding company that, immediately prior to [effective date of final rule]:

(1) Was domiciled in the United States;

(2) Had total consolidated assets equal to $50 billion or more (based on the average of the U.S. intermediate holding company's four most recent Consolidated Financial Statements for Holding Companies reporting forms (FR Y–9Cs));

(3) Had total consolidated assets less than $250 billion as of the 2018 year-end FR Y–9C or Call Report, as applicable; and

(4) Had total consolidated on-balance sheet foreign exposure of less than $10 billion as of year-end 2018 (where total on-balance sheet foreign exposure equals total cross-border claims less claims with a head office or guarantor located in another country plus redistributed guaranteed amounts to the country of the head office or guarantor plus local country claims on local residents plus revaluation gains on foreign exchange and derivative transaction products, calculated in accordance with the Federal Financial Institutions Examination Council (FFIEC) 009 Country Exposure Report).

* * * * *

■ 38. Section 329.105, as proposed to be added at 81 FR 35124 (June 1, 2016), is revised to read as follows:

§ 329.105 Calculation of required stable funding amount.

(a) *Required stable funding amount.* An FDIC-supervised institution's required stable funding (RSF) amount equals the FDIC-supervised institution's required stable funding adjustment percentage as determined under paragraph (b) of this section multiplied by the sum of:

(1) The carrying values of an FDIC-supervised institution's assets (other than amounts included in the calculation of the derivatives RSF amount pursuant to § 329.107(b)) and the undrawn amounts of an FDIC-supervised institution's credit and liquidity facilities, in each case multiplied by the RSF factors applicable in § 329.106; and

(2) The FDIC-supervised institution's derivatives RSF amount calculated pursuant to § 329.107(b).

(b) *Required stable funding adjustment percentage.* An FDIC-supervised institution's required stable funding adjustment percentage is determined pursuant to Table 1 to this section.

TABLE 1 TO § 329.105—REQUIRED STABLE FUNDING ADJUSTMENT PERCENTAGES

[Required stable funding adjustment percentage]

GSIB FDIC-supervised institution	100 percent.
Category II FDIC-supervised institution	100 percent.
Category III FDIC-supervised institution that:	100 percent.
(3) Is a consolidated subsidiary of a Category III banking organization with $75 billion or more in average weighted short-term wholesale funding; or.	
(4) Has $75 billion or more in average weighted short-term wholesale funding and is not a consolidated subsidiary under a holding company.	
Category III FDIC-supervised institution that:	[70 to 85] percent.
(3) Is a consolidated subsidiary of a Category III banking organization with less than $75 billion in average weighted short-term wholesale funding; or.	
(4) Has less than $75 billion in average weighted short-term wholesale funding and is not a consolidated subsidiary under a holding company.	
An FDIC-supervised institution described in § 329.1(b)(1)(ii) that is the consolidated subsidiary of a U.S. intermediate holding company of a Category II foreign banking organization.	100 percent.
An FDIC-supervised institution described in § 329.1(b)(1)(ii) that is the consolidated subsidiary of a U.S. intermediate holding company of a Category III foreign banking organization with $75 billion or more in average weighted short-term wholesale funding.	100 percent.
An FDIC-supervised institution described in § 329.1(b)(1)(ii) that is the consolidated subsidiary of a U.S. intermediate holding company of a Category III foreign banking organization with less than $75 billion in average weighted short-term wholesale funding.	[70 to 85] percent.

(c) *Transition.* An FDIC-supervised institution whose required stable funding adjustment percentage increases from a lower to a higher required stable funding adjustment percentage may continue to use its previous lower required stable funding adjustment percentage until the first day of the second calendar quarter after the required stable funding adjustment percentage increases.

Dated: April 9, 2019.

Joseph M. Otting,

Comptroller of the Currency.

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

Ann E. Misback,

Secretary of the Board.

By order of the Board of Directors.

Federal Deposit Insurance Corporation.

Dated at Washington, DC, on April 16, 2019.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. 2019–09245 Filed 5–21–19; 8:45 am]

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