remaining assessment credits in a single lump-sum payment to such institution in the next assessment period in which the reserve ratio is at least 1.35 percent.

* * * * *

■ 3. Amend § 327.35 by adding paragraph (c) to read as follows:

§ 327.35 Application of credits.

* * * * *

(c) *Remittance of credits.* Subject to the limitations in paragraph (b) of this section, in the same assessment period that the FDIC remits the full nominal value of small bank assessment credits pursuant to § 327.11(c)(13), the FDIC shall remit the full nominal value of an institution's remaining one-time assessment credits provided under this subpart B in a single lump-sum payment to such institution.

Federal Deposit Insurance Corporation.

By order of the Board of Directors.

Dated at Washington, DC, on November 19, 2019.

Annmarie H. Boyd,

Assistant Executive Secretary.

[FR Doc. 2019–25566 Filed 11–26–19; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 390

RIN 3064–AF07

Removal of Transferred OTS Regulations Regarding Deposits

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) is adopting a final rule to rescind and remove a subpart from the Code of Federal Regulations entitled ''Deposits,'' applicable to State savings associations, because the subpart is duplicative of other rules and statutes and is unnecessary to the regulation of State savings associations. The FDIC did not receive any comments on the Notice of Proposed Rulemaking (NPR) and is finalizing the rule as proposed.

DATES: The final rule is effective on December 27, 2019.

FOR FURTHER INFORMATION CONTACT: Karen J. Currie, Senior Examination Specialist, (202) 898–3981, *KCurrie@FDIC.gov,* Division of Risk Management Supervision; Christine M. Bouvier, Assistant Chief Accountant, (202) 898–7289, Division of Risk Management Supervision; Cassandra Duhaney, Senior Policy Analyst, (202) 898–6804, Division of Depositor and Consumer Protection; Laura J. McNulty, Counsel, Legal Division, (202) 898–3817; or Jennifer M. Jones, Counsel, Legal Division (202) 898–6768.

SUPPLEMENTARY INFORMATION:

I. Policy Objective

The policy objective of the rule is to remove unnecessary and duplicative regulations in order to simplify them and improve the public's understanding of them. Thus, the FDIC is rescinding the regulations in part 390, subpart M and reserving the subpart for future use.

II. Background

Part 390, subpart M, was included in the regulations that were transferred to the FDIC from the Office of Thrift Supervision (OTS) on July 21, 2011, in connection with the implementation of applicable provisions of title III of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act).[1]

A. The Dodd-Frank Act

As of July 21, 2011, the transfer date established by section 311 of the Dodd-Frank Act,[2] the powers, duties, and functions formerly performed by the OTS were divided among the FDIC, as to State savings associations, the Office of the Comptroller of the Currency (OCC), as to Federal savings associations, and the Board of Governors of the Federal Reserve System (FRB), as to savings and loan holding companies. Section 316(b) of the Dodd-Frank Act[3] provides the manner of treatment for all orders, resolutions, determinations, regulations, and other advisory materials that have been issued, made, prescribed, or allowed to become effective by the OTS. The section provides that if such materials were in effect on the day before the transfer date, they continue in effect and are enforceable by or against the appropriate successor agency until they are modified, terminated, set aside, or superseded in accordance with applicable law by such successor agency, by any court of competent jurisdiction, or by operation of law.

Pursuant to section 316(c) of the Dodd-Frank Act,[4] on June 14, 2011, the FDIC's Board of Directors (Board) approved a ''List of OTS Regulations to be Enforced by the OCC and the FDIC Pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act.'' This list was published by the FDIC and the OCC as a Joint Notice in the **Federal Register** on July 6, 2011.[5]

Although § 312(b)(2)(B)(i)(II) of the Dodd-Frank Act[6] granted the OCC rulemaking authority relating to both State and Federal savings associations, nothing in the Dodd-Frank Act affected the FDIC's existing authority to issue regulations under the Federal Deposit Insurance Act (FDI Act)[7] and other laws as the ''appropriate Federal banking agency'' or under similar statutory terminology. Section 312(c)(1) of the Dodd-Frank Act[8] revised the definition of ''appropriate Federal banking agency'' contained in § 3(q) of the FDI Act,[9] to add State savings associations to the list of entities for which the FDIC is designated as the ''appropriate Federal banking agency.'' As a result, when the FDIC acts as the appropriate Federal banking agency (or under similar terminology) for State savings associations, as it does here, the FDIC is authorized to issue, modify, and rescind regulations involving such associations, as well as for State nonmember banks and insured State-licensed branches of foreign banks.

As noted above, on June 14, 2011, operating pursuant to this authority, the Board issued a list of regulations of the former OTS that the FDIC would enforce with respect to State savings associations. On that same date, the Board reissued and redesignated certain regulations transferred from the former OTS. These transferred OTS regulations were published as new FDIC regulations in the **Federal Register** on August 5, 2011.[10] When the FDIC republished the transferred OTS regulations as new FDIC regulations, it specifically noted that its staff would evaluate the transferred OTS rules and might later recommend incorporating the transferred OTS regulations into other FDIC regulations, amending them, or rescinding them, as appropriate.[11]

B. Transferred OTS Regulations (Transferred to the FDIC's Part 390, Subpart M)

One of the regulations transferred to the FDIC from the OTS was former 12 CFR 557.20, concerning the maintenance of deposit records by State savings associations.[12] That provision was transferred to the FDIC and now comprises part 390, subpart M. The OTS had issued § 557.20 as part of a

[1] 12 U.S.C. 5301 *et seq.*

[2] 12 U.S.C. 5411.

[3] 12 U.S.C. 5414(b).

[4] 12 U.S.C. 5414(c).

[5] 76 FR 39246 (July 6, 2011).

[6] 12 U.S.C. 5412(b)(2)(B)(i)(II).

[7] 12 U.S.C. 1811 *et seq.*

[8] 12 U.S.C. 5412(c)(1).

[9] 12 U.S.C. 1813(q).

[10] 76 FR 47652 (Aug. 5, 2011).

[11] *See* 76 FR 47653.

[12] *See* 76 FR 47659.

streamlining of its regulations in 1997.[13] At that time, the OTS regulations included several specific deposit recordkeeping requirements, and the OTS sought to replace those with one provision. In the associated NPR, the OTS explained that ''[a]s part of its reinvention effort, OTS is endeavoring to eliminate regulations that are outdated or micromanage thrift operations. For example, OTS proposes to replace several specific deposit-related recordkeeping requirements with a general recordkeeping regulation that is tied more closely to safety and soundness.'' [14]

III. Proposed Rule

Removal of Part 390, Subpart M—Deposits

On August 26, 2019, the FDIC published an NPR regarding the removal of part 390, subpart M (former OTS regulation 12 CFR 557.20), which addressed deposits at State savings associations.[15] The former OTS rule was transferred to the FDIC with only nominal changes. The NPR proposed removing part 390, subpart M from the Code of Federal Regulations, because, after careful review and consideration, the FDIC believes it is unnecessary, redundant, and duplicative of existing statutes and regulations currently applicable to State savings associations.

IV. Comparison of Other Applicable Statutes and Regulations With the Transferred OTS Regulations To Be Rescinded

The following is a description of existing statutes and regulations that provide for complete and accurate recordkeeping of deposits and account transactions at State savings associations, obviating the need for a new regulation or amendment of existing regulations upon rescission of part 390, subpart M. Accordingly, the FDIC proposed that §§ 390.230 and 390.231, part 390, subpart M, be rescinded as unnecessary, redundant of, or otherwise duplicative of the provisions of law delineated in 12 U.S.C. 1817(a)(9); 31 CFR 1020.410(c)(2); 12 CFR part 364, Appendix A II; 12 CFR 330.1(e); and 12 CFR 1005, each discussed individually below.

[13] 62 FR 55759 (Oct. 22, 1997).

[14] 62 FR 15627 (Apr. 2, 1997).

[15] 84 FR 44558 (Aug. 26, 2019).

A. Former OTS Safety and Soundness—Part 390, Subpart M, Sections 390.230 and 390.231

1. § 390.230—What does this subpart do?

Section 390.230 simply states that subpart M ''applies to the deposit activities of State savings associations.'' There is no substantively similar provision in the FDIC's regulations, nor is one necessary. Accordingly, the FDIC proposed that section 390.230 be rescinded.

2. § 390.231—What records should I maintain on deposit activities?

Former OTS § 557.20, as modified by the FDIC in transferred § 390.231, provided general information on what records should be maintained by State savings associations on their deposit activities. Existing statutes and regulations that are applicable to State savings associations (discussed in greater detail below) already require the maintenance of accurate records of deposits and transactions by State savings associations.

B. Data Collection at Insured Depository Institutions

Section 7(a)(9) of the FDI Act [16] provides that ''the Corporation shall take such action as may be necessary to ensure that—(A) each insured depository institution maintains; and (B) the Corporation receives on a regular basis from such institution, information on the total amount of all insured deposits, preferred deposits, and uninsured deposits at the institution.'' In issuing regulations under that statutory provision, the FDIC has stated that it ''has a right and a duty'' under § 7(a)(9) to require the maintenance of accurate deposit account records and that ''requiring covered institutions to maintain complete and accurate records regarding the ownership and insurability of deposits . . . will facilitate the FDIC's prompt payment of deposit insurance and enhance the ability to implement the least costly resolution of these institutions.'' [17] Due to the requirements for accurate recordkeeping pursuant to its existing statutory authority, the FDIC takes the position that no new regulation will be needed upon the rescission of part 390, subpart M.

[16] 12 U.S.C. 1817(a)(9).

[17] 81 FR 87735 (Dec. 5, 2016).

C. Treasury Department Bank Secrecy Act Regulations [18]

Section 1020.410(c)(2) of title 31, Code of Federal Regulations, requires banks (defined to include savings associations [19]) to maintain certain records, including ''[e]ach statement, ledger card or other record on each deposit or share account, showing each transaction in, or with respect to, that account.'' This rule specifically requires that such records be maintained at State savings associations, rather than the merely suggestive language included in part 390, subpart M.

D. Activities Implicating Safety and Soundness; Part 364 [20]

In 1995, the FDIC published 12 CFR 364 as a final rule with an appendix that implements section 39(a) of the FDI Act [21] regarding standards for safety and soundness (Appendix A).[22] The OCC, the FRB, and the OTS also issued their versions of Appendix A.[23] The FDIC's Appendix A II (Operational and Managerial Standards) provides that an institution should have internal controls and information systems that are appropriate to the size of the institution and the nature, scope, and risk of its activities and that provide for, among other things: ''timely and accurate financial, operational and regulatory reports.'' An Appendix B (regarding information security) was also published to implement § 39 of the FDI Act.[24] Section 364.101 of part 364 provides that Appendix A and Appendix B apply to all insured State nonmember banks, State-licensed insured branches of foreign banks, and State savings associations. FDIC-supervised institutions are required to file quarterly Reports of Condition.[25] In

[18] 31 CFR 1020.

[19] 31 CFR 1010.100(d)(3).

[20] 12 CFR part 364, Appendix A II.

[21] 12 U.S.C. 1831p–1. § 132 of the Federal Deposit Insurance Corporation Improvement Act of 1991, Public Law 102–242, 105 Stat. 2236 (codified at 12 U.S.C. 1831p–1) added § 39 to the FDI Act. Section 39 was later amended by § 956 of the Housing and Community Development Act of 1992, Public Law 102–550, 106 Stat. 3672, and § 318 of the Riegle Community Development and Regulatory Improvement Act of 1994, Public Law 103–325, 108 Stat. 2160.

[22] 60 FR 35674 (July 10, 1995).

[23] *See* 12 CFR part 30, Appendix A, 60 FR 35678; 12 CFR part 208, Appendix D–1, 60 FR 35682; (former) 12 CFR part 570, Appendix A, 60 FR 35687, respectively (July 10, 1995).

[24] Appendix B was added in accordance with section 501 of the Gramm-Leach-Bliley Financial Modernization Act of 1999, Public Law 106–102, 113 Stat. 1338, codified at 15 U.S.C. 6801, which statute required the agencies to establish appropriate information security standards in order to protect nonpublic personal information.

[25] 12 U.S.C. 1817(a)(3)–(6); 12 U.S.C. 1464(v).

addition, the accounting principles applicable to reports or statements that insured depository institutions file with the Federal banking agencies are required to be uniform and consistent with generally accepted accounting principles.[26]

Taken together, part 364 and appendix A constitute the FDIC's long-standing expectations for all prudently managed insured depository institutions, but leave specific methods of achieving these objectives to each institution. These regulations provide a framework for sound corporate governance and the supervision of operations designed to prompt an institution to identify emerging problems and correct deficiencies before capital becomes impaired. Pursuant to § 39(e) of the FDI Act,[27] an FDIC-supervised institution's failure to meet the standards may cause the FDIC to require the institution to submit a safety and soundness compliance plan, and if the institution does not comply with its plan, the FDIC will issue an order to correct safety and soundness deficiencies.[28] Hence, in order to accurately report their financial condition, including deposit liabilities, and to meet applicable safety and soundness criteria, insured depository institutions, including State savings associations, must keep accurate and up-to-date records of account transactions and balances.

E. FDIC's Deposit Insurance Coverage Criteria [29]

Part 330 of the FDIC's regulations governs the criteria for deposit insurance coverage at insured depository institutions, including insured State savings associations. Section 330.3(h) of part 330 states that deposit insurance coverage is ''a function of the deposit account records of the insured depository institution . . . which, in the interest of uniform national rules for deposit insurance coverage, are controlling for purposes of determining deposit insurance coverage.'' Further, § 330.1(e) defines the term ''deposit account records'' to include documents such as ''account ledgers . . . and other books and records of the insured depository institution . . . which relate to the insured depository institution's deposit taking function.'' This existing regulation on criteria for deposit insurance also requires State savings associations to maintain records of their deposit transactions, eliminating the need for part 390, subpart M.

F. Bureau of Consumer Financial Protection—Regulation E

Regulation E,[30] issued by the Bureau of Consumer Financial Protection, relates to electronic fund transfers at financial institutions, including any savings association.[31] It states that ''[f]or an account to or from which electronic fund transfers can be made, a financial institution shall send a periodic statement for each monthly cycle in which an electronic fund transfer has occurred; and shall send a periodic statement at least quarterly if no transfer has occurred.'' [32] Thus, in order to comply with existing Regulation E, a State savings association must be capable of generating periodic statements for each of its deposit accounts, whether or not electronic transfers are made from that account, again serving the intended purpose of part 390, subpart M.

Accordingly, as explained in the analysis above, the FDIC proposed removing §§ 390.230 and 390.231, subpart M because these sections are unnecessary, redundant of, or otherwise duplicative of the safety and soundness and other standards described above.

V. Comments

The FDIC issued the NPR with a 30-day comment period, which closed on September 25, 2019. The FDIC received no comments on its Proposed Rule, and consequently the final rule is adopted as proposed.

VI. Explanation of the Final Rule

As discussed in the NPR, the requirements for State savings associations in part 390, subpart M, are duplicative of the regulations and statutes described in Section IV above. To that effect, the Final Rule removes and rescinds 12 CFR part 390, subpart M, in its entirety.

VII. Expected Effects

As explained in detail in Section III of this Supplemental Information section, certain OTS regulations transferred to the FDIC by the Dodd-Frank Act relating to records of deposit transactions and activities are either unnecessary or effectively duplicate existing regulations. This rule would eliminate one of those transferred OTS regulations.

As of June 30th, 2019, the FDIC supervises 3,424 insured depository institutions, of which 38 (1.1%) are State savings associations.[33] The rule primarily would affect regulations that govern State savings associations.

As explained previously, the rule would remove sections §§ 390.230 and 390.231, subpart M, because these sections are unnecessary, redundant of, or otherwise duplicative of other statutes and regulations, including those relating to safety and soundness. Because these regulations are redundant, rescinding them will not have any substantive effects on FDIC-supervised institutions.

VIII. Alternatives

The FDIC has considered alternatives to the rule but believes that the amendments represent the most appropriate option for covered institutions. As discussed previously, the Dodd-Frank Act transferred certain powers, duties, and functions formerly performed by the OTS to the FDIC. The FDIC's Board reissued and redesignated certain transferred regulations from the OTS, but noted that it would evaluate them and might later incorporate them into other FDIC regulations, amend them, or rescind them, as appropriate. The FDIC has evaluated the existing regulations relating to the maintenance of deposit account records. The FDIC considered the status quo alternative of retaining the current regulations, but did not choose to do so. The FDIC believes it would be procedurally complex for FDIC-supervised institutions to continue to refer to these separate sets of regulations, and is therefore amending and streamlining them in accordance with this final rulemaking.

IX. Regulatory Analysis and Procedure

A. The Paperwork Reduction Act

In accordance with the requirements of the Paperwork Reduction Act of 1995 (PRA),[34] the FDIC may not conduct or sponsor, and the 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 final rule rescinds and removes from FDIC regulations part 390, subpart M. The final rule will not create any new or revise any existing collections of information under the PRA. Therefore, no information collection request will be submitted to the OMB for review.

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[26] 12 U.S.C. 1831n.

[27] 12 U.S.C. 1831p–1(e).

[28] *See* 12 U.S.C. 1831p–1(e); 12 CFR 308.300, *et seq*.

[29] 12 CFR 330.

[30] 12 CFR part 1005.

[31] 12 CFR 1005.2(i).

[32] 12 CFR 1005.9(b).

[33] Based on data from the June 30, 2019, Consolidated Reports of Condition and Income (Call Report) and Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks.

[34] 44 U.S.C. 3501–3521.

B. The Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires that, in connection with a final rulemaking, an agency prepare and make available for public comment a final regulatory flexibility analysis that describes the impact of the rule on small entities.[35] However, a 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, and publishes its certification and a short explanatory statement in the **Federal Register**, together with the rule. The Small Business Administration (SBA) has defined ''small entities'' to include banking organizations with total assets of less than or equal to $600 million.[36] [37] Generally, the FDIC considers a significant effect to be a quantified effect in excess of 5 percent of total annual salaries and benefits per institution, or 2.5 percent of total noninterest expenses. The FDIC believes that effects in excess of these thresholds typically represent significant effects for FDIC-supervised institutions. For the reasons provided below, the FDIC certifies that the final rule would not have a significant economic impact on a substantial number of small banking organizations. Accordingly, a regulatory flexibility analysis is not required.

As of June 30, 2019, the FDIC supervised 3,424 insured depository institutions, of which 2,665 are considered small banking organizations for the purposes of RFA. The proposed rule primarily affects regulations that govern State savings associations. There are 36 State savings associations considered to be small banking organizations for the purposes of the RFA.[38]

As explained previously, the rule would remove §§ 390.230 and 390.231, part 390, subpart M, because these sections are unnecessary, redundant of, or otherwise duplicative of other statutes and regulations, including safety and soundness standards. Therefore, rescinding subpart M would not have any substantive effects on small FDIC-supervised institutions.

Based on the information above, the FDIC certifies that the rule would not have a significant economic impact on a substantial number of small entities.

C. The Congressional Review Act

For purposes of Congressional Review Act, the OMB makes a determination as to whether a final rule constitutes a ''major'' rule.[39] If a rule is deemed a major rule by the OMB, the Congressional Review Act generally provides that the rule may not take effect until at least 60 days following its publication.[40]

The Congressional Review Act defines a ''major rule'' as any rule that the Administrator of the Office of Information and Regulatory Affairs of the OMB finds has resulted in or is likely to result in—(A) an annual effect on the economy of $100,000,000 or more; (B) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions, or (C) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.[41]

The OMB has determined that the final rule is not a major rule for purposes of the Congressional Review Act and the FDIC will submit the final rule and other appropriate reports to Congress and the Government Accountability Office for review.

D. Plain Language

Section 722 of the Gramm-Leach-Bliley Act[42] requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The FDIC has sought to present the final rule in a simple and straightforward manner and did not receive any comments on the use of plain language.

E. The Economic Growth and Regulatory Paperwork Reduction Act

Under section 2222 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA), the FDIC is required to review all of its regulations, at least once every 10 years, in order to identify any outdated or otherwise unnecessary regulations imposed on insured institutions.[43] The FDIC, along with the other Federal banking agencies, submitted a Joint Report to Congress on March 21, 2017 (''EGRPRA Report'') discussing how the review was conducted, what has been done to date to address regulatory burden, and further measures the FDIC will take to address issues that were identified.[44] As noted in the EGRPRA Report, the FDIC is continuing to streamline and clarify its regulations through the OTS rule integration process. By removing outdated or unnecessary regulations, such as part 390, subpart M, this final rule complements other actions that the FDIC has taken, separately and with the other Federal banking agencies, to further the EGRPRA mandate.

F. Riegle Community Development and Regulatory Improvement Act of 1994

Pursuant to section 302(a) of the Riegle Community Development and Regulatory Improvement Act of 1994 (RCDRIA),[45] in determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on insured depository institutions (IDIs), 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 depository institutions, including small depository institutions, and customers of depository institutions, as well as the benefits of such regulations. In addition, section 302(b) of RCDRIA requires new regulations and amendments to regulations that impose additional reporting, disclosures, or other new requirements on IDIs 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.[46]

Because the final rule does not impose additional reporting, disclosure, or other new requirements on IDIs, section 302 of the RCDRIA does not apply.

List of Subjects in 12 CFR Part 390

Deposits.

[35] 5 U.S.C. 601 *et seq.*

[36] The SBA defines a small banking organization as having $600 million or less in assets, where ''a financial institution'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 by 84 FR 34261, effective August 19, 2019). ''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 FDIC-supervised institution is ''small'' for the purposes of RFA.

[37] The FDIC supplemented the original notice of proposed rulemaking with updated supporting information for the RFA section that reflected changes to the SBA's monetary-based size standards which were adjusted for inflation as of August 19, 2019. *See* 84 FR 52834 (Oct. 3, 2019).

[38] Based on data from the June 30, 2019, Call Report and Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks.

[39] 5 U.S.C. 801 *et seq.*

[40] 5 U.S.C. 801(a)(3).

[41] 5 U.S.C. 804(2).

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

[43] Public Law 104–208, 110 Stat. 3009 (1996).

[44] 82 FR 15900 (March 31, 2017).

[45] 12 U.S.C. 4802(a).

[46] *Id.*

Authority and Issuance

For the reasons stated in the preamble, the Federal Deposit Insurance Corporation amends 12 CFR 390 as follows:

PART 390—REGULATIONS TRANSFERRED FROM THE OFFICE OF THRIFT SUPERVISION

■ 1. The authority citation for part 390 is revised to read as follows:

Authority: 12 U.S.C. 1819.

Subpart F also issued under 5 U.S.C. 552; 559; 12 U.S.C. 2901 *et seq.*

Subpart G also issued under 12 U.S.C. 2810 *et seq.,* 2901 *et seq.;* 15 U.S.C. 1691; 42 U.S.C. 1981, 1982, 3601–3619.

Subpart O also issued under 12 U.S.C. 1828.

Subpart Q also issued under 12 U.S.C. 1462; 1462a; 1463; 1464.

Subpart R also issued under 12 U.S.C. 1463; 1464; 1831m; 1831n; 1831p–1.

Subpart S also issued under 12 U.S.C. 1462; 1462a; 1463; 1464; 1468a; 1817; 1820; 1828; 1831e; 1831o; 1831p–1; 1881–1884; 3207; 3339; 15 U.S.C. 78b; 78l; 78m; 78n; 78p; 78q; 78w; 31 U.S.C. 5318; 42 U.S.C. 4106.

Subpart T also issued under 12 U.S.C. 1462a; 1463; 1464; 15 U.S.C. 78c; 78l; 78m; 78n; 78w.

Subpart W also issued under 12 U.S.C. 1462a; 1463; 1464; 15 U.S.C. 78c; 78l; 78m; 78n; 78p; 78w.

Subpart Y also issued under 12 U.S.C. 1831o.

Subpart M—[Removed and Reserved]

■ 2. Remove and reserve subpart M, consisting of §§ 390.230 and 390.231.

Federal Deposit Insurance Corporation.

By order of the Board of Directors.

Dated at Washington, DC, on November 19, 2019.

Annmarie H. Boyd,

Assistant Executive Secretary.

[FR Doc. 2019–25697 Filed 11–26–19; 8:45 am]

BILLING CODE 6714–01–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1022

Fair Credit Reporting Act Disclosures

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Final rule; official interpretation.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) is issuing this final rule amending an appendix for Regulation V, which implements the Fair Credit Reporting Act (FCRA). The Bureau is required to calculate annually the dollar amount of the maximum allowable charge for disclosures by a consumer reporting agency to a consumer pursuant to FCRA Section 609; this final rule establishes the maximum allowable charge for the 2020 calendar year.

DATES: This final rule is effective January 1, 2020.

FOR FURTHER INFORMATION CONTACT: Rachel Ross, Attorney-Advisor; Kristen Phinnessee, Senior Counsel, Office of Regulations, at (202) 435–7700. If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.*

SUPPLEMENTARY INFORMATION: The Bureau is amending appendix O for Regulation V, which implements the FCRA, to establish the maximum allowable charge for disclosures by a consumer reporting agency to a consumer for 2020. The maximum allowable charge will remain at $12.50 for 2020.

I. Background

Under section 609 of the FCRA, a consumer reporting agency must, upon a consumer's request, disclose to the consumer information in the consumer's file.[1] Section 612(a) of the FCRA gives consumers the right to a free file disclosure upon request once every 12 months from the nationwide consumer reporting agencies and nationwide specialty consumer reporting agencies.[2] Section 612 of the FCRA also gives consumers the right to a free file disclosure under certain other, specified circumstances.[3] Where the consumer is not entitled to a free file disclosure, section 612(f)(1)(A) of the FCRA provides that a consumer reporting agency may impose a reasonable charge on a consumer for making a file disclosure. Section 612(f)(1)(A) of the FCRA provides that the charge for such a disclosure shall not exceed $8.00 and shall be indicated to the consumer before making the file disclosure.[4]

Section 612(f)(2) of the FCRA also states that the $8.00 maximum amount shall increase on January 1 of each year, based proportionally on changes in the Consumer Price Index, with fractional changes rounded to the nearest fifty cents.[5] Such increases are based on the Consumer Price Index for All Urban Consumers (CPI–U), which is the most general Consumer Price Index and covers all urban consumers and all items.

II. Adjustment

For 2020, the ceiling on allowable charges under section 612(f) of the FCRA will be $12.50, unchanged from 2019. The Bureau is using the $8.00 amount set forth in section 612(f)(1)(A)(i) of the FCRA as the baseline for its calculation of the increase in the ceiling on reasonable charges for certain disclosures made under section 609 of the FCRA. Since the effective date of section 612(a) was September 30, 1997, the Bureau calculated the proportional increase in the CPI–U from September 1997 to September 2019. The Bureau then determined what modification, if any, from the original base of $8.00 should be made effective for 2020, given the requirement that fractional changes be rounded to the nearest fifty cents.

Between September 1997 and September 2019, the CPI–U increased by 59.28 percent from an index value of 161.2 in September 1997 to a value of 256.759 in September 2019. An increase of 59.28 percent in the $8.00 base figure would lead to a figure of $12.74. However, because the statute directs that the resulting figure be rounded to the nearest $0.50, the maximum allowable charge is $12.50. The Bureau therefore determines that the maximum allowable charge for the year 2020 will remain at $12.50.

III. Procedural Requirements

A. Administrative Procedure Act

Under the Administrative Procedure Act, notice and opportunity for public comment are not required if the Bureau finds that notice and public comment are impracticable, unnecessary, or contrary to the public interest.[6] Pursuant to this final rule, in Regulation V, appendix O, is amended to update the maximum allowable charge for 2020 under section 612(f). The amendments in this final rule are technical and non-discretionary, as they merely apply the method previously established in Regulation V for determining adjustments to the thresholds. For these reasons, the Bureau has determined that publishing a notice of proposed rulemaking and providing opportunity for public comment are unnecessary. The amendments therefore are adopted in final form.

[1] 15 U.S.C. 1681g.

[2] 15 U.S.C. 1681j(a).

[3] 15 U.S.C. 1681j(b)–(d). The maximum allowable charge announced by the Bureau does not apply to requests made under section 612(a)–(d) of the FCRA. The charge does apply when a consumer who orders a file disclosure has already received a free annual file disclosure and does not otherwise qualify for an additional free file disclosure.

[4] 15 U.S.C. 1681j(f)(1)(A).

[5] 15 U.S.C. 1681j(f)(2).

[6] 5 U.S.C. 553(b)(B).