

**6714-01-P**

**FEDERAL DEPOSIT INSURANCE CORPORATION**

**12 CFR Part 325**

**RIN 3064-AE84**

**Company-Run Stress Testing Requirements for FDIC-Supervised State Nonmember Banks and State Savings Associations**

**AGENCY:** Federal Deposit Insurance Corporation.

**ACTION:** Final rule.

**SUMMARY:** The Federal Deposit Insurance Corporation (FDIC) is adopting a final rule to amend the FDIC's company-run stress testing regulations applicable to state nonmember banks and state savings associations, consistent with section 401 of the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA). Specifically, the final rule revises the minimum threshold for applicability from \$10 billion to \$250 billion, revises the frequency of required stress tests by FDIC-supervised institutions, and reduces the number of required stress testing scenarios from three to two. The final rule also makes certain conforming and technical changes.

**DATES:** The final rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]

**FOR FURTHER INFORMATION CONTACT:**

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## **SUPPLEMENTARY INFORMATION:**

### **I. Policy Objective**

The policy objective of the final rule is to conform the FDIC's regulations to section 401 of EGRRCPA, which raises the applicability threshold for company-run stress testing required by section 165(i)(2) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) from \$10 billion to \$250 billion, revises the required periodicity of such stress testing from "annual" to "periodic," and removes the requirement that such stress testing include an "adverse" scenario.

### **II. Background**

Prior to the enactment of EGRRCPA, section 165(i)(2) of the Dodd-Frank Act required a financial company, including an insured depository institution, with total consolidated assets of more than \$10 billion and regulated by a primary federal regulatory agency to conduct annual stress tests and submit a report to the Board of Governors of the Federal Reserve System (Board) and to its primary federal regulatory agency.<sup>1</sup> Section 165(i)(2)(C) required each primary federal regulator to issue consistent and comparable regulations to: (1) implement the stress testing requirements, including establishing methodologies for conducting stress tests that provided for at least three different sets of conditions, including baseline, adverse, and severely adverse; (2) establish the form and content of the required reports, and (3) require companies to publish a summary of the stress test results.

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<sup>1</sup> Public Law 111-203, § 165(i)(2), 124 Stat. 1376, 1430-31 (2010).

In October 2012, the FDIC published in the *Federal Register* its rule implementing the Dodd-Frank Act stress testing requirement.<sup>2</sup> The FDIC regulation at 12 CFR Part 325 implements the company-run stress test requirements of section 165(i)(2) of the Dodd-Frank Act with respect to state nonmember banks and state savings associations with more than \$10 billion in assets (covered banks). Although 12 CFR Part 325 applies to all covered banks that exceed \$10 billion in assets, the regulation differentiates between “\$10 billion to \$50 billion covered banks” and “over \$50 billion covered banks.”

EGRRCPA, enacted on May 24, 2018,<sup>3</sup> amended certain aspects of the company-run stress-testing requirements in section 165(i)(2) of the Dodd-Frank Act. Specifically, section 401 of EGRRCPA raises the minimum asset threshold for the company-run stress testing requirement from \$10 billion to \$250 billion; replaces the requirement for banks to conduct stress tests “annually” with the requirement to conduct stress tests “periodically;” and no longer requires the “adverse” stress testing scenario, thus reducing the number of required stress testing scenarios from three to two. The EGRRCPA amendments to the section 165(i)(2) stress testing requirements are effective eighteen months after enactment.

Prior to the enactment of EGRRCPA, on April 2, 2018, the FDIC issued a notice of proposed rulemaking that also proposed certain revisions to the FDIC stress testing regulations (April 2018 NPR).<sup>4</sup> Certain changes proposed in the April NPR, particularly

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<sup>2</sup> 77 FR 62417 (October 15, 2012). The Board and the Office of the Comptroller of the Currency contemporaneously issued comparable regulations. See 77 FR 62380 (October 12, 2012) (Board); 77 FR 61238 (October 9, 2012) (OCC).

<sup>3</sup> Pub. L. 115-174, 132 Stat. 1296-1368 (2018).

<sup>4</sup> 83 FR 13880 (April 2, 2018).

those establishing a stress testing transition process for “over \$50 billion covered banks” are no longer relevant as a result of EGRRCPA’s increase in the stress testing asset threshold to \$250 billion. However, other revisions originally proposed in the April NPR remain necessary to ensure the FDIC’s stress testing regulations remain consistent with those of the Board and the Office of the Comptroller of the Currency (OCC).

### **III. Proposed Rule**

On December 28, 2018 the FDIC published in the *Federal Register* a notice of proposed rulemaking (proposed rule or proposal) to amend 12 CFR Part 325 consistent with section 401 of EGRRCPA. Specifically, the proposal would have raised the applicability threshold for covered banks required to conduct stress tests from \$10 billion to \$250 billion, reduced the frequency by which covered banks would generally be required to conduct stress tests from annually to biennially, and eliminated the requirement that covered banks use the “adverse” scenario when conducting stress tests. The proposal also included various technical changes to facilitate the above revisions, a proposed transition period, and proposed revisions to the regulation’s reservation of authority. The proposed rule also included certain provisions initially proposed in the April 2018 NPR, such as extending the as-of date range for trading and counterparty components for covered banks with significant trading activities.

The FDIC received six comments in response to the proposed rule. With respect to raising the applicability threshold from \$10 to \$250 billion, some commenters supported raising the threshold, others acknowledged that such a revision was statutorily required, and others expressed concern that eliminating stress testing requirements for banks under \$250 billion may raise prudential concerns. Similarly, some commenters supported the

proposed rule's elimination of the "adverse" scenario, positing that the adverse scenario is of limited utility,<sup>5</sup> some acknowledged that removing the "adverse" scenario is statutorily required, and others expressed concern that eliminating the "adverse" scenario may reduce the efficacy of company-run stress testing. The FDIC appreciates the concerns raised by commenters, but does not believe that they warrant changes to the proposal, and is finalizing without change the proposal to align the regulatory threshold for company-run stress testing by covered banks with the statutory threshold of \$250 billion established by section 401 of EGRCCPA, and to eliminate the "adverse" scenario requirement, consistent with section 401 of EGRCCPA.

With respect to the proposed rule's requirement that covered banks generally be subject to biennial stress testing, some commenters supported biennial stress testing as being an appropriate frequency for most covered banks, while others contended that reducing the frequency from annual to biennial would not be appropriate. Among the concerns highlighted by these commenters was that such a reduction in the frequency of stress testing could lead to complacency by covered banks in managing risk, and that biennial stress tests would not be sufficiently current to be credible. One commenter specifically suggested that a data-driven empirical analysis should support the change from annual to biennial stress testing, and that biennial stress testing would not be appropriate since firms make choices about dividends and repurchases on an annual basis. This commenter also suggested that the risks associated with reducing the

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<sup>5</sup> One commenter recommended that the FDIC, OCC, and FRB (agencies) not include the adverse scenario in the 2019 stress tests. The FDIC did not consider it necessary to do so, and notes that the EGRCCPA amendments to the Dodd-Frank Act's company-run stress testing requirements are effective November 24, 2019.

frequency of stress testing would be amplified by other regulatory proposals addressing capital and liquidity requirements.

Based on its experience in overseeing and reviewing the results of company-run stress testing, the FDIC believes that biennial stress testing would be appropriate under most conditions for covered banks. The FDIC expects biennial stress testing to sufficiently satisfy the purposes of stress testing, including assisting in an overall assessment of a covered bank's capital adequacy, identifying risks and the potential impact of adverse financial and economic conditions on a covered bank's capital adequacy, and determining whether additional analytical techniques and exercises would be appropriate for a covered bank to employ in identifying, measuring, and monitoring risks to the soundness of the covered bank. In addition, the FDIC would continue to review the covered bank's stress testing processes and procedures. Under the final rule, all covered banks that conduct stress tests on a biennial basis are required to conduct stress tests in the same reporting year (i.e., the reporting years for biennial stress testing covered banks would be synchronized). By requiring these covered banks to conduct their stress tests in the same reporting year, the final rule allows the FDIC to make comparisons across banks for supervisory purposes and assess macroeconomic trends and risks to the banking industry. The FDIC also notes that it retains the ability to require more frequent stress testing pursuant to its reservation of authority under 12 CFR 325.1(c).

#### **IV. Final Rule**

The FDIC is adopting without change the proposed revisions to the FDIC's stress testing rule, as described in detail below.

### *A. Covered Banks*

Section 401 of EGRRCPA amended section 165 of the Dodd-Frank Act by raising the minimum asset threshold for banks required to conduct stress tests from \$10 billion to \$250 billion. The final rule implements this change by eliminating the two existing subcategories of “covered bank”—“\$10 to \$50 billion covered bank” and “over \$50 billion covered bank”—and revising the term “covered bank” to mean a state nonmember bank or state savings association with average total consolidated assets that are greater than \$250 billion. In addition, the final rule makes certain technical and conforming changes to 12 CFR Part 325 in order to consolidate requirements, such as those related to reporting and publication, that are currently referenced separately with respect to \$10 billion to \$50 billion covered banks and over \$50 billion covered banks.

### *B. Frequency of stress testing*

Section 401 of EGRRCPA also changed the requirement under section 165 of the Dodd-Frank Act to conduct stress tests from “annual” to “periodic.” Consistent with proposals by the Board and the OCC, the final rule provides that, in general, an FDIC-supervised institution that is a covered bank as of December 31, 2019, is required to conduct, report, and publish a stress test once every two years, beginning on January 1, 2020, and continuing every even-numbered year thereafter (*i.e.*, 2022, 2024, 2026, etc.). The final rule also adds a new defined term, “reporting year,” to the definitions at 12 CFR § 325.2. A covered bank’s reporting year is the year in which a covered bank must conduct, report, and publish its stress test. As noted above, the “reporting year” for most covered banks would generally be every even-numbered year.

Certain covered banks may be required to conduct stress tests annually under the final rule. This subset of covered banks is limited to those that are consolidated under holding companies that are required to conduct stress tests more frequently than once every other year. On November 29, 2018, the Board published a proposed rule that would establish risk-based categories for determining the application of prudential standards, including stress testing.<sup>6</sup> The proposed rule would distinguish between four risk-based categories for holding companies. Three of these categories—“global systemically important BHCs,” “Category II bank holding companies,” and “Category III bank holding companies”—would be required to conduct company-run stress tests. Category I holding companies and Category II holding companies would be required to conduct company-run stress tests annually, while Category III holding companies would be required to conduct company-run stress tests biennially.<sup>7</sup>

Because the FDIC’s final stress testing rule would require a covered institution to conduct stress tests annually if its parent holding company is required to do so under Board regulations, the FDIC’s stress testing regulation would incorporate by reference any potential changes to stress testing frequency in the Board’s regulations, including from the Board’s proposed rule. This treatment aligns with the FDIC’s, OCC’s, and Board’s long-standing policy of applying similar standards to holding companies and their subsidiary banks, and reflects the FDIC’s expectation that covered banks that would be required to stress test on an annual basis would be subsidiaries of the largest and most

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<sup>6</sup> See “Prudential Standards for Large Bank Holding Companies and Savings and Loan Holding Companies,” 83 FR 61408 (Nov. 29, 2018).

<sup>7</sup> A Category III holding company would be a holding company that is not a Category II holding company and that has (1) \$250 billion or more in average total consolidated assets or (2) \$100 billion or more in average total consolidated assets and \$75 billion or more in total consolidated assets in one of three risk indicators.

systemically important banking organizations, (i.e., under the Board’s proposed rule, subsidiaries of global systemically important bank holding companies or bank holding companies that have \$700 billion or more in total assets or cross-jurisdictional activity of \$75 billion). There are currently no FDIC-supervised covered banks that are subsidiaries of bank holding companies that would be required to conduct annual company-run stress tests under the Board’s proposed rule.

For covered banks that are required to conduct stress tests biennially or annually, the dates and deadlines in the FDIC’s stress testing rule applies for each reporting year for a covered bank. For example, a biennial stress testing covered bank preparing its 2022 stress test would rely on financial data available as of December 31, 2021; use stress test scenarios that would be provided by the FDIC no later than February 15, 2022; provide its report of the stress test to the FDIC by April 5, 2022; and publish a summary of the results of its stress test in the period starting June 15 and ending July 15 of 2022.

### *C. Removal of “Adverse” Scenario*

As enacted by the Dodd-Frank Act, section 165(i)(2)(C) required the FDIC to establish methodologies for conducting stress tests and further required the inclusion of at least three different stress-testing scenarios: “baseline,” “adverse,” and “severely adverse.” EGRRCPA amended section 165(i) to no longer require the FDIC to include an “adverse” stress-testing scenario and to reduce the minimum number of required stress test scenarios from three to two. Given that the “adverse” stress-testing scenario has provided limited incremental information to the FDIC and market participants beyond what the “baseline” and “severely adverse” stress testing scenarios provide, the final rule removes the “adverse” scenario in the FDIC’s stress testing rule and maintains the

requirement to conduct stress tests under the “baseline” and “severely adverse” stress testing scenarios. The final rule also amends the definition of “severely adverse scenario” so that the term is defined relative to the “baseline scenario,” rather than relative to the “adverse scenario.”

*D. Transition process for covered banks*

Currently, 12 CFR § 325.3 provides for a transition period between when a bank becomes a covered bank and when the bank must report its first stress test. The final rule revises the transition period in 12 CFR § 325.3 to conform to the other changes in this final rule. Accordingly, paragraph (a)(2) generally requires a state nonmember bank or state savings association that becomes a covered bank after December 31, 2019, to conduct its first stress test under this part in the first reporting year that begins more than three calendar quarters after the date the state nonmember bank or state savings association becomes a covered bank. For example, if a covered bank that conducts stress tests on a biennial basis becomes a covered bank on March 31 of a non-reporting year (*e.g.*, 2023), the bank would report its first stress test in the subsequent calendar year (*i.e.*, 2024), which is its first reporting year. If the same bank becomes a covered bank on April 1 of a non-reporting year (*e.g.*, 2023), it would skip the subsequent reporting calendar year and the following, non-reporting calendar year, and would report its first stress test in the next reporting year (*i.e.*, 2026). As with other aspects of the stress test rule, the rule reserves to the FDIC the authority to change the transition period for a particular covered bank, as appropriate in light of the nature and level of the activities,

complexity, risks, operations, and regulatory capital of the covered bank, in addition to any other relevant factors.<sup>8</sup>

The final rule does not establish a transition period for covered banks that move from a biennial stress testing requirement to an annual stress testing requirement. Accordingly, a covered bank that becomes subject to annual stress testing would be required to begin stress testing annually as of the next reporting year. The FDIC expects that covered banks would anticipate and make arrangements for this development. To the extent that particular circumstances warrant the extension of a transition period, the FDIC would do so based on its reservation of authority and supervisory discretion.

*E. Review by Board of Directors*

Currently, 12 CFR § 325.5(b)(2) requires a covered bank's board of directors, or a committee thereof, to approve and review the policies and procedures of the stress testing processes as frequently as economic conditions or the bank's condition may warrant, but no less than annually. The final rule revises the frequency of this requirement from "annual" to "once every reporting year" in order to make review by the board of directors consistent with the covered bank's stress testing cycle.

*F. Reservation of Authority*

12 CFR § 325.1(c) currently includes a reservation of authority, pursuant to which the FDIC may revise the frequency and methodology of the stress testing requirement as appropriate for a particular covered bank. The final rule amends the reservation of authority by clarifying the FDIC's authority to exempt a covered bank from the requirement to conduct a stress test in a particular reporting year.

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<sup>8</sup> 12 CFR § 325.1(c).

### *G. New Range of As-of Dates for Trading Scenario Component*

Under 12 CFR § 325.4(c), the FDIC may require a covered bank with significant trading activities to include trading and counterparty components in its adverse and severely adverse scenarios. The trading data to be used in this component is as of a date between January 1 and March 1 of a calendar year.<sup>9</sup> On February 3, 2017 the Board published a final rule that extended this range to run from October 1 of the calendar year preceding the year of the stress test to March 1 of the calendar year of the stress test.<sup>10</sup> On February 23, 2018, the OCC published a final rule making the same change to its stress testing regulation.<sup>11</sup> On April 2, 2018, the FDIC issued a notice of proposed rulemaking that proposed such a change, and the proposed rule re-proposed this provision.<sup>12</sup> No comments were received regarding this aspect of the proposal. The final rule adopts the same change to the FDIC's stress testing regulation, extending the range of as-of dates from October 1 of the preceding calendar year to March 1 of the calendar year of the stress test. Extending the as-of date range ensures consistency with the Board and OCC rules and increases the FDIC's flexibility to choose an appropriate as-of date.

### *H. Other changes*

As originally proposed in the April NPR and in the proposed rule, the final rule removes certain obsolete transitional language in 12 CFR § 325.3 that was included to facilitate a 2014 shift in the dates of the annual stress testing cycle.<sup>13</sup> That transition is now complete and the regulatory transition language is no longer necessary.

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<sup>9</sup> 12 CFR 325.4(c).

<sup>10</sup> 82 FR 9308 (Feb 3, 2017).

<sup>11</sup> 83 FR 7951 (Feb. 23, 2018).

<sup>12</sup> 83 FR 13880 (April 2, 2018).

<sup>13</sup> 79 FR 69365 (Nov. 21, 2014).

Additionally, in order to update and standardize the language used in Part 325, references to “this subpart” is changed to “this part” following the redesignation of the FDIC’s stress test rule from Subpart C of 12 CFR Part 325 to occupy all of Part 325.<sup>14</sup> Lastly, the final rule eliminates the reference to supervisory guidance in 12 CFR 325.5(b)(1).<sup>15</sup>

#### **IV. Regulatory Analysis**

##### **A. *Riegle Community Development and Regulatory Improvement Act of 1994***

The RCDRIA requires that the FDIC, in determining the effective date and administrative compliance requirements of new regulations that impose additional reporting, disclosure, or other requirements on insured depository institutions (IDIs), 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.<sup>16</sup> In addition, in order to provide an adequate transition period, new regulations that impose additional reporting, disclosures, or other new requirements on IDIs generally must 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.

The final rule imposes no additional reporting, disclosure, or other requirements on IDIs, including small depository institutions, nor on the customers of depository

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<sup>14</sup> 83 FR 17737 (Apr. 24, 2018). Additional technical amendments to part 325 were recently proposed in a notice of proposed rulemaking to implement the current expected credit losses methodology for allowances. 83 FR 22312 (May 14, 2018).

<sup>15</sup> See Interagency Statement Clarifying the Role of Supervisory Guidance, Financial Institution Letter 49-2018 (Sep. 11, 2018).

<sup>16</sup> 12 U.S.C. 4802.

institutions. The final rule reduces the frequency of company-run stress tests for a subset of banks, raises the threshold for covered banks from \$10 billion to \$250 billion, and reduces the number of required stress test scenarios from three to two for all covered banks. The requirement to conduct, report, and publish a company-run stress testing is a previously existing requirement imposed by section 165(i) of the Dodd-Frank Act. Accordingly, RCDRIA does not apply to the final rule.

The final rule is effective 30 days after publication in the *Federal Register*.

#### **B. *The Regulatory Flexibility Act***

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 et seq., generally requires an agency, in connection with a final rule, to prepare and make available for public comment a final regulatory flexibility analysis that describes the impact of a final rule on small entities.<sup>17</sup> However, a regulatory flexibility analysis is not required if the agency certifies that the rule would 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 \$600 million that are independently owned and operated or owned by a holding company with less than \$600 million in total assets.<sup>18</sup> For the reasons described below and under section 605(b) of the RFA, the FDIC certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities.

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<sup>17</sup> 5 U.S.C. 601 et seq.

<sup>18</sup> 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 covered entity is “small” for the purposes of RFA.

The FDIC has considered the potential impact of the final rule on small entities in accordance with the RFA. The FDIC supervises 3,424 depository institutions,<sup>19</sup> of which, 2,665 are defined as small banking entities by the terms of the RFA.<sup>20</sup> As discussed in the Background Section, 12 CFR Part 325 implements company-run stress test requirements for all state nonmember banks and state savings associations with more than \$10 billion in assets (covered banks). The final rule raises the threshold for covered banks required to conduct company-run stress testing from \$10 billion to \$250 billion. No FDIC-supervised institutions with total consolidated assets of \$600 million or less are subject to 12 CFR Part 325. Therefore, the final rule would not affect any small, FDIC-supervised institutions.

**C. *The Paperwork Reduction Act***

The FDIC has determined that this final rule involves a collection of information pursuant to the provisions of the Paperwork Reduction Act of 1995 (the PRA) (44 U.S.C. 3501 et seq.).

A Federal agency may not conduct or sponsor, and an organization is not required to respond to, this information collection unless the information collection displays a currently valid Office of Management and Budget (OMB) control number. The FDIC has obtained an OMB control number for this information collection (3064-0189) and will make a submission to OMB in connection with the final rule. The FDIC did not receive any comments on its estimated total annual burden for the stress testing rule. The estimates are as follows:

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<sup>19</sup> FDIC-supervised institutions are set forth in 12 U.S.C. 1813(q)(2).

<sup>20</sup> FDIC Call Report, June 30, 2019.

Revised Information Collection Title: Stress Test Reporting Templates and Documentation for Covered Banks with Total Consolidated Assets of \$250 Billion or More.

OMB Number: 3064-0189.

Form Number: FDIC DFAST 14A Summary; FDIC DFAST 14A Scenario.

Affected Public: Insured state nonmember banks

Burden Estimate:

<b>Summary of Annual Burden</b>						
<b>Information Collection Description</b>	<b>Type of Burden</b>	<b>Obligation to Respond</b>	<b>Estimated Number of Respondents</b>	<b>Estimated Frequency of Responses</b>	<b>Estimated Time per Response</b>	<b>Estimated Annual Burden</b>
Methodologies and Practices	Recordkeeping	Mandatory	1*	Annually	640 hours	640 hours
Stress Test Reporting	Reporting	Mandatory	1*	Annually	240 hours	240 hours
Publications	Disclosure	Mandatory	1*	Annually	160 hours	160 hours

**Estimated Total Annual Burden**

**1,040 hours**

\*Note: FDIC estimates that none of the existing FDIC-supervised institutions are currently subject to the recordkeeping, reporting or disclosure requirements in the proposed rule. However, FDIC is reporting one respondent as a placeholder to preserve the burden estimate in case an institution becomes subject to these requirements in the future.

**D. *Plain Language***

Section 722 of the Gramm-Leach-Bliley Act requires the FDIC to use plain language in all proposed and final rules published after January 1, 2000. In the proposal, the FDIC requested comment on how to make this proposed rule easier to understand, and received no responsive comments.

**F. *The Congressional Review Act***

Pursuant to the Congressional Review Act, the Office of Management and Budget's Office of Information and Regulatory Affairs designated this rule as not a "major rule," as defined at 5 U.S.C. 804(2).

## **List of Subjects**

### **12 CFR Part 325**

Administrative practice and procedure, Banks, Banking, Reporting and recordkeeping requirements, State savings associations, Stress tests.

## **Authority and Issuance**

For the reasons stated in the preamble, the FDIC amends 12 CFR part 325 as follows:

### **PART 325 – STRESS TESTING**

1. The heading for part 325 is revised to read as set forth above.
2. The authority citation for part 325 continues to read as follows:

**AUTHORITY:** 12 U.S.C. 5365(i)(2), 12 U.S.C. 5412(b)(2)(C), 12 U.S.C. 1818, 12 U.S.C. 1819(a)(Tenth), 12 U.S.C. 1831o, and 12 U.S.C. 1831p-1.

3. In part 325, revise all references to "subpart" to read "part".

4. Amend § 325.1 by:

- a. Revising paragraph (b); and

- b. Redesignating current paragraphs (c)(4), (5), and (6) as (c)(5), (6), and (7), and adding new paragraph (c)(4).

The revisions read as follows:

#### **§ 325.1 Authority, purpose, and reservation of authority.**

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(b) *Purpose.* This part implements 12 U.S.C. 5365(i)(2), which requires the Corporation (in coordination with the Board of Governors of the Federal Reserve System

(Board) and the Federal Insurance Office) to issue regulations that require each covered bank to conduct periodic stress tests, and establishes a definition of stress test, methodologies for conducting stress tests, and reporting and disclosure requirements.

(c) *Reservation of authority.* Notwithstanding any other provisions of this part, the Corporation may modify some or all of the requirements of this part.

(1) The Corporation may accelerate or extend any deadline for stress testing, reporting, or publication of the stress test results.

(2) The Corporation may require different or additional tests not otherwise required by this part or may require or permit different or additional analytical techniques and methodologies, different or additional scenarios (including components for the scenarios), or different assumptions for the covered bank to use in meeting the requirements of this part. In addition, the FDIC may specify a different as-of date for any or all categories of financial data used by the stress test.

(3) The Corporation may modify the reporting requirements of a report under this part or may require additional reports. The Corporation may modify the publication requirements of this part and or may require different or additional publication disclosures.

(4) The Corporation may also exempt a covered bank from the requirement to conduct a stress test in a particular reporting year.

(5) Factors considered: Any exercise of authority under this section by the Corporation will be in writing and will consider the activities, level of complexity, risk profile, scope of operations, and the regulatory capital of the covered bank, in addition to any other relevant factors.

(6) Notice and comment procedures: In exercising its authority to require different or additional stress tests and different or additional scenarios (including components for the scenarios) under paragraph (c)(2) of this section, the Corporation will apply notice and response procedures in the same manner and to the same extent as the notice and response procedures in 12 CFR 324.5, as appropriate.

(7) Nothing in this subpart limits the authority of the Corporation under any other provision of law or regulation to take supervisory or enforcement action, including action to address unsafe and unsound practices or conditions, or violations of law or regulation.

4. Amend § 325.2 by:

- a. Removing the definition of “adverse scenario” in paragraph (a) and redesignating current paragraphs (b)-(h) as paragraphs (a)-(g);
- b. Adding the definition of “reporting year” as paragraph (h); and
- c. Revising the definitions of “covered bank” in paragraph (c), “scenarios” in paragraph (i), “severely adverse scenario” in paragraph (j), and “stress testing cycle” in paragraph (m).

The revisions and additions read as follows:

**§ 325.2 Definitions.**

*For purposes of this part—*

\* \* \* \* \*

(c) *Covered bank* means any state nonmember bank or state savings association with average total consolidated assets calculated as required under this part that are greater than \$250 billion.

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(h) *Reporting year* means the calendar year in which a covered institution must conduct, report, and publish its stress test, as required under 12 CFR 325.4(d).

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

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

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(m) *Stress test cycle* means the period beginning January 1 of a reporting year and ending on December 31 of that reporting year.

5. Revise § 325.3 to read as follows:

**§ 325.3 Applicability.**

(a) *Covered banks subject to stress testing.* (1) A state nonmember bank or state savings association that is a covered bank as of December 31, 2019, is subject to the requirements of this subpart for the 2020 reporting year.

(2) A state nonmember bank or state savings association that becomes a covered bank after December 31, 2019, shall conduct its first stress test under this part in the first reporting year that begins more than three calendar quarters after the date the state nonmember bank or state savings association becomes a covered bank, unless otherwise determined by the Corporation in writing.

(b) *Ceasing to be a covered bank.* A covered bank shall remain subject to the stress test requirements of this part unless and until total consolidated assets of the covered bank falls to \$250 billion or less for each of four consecutive quarters as reported on the covered bank's most recent Call Reports. The calculation will be effective on the as-of date of the fourth consecutive Call Report.

(c) *Covered bank subsidiaries of a bank holding company or savings and loan holding company subject to periodic stress test requirements.* (1) Notwithstanding the requirements applicable to covered banks under this section, a covered bank that is a consolidated subsidiary of a bank holding company or savings and loan holding company that is required to conduct a periodic company-run stress test under applicable regulations of the Board of Governors of the Federal Reserve System may elect to conduct its stress test and report to the FDIC on the same timeline as its parent bank holding company or savings and loan holding company.

(2) A covered bank that elects to conduct its stress test under paragraph (c)(1) of this section will remain subject to the same timeline requirements of its parent company until otherwise approved by the FDIC.

6. Revise § 325.4 to read as follows:

**§ 325.4 Periodic stress tests required.**

Each covered bank must conduct the periodic stress test under this part subject to the following requirements:

(a) *Financial data*—A covered bank must use financial data as of December 31 of the calendar year prior to the reporting year.

(b) *Scenarios provided by the Corporation.* In conducting the stress test under this part, each covered bank must use the scenarios provided by the Corporation. The scenarios provided by the Corporation will reflect a minimum of two sets of economic and financial conditions, including baseline and severely adverse scenarios. The Corporation will provide a description of the scenarios required to be used by each covered bank no later than February 15 of the reporting year.

(c) *Significant trading activities.* The Corporation may require a covered bank with significant trading activities, as determined by the Corporation, to include trading and counterparty components in its severely adverse scenarios. The trading and counterparty position data used in this component will be as of a date between October 1 of the year preceding the reporting year and March 1 of the reporting year, and the Corporation will communicate a description of the component to the covered bank no later than March 1 of the reporting year.

(d) *Frequency.* A covered bank that is consolidated under a holding company that is required, pursuant to applicable regulations of the Board of Governors of the Federal Reserve System, to conduct a stress test at least once every calendar year must treat every calendar year as a reporting year, unless otherwise determined by the Corporation. All other covered banks must treat every even-numbered calendar year beginning January 1, 2020 (*i.e.*, 2022, 2024, 2026, etc.), as a reporting year, unless otherwise determined by the Corporation.

7. Amend § 325.5 by revising paragraph (b) to read as follows:

**§ 325.5 Methodologies and practices.**

\* \* \* \* \*

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

(2) The board of directors, or a committee thereof, of a covered bank must approve and review the policies and procedures of the stress testing processes as frequently as economic conditions or the condition of the covered bank may warrant, but no less than once every reporting year. The board of directors and senior management of the covered bank must receive a summary of the results of the stress test.

(3) The board of directors and senior management of each covered bank must consider the results of the stress tests in the normal course of business, including but not limited to, the covered bank's capital planning, assessment of capital adequacy, and risk management practices.

8. Revise § 325.6 to read as follows:

**§ 325.6 Required reports of stress test results to the FDIC and the Board of Governors of the Federal Reserve System.**

(a) *Report required for periodic stress test results.* A covered bank must report to the FDIC and to the Board of Governors of the Federal Reserve System, on or before April 5 of the reporting year, the results of the stress test in the manner and form specified by the FDIC.

(b) *Content of reports.* (1) The reports required under paragraph (a) of this section must include under the baseline scenario, severely adverse scenario, and any other scenario required by the Corporation under this part, a description of the types of risks being included in the stress test, a summary description of the methodologies used in the stress test, and, for each quarter of the planning horizon, estimates of aggregate losses, pre-provision net revenue, provision for loan and lease losses, net income, and pro forma capital ratios (including regulatory and any other capital ratios specified by the FDIC). In addition, the report must include an explanation of the most significant causes for the changes in regulatory capital ratios and any other information required by the Corporation.

(2) The description of aggregate losses and net income must include the cumulative losses and cumulative net income over the planning horizon, and the description of each regulatory capital ratio must include the beginning value, ending value, and minimum value of each ratio over the planning horizon.

(c) *Confidential treatment of information submitted.* The confidentiality of information submitted to the Corporation under this part and related materials will be determined in accordance with applicable law including any available exemptions under the Freedom of Information Act (5 U.S.C. 552(b)) and the FDIC's Rules and Regulations regarding the Disclosure of Information (12 CFR Part 309).

9. Revise § 325.7 to read as follows:

**§ 325.7 Publication of stress test results.**

(a) *Publication date*—(1) A covered bank must publish a summary of the results of its stress tests in the period starting June 15 and ending July 15 of the reporting year, provided:

(A) Unless the Corporation determines otherwise, if the covered bank is a consolidated subsidiary of a bank holding company or savings and loan holding company subject to supervisory stress tests conducted by the Board of Governors of the Federal Reserve System under 12 CFR part 252, then, within the June 15 to July 15 period, such covered bank may not publish the required summary of its periodic stress test earlier than the date that the Board of Governors of the Federal Reserve System publishes the supervisory stress test results of the covered bank's parent holding company.

(B) If the Board of Governors of the Federal Reserve System publishes the supervisory stress test results of the covered bank's parent holding company prior to June 15, then such covered bank may publish its stress test results prior to June 15, but no later than July 15, through actual publication by the covered bank or through publication by the parent holding company under paragraph (b) of this section.

(b) *Publication method.* The summary required under this section may be published on the covered bank's Web site or in any other forum that is reasonably accessible to the public. A covered bank that is a consolidated subsidiary of a bank holding company or savings and loan holding company that is required to conduct a company-run stress test under applicable regulations of the Board of Governors of the Federal Reserve System will be deemed to have satisfied the public disclosure requirements under this subpart if it publishes a summary of its stress test results with its parent bank holding company's or savings and loan holding company's summary of stress

test results. Subsidiary covered banks electing to satisfy their public disclosure requirement in this manner must include a summary of changes in regulatory capital ratios of such covered bank over the planning horizon, and an explanation of the most significant causes for the changes in regulatory capital ratios.

(c) *Information to be disclosed in the summary.* A covered bank must disclose the following information regarding the severely adverse scenario if it is not a consolidated subsidiary of a parent bank holding company or savings and loan holding company that has elected to make its disclosure under 12 CFR 325.3(d):

\* \* \* \* \*

Dated at Washington, DC, on October 15, 2019.

By order of the Board of Directors.  
Federal Deposit Insurance Corporation.

**Robert E. Feldman,**  
*Executive Secretary.*