

October 20, 2020

MEMORANDUM TO: Board of Directors

FROM: Doreen R. Eberley, Director
Division of Risk Management Supervision

SUBJECT: Net Stable Funding Ratio: Liquidity Risk Measurement Standards
and Disclosure Requirements

SUMMARY: Staff is presenting for the approval of the FDIC Board of Directors (FDIC Board) a request to adopt and publish the attached interagency final rule (final rule) that implements the net stable funding ratio (NSFR), a quantitative metric that measures funding stability over a one-year time horizon and ensures certain large banking organizations maintain minimum amounts of stable funding. The NSFR is designed to reduce the likelihood that disruptions to a banking organization's regular sources of funding will compromise its liquidity position, promote effective liquidity risk management, and support its ability to provide financial intermediation. The final rule applies to certain large U.S. depository institution holding companies, depository institutions, and U.S. intermediate holding companies of foreign banking organizations, each with total consolidated assets of \$100 billion or more, together with certain depository institution subsidiaries. If approved, this final rule would be issued jointly by the FDIC, the Office of the Comptroller of the Currency (OCC), and the Board of Governors of the Federal Reserve System (FRB) (together, the agencies).

Recommendation: Staff requests that the FDIC Board approve this final rule and authorize its publication in the *Federal Register* with an effective date of July 1, 2021.

Concur:

Nicholas J. Podsiadly
General Counsel

1. Background

The 2007-2009 financial crisis revealed significant weaknesses in banking organizations' liquidity risk management and liquidity positions, including how banking organizations managed their liabilities to fund their assets in light of the risks inherent in their on-balance sheet assets and off-balance sheet commitments.¹ For example, weaknesses in funding management at many banking organizations made them vulnerable to contractions in funding supply, and they had difficulties renewing short-term funding that they had used to support longer term or illiquid assets. As access to funding became limited and asset prices fell, many banking organizations faced an increased possibility of default and failure. To stabilize the global financial markets, governments and central banks around the world provided significant levels of support to these institutions in the form of liquidity facilities and capital injections.

In response to the 2007-2009 financial crisis, in 2014, the agencies adopted the Liquidity Coverage Ratio (LCR) rule to improve the banking sector's resiliency to a short-term liquidity stress by requiring large U.S. banking organizations to hold a minimum amount of unencumbered high-quality liquid assets (HQLA) that can be readily converted into cash to meet projected net cash outflows over a prospective 30 calendar-day stress period.

In June 2016, the agencies invited comment on a proposal to implement a net stable funding requirement for the U.S. banking organizations that were subject to the LCR rule at that time (proposed rule).² The proposed rule was generally consistent with the Basel net stable

¹ See Senior Supervisors Group, Risk Management Lessons from the Global Banking Crisis of 2008, (October 21, 2009), available at https://www.newyorkfed.org/medialibrary/media/newsevents/news/banking/2009/SSG_report.pdf.

² See "Net Stable Funding Ratio: Liquidity Risk Measurement Standards and Disclosure Requirements," 81 FR 35124 (June 1, 2016).

funding ratio (NSFR) standard,³ with adjustments to reflect the characteristics of U.S. banking organizations, markets, and other U.S. specific considerations.

The final rule would adopt in final form the agencies' 2016 proposed rule, with certain adjustments.⁴ The agencies also are finalizing two proposals released subsequent to issuance of the proposed rule to revise the criteria for determining the scope of application of the NSFR requirement (tailoring proposals) in the final rule.⁵

2. Overview of the Proposed Rule and Proposed Scope of Application of the Final Rule

A) The proposed stable funding requirement

The proposed rule would have required a banking organization to maintain an amount of available stable funding (ASF) equal to or greater than the banking organization's projected minimum funding needs, or required stable funding (RSF), over a one-year time horizon.⁶ A banking organization's NSFR would have been expressed as the ratio of its ASF amount to its RSF amount, with a banking organization required to maintain a minimum NSFR of 1.0.⁷ Under the proposed rule, a banking organization's ASF amount would have been calculated as the sum

³ See "Basel III: the net stable funding ratio" at <https://www.bis.org/bcbs/publ/d295.htm>.

⁴ See "Net Stable Funding Ratio: Liquidity Risk Measurement Standards and Disclosure Requirements," 81 FR 35124 (June 1, 2016).

⁵ See Proposed Changes to Applicability Thresholds for Regulatory Capital and Liquidity Requirements, 83 FR 66024 (December 21, 2018)(domestic tailoring proposal); 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, 84 FR 24296 (May 24, 2019)(FBO tailoring proposal). The agencies indicated that comments regarding the NSFR proposed rule would be addressed in the context of a final rule to adopt a NSFR requirement for large U.S. banking organizations and foreign banking organizations.

⁶ For certain 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 FRB separately proposed a modified NSFR requirement.

⁷ Under the FRB's proposed modified NSFR requirement, a depository institution holding company subject to a modified NSFR would have been required to maintain an NSFR of 1.0 but would have calculated such ratio using a lower minimum RSF amount in the denominator of the ratio, equivalent to 70 percent of the holding company's RSF amount as calculated under the agencies' proposed rule.

of the carrying values of the banking organization's liabilities and regulatory capital, each multiplied by a standardized weighting (ASF factor) ranging from zero to 100 percent to reflect the relative stability of such liabilities and capital over a one-year time horizon. Similarly, a banking organization's minimum RSF amount would have been calculated as (1) the sum of the carrying values of its assets, each multiplied by a standardized weighting (RSF factor) ranging from zero to 100 percent to reflect the relative need for funding over a one-year time horizon based on the liquidity characteristics of the asset, plus (2) RSF amounts based on the banking organization's committed facilities and derivative exposures. The proposed rule also would have included public disclosure requirements for depository institution holding companies subject to the proposed rule.

B) Revised scope of application

The proposed rule would have applied to: (1) bank holding companies, savings and loan holding companies without significant commercial or insurance operations, and depository institutions that, in each case, have \$250 billion or more in total consolidated assets or \$10 billion or more in on-balance sheet foreign exposure; and (2) depository institutions with \$10 billion or more in total consolidated assets that are consolidated subsidiaries of such bank holding companies and savings and loan holding companies. In addition, the FRB proposed a modified NSFR requirement that would have applied to certain depository institution holding companies with total consolidated assets of \$50 billion or more.⁸

⁸ Subsequent to the issuance of the proposed rule, certain foreign banking organizations with substantial operations in the United States were required to form or designate U.S. intermediate holding companies. The scope of application under the proposed rule would have included certain U.S. bank holding company subsidiaries of foreign banking organizations.

Subsequent to issuing the proposed rule, the agencies published the tailoring proposals to modify the scope of application of the LCR rule and the proposed rule consistent with considerations and factors set forth under section 165 of the Dodd-Frank Act, as amended by the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA).⁹ These requirements would have increased in stringency based on measures of size, cross-jurisdictional activity, weighted short-term wholesale funding, nonbank assets, and off-balance sheet exposures (risk-based indicators). The tailoring proposals also would have removed the FRB's proposed modified NSFR requirement for certain depository institution holding companies.¹⁰

In October 2019, the agencies adopted a final rule (tailoring rule) that amended the scope of application of the LCR rule so that it applies to certain U.S. banking organizations and U.S. intermediate holding companies of foreign banking organizations, each with \$100 billion or more in total consolidated assets, together with certain of their depository institution subsidiaries.¹¹

3. Summary of Comments and Overview of Significant Changes to the Proposals

The agencies received approximately 30 comments on the proposed rule, as well as approximately 20 comments related to the NSFR rule in response to the tailoring proposals. Commenters included U.S. and foreign banking organizations, trade groups, public interest groups, and other interested parties. Agency staff also met with some commenters at their request to discuss their comments on the proposed rule and the tailoring proposals. Although

⁹ Public Law 115–174, 132 Stat. 1296 (2018).

¹⁰ The tailoring proposals also would have removed the LCR rule's modified LCR requirement that at the time applied to certain depository institution holding companies with total consolidated assets of \$50 billion or more.

¹¹ 84 FR 59230 (November 1, 2019). In a change from the tailoring proposals, the tailoring rule applied LCR requirements to a U.S. intermediate holding company of a foreign banking organization on the basis of risk-based indicators measured for the U.S. intermediate holding company and not the foreign banking organization's combined U.S. operations.

many commenters supported the goal of improving funding stability, many commenters expressed concern regarding the overall proposal and criticized specific aspects of the proposed rule.

A number of commenters argued that the proposed rule was unnecessary because it would target risks already addressed by existing regulations, such as the LCR rule. Other commenters expressed concern regarding the design and calibration of the proposed rule. Some commenters criticized the proposed rule as more stringent than the Basel NSFR standard such that it could disadvantage U.S. banking organizations relative to their foreign competitors. Some commenters expressed concern that the proposed rule could result in increased costs to banking organizations and the financial system that would exceed the proposed rule's benefits.¹² Additionally, many commenters requested changes to specific elements of the proposed rule and the scope of application.

The final rule retains the general design for the NSFR calculation and calibrates minimum requirements to the risk profiles of banking organizations in a manner consistent with the tailoring proposals. Further, the final rule includes a number of modifications to the treatment of certain assets and liabilities. For example, the final rule assigns a zero percent RSF factor to unencumbered level 1 liquid asset securities and short-term secured lending transactions backed by level 1 liquid asset securities. For derivative transactions, the final rule permits cash variation margin to be eligible to offset a covered company's current exposures under its derivatives transactions even if it does not meet all of the criteria in the agencies' supplementary

¹² The agencies received a number of comments that were not specifically responsive to the proposed rule but more generally requested that the agencies assess the combined costs of post-crisis regulations on the availability of credit and the economy.

leverage ratio rule,¹³ and variation margin received in the form of level 1 liquid asset securities will be eligible to offset a covered company's current exposures. In addition, the final rule reduces the amount of a covered company's gross derivatives liabilities that will be assigned a 100 percent RSF factor. With respect to retail funding, the final rule provides more favorable treatment for certain affiliate sweep deposits and non-deposit retail funding.

4. NSFR scope and minimum requirement under the final rule

In the final rule, covered companies subject to Category I and II requirements and Category III requirements with \$75 billion or more in average weighted short-term wholesale funding are subject to the full NSFR requirement. By contrast, banking organizations in Category III with less than \$75 billion in average weighted short-term wholesale funding, or in Category IV with \$50 billion or more in average weighted short-term wholesale funding, would have been required to comply with a reduced NSFR requirement, calibrated at 85 and 70 percent of the full NSFR requirement, respectively. Banking organizations in Category IV with less than \$50 billion in weighted short-term wholesale funding are not subject to an NSFR requirement. A depository institution subsidiary of a covered company meeting the criteria of Category I, II, or III is also required to comply with the NSFR requirement of its top tier parent covered company; a depository institution subsidiary of a Category IV covered company is not subject to the NSFR rule. The final rule applies the NSFR requirement to a U.S. intermediate holding company based on the risk profile of the U.S. intermediate holding company, rather than on the combined U.S. operations of the foreign banking organization.¹⁴

¹³ 12 CFR 3.10(c)(4) (OCC), 12 CFR 217.10(c)(4) (FRB), and 12 CFR 324.10(c)(4) (FDIC). In addition, the final rule includes a new provision to exclude assets received by a covered company as variation margin under derivative transactions from the treatment of rehypothecated assets that are off-balance sheet assets in accordance with U.S. generally accepted accounting principles (GAAP).

¹⁴ See *supra* note 11.

5. Definitions

A) *Revisions to existing definitions*

The proposed rule would have amended the existing definition of “calculation date,” “collateralized deposit,” “committed,” “covered nonbank company,” “operational deposit,” “secured funding transaction,” “secured lending transaction,” and “unsecured wholesale funding” in § __.3 of the LCR rule. The agencies are adopting these revised definitions as proposed, with an adjustment to the definition of “unsecured wholesale funding” to expressly exclude asset exchanges.

The agencies also received several comments requesting revisions and clarifications to other definitions in the LCR rule that the agencies did not propose to amend. These included credit and liquidity facilities, “retail customer or counterparty,” “liquid and readily-marketable,” and “operational requirements for HQLA.” In response to these comments, the agencies provided clarification to these definitions in the final rule.

Also, to avoid confusion and use terminology consistent with other regulations, the final rule amends the definition of “brokered deposit” to mean a deposit held at the covered company that is obtained, directly or indirectly, from or through the mediation or assistance of a deposit broker, as that term is defined in section 29(g) of the FDI Act (12 U.S.C. 1831f(g)) and the FDIC’s regulations, and renames “reciprocal brokered deposit” to “brokered reciprocal deposit” and “brokered sweep deposit” “sweep deposit” wherever these terms appear.

B) *New definitions*

The proposed rule would have added several new definitions: “carrying value,” “encumbered,” “NSFR regulatory capital element,” “NSFR liability,” and “QMNA netting set.” The agencies received no comments on these proposed definitions and the final rule adopts these

definitions as proposed. The proposed rule would have also added a definition of “unsecured wholesale lending,” and, in response to commenters, the agencies are revising the definition of “unsecured wholesale lending” to exclude asset exchanges.

6. NSFR Requirement Under the Final Rule

A) Rules of construction

The proposed rule would have included a rule of construction in § __.102(a) providing how a covered company generally would determine its ASF and RSF amounts based on the carrying values of its on-balance sheet assets, NSFR regulatory capital elements, and NSFR liabilities as determined under GAAP. While the proposed rule generally would have relied on balance sheet carrying values, it would have provided a separate treatment for derivative transactions and the undrawn amount of commitments. The proposed rule also would have included adjustments to account for certain rehypothecated off-balance sheet assets. The final rule adopts these provisions as proposed.

The proposed rule would have included a rule of construction in § __.102(b) that describes the netting treatment of receivables and payables that are associated with secured funding transactions, secured lending transactions, and asset exchanges with the same counterparty that the covered company has netted against each other. The agencies did not receive any comments regarding these criteria, and are finalizing them as proposed.

The proposed rule would have included a rule of construction in § __.102(c) specifying that when a covered company, acting as a securities lender, receives a security in an asset exchange, includes the value of the security on its balance sheet, and has not rehypothecated the security received, the covered company is not required to assign an RSF factor to the security it has received and is not permitted to assign an ASF factor to any liability to return the security.

The final rule adopts the proposed treatment for securities received in an asset exchange by a covered company acting as a securities lender.

B) Determining maturity

The proposed rule would have assigned ASF and RSF factors to a covered company's NSFR liabilities and assets based in part on the maturity of each NSFR liability or asset. Section __.101 of the proposed rule would have incorporated the maturity assumptions in § __.31(a)(1) and (2) of the LCR rule to determine the maturities of a covered company's NSFR liabilities and assets. The final rule incorporates the maturity assumptions of the LCR rule as proposed.

C) Available stable funding

1) Calculation of the ASF amount

Section __.103 of the proposed rule would have established the requirements for a covered company to calculate its ASF amount, which would have equaled the sum of the carrying values of the covered company's NSFR regulatory capital elements and NSFR liabilities, each multiplied by an ASF factor assigned in § __.104 or § __.107(c).¹⁵ The final rule adopts the calculation of the ASF amount as proposed.

In the proposed rule, ASF factors would have been assigned based on the relative stability of each category of NSFR regulatory capital element or NSFR liability relative to the NSFR's one-year time horizon. In addition, § __.108 of the proposed rule would have provided that a covered company may include in its ASF amount the ASF of a consolidated subsidiary only to the extent that the funding of the subsidiary supports the RSF amount of the subsidiary or

¹⁵ ASF factors would have been assigned to NSFR regulatory capital elements and NSFR liabilities under § __.104, except for NSFR liabilities relating to derivatives. Certain NSFR liabilities relating to derivative transactions would not have been considered stable funding for purposes of a covered company's NSFR calculation and would have been assigned a zero percent ASF factor under § __.107(c) of the proposed rule.

is readily available to support RSF amounts of the covered company outside the consolidated subsidiary. Consistent with the proposed rule, the final rule permits a covered company to include in its consolidated ASF amount any portion of the subsidiary ASF contribution of a consolidated subsidiary that is less than or equal to the subsidiary RSF contribution.

2) Categories of ASF factors

Based on the tenor, funding type, and counterparty type characteristics described above, the agencies categorized NSFR regulatory capital elements and NSFR liabilities into five broad categories and assigned a single ASF factor to each category. The types of funding grouped together in each category generally display relatively similar stability as compared to funding in a different category.

a) 100 percent ASF factor for NSFR

Section __.104(a) of the proposed rule would have assigned a 100 percent ASF factor to NSFR regulatory capital elements, as defined in § __.3 of the proposed rule. The proposed rule also would have assigned a 100 percent ASF factor to NSFR liabilities that have a remaining maturity of one year or more from the calculation date, other than funding typically provided by retail customers or counterparties. This category would have included debt or equity securities issued by a covered company that have a remaining maturity of one year or more. The final rule assigns a 100 percent ASF factor to NSFR regulatory capital elements and NSFR liabilities that mature one year or more from the calculation date as proposed.

b) 95 percent ASF factor.

Section __.104(b) of the proposed rule would have assigned a 95 percent ASF factor to

stable retail deposits held at a covered company,¹⁶ reflecting that such deposits generally provide a highly stable source of funding for covered companies. The final rule adopts this provision as proposed. Additionally, in a change from the proposed rule, the final rule assigns a 95 percent ASF factor to fully insured affiliate sweep deposits from retail customers and counterparties, which the covered company demonstrates to the satisfaction of its appropriate Federal banking agency that withdrawal of the deposit is highly unlikely during a liquidity stress event.

c) 90 percent ASF factor

As proposed, the final rule applies a 90 percent ASF factor to the following retail brokered deposits that have certain stabilizing characteristics: (1) a brokered reciprocal deposit provided by a retail customer or counterparty, where the entire amount of the deposit is covered by deposit insurance; and (2) a brokered deposit provided by a retail customer or counterparty that is not a reciprocal brokered deposit or brokered sweep deposit, is not held in a transactional account, and has a remaining maturity of one year or more. In a change from the proposal, the final rule assigns a 90 percent ASF factor to any affiliate sweep deposit that does not meet all of the requirements for affiliate sweep deposits to be assigned a 95 percent ASF factor, which includes affiliate sweep deposits that are not fully covered by deposit insurance.

d) 50 percent ASF factor

As proposed, the final rule assigns an ASF factor of 50 percent to most forms of wholesale funding with residual maturities of less than one year and certain retail brokered deposits that do not have the stabilizing characteristics described above. In addition, the final rule

¹⁶ Section __.3 of the LCR rule defines a “stable retail deposit” as a retail deposit that is entirely covered by deposit insurance and either (1) is held by the depositor in a transactional account or (2) the depositor that holds the account has another established relationship with the covered company such as another deposit account, a loan, bill payment services, or any similar service or product provided to the depositor that the covered company demonstrates, to the satisfaction of the appropriate Federal banking agency, would make the withdrawal of the deposit highly unlikely during a liquidity stress event.

assigns the 50 percent ASF factor to all wholesale operational deposits, regardless of contractual maturity or counterparty, reflecting the provision of operation services. In a change from the proposed rule, non-deposit retail funding receives a 50 ASF factor, rather than the zero percent ASF factor that was assigned under the proposed rule.

e) Zero percent ASF Factor

As proposed, the final rule assigns a zero percent ASF factor to NSFR liabilities that demonstrate the least stable funding characteristics, including trade date payables, certain short-term retail brokered deposits, certain short-term funding from financial sector entities or central banks, and any other NSFR liability that matures in less than six months and is not described above.

D) Required stable funding

In the final, rule a covered company's RSF amount reflects a covered company's funding requirement based on the liquidity characteristics of its assets, commitments, and derivative exposures. That is, a covered company's RSF amount equals the sum of two components: (i) the carrying values of a covered company's assets (other than assets included in the calculation of the covered company's derivatives RSF amount) and the undrawn amounts of its committed credit and liquidity facilities, each multiplied by an RSF factor assigned under § __.106, and (ii) the covered company's derivatives RSF amount, as calculated under § __.107. RSF factors are based on the following liquidity characteristics: (1) tenor; (2) encumbrance; (3) type of counterparty; (4) credit quality, and (5) market characteristics and relies on seven categories for the assignment of RSF factors.

a) Zero Percent RSF Factor

The final rule assigns a zero percent RSF factor to assets that do not contribute risk to a banking organization's funding profile, including currency, coin, cash items in the process of collection, and short-term central bank reserves. Certain other assets in this category—such as level 1 liquid asset securities on a covered company's balance sheet and certain short-term secured lending transactions backed by rehypothecatable level 1 liquid assets conducted with financial sector entities—make minimal contribution to a covered company's aggregate funding risk and are important to the efficient operation of key short-term funding markets, making it appropriate to assign an RSF factor of zero percent.

b) 5 Percent RSF Factor

The proposed rule would have assigned a 5 percent RSF factor to the undrawn amount of committed credit and liquidity facilities that a covered company provides to its customers and counterparties,¹⁷ and is being finalized as proposed.

c) 15 Percent RSF Factor

As proposed, the final rule applies a 15 percent RSF factor to unencumbered level 2A liquid assets held on a covered company's balance sheet and lending to financial counterparties that matures in less than six months, other than secured lending transactions backed by rehypothecatable level 1 liquid assets. Based on their liquidity characteristics, including their high credit quality, these assets may also not need to be funded for the entirety of the NSFR's one-year time horizon, and covered companies may have the ability to recognize inflows from such assets within one year.

d) 50 Percent RSF Factor

¹⁷ The terms "credit facility," "liquidity facility," and "committed" are defined terms under § __.3 of the LCR rule. The final rule modifies the definition of "committed."

The final rule applies an RSF factor of 50 percent to unencumbered level 2B liquid assets of all maturities. Covered companies may not need to fund these securities for the entirety of the NSFR's one-year time horizon, and covered companies may have the ability to recognize inflows from such assets within one year, each across a range of market conditions. The final rule also applies a 50 percent RSF factor to most loans with remaining maturities of less than one year and to operational deposit placements.

e) 65 percent RSF factor

As proposed, the final rule assigns a 65 percent RSF factor to retail mortgages that mature in one year or more and are assigned a risk weight of no greater than 50 percent under the agencies' risk-based capital rule and to loans to retail and non-financial wholesale counterparties that mature in one year or more and are assigned a risk weight of no greater than 20 percent.

f) 85 percent RSF factor

The final rule assigns an 85 percent RSF factor to all other retail mortgages not assigned an RSF factor above, all other loans to non-financial sector counterparties, publicly traded common equity shares that are not HQLA and other non-HQLA securities that mature in one year or more. In a change from the proposed rule, commodities eligible for the 85 percent RSF factor have been broadened to include commodities that are authorized to be traded on an U.S. designated contract market, U.S. swap execution facility, or any other exchange, whether located in the United States or in a jurisdiction outside of the United States.

g) 100 Percent RSF factor

The proposed rule would have assigned a 100 percent RSF factor to all other performing assets not otherwise assigned an RSF factor under § __.106 or § __.107. These assets include, but are not limited to, loans to financial institutions (including to an unconsolidated affiliate) that

mature in one year or more; assets deducted from regulatory capital;¹⁸ common equity shares that are not traded on a public exchange; and unposted debits. The agencies are amending the final rule to assign a zero percent RSF factor to trade date receivables that have yet to settle and are not more than five days past the scheduled settlement date. The final rule otherwise retains the assignment of a 100 percent RSF factor as proposed.

E) Derivative transactions

Under the proposed rule, a covered company's derivatives RSF amount would have consisted of three general components, each described further below: (1) a component reflecting the current net value of a covered company's derivative assets and liabilities, taking into account variation margin provided by and received by the covered company (current net value component); (2) a component to account for initial margin provided by a covered company for its derivative transactions and assets contributed by a covered company to a central counterparty clearing house's mutualized loss-sharing arrangement in connection with cleared derivative transactions (initial margin component); and (3) a component to account for potential future derivatives valuation changes (future value component). For the current net value component, a covered company would have netted its derivatives transactions and certain variation margin amounts to identify whether the current net value of its derivatives positions was either an NSFR derivatives asset amount or an NSFR derivatives liability amount (described below) and assigned a 100 percent RSF factor or zero percent ASF factor, respectively. For the initial margin component, the proposed rule would have assigned an 85 percent RSF factor to a covered company's central counterparty clearing house contributions and a minimum 85 percent RSF

¹⁸ Assets deducted from regulatory capital include, but are not limited to, goodwill, certain deferred tax assets, certain mortgage servicing assets, and certain defined benefit pension fund net assets. 12 CFR 3.22 (OCC), 12 CFR 217.22 (FRB), and 12 CFR 324.22 (FDIC). These assets, as a class, tend to be difficult for a covered company to readily monetize.

factor to initial margin provided by a covered company. The proposed rule also would have assigned a 100 percent RSF factor to the future value component, which would have equaled 20 percent of the sum of a covered company's gross derivative liabilities.

The final rule makes certain adjustments to the current net value component's treatment of variation margin received by covered companies and the calibration of the future value component. Specifically, the agencies have revised the proposal by: (1) removing the requirement that variation margin be received in the full amount necessary to extinguish the net current credit exposure to a counterparty in order to be recognized for netting purposes; (2) allowing variation margin received to be in any currency specified as an acceptable currency to settle the obligation in the relevant governing contract; and (3) for purposes of determining derivatives asset values under the final rule, a covered company may take into account variation margin received in the form of rehypothecatable level 1 liquid asset securities. The final rule generally retains the proposed rule's treatment of derivative portfolio potential valuation changes but reduces the weighting of this component from 20 percent to 5 percent of gross derivative liabilities.

F) Treatment of certain facilities

To facilitate the use of the MMLF and the PPPLF, on May 6, 2020, the agencies published in the Federal Register an interim final rule to require a banking organization subject to the LCR rule to neutralize the effect on its LCR of participation in the MMLF and PPPLF (LCR interim final rule).¹⁹ The LCR interim final rule requires a covered company to neutralize

¹⁹ 85 FR 26835 (May 6, 2020). The agencies also adopted interim final rules to address the capital treatment of participation in the MMLF (85 FR 16232 (Mar. 23, 2020)) and capital treatment of participation in the PPPLF (85 FR 20387 (Apr. 13, 2020)). These interim final rules were adopted as final on September 29, 2020.

the LCR effects of the advances made by the MMLF and PPPLF together with the assets securing these advances. For the same reasons that the agencies issued the LCR interim final rule, the agencies are adopting, as final, provisions to better align the treatment of these advances and collateral under the NSFR rule.

7. Net Stable Funding Ratio Shortfall

The proposed rule would have required a covered company to maintain an NSFR of at least 1.0 on an ongoing basis. The agencies expect circumstances where a covered company has an NSFR below 1.0 to arise rarely. However, the proposed rule would not have prescribed a particular supervisory response to address a violation of the NSFR requirement. Instead, the proposed rule would have provided flexibility for the appropriate Federal banking agency to respond based on the circumstances of a particular case.

The proposed rule would have required a covered company to notify the appropriate Federal banking agency of an NSFR shortfall or potential shortfall. In addition, a covered company would have been required to develop a plan for remediation in the event of an NSFR shortfall. Finally, the covered company would have been required to report to the appropriate Federal banking agency no less than monthly (or other frequency, as required by the agency) on its progress towards achieving full compliance with the proposed rule. The agencies are adopting the shortfall provisions of the final rule as proposed.

8. Disclosure Requirements

The FRB proposed disclosure requirements for certain bank holding companies and savings and loan holding companies.²⁰ The disclosure requirements of the proposed rule would

²⁰ The tailoring proposals amended the scope of application of the proposed disclosure requirements for holding companies. The FBO tailoring proposal would have applied NSFR public disclosure requirements to a U.S. intermediate holding company of a foreign banking organization subject to Category II or III liquidity standards, or

not have applied to depository institutions. The proposed rule would have required timely public disclosure each calendar quarter of a company's NSFR and components, as well as discussion of certain qualitative features to facilitate an understanding of the company's calculation and results. The FRB will generally adopt the disclosure requirements of the proposed rule categories as proposed with adjustments to incorporate revised requirements under the final rule, including disclosures based on a simple daily average to be reported every second and fourth calendar quarter for each of the two immediately preceding calendar quarters, with the first disclosure occurring on the first calendar quarter that includes the date that is 18 months after the company becomes subject to the NSFR requirement.

9. Impact Assessment

The agencies analyzed the potential impact of the final rule on the funding structure of covered companies and estimated the potential increase in funding costs for covered companies. In addition, the impact analysis considered the potential costs and benefits of an alternative policy of incorporating a small RSF requirement for level 1 liquid assets and certain short-term secured lending transactions with financial sector counterparties secured by level 1 liquid assets.

The agencies estimate that nearly all of these covered companies would be in compliance with the applicable NSFR requirement in the second quarter of 2020. The agencies estimate that a small number of G-SIBs subject to the full NSFR could face an expected NSFR shortfall. The total shortfall is estimated to be \$10 to \$31 billion of stable funding. The agencies' estimates of shortfalls at these individual covered companies range from a negligible amount to 8 percent of the company's current level of ASF of its estimated NSFR, with a total ASF of \$8.5 trillion for

subject to Category IV liquidity standards with \$50 billion or more in weighted short-term wholesale funding. 84 FR 24296, 24320 (May 24, 2019).

all covered companies, a \$1.3 trillion surplus over the total RSF.

The final rule establishes a zero percent RSF factor for level 1 liquid assets held outright and short-term secured lending transactions with financial sector counterparties that are secured by level 1 high quality liquid assets. The agencies analyzed the costs and benefits of an alternate policy of a 5 percent RSF factor for such assets. The agencies estimated that the marginal cost of additional stable funding is about 80 basis points.

10. Effective Dates

Under the final rule, covered companies are required to maintain an NSFR of 1.0 beginning on July 1, 2021. This effective date provides sufficient time for covered companies to take into account the new requirement and, as necessary, to make infrastructure and operational adjustments that may be required to comply with the final rule. The final rule also adopts an effective date of July 1, 2021, for revisions to definitions currently used in the LCR rule.

11. Conclusion

Staff requests that the FDIC Board approve this final rule and authorize its publication in the *Federal Register* with an effective date of January 1, 2021.

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