

[Billing Codes: 4810-33-P; 6210-01-P; 6714-01-P]

**DEPARTMENT OF TREASURY**

**Office of the Comptroller of the Currency**

12 CFR Parts 3 and 50

[Docket ID OCC-2020-0017]

RIN 1557-AE89

RIN 1557-AE90

RIN 1557-AE92

**FEDERAL RESERVE SYSTEM**

12 CFR Part 217

[Regulation Q; Docket No. R-1711]

RIN 7100-AF85

**FEDERAL DEPOSIT INSURANCE CORPORATION**

12 CFR Parts 324 and 329

RIN 3064-AF41

RIN 3064-AF49

RIN 3064-AF51

**Treatment of Certain Emergency Facilities in the Regulatory Capital Rule and the Liquidity Coverage Ratio Rule**

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

**ACTION:** Final rule.

**SUMMARY:** The Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation are adopting as final the revisions to the regulatory capital rule and the liquidity coverage ratio (LCR) rule made under three interim final rules published in the Federal Register on March 23, April 13, and May 6, 2020. The agencies are adopting these interim final rules as final with no changes. Under this final rule, banking organizations may continue to neutralize the regulatory capital effects of participating in the Money Market Mutual Fund Liquidity Facility (MMLF) and the Paycheck Protection Program Liquidity Facility (PPPLF), and are required to continue to neutralize the

LCR effects of participating in the MMLF and the PPPLF. In addition, Paycheck Protection Program loans will receive a zero percent risk weight under the agencies' regulatory capital rules.

**DATES:** The final rule is effective on [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:**

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## **I. Background**

In light of recent disruptions in economic conditions caused by the outbreak of the coronavirus disease 2019 and the stress in U.S. financial markets, the Board of Governors of the Federal Reserve System (Board), with the approval of the U.S. Secretary of the Treasury, established certain liquidity facilities pursuant to section 13(3) of the Federal Reserve Act.<sup>1</sup>

In order to prevent disruptions in the money markets from destabilizing the financial system, the Board authorized the Federal Reserve Bank of Boston to establish the Money Market Mutual Fund Liquidity Facility (MMLF). Under the MMLF, the Federal Reserve Bank of Boston may extend non-recourse loans to eligible borrowers to purchase assets from money market mutual funds. Assets purchased from money market mutual funds are posted as collateral to the Federal Reserve Bank of Boston.

In order to provide liquidity to small business lenders and the broader credit markets, and to help stabilize the financial system, the Board authorized each of the Federal Reserve Banks to extend credit under the Paycheck Protection Program Liquidity Facility (PPPLF).<sup>2</sup> Under the PPPLF, each of the Federal Reserve Banks may extend non-recourse loans to

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<sup>1</sup> 12 U.S.C. 343(3).

<sup>2</sup> The Paycheck Protection Program Liquidity Facility was previously known as the Paycheck Protection Program Lending Facility.

institutions that are eligible to make Paycheck Protection Program (PPP) covered loans as defined in section 7(a)(36) of the Small Business Act.<sup>3</sup> Under the PPPLF, only PPP covered loans that are guaranteed by the Small Business Administration (SBA) with respect to both principal and accrued interest and that are originated by an eligible institution may be pledged as collateral to the Federal Reserve Banks. The maturity date of the extension of credit under the PPPLF equals the maturity date of the PPP covered loans pledged to secure the extension of credit.<sup>4</sup>

Eligible borrowers from the MMLF and PPPLF and holders of PPP covered loans include banking organizations supervised by the Office of the Comptroller of the Currency (OCC), the Board, and the Federal Deposit Insurance Corporation (FDIC) (together, the agencies) that are subject to the agencies' regulatory capital rule (capital rule)<sup>5</sup> and that may be subject to the

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<sup>3</sup> Congress created the PPP as part of the Coronavirus Aid, Relief, and Economic Security Act and in recognition of the exigent circumstances faced by small businesses. PPP covered loans are fully guaranteed as to principal and accrued interest by the Small Business Administration (SBA) and also afford borrower forgiveness up to the principal amount and accrued interest of the PPP covered loan, if the proceeds of the PPP covered loan are used for certain expenses. Under the PPP, eligible borrowers generally include businesses with fewer than 500 employees or that are otherwise considered to be small by the SBA. The SBA reimburses PPP lenders for any amount of a PPP covered loan that is forgiven. In general, PPP lenders are not held liable for any representations made by PPP borrowers in connection with a borrower's request for PPP covered loan forgiveness. For more information on the Paycheck Protection Program, see <https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/paycheck-protection-program-ppp>.

<sup>4</sup> The maturity date of the loan made under the PPPLF will be accelerated if the underlying PPP covered loan goes into default and the eligible borrower sells the PPP covered loan to the Small Business Administration (SBA) to realize the SBA guarantee. The maturity date of the loan made under the PPPLF also will be accelerated to the extent of any PPP covered loan forgiveness reimbursement received by the eligible borrower from the SBA.

<sup>5</sup> Banking organizations subject to the capital rule include national banks, state member banks, state nonmember banks, savings associations, and top-tier bank holding companies and savings and loan holding companies domiciled in the United States not subject to the Board's Small Bank Holding Company Policy Statement (12 CFR part 225, appendix C), but exclude certain savings and loan holding companies that are substantially engaged in insurance underwriting or

liquidity coverage ratio (LCR) rule.<sup>6</sup> To facilitate the use of the MMLF and the PPPLF, the agencies adopted three interim final rules (interim final rules) to address the capital treatment of participation in the MMLF (MMLF capital interim final rule),<sup>7</sup> the capital treatment of participation in the PPPLF (PPPLF capital interim final rule),<sup>8</sup> and the LCR treatment of participation in the MMLF and the PPPLF (LCR interim final rule),<sup>9</sup> respectively.

A. *Capital Rule*

The capital rule requires banking organizations to comply with risk-based and leverage capital requirements, which are expressed as a ratio of regulatory capital to assets and certain other exposures. Risk-based capital requirements are based on risk-weighted assets, whereas leverage capital requirements are based on a measure of average total consolidated assets or total leverage exposure. Participation in the MMLF or the PPPLF affects the balance sheet of a banking organization. To participate in the MMLF, a banking organization must acquire and hold assets (that is, eligible collateral pledged to the Federal Reserve Bank of Boston) on its balance sheet. Similarly, to participate in the PPPLF, a banking organization must hold PPP covered loans on its balance sheet. As a result, without the agencies' issuance of the MMLF capital and PPPLF capital interim final rules, a banking organization that participates in either facility could have been required to maintain increased regulatory capital.

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commercial activities or that are estate trusts, and bank holding companies and savings and loan holding companies that are employee stock ownership plans. *See* 12 CFR part 3 (OCC); 12 CFR part 217 (Board); and 12 CFR part 324 (FDIC).

<sup>6</sup> *See* 12 CFR part 50 (OCC); 12 CFR part 249 (Board); and 12 CFR part 329 (FDIC).

<sup>7</sup> 85 FR 16232 (Mar. 23, 2020).

<sup>8</sup> 85 FR 20387 (Apr. 13, 2020).

<sup>9</sup> 85 FR 26835 (May 6, 2020).

## *B. LCR Rule*

The LCR rule requires covered companies<sup>10</sup> to calculate and maintain an amount of high-quality liquid assets (HQLA) sufficient to cover their total net cash outflows over a 30-day stress period. A covered company's LCR is the ratio of its HQLA amount divided by its total net cash outflow amount. The total net cash outflow amount is calculated as the difference between outflow and inflow amounts, which are determined by applying a standardized set of outflow and inflow rates to the cash flows of various assets and liabilities, together with off-balance sheet items, as specified in sections \_\_.32 and \_\_.33 of the LCR rule.<sup>11</sup>

Absent changes to the LCR rule, covered companies would have been required to recognize outflows for MMLF and PPPLF advances with a remaining maturity of 30 days or less and inflows for certain assets securing the MMLF and PPPLF advances. As a result, a covered company's participation in the MMLF or PPPLF could have affected its total net cash outflow amount, which potentially could have resulted in an inconsistent, unpredictable, and more volatile calculation of LCR requirements across covered companies.

## **II. Overview of the Interim Final Rules and Public Comments**

### *A. MMLF Capital Interim Final Rule*

On March 23, 2020, the agencies published in the Federal Register the MMLF capital interim final rule to neutralize the regulatory capital effect of participation in the MMLF. The

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<sup>10</sup> The applicability of the LCR rule is described in 12 CFR 50.1 (OCC); 12 CFR 249.1 (Board); and 12 CFR 329.1 (FDIC).

<sup>11</sup> See 12 CFR 50.32 and 50.33 (OCC); 12 CFR 249.32 and 249.33 (Board); and 12 CFR 329.32 and 329.33 (FDIC). Section \_\_.30 of the LCR rule also requires a covered company, as applicable, to include in its total net cash outflow amount a maturity mismatch add-on, which is calculated as the difference (if greater than zero) between the covered company's largest net cumulative maturity outflow amount for any of the 30 calendar days following the calculation date and the net day 30 cumulative maturity outflow amount. See 12 CFR 50.30 (OCC); 12 CFR 249.30 (Board); and 12 CFR 329.30 (FDIC).

MMLF capital interim final rule permits a banking organization to exclude exposures acquired as part of the MMLF from the banking organization's total leverage exposure, average total consolidated assets, advanced approaches total risk-weighted assets, and standardized total risk-weighted assets, as applicable. Because of the non-recourse nature of the Federal Reserve Bank of Boston's extension of credit to the banking organization, the organization is not exposed to credit or market risk from the assets purchased by the banking organization and pledged to the Federal Reserve Bank of Boston. The MMLF capital interim final rule reflects the agencies' determination that, prior to the MMLF capital interim final rule, the leverage and risk-based capital requirements in place in the capital rule for the assets acquired by a banking organization as part of the MMLF did not reflect the substantial protections provided to the organization by the Federal Reserve Bank of Boston in connection with the facility.

*B. PPPLF Capital Interim Final Rule*

On April 13, 2020, the agencies published in the Federal Register the PPPLF capital interim final rule to neutralize the regulatory capital effect of participation in the PPPLF. The PPPLF capital interim final rule permits a banking organization to exclude exposures pledged as collateral to the PPPLF from the banking organization's total leverage exposure, average total consolidated assets, advanced approaches total risk-weighted assets, and standardized total risk-weighted assets, as applicable. Because of the non-recourse nature of each Federal Reserve Bank's extension of credit to the banking organization, the banking organization is not exposed to credit or market risk from the pledged PPP covered loans. The PPPLF capital interim final rule reflects the agencies' determination that, prior to the PPPLF capital interim final rule, the regulatory capital requirements in place in the capital rule for PPP covered loans pledged by a banking organization to a Federal Reserve Bank as part of the PPPLF did not reflect the



substantial protections from risk provided to the banking organization in connection with the facility.

Additionally, the PPPLF capital interim final rule provides that a banking organization must apply a zero percent risk weight to PPP covered loans, as required by Section 1102 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act. A banking organization must apply a zero percent risk weight to PPP covered loans regardless of whether they are pledged under the PPPLF.

*C. LCR Interim Final Rule*

On May 6, 2020, the agencies published in the Federal Register the LCR 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. The LCR interim final rule requires a covered company to neutralize the LCR effects of the advances made by the MMLF and PPPLF together with the assets securing these advances. Specifically, the LCR interim final rule adds a new definition to the LCR rule for “Covered Federal Reserve Facility Funding” to identify MMLF and PPPLF advances separately from other secured funding transactions under the LCR rule. The LCR interim final rule requires outflow amounts associated with Covered Federal Reserve Facility Funding and inflow amounts associated with the assets securing this funding to be excluded from a covered company’s total net cash outflow amount under the LCR rule.<sup>12</sup>

Advances from the MMLF and PPPLF facilities are non-recourse and the maturity of the advance generally aligns with the maturity of the collateral. Accordingly, a covered company is

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<sup>12</sup> See 12 CFR 50.34 (OCC); 12 CFR 249.34 (Board); and 12 CFR 329.34 (FDIC). Section \_\_.34 does not apply to the extent the covered company secures Covered Federal Reserve Facility Funding with securities, debt obligations, or other instruments issued by the covered company or its consolidated entity.

not exposed to credit or market risk from the collateral securing the MMLF or PPPLF advance that could otherwise affect the banking organization's ability to settle the loan and generally can use the value of cash received from the collateral to repay the advances at maturity. For these reasons, the agencies issued the LCR interim final rule to better align the treatment of these advances and collateral under the LCR rule with the liquidity risk associated with funding exposures through these facilities, and to ensure consistent and predictable treatment of covered companies' participation in the facilities under the LCR rule.

*D. Public Comments*

Comments on the MMLF Capital Interim Final Rule

The agencies received two comment letters, from a trade association and an advocacy organization, addressing the MMLF capital interim final rule. These commenters supported the agencies' actions to encourage banking organizations' participation in the emergency lending facility. One commenter recommended broader considerations for money market mutual fund reform that are outside the scope of this rulemaking.

Comments on the PPPLF Capital Interim Final Rule

The agencies received 14 comment letters from industry participants, advocacy groups, trade associations, and individuals addressing the PPPLF interim final rule. Several commenters expressed support for the agencies' actions under the PPPLF capital interim final rule, and two of these commenters further supported the agencies' determination that good cause existed to issue the interim final rules without notice and comment. Several commenters suggested that the agencies extend the zero percent risk weight to PPP covered loans purchased in secondary markets. The agencies note that, under the PPPLF capital interim final rule, the risk weight for all PPP covered loans is zero percent.

Several commenters asserted that the PPPLF capital interim final rule should extend the leverage exclusion to PPP covered loans that are not pledged to the PPPLF, arguing that the treatment could discourage banking organizations that are not using the PPPLF from making PPP covered loans. Notwithstanding these arguments, the agencies are adopting as final the PPPLF capital interim final rule. The CARES Act set the risk weight of these loans at zero percent and did not exclude these loans from the leverage capital requirements. The favorable leverage capital treatment in the PPPLF capital interim final rule reflects the non-recourse nature of the relevant Federal Reserve Bank's extension of credit to a banking organization only for PPP covered loans pledged by a banking organization to a Federal Reserve Bank.

#### Comments on the LCR Interim Final Rule

The agencies received one comment letter, from a trade association, on the LCR interim final rule. The commenter supported the requirements under the LCR interim final rule, arguing that the requirements encourage participation in the facilities, which ultimately provides benefits to small businesses, households, and investors.

### **III. Summary of the Final Rule**

For the reasons discussed above, the agencies are adopting as final the revisions to the capital and LCR rules unchanged from the interim final rules. Accordingly, a banking organization may continue to exclude assets acquired as part of the MMLF and PPP covered loans pledged under the PPPLF from its total leverage exposure, average total consolidated assets, advanced approaches total risk-weighted assets, and standardized total risk-weighted assets, as applicable (and for purposes of the community bank leverage ratio).<sup>13</sup> Further, a

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<sup>13</sup> Assets acquired as part of the MMLF and PPP covered loans pledged to the PPPLF would continue to be included in a bank's measure of total consolidated assets, including for purposes of determining whether a banking organization is a qualifying community banking organization.

banking organization must continue to apply a zero percent risk weight to all PPP covered loans that are not pledged to the PPPLF (regardless of whether the banking organization originated the loan). In addition, a banking organization subject to the LCR rule is required to continue excluding from its total net cash outflow amount outflow amounts associated with advances from the MMLF and PPPLF and inflow amounts associated with collateral securing the advances.

#### **IV. Administrative Law Matters**

##### *A. Congressional Review Act*

For purposes of the Congressional Review Act, the Office of Management and Budget (OMB) makes a determination as to whether a final rule constitutes a “major” rule.<sup>14</sup> 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.<sup>15</sup>

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.<sup>16</sup>

As required by the Congressional Review Act, the agencies will submit the final rule and other appropriate reports to Congress and the Government Accountability Office for review.

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<sup>14</sup> 5 U.S.C. 801 *et seq.*

<sup>15</sup> 5 U.S.C. 801(a)(3).

<sup>16</sup> 5 U.S.C. 804(2).

### *B. Paperwork Reduction Act*

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521) (PRA) states that no agency may conduct or sponsor, nor is the respondent required to respond to, an information collection unless it displays a currently valid OMB control number. This final rule does not contain any information collection requirements. However, in connection with the interim final rules, the Board temporarily revised the Financial Statements for Holding Companies (FR Y–9 reports; OMB No. 7100-0128) and the Complex Institution Liquidity Monitoring Report (FR 2052a; OMB No. 7100-0361) and invited comment on proposals to extend those collections of information for three years, with revision.<sup>17</sup>

Additionally, in connection with the interim final rules, the agencies made revisions to the Call Reports (OCC OMB Control No. 1557-0081; Board OMB Control No. 7100-0036; FDIC OMB Control No. 3064-0052), the Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks (FFIEC 002; OMB Control No. 7100-0032), and the Regulatory Capital Reporting for Institutions Subject to the Advanced Capital Adequacy Framework (FFIEC 101; OCC OMB Control No. 1557-0239; Board OMB Control No. 7100-0319; FDIC OMB Control No. 3064-0159). The changes to the Call Reports, FFIEC 002, and FFIEC 101 and their related instructions are addressed in a separate Federal Register notice.<sup>18</sup>

### **Current Actions**

The Board has extended the FR Y-9 and FR 2052a for three years, with revision, as originally proposed. The updates to the FR Y-9 and FR 2052a resulted in an estimated zero net

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<sup>17</sup> The Board published a separate Federal Register notice to make temporary revisions to the FR Y-9 reports in connection with the MMLF Capital Interim Final Rule. 85 FR 19944 (Apr. 9, 2020).

<sup>18</sup> See 85 FR 44361 (July 22, 2020).

change in hourly burden. No public comments were received regarding these proposals under the PRA.

**Revision, With Extension, of the Following Information Collections:**

(1) *Report title:* Financial Statements for Holding Companies

*Agency form numbers:* FR Y-9C, FR Y-9LP, FR Y-9SP, FR Y-9ES, and FR Y-9CS.

*OMB control number:* 7100-0128.

*Effective date:* [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

*Frequency:* Quarterly, semiannually, and annually.

*Affected public:* Businesses or other for-profit.

*Respondents:* Bank holding companies (BHCs), savings and loan holding companies (SLHCs), securities holding companies (SHCs), and U.S. intermediate holding companies (IHCs) (collectively, holding companies (HCs)).<sup>19</sup>

*Estimated number of respondents:*

FR Y-9C (non-advanced approaches (AA) HCs community bank leverage ratio (CBLR)) with less than \$5 billion in total assets – 71,

FR Y-9C (non AA HCs CBLR) with \$5 billion or more in total assets – 35,

FR Y-9C (non AA HCs non-CBLR) with less than \$5 billion in total assets – 84,

FR Y-9C (non AA HCs non-CBLR) with \$5 billion or more in total assets – 154,

FR Y-9C (AA HCs) – 19,

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<sup>19</sup> An SLHC must file one or more of the FR Y-9 family of reports unless it is: (1) a grandfathered unitary SLHC with primarily commercial assets and thrifts that make up less than five percent of its consolidated assets; or (2) a SLHC that primarily holds insurance-related assets and does not otherwise submit financial reports with the SEC pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934.

FR Y-9LP – 434,

FR Y-9SP – 3,960,

FR Y-9ES – 83,

FR Y-9CS – 236.

*Estimated average hours per response:*

**Reporting**

FR Y-9C (non AA HCs CBLR) with less than \$5 billion in total assets – 29.17,

FR Y-9C (non AA HCs CBLR) with \$5 billion or more in total assets – 35.14,

FR Y-9C (non AA HCs non-CBLR) with less than \$5 billion in total assets – 41.01,

FR Y-9C (non AA HCs non-CBLR) with \$5 billion or more in total assets – 46.98,

FR Y-9C (AA HCs) – 48.80,

FR Y-9LP – 5.27,

FR Y-9SP – 5.40,

FR Y-9ES – 0.50,

FR Y-9CS – 0.50.

**Recordkeeping**

FR Y-9C – 1,

FR Y-9LP – 1,

FR Y-9SP – 0.50,

FR Y-9ES – 0.50,

FR Y-9CS – 0.50.

*Estimated annual burden hours:*

**Reporting**

FR Y-9C (non AA HCs CBLR) with less than \$5 billion in total assets – 8,284,  
FR Y-9C (non AA HCs CBLR) with \$5 billion or more in total assets – 4,920,  
FR Y-9C (non AA HCs non-CBLR) with less than \$5 billion in total assets – 13,779,  
FR Y-9C (non AA HCs non-CBLR) with \$5 billion or more in total assets – 28,940,  
FR Y-9C (AA HCs) – 3,709,  
FR Y-9LP – 9,149,  
FR Y-9SP – 42,768,  
FR Y-9ES – 42,  
FR Y-9CS – 472.

**Recordkeeping**

FR Y-9C – 1,452,  
FR Y-9LP – 1,736,  
FR Y-9SP – 3,960,  
FR Y-9ES – 42,  
FR Y-9CS – 472.

*General description of report:* The FR Y-9C consists of standardized financial statements similar to the Call Reports filed by banks and savings associations. The FR Y-9C collects consolidated data from HCs and is filed quarterly by top-tier HCs with total consolidated assets of \$3 billion or more.<sup>20</sup>

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<sup>20</sup> Under certain circumstances described in the FR Y-9C's General Instructions, HCs with assets under \$3 billion may be required to file the FR Y-9C.



The FR Y-9LP, which collects parent company only financial data, must be submitted by each HC that files the FR Y-9C, as well as by each of its subsidiary HCs.<sup>21</sup> The report consists of standardized financial statements.

The FR Y-9SP is a parent company only financial statement filed semiannually by HCs with total consolidated assets of less than \$3 billion. In a banking organization with total consolidated assets of less than \$3 billion that has tiered HCs, each HC in the organization must submit, or have the top-tier HC submit on its behalf, a separate FR Y-9SP. This report is designed to obtain basic balance sheet and income data for the parent company, and data on its intangible assets and intercompany transactions.

The FR Y-9ES is filed annually by each employee stock ownership plan (ESOP) that is also an HC. The report collects financial data on the ESOP's benefit plan activities. The FR Y-9ES consists of four schedules: a Statement of Changes in Net Assets Available for Benefits, a Statement of Net Assets Available for Benefits, Memoranda, and Notes to the Financial Statements.

The FR Y-9CS is a free-form supplemental report that the Board may utilize to collect critical additional data deemed to be needed in an expedited manner from HCs on a voluntary basis. The data are used to assess and monitor emerging issues related to HCs, and the report is intended to supplement the other FR Y-9 reports. The data items included on the FR Y-9CS may change as needed.

*Legal authorization and confidentiality:* The Board has the authority to impose the reporting and recordkeeping requirements associated with the FR Y-9 family of reports on BHCs pursuant to section 5 of the Bank Holding Company Act of 1956 (BHC Act) (12 U.S.C. 1844); on SLHCs

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<sup>21</sup> A top-tier HC may submit a separate FR Y-9LP on behalf of each of its lower-tier HCs.

pursuant to section 10(b)(2) and (3) of the Home Owners' Loan Act (12 U.S.C. 1467a(b)(2) and (3)), as amended by sections 369(8) and 604(h)(2) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act); on U.S. IHCs pursuant to section 5 of the BHC Act (12 U.S.C. 1844), as well as pursuant to sections 102(a)(1) and 165 of the Dodd-Frank Act (12 U.S.C. 511(a)(1) and 5365); and on SHCs pursuant to section 618 of the Dodd-Frank Act (12 U.S.C. 1850a(c)(1)(A)). The obligation to submit the FR Y-9 series of reports, and the recordkeeping requirements set forth in the respective instructions to each report, are mandatory, except for the FR Y-9CS, which is voluntary.

With respect to the FR Y-9C report, Schedule HI's data item 7(g), "FDIC deposit insurance assessments," Schedule HC-P's data item 7(a), "Representation and warranty reserves for 1-4 family residential mortgage loans sold to U.S. government agencies and government sponsored agencies," and Schedule HC-P's data item 7(b), "Representation and warranty reserves for 1-4 family residential mortgage loans sold to other parties" are considered confidential commercial and financial information. Such treatment is appropriate under exemption 4 of the Freedom of Information Act (FOIA) (5 U.S.C. 552(b)(4)) because these data items reflect commercial and financial information that is both customarily and actually treated as private by the submitter, and which the Board has previously assured submitters will be treated as confidential. It also appears that disclosing these data items may reveal confidential examination and supervisory information, and in such instances, this information would also be withheld pursuant to exemption 8 of the FOIA (5 U.S.C. 552(b)(8)), which protects information related to the supervision or examination of a regulated financial institution.

In addition, for both the FR Y-9C report, Schedule HC's memorandum item 2.b. and the FR Y-9SP report, Schedule SC's memorandum item 2.b., the name and email address of the

external auditing firm's engagement partner, is considered confidential commercial information and protected by exemption 4 of the FOIA (5 U.S.C. 552(b)(4)) if the identity of the engagement partner is treated as private information by HCs. The Board has assured respondents that this information will be treated as confidential since the collection of this data item was proposed in 2004.

Additionally, items on the FR Y-9C, Schedule HC-C for loans modified under Section 4013, data items Memorandum items 16.a, "Number of Section 4013 loans outstanding"; and Memorandum items 16.b, "Outstanding balance of Section 4013 loans" are considered confidential. While the Board generally makes institution-level FR Y-9C report data publicly available, the Board is collecting Section 4013 loan information as part of condition reports for the impacted HCs and the Board considers disclosure of these items at the HC level would not be in the public interest. Such information is permitted to be collected on a confidential basis, consistent with 5 U.S.C. 552(b)(8). In addition, holding companies may be reluctant to offer modifications under Section 4013 if information on these modifications made by each holding company is publicly available, as analysts, investors, and other users of public FR Y-9C report information may penalize an institution for using the relief provided by the CARES Act. The Board may disclose Section 4013 loan data on an aggregated basis, consistent with confidentiality considerations.

Aside from the data items described above, the remaining data items on the FR Y-9C report and the FR Y-9SP report are generally not accorded confidential treatment. The data items collected on FR Y-9LP, FR Y-9ES, and FR Y-9CS reports, are also generally not accorded confidential treatment. As provided in the Board's Rules Regarding Availability of Information (12 CFR part 261), however, a respondent may request confidential treatment for any data items

the respondent believes should be withheld pursuant to a FOIA exemption. The Board will review any such request to determine if confidential treatment is appropriate, and will inform the respondent if the request for confidential treatment has been denied.

To the extent the instructions to the FR Y-9C, FR Y-9LP, FR Y-9SP, and FR Y-9ES reports each respectively direct the financial institution to retain the work papers and related materials used in preparation of each report, such material would only be obtained by the Board as part of the examination or supervision of the financial institution. Accordingly, such information is considered confidential pursuant to exemption 8 of the FOIA (5 U.S.C. 552(b)(8)). In addition, the financial institution's work papers and related materials may also be protected by exemption 4 of the FOIA, to the extent such financial information is treated as confidential by the respondent (5 U.S.C. 552(b)(4)).

*(2) Report title:* Complex Institution Liquidity Monitoring Report.

*Agency form number:* FR 2052a.

*OMB control number:* 7100-0361.

*Effective date:* [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

*Frequency:* Monthly, and each business day (daily).

*Affected public:* Businesses or other for-profit.

*Respondents:* U.S. BHCs, U.S. SLHCs, and foreign banking organizations (FBOs) with U.S. assets.

*Estimated number of respondents:* Monthly, 26; daily, 16.

*Estimated average hours per response:* Monthly, 120; daily, 220.

*Estimated annual burden hours:* 917,440.

*General description of report:* The Board uses the FR 2052a to monitor the overall liquidity profile of supervised institutions. These data provide detailed information on the liquidity risks within different business lines (e.g., financing of securities positions, prime brokerage activities). In particular, these data serve as part of the Board's supervisory surveillance program in its liquidity risk management area and provide timely information on firm-specific liquidity risks during periods of stress. Analyses of systemic and idiosyncratic liquidity risk issues are then used to inform the Board's supervisory processes, including the preparation of analytical reports that detail funding vulnerabilities.

*Legal authorization and confidentiality:* The FR 2052a is authorized pursuant to section 5 of the BHC Act (12 U.S.C. 1844), section 8 of the International Banking Act (12 U.S.C. 3106), section 165 of the Dodd-Frank Act (12 U.S.C. 5365), and section 10 of the Home Owners' Loan Act (12 U.S.C. 1467(a)) and is mandatory. Section 5(c) of the BHC Act authorizes the Board to require BHCs to submit reports to the Board regarding their financial condition. Section 8(a) of the International Banking Act subjects FBOs to the provisions of the BHC Act. Section 165 of the Dodd-Frank Act requires the Board to establish prudential standards for certain BHCs and FBOs, which include liquidity requirements. Section 10(g) of the Home Owners' Loan Act authorizes the Board to collect reports from SLHCs.

Financial institution information required by the FR 2052a is collected as part of the Board's supervisory process. Therefore, such information is entitled to confidential treatment under Exemption 8 of the FOIA (5 U.S.C. 552(b)(8)). In addition, the institution information provided by each respondent would not be otherwise available to the public and its disclosure could cause substantial competitive harm. Accordingly, it is entitled to confidential treatment

under the authority of exemption 4 of the FOIA (5 U.S.C. 552(b)(4)), which protects from disclosure trade secrets and commercial or financial information.

*C. Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA) requires an agency to consider whether the rules it proposes will have a significant economic impact on a substantial number of small entities. The RFA requires an agency to prepare a final regulatory flexibility analysis when it promulgates a final rule after being required to publish a general notice of proposed rulemaking. As discussed previously, the agencies have decided to adopt, without changes, revisions to the capital and LCR rules made under the interim final rules. There was no general notice of proposed rulemaking associated with the interim final rules or this final rule. Accordingly, the agencies have concluded that the RFA's requirements relating to initial and final regulatory flexibility analyses do not apply to the promulgation of this final rule.

*D. Riegle Community Development and Regulatory Improvement Act of 1994*

Pursuant to section 302(a) of the Riegle Community Development and Regulatory Improvement Act (RCDRIA),<sup>22</sup> 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 the principle of safety and soundness and the public interest, any administrative burdens that the regulations would place on depository institutions, including small depository institutions and customers of depository institutions, as well as the benefits of the regulations. In addition, section 302(b) of RCDRIA requires new regulations and amendments to regulations that impose additional reporting, disclosures, or other new

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<sup>22</sup> 12 U.S.C. 4802(a).

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.<sup>23</sup> Each Federal banking agency has determined that the final rule would not impose additional reporting, disclosure, or other requirements; therefore the requirements of the RCDRIA do not apply.

#### *E. Use of Plain Language*

Section 722 of the Gramm-Leach-Bliley Act<sup>24</sup> requires the Federal banking agencies to use “plain language” in all proposed and final rules published after January 1, 2000. In light of this requirement, the agencies have sought to present the final rule in a simple and straightforward manner. The agencies did not receive any comments on the use of plain language in the interim final rules.

#### *F. OCC Unfunded Mandates Reform Act of 1995*

As a general matter, the Unfunded Mandates Act of 1995 (UMRA), 2 U.S.C. 1531 et seq., requires the preparation of a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year. However, the UMRA does not apply to final rules for which a general notice of proposed rulemaking was not published.<sup>25</sup> Because there was no general notice of proposed rulemaking associated with the interim final rules or the final rule, the OCC concludes that the requirements of the UMRA do not apply to this final rule.

### **Authority and Issuance**

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<sup>23</sup> 12 U.S.C. 4802.

<sup>24</sup> 12 U.S.C. 4809.

<sup>25</sup> See 2 U.S.C. 1532(a).

For the reasons set forth in the joint **Supplementary Information** section, the interim final rules, which were published at 85 FR 16232, 85 FR 20387, and 85 FR 26835 on March 23, April 13, and May 6, 2020, are adopted as a final rule by the OCC, Board, and FDIC without change.

Brian P. Brooks,  
*Acting Comptroller of the Currency*

**Board of Governors of the Federal Reserve System**  
By order of the Board of Governors  
Dated at Washington, DC, on or about September XX, 2020

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Ann E. Misback,  
Secretary of the Board

**Federal Deposit Insurance Corporation.**  
By order of the Board of Directors.  
Dated at Washington, DC, on or about \_\_\_\_\_, 2020  
**James P. Sheesley,**  
*Acting Assistant Executive Secretary.*