



U.S. GOVERNMENT ACCOUNTABILITY OFFICE

441 G St. N.W.
Washington, DC 20548

B-331580

November 18, 2019

The Honorable Mike Crapo
Chairman
The Honorable Sherrod Brown
Ranking Member
Committee on Banking, Housing, and Urban Affairs
United States Senate

The Honorable Maxine Waters
Chairwoman
The Honorable Patrick McHenry
Ranking Member
Committee on Financial Services
House of Representatives

Subject: *Department of the Treasury, Office of the Comptroller of the Currency; Federal Reserve System; Federal Deposit Insurance Corporation: Changes to Applicability Thresholds for Regulatory Capital and Liquidity Requirements*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of the Treasury, Office of the Comptroller of the Currency (OCC); Federal Reserve System (Board), Federal Deposit Insurance Corporation (FDIC) (collectively, the agencies) entitled “Changes to Applicability Thresholds for Regulatory Capital and Liquidity Requirements” (RINs: 1557-AE63, 7100-AF21, 3064-AE96). We received the rule on November 1, 2019. It was published in the *Federal Register* as a final rule on November 1, 2019. 84 Fed. Reg. 59230. The effective date of the rule is December 31, 2019.

The final rule revises the criteria for determining the applicability of regulatory capital and liquidity requirements for large U.S. banking organizations and the U.S. intermediate holding companies of certain foreign banking organizations. The final rule establishes four risk-based categories for determining the applicability of requirements under the agencies’ regulatory capital rule and liquidity coverage ratio (LCR) rule. Under the final rule, according to the agencies, such requirements increase in stringency based on measures of size, cross-jurisdictional activity, weighted short-term wholesale funding, nonbank assets, and off-balance sheet exposure. The agencies state that the final rule applies tailored regulatory capital and liquidity requirements to depository institutions holding companies and U.S. intermediate holding companies with \$100 billion or more in total consolidated assets as well as to certain depository institutions. Separately, the Board is adopting a final rule that, according to it, revises the criteria for determining the applicability of enhanced prudential standards for large domestic and foreign banking organizations using a risk-based category framework that is consistent with the framework described in this final rule, and makes additional modifications to the Board’s company-run stress test and supervisory stress test rules. In addition, the Board and the FDIC are separately adopting a final rule that, according to them, amends the resolution planning

requirements under section 165(d) of the Dodd-Frank Wall Street Reform and Consumer Protection Act using a risk-based category framework that is consistent with the framework described in this final rule.

Enclosed is our assessment of the agencies' compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Janet Temko-Blinder, Assistant General Counsel, at (202) 512-7104.

signed

Shirley A. Jones
Managing Associate General Counsel

Enclosure

cc: Linda Robertson
Assistant to the Board of Governors
of the Federal Reserve System

Shaquita Merritt
Program Specialist
Office of the Comptroller of the Currency
Department of the Treasury

ENCLOSURE

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMPTROLLER OF THE CURRENCY;
FEDERAL RESERVE SYSTEM;
FEDERAL DEPOSIT INSURANCE CORPORATION
ENTITLED
“CHANGES TO APPLICABILITY THRESHOLDS FOR
REGULATORY CAPITAL AND LIQUIDITY REQUIREMENTS”
(RINs: 1557-AE63, 7100-AF21, 3064-AE96)

(i) Cost-benefit analysis

The Office of the Comptroller of the Currency (OCC) and the Board of Governors of the Federal Reserve System (Board) conducted an economic analysis of the final rule. This analysis discussed broad economic considerations the Board considered relevant to this final rule. The Board determined potential benefits to banking organizations include increased net interest margins from holding higher yielding assets, and reduced compliance costs as well as better tailoring of regulatory requirements to banking organizations. The Board determined potential costs to banking organizations and financial stability include an increased risk during a period of elevated stress or market volatility.

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603-605, 607, and 609

OCC, the Board, and the Federal Deposit Insurance Corporation (FDIC) (collectively, the agencies) each certified that the final rule will not have a significant impact on a substantial number of small entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

OCC determined that this final rule will not have an effect on the state, local, or tribal government, in the aggregate, or on the private sector, of \$100 million or more in any one year (adjusted for inflation). As independent regulatory agencies, the Board and FDIC are not subject to the Act.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551^{et seq.}

On May 24, 2019, the agencies published a notice of proposed rulemaking. 84 Fed. Reg. 24296. The agencies received approximately 50 comments from U.S. and foreign banking organizations, public entities (including a foreign central bank and a U.S. state regulator), public interest groups, private individuals, and other interested parties. The agencies responded to comments in the final rule.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501-3520

The agencies determined that this final rule contains information collection requirements under the Act. The Office of Management and Budget (OMB) control numbers for the liquidity coverage ratio (LCR) rules are 1557-0323 for OCC (4,722 estimated annual burden hours); 7100-0367 for the Board (3,370 estimated annual burden hours); and 3064-0197 for FDIC (497 estimated annual burden hours). OMB control numbers for the regulatory capital rules are 1557-0318 for OCC (1,136 hours for initial setup, 64,945 hours for ongoing), 7100-0313 for the Board (1,136 hours for initial setup, 78,591 hours for ongoing), and 3064-0153 for FDIC (1,136 hours for initial setup, 126,920 hours for ongoing). The information collection requirements contained in this final rule were submitted by OCC and FDIC to OMB. As stated in the final rule, the Board reviewed the proposed rule under the authority delegated to the Board by OMB.

The agencies also state that the final rule will require changes to the Consolidated Reports of Condition and Income (Call Reports) (FFIEC 031, FFIEC 041, and FFIEC 051; OMB Nos. 1557-0081 (OCC), 7100-0036 (Board), and 3064-0052 (FDIC)), and Risk-Based Capital Reporting for Institutions Subject to the Advanced Capital Adequacy Framework (FFIEC 101; OMB Nos. 1557-0239 (OCC), 7100-0139 (Board), and 3064-0159 (FDIC)), which will be addressed in a separate *Federal Register* notice.

Statutory authorization for the rule

The agencies promulgated this final rule pursuant to various sections of title 12 and section 78o-7 of title 15, United States Code.

Executive Order No. 12,866 (Regulatory Planning and Review)

In its submission to us, OCC indicated that it considered the Order to be not applicable. As independent regulatory agencies, FDIC and the Board are not subject to the Order.

Executive Order No. 13,132 (Federalism)

In its submission to us, OCC indicated that it considered the Order to be not applicable. As independent regulatory agencies, FDIC and the Board are not subject to the Order.