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June 2, 2020

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: Regulatory Capital Rule: Temporary Changes to the Community Bank Leverage Ratio Framework*

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; Federal Reserve System; Federal Deposit Insurance Corporation (the agencies) entitled “Regulatory Capital Rule: Temporary Changes to the Community Bank Leverage Ratio Framework” (RINs: 1557-AE88, 7100-AF84, 3064-AF45). We received the rule on May 20, 2020. It was published in the *Federal Register* as an interim final rule; request for comment on April 23, 2020. 85 Fed. Reg. 22924. The effective date of the rule is April 23, 2020.

The interim final rule makes temporary changes to the community bank leverage ratio framework, pursuant to section 4012 of the Coronavirus Aid, Relief, and Economic Security Act (the CARES Act), Pub. L. No. 116-136, 134 Stat. 281 (Mar. 27, 2020). According to the agencies, the community bank leverage ratio framework provides a simple measure of capital adequacy for community banking organizations that meet certain qualifying criteria. The agencies also stated that the community bank leverage ratio framework implements section 201 of the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA), Pub. L. No. 115-174, 132 Stat. 1296 (May 24, 2018), which requires the agencies to establish a community bank leverage ratio of not less than 8 percent and not more than 10 percent for qualifying community banking organizations. As of the second quarter of 2020, a banking organization with a leverage ratio of 8 percent or greater (and that meets other qualifying criteria) may elect to use the community bank leverage ratio framework, according to the agencies. The agencies stated that the statutory interim final rule also establishes a two-quarter grace period for a qualifying community banking organization whose leverage ratio falls below the 8 percent community bank leverage ratio requirement, so long as the banking organization

maintains a leverage ratio of 7 percent or greater. According to the agency, the temporary changes to the community bank leverage ratio framework implemented by this statutory interim final rule will cease to be effective as of the earlier of the termination date of the national emergency concerning the coronavirus disease declared by the President on March 13, 2020, under the National Emergencies Act, Pub. L. No. 94-412, 90 Stat. 1255, (Sept. 14, 1976), classified at 50 U.S.C. § 1601-1651, or December 31, 2020.

The Congressional Review Act (CRA) requires a 60-day delay in the effective date of a major rule from the date of publication in the *Federal Register* or receipt of the rule by Congress, whichever is later. 5 U.S.C. § 801(a)(3)(A). The 60-day delay in effective date can be waived, however, if the agency finds for good cause that delay is impracticable, unnecessary, or contrary to the public interest, and the agency incorporates a statement of the findings and its reasons in the rule issued. 5 U.S.C. §§ 553(b)(3)(B), 808(2). In light of section 4012 of the CARES Act, the agencies believe that delaying the effective date of the statutory interim final rule would be contrary to the public interest.

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 Shari Brewster, Assistant General Counsel, at (202) 512-6398.

A handwritten signature in cursive script that reads "Shirley A. Jones".

Shirley A. Jones
Managing Associate General Counsel

Enclosure

cc: M. Andy Jiminez
Director, Office of Legislative Affairs
Federal Deposit Insurance Commission

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
“REGULATORY CAPITAL RULE: TEMPORARY CHANGES
TO THE COMMUNITY BANK LEVERAGE RATIO FRAMEWORK”
(RINs: 1557–AE88, 7100–AF84, RIN 3064–AF45)

(i) Cost-benefit analysis

This interim final rule was submitted by the Department of the Treasury, Office of the Comptroller of the Currency; Federal Reserve System; Federal Deposit Insurance Corporation (the agencies), which indicated that it considered preparation of an analysis of the costs and benefits of this interim final rule concerning the community bank leverage ratio framework to be not applicable.

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

The interim final rule did not discuss RFA. In its submission to us, FDIC indicated it considered the requirements to certify whether the rule would not have a significant economic impact on a substantial number of small entities under 5 U.S.C. § 605(b) and to prepare a final Regulatory Flexibility Analysis under 5 U.S.C. § 604(a) to be not applicable.

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

The interim final rule did not discuss UMRA. In its submission to us, FDIC indicated that it considered preparation of a written statement under section 202 of the Unfunded Mandates Reform Act of 1995 to be not applicable.

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

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

The agencies determined they had good cause to waive notice and public procedure. The agencies stated the public interest is best served by implementing the interim final rule immediately upon publication in the *Federal Register* and explained the directives for this interim final rule under section 4012 of the Coronavirus Aid, Relief, and Economic Security Act. Because the rules relieve a restriction, the agencies stated that the interim final rule is exempt from the Administrative Procedure Act’s delayed effective date requirement. Additionally, the agencies stated that they find good cause to publish the statutory interim final rule with an immediate effective date for the same reasons discussed regarding the public interest. While the agencies believe that there is good cause to issue the statutory interim final rule without advance notice and comment and with an immediate effective date as of the date of *Federal*

Register publication, the agencies stated that they are interested in the views of the public and requested comment on all aspects of the interim final rule until June 8, 2020.

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

The agencies determined that this final rule contains no information collection requirements (ICRs) that need to be submitted to the Office of Management and Budget (OMB) under the Act. However, the agencies determined that this interim final rule affects the agencies' current ICRs for the "Call Reports" (OMB Control Numbers 1557-0081, 7100-0036, and 3064-0052). Although there may be a substantive change resulting from changes to the community bank leverage ratio framework for purposes of the Call Reports, according to the agencies, the change should be minimal and result in a zero net change in hourly burden under the agencies' information collections. The agencies stated that submissions will, however, be made by the agencies to OMB. The agencies further stated that changes to the Call Reports and their related instructions will be addressed in a separate *Federal Register* notice. In addition, according to the agencies, there are changes that the Federal Reserve System should make to the "Financial Statements for Holding Companies" (FR Y-9 reports; OMB Control Number 7100-0128) to accurately reflect the changes of the interim final rule.

Statutory authorization for the rule

The agencies promulgated this interim final rule pursuant to sections 93a, 161, 248(a), 321-338a, 481-486, 1462, 1462a, 1463, 1464, 1467a, 1815, 1816, 1818, 1819(Tenth), 1828, 1828 note, 1831n, 1831n note, 1831o, 1831p-1, 1831w, 1835, 1844, 1851, 3904, 3906-3909, 4808, 5365, 5368, 5371, 5371 note, and 5412 of title 12, United States Code; and section 78o-7 note of title 15, United States Code; Public Law 115-174; and various sections of the Coronavirus Aid, Relief, and Economic Security Act (the CARES Act), Public Law 116-136.

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

As independent regulatory agencies, the agencies are not subject to the Order.

Executive Order No. 13,132 (Federalism)

As independent regulatory agencies, the agencies are not subject to the Order.