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November 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: Revised Transition of the Current Expected Credit Losses Methodology for Allowances*

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 “Regulatory Capital Rule: Revised Transition of the Current Expected Credit Losses Methodology for Allowances” (RINs: 1557–AE82, 7100–AF82; 3064–AF42). We received the rule on October 19, 2020. It was published in the *Federal Register* as a final rule on September 30, 2020. 85 Fed. Reg. 61577. The effective date of the rule is September 30, 2020.

According to the agencies, the final rule delays the estimated impact on regulatory capital stemming from the implementation of Accounting Standards Update No. 2016–13, *Financial Instruments—Credit Losses, Topic 326, Measurement of Credit Losses on Financial Instruments* (CECL). The agencies state the final rule provides banking organizations that implement CECL during the 2020 calendar year the option to delay for 2 years an estimate of CECL’s effect on regulatory capital, relative to the incurred loss methodology’s effect on regulatory capital, followed by a 3-year transition period. The agencies state they are providing this relief to allow these banking organizations to better focus on supporting lending to creditworthy households and businesses in light of recent strains on the U.S. economy as a result of the coronavirus disease 2019, while also maintaining the quality of regulatory capital.

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). Specifically, the agencies determined they had good cause to find a delay would be contrary to the public interest because recent events have suddenly and significantly affected global economic activity, and financial markets have experienced significant volatility. The agencies state that the magnitude and persistence of the overall effects on the economy remain highly uncertain. According to the agencies, the recent economic dislocations and disruptions in financial markets could cause banking organizations to face higher than anticipated increases in credit loss allowances, and the final rule is intended to mitigate some of the uncertainty that comes with the increase in credit loss allowances during a challenging economic environment.

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 black ink that reads "Shirley A. Jones". The signature is written in a cursive, flowing style.

Shirley A. Jones
Managing Associate General Counsel

Enclosure

cc: Christian Jorgenson
Acting Deputy Director – OLA
Federal Deposit Insurance Corporation

Shaquita Merritt
Program Specialist, Chief Counsel's Office
Office of the Comptroller of the Currency
Department of the Treasury

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: REVISED TRANSITION OF THE
CURRENT EXPECTED CREDIT LOSSES METHODOLOGY
FOR ALLOWANCES”
(RINs: 1557–AE82, 7100–AF82; 3064–AF42)

(i) Cost-benefit analysis

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) did not provide a cost-benefit analysis in the final rule. In its submission to us, the agencies indicated that they considered preparation of an analysis of the costs and benefits of the final rule to be not applicable.

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

The agencies stated the RFA applies only to rules for which an agency publishes a general notice of proposed rulemaking pursuant to 5 U.S.C. § 553(b). Because the agencies found good cause to waive notice and comment procedures, the agencies determined a Regulatory Flexibility Analysis was not required.

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

As independent regulatory agencies, the agencies 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.*

The agencies waived notice and comment procedures and the 30-day delayed effective date for good cause. They determined they had good cause because recent events have suddenly and significantly affected global economic activity and financial markets have experienced significant volatility. The agencies state that the magnitude and persistence of the overall effects on the economy remain highly uncertain. According to the agencies, the recent economic dislocations and disruptions in financial markets could cause banking organizations to face higher than anticipated increases in credit loss allowances, and the final rule is intended to mitigate some of the uncertainty that comes with the increase in credit loss allowances during a challenging economic environment. The agencies also stated the final rule is exempt from the 30-day delayed effective date requirement because the final rule relieves a restriction.

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

The agencies determined the final rule does not contain information collection requirements (ICRs) subject to the Act. The agencies did state the final rule extended, with minor clarifications, ICRs previously revised by an earlier interim final rule. Those ICRs are Financial Statements for Holding Companies (Office of Management and Budget (OMB) Control No. 7100-0128), and the Capital Assessments and Stress Testing Reports (OMB Control No. 7100-0341). The agencies state that in connection with the earlier interim final rule, they also made revisions to the Call Reports (OMB Control Nos. 1557-0081, 7100-0036, 3064-0052), and the Federal Financial Institutions Examination Council 101 (OMB Control Nos. 1557-0239; 7100-0319; 3064-0159); according to the agencies, final changes to these ICRs are addressed in a separate *Federal Register* notice.

Statutory authorization for the rule

The agencies promulgated the final rule pursuant to sections 93a, 161, 248, 321-338a, 481-486, 1462, 1462a, 1463, 1464, 1467a, 1815, 1816, 1818, 1819, 1828, 1828 note, 1831, 1831n note, 1831o, 1831p-1, 1831w, 1835, 1844(b), 1851, 3904, 3906-3909, 4808, 5365, 5368, 5371, 5371 note, 5412 of title 12; and sections 78o-7 note and 9052 of title 15, United States Code; Public Law 115-174, and Public Law 116-136.

Executive Order No. 12866 (Regulatory Planning and Review)

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

Executive Order No. 13132 (Federalism)

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