U.S. GOVERNMENT ACCOUNTABILITY OFFICE
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Washington, DC 20548

B-332079

April 17, 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; Federal Reserve System; Federal Deposit Insurance Corporation (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 April 6, 2020. It was published in the *Federal Register* as an interim final rule, request for comment on March 31, 2020. 85 Fed. Reg. 17723. The effective date of the rule is March 31, 2020.

The interim 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), according to the agencies. The agencies state that the interim final rule provides banking organizations that implement CECL before the end of 2020 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 such 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 (COVID–19), 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. § 808(2). The agencies determined they had good cause to waive the 60-day delay because recent events have suddenly and significantly affected global economic activity, and financial markets have experienced significant volatility. According to the agencies, the magnitude and persistence of the overall effects on the economy remain highly uncertain. The agencies stated because of recent economic dislocations and disruptions in financial markets, banking organizations may face higher-than-anticipated increases in credit loss allowances, and they issued the rule to address these concerns.

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.

Shirley A. Jones
Managing Associate General Counsel

Enclosure

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

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
"REGULATORY CAPITAL RULE: REVISED TRANSITION
OF THE CURRENT EXPECTED CREDIT LOSSES
METHODOLOGY FOR ALLOWANCES"
(RIN: 1557-AE82, 7100-AF82, 3064-AF42)

(i) Cost-benefit analysis

In their submission to us, the Department of the Treasury, Office of the Comptroller of the Currency; Federal Reserve System; Federal Deposit Insurance Corporation (the agencies) indicated that they considered preparation of an analysis of the costs and benefits of this 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

According to the agencies, the RFA only applies to rules for which the agency publishes a notice of proposed rulemaking. Because the agencies found good cause to waive notice-and-comment rulemaking, the agencies stated RFA's requirements are not applicable to this rule. The agencies stated they, nevertheless, still seek comment on whether the interim final rule would affect a significant 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

According to the agencies, the Act does not apply to rules where a general notice of proposed rulemaking was not published. Because the agencies found good cause to waive notice-and-comment rulemaking, they determined the Act's requirements were not applicable to this interim final rule.

(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 rulemaking for good cause. The agencies determined they had good cause to waive notice-and-comment rulemaking because recent events have suddenly and significantly affected global economic activity, and financial markets have experienced significant volatility. According to the agencies, the magnitude and persistence of the overall effects on the economy remain highly uncertain. The agencies state because of recent economic dislocations and disruptions in financial markets, banking organizations may face higher-than-anticipated increases in credit loss allowances, and they issued the rule to address these concerns. With publication of this interim final rule, the agencies also opened a comment period that ends on May 15, 2020.

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

The agencies determined the interim final rule impacts current information collections for the Call Reports associated with Office of Management and Budget Control Numbers 1557–0081, 1557–0239, 3064–0052, 3064–0159, 7100–0036, 7100-0128, 7100–0319, and 7100-0341. The agencies stated the changes would lead to a net zero change in the annual burden hours.

Statutory authorization for the rule

The agencies promulgated the interim final rule pursuant to sections 93a, 161, 248, 321–338a, 481–486, 1462, 1462a, 1463, 1464, 1467a, 1815, 1816, 1818, 1819, 1828, 1828 note, 1831n, 1831n note, 1831o, 1831p–l, 1831w, 1835, 1844, 1851, 3904, 3906–3909, 4808, 5365, 5368, 5371, 5371 note and 5412 of title 12, and section 78o-7 note of title 15, United States Code.

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.