



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

B-325234

October 30, 2013

The Honorable Tim Johnson  
Chairman  
The Honorable Michael D. Crapo  
Ranking Member  
Committee on Banking, Housing, and Urban Affairs  
United States Senate

The Honorable Jeb Hensarling  
Chairman  
The Honorable Maxine Waters  
Ranking Member  
Committee on Financial Services  
House of Representatives

Subject: *Department of the Treasury, Office of the Comptroller of the Currency, and Federal Reserve System: Regulatory Capital Rules: Regulatory Capital, Implementation of Basel III, Capital Adequacy, Transition Provisions, Prompt Corrective Action, Standardized Approach for Risk-weighted Assets, Market Discipline and Disclosure Requirements, Advanced Approaches Risk-Based Capital Rule, and Market Risk Capital Rule*

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, and the Federal Reserve System entitled “Regulatory Capital Rules: Regulatory Capital, Implementation of Basel III, Capital Adequacy, Transition Provisions, Prompt Corrective Action, Standardized Approach for Risk-weighted Assets, Market Discipline and Disclosure Requirements, Advanced Approaches Risk-Based Capital Rule, and Market Risk Capital Rule” (RINs: 1557-AD46; 7100-AD 87). We received the rule on October 16, 2013. It was published in the *Federal Register* as a final rule on October 11, 2013. 78 Fed. Reg. 62,018. The rule generally has an effective date of January 1, 2014. The rule has a mandatory compliance date of January 1, 2014, for advanced approaches banking organizations that are not savings and loan holding companies and January 1, 2015, for all other covered banking organizations.

This final rule revises the risk-based and leverage capital requirements for banking organizations. Specifically, the rule implements a revised definition of regulatory capital, a new common equity tier 1 minimum capital requirement, a higher minimum tier 1 capital requirement, and, for banking organizations subject to the advanced approaches risk-based capital rules, a supplementary leverage ratio that incorporates a broader set of exposures in the denominator. The final rule incorporates these new requirements into the agencies’ prompt corrective action framework. In addition, the rule establishes limits on a banking organization’s capital distributions and certain discretionary bonus payments if the banking organization does not hold

a specified amount of common equity tier 1 capital in addition to the amount necessary to meet its minimum risk-based capital requirements. Further, the final rule amends the methodologies for determining risk-weighted assets for all banking organizations and introduces disclosure requirements that would apply to top-tier banking organizations domiciled in the United States with \$50 billion or more in total assets. The final rule also adopts changes to the agencies' regulatory capital requirements that meet the requirements of section 171 and section 939A of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

The final rule also codifies the agencies' regulatory capital rules, which have previously resided in various appendices to their respective regulations, into a harmonized integrated regulatory framework. In addition, the rule amends the market risk capital rule (market risk rule) to apply to federal savings associations and amends the advanced approaches and market risk rules to apply to top-tier savings and loan holding companies domiciled in the United States, except for certain savings and loan holding companies that are substantially engaged in insurance underwriting or commercial activities, as described in the 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. Our review of the procedural steps taken indicates that the agencies complied with the applicable requirements.

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 Shirley A. Jones, Assistant General Counsel, at (202) 512-8156.

signed

Robert J. Cramer  
Managing Associate General Counsel

Enclosure

cc: Mary H. Gottlieb  
Regulatory Specialist, LRAD  
Department of the Treasury

Linda Robertson  
Assistant to the Board of Governors  
of the Federal Reserve

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, AND  
FEDERAL RESERVE SYSTEM  
ENTITLED  
"REGULATORY CAPITAL RULES: REGULATORY CAPITAL,  
IMPLEMENTATION OF BASEL III, CAPITAL ADEQUACY, TRANSITION  
PROVISIONS, PROMPT CORRECTIVE ACTION, STANDARDIZED APPROACH  
FOR RISK-WEIGHTED ASSETS, MARKET DISCIPLINE AND DISCLOSURE  
REQUIREMENTS, ADVANCED APPROACHES RISK-BASED CAPITAL RULE,  
AND MARKET RISK CAPITAL RULE"  
(RINS: 1557-AD46; 7100-AD 87)

(i) Cost-benefit analysis

The Office of the Comptroller of the Currency (OCC) and the Federal Reserve System (the Board) (collectively, "the agencies") discussed the costs and benefits of this final rule. The agencies expect the benefit of a safer, more resilient, and more stable banking system to substantially outweigh any short-term costs that might result from this rule.

The agencies considered concerns raised by commenters and believe that it is important to take into account and address regulatory costs (and their potential effect on banking organizations' roles as financial intermediaries in the economy) when the agencies establish or revise regulatory requirements. In developing regulatory capital requirements, these concerns are considered in the context of the agencies' broad goals—to enhance the safety and soundness of banking organizations and promote financial stability through robust capital standards for the entire banking system. The agencies participated in the development of a number of studies to assess the potential impact of the revised capital requirements, including participating in the Basel Committee on Banking Supervision's (BCBS) Macroeconomic Assessment Group as well as its quantitative impact study (QIS), the results of which were made publicly available by BCBS upon their completion. The agencies note that BCBS analysis suggested that stronger capital requirements help reduce the likelihood of banking crises while yielding positive net economic benefits. According to the agencies, to evaluate the potential reduction in economic output resulting from the new framework, the analysis assumed that banking organizations replaced debt with higher-cost equity to the extent needed to comply with the new requirements, that there was no reduction in the cost of equity despite the reduction in the riskiness of banking organizations' funding mix, and that the increase in funding cost was entirely passed on to borrowers. Given these assumptions, the agencies state that the analysis concluded there would be a slight increase in the cost of borrowing and a slight decrease in the growth of the gross domestic product. Additionally, the agencies state that the analysis concluded that this cost would be more than offset by the benefit to the gross domestic product resulting from a reduced likelihood of prolonged economic downturns associated with a banking system whose lending capacity is highly vulnerable to economic shocks.

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

The agencies determined that this final rule may have a significant economic impact on a substantial number of small entities under their respective jurisdictions and therefore prepared a Final Regulatory Flexibility Analysis (FRFA). The FRFA included (1) a statement of the need for, and objectives of, the final rule; (2) a summary and assessment of significant issues raised by public comments in response to the initial regulatory flexibility analyses and a statement of changes made as a result of those comments; (3) a response to comments filed by the Chief Counsel for Advocacy of the Small Business Administration, and a statement of changes made as a result of the comments; (4) a description and estimate of the small entities affected by the rule; and (5) a projection of the reporting, recordkeeping, and other compliance requirements.

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

As an independent regulatory agency the Board is not subject to the Act. OCC determined that this rule will not result in expenditures by state, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more.

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

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

On August 30, 2012, the agencies, along with the Federal Deposit Insurance Corporation (FDIC), published in the *Federal Register* three joint notices of proposed rulemaking seeking public comment on revisions to their risk-based and leverage capital requirements and on methodologies for calculating risk-weighted assets under the standardized and advanced approaches. 77 Fed. Reg. 52,978; 77 Fed. Reg. 52,888; 77 Fed. Reg. 52,792.

Each agency received over 2,500 public comments on the proposals from banking organizations, trade associations, supervisory authorities, consumer advocacy groups, public officials (including Members of the U.S. Congress), private individuals, and other interested parties. The agencies explain that overall, while most commenters supported more robust capital standards and the agencies' efforts to improve the resilience of the banking system, many commenters expressed concerns about the potential costs and burdens of various aspects of the proposals, particularly for smaller banking organizations. A substantial number of commenters also requested withdrawal of, or significant revisions to, the proposals. A few commenters argued that new capital rules were not necessary at this time. Some commenters requested that the agencies perform additional studies of the economic impact of part or all of the proposed rules. Many commenters asked for additional time to transition to the new requirements. The agencies responded to these comments in this final rule. According to the agencies, they made substantial modifications in the final rule to address specific concerns raised by commenters regarding the cost, complexity, and burden of the proposed rules.

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

In conjunction with the proposed rules, OCC and FDIC submitted the information collection requirements contained therein to the Office of Management and Budget (OMB) for review. In response, OMB filed comments with OCC and FDIC withholding approval and instructing that the collection should be resubmitted to OMB at the final rule stage. As instructed by OMB, the

information collection requirements contained in the final rule have been submitted by OCC and FDIC to OMB for review under OMB Control Numbers 1557-0234 and 3064-0153. The Board has reviewed the final rule under the authority delegated by OMB; the Board's OMB Control Number is 7100-0313.

The agencies determined that this final rule contains information collection requirements subject to the Act in sections 324.3, 324.22, 324.35, 324.37, 324.41, 324.42, 324.62, 324.63 (including tables), 324.121 through 324.124, 324.132, 324.141, 324.142, 324.153, 324.173 (including tables). The information collection requirements contained in sections 324.203 through 324.212 concerning market risk are approved by OMB under Control Numbers 1557-0247, 7100-0314, and 3604-0178.

#### Statutory authorization for the rule

The final rule is authorized by the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act). Pub. L. No. 111-203.

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

The Board is an independent regulatory agency not subject to the Order. The OCC did not include an analysis of this final rule under the Order in its submission to us.

#### Executive Order No. 13,132 (Federalism)

The Board is an independent regulatory agency not subject to the Order. The OCC did not include an analysis of this final rule under the Order in its submission to us.