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FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 303, 314, 335, 340, 347, 363, 380

RIN 3064-AG15

Adjusting and Indexing Certain Regulatory Thresholds

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) is inviting comment on a proposed rule that would amend certain regulatory thresholds in the FDIC's regulations to reflect inflation. Specifically, the proposal would generally update such thresholds to reflect inflation from the date of initial implementation or the most recent adjustment, and provide for future adjustments pursuant to an indexing methodology. The changes set forth in this proposal would provide a more durable regulatory framework by helping to preserve, in real terms, the level of certain thresholds set forth in the FDIC's regulations, thereby avoiding the undesirable and unintended outcome where the scope of applicability for a regulatory requirement changes due solely to inflation rather than actual changes in an institution's size, risk profile or level of complexity.

DATES: Comments must be received on or before [**INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER***].

ADDRESSES: You may submit comments, identified by RIN 3064-AG15, by any of the following methods:

- *FDIC Website*: *https://www.fdic.gov/federal-register-publications*. Follow instructions for submitting comments on the agency website.
- *Email*: *Comments@fdic.gov*. Include RIN 3064-AG15 in the subject line of the message.
- *Mail*: Jennifer M. Jones, Deputy Executive Secretary, Attention: Comments – RIN 3064-AG15, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.
- *Hand Delivery to FDIC*: Comments may be hand-delivered to the guard station at the rear of the 550 17th Street NW building (located on F Street) on business days between 7 a.m. and 5 p.m.
- *Public Inspection*: Comments received, including any personal information provided, may be posted without change to *https://www.fdic.gov/federal-register-publications*. Commenters should submit only information that the commenter wishes to make available publicly. The FDIC may review, redact, or refrain from posting all or any portion of any comment that it may deem to be inappropriate for publication, such as irrelevant or obscene material. The FDIC may post only a single representative example of identical or substantially identical comments, and in such cases will generally identify the number of identical or substantially identical comments represented by the posted example. All comments that have been redacted, as well as those that have not been posted, that contain comments on the merits of the proposed rule will be retained in the public comment file and will be considered as required under all applicable laws. All comments may be accessible under the Freedom of Information Act.

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I. Introduction

A. Background

Thresholds are used to determine the scope of applicability for certain regulations promulgated by the FDIC. The most common threshold is the amount of total on-balance sheet assets of an institution (measured in dollars), which has long served as a proxy for an institution's size.[1] In some cases, asset-based size thresholds are combined with other thresholds to serve as proxies for an institution's risk profile or level of complexity, such as the amount of nonbank assets or cross-jurisdictional activities.[2] Combining thresholds in this manner helps to support a regulatory framework that is tailored to the risks presented by an individual institution or categories of institutions.[3]

While most thresholds set a general level of applicability for a regulation, in some instances, thresholds are applied within a regulation to establish exclusions, provide for optionality, or to tailor individual requirements within a broad-based regulation to the varying sizes and risk profiles of all in-scope institutions. For example, as discussed further below,

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[1] *See e.g.*, 12 CFR 337.12(b) (classifying institutions with less than $10 million in assets as small for examination cycle purpose); 12 CFR 327.8(e) (classifying institutions with assets of $10 billion or more as large for assessment purposes).

[2] *See e.g.*, 12 CFR 329.3.

[3] For example, for large financial institutions with total assets of $100 billion or more, capital and liquidity requirements increase in stringency based on measures of size, cross-jurisdictional activity, weighted short-term wholesale funding, nonbank assets, and off-balance sheet exposure. *See* 84 FR 59230 (Nov. 1, 2019).

thresholds of $2,500 and $1,000 are used to define certain offenses that are exempt from the application requirements of Section 19 of the FDI Act, as implemented by 12 CFR part 303.[4]

Under the FDIC's regulations, most thresholds are static, with no mechanism for periodic adjustments over time. To adjust a static threshold, the FDIC must, in general, provide notice and seek comment on such adjustment before it can be implemented as final.[5] However, certain thresholds within FDIC regulations are required by statute and therefore cannot be adjusted without legislative changes.[6]

The FDIC has occasionally revised discretionary regulatory thresholds or established a mechanism within a regulation to allow for adjustments on a periodic basis. For example, 12 CFR part 345, which implements the Community Reinvestment Act,[7] defines small and intermediate-small banks by reference to asset-size criteria expressed in dollar amounts, which are adjusted annually based on the year-to-year change in inflation through a *Federal Register* notice.[8] As an additional example, the FDIC adjusted 12 CFR part 348, Management Official Interlocks, in 2019 to increase asset-based thresholds that had been established in 1996.[9] Part

[4] Specifically, under 12 CFR 303.227, the requirements of Section 19 do not apply to covered offenses where an individual could have been sentenced to a term of confinement in a correctional facility of three years or less and/or a fine of $2,500 or less, and that meet the additional criteria set forth in that section. In addition, the requirements of Section 19 do not apply to "small dollar, simple theft," which includes, among other requirements, the simple theft of goods, services, or currency (or other monetary instrument) if the value of the currency, goods, or services involved has a value of $1,000 or less.
[5] 5 U.S.C. 553(b); *see also* 5 U.S.C. 553(B) (providing exception where agency for good cause finds notice and comment is "impracticable, unnecessary, or contrary to public interest").
[6] *See e.g.,* 12 U.S.C. 1819(a) (Seventh and Tenth).
[7] 12 U.S.C. 2901 *et seq*.
[8] Specifically, this adjustment corresponds to the average of the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W), not seasonally adjusted, for each 12-month period ending in November, with rounding to the nearest million. S*ee* Community Reinvestment Act Regulations Asset-Size Thresholds, 89 FR 106480, 106481 (Dec. 30, 2024).
[9] Specifically, this threshold was adjusted to correspond to the year-to-year change in the average of the CPI-W, not seasonally adjusted, with rounding to the nearest $100 million. *See* 84 FR 54465, 54468 (Oct. 10, 2019).

348 further provides that the FDIC will adjust such asset thresholds, as necessary, based on inflation.[10]

B. Considerations for Updating and Indexing Thresholds

As discussed above, the use of applicability thresholds allows the FDIC to differentiate and tailor regulatory requirements based on an institution's size, risk profile and level of complexity. However, static dollar-based thresholds without periodic adjustments to reflect inflation do not preserve threshold levels in real terms, leading to unintended policy consequences. For example, smaller and mid-size institutions can become subject to requirements originally intended for relatively larger institutions, thereby increasing burden for reasons unrelated to changes in their inflation-adjusted size or risk profile.

Adjusting regulatory thresholds to reflect inflation would help ensure that they preserve their intended application in real terms over time and remain generally aligned with their intended policy objectives. However, if not properly structured, inflation-based adjustments also can lead to unintended and undesirable outcomes. For example, adjusting regulatory thresholds too frequently and in the absence of meaningful inflation can result in inefficiencies, as institutions may incur cost to frequently realign their balance sheet management practices to reflect adjusted thresholds. By contrast, adjustments that are infrequent and do not sufficiently keep pace with inflation result in thresholds that are continually decreasing in real terms in the time period between adjustments. Infrequent adjustments also result in larger, less gradual adjustments that can impair the certainty and predictability of a regulatory framework and create challenges for regulatory compliance and balance sheet management practices.

[10] Part 348 further indicates the FDIC will announce the revised thresholds by publishing a final rule without notice and comment in the Federal Register. 12 CFR 348.3(c).

Properly structured, appropriately sequenced and predictable inflation-based threshold adjustments promote consistent application of regulatory requirements over time and contribute to a more durable regulatory framework. In addition, such adjustments can enhance transparency and certainty by providing institutions with a pre-determined schedule for future regulatory changes and therefore allow for more enhanced balance sheet management practices.

C. Overview of the Proposal and Policy Objectives

The FDIC is proposing to update certain regulatory thresholds and provide automatic adjustments to those thresholds over time using an indexing methodology. Under the proposal, the FDIC would initially update such thresholds to reflect historical inflation[11] (measured as the percentage change in the non-seasonally adjusted Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W)),[12] generally based off the date of initial implementation or the most recent quantitative adjustment. Additionally, the FDIC is proposing an indexing methodology for subsequent, periodic threshold adjustments that would be implemented automatically every two consecutive calendar years, or during any intervening calendar year when the cumulative change in CPI-W since the last adjustment increases by more than 8 percent.[13]

The adjustments provided for in this proposal are intended to help preserve, in real terms, certain threshold levels in the FDIC's regulations, thereby avoiding the undesirable and

[11] Certain thresholds under the proposal would be updated initially to reflect other considerations. For example, as discussed in section II.E of this Supplementary Information, the proposal would initially update thresholds in 12 CFR part 363 to help ensure sound financial management of the institutions posing the greatest potential risk to the Deposit Insurance Fund. *See infra,* n. 46.

[12] The U.S. Bureau of Labor Statistics publishes the CPI-W on a monthly basis. The CPI-W is used to annually adjust benefits paid to Social Security beneficiaries and Supplemental Security Income recipients. *See*, U.S. Social Security Administration, CPI for Urban Wage Earners and Clerical Workers, *available at* www.ssa.gov/oact/STATS/cpiw.html.

[13] Any references to inflation in this proposal refer to inflation as measured under the CPI-W, unless specifically noted otherwise.

unintended outcome where an institution becomes subject to additional or more stringent regulatory requirements due solely to inflation rather than actual changes in the institution's size, risk profile or level of complexity.

The proposal is the first of a multi-phase effort to reevaluate thresholds within the FDIC's regulations. The thresholds selected for this initial phase are thresholds that (1) appear within regulations issued only by the FDIC, (2) are not set by statute, and (3) are relatively straightforward to adjust. For example, the proposal would initially update and provide for subsequent periodic adjustments pursuant to an indexing methodology for a number of dollar-based thresholds in 12 CFR part 363 related to audit, internal control, audit committee composition, and reporting requirements. The FDIC expects to solicit comment on one or more subsequent proposals to update and adjust additional thresholds, and, as appropriate, will seek to coordinate with other Federal agencies. Additionally, the FDIC, together with the Federal Financial Institutions Examination Council, Office of the Comptroller of the Currency, and Board of Governors of the Federal Reserve System, commenced a review under the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA) in 2024 to solicit feedback from the public on potentially outdated or otherwise unnecessary regulatory requirements.[14] The FDIC expects to review and consider any comments received pursuant to this EGRPRA review that relate to the thresholds considered within this proposal as part of any final rulemaking.

[14] The EGRPRA requires that regulations prescribed by the Federal Financial Institutions Examination Council, Office of the Comptroller of the Currency, Federal Deposit Insurance Corporation, and Board of Governors of the Federal Reserve System be reviewed by the agencies not less frequently than once every 10 years. The purpose of the EGRPRA review is to identify outdated or unnecessary regulations and consider how to reduce regulatory burden on insured depository institutions while, at the same time, ensuring their safety and soundness and the safety and soundness of the financial system.

As discussed in the sections that follow, the proposal would initially update and thereafter periodically adjust certain thresholds in the following FDIC regulations:

- 12 CFR Part 303 – Filing Procedures
- 12 CFR Part 335 – Securities of Nonmember Banks and State Savings Associations
- 12 CFR Part 340 – Restrictions on Sale of Assets of a Failed Institution by the Federal Deposit Insurance Corporation
- 12 CFR Part 347 – International Banking
- 12 CFR Part 363 – Annual Independent Audits and Reporting Requirements
- 12 CFR Part 380 – Orderly Liquidation Authority

II. Initial Updates

Except as otherwise provided,[15] the proposal would provide for an initial increase in the thresholds described below to reflect historical inflation and index these thresholds to account for future inflation. Initial updates would become effective, consistent with applicable law, at the beginning of the first calendar quarter following adoption of the final rule.

A. 12 CFR Part 303 – Filing Procedures

Section 19 of the FDIA (Section 19) prohibits, without the prior written consent of the FDIC, a person convicted of any criminal offense involving dishonesty, breach of trust, or money laundering, or who has entered into a pretrial diversion or similar program in connection with a prosecution for such an offense (collectively, covered offenses), from becoming or continuing to serve as an institution-affiliated party.[16]

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[15] As discussed in section II.E of this Supplementary Information, the initial updates to thresholds in part 363 would support a key underlying objective of the regulation, while maintaining consistency with the historical scope of applicability and reducing burden for smaller institutions. In addition, one threshold under part 363 that is intended to align to listing standards of the national securities exchanges would not be subject to the proposed indexing methodology.

[16] 12 U.S.C. 1829.

Subpart L of part 303 of the FDIC's regulations implements Section 19 and includes separate \$2,500 and \$1,000 *de minimis* thresholds for certain offenses which are excluded from the scope of Section 19 and for which no Section 19 application is required.[17] Specifically, under 12 CFR 303.227, the requirements of Section 19 do not apply to covered offenses where the individual could have been sentenced to a term of confinement in a correctional facility of three years or less and/or a fine of \$2,500 or less, and that meet the additional criteria set forth in that section. In addition, the requirements of Section 19 do not apply to "small dollar, simple theft," which includes, among other requirements, the simple theft of goods, services, or currency (or other monetary instrument) if the value of the currency, goods, or services involved has a value of \$1,000 or less.[18]

For purposes of implementing Section 19, an ongoing, significant objective of the FDIC has been to establish criteria for the *de minimis* exception framework such that it applies to offenses that are relatively minor in nature and help to ensure that prior conduct of the covered party would pose low risk to an insured institution. Over time, the FDIC has expanded the scope of the *de minimis* framework based on historical analysis that showed the FDIC routinely approved Section 19 applications involving minor offenses.[19] Every expansion of the *de minimis*

[17] Note that § 303.227 contains 3 different dollar thresholds setting forth different *de minimis* exceptions. The \$2,000 or less threshold for bad checks set forth in § 303.227(b)(2)(ii) is set by statute (*see* 12 U.S.C. 1829(c)(3)(C)) and is therefore not within the FDIC's discretion to adjust and not included in this proposal.

[18] Additional criteria that must be met include (i) The theft was not committed against an insured depository institution (IDI) or insured credit union; (ii) The individual has no more than one other offense that is considered exempt under this section; and (iii) If there are two offenses—each of which, by itself, is considered exempt under this section—each conviction or program entry was entered at least three years prior to the date an application would otherwise be required, or at least 18 months prior to the date an application would otherwise be required if the actions that resulted in the conviction or program entry all occurred when the individual was 21 years of age or younger. Simple theft excludes burglary, forgery, robbery, identity theft, and fraud. *See* 12 CFR 303.227(b)(3).

[19] For example, in 2018, the FDIC broadened the application of the *de minimis* exception to filing an application due to the minor nature of the offenses and the low risk that the covered party would pose to an insured institution based on the conviction or program entry. By modifying these provisions, the FDIC stated it believed that there would be a reduction in the submission of applications where approval has been granted by virtue of the *de minimis* offenses exceptions to filing in the policy statement. *See* 83 FR 38143 (Aug. 3, 2018).

framework ultimately provided additional relief to potential applicants without undermining the purpose of Section 19 or causing undue risk to an institution or the Deposit Insurance Fund.[20]

The non-seasonally adjusted CPI-W has increased by approximately 38 percent since the $2,500 *de minimis* threshold was set in 2012; the proposal would increase this threshold to $3,500. Similarly, the non-seasonally adjusted CPI-W has increased by approximately 23 percent since the $1,000 *de minimis* threshold was set in 2020; the proposal would increase this threshold to $1,225. These proposed updates would help preserve, in real terms, the level of such thresholds while providing meaningful relief from barriers to employment opportunities, consistent with the purpose of Section 19 and prior amendments to the *de minimis* exception framework.

Question 1: What are the advantages and disadvantages of increasing the de minimis offense thresholds for purposes of Section 19? Would the proposal appropriately support objectives of the de minimis exceptions framework in a manner consistent with safety and soundness?

B. 12 CFR Part 335 – Securities of State Nonmember Banks and Savings Associations

Part 335 of the FDIC's regulations provides securities recordkeeping and requirements for state nonmember banks and state savings associations, and generally applies only to such institutions with one or more classes of securities required to be registered under section 12 of the Securities Exchange Act of 1934 (Exchange Act), as amended.[21] Part 335 is substantially similar to Securities and Exchange Commission (SEC) regulations that implement the securities

[20] For example, changes to the *de minimis* exception in the final rule published in 2020 would have reduced past applications by approximately 20 percent. *See* Fact Sheet: FDIC Issues Rule on Section 19 of the Federal Deposit Insurance Act (July 2020).
[21] 12 CFR part 335.

registration, disclosure, proxies and proxy solicitation, information statements, tender offer, election of directors, and beneficial ownership and reporting requirements of the Exchange Act.

SEC and FDIC regulations both contain disclosure requirements for loans to insiders. The SEC regulations require disclosure of certain insider indebtedness in excess of $120,000, which have preferential terms, were not made in the ordinary course of business, or which involve more than the normal risk of collectability or involve other unfavorable features.[22] By contrast, part 335 requires disclosure of extensions of credit to insiders in excess of 10 percent of the capital account of an institution or $5 million, whichever is less.[23] The FDIC set the $5 million threshold in 1979, stating that the prior threshold of $10 million was too high to allow for meaningful disclosure.[24] The FDIC revisited this amount in 1997 and determined at the time that the overall benefit to the banking industry resulting from continuation of the FDIC's historical disclosure requirements under part 335, including the $5 million threshold, was in the public interest and appropriate for protection of investors.[25]

If indexed to inflation since the FDIC's most recent consideration of the indebtedness of management disclosure provisions in 1997, the $5 million threshold would be $9.9 million. The proposal would update the dollar threshold in section 335.801(d) to $10 million to reflect inflation since that time. The proposed revision would help to preserve, in real terms, the level of this threshold.[26]

Question 2: What are the advantages and disadvantages of raising the threshold for the management indebtedness disclosure provisions under part 335 to $10 million?

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[22] 17 CFR 229.404.
[23] 12 CFR 335.801(d).
[24] *See* 44 FR 33077, 33079 (Jun. 8, 1979).
[25] *See* 62 FR 6852, 6855 (Feb. 14, 1997).
[26] For example, growth in the dollar amount of capital as a result of inflation would impact the permitted amount extensions of credit under part 337.3(b) if an FDIC-supervised institution provides an extension of credit less than 5 percent of its unimpaired capital and unimpaired surplus.

Question 3: Are there any unintended consequences that the FDIC should consider in increasing the threshold for disclosure of extensions of credit to insiders?

C. 12 CFR Part 340 – Restrictions on Sale of Assets of a Failed Institution by the FDIC

Part 340 of the FDIC's regulations addresses restrictions on the FDIC's sale of failed IDI assets to individuals or entities that improperly profited from or engaged in wrongdoing at the expense of a failed IDI or that seriously mismanaged a failed IDI.[27] Among other restrictions, part 340 prohibits a person from acquiring any assets of a failed IDI if the person or its associated person "[h]as participated, as an officer or director of a failed institution or of an affiliate of a failed institution, in a material way in one or more transaction(s) that caused a substantial loss to that failed institution"[28] or "[h]as demonstrated a pattern or practice of defalcation regarding obligations to any failed institution"[29] that "in the aggregate, caused a substantial loss to one or more failed institution(s)."[30] Part 340 defines "substantial loss" to include multiple types of loss that all use a threshold of $50,000 for purposes of determining whether the losses are "substantial."[31]

The FDIC added part 340 to the FDIC's regulations in 2000.[32] Subsequent updates[33] to part 340 have not substantively modified the "substantial loss" definition or the $50,000

[27] *See* 12 CFR 340.1(b) (stating the purpose of 12 CFR part 340).
[28] 12 CFR 340.4(a)(1). Part 340 defines material participation in a transaction that caused substantial loss to a failed IDI in 12 CFR 340.4(b).
[29] 12 CFR 340.4(a)(3).
[30] *See* 12 CFR 340.4(c) (defining a "pattern or practice of defalcation").
[31] *See* 12 CFR 340.2(h) (defining "substantial loss" as "(1) An obligation that is delinquent for ninety (90) or more days and on which there remains an outstanding balance of more than $50,000; (2) An unpaid final judgment in excess of $50,000 regardless of whether it becomes forgiven in whole or in part a bankruptcy proceeding; (3) A deficiency balance following a foreclosure of collateral in excess of $50,000, regardless of whether it becomes discharged in whole or in part in a bankruptcy proceeding; (4) Any loss in excess of $50,000 evidenced by an IRS Form 1099-C (Information Reporting for Cancellation of Debt).").
[32] *See* 65 FR 14816, 14819 (Mar. 20, 2000).
[33] As discussed in more detail below, part 340, including the "substantial loss" provisions and the $50,000 threshold, was the model for and is intended to match the substantially similar provisions applicable to FDIC covered financial company asset sales under 12 CFR 380.13. *See* 80 FR 22886 (Apr. 24, 2015) ("Because section 210(r) and section

threshold.[34] The substantial loss provisions and the $50,000 threshold are also included in the FDIC's Purchaser Eligibility Certification form, which is required under part 340 for all prospective purchasers of failed IDI assets.[35]

The FDIC is proposing to revise the "substantial loss" threshold in part 340 by raising the existing threshold from $50,000 to $100,000. If indexed to inflation since the FDIC established the "substantial loss" threshold in 2000, the $50,000 threshold would be $92,666. This proposed updated threshold of $100,000 approximates inflation adjustments.

Updating the threshold for "substantial loss" would preserve, in real terms, the level of the threshold, while allowing more prospective purchasers to make offers to buy failed IDI assets. The FDIC does not expect this proposed adjustment to adversely affect competition or the prices paid for failed IDI assets.

More generally, the FDIC has experienced challenges with implementation of part 340 and is considering future amendments to the regulation, but, in the interim, is proposing to revise the threshold for "substantial loss" as part of this rulemaking.

Question 4: What are the advantages and disadvantages of increasing the $50,000 substantial loss threshold that is used to determine whether individuals or entities are eligible to purchase assets of a failed institution? Does the proposal appropriately balance the potential benefit of increasing competition for failed institution assets with any public interest concerns that may be associated with increasing this threshold?

11(p) share substantially similar statutory language, part 340 served as a model for the development of § 380.13. While many aspects of part 340 were included in § 380.13, FDIC staff identified new or different concepts to include in § 380.13 that were not already in part 340. The addition of these concepts into part 340 will improve part 340 and make it more consistent with § 380.13."). *See also, id.,* at 22887 (describing the updates to part 340 made to ensure consistency between part 340 and section 380.13).

[34] *See generally, id.*

[35] The Purchaser Eligibility Certification form, *available at* https://www.fdic.gov/asset-sales/purchaser-eligibility-certification-pec.pdf.

D. 12 CFR Part 347 – International Banking

Part 347 of the FDIC's regulations governs international banking. Subpart A to part 347, which implements Section 18(d) and 18(l) of the FDIA, sets forth the requirements for insured state nonmember bank investments in foreign organizations, permissible foreign financial activities, loans or extensions of credit to or for the account of foreign organizations, and the FDIC's recordkeeping, supervision, and approval requirements. Subpart A also addresses permissible activities for foreign branches of insured state nonmember banks.

The FDIC issued a final rule in 1998 amending its international banking regulations and consolidating them into part 347.[36] Under subpart A of part 347, a state nonmember bank may hold an equity interest in one or more foreign organizations that underwrite, deal, or distribute equity securities outside of the United States, subject to certain limitations. Two of those limitations include dollar-based thresholds. First, section 347.111(a) provides that the aggregate underwriting commitments by the foreign organizations for the securities of a single entity, taken together with underwriting commitments by any affiliate of the state nonmember bank under the authority of 12 CFR 211.10(b), may not exceed the lesser of $60 million or 25 percent of the state nonmember bank's Tier 1 capital. Second, section 347.111(b) provides that the equity securities of any single entity held for distribution or dealing by the foreign organizations, taken together with equity securities held for distribution or dealing by any affiliate of the insured state nonmember bank under the authority of 12 CFR 211.10, must not exceed the lesser of $30 million or 5 percent of the insured state nonmember bank's Tier 1 capital, subject to certain other requirements.

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[36] 63 FR 17056 (Apr. 8, 1998).

The dollar-based thresholds under subpart A of part 347 were established in 1998 and have not since been updated. At the time, the FDIC stated that it intended to maintain parity between the restrictions governing the international activities of state nonmember banks regulated by the FDIC and member banks subject to the Federal Reserve Board's (FRB's) Regulation K. In 2001, the FRB issued a final rule to adjust certain limitations on activities of bank holding companies, state member banks, Edge corporations, and agreement corporations (FRB-supervised institutions). For example, the final rule expanded underwriting limits for well-capitalized, well-managed FRB-supervised institutions by tying the limit for underwriting shares to a single organization to a percentage of the institution's Tier 1 capital, and eliminating the limitation based on a dollar amount.[37] FRB-supervised institutions that are not well-capitalized and well-managed remained subject to the $60 million underwriting commitment threshold for shares of individual organizations.[38] The final rule also revised the dealing limit on shares in which an FRB-supervised institution can hold in its trading or dealing accounts for a single issuer from the lesser of $40 million or 10 percent of Tier 1 capital, increased from $30 million. The FRB justified this increase by noting that 10 years had passed since the $30 million limit was first established.[39]

Following the FRB's revisions to Regulation K, the FDIC issued a rule on April 6, 2005,[40] transferring these limits to its current location at 12 CFR part 347.111; the dollar-based thresholds remained unchanged. Since these limits were established in 1998, the CPI-W has increased by approximately 95 percent. If indexed to inflation, the limits on aggregate

[37] 66 FR 54346, 54354 (Oct. 26, 2001); *see* 12 CFR 211.10(a)(14).
[38] 66 FR 54346, 54354 (Oct. 26, 2001)*; see* 12 CFR 211.10(a)(15).
[39] *Id.*
[40] 70 FR 17550 (Apr. 5, 2005).

underwriting commitments and on the equity securities of any entity held for distribution or dealing would be $118 million and $59 million, respectively.

To preserve the level of these thresholds in real terms, the FDIC is proposing to revise the dollar limits in subpart A of part 347 on aggregate underwriting commitments and on equity securities held for distribution or dealing to $120 million and $60 million, respectively. The proposed increases in these limits approximate inflation adjustments since 1998. The limits on aggregate underwriting commitments and the dollar limit on equity securities held for distribution and dealing, as percentages of Tier 1 capital, would remain unchanged. The proposal would not align these thresholds with those used in parallel regulations of the FRB.

Question 5: What are the advantages and disadvantages of updating the dollar limits in subpart A of 12 CFR part 347 on aggregate underwriting commitments and on equity securities held for distribution or dealing to $120 million and $60 million, respectively?

Question 6: Should the FDIC consider eliminating the limit based on a dollar amount for underwriting shares to a single organization for institutions that are well-capitalized and well-managed and only include a limit for a percentage of an institution's Tier 1 capital, consistent with FRB Regulation K? What would be the advantages and disadvantages of such an approach?

Question 7: What are the potential unintended consequences, if any, of establishing a higher limit on equity securities held for dealing or distribution under part 347 relative to the limit that applies under Regulation K?

E. 12 CFR Part 363 – Annual Independent Audits and Reporting Requirements

Section 112 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA) added section 36, "Early Identification of Needed Improvements in Financial

Management," to the FDIA.[41] Section 36 generally subjects IDIs above a certain asset size threshold to annual independent audits, assessments of the effectiveness of internal control over financial reporting (ICFR), and compliance with designated laws and regulations, as well as related reporting requirements. Section 36 also includes requirements for audit committees of these IDIs. Section 36 grants the FDIC discretion to set the asset size threshold for compliance with these requirements, but it also provides that the threshold shall not be less than $150 million.[42]

Part 363 of the FDIC's regulations implements Section 36 and requires any IDI with total consolidated assets of $500 million or more at the beginning of its fiscal year to submit to the FDIC and other appropriate Federal and State supervisory agencies an annual report (part 363 Annual Report) comprised of audited financial statements, the independent public accountant's report thereon, and a management report containing a statement of management's responsibilities and an assessment by management of compliance with applicable laws and regulations.[43] The management report component of the part 363 Annual Report for an institution with $1 billion or more in total assets must also include an assessment by management of the effectiveness of ICFR and an independent public accountant's attestation report on ICFR.[44] The FDIC has not adjusted the $500 million mandatory compliance threshold for part 363 since its initial implementation; however, the $1 billion threshold was increased from $500 million in 2005.[45]

When the FDIC initially implemented part 363, use of a $500 million threshold captured approximately 1,000 IDIs (out of 14,000) holding 75 percent of U.S. banking assets, while

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[41] 12 U.S.C. 1831m.
[42] Consistent with the statute, the FDIC is consulting with the other Federal banking agencies in adjusting these thresholds.
[43] *See* 12 CFR 363.2.
[44] *See* 12 CFR 363.2(b)(3) and 363.3(b).
[45] 70 FR 71226, 71227 (Nov. 28, 2005).

exempting approximately two-thirds of institutions that would have been subject to section 36 under a $150 million threshold.[46] In addition, at the time of initial implementation, more than 96 percent of these covered institutions reported that they were subject to an annual audit by an independent public accountant at the depository institution or parent company level. The initial scope of application for part 363 was intended to help ensure sound financial management of the institutions posing the greatest potential risk to the Deposit Insurance Fund.[47]

The 2005 amendment to the ICFR threshold in part 363 reflected a recognition that compliance with the audit and reporting requirements had become more burdensome and costly, particularly for smaller nonpublic institutions.[48] In addition, due to consolidation in the banking and thrift industry and the effects of inflation, the scope of applicability for part 363 had increased to cover more than 1,150 (out of 8,900) insured institutions, representing approximately 90 percent of industry assets.[49] Following the 2005 amendment, about 600 of the largest insured institutions with approximately 86 percent of industry assets continued to be covered by the ICFR requirements of part 363. This change was intended to achieve meaningful burden reduction in a manner consistent with safety and soundness.[50] Subsequent amendments

[46] 58 FR 31332, 31333 (June 2, 1993).
[47] *Id.*
[48] *Supra* n. 45.
[49] *Id.*
[50] *Id*.

to part 363 in 2009[51] and 2020[52] did not result in permanent changes to the regulatory asset thresholds.

Most of the dollar-based thresholds in part 363 have been in place for more than 30 years. The proposal would raise the general applicability thresholds from $500 million to $1 billion, the ICFR asset threshold from $1 billion to $5 billion, and thresholds related to audit committee composition generally from $500 million to $1 billion, and from $1 billion and $3 billion to $5 billion.[53] Use of these thresholds would help support a key underlying objective of part 363—that is, achieving sound financial management at insured institutions posing the greatest risk to

[51] 74 FR 35726 (July 20, 2009). The most significant amendments to part 363 in 2009 included: (1) extending the time period for a non-public institution to files its Part 363 Annual Report by 30 days and replace the 30-day extension of the filing deadline that may be granted if an institution (public or non-public) is confronted with extraordinary circumstances beyond its reasonable control with a late filing notification requirement that would have general applicability; (2) providing relief from the annual reporting requirements for institutions that are merged out of existence before the filing deadline; (3) providing relief from reporting on internal control over financial reporting for businesses acquired during the fiscal year; (4) requiring management's assessment of compliance with the laws and regulations pertaining to insider loans and dividend restrictions to state management's conclusion regarding compliance and disclose any noncompliance with such laws and regulations; (5) requiring an institution's management and the independent public accountant to identify the internal control framework used to evaluate internal control over financial reporting and disclose all identified material weaknesses that have not been remediated prior to the institution's most recent fiscal year-end; (6) clarifying the independence standards with which independent public accountants must comply and enhance the enforceability of compliance with these standards; (7) specifying that the duties of the audit committee include the appointment, compensation, and oversight of the independent public accountant, including ensuring that audit engagement letters do not contain unsafe and unsound limitation of liability provisions; (8) requiring certain communications by independent public accountants to audit committees; (9) establishing retention requirements for audit working papers; (10) requiring boards of directors to adopt written criteria for evaluating an audit committee member's independence and provide expanded guidance for boards of directors to use in determining independence; (11) providing that ownership of 10 percent or more of any class of voting securities of an institution is not an automatic bar for considering an outside director to be independent of management; (12) requiring the total assets of a holding company's insured depository institution subsidiaries to comprise 75 percent or more of the holding company's consolidated total assets in order for an institution to be eligible to comply with part 363 at the holding company level; and (13) providing illustrative management reports to assist institutions in complying with the annual reporting requirements.

[52] 85 FR 67427 (Oct. 23, 2020). In 2020, the FDIC adopted an interim final rule allowing IDIs to use total consolidated assets as of December 31, 2019, for purposes of the asset thresholds in part 363 for fiscal years ending in 2021.

[53] In total, the FDIC is proposing increases to 24 regulatory asset thresholds in part 363. Several of these asset thresholds are similar and are repeated throughout part 363 pertaining to the general requirements of part 363, as well as to the holding company requirements of part 363 (for insured depository institutions that are subsidiaries of holding companies), and audit committee composition requirements.

the Deposit Insurance Fund[54]—and maintain consistency with the historical scope of applicability according to several metrics. The $1 billion and $5 billion thresholds would cover institutions holding approximately 95 and 89 percent of industry assets, respectively. In addition, the proposed increase in the applicability threshold from $500 million to $1 billion would result in approximately the same number of institutions being subject to part 363 (approximately 1,000 institutions) in 2025 as were subject to the regulation in 1993 (at its inception) and in 2005 (when the threshold for the ICFR requirements was amended), while removing nearly 800 institutions from the general scope of applicability for part 363. Similarly, the proposed increase in the ICFR threshold from $1 billion to $5 billion would be generally consistent with the historical application of such requirements (to approximately 75 percent of institutions) at the time of initial implementation and under the 2005 amendment.

The thresholds set forth in the proposal also would achieve meaningful burden reduction for the smallest institutions, which would be removed from the scope of applicability for reporting requirements and internal control assessments. Furthermore, experience has demonstrated that smaller community institutions, particularly those in rural areas, have had difficulty complying with the audit committee composition requirements. Specifically, these institutions frequently report that it is increasingly difficult to attract and retain individuals who are willing and capable of serving as a member of an audit committee, thereby making compliance with the audit committee composition requirements of part 363 challenging.

[54] *Supra* n. 46 at 31333 ("The FDIC has exercised its discretion to mitigate the financial burden of compliance by raising the threshold from $150 million to $500 million, thereby exempting from the final rule approximately two-thirds of institutions that would have been subject to section 36, but which pose less of a risk to the deposit insurance funds, while bringing approximately 75 percent of the banking assets in the U.S. within the scope of the regulation").

Irrespective of the proposed changes to part 363 thresholds, IDIs may still be required to have an audit and assess internal controls over financial reporting by their respective states if the institution is state chartered.[55] Additionally, insured depository institutions that are public companies or subsidiaries of public companies that file annual and other periodic reports as required by the Sarbanes-Oxley Act of 2002 are required to have an audit and assess internal controls over financial reporting.[56] As of March 31, 2025, approximately 52 percent of institutions not subject to part 363 still obtained an audit.[57]

The FDIC is also proposing to increase the $100,000 compensation threshold under part 363[58] related to the determination of whether a director is considered "independent of management." Paragraph 28 in Appendix A to Part 363, "*Independent of Management" Considerations,* sets forth the criteria a board of directors should consider when determining the independence of an outside director for audit committee purposes. The independence criteria under part 363, including the $100,000 compensation threshold, are intended to be consistent with those provided under the listing standards of national securities exchanges while providing some flexibility for smaller nonpublic institutions.

The FDIC implemented the $100,000 threshold under part 363 in 2009. Since that time, the parallel threshold under the listing standards of national securities exchanges has been raised

[55] *See e.g.,* AL Code 5-2A-22 (2024); CA Fin Code 502 (2024); Conn. Gen. Stat 36a-86; and Ga. Comp. R. & Regs. R. 80-1-14-.01.
[56] Sarbanes-Oxley Act of 2002, Pub. L. No. 107-204, 116 Stat. 745 (2002), and its implementing regulations, 15 U.S.C.7262.
[57] Call Report data, March 31, 2025. The level of audit work performed on an institution is reported in the March Call Report each year and can be found on line M.1 in the Memorandum to Schedule RC.
[58] The threshold describes situations where the director has received, or has an immediate family member who has received, during any twelve-month period within the last three years, more than $100,000 in direct and indirect compensation from the institution, its subsidiaries, and its affiliates for consulting, advisory, or other services other than director and committee fees and pension or other forms of deferred compensation for prior service (provided such compensation is not contingent in any way on continued service).

to $120,000.[59] Accordingly, the proposal would increase the $100,000 compensation threshold under part 363 to $120,00 to realign it with the parallel threshold set forth in listing standards. This revision also would address the potential unintended outcome where a director could be considered "independent of management" for purposes of listing standards while at the same time being considered "not independent of management" for purposes of part 363.

In contrast to the other thresholds in part 363 that are subject to this proposal, the $120,000 compensation threshold would not be subject to the proposed indexing methodology described in section III of this Supplementary Information as it is intended to align with parallel thresholds under listing standards, which are not subject to an indexing methodology. The FDIC expects to adjust this threshold in the future to maintain continued alignment with parallel thresholds in the listing standards of the national securities exchanges.

The table below details the proposed changes to part 363 thresholds.

Part 363 Thresholds Proposed to be Revised		
Citation	*Current Threshold*	*Proposal Threshold*
363.1(a)	$500 million	$1 billion
363.2(b)(3)	$1 billion	$5 billion
363.3(b)	$1 billion	$5 billion
363.4(a)(2)	$1 billion	$5 billion
363.4(c)(3)	$1 billion	$5 billion
363.5(a)(1)	$1 billion	$5 billion
363.5(a)(2)	$500 million	$1 billion
363.5(a)(2)	$1 billion	$5 billion
363.5(b)	$3 billion	$5 billion
Guideline 8A	$1 billion	$5 billion
Guideline 8A	$1 billion	$5 billion
Guideline 10	$1 billion	$5 billion
Guideline 18A	$1 billion	$5 billion
Guideline 27	$1 billion	$5 billion

[59] Nasdaq Stock Market Rules, Rule 5605(a)(2); New York Stock Exchange Listed Company Manual, Section 303A.02(b)(ii).

Guideline 27	$500 million	$1 billion
Guideline 27	$1 billion	$5 billion
Guideline 28(b)(4)	$100 thousand	$120 thousand[60]
Guideline 30(b)	$1 billion	$5 billion
Guideline 30(c)	$500 million	$1 billion
Guideline 30(c)	$1 billion	$5 billion
Guideline 35(a)	$500 million	$1 billion
Guideline 35(b)	$1 billion	$5 billion
Guideline 35(c)	$3 billion	$5 billion
Appendix B item 7.2.(b)	$1 billion	$5 billion

Question 8: What are the advantages and disadvantages of increasing the thresholds within part 363, as described above?

Question 9: Does the proposal appropriately balance the objectives preserving the levels of part 363 thresholds on an inflation-adjusted basis and reducing burden for smaller institutions with the safety and soundness benefits of audit and financial controls requirements? If not, how could the proposal improve the balance of these objectives?

Question 10: Would the proposed thresholds under part 363 help to address challenges for smaller institutions in rural areas or other geographies? Please describe any elevated challenges associated with current provisions of part 363 and whether the proposal would help to address them. Please provide supporting data where available.

Question 11: To what extent do the requirements of part 363 help ensure that institutions establish and maintain appropriate lines of defense for compliance and safety and soundness purposes? How burdensome are the requirements for small institutions?

[60] As discussed above, the proposal also would raise the threshold set forth in Guideline 28(b)(4) from $100,000 to $120,000. This threshold was intended to align with the listing standards of national securities exchanges for purposes of making director independence determinations.

F. 12 CFR Part 380 – Orderly Liquidation Authority

Part 380 of the FDIC's regulations implements the FDIC's orderly liquidation authority,[61] which applies once the FDIC has been appointed receiver for a covered financial company.[62] Similar to the provisions regarding the sale and purchase of failed IDI asset sales under part 340, section 380.13 of the FDIC's regulations sets forth restrictions on the FDIC's sale of failed covered financial company assets to individuals or entities that improperly profited from or engaged in wrongdoing at the expense of a covered financial company or seriously mismanaged a covered financial company.[63] The restrictions under section 380.13 apply to the sale and purchase of covered financial company assets in the FDIC's capacity as receiver for a covered financial company or in its corporate capacity.[64]

Among other restrictions, section 380.13 prohibits a person from acquiring assets of a covered financial company from the FDIC if the person or its associated person "[h]as participated as an officer or director of a covered financial company or of an affiliate of a covered financial company in a material way in one or more transactions that caused a substantial loss to a covered financial company"[65] or "[h]as demonstrated a pattern or practice of defalcation regarding obligations to a covered financial company"[66] that "in the aggregate,

[61] *See* Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act") Section 201, et. seq., 12 U.S.C. 5381, et. seq.
[62] *See* Dodd-Frank Act Section 202(a), 12 U.S.C. 5382(a) (describing the process for the Secretary of the Treasury to appoint the FDIC as receiver for a covered financial company and commence orderly liquidation of the covered financial company); *see also* 12 CFR 380.1 (defining "covered financial company" as "(a) a financial company for which a determination has been made [by the Secretary of the Treasury] under 12 U.S.C. 5383(b) and (b) does not include an insured depository institution.").
[63] *See* 12 CFR 380.13(a)(1) ("The purpose of this section is to prohibit individuals or entities that profited or engaged in wrongdoing at the expense of a covered financial company or an insured depository institution, or seriously mismanaged a covered financial company or an insured depository institution, from buying assets of a covered financial company from the FDIC.").
[64] *See* 12 CFR 380.13(a)(2)(i).
[65] 12 CFR 380.13(c)(1)(i). Section 380.13 defines material participation in a transaction that caused substantial loss to a covered financial company in 12 CFR 380.13(c)(2).
[66] 12 CFR 380.13(c)(1)(iii).

caused a substantial loss to one or more covered financial companies."[67] As in part 340, section 380.13 defines "substantial loss" to include multiple types of loss that all use a threshold of $50,000 to establish the losses as "substantial."[68]

The FDIC added section 380.13 to the FDIC's regulations in 2014.[69] From inception, the FDIC has explicitly implemented the requirements in section 380.13, including the "substantial loss" provisions and threshold, in a manner consistent with the restrictions related to failed IDIs asset sales under part 340.[70] Previous revisions to part 340 were also specifically intended to align the requirements in part 340 and section 380.13.[71]

The FDIC is proposing to revise the "substantial loss" threshold in section 380.13 by raising the existing threshold from $50,000 to $100,000. This proposed revised threshold approximates inflation adjustments since the FDIC created the "substantial loss" threshold under part 340 in 2000, which was included in section 380.13 in 2014, and will maintain consistency between the "substantial loss" provisions in part 340 and section 380.13.

In addition to maintaining consistency between these related requirements, as with part 340, updating the threshold for "substantial loss" will preserve, in real terms, the level of the

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[67] *See* 12 CFR 380.13(c)(3) (defining a "pattern or practice of defalcation").

[68] *See* 12 CFR 380.13(b)(6) (defining "substantial loss" as "(1) An obligation that is delinquent for ninety (90) or more days and on which there remains an outstanding balance of more than $50,000; (2) An unpaid final judgment in excess of $50,000 regardless of whether it becomes forgiven in whole or in part in a bankruptcy proceeding; (3) A deficiency balance following a foreclosure of collateral in excess of $50,000, regardless of whether it becomes discharged in whole or in part in a bankruptcy proceeding; or (4) Any loss in excess of $50,000 evidenced by an IRS Form 1099-C (Information Reporting for Cancellation of Debt).").

[69] *See* 79 FR 20762, 20766-20767 (Apr. 14, 2014).

[70] *See id.* at 20762 ("The [12 CFR 380.13] final rule is modeled after the FDIC's regulation entitled ''Restrictions on the Sale of Assets by the Federal Deposit Insurance Corporation,'' at 12 CFR part 340… which implements [Federal Deposit Insurance Act] section 11(p), because [Dodd-Frank Wall Street Reform and Consumer Protection Act] section 210(r) and section 11(p) share substantially similar statutory language.").

[71] *See* "Restrictions on Sale of Assets of a Financial Institution by the Federal Deposit Insurance Corporations," 80 FR 22886 (Apr. 24, 2015) at 22286 ("Because section 210(r) and section 11(p) share substantially similar statutory language, part 340 served as a model for the development of § 380.13. While many aspects of part 340 were included in § 380.13, FDIC staff identified new or different concepts to include in § 380.13 that were not already in part 340. The addition of these concepts into part 340 will improve part 340 and make it more consistent with § 380.13.") and 22887 (describing the updates to part 340 made to ensure consistency between part 340 and section 380.13).

threshold. The FDIC also does not expect this proposed adjustment to adversely affect competition for sales of covered financial company assets or the prices paid for those assets.

Question 12: What are the advantages and disadvantages of the FDIC updating the $50,000 "substantial loss" threshold under section 380.13 to $100,000?

G. Additional Thresholds

As discussed above, the proposal is intended to be the first of a multi-phase effort to reevaluate thresholds within the FDIC's regulations. The FDIC also seeks comment on which additional regulatory thresholds, if any, the FDIC should update and index. Please identify any such thresholds and explain which, if any, should be prioritized and why.

III. Indexing Methodology for Future Threshold Adjustments

The FDIC is proposing to implement an indexing methodology to make future automatic adjustments to most thresholds discussed above according to a pre-determined methodology that reflects inflation. Use of the indexing methodology would result in a more consistent and predictable application of thresholds over time, in further support of the objectives of this proposal.

A. Description of Methodology

Under the proposal, the FDIC would generally adjust the dollar thresholds described in section II at the end of every consecutive two-year period based on the cumulative percent change of the non-seasonally adjusted CPI-W since the effective date of any final rulemaking. This two-year period is intended to provide an appropriate cadence for capturing meaningful changes in inflation on a timely basis while balancing the frequency in which thresholds would be amended.

If, however, the cumulative percentage change in the non-seasonally adjusted CPI-W during any intervening calendar year since the most recent adjustment exceeds 8 percent, then the thresholds subject to the indexing methodology would be adjusted during the first quarter of the following calendar year. This feature of the indexing methodology is intended to address the possibility that periods of significant inflation could cause thresholds to decrease substantially in real terms before adjustments would occur under the two-year cadence. By providing for the thresholds to be revised on an interim basis during any year since the prior adjustment in which the cumulative percent change increases by more than 8 percent, the proposal would help ensure threshold amounts reflect inflation in a timely manner and avoid the undesirable and unintended consequences of excessive inflation between adjustments.

Under the proposal, the FDIC generally would announce threshold adjustments pursuant to the indexing methodology by publishing a final rule in the *Federal Register*. The final rule would not be subject to a notice and comment period, and would amend the Code of Federal Regulations to reflect the adjusted numerical threshold.[72] While the FDIC would fully expect to publish a final rule in the *Federal Register* as required by the proposal, the proposal also notes that the adjustment would occur even in the absence of a publication in the *Federal Register*. The adjusted thresholds would be effective on April 1 of the year during which the adjustment occurs.[73] For example, an adjusted threshold that is calculated based on inflation through the end of 2027 would be published during the first quarter of 2028 and would become effective on April 1, 2028.

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[72] This process to adjust numerical thresholds in the Code of Federal Regulations would be similar to the process utilized in the Community Reinvestment Act in which the FDIC and FRB publish a final rule without notice and comment.

[73] The period in which new thresholds would apply may differ depending on considerations specific to each individual regulation. For example, thresholds within part 363 of FDIC regulations apply on a fiscal year basis rather than a calendar year basis and would be made applicable for fiscal years beginning after the threshold update.

Under the proposed indexing methodology, the FDIC would not lower thresholds in any given year to reflect periods of deflation. In modern times, deflation has been rare and limited. However, as further described below, a period of deflation would be reflected in future threshold increases, as in such a scenario, thresholds would not increase until the net cumulative change in CPI-W turns positive. In the event the economy experiences a period of sustained deflation, the FDIC may consider revisiting the proposed indexing methodology.

Additionally, thresholds adjusted under the indexing methodology would be rounded, as appropriate, based on the size of the threshold (*e.g.*, thousands, millions, billions), generally, to the nearest number with two significant digits. For example, the numbers: $9.8 billion; $510 million; $1.1 million; $520,000; and $2,700 each have two significant digits. As an additional example, a threshold that would otherwise be calculated as $5.964 million would be rounded to $6.0 million. In this case, both the '6' and '0' are significant digits because $6.0 million is the value of the adjusted threshold rounded to the nearest $0.1 million.

Prior to rounding, all adjusted thresholds would be calculated based on the cumulative percent change of the non-seasonally adjusted CPI-W since the effective date of any final rulemaking to implement the proposal. Referring back to a discrete starting point would ensure that any distortions due to rounding or non-adjustments for deflation do not carry forward to future adjustments. For example, if a final rule to implement this proposal becomes effective on December 31, 2025, then this date would serve as the starting point for future threshold adjustment calculations. In addition, to illustrate the effects of deflation, suppose that inflation is 0 percent in calendar year 2026 and -5 percent (5 percent deflation) in calendar year 2027. No adjustment would be made at the end of calendar year 2026 because inflation did not exceed 8 percent, and no adjustment would be made at the end of calendar year 2027 because, as stated above, the FDIC would not adjust thresholds lower in any given year. Suppose also that inflation is 0 percent in calendar year 2028 and 5 percent in calendar year 2029. The adjusted threshold calculation for 2029 would consider cumulative inflation since December 31, 2025, meaning the -5 percent inflation in 2027 would roughly offset the 5 percent inflation in 2029, and no adjustment would be made.

As an example of how the proposal would avoid rounding distortions, consider a $1 million threshold and consistent 3 percent inflation in each year from 2026 through 2029. Cumulative inflation at the end of 2027 would be roughly 6 percent, resulting in an unrounded adjusted threshold of $1.06 million ($1 million * 1.06 = $1.06 million), which would then be rounded to $1.1 million. Cumulative inflation in the years 2028 and 2029 would also be roughly 6 percent. If the indexing methodology were to be based on the previous adjustment, the new unrounded adjusted threshold would be $1.166 ($1.1 million * 1.06 = $1.166 million) and would round to $1.2 million. Thus, the $0.04 million in rounding at the end of 2027 would carry forward and add to the $0.034 million in rounding applied at the end of 2029. Conversely, under the proposed methodology, the 2029 adjustment would be calculated based on the roughly 12 percent cumulative inflation in the years 2026-2029.[74] The $1 million threshold from December 31, 2025, would be adjusted to an unrounded threshold of $1.12 million ($1 million * 1.12 = $1.12 million). The unrounded adjusted threshold would be rounded to $1.1 million, which would be equivalent to the current adjusted threshold (established at year-end 2027), so no adjustment would be made.

[74] For simple illustration, this example ignores compounding of prior years' inflation.

Question 13: Would increasing thresholds pursuant to the proposed indexing methodology have any unintended policy consequences? Are there other factors that should be considered as part of any update to thresholds?

Question 14: Under the proposal, the FDIC would generally not expect to adjust thresholds lower in any given year, for example, following periods of deflation. Is it appropriate to only adjust thresholds higher to reflect inflation? What would be the advantages and disadvantages of adjusting thresholds to reflect both inflationary and deflationary periods?

Question 15: Does the proposal appropriately address potential distortions that could result from rounding? If not, please explain. What would be the advantages and disadvantages of not applying rounding?

Question 16: Under the proposal, adjusted thresholds would be rounded to the nearest value with two significant digits. What would be the advantages and disadvantages of adjusting thresholds under the indexing methodology to reflect the exact numerical threshold amount produced as a result of changes in inflation (instead of rounding)?

Question 17: Should the FDIC apply the proposed methodology consistently across all regulations or should the FDIC tailor alternative methodologies to consider factors specific to each individual threshold and/or regulation, or groups of thresholds and/or regulations? Would the benefits of a more tailored approach justify the cost of inconsistent indexing methods?

B. Alternatives to the Proposed Indexing Methodology

In developing this proposal, the FDIC considered other factors that could be used to adjust regulatory thresholds to preserve the levels of thresholds in real terms over time. For example, the approach to adjust thresholds could rely on an alternative index or measure of inflation (e.g. core versus non-core measures). Additionally, rather than using changes in inflation as a basis for updating thresholds, the FDIC considered using changes in economic growth or banking industry assets since thresholds were originally implemented. Another alternative considered was a methodology for updating each threshold individually, based on the factors most relevant to that threshold. The FDIC also considered not updating the thresholds included in section II from their current levels and instead relying solely on the proposed methodology to index thresholds. Additionally, the mechanics of the indexing methodology could involve a less or more frequent cadence, or use of a process that is less automated. The FDIC requests feedback on all alternative approaches discussed below and any other alternative approaches that should be considered.

1. Alternative Measures of Inflation

The non-seasonally adjusted CPI-W is a measure of prices paid by urban wage earners and clerical workers published by the U.S. Bureau of Labor Statistics.[75] Among other uses, the CPI-W is used by the U.S. Social Security Administration to make "cost-of-living adjustments" to benefit payments.[76] There are other consumer price indices that could be considered for updating and indexing thresholds within FDIC regulations. The CPI-W is calculated based on the consumption patterns of urban wage earners and clerical workers whereas the Consumer Price Index for All Urban Consumers (CPI-U) is calculated based on the consumption patterns of a broader set of urban consumers. The Chained CPI-U (C-CPI-U) reflects the consumption patterns of the broader set of urban consumers and is designed to account for consumer substitution between item categories. The Producer Price Index (PPI), also published by the U.S.

[75] *See* U.S. Bureau of Labor Statistics, CPI-Urban Wage Earners and Clerical Workers (Current Series)), *available at* https://datawww.bls.gov/PDQWebhelp/one_screen/cw.htm.
[76] *See* Social Security Administration, Latest Cost of Living Adjustments, *available at* https://www.ssa.gov/OACT/COLA/latestCOLA.html.

Bureau of Labor Statistics, tracks the selling prices received by domestic producers.[77] The Personal Consumption Expenditures Price Index (PCEPI) is published by the U.S. Bureau of Economic Analysis and tracks the prices of goods and services purchased by consumers in the United States.[78] The U.S. Bureau of Economic Analysis also publishes a broader domestic price index, the Gross Domestic Purchases Price Index (GDPPI), which tracks prices of goods and services purchased by U.S. residents.[79]

In aggregate, there is not a significant difference in changes over time between these various consumer price indices. Each of the consumer price indices discussed above has increased between 55 percent and 67 percent over the last two decades and has increased between 87 percent and 111 percent over the last three decades.[80]

One advantage of using the CPI-W for updating and indexing thresholds within FDIC regulations is that the CPI-W is already commonly used for this purpose, including by the FDIC and other Federal agencies.[81] One advantage of using other price indices, such as the CPI-U, C-CPI-U, PPI, PCEPI, and GDPPI may be that they are based on consumption patterns of a broader set of consumers, and, in some cases, may adjust for substitutions in consumption patterns. Use of price indices that are based on consumption patterns of a broader set of consumers could be more responsive to both household and business credit expansion relative to the CPI-W, which may be more reflective of the types of activities typically financed through the banking industry and therefore a potentially more relevant measure for revising thresholds. However, these

[77] *See* U.S. Bureau of Labor Statistics, Producer Price Index, *available at* https://www.bls.gov/ppi/.
[78] *See* Bureau of Economic Analysis, Personal Expenditures Price Index, *available at* https://www.bea.gov/data/personal-consumption-expenditures-price-index.
[79] *See* Bureau of Economic Analysis, Gross Domestic Purchases Price Index, *available at* https://www.bea.gov/data/prices-inflation/gross-domestic-purchases-price-index.
[80] C-CPI-U has been published since 2000 and is not included in the three-decade comparison.
[81] *See* 12 CFR 345(u)(2), Appendix G; s*ee also* 12 CFR 1003.2(g)(1)(i).

alternatives are less frequently used by the FDIC and other Federal Agencies and may be less familiar to the public.

Question 18: What would be the advantages and disadvantages of using the CPI-W as the reference index under the proposed indexing methodology? What would be the advantages and disadvantages of using other potential indices for updating and indexing thresholds within FDIC regulations? Are there other consumer price indices that should be considered for updating and indexing thresholds within FDIC regulations? If so, please explain the advantages and disadvantages of those indices relative to the CPI-W and the alternatives described above.

In addition to the consumer price indices discussed above, the U.S. Bureau of Labor Statistics and U.S. Bureau of Economic Analysis also publish "core" versions of their respective consumer price indices, which exclude prices for food and energy, as prices in those categories tend to be more volatile. Core price indices are often used by monetary policy authorities, such as the Board of Governors of the Federal Reserve System in seeking to understand underlying, longer-term inflation dynamics. However, core price indices, by their nature as price indices focusing on a subset of consumer prices, do not provide as complete of a picture of inflation as compared to broader indices and may miss changing trends such as food and energy prices. One advantage of using the CPI-W for updating and indexing thresholds within FDIC regulations, as opposed to the core CPI-W or other core price indices, is that the CPI-W is already commonly referenced, including by FDIC regulations. Another advantage of the CPI-W relative to the core CPI-W or other core price indices is that the CPI-W provides a broader representation of consumer price inflation, making its use as an index more appropriate for thresholds that are updated to reflect inflation at a cadence of once-per-year or once-every-two-years pace, as under the proposal. Using a core index for purposes of updating thresholds would not provide a full reflection of price changes over these time periods, since core indexes are designed to reduce the amount of volatility in the price levels they measure. Using a core index over a one- and two-year cadence may therefore not maintain thresholds in real terms over time.

Question 19: What would be the advantages and disadvantages of using core consumer price indices for purposes of updating and indexing thresholds within FDIC regulations relative to using indices that are not limited to core prices?

The U.S. Bureau of Labor Statistics provides a non-seasonally adjusted and seasonally adjusted version of the CPI-W series. The seasonally adjusted data adjust for recurring seasonal price trends, due to weather, holidays, etc., and are the preferred measure for examining short-term (less than a year) price trends in the economy.[82] By comparison, the non-adjusted data do not include adjustments for recurring seasonal price trends and reflect all prices that consumers pay, including as a result of seasonal patterns. The proposal would adjust thresholds in FDIC regulations at the end of every two-year period with the potential for an interim adjustment in the intervening year if non-seasonally adjusted inflation exceeds 8 percent. The FDIC believes use of the non-seasonally adjusted CPI-W series would serve as a more appropriate reference than the seasonally adjusted CPI-W series for the purpose of updating and indexing thresholds within FDIC regulations because such adjustments are intended to reflect longer-term changes in inflation.

Question 20: What would be the advantages and disadvantages of using seasonally adjusted price indices for updating and indexing thresholds within FDIC regulations? What would be the advantages and disadvantages of using non-seasonally adjusted price indices?

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[82] *See* U.S. Bureau of Labor Statistics, Consumer Price Index Seasonally Adjusted Data, *available at* https://www.bls.gov/cpi/seasonal-adjustment/using-seasonally-adjusted-data.htm.

In addition to consumer price indices, the FDIC considered the use of other types of indices to update and index the regulatory thresholds subject to this proposal. The U.S. Bureau of Economic Analysis publishes a Gross Domestic Product (GDP) data series on a quarterly basis, which measures U.S. economic activity.[83] Historically, the U.S. economy has expanded in real terms (outside of recessions), which means the (nominal) GDP index has typically increased at a faster rate than the consumer price indices discussed above.[84] For example, U.S. nominal GDP has increased by 299 percent over the past three decades, compared to a 111 percent increase in the CPI-W over the same period. Therefore, if GDP were used as the basis for updating and indexing thresholds within FDIC regulations, such thresholds would be initially updated to a higher amount and, going forward, would likely increase at a faster rate than under the proposal.

Using changes in inflation as a basis for updating and indexing thresholds within FDIC regulations would have the advantage of specifically targeting price levels to ensure dollar thresholds remain relatively consistent, in real terms, over time. However, financial activity is closely related to broader macroeconomic activity and tends to grow together with the economy. Using GDP as a basis for updating and indexing thresholds may provide for thresholds that more closely reflect the banking industry's proportional role in the economy. However, a disadvantage of using GDP within an indexing methodology is that it is subject to business cycle fluctuations which may not always correspond with price level changes, such as in a "stagflationary" environment where stagnant economic growth occurs simultaneously with inflation. Using GDP as a basis for threshold adjustments during such a scenario may result in

[83] U.S. Bureau of Labor Statistics, Table 1.1.5. Gross Domestic Product, Line 1, *available at* https://apps.bea.gov/iTable/?reqid=19&step=2&isuri=1&categories=survey.

[84] Changes in GDP (sometimes referred to as changes in nominal GDP) can be broken down into changes in prices inflation plus changes in real economic output (real GDP).

thresholds that are not revised as price levels increase, potentially limiting the ability to maintain dollar-based threshold levels in real terms over time. Another disadvantage of using GDP within an indexing methodology is that it is a lagging indicator that is frequently revised. As such, depending on the frequency of revisions, thresholds could be revised according to a percentage change in GDP that is subsequently revised, thereby limiting the indexing methodology's accuracy as well as the durability of revised threshold amounts in maintaining their levels in real terms. Additionally, the U.S. economy is complex and measures of GDP can consider a wider range of factors than changes in price level alone. As such, GDP may be an inappropriate measure to revise thresholds relative to inflation.

Question 21: What would be the advantages and disadvantages of using GDP for updating and indexing thresholds within FDIC regulations?

The FDIC also considered updating and indexing thresholds within FDIC regulations using measures of growth in banking or financial sector activity. The banking sector and the broader financial sector have grown faster than GDP over the last several decades. For example, total U.S. household financial assets have grown by approximately 502 percent over the last three decades.[85] Total bank assets for all FDIC-insured institutions have similarly grown by approximately 380 percent over the last three decades, while total bank deposits at those institutions have grown by approximately 432 percent over the same period.[86] If thresholds within FDIC regulations were updated based on growth in banking or financial sector activity, the proposed thresholds would be several times larger than those suggested by the growth in

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[85] *See* Financial Accounts of the United States (Z.1) published by the Board of Governors of the Federal Reserve System at https://www.federalreserve.gov/releases/z1/.

[86] *See* FDIC Quarterly Banking Profile ending December 31, 1994 (indicating total assets of $5.02 trillion and total deposits of $3.6 trillion) relative to FDIC Quarterly Banking Profile ending December 31, 2024 (indicating total assets of $24.1 trillion and total deposits of $19.2 trillion), available at https://www.fdic.gov/quarterly-banking-profile/past-quarterly-banking-profiles.

consumer prices. Although it is difficult to predict future growth in the banking industry over the long-term, if recent growth rates continue, indexing thresholds within FDIC regulations using measures of banking activity and financial sector activity would result in thresholds growing faster relative to indexing based on consumer prices. Using a measure of banking or financial sector activity as a basis for which thresholds are revised would have the advantage of more closely aligning threshold levels with changes in the banking industry and the relevance of banks in supporting broader economic activity. For example, the FDIC could use changes in total assets of all IDIs as a measure to revise thresholds within FDIC regulations, which would ensure such thresholds remain relevant to banking industry dynamics. Using growth in the size of the banking industry to adjust thresholds in FDIC regulations would account for growth trends that are specific to the banking industry and may be better correlated with the characteristics of banks that affect the costs and benefits of particular regulations.

Overall, using growth in the size of the banking industry to adjust thresholds in FDIC regulations would keep the proportion of impacted banks relatively constant since the threshold would increase with industry size. However, a disadvantage of this approach is that many thresholds are intended to apply to banks of a certain size, not necessarily a fixed proportion of the industry. As the banking industry grows, the increase in thresholds may outpace actual changes in size and risk profile for an individual institution. Further, aggregate changes in industry growth may not always be representative of, or broadly consistent with, changes occurring across banks of different size ranges. For example, total banking industry assets grew roughly $5.45 trillion, or 29 percent, from year-end 2019 to year-end 2024.[87] By comparison, total assets of banks with assets between $1 billion to $100 billion increased by $963 billion, or

[87] *See* FDIC Quarterly Banking Profile for December 31, 2024, and December 31, 2019, *available at* https://www.fdic.gov/quarterly-banking-profile/past-quarterly-banking-profiles.

19 percent, over the same time period, while total assets of banks with assets less than $1 billion decreased by $33 billion, or 3 percent.

Another disadvantage of this approach is that banking or financial sector activity reflects both real growth and changes in inflation. Accordingly, the measure of growth used to adjust and index regulatory thresholds would have to be discounted for inflation in order to capture actual, activity-driven trends within the banking industry. One method of discounting banking sector growth for inflation would be to inflation-adjust total assets prior to measuring total asset growth. Under this approach, total real growth in banking industry assets for all FDIC-insured institutions that accounts for inflation from 1995-2005 would be 128 percent compared to 380 percent from nominal growth.[88] Compared to the use of inflation alone, such an approach would be relatively more complex and less transparent to banks and market participants.

Another disadvantage of this approach is that certain thresholds, including several as part of this proposal, are set at levels that are unrelated to asset size. Using total assets as a basis for revising thresholds may therefore result in threshold revisions that are inappropriate and disadvantageous for certain banks. By contrast, using inflation as a basis for revising thresholds would allow for a more simple, transparent, and consistent approach across varying thresholds and banks of varying sizes.

Question 22: What would be the advantages and disadvantages of using measures of banking or financial sector activity for updating and indexing thresholds within FDIC regulations?

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[88] *See* total assets reported for all FDIC-insured institutions in FDIC Quarterly Banking Profile ending December 31, 2024 and December 31, 1994, both inflation-adjusted using the non-seasonally adjusted CPI-W *available at* https://fred.stlouisfed.org/series/CWUR0000SA0L1E.

The table below presents a comparison of growth in the various indices described above across a period of three decades. Growth in total assets across the banking industry exhibited the largest percentage change, followed by GDP growth. Seasonal adjustments, for those indices that applied them as an alternative measurement, only increased or decreased percentage changes slightly compared to their counterparts without seasonal adjustments.

	Percentage Change			
	1995-2005	**2005-2015**	**2015-2025**	**1995-2025**
CPI-W				
Non-seasonally adjusted	26.0%	22.5%	36.3%	110.5%
Seasonally adjusted	26.5%	22.6%	36.3%	111.3%
Core CPI-W				
Non-seasonally adjusted	23.5%	20.5%	35.8%	102.1%
Seasonally adjusted	23.7%	20.5%	35.8%	102.4%
CPI-U				
Non-seasonally adjusted	26.9%	22.6%	35.9%	111.4%
Seasonally adjusted	27.3%	22.5%	35.9%	112.0%
C-CPI-U *				
Non-seasonally adjusted [1]	N/A	19.9%	32.1%	N/A
Core CPI-U				
Non-seasonally adjusted	25.0%	20.6%	35.4%	104.1%
Seasonally adjusted	25.2%	20.5%	35.4%	104.2%
PCEPI				
Non-seasonally adjusted [2]	21.2%	18.5%	N/A	N/A
Seasonally adjusted	20.5%	19.5%	29.6%	86.5%
Core PCEPI				
Non-seasonally adjusted [2]	18.9%	19.1%	N/A	N/A
Seasonally adjusted	18.9%	18.2%	29.3%	81.6%
PPI, all commodities *				
Non-seasonally adjusted	22.8%	27.2%	34.0%	109.4%
GDPPI	20.2%	22.4%	27.1%	87.0%
GDP				
Non-seasonally adjusted	69.5%	41.8%	66.0%	299.0%
Seasonally adjusted	69.7%	41.5%	66.0%	298.5%
Banking Industry Assets				
Nominal growth	101.2%	53.9%	55.0%	379.9%
Real growth [3]	59.7%	25.6%	13.7%	127.9%

Percentage changes are based on beginning-of-year measurements. For example, the percentage changes for 1995-2005 are based on January 1, 1995, through January 1, 2005. Some measurements use end-of-year balances from the preceding year (e.g., December 31, 1994, was used for 1995) to compute the percentage changes.
Source data for the indices vary in intervals (monthly, quarterly, annual) but should not affect the change per 10-year span presented above.
Percent change 1995-2025 does not equal the arithmetic sum of the 10-year percent change columns due to compounding.

* Data for these indices was only available without seasonal adjustments.

[1] Data for non-seasonally adjusted C-CPI-U prior to 1999 is not available.

[2] Data for PCEPI and Core PCEPI, non-seasonally adjusted, after January 1, 2024, is not available.

[3] Inflation adjusted using CPI-W, non-seasonally adjusted.

2. Adjustment Frequency within the Indexing Methodology

Under the proposal, thresholds would generally be adjusted every two years. In addition, thresholds would be adjusted if the cumulative change in non-seasonally adjusted CPI-W since the last adjustment exceeds 8 percent.

Certain other FDIC and other Federal regulations that reference the CPI-W require threshold adjustments on a more frequent basis. For example, the regulations implementing the Community Reinvestment Act and the Home Mortgage Disclosure Act require adjustments to thresholds based on the year-to-year change in the average CPI-W for each twelve-month period.[89]

The FDIC considered various other adjustment frequencies including quarterly, semi-annually, annually, every 3 years, and every 5 years. Thresholds updated based on a shorter adjustment frequency (*e.g.*, quarterly) would have the advantage of consistently reflecting changes in inflation and not becoming outdated during the periods between adjustments. For institution-level thresholds, a shorter adjustment frequency would reduce the number of institutions that cross a threshold between adjustments solely based on growth consistent in consumer prices. For most of the index options, including for the CPI-W, an adjustment

[89] *See* 12 CFR 345(u)(2), Appendix G; *see also* 12 CFR 1003.2(g)(1)(i).

frequency as short as monthly would be feasible based on data availability. A disadvantage of shorter update frequencies is that it can lead to confusion for institutions and uncertainty regarding the applicability of various rules. Institutions also would have to more routinely update systems and compliance programs to reflect more frequently adjusted thresholds.

Longer adjustment frequencies (*e.g.*, every 3 years, every 5 years) generally have the opposite advantages and disadvantages as compared to the shorter adjustment frequencies. Longer adjustment frequencies would lessen the burden involved with tracking threshold changes. However, prolonged adjustments heighten the potential for banking organizations to cross thresholds between adjustments due to inflation.

The proposal would use a two-year period for measuring inflation, which is intended to provide an appropriate cadence for capturing meaningful changes in inflation on a timely basis while balancing the frequency in which thresholds revisions would be amended. Additionally, by providing for adjustments in intervening years where inflation exceeds 8 percent, the proposal would help mitigate the potential for institutions to cross one or more thresholds when inflation increases significantly during a two-year period. In the event thresholds were increased in two consecutive years due to inflation exceeding 8 percent, the adjustment period would reset and the next increase would occur after two years, unless inflation exceeded 8 percent again the following year.

Question 23: What would be the advantages and disadvantages of revising thresholds through ad-hoc review versus regular, periodic adjustments through a pre-determined indexing methodology as provided under the proposal?

Question 24: What would be the advantages and disadvantages of using shorter or longer adjustment frequencies within the indexing methodology for thresholds in FDIC *regulations? For example, the FDIC could adjust thresholds at the end of every one-year period, or it could adjust thresholds at the end of every three-year, five-year or ten-year period. Would there be unintended consequences of using a longer period, such as impacting the ability of the indexing methodology to preserve thresholds in real terms on an inflation-adjusted basis? Alternatively, would there be unintended consequences of using a shorter period, such as adding undue complexity or burden?*

Question 25: What would be the advantages and disadvantages of providing for a potential adjustment in intervening year(s) if the cumulative change in the non-seasonally adjusted CPI-W since the last adjustment exceeds 8 percent? Is there a level other than 8 percent that should be considered to require an adjustment in the intervening year(s)? If so, what would be the advantages and disadvantages of such a level relative to the 8 percent level under the proposal? How should the FDIC balance the objective of reflecting periods of significant inflation with the complexity of allowing for interim adjustments during the two-year cadence?

3. Milestone Approach

The FDIC considered an alternative approach that would adjust thresholds annually based on the change in inflation only if an inflation-adjusted threshold reaches a pre-determined level. Under this alternative, for each regulatory threshold, the FDIC would calculate a potential adjusted threshold based on inflation measured at the end of each year relative to when a threshold was last adjusted. However, a threshold would only be adjusted higher if the potential adjusted threshold exceeded a certain milestone amount.

Under this alternative, milestone amounts could be tailored for each threshold to reflect a material change as a result of inflation. For example, for thresholds between $100 million and $1 billion, milestone amounts could occur every $10 million. Under this approach, if a regulatory threshold is $500 million today, it could be adjusted higher only if the cumulative change in inflation, as measured at the end of a year relative to when a threshold was implemented or last revised, would result in an adjusted threshold of $510 million or higher. Milestone amounts could similarly be set at higher levels for larger thresholds. For example, for thresholds between $1 billion and $10 billion, milestone amounts could occur every $100 million; between $10 billion and $100 billion, milestone amounts could occur every $1 billion; and between $100 billion and $1 trillion, milestone amounts could occur every $10 billion.

The milestone approach would be similar to a rounding methodology where adjusted thresholds are rounded to the nearest number with two significant digits that is also less than the unrounded adjusted threshold. Relative to an alternative without rounding, the milestone approach would have the advantage of limiting threshold changes to a degree of materiality, eliminating potential smaller, immaterial changes. Additionally, the approach would support transparency and predictability as potential future to threshold amounts would be known in advance, subject to changes in inflation. However, the approach may lead to confusion and uncertainty, as it may be challenging for the public to track when increases in various thresholds will be triggered.

Question 26: What would be the advantages and disadvantages to using a milestone approach compared to the proposed indexing methodology?

Question 27: If the FDIC were to implement a milestone approach to adjust thresholds in future periods for purposes of any final rule to implement the proposal, should the milestone approach be combined with a minimum cumulative change in inflation level (e.g., 8 percent) to help ensure that thresholds adjustments keep pace with significant periods of inflation? What *would be the advantages and disadvantages of this approach relative to both the milestone approach described above and the indexing methodology set forth in the proposal?*

4. Degree of Automation in Indexing

The proposal provides that the FDIC would, every two years, publish a *Federal Register* notice announcing thresholds adjustments based on a pre-determined methodology. The FDIC has considered an alternative that would enhance the degree of automation by directly incorporating the indexing calculation into each regulatory threshold. Under this approach a threshold would be defined within regulation as a starting value multiplied by an index value. For example, part 347 currently contains a $60 million threshold for aggregate underwriting commitment limits applicable to foreign organizations held by insured state nonmember banks. This threshold was established in 1998. In January 1998, the CPI-W had an index level of 158.4. The direct reference approach would redefine the threshold to be equal to the most recent index level of the CPI-W multiplied by a starting value of $380,000, which would correspond to the dollar value needed to arrive at a threshold of approximately $60 million when multiplied by the CPI-W.[90] The CPI-W value as of May 2025 was 314.839.[91] Therefore, under the direct reference approach, the current dollar value of the threshold would be $119.64 million.[92] Under this approach, the threshold would automatically update again once the June 2025 CPI-W value was released. The FDIC could also use this same approach to mimic the proposal, in which the actual threshold would rise every two years and would be rounded. The FDIC could also post the thresholds on its website and notify institutions and the public when they are increased.

[90] Specifically: $950,000 * 158.4 = $150.48 million
[91] As of June 12, 2025.
[92] $950,000 * 314.839 = $299.10 million

The direct reference approach has the advantage of enhancing the automation provided under the proposal, which could help contribute to a relatively more streamlined adjustment process. However, a disadvantage of the direct reference approach is it may be slightly less clear for members of the public or regulated entities. While the FDIC could post the thresholds on its website, the revised threshold amounts would not be in the Code of Federal Regulations.

Question 28: What would be the advantages and disadvantages of using the direct reference approach to index thresholds in FDIC regulations?

Question 29: Are there other automated approaches (e.g., fixed dollar amounts or percentages) that may be appropriate?

IV. Economic Analysis

A. Expected Effects

As discussed above, the proposal would update certain dollar thresholds within the FDIC's regulations generally to incorporate changes in inflation since the thresholds were initially implemented or most recently adjusted. Further, the proposed rule would implement an indexing methodology to adjust thresholds in future periods.

If promulgated, the proposed rule would affect institutions with a wide range of sizes and risk profiles. To estimate the expected effects of the proposal, this analysis considers all relevant regulations and guidance applicable to these institutions, as well as information on the financial condition of all IDIs as of the quarter ending March 31, 2025.

Based on the FDIC's analysis, the FDIC expects the proposal could affect IDIs, individuals and other entities as follows:

- *Part 303*: The requirements in part 303 generally apply to all IDIs and any other person or entity submitting an application or filing to the FDIC, as provided for under part 303.

As of March 31, 2025, the latest period for which data is available, there were 4,471 IDIs. However, the FDIC does not have the data necessary to estimate the number non-IDIs that may be subject to the requirements part 303.

- *Part 335*: The requirements of part 335 apply generally to all securities issued by FDIC-supervised depository institutions that are subject to the registration requirements of section 12(b) or section 12(g) of the Securities Exchange Act of 1934.[93] As of March 31, 2025, the FDIC was the primary federal supervisor for 2,835 IDIs.
- *Part 340*: The requirements in part 340 generally apply to persons (both individuals and entities) seeking to purchase the assets of failed IDIs in FDIC conservatorship or receivership. Using data from the period 2019-23, as well as internal estimates and analysis, of part 340 Purchaser Eligibility Certification (PEC340) submissions, the FDIC estimates approximately 140 PEC340 submissions annually from covered individuals and other entities.
- *Part 347*: The requirements in part 347 generally apply to FDIC-supervised IDIs and foreign banks with uninsured U.S. bank branch subsidiaries or any foreign bank seeking to establish an uninsured U.S. bank branch subsidiary. As of March 31, 2025, 124 FDIC-supervised IDIs reported having one or more uninsured U.S. bank branches, for a total of 180 uninsured U.S. bank branches.
- *Part 363*: The requirements of part 363 generally apply to all IDIs. Part 363 generally provides annual independent audit and reporting requirements for such institutions. As noted above, as of March 31, 2025, there were 4,471 IDIs.

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[93] 15 U.S.C. 78 *et seq*.

- *Part 380*: The requirements in part 380 generally apply to persons (individuals and entities) interested in buying assets of failed financial companies in FDIC conservatorship or receivership under Orderly Liquidation Authority. Using internal estimates and analysis, the FDIC estimates approximately 66 part 380 Purchaser Eligibility Certification (PEC380) submissions annually from covered persons.[94]

B. *Estimates of the number of directly affected entities*

This section discusses the expected effects of the proposal separately under each part of the FDIC's regulations that includes a threshold that would be subject to an inflation-based adjustment.

1. *Part 303*

Section 303.227 discusses the criteria for *de minimis* exceptions for purposes of Section 19 of the FDIA. These criteria include $2,500 and $1,000 thresholds for certain offenses that are exempt from the requirements to submit a Section 19 application to the FDIC. The proposed rule would update these thresholds from $2,500 and $1,000 to $3,500 and $1,225, respectively.

The FDIC used the historical annual number of institutions that have submitted a Section 19 application as a conservative estimate of the number of entities that would be affected by this amendment. Over the six-year period ending on March 31, 2025, the FDIC received 328 applications under Section 19, or approximately 55 applications annually. Section 19 applications can be submitted by individuals as well as IDIs. The FDIC does not have the information necessary to attribute each application submitted by an individual under Section 19

[94] Both part 340 and part 380 require potential participants in asset sales by the FDIC to certify their eligibility with the FDIC prior to participation. Potential participants interested in bidding on assets of a failed IDI must file a PEC340 associated with part 340, while those interested in bidding on covered financial company assets must file a PEC380, under part 380.

made over this period to a particular IDI. Accordingly, for the purposes of this analysis the FDIC conservatively estimates that each Section 19 application is submitted by a unique IDI.

An increase in the thresholds under the *de minimis* exception framework would increase the number of persons subject to the exceptions in section 303.227. Given the 40 percent increase in the general *de minimis* threshold of $2,500 to $3,500 and the 22.5 percent increase in the *de minimis* threshold for small-dollar theft of $1,000 to $1,225, the FDIC assumes a corresponding decrease of between 22.5 percent and 40 percent in the estimated number of Section 19 applications. Therefore, the FDIC estimates that the proposed rule could reduce the annual number of IDIs submitting Section 19 applications from 55 to between 43 and 33 IDIs (rounded to the nearest IDI).[95]

The proposed rule would also establish requirements to amend certain dollar thresholds in part 303 described above in future periods. The FDIC does not have the information necessary to precisely estimate the number of entities and the number of applications under Part 303 that would be affected by the periodic adjustments to these dollar thresholds in the proposed rule as a result of future changes in inflation. However, since the proposed rule would more closely align these dollar thresholds with their real values over time, the FDIC believes that it would mitigate unintended changes in the volume of covered entities in future periods.

2. Part 335

Section 335.801 provides a materiality threshold for disclosures related to extensions of credit to insiders. Under this section extensions of credit to such individuals that are in excess of ten (10) percent of the equity capital accounts of the bank or State savings association or $5

[95] 55 IDIs estimated under the current rule. A 22.5 percent reduction, corresponding to an increase in the *de minimis* small-dollar theft threshold from $1,000 to $1,225, would result in 43 IDIs estimated under the proposal. A 40 percent reduction, corresponding to an increase in the general *de minimis* exceptions threshold from $2,500 to $3,500, would result in 33 IDIs estimated under the proposal.

million, whichever is less, shall be deemed material and shall be disclosed in addition to any other required disclosure. The proposed rule would update the $5 million threshold to $10 million.

To estimate the number of institutions that would be directly affected by this change, the FDIC identified nine IDIs[96] that are subject to the requirements under the 1934 Securities Exchange Act and are required to make additional disclosures related to loans to insiders (by virtue of being traded on a national exchange or having more than 2,000 shareholders of record and $10 million in assets). The FDIC does not have the data necessary to quantify the indebtedness of insiders at these institutions such that it would be able to identify which disclosures would no longer be required by virtue of the increased materiality threshold under the proposal. Therefore, the FDIC conservatively estimates that nine IDIs may be affected by the threshold adjustments in Part 335 under the proposed rule.

The proposed rule would also establish requirements to amend the dollar thresholds in Part 335 described above in future periods. The FDIC does not have the information necessary to precisely estimate the number of entities that would be affected by the ongoing adjustments to these dollar thresholds as a result of future changes in inflation. However, since the proposed rule would more closely align these dollar thresholds with their real values over time, the FDIC believes that it would mitigate unintended changes in the volume of covered entities in future periods.

3. Part 340

Section 340.4 relates to the definition of "substantial loss" in the context of restrictions on the sale of failed bank assets. A person may not acquire any assets of a failed institution from the

[96] *See* List of FDIC-Supervised Banks Filing under the Securities Exchange Act, *available at* https://www.fdic.gov/analysis/list-fdic-supervised-banks-filing-under-securities-exchange-act.

FDIC if the person or associated person has participated, as an officer or director of a failed institution or of an affiliate of a failed institution, in a material way in one or more transaction(s) that caused a substantial loss to that failed institution.[97] Section 340.2 defines "substantial loss" using a threshold of greater than $50,000 in losses, unpaid final judgments, delinquent obligations, or deficiency balance following a foreclosure. The proposed rule revises the greater than $50,000 threshold to greater than $100,000.

The FDIC does not have the data necessary to estimate the number of persons who would submit PECs if the proposed thresholds defining substantial losses were increased to greater than $100,000. To estimate the number of persons affected by the proposal, the FDIC analyzed historical trends for annual part 340 Purchaser Eligibility Certification (PEC340) submissions, based on information from 2019 through 2023. This analysis found the FDIC receives approximately 140 PEC340 submissions annually from individuals or entities. The FDIC does not have the data to estimate the number of unique entities that would submit a PEC; therefore, the FDIC conservatively estimates that each PEC is submitted by a unique entity.

An increase in the threshold would reduce the number of persons subject to the restrictions of part 340 by removing persons involved in transactions resulting in losses of greater than $50,000 to greater than $100,000. Given the 100 percent increase in the threshold the FDIC assumes a corresponding 100 percent increase (rounded to the nearest whole number of persons)[98] in the estimated number of persons that would be expected to submit PECs under section 340.7. This results in an estimated 280 entities that would submit under the proposed rule, an increase of 140 from the current rule.

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[97] Additional qualitative criteria are available in the regulation

[98] ($100,000 - $50,000) / $50,000 = 100 percent.

The proposed rule would also adjust the dollar thresholds in part 340 in future periods using an indexing methodology. The FDIC does not have the information necessary to precisely estimate the number of entities that would be affected by future adjustments to these dollar thresholds as a result of future changes in inflation. However, since the proposed rule would more closely align these dollar thresholds with their real values over time, the FDIC believes that it would mitigate unintended changes in the volume of covered entities in future periods.

4. Part 347

Section 347.111 contains two thresholds that would be adjusted under the proposal. The first is for aggregate underwriting commitment limits applicable to foreign organizations held by insured state nonmember banks, which currently may not exceed the lesser of $60 million or 25 percent of the bank's Tier 1 capital. The proposal would increase the current $60 million threshold to $120 million. The second threshold in section 347.111 is for distribution and dealing limits applicable to foreign organizations held by insured state nonmember banks, which currently may not exceed the lesser of $30 million or 5 percent of the bank's Tier 1 capital. The proposal would increase the current $30 million threshold to $60 million.

To estimate the number of institutions potentially affected by these changes, the FDIC used data from the Federal Reserve's National Information Center (NIC) to identify the number of foreign entities with a parent company that is an IDI. From this data, the FDIC was able to identify 31 IDIs with foreign subsidiaries. Of these, five are state nonmember banks and would be subject to Part 347. The FDIC does not have the data necessary to: (1) estimate the number of IDIs that would be subject to these restrictions, and (2) understand the business models of these IDIs and their propensity to find and make business deals that would be subject to these restrictions under the current and proposed rule. Therefore, the FDIC conservatively estimates that all five state nonmember banks would be affected by these changes.

The proposed rule would also adjust the dollar thresholds in part 347 in future periods using an indexing methodology. The FDIC does not have the information necessary to precisely estimate the number of entities that would be affected by future adjustments to these dollar thresholds as a result of future changes in inflation. However, since the proposed rule would more closely align these dollar thresholds with their real values over time, the FDIC believes that it would mitigate unintended changes in the volume of covered entities in future periods.

5. Part 363

Part 363 contains 24 different thresholds that would be updated by the proposed rule, the applicability of which are based on an IDI's total consolidated assets at the beginning of its fiscal year.

For brevity, this analysis groups provisions with the same amended dollar threshold level together to address estimated changes in covered institutions. Under the proposed rule, the total assets thresholds for the following requirements in part 363 would be raised from \$500 million to \$1 billion:

- 12 CFR 363.1(a), which provides the general applicability criteria for part 363.
- 12 CFR 363. 5(a)(2), which establishes minimum audit committee requirements for IDIs with assets of greater than \$500 million but less than \$1 billion. This threshold is referenced in Part 363, Appendix A, paragraphs 27, 30(c), and 35(a).

As of March 31, 2025, there were 774 IDIs that report total assets of at least \$500 million and less than \$1 billion. These 774 IDIs would no longer be subject to the requirements described above as a result of the proposal.

Under the proposed rule, the total assets thresholds for the following requirements in part 363 would be raised from $1 billion to $5 billion:

- 12 CFR 363.2(b)(3), which requires management to provide an assessment of the effectiveness of ICFR as part of the part 363 annual report submission. This threshold is referenced in Part 363, Appendix A, paragraphs 8A and 10, as well as Part 363, Appendix B, paragraph 7.2(b).
- 12 CFR 363.3(b), which requires the independent public accountant to examine, attest to, and report separately on management's assessment of ICFR. This threshold is referenced in Part 363, Appendix A, paragraph 18A, as well as Part 363, Appendix B, paragraph 2(b).
- 12 CFR 363.4(a)(2), which requires publicly traded IDIs to submit copies of management's assessment of the effectiveness of ICFR in addition to its Part 363 Annual Report.
- 12 CFR 363.4(c)(3), which requires which requires publicly traded IDIs to submit copies of independent accountant's letters and reports.
- 12 CFR 363.5(a)(1), which establishes additional minimum audit committee requirements for IDIs with assets of greater than $1 billion. This threshold is referenced in Part 363, Appendix A, paragraphs 27, 30(b), and 35(b).
- 12 CFR 363.5(a)(2), which establishes minimum audit committee requirements for IDIs with assets of greater than $500 million but less than $1 billion. This threshold is referenced in Part 363, Appendix A, paragraphs 27, 30(c), and 35(a).

As of March 31, 2025, there were 752 IDIs that report between total assets of at least $1 billion and less than $5 billion in assets. These 752 IDIs would no longer be subject to the requirements under Sections 363.2 and 363.3, as well as the audit committee requirements under section 363.5(a)(1) as a result of the proposal.

The provisions in Part 363.4 only apply to publicly traded IDIs. For purposes of this analysis the FDIC conservatively estimates that all 752 IDIs will be affected by the changes to the thresholds for these provisions while acknowledging that fewer IDIs will be affected by these changes.

With respect to the general audit committee requirements under section 363.5(a)(2) of the proposed rule, the 774 IDIs currently subject to section 363.5(a)(2) – that is, those with between $500 million and $1 billion in assets – would no longer be subject to these requirements. In addition, the 752 IDIs with total assets of greater than $1 billion and less than $5 billion – which are no longer subject to the requirements under section 363.5(a)(1), would now be subject to the requirements under section 363.5(a)(2). Therefore, the FDIC estimates 1,526 IDIs would be affected by this change.[99]

In addition, the proposal would raise the following other asset size thresholds in Part 363:

- 12 CFR 363.5(b), which establishes additional minimum audit committee composition requirements for IDIs with assets of greater than $3 billion. This threshold is referenced in Part 363, Appendix A, paragraph 35(c) and would be increased to $5 billion under the proposal.

As of March 31, 2025, there are 133 IDIs that report total assets greater than $3 billion and less than $5 billion. These IDIs would no longer be subject to the requirements of section

[99] The net change in the number of IDIs that would be subject to these requirements from the current rule is 22, as 774 IDIs (with total assets of at least $500 million and less than $1 billion) are subject under the current rule, and 752 (with total assets of at least $1 billion and less than $5 billion) would be subject under the proposed rule. 774 – 752 = 22 IDIs.

363.5(b) under the proposed rule. The remaining 293 IDIs – all with total assets greater than $5 billion– would continue to be subject to this requirement under the proposed rule.

- 12 CFR Part 363, Appendix A, paragraph 28(b)(4), which discusses criteria to determine if an outside director is "independent of management", including a $100,000 maximum direct and indirect compensation threshold. The proposal would increase this compensation threshold to $120,000.

The FDIC does not have the data necessary to estimate the number of potential directors of IDI audit committees that this update would affect.

The proposal would also adjust most dollar thresholds in part 363 under the indexing methodology.[100] The FDIC does not have the information necessary to precisely estimate the number of IDIs that would be affected by the ongoing adjustments to these dollar thresholds as a result of future changes in inflation. However, since the proposed rule would more closely align these dollar thresholds with their real values over time, the FDIC believes that it would mitigate unintended changes in the volume of covered IDIs in future periods.

6. *Part 380*

As discussed above, section 380.13 provides a definition of "substantial loss" in the context of restrictions on the sale of failed financial company assets. A person may not acquire any assets of a covered financial company from the FDIC if the person or associated person has participated, as an officer or director of a covered financial company or of an affiliate of a

[100] As discussed above, the dollar value threshold under 12 CFR 363, Appendix A, paragraph 28(b)(4), pertaining to independence of management will not be periodically adjusted for inflation under the proposal. This threshold was initially adopted to follow the parallel threshold under the listing standards of national securities exchanges. Therefore, the revision under the proposal to increase this threshold from $100,000 to $120,000 would bring it into alignment with these parallel thresholds. *See* Nasdaq Stock Market Rules, Rule 5605(a)(2), "Definition of Independence;" New York Stock Exchange Listed Company Manual, Section 303A.02(b)(ii), "Independence Tests

covered financial company, in a material way in one or more transaction(s) that caused a substantial loss to that covered financial company.[101] Section 380.13(b)(6) defines "substantial loss" using a threshold of greater than $50,000 in losses, unpaid final judgments, delinquent obligations, or deficiency balance following a foreclosure. The proposed rule updates the greater than $50,000 threshold to greater than $100,000.

The FDIC lacks data on the number of persons who would submit PECs if the proposed thresholds defining substantial losses were increased to greater than $100,000. To estimate the number of persons affected by the proposed rule, the FDIC uses internal information and analysis of the expected annual number of PEC submissions for these persons.[102] From this analysis, the FDIC estimates approximately 66 PEC submissions annually from covered persons. The FDIC does not have the data to estimate the number of unique entities that would submit PECs from this analysis. Therefore, the FDIC conservatively estimates that each PEC is submitted by a unique entity.

The 100 percent proposed increase in the thresholds would likely decrease the number of persons subject to the restrictions in part 380. Given the 100 percent increase in the threshold the FDIC assumes a corresponding 100 percent increase (rounded to the nearest whole number of persons)[103] in the estimated number of persons that would be expected to submit PECs under § 380.13(f). This results in an estimated 132 entities that would need to submit under the proposed rule, an increase of 66 from the current rule.

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[101] Additional qualitative criteria are available in the regulation.

[102] *See* Office of Management and Budget, Information Collection List, Covered Financial Company Asset Sales Prospective Purchaser Eligibility Certification, *available at* https://www.reginfo.gov/public/do/PRAICList?ref_nbr=202311-3064-003.

[103] ($100,000 - $50,000) / $50,000 = 100 percent.

The proposed rule would also adjust the dollar thresholds in part 380 in future periods using an indexing methodology. The FDIC does not have the information necessary to precisely estimate the number of entities that would be affected by future adjustments to these dollar thresholds as a result of future changes in inflation. However, since the proposed rule would more closely align these dollar thresholds with their real values over time, the FDIC believes that it would mitigate unintended changes in the volume of covered entities in future periods.

Summary of the Scope of Affected Entities

The following table summarizes the FDIC's preliminary estimates of the scope of entities affected by the proposed changes in this NPR.

Table 2. Summary of Estimated Changes in the Number of Covered Entities

FDIC Regulation	Section	Current threshold	Estimated current number of covered entities	Preliminary recommended threshold	Estimated preliminary number of covered entities	Change in number of covered entities (proposed minus current)**
Part 303 – Filing Procedures	303.227	$2,500 / $1,000	55	$3,500 / $1,225	43 to 33	-12 to -22*
Part 335 – Securities of Nonmember Banks and State Savings Associations	335.801	>10% of the equity capital accounts or $5 million	9	>10% of the equity capital accounts or $10 million	9	0*
Part 340 - Restrictions on Sale of Assets of a Failed Institution by the FDIC	340.2	> $50,000 losses, delinquent obligations, unpaid balances or judgments	140	> $100,000 losses, delinquent obligations, unpaid balances or judgments	280	140*
Part 347 – International Banking	347.111	$60 million; 25% of bank's Tier 1 capital	5	$120 million	5	0*
	347.111	$30 million; 5% of bank's Tier 1 capital	5	$60 million	5	0*
Part 363 – Annual Independent Audits	363.1	$500 million or more	1,819	$1 billion	1,045	-774

and Reporting Requirements						
	363.2(b)(3)	$1 billion or more	1,045	$5 billion	293	-752
	363.3	$1 billion or more	1,045	$5 billion	293	-752
	363.4(a)(2) and (c)(3)	Less than $1 billion	3,426	Less than $5 billion	4,178	752*
	363.5	$500 million or more but less than $1 billion	774	$1 billion but less than $5 billion	752	-22
	363.5	$1 billion or more	1,045	$5 billion	293	-752
	363.5	More than $3 billion	426	More than $5 billion	293	-133
	Guideline 28(b)(4)	$100,000	1,819	$120,000	1,819	0*
Part 380 - Restrictions on Sale of Assets of a Failed Financial Company by the FDIC	380.13	> $50,000 losses, delinquent obligations, unpaid balances or judgments	66	> $100,000 losses, delinquent obligations, unpaid balances or judgments	132	66*

* The FDIC does not have the data necessary to identify the exact number of entities affected by this threshold adjustment.

** In the final column (Change in number of covered entities), positive values represent an increase in the number of covered entities attributable to the proposed thresholds and negative values represent a decrease in the number of covered entities.

Source: FDIC calculations.

C. *Costs and Benefits of the Proposal*

The amendments in this proposal would be expected to improve the alignment between the risks intended to be addressed by a regulation and the covered institutions to which it applies. This enhanced alignment would likely generate positive net benefits overall by ensuring that smaller institutions would not be unduly burdened by regulations meant to apply to larger institutions.

If the set of institutions posing elevated risks has evolved since the regulation's enactment, then preservation of the real value of the thresholds through an inflation-based or other amendment may or may not be beneficial. For example, if risk profiles of institutions evolved since a regulation's enactment such that a broader set of institutions belonged in a higher risk category, then inflation-induced scoping in of these institutions may be inappropriately capturing the relevant risk. However, in that case, it would likely be appropriate for the FDIC to reevaluate the threshold and regulation more broadly, rather than continuing to rely on unadjusted threshold levels.

More generally, the proposal's benefits for institutions that were covered under one or more of the regulations' current thresholds but not covered under the proposed thresholds may be approximately equal to the cost-savings from reduced compliance costs under the current thresholds, along with increased lending and economic activity resulting from lower compliance costs. The proposal's costs to these institutions, and to the banking industry and broader financial system, may be a reduction in safety and soundness. However, since the proposed rule would more closely align dollar thresholds with their real values over time, the impact on safety and soundness of realigning these thresholds is expected to be negligible and outweighed by the broader benefits of this proposal.

Institutions that move from out-of-scope to within scope (or vice versa) of a particular regulation due to the proposed threshold adjustments may incur some short-term additional costs associated with transitioning or adjusting their internal systems, policies, and procedures to comply with the associated regulation. The FDIC does not have the information necessary to be able to estimate these costs, but expects them to be relatively minor.

The FDIC has identified certain costs and benefits associated with specific threshold adjustments, as described below.

Question 30: Do the benefits of amending the thresholds as proposed outweigh any costs associated with how they will be updated or adjusted in the future to reflect inflation? To what *extent do longstanding thresholds contribute to predictability of their application? Would altering thresholds contribute to confusion or burden associated with understanding their revised application? Would considering only one approach, to either update thresholds or adjust them according to the proposed indexing methodology, alleviate any of these costs?*

1. *Part 303*

For IDIs submitting applications under Section 19 of the FDI Act, the threshold adjustments for the *de minimis* exceptions under section 303.227 likely would result in a reduction of Section 19 applications. To the extent that IDIs who would have had to file Section 19 applications for certain individuals as part of their hiring processes under the current rule no longer have to do so, they may realize some cost savings. As previously discussed, the FDIC estimates that the update to the dollar threshold for the *de minimis* exceptions under section 303.227 would reduce annual Section 19 applications by 12 to 22. Therefore, the FDIC believes that the aggregate costs savings will be relatively minor. Additionally, the proposed threshold adjustments for Section 19 may allow IDIs a greater degree of flexibility in hiring new employees. The FDIC does not have the data necessary to determine the effect of the proposed rule on this potential increase in flexibility, but expects that such increases also would be relatively minor.

2. *Part 335*

For IDIs that are subject to the requirements under the 1934 Securities Exchange Act and need to make additional disclosures related to loans to insiders under section 335.801, the proposed threshold update for "material" disclosures of indebtedness of management from $5 million in the current rule to $10 million would likely benefit affected IDIs by reducing the number of "material" disclosures of indebtedness of management that these IDIs need to make.

The FDIC does not have the data necessary to estimate the exact number of disclosures that may be affected from this change. However, as discussed above, the FDIC estimates that nine IDIs could be directly affected by this aspect of the proposed rule. Therefore, the FDIC believes that any associated cost savings will be relatively minor.

3. *Part 340*

As discussed above, the unit of analysis for part 340 is persons (individuals and entities) interested in acquiring assets of failed institutions under FDIC receivership or conservatorship. The FDIC does not have data on the direct effects of the proposed changes in thresholds for substantial losses on the precise number of persons that would engage in bidding to purchase assets of failed institutions, although, as stated above, the FDIC estimates an approximately 100 percent increase in PEC340 submissions under the proposed rule.[104] The FDIC anticipates two potential effects. First, the increased thresholds would likely reduce the number of persons that are subject to restrictions, resulting in more potential bidders for the assets of failed institutions. This expected effect could increase the prices of the assets sold, relative to a market with fewer bidders (under current thresholds). Second, any increase in the prices of assets sold would benefit the health of the Deposit Insurance Fund by allowing the FDIC to more quickly recover any losses attributable to the failure of an institution.

4. *Part 347*

For IDIs that own or have an equity interest in foreign organizations which underwrite, deal, or distribute equity securities outside the U.S., the threshold adjustments to increase (1) the aggregate underwriting commitments from $60 million in the current rule to $120 million in the proposed rule and (2) equity securities held for distribution and dealing from $30 million in the

[104] The PECs associated with part 340 do not include information on the amounts of financial losses incurred by an applicant or associated financial institution.

current rule to $60 million in the proposed rule may increase the volume and/or amount of such transactions. To the extent that an IDI engages in such transactions, it may realize benefits from the threshold amendments under the proposal, including potentially being more competitive with foreign banks and other entities. The FDIC does not have the data necessary to estimate the extent to which these IDI engage in such transactions. However, IDIs that increase their participation in these transactions may experience costs associated with complying with new or new or additional requirements under foreign financial regulatory frameworks. The FDIC does not have the data necessary to estimate such costs, but expects that they would be modest relative to the potential benefits.

5. *Part 363*

The proposal would update the thresholds in part 363 pertaining to external audits and other requirements. For IDIs that are subject to the external audit requirements found in part 363, the broad threshold amendments described above would reduce the number of IDIs that would be subject to the general external audit requirements in part 363, as well as the number of IDIs that would be subject to the additional requirements for larger institutions. These institutions would realize some degree of cost savings associated with some of these reduced requirements, though these savings would vary based on the characteristics of the institution.

The proposal would also revise a dollar threshold in guidelines found in part 363, Appendix A, paragraph 28(b)(4), which describe criteria to determine if an outside director is "independent of management". Because the proposal increases the threshold for general applicability of part 363 from $500 million in assets to $1 billion, fewer IDIs would correspondingly need to comply with these guidelines because fewer IDIs are subject to requirements to create audit committees. Thus, IDIs scoped out of part 363 under the proposed rule may see some cost savings associated with not having to determine if members of audit committees are independent of management.

The FDIC is also proposing to increase the $100,000 compensation threshold under part 363 related to the determination of whether a director is considered “independent of management.” For the IDIs that still comply with this guideline, the revision of this threshold from $100,000 to a proposed $120,000 might allow IDIs to find directors for their audit committees sooner and could reduce costs and burdens associated with the audit committee formation process. The FDIC does not have the data necessary to estimate the extent of these potential cost savings, but expects them to be relatively modest.

The FDIC does not expect these cost savings to be outweighed by any significant increase in the risk profile of IDIs generally or the expected losses to the Deposit Insurance Fund. As discussed above, the largest IDIs would see no change in requirements. Preserving the level of these thresholds in real terms will reduce compliance burden at smaller institutions related to extensive data gathering, documentation, and review. Further, smaller institutions typically operate with fewer personnel than larger institutions, which can divert resources and add to the burden borne by smaller community institutions in complying with part 363. Additionally, burdens associated with complying with audit committee composition requirements can be challenging for smaller community institutions, especially in rural areas, whereby it can be difficult to recruit qualified, independent board members who meet the criteria described in part 363. For covered institutions that are required to comply with ICFR requirements, these compliance costs and resource constraints can be regressive, falling more heavily on smaller institutions. Accordingly, for smaller IDIs, the shift in requirements is intended to address significant reporting and recordkeeping compliance burdens – such as those associated with complying with the audit committee requirements – and to improve regulatory tailoring based on institutions' sizes and risk profiles. Due to the tailored and measured approach taken to the adjustment of thresholds contained in part 363, the FDIC does not believe these changes would significantly increase risk to the Deposit Insurance Fund.

6. Part 380

As discussed above, the unit of analysis for part 380 is persons (individuals and entities) interested in acquiring assets of covered financial companies under FDIC receivership. The FDIC does not have data on the direct effects of the proposed changes in thresholds for substantial losses on the number of persons that would engage in bidding to purchase assets of covered financial companies, although, as stated above, the FDIC estimates an approximately 100 percent increase in PEC380 submissions under the proposed rule. However, the FDIC anticipates the increased thresholds would likely reduce the number of persons that are subject to restrictions, resulting in more potential bidders for covered financial companies' assets liquidated by the FDIC. This expected effect could benefit the health of the Deposit Insurance Fund by increasing the prices of the assets sold, relative to a market with fewer bidders (under current thresholds).

V. Administrative Law Matters

A. The Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA)[105] states that no agency may conduct or sponsor, nor is the respondent required to respond to, an information collection unless it displays a currently valid Office of Budget and Management (OMB) control number. The FDIC reviewed

[105] 44 U.S.C 3501-3521.

the proposed rule and determined that it revises certain information collection requests previously cleared by OMB under the following OMB Control Nos.:

1. 3064-0018: Application Pursuant to Section 19 of the Federal Deposit Insurance Act

2. 3064-0030: Securities of State Nonmember Banks and State Savings Associations

3. 3064-0113: External Audits

4. 3064-0194: Covered Financial Company Asset Purchaser Eligibility Certification

The FDIC will submit the proposed revisions to these information collections to OMB for review under section 3507(d) of the PRA[106] and section 1320.11 of the OMB's implementing regulations.[107] Comments are invited on:

(a) Whether the revisions to existing collections of information are necessary for the proper performance of the FDIC's functions, including whether the information has practical utility;

(b) The accuracy of the estimate of the burden of the information collections, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the information collections on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

All comments will become a matter of public record. Comments on the collection of information should be sent to the address listed in the ADDRESSES section of this document. A

[106] 44 U.S.C. 3507(d).
[107] 5 CFR 1320.11.

copy of the comments may also be submitted to the OMB desk officer: By mail to U.S. Office of Management and Budget, 725 17th Street NW, #10235, Washington, DC 20503.

Proposed Revisions to Existing Information Collections:

Title of Information Collection: "Application Pursuant to Section 19 of the Federal Deposit Insurance Act."

OMB Number: 3064-0018

Affected Public: Insured depository institutions and individuals.

Current Actions: The proposed rule revises the currently-approved information collection as follows:

The proposed rule would raise the threshold for certain offenses under which no application to the FDIC under Section 19 of the FDIA is required. By raising the dollar threshold for the *de minimis* exception, the proposed rule would decrease the number of respondents submitting applications to the FDIC. Based on the proposed rule as well as historical data, the FDIC estimates a decrease from 43 respondents to 21 respondents, resulting in a total annual burden for OMB No. 3064-0018 of 336 hours, a decrease of 352 hours.[108]

Title of Information Collection: Securities of State Nonmember Banks and State Savings Associations

OMB Number: 3064-0030

Affected Public: Insured state nonmember banks and state savings associations.

[108] FDIC Application Pursuant to Section 19 of the Federal Deposit Insurance Act, OMB No. 3064-0018, *available at* https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202407-3064-005.

Current Actions: The proposed rule revises the currently-approved information collection as follows:

The proposed rule would raise the thresholds for disclosure requirements for extensions of credit to insiders from in excess of 10 percent of the capital account of an institution or $5 million, whichever is less, to 10 percent of the capital account of an institution or $10 million. Raising this threshold decreases the total information the FDIC requests from the affected respondents, therefore it is a substantive modification to the previously approved information collection titled "14A Proxy Statements. As such, the FDIC is required to submit the information collection for review and approval by OMB.[109] However, based on available historical data, similar reporting requirements imposed by the SEC, and the FDIC's supervisory experience and expertise, the FDIC does not anticipate a change in the burden estimates for this information collection.

Title of Information Collection: External Audits

OMB Number: 3064-0113

Affected Public: All insured financial institutions with total assets of $1 billion or more and other insured financial institutions with total assets of less than $1 billion that voluntarily choose to comply.

Current Actions: The proposed rule revises the currently-approved information collection as follows:

The proposed rule would raise several thresholds in part 363. It raises the general applicability thresholds from $500 million to $1 billion, the ICFR asset threshold from $1 billion to $5 billion,

[109] 5 CFR 1320.5(g) ("An agency may not make a substantive or material modification to a collection of information after such collection of information has been approved by OMB, unless the modification has been submitted to OMB for review and approval under this Part").

and thresholds related to audit committee composition generally from $500 million to $1 billion, and from $1 billion and $3 billion to $5 billion. By raising the thresholds in part 363, the proposed rule changes several existing information collections under OMB control No. 3064-0113 by changing the number of respondents or changing the reporting requirements. Accordingly, the FDIC will revise the categories of the existing information collections to better align with proposed rule's updated thresholds. The updated burden estimates and the information collection categories are as follows:

Table 1. Summary of Estimated Annual Burden (OMB No. 3064-0113)					
Information Collection (IC) (Obligation to Respond)	Type of Burden (Frequency of Response)	Number of Respondents	Number of Responses per Respondent	Average Time per Response (HH:MM)	Annual Burden (Hours)
Institutions with $10 billion or More in Total Consolidated Assets					
1. Annual Report, 12 CFR 363 (Mandatory)	Recordkeeping (Annual)	160	1	150:00	24,000
2. Annual Report, 12 CFR 363 (Mandatory)	Reporting (Annual)	160	1	150:00	24,000
3. Audit Committee Composition, 12 CFR 363 (Mandatory)	Recordkeeping (Annual)	160	1	03:00	480
4. Audit Committee Composition, 12 CFR 363 (Mandatory)	Reporting (Annual)	160	1	03:00	480
5. Filing of Other Reports, 12 CFR 363 (Mandatory)	Recordkeeping (Annual)	160	1	00:08	21
6. Filing of Other Reports, 12 CFR 363 (Mandatory)	Reporting (Annual)	160	1	00:08	21

7. Notice of Change in Accountants, 12 CFR 363 (Mandatory)	Recordkeeping (Annual)	40	1	00:15	2
8. Notice of Change in Accountants, 12 CFR 363 (Mandatory)	Reporting (Annual)	40	1	00:15	2
Institutions with $5 billion to less than $10 billion in Total Consolidated Assets					
9. Annual Report, 12 CFR 363 (Mandatory)	Recordkeeping (Annual)	133	1	125:00	16,625
10. Annual Report, 12 CFR 363 (Mandatory)	Reporting (Annual)	133	1	125:00	16,625
11. Audit Committee Composition, 12 CFR 363 (Mandatory)	Recordkeeping (Annual)	133	1	03:00	399
12. Audit Committee Composition, 12 CFR 363 (Mandatory)	Reporting (Annual)	133	1	03:00	399
13. Filing of Other Reports, 12 CFR 363 (Mandatory)	Recordkeeping (Annual)	133	1	00:08	18
14. Filing of Other Reports, 12 CFR 363 (Mandatory)	Reporting (Annual)	133	1	00:08	18

15. Notice of Change in Accountants, 12 CFR 363 (Mandatory)	Recordkeeping (Annual)	33	1	00:15	8
16. Notice of Change in Accountants, 12 CFR 363 (Mandatory)	Reporting (Annual)	33	1	00:15	8
Institutions with $1billion to less than $5 billion in Total Consolidated Assets					
17. Annual Report, 12 CFR 363 (Mandatory)	Recordkeeping (Annual)	752	1	12:30	9,400
18. Annual Report, 12 CFR 363 (Mandatory)	Reporting (Annual)	752	1	12:30	9,400
19. Audit Committee Composition, 12 CFR 363 (Mandatory)	Recordkeeping (Annual)	752	1	01:00	752
20. Audit Committee Composition, 12 CFR 363 (Mandatory)	Reporting (Annual)	752	1	01:00	752
21. Filing of Other Reports, 12 CFR 363 (Mandatory)	Recordkeeping (Annual)	752	1	00:08	100
22. Filing of Other Reports, 12 CFR 363 (Mandatory)	Reporting (Annual)	752	1	00:08	100
23. Notice of Change in Accountants, 12 CFR 363 (Mandatory)	Recordkeeping (Annual)	188	1	00:15	47

24. Notice of Change in Accountants, 12 CFR 363 (Mandatory)	Reporting (Annual)	188	1	00:15	47
Institutions with less than $1 billion of Total Consolidated Assets					
25. Filing of Other Reports, 12 CFR 363 (Voluntary)	Recordkeeping (Annual)	3,426	1	00:15	857
26. Filing of Other Reports, 12 CFR 363 (Voluntary)	Reporting (Annual)	3,426	2	00:15	1,713
				Total Annual Burden (Hours):	***106,290***
Source: FDIC. Note: The estimated annual IC time burden is the product, rounded to the nearest hour, of the estimated annual number of responses and the estimated time per response for a given IC. The estimated annual number of responses is the product, rounded to the nearest whole number, of the estimated annual number of respondents and the estimated annual number of responses per respondent. This methodology ensures the estimated annual burdens in the table are consistent with the values recorded in OMB's consolidated information system.					

Based on the proposed rule, the FDIC estimates a total annual burden for OMB No. 3064-0113 of 106,290 hours, resulting in a burden decrease of 31,924 hours from the most recent PRA renewal.[110]

Title of Information Collection: Covered Financial Company Asset Sales Purchaser Eligibility Certification

OMB Number: 3064-0194

Affected Public: Any individual or entity that is a potential purchaser of assets from (1) the FDIC as receiver for a Covered Financial Company (CFC); or (2) a bridge financial company (BFC)

[110] FDIC External Audits, OMB No. 3064-0113, *available at* https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202207-3064-004.

which requires the approval of the FDIC, as receiver for the predecessor CFC and as the sole shareholder of the BFC (e.g., the BFC's sale of a significant business line).

Current Actions: The proposed rule revises the currently-approved information collection as follows:

The proposed rule would revise the "substantial loss" threshold in section 380.13 by raising the existing threshold from $50,000 to $100,000. Raising this threshold decreases the total information the FDIC requests from the affected respondents, therefore it is a substantive modification to the previously approved information collection titled "Covered Financial Company Asset Sales Purchaser Eligibility Certification."[111] As such, the FDIC is required to submit the information collection for review and approval by OMB.[112] The FDIC does not anticipate a change in the burden estimates for this information collection. This determination is based on the FDIC supervisory experience and analysis of prospective respondents.

B. Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act (RFA) generally requires an agency, in connection with a proposed rule, to prepare and make available for public comment an initial regulatory flexibility analysis that describes the impact of the proposed rule on small entities.[113] However, an initial regulatory flexibility analysis is not required if the agency certifies that the proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. The Small Business Administration (SBA) has defined ''small entities'' to include banking organizations with total assets of less than or equal to $850 million.[114] Generally, the

[111] FDIC Covered Financial Company Asset Purchaser Eligibility Certification, OMB No. 3064-0194, *available at* https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202311-3064-003.

[112] *See supra* fn. 106.

[113] 5 U.S.C. 601 *et seq.*

[114] The SBA defines a small banking organization as having $850 million or less in assets, where an organization's ''assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding

FDIC considers a significant economic impact to be a quantified effect in excess of 5 percent of total annual salaries and benefits or 2.5 percent of total noninterest expenses. The FDIC believes that effects in excess of one or more of these thresholds typically represent significant economic impacts for FDIC-insured institutions.

To estimate the expected effects of the proposed rule, this analysis considers all relevant regulations and guidance applicable to these institutions, as well as information on the financial condition of all IDIs as of the quarter ending March 31, 2025.

Part 303

As previously discussed, section 303.227 discusses the criteria for *de minimis* exemptions for purposes of Section 19 of the FDIA. These criteria include $2,500 and $1,000 thresholds for certain offenses that are exempt from the requirements to submit a Section 19 application to the FDIC. The proposed rule would adjust these thresholds from $2,500 and $1,000 to $3,500 and $1,225, respectively.

To estimate the number of small, FDIC-insured institutions that could be affected by this change in the proposed rule, the FDIC used the historical annual number of institutions that have submitted a Section 19 application. Over the six-year period ending on March 31, 2025, the FDIC received 328 applications under Section 19, or approximately 55 applications annually. Section 19 applications can be submitted by individuals as well as IDIs. The FDIC does not have the information necessary to attribute each application submitted by an individual under Section 19 made over this period to a particular IDI. Accordingly, for the purposes of this

year.'' *See* 13 CFR 121.201 (as amended by 87 FR 69118, effective December 19, 2022). In its determination, the ''SBA counts the receipts, employees, or other measure of size of the concern whose size is at issue and all of its domestic and foreign affiliates.'' See 13 CFR 121.103. Following these regulations, the FDIC uses an insured depository institution's affiliated and acquired assets, averaged over the preceding four quarters, to determine whether the insured depository institution is ''small'' for the purposes of the RFA.

analysis the FDIC conservatively estimates that each Section 19 application is submitted by a unique IDI.

An increase in these *de minimis* thresholds would increase the number of persons subject to the exemptions in section 303.227. Given the 40 percent increase in the general *de minimis* threshold of $2,500 to $3,500 and the 22.5 percent increase in the *de minimis* threshold for small-dollar theft of $1,000 to $1,225, the FDIC assumes a corresponding decrease of between 22.5 percent and 40 percent in the estimated number of submissions under Section 19. Therefore, the FDIC estimates that the proposed rule could reduce the annual number of IDIs submitting Section 19 applications from 55 to between 43 and 33 IDIs (rounded to the nearest IDI).[115]

Using Call Report data from March 31, 2025, the FDIC estimates that approximately 70 percent of all IDIs are classified as "small".[116] Therefore, the FDIC estimates that the change in this threshold could reduce the number of small IDIs submitting section 19 applications from 39 to between 30 and 23 IDIs (rounded to the nearest IDI), a decrease of between 9 and 16 IDIs.[117] The FDIC estimates that each Section 19 application takes approximately 16 hours to complete.[118] Using a wage rate of $104.43/hour[119], the FDIC estimates that the proposed rule

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[115] 55 IDIs estimated under the current rule. A 22.5 percent reduction, corresponding to an increase in the *de minimis* small-dollar theft threshold from $1,000 to $1,225, would result in 43 IDIs estimated under the proposal. A 40 percent reduction, corresponding to an increase in the general *de minimis* exemption threshold from $2,500 to $3,500, would result in 33 IDIs estimated under the proposal.
[116] FDIC Call Report Data, March 31, 2025.
[117] 55 Section 19 applications from unique IDIs * 70 percent of all IDIs classified as "small" ≈ 39 small IDIs. A 22.5 percent reduction, corresponding to an increase in the *de minimis* small-dollar theft threshold from $1,000 to $1,225, would result in 30 "small" IDIs estimated under the proposal. A 40 percent reduction, corresponding to an increase in the general *de minimis* exemption threshold from $2,500 to $3,500, would result in 23 "small" IDIs estimated under the proposal.
[118] Information collection request ICR 3064-0018 at https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202407-3064-005
[119] Bureau of Labor Statistics: 'National Industry-Specific Occupational Employment and Wage Estimates: Industry: Credit Intermediation and Related Activities (5221 And 5223 only)' (May 2024), Employer Cost of Employee Compensation (March 2024), and Employment Cost Index (March 2024 and March 2025). For this ICR, the FDIC estimated the following labor allocation for entities complying with these requirements: Executives and Managers

would result in between $15,037.92 and $26,734.08 in total annual cost savings for these 9 to 16 affected small IDIs, or approximately $1,670.88 in annual cost savings to each small IDI that would no longer need to file a Section 19 application as a result of the proposed rule. As discussed above, the FDIC estimates between 9 and 16 small IDIs would be affected by this change. Given the small number of affected small entities and the relatively minor amount of cost savings, the FDIC believes that the changes in thresholds for these provisions is likely to have small effects on small IDIs.

Part 335

Section 335.801 provides a materiality threshold for disclosures related to extensions of credit to insiders. Under this section extensions of credit to such individuals that are in excess of ten (10) percent of the equity capital accounts of the bank or State savings association or $5 million, whichever is less, shall be deemed material and shall be disclosed in addition to any other required disclosure. The proposed rule would revise the $5 million threshold to $10 million.

To estimate the number of small FDIC-supervised institutions that could be affected by this change in the proposed rule, the FDIC identified nine IDIs[120] that are subject to the requirements under the 1934 Securities Exchange Act and are required to make additional disclosures related to loans to insiders (by virtue of being traded on a national exchange or having more than 2,000 shareholders of record and $10 million in assets). For the purposes of this analysis, the FDIC conservatively estimates that nine FDIC-supervised IDIs may be affected

(11-0000): 10 percent; Lawyers (23-0000): 20 percent; Compliance Officers (13-1040): 60 percent; and Clerical Workers (43-0000): 10 percent.

[120] See https://www.fdic.gov/analysis/list-fdic-supervised-banks-filing-under-securities-exchange-act for the list of IDIs.

by the threshold adjustments in Part 335 under the proposed rule. Of these nine IDIs, one is classified as “small”. Given the small number of affected small entities, the fact that the requirement to issue these disclosures still exists under the proposed rule, and that these disclosures would still be issued via proxy statements under the proposed rule, the FDIC does not believe that the change in this threshold would have a significant effect on small entities.

Part 340

Section 340.4 relates to the definition of “substantial loss” in the context of restrictions on the sale of failed bank assets. A person may not acquire any assets of a failed institution from the FDIC if the person or associated person has participated, as an officer or director of a failed institution or of an affiliate of a failed institution, in a material way in one or more transaction(s) that caused a substantial loss to that failed institution.[121] Section 340.2 defines “substantial loss” using a threshold of greater than $50,000 in losses, unpaid final judgments, delinquent obligations, or deficiency balance following a foreclosure. The proposed rule revises the greater than $50,000 threshold to greater than $100,000.

To estimate the number of small institutions that could be affected by this change in the proposed rule, the FDIC analyzed historical trends for annual part 340 Purchaser Eligibility Certification (PEC340) submissions, based on information from 2019 through 2023. From this analysis, the FDIC estimates approximately 140 PEC340 submissions annually from individuals or entities. The FDIC does not have the data to estimate the number of unique entities that would submit a PEC; therefore, the FDIC conservatively estimates that each PEC340 is submitted by a unique entity.

[121] Additional qualitative criteria are available in the regulation

An increase in the thresholds would decrease the number of persons subject to the restrictions of part 340 by removing persons involved in transactions resulting in losses of greater than $50,000 to greater than $100,000. Given the 100 percent increase in the threshold the FDIC assumes a corresponding 100 percent increase (rounded to the nearest whole number of persons)[122] in the estimated number of persons that would be expected to submit PECs under section 340.7. This results in an estimated 280 entities that would submit under the proposed rule, an increase of 140 from the current rule.

As discussed above, the FDIC estimates that approximately 70 percent of all IDIs are classified as "small". Therefore, the FDIC estimates that, of the estimated increase of 140 PECs submitted under Part 340 due to the proposed rule, approximately 98 will be submitted by "small" entities. Using internal estimates and analysis of PEC340 submissions from 2019 through 2023, the FDIC estimates that each PEC under section 340 takes approximately 30 minutes to complete.[123] Using a wage rate of $164.65/hour[124], the FDIC estimates that the 98 small entities would incur approximately $8,067.85 in additional annual costs, or approximately $82.33 each, associated with submitting PECs due to the proposed rule. Given the small number of affected small entities and the relatively minor amount of costs incurred, the FDIC believes that the changes in thresholds for these provisions is likely to have small effects on small, FDIC-supervised IDIs.

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[122] ($100,000 - $50,000) / $50,000 = 100 percent.

[123] Information collection request ICR 3064-0135 at https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202111-3064-002.

[124] Bureau of Labor Statistics: 'National Industry-Specific Occupational Employment and Wage Estimates: Industry: Credit Intermediation and Related Activities (5221 And 5223 only)' (May 2024), Employer Cost of Employee Compensation (March 2024), and Employment Cost Index (March 2024 and March 2025). For this ICR, the FDIC estimated the following labor allocation for entities complying with these requirements: Executives and Managers (11-0000): 10 percent; and Purchasing Managers (11-3060): 90 percent.

Part 347

Section 347.111 contains two thresholds that would be adjusted under the proposal. The first is for aggregate underwriting commitment limits applicable to foreign organizations held by insured state nonmember banks, which currently may not exceed the lesser of $60 million or 25 percent of the bank's Tier 1 capital. The proposal would increase the current $60 million threshold to $120 million. The second threshold in section 347.111 is for distribution and dealing limits applicable to foreign organizations held by insured state nonmember banks, which currently may not exceed the lesser of $30 million or 5 percent of the bank's Tier 1 capital. The proposal would increase the current $30 million threshold to $60 million.

To estimate the number of small FDIC-supervised institutions that could be affected by this change in the proposed rule, the FDIC used NIC data to identify the number of foreign entities with a parent company that is an IDI. From this data, the FDIC was able to identify 31 IDIs with foreign subsidiaries. Of these, five are state nonmember banks and would be subject to Part 347. The FDIC does not have the data necessary to: (1) estimate the number of IDIs that would be subject to these restrictions, and (2) understand the business models of these IDIs and their propensity to find and make business deals that would be subject to these restrictions under the current and proposed rule. Therefore, the FDIC conservatively estimates that all five state nonmember banks would be affected by these changes. Of these five, none are classified as "small". Therefore, the FDIC does not believe that the change in this threshold would have any effect on small entities.

Part 363

The proposed rule makes several changes to the thresholds in Part 363. Most of these – such as those pertaining to management and the independent accountant's assessment of the effectiveness of ICFR, as well as certain independence and experience requirements for members of audit committees – do not affect small entities because they are imposed on IDIs with over $1 billion in total consolidated assets. However, certain requirements are having their asset size thresholds adjusted from $500 million to $1 billion. Specifically, the proposed rule would amend the following thresholds that may affect small entities:

(1) Section 363.1 imposes requirements to conduct annual audits of financial statements, submission of communications, and other reports on any IDI with respect to any fiscal year in which its consolidated total assets as of the beginning of such fiscal year are $500 million or more. The proposed rule increases the current threshold from $500 million to a proposed $1 billion.

(2) Section 363.5(a)(2) requires that each IDI with consolidated total assets of $500 million or more but less than $1 billion must establish an independent audit committee of its board of directors, the members of which must be outside directors, a majority of whom must be independent of management of the IDI. The proposed rule increases the current threshold from $500 million to a proposed $1 billion.

These changes would, if adopted, scope out "small" entities with between $500 million and $1 billion in assets. Using Call Report data as of March 31, 2025, there are 579 "small" IDIs with between $500 million and $1 billion in assets. These IDIs would all be scoped out of Part 363 under the proposal. The FDIC estimates that, under the current rule, IDIs with between $500 million and $1 billion in assets would receive approximately 28 hours in annual cost savings per small IDI associated with the requirements in Part 363.[125] Using a wage rate of $100.18/hour[126], the FDIC estimates that the proposed rule would result in approximately $1.62 million in cost savings for these 579 small entities, or $2,800 for each small IDI.[127] Therefore, the FDIC believes that the changes in thresholds for these provisions is likely to have small effects on small IDIs.

Part 380

As discussed above, section 380.13 provides a definition of "substantial loss" in the context of restrictions on the sale of failed financial company assets. A person may not acquire any assets of a covered financial company from the FDIC if the person or associated person has participated, as an officer or director of a covered financial company or of an affiliate of a covered financial company, in a material way in one or more transaction(s) that caused a substantial loss to that covered financial company.[128] Section 380.13(b)(6) defines "substantial loss" using a threshold of greater than $50,000 in losses, unpaid final judgments, delinquent obligations, or deficiency balance following a foreclosure. The proposed rule revises the greater than $50,000 threshold to greater than $100,000.

The FDIC lacks data on the number of entities who would submit PECs if the proposed thresholds defining substantial losses were increased to greater than $100,000. To estimate the

[125] Information collection request ICR 3064-0113 at https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202207-3064-004.
[126] Bureau of Labor Statistics: 'National Industry-Specific Occupational Employment and Wage Estimates: Industry: Credit Intermediation and Related Activities (5221 And 5223 only)' (May 2024), Employer Cost of Employee Compensation (March 2024), and Employment Cost Index (March 2024 and March 2025). See Table 2 of the FDIC's Supporting Statement at https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=202207-3064-004 for information on the labor allocations for this ICR.
[127] (579 small IDIs * 28 hours in cost savings) = 16,212 hours in annual compliance cost savings. 16,212 hours * $100.18 per hour = $1,624,118.16.
[128] Additional qualitative criteria are available in the regulation.

number of small institutions that could be affected by this change in the proposed rule, the FDIC uses internal information and analysis of the expected annual number of PEC submissions for these persons.[129] From this analysis, the FDIC estimates approximately 66 PEC submissions annually from covered entities. The FDIC does not have the data to estimate the number of unique entities that would submit PECs from this analysis. Therefore, the FDIC conservatively estimates that each PEC is submitted by a unique entity.

The 100 percent proposed increase in the thresholds would decrease the number of persons subject to the restrictions in part 380**.** Given the 100 percent increase in the threshold the FDIC assumes a corresponding 100 percent increase (rounded to the nearest whole number of persons)[130] in the estimated number of persons that would be expected to submit PECs under § 380.13(f). This results in an estimated 132 entities that would submit under the proposed rule, an increase of 66 from the current rule.

As discussed above, the FDIC estimates that approximately 70 percent of all IDIs are classified as "small". Therefore, the FDIC estimates that, of the estimated increase of 66 PECs submitted under Part 380 due to the proposed rule, approximately 46 will be submitted by "small" entities. Using internal information and analysis of the expected annual number of PEC submissions, the FDIC estimates that each PEC under section 380 takes approximately 2.5 hours to complete.[131] Using a wage rate of $112.73/hour[132], the FDIC estimates that the 46 small

[129] Information collection request ICR 3064-0194 at https://www.reginfo.gov/public/do/PRAICList?ref_nbr=202311-3064-003.
[130] ($100,000 - $50,000) / $50,000 = 100 percent.
[131] Information collection request ICR 3064-0194 at https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202311-3064-003
[132] Bureau of Labor Statistics: 'National Industry-Specific Occupational Employment and Wage Estimates: Industry: Credit Intermediation and Related Activities (5221 And 5223 only)' (May 2024), Employer Cost of Employee Compensation (March 2024), and Employment Cost Index (March 2024 and March 2025). For this ICR, the FDIC estimated the following labor allocation for entities complying with these requirements: Executives and Managers

entities would incur approximately $12,963.95 in additional annual costs, or approximately $281.83each, associated with submitting PECs due to the proposed rule. Given the small number of affected small entities and the relatively minor amount of costs incurred, the FDIC believes that the changes in thresholds for these provisions is likely to have small effects on small, FDIC-supervised IDIs.

Summary of Effects on Small Entities

As of the quarter ending March 31, 2025, the FDIC insured 4,471 institutions, of which 3,130 are considered “small” for the purposes of the RFA. As of the same time period the FDIC supervised 2,835 institutions, of which 2,109 are considered “small” for the purposes of the RFA. As previously discussed, the threshold changes in parts 303, 340,363 and 380 were estimated to directly affect between 9 and 16, 98, 579, and 46 small entities, respectively. Further, the FDIC estimates that the threshold changes in parts 303, 340, 363 and 380 would result in certain changes in compliance costs for directly affected entities of $1,670.88, $82.33, and $2,800, and $281.83 per entity, per year, respectively. The FDIC does not have the information necessary to calculate cumulative quantified effects of all of the threshold changes in parts 303, 340, 363 and 380 for each directly affected small IDI. However, conservatively assuming that a small FDIC-supervised or FDIC-insured IDI is affected by all of the proposed changes described above, it would receive cost savings of approximately $4,106.72annually.[133] This amount exceeds 5 percent of total annual salaries and benefits or 2.5 percent of total

(11-0000): 10 percent; Lawyers (23-0000): 10 percent; Compliance Officers (13-1040): 10 percent; and Financial Analysts (13-2051): 70 percent.

[133] Approximately $4,470.88 in estimated annual cost savings - $364.16 in estimated annual costs = $4,106.72.

noninterest expenses at just three small IDIs.[134] Therefore, the FDIC does not believe that the changes in these thresholds would have a significant economic effect on small IDIs.

Finally, certain aspects of the proposed rule – such as those pertaining to Section 19 and PEC applications under Parts 303, 340, and 380 - may affect individuals. The RFA applies to small entities, which is defined in 5 USC 601(6) as having "the same meaning as the terms 'small business', 'small organization' and 'small governmental jurisdiction' defined in paragraphs (3), (4) and (5) of" 5 USC 601. As such, a rule or information collection that affects only natural persons does not affect any small entities.

In light of the foregoing, the FDIC certifies that the proposed rule would not have a significant economic impact on a substantial number of small entities. Accordingly, an initial regulatory flexibility analysis is not required.

The FDIC invites comments on all aspects of the supporting information provided in this RFA section. The FDIC is particularly interested in comments on any significant effects on small entities that the agency has not identified.

C. Plain Language

Section 722 of the Gramm-Leach-Bliley Act requires Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The FDIC invites your comments on how to make the proposed rule easier to understand. For example:

- Has the FDIC organized the material to suit your needs? If not, how could the proposed rule be more clearly stated?

[134] FDIC Call Report data for the four-quarter period from June 30, 2024 through March 31, 2025.

- Are the requirements in the proposed rule clearly stated? If not, how could the proposed rule be more clearly stated?
- Does the proposed rule contain language or jargon that is not clear? If so, which language requires clarification?
- Would different format (groupings and order of sections, use of headings, paragraphing) make the proposed rule easier to understand? If so, what changes to the format would make the proposed rule easier to understand?
- What else could the FDIC do to make the proposed rule easier to understand?

D. Riegle Community Development and Regulatory Improvement Act of 1994

Section 302 of the Riegle Community Development and Regulatory Improvement Act of 1994 (RCDRIA) requires that the Federal banking agencies, including the FDIC, in determining the effective date and administrative compliance requirements of new regulations that impose additional reporting, disclosure, or other requirements on IDIs, consider, consistent with principles of safety and soundness and the public interest, any administrative burdens that such regulations would place on depository institutions, including small depository institutions, and customers of depository institutions, as well as the benefit of such regulations.[135] Subject to certain exceptions, new regulations and amendments to regulations prescribed by a Federal banking agency which impose additional reporting, disclosure, or other new requirements on IDI shall take effect on the first day of a calendar quarter which begins on or after the date on which the regulations are published in final form.[136] The requirements of RCDRIA will be considered as part of the overall rulemaking process, and the FDIC invites comments that will further inform its consideration of RCDRIA.

[135] 12 U.S.C. 4802(a).
[136] 12 U.S.C. 4802(b).

E. Executive Order 12866 and 13563

Under Executive Order 12866, as affirmed and supplemented by Executive Order 13563, "significant regulatory actions" are subject to review by the Office of Management and Budget (OMB).

The FDIC has submitted this proposed regulatory action to OMB for review. OMB has determined this proposed regulatory action is not a significant regulatory action subject to further review under section 3(f) of Executive Order 12866.

F. The Providing Accountability Through Transparency Act of 2023

The Providing Accountability Through Transparency Act of 2023[137] requires that a notice of proposed rulemaking includes the internet address of a summary of not more than 100 words in length of a proposed rule, in plain language, that shall be posted on the internet website under section 206(d) of the E-Government Act of 2002.[138] The proposal and the required summary can be found at https://www.fdic.gov/resources/regulations/federal-register-publications/index.html.

List of Subjects

12 CFR Part 303

Administrative practice and procedure, Bank deposit insurance, Banks, banking, Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 314

Accounting, Administrative practice and procedure, Authority delegations (Government agencies), Bank deposit insurance, Banks, banking, Brokers, Confidential business information,

[137] 12 U.S.C. 553(b)(4).
[138] 44 U.S.C 3501 note.

Credit, Foreign banking, Holding companies, Insurance, Investments, Reporting and recordkeeping requirements, Savings associations, Securities, Trusts and trustees.

12 CFR Part 335

Accounting, Banks, banking, Confidential business information, Reporting and recordkeeping requirements, Securities.

12 CFR Part 340

Banks, banking, Reporting and recordkeeping requirements.

12 CFR Part 347

Authority delegations (Government agencies), Bank deposit insurance, Banks, banking, Credit, Foreign banking, Investments, Reporting and recordkeeping requirements, U.S. investments abroad.

12 CFR Part 363

Accounting, Administrative practice and procedure, Banks, banking, Reporting and recordkeeping requirements.

12 CFR Part 380

Brokers, Holding companies, Insurance, Investments, Trusts and trustees.

Authority and Issuance

For the reasons set forth in the preamble, the Board of Directors of the Federal Deposit Insurance Corporation proposes to add part 314 and amend parts 303, 335, 340, 347, 363, and 380 as follows:

PART 303 – FILING PROCEDURES

1. The authority citation for part 303 continues to read as follows:

Authority: 12 U.S.C. 378, 1464, 1813, 1815, 1817, 1818, 1819(a) (Seventh and Tenth), 1820, 1823, 1828, 1829, 1831a, 1831e, 1831o, 1831p-1, 1831w, 1835a, 1843(l), 3104, 3105, 3108, 3207, 5414, 5415, and 15 U.S.C. 1601-1607.

§ 303.227 [Amended]

2. In § 303.227(a)(2), remove "$2,500" and add in its place "$3,500, as adjusted from time to time in accordance with 12 CFR 314.1,".

3. In § 303.227(b)(3)(i), remove "$1,000" and add in its place "$1,225, as adjusted from time to time in accordance with 12 CFR 314.1,".

4. Add part 314 to read as follows:

PART 314 – INDEXING OF SPECIFIED REGULATORY THRESHOLDS

Sec.
314 .1 Threshold indexing.

Authority: 12 U.S.C. 378, 1464, 1813, 1815, 1817, 1818, 1819, 1819(a) (Seventh and Tenth), 1820, 1821(p), 1823, 1828, 1829, 1831a, 1831e, 1831m, 1831o, 1831p-1, 1831w, 1835a, 1843(l), 3103, 3104, 3105, 3108, 3109, 3207, 5385(h), 5389, 5390(s)(3), 5390(b)(1)(C), 5390(a)(7)(D), 5381(b), 5390(r), 5390(a)(16)(D), 5414, 5415, and 15 USC 78j-1, 78l(i), 78m, 78n, 78p, 78w, U.S.C. 1601-1607, 5412, 5414, 5415, 7241, 7242, 7243, 7244, 7261, 7262, 7264, and 7265; Pub L. No. 111-203, section 939A, 124 Stat. 1376, 1887 (July 21, 2010) (codified 15 U.S.C. 78o-7 note).

§ 314.1 Threshold indexing.

(a) *Methodology*. The dollar thresholds specified in paragraph (c) of this section shall be adjusted by multiplying the baseline threshold values specified in paragraph (c) of this section by one plus the cumulative percent change in the non-seasonally adjusted Consumer Price Index for Urban Wage Earners and Clerical Workers, measured from the effective date of this rule, as further described in paragraph (b) of this section, and shall be rounded in accordance with paragraph (d) of this section.

(b) *Frequency*.

(1) *In general – biennial adjustments.* Except as otherwise provided in paragraph (b)(2) or (b)(3) of this section, the adjustments described in paragraph (a) of this section shall be made during the first quarter following each consecutive two calendar year period ending December 31, beginning with December 31 of the second full calendar year of the two-year period following the effective date of this rule.

(2) *Periods of high inflation – annual adjustments.* If the cumulative percent change of the non-seasonally adjusted Consumer Price Index for Urban Wage Earners and Clerical Workers, measured over the calendar year during which the most recent adjustment was made, exceeds 8 percent, then the dollar thresholds shall be adjusted in accordance with paragraph (a) of this section during the first quarter following such calendar year.

(3) *Periods of negative inflation – no adjustments.* Notwithstanding paragraph (b)(1) or (b)(2) of this section, if an adjustment of dollar thresholds using the cumulative percent change of the non-seasonally adjusted Consumer Price Index for Urban Wage Earners and Clerical Workers from the effective date of this rule or the most recent adjustment, as applicable, would not result in an increase from the current dollar thresholds, no adjustment will be made pursuant to paragraph (a) of this section.

(c) *Specified thresholds.* The thresholds in the following sections shall be adjusted in accordance with paragraph (a) of this section relative to the baseline threshold values specified below:

(1) § 303.227(a)(2) of this chapter, baseline threshold value $3,500;

(2) § 303.227(b)(3)(i) of this chapter, baseline threshold value $1,225;

(3) § 335.801(d) of this chapter, baseline threshold value $10,000,000;

(4) § 340.2(h)(1) of this chapter, baseline threshold value $100,000;

(5) § 340.2(h)(2) of this chapter, baseline threshold value \$100,000;

(6) § 340.2(h)(3) of this chapter, baseline threshold value \$100,000;

(7) § 340.2(h)(4) of this chapter, baseline threshold value \$100,000;

(8) § 347.111(a)(1) of this chapter, baseline threshold value \$120,000,000;

(9) § 347.111(b)(1) of this chapter, baseline threshold value \$60,000,000;

(10) § 363.1(a) of this chapter, baseline threshold value \$1,000,000,000;

(11) § 363.2(b)(3) of this chapter, baseline threshold value \$5,000,000,000;

(12) § 363.3(b) of this chapter, baseline threshold value \$5,000,000,000;

(13) § 363.4(a)(2) of this chapter, baseline threshold value \$5,000,000,000;

(14) § 363.4(c)(3) of this chapter, baseline threshold value \$5,000,000,000;

(15) § 363.5(a)(1) of this chapter, baseline threshold value \$5,000,000,000;

(16) Both thresholds in § 363.5(a)(2) of this chapter, baseline threshold values of \$1,000,000,000 or more but less than \$5,000,000,000, respectively;

(17) § 363.5(b) of this chapter, baseline threshold value \$5,000,000,000;

(18) Both thresholds in paragraph (8)(A) of appendix A of part 363 of this chapter, baseline threshold value \$5,000,000,000;

(19) Paragraph (10) of appendix A of part 363 of this chapter, baseline threshold value \$5,000,000,000;

(20) Paragraph (18)A of appendix A of part 363 of this chapter, baseline threshold value \$5,000,000,000;

(21) All three thresholds in paragraph (27) of appendix A of part 363 of this chapter, with the first baseline threshold value being \$5,000,000,000 or more and the second and third baseline threshold values being \$1,000,000,000 or more but less than \$5,000,000, respectively;

(22) Paragraph (30)(b) of appendix A of part 363 of this chapter, baseline threshold value $5,000,000,000;

(23) Both thresholds in paragraph (30)(c) of appendix A of part 363 of this chapter, baseline threshold value $1,000,000,000 or more but less than $5,000,000,000, respectively;

(24) Paragraph (35)(a) of appendix A of part 363 of this chapter, baseline threshold value $1,000,000,000;

(25) Paragraph (35)(b) of appendix A of part 363 of this chapter, baseline threshold value $5,000,000,000;

(26) Paragraph (35)(c) of appendix A of part 363 of this chapter, baseline threshold value $5,000,000,000;

(27) Paragraph 7.2(b) of appendix B of part 363 of this chapter, baseline threshold value $5,000,000,000;

(28) § 380.13(b)(6)(i) of this chapter, baseline threshold value $100,000;

(29) § 380.13(b)(6)(ii) of this chapter, baseline threshold value $100,000;

(30) § 380.13(b)(6)(iii) of this chapter, baseline threshold value $100,000; and

(31) § 380.13(b)(6)(iv) of this chapter, baseline threshold value $100,000.

(d) *Rounding.* When adjusting thresholds under this section, each threshold shall be rounded based on the size of the threshold (e.g., thousands, millions, billions) to the nearest number with two significant digits.

(e) *Effective date of threshold adjustments*. The FDIC shall announce the thresholds adjusted in accordance with this section by publishing in the *Federal Register* a final rule without notice and comment. Such adjusted thresholds shall be effective on April 1 of the year during which an adjustment is made.

(f) *Failure to publish final rule in Federal Register.* In the event, for any reason, a final rule is not published in the *Federal Register* in the first quarter of a year in which it is required under this section, the thresholds specified in paragraph (c) of this section will adjust as provided in this section and be effective on April 1, notwithstanding the lack of a final rule published in the *Federal Register*.

PART 335 – SECURITIES OF STATE NONMEMBER BANKS AND STATE SAVINGS ASSOCIATIONS

5. The authority citation for part 335 continues to read as follows:

Authority: 12 U.S.C. 1819, 15 U.S.C. 78j-1, 78l(i), 78m, 78n, 78p, 78w, 5412, 5414, 5415, 7241, 7242, 7243, 7244, 7261, 7262, 7264, and 7265.

§ 335.801 [Amended]

6. In § 335.801(d) introductory text, remove "$5 million," and add in its place "$10 million, as adjusted from time to time in accordance with 12 CFR 314.1,".

PART 340 – RESTRICTIONS ON SALE OF ASSETS OF A FAILED INSTITUTION BY THE FEDERAL DEPOSIT INSURANCE CORPORATION

7. The authority citation for part 340 continues to read as follows:

Authority: 12 U.S.C. 1819 (Tenth), 1821(p).

§ 340.2 [Amended]

8. In § 340.2(h), remove "$50,000" wherever it appears and add in its place "$100,000, as adjusted from time to time in accordance with 12 CFR 314.1".

PART 347 – INTERNATIONAL BANKING

9. The authority citation for part 347 continues to read as follows:

Authority: 12 U.S.C. 1813, 1815, 1817, 1819, 1820, 1828, 3103, 3104, 3105, 3108, 3109; Pub L. No. 111-203, section 939A, 124 Stat. 1376, 1887 (July 21, 2010) (codified 15 U.S.C. 78o-7 note).

§ 347.111 [Amended]

10. Amend § 347.111 by:

a. In paragraph (a)(1), removing “$60 million” and adding in its place “$120 million, as adjusted from time to time in accordance with 12 CFR 314.1,”; and

b. In paragraph (b)(1) introductory text, removing “$30 million” and adding in its place “$60 million, as adjusted from time to time in accordance with 12 CFR 314.1,”.

PART 363 – ANNUAL INDEPENDENT AUDITS AND REPORTING REQUIREMENTS

11. The authority citation for part 363 continues to read as follows:

Authority: 12 U.S.C. 1831m.

§ 363.1 [Amended]

12. In § 363.1(a), remove “$500 million” and add in its place “$1 billion, as adjusted from time to time in accordance with 12 CFR 314.1,”.

§ 363.2 [Amended]

13. In § 363.2(b)(3) introductory text, remove “$1 billion” and add in its place “$5 billion, as adjusted from time to time in accordance with 12 CFR 314.1,”.

§ 363.3 [Amended]

14. In § 363.3(b) introductory text, remove “$1 billion” and add in its place “$5 billion, as adjusted from time to time in accordance with 12 CFR 314.1,”.

§ 363.4 [Amended]

15. Amend § 363.4 by:

a. In paragraph (a)(2), removing “$1 billion” and adding in its place “$5 billion, as adjusted from time to time in accordance with 12 CFR 314.1,”; and

b. In paragraph (c)(3), removing “$1 billion” and adding in its place “$5 billion, as adjusted from time to time in accordance with 12 CFR 314.1,”.

§ 363.5 [Amended]

16. Amend § 363.5 by:

a. In paragraph (a)(1), removing “$1 billion” and adding in its place “$5 billion, as adjusted from time to time in accordance with 12 CFR 314.1,”;

b. In paragraph (a)(2), removing “$500 million” and adding in its place “$1 billion, as adjusted from time to time in accordance with 12 CFR 314.1,”;

c. In paragraph (a)(2), removing “$1 billion” and adding in its place “$5 billion, as adjusted from time to time in accordance with 12 CFR 314.1,”; and

d. In paragraph (b), removing “$3 billion” and adding in its place “$5 billion, as adjusted from time to time in accordance with 12 CFR 314.1,”.

Appendix A to Part 363 [Amended]

17**.** Amend appendix A to part 363 by:

a. In paragraph 8A introductory text, removing “$1 billion”, wherever it appears, and adding in its place “$5 billion, as adjusted from time to time in accordance with 12 CFR 314.1,”;

b. In paragraph 10, removing “$1 billion” and adding in its place “$5 billion, as adjusted from time to time in accordance with 12 CFR 314.1,”;

c. In paragraph 18A introductory text, removing “$1 billion” and adding in its place “$5 billion, as adjusted from time to time in accordance with 12 CFR 314.1,”;

d. In paragraph 27:

i. Removing “$1 billion”, wherever it appears, and adding in its place “$5 billion, as adjusted from time to time in accordance with 12 CFR 314.1,”; and

ii. Removing “$500 million” and adding in its place “$1 billion, as adjusted from time to time in accordance with 12 CFR 314.1,”;

e. In paragraph 28(b)(4), removing “$100,000” and adding in its place “$120,000”;

f. In paragraph 30(b), removing “$1 billion” and adding in its place “$5 billion, as adjusted from time to time in accordance with 12 CFR 314.1,”;

g. In paragraph 30(c):

i. Removing “$500 million” and adding in its place “$1 billion, as adjusted from time to time in accordance with 12 CFR 314.1,”; and

ii. Removing “$1 billion” and adding in its place “$5 billion, as adjusted from time to time in accordance with 12 CFR 314.1,”;

h. In paragraph 35(a) introductory text, removing “$500 million” and adding in its place “$1 billion, as adjusted from time to time in accordance with 12 CFR 314.1,”;

i. In paragraph 35(b), removing “$1 billion” and adding in its place “$5 billion, as adjusted from time to time in accordance with 12 CFR 314.1,”; and

j. In paragraph 35(c), removing “$3 billion” and adding in its place “$5 billion, as adjusted from time to time in accordance with 12 CFR 314.1,”.

Appendix B to Part 363 [Amended]

18. In appendix B to part 363, paragraph 2(b), remove “$1 billion” and add in its place “$5 billion, as adjusted from time to time in accordance with 12 CFR 314.1,”.

PART 380 – ORDERLY LIQUIDATION AUTHORITY

19. The authority citation for part 380 continues to read as follows:

Authority: 12 U.S.C. 5385(h); 12 U.S.C. 5389; 12 U.S.C. 5390(s)(3); 12 U.S.C. 5390(b)(1)(C); 12 U.S.C. 5390(a)(7)(D); 12 U.S.C. 5381(b); 12 U.S.C. 5390(r); 12 U.S.C. 5390(a)(16)(D).

§ 380.13 [Amended]

20. In § 380.13(b)(6), remove “$50,000” wherever it appears and add in its place “$100,000, as adjusted from time to time in accordance with 12 CFR 314.1”.

Federal Deposit Insurance Corporation.
By order of the Board of Directors.
Dated at Washington, DC, on [DATE].
Jennifer M. Jones,
Deputy Executive Secretary.

BILLING CODE: 6714-01-P