

DATE: March 20, 2018

MEMORANDUM TO: The Board of Directors

FROM: Doreen R. Eberley
Director
Division of Risk Management Supervision

SUBJECT: **Notice of Proposed Rulemaking: Annual Stress Test—
Applicability Transition for Covered Banks with \$50 Billion or
More in Assets; Technical and Conforming Changes**

Recommendation: Staff recommends that the FDIC Board of Directors (“Board”) approve publication of the attached notice of proposed rulemaking entitled “Annual Stress Test—Applicability Transition for Covered Banks with \$50 Billion or More in Assets; Technical and Conforming Changes” (“proposed rule”). Consistent with changes already made by the Board of Governors of the Federal Reserve System (Board) and the Office of the Comptroller of the Currency, the proposed rule would change the transition process for covered banks that pass the threshold of \$50 billion or more in assets. Specifically, state nonmember banks that become over \$50 billion covered banks in the first three quarters of a calendar year would not become subject to the requirements applicable to such banks until the second calendar year after satisfying the threshold. Those that become over \$50 billion covered banks in the fourth quarter of a calendar year would not become subject to such requirements until the third calendar year. The proposed rule would also change the range of possible “as-of” dates used in the trading and counterparty position data stress testing component. Lastly, the proposed rule would make certain technical changes and eliminate obsolete provisions.

Concurrence:

Charles Yi
General Counsel

Background

Section 165(i) of the Dodd-Frank Act¹, requires two types of stress tests. Section 165(i)(1) requires the Federal Reserve to conduct annual stress tests of holding companies with \$50 billion or more in assets (“supervisory stress tests”). Section 165(i)(2) requires the federal banking agencies to issue regulations requiring financial companies with more than \$10 billion in assets to conduct their own annual company-run stress tests. In October 2012, the FDIC, Board and OCC issued rules implementing the Dodd-Frank Act required stress tests.² The FDIC regulation at 12 CFR Part 325, Subpart C, implements the company-run stress test requirements of section 165(i)(2) of the Dodd-Frank Act with respect to state nonmember banks and state savings associations with more than \$10 billion in assets (“covered banks”). Although 12 CFR Part 325, Subpart C applies to all covered banks that exceed \$10 billion in assets, the regulation differentiates between “\$10 billion to \$50 billion covered banks” and “over \$50 billion covered banks.”

The Dodd-Frank Act also requires the FDIC and the other federal primary financial regulatory agencies to issue consistent and comparable regulations to implement the statutory stress testing requirements.³ In order to fulfill this requirement and minimize regulatory burden, the FDIC is proposing certain changes to its stress testing regulations in order to ensure its stress testing regulation remains consistent and comparable with recent changes made by the Board⁴ and OCC.⁵

¹ 12 U.S.C. § 5365(i).

² 77 FR 62417 (October 15, 2012) (FDIC); 77 FR 62380 (October 12, 2012) (Federal Reserve); 77 FR 61238 (October 9, 2012) (OCC).

³ 12 U.S.C. § 5365(i)(2).

⁴ 82 FR 9308 (Feb. 3, 2017).

⁵ 83 FR 7951 (Feb. 23, 2018).

Proposed Rule

As noted above, 12 CFR Part 325, Subpart C differentiates between “\$10 billion to \$50 billion covered banks” and “over \$50 billion covered banks.” The proposed rule would change the defined term “over \$50 billion covered bank” to “\$50 billion or over covered bank.” This change would not alter the scope of the banks covered, nor would it change any of the substantive requirements of 12 CFR Part 325, Subpart C. However, it would be a more precise description of the entities included in this category, which includes all state nonmember banks and state savings associations “with average total consolidated assets...that are not less than \$50 billion.”⁶

The proposed rule would also lengthen the transition process for covered banks that become \$50 billion or over covered banks⁷ in order to provide them with additional time before becoming subject to the stress testing requirements applicable to such covered banks. Under the proposed rule, a state nonmember bank or state savings association that becomes a \$50 billion or over covered bank in the first three quarters of a calendar year would not be subject to the stress testing requirements applicable to \$50 billion or over covered banks until January 1 of the second calendar year after it crosses the threshold. A state nonmember bank or state savings association that becomes a \$50 billion or over covered bank in the fourth quarter of a calendar year would not be subject to the stress testing requirements applicable to such covered banks until January 1 of the third year after it crosses the asset threshold. For example, if a state nonmember bank or state savings association crossed the \$50 billion threshold on September 15, 2018, it would need to comply with the requirements applicable to \$50 billion or over covered banks beginning on January 1, 2020. However, if a state nonmember bank or state savings

⁶ 12 CFR § 325.202(d)(2).

⁷ A covered bank becomes an over \$50 billion covered bank when its average total consolidated assets, as reported on the covered bank’s Call Reports, for the four most recent consecutive quarters, equals \$50 billion or more.

association crossed the \$50 billion threshold on October 15, 2018, it would be required to comply with the stress testing requirements applicable to \$50 billion or over covered banks beginning on January 1, 2021. This change would not affect the stress testing timeline or transition process for state nonmember banks and state savings associations that are categorized as “\$10 to \$50 billion covered banks” under the existing regulation.

Under 12 CFR Part 325, Subpart C, the FDIC may require a covered bank with significant trading activities to include trading and counterparty components in its adverse and severely adverse stress testing scenarios.⁸ Currently, the “as of” date for this trading data is a date between January 1 and March 1 of a calendar year. The proposed rule would extend the range of as-of dates to between October 1 of the preceding calendar year and March 1. Extending the date range would increase the FDIC’s flexibility to choose an appropriate as-of date and is consistent with the FDIC’s efforts to coordinate its stress testing program with the other federal financial regulatory agencies in order to minimize regulatory burden.

Lastly, the proposed rule would remove certain transitional language that was included to facilitate a 2014 shift in the dates of the annual stress testing cycle. That transition is now complete and the regulatory transition language is no longer necessary.

Conclusion

Staff recommends that the Board approve publication of the attached notice of proposed rulemaking in the Federal Register.

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⁸ 12 CFR § 325.204(c).

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