FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 327

RIN 3064-AF65

Assessments, Amendments to Address the Temporary Deposit Insurance Assessment Effects of the Optional Regulatory Capital Transitions for Implementing the Current Expected Credit Losses Methodology

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Deposit Insurance Corporation is seeking comment on a proposed rule that would amend the risk-based deposit insurance assessment system applicable to all large insured depository institutions (IDIs), including highly complex IDIs, to address the temporary deposit insurance assessment effects resulting from certain optional regulatory capital transition provisions relating to the implementation of the current expected credit losses (CECL) methodology. The proposal would amend the assessment regulations to remove the double counting of a specified portion of the CECL transitional amount or the modified CECL transition amount, as applicable (collectively, the CECL transitional amounts), in certain financial measures that are calculated using the sum of Tier 1 capital and reserves and that are used to determine assessment rates for large and highly complex IDIs. The proposal also would adjust the calculation of the loss severity measure to remove the double counting of a specified portion of the CECL transitional amounts for a large or highly complex IDI. This proposal would not affect regulatory capital or the regulatory capital relief provided in the form of transition provisions that allow banking organizations to phase in the effects of CECL on their regulatory capital ratios.

DATES: Comments must be received no later than [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments on the proposed rule using any of the following methods:

- *Agency Web Site*: https://www.fdic.gov/regulations/laws/federal. Follow the instructions for submitting comments on the agency website.
- *E-mail*: comments@fdic.gov. Include RIN 3064-AF65 on the subject line of the message.

- *Mail*: Robert E. Feldman, Executive Secretary, Attention: Comments, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429.
- *Hand Delivery*: Comments may be hand delivered to the guard station at the rear of the 550 17th Street building (located on F Street) on business days between 7 a.m. and 5 p.m.
- *Public Inspection*: All comments received, including any personal information provided, will be posted generally without change to https://www.fdic.gov/regulations/laws/federal.

FOR FURTHER INFORMATION CONTACT: Scott Ciardi, Chief, Large Bank Pricing, sciardi@fdic.gov; Ashley Mihalik, Chief, Banking and Regulatory Policy, amihalik@fdic.gov; Nefretete Smith, Counsel, nefsmith@fdic.gov; Sydney Mayer, Senior Attorney, smayer@fdic.gov.

SUPPLEMENTARY INFORMATION:

I. Policy Objectives

The Federal Deposit Insurance Act (FDI Act) requires that the FDIC establish a risk-based deposit insurance assessment system.[1] Pursuant to this requirement, the FDIC first adopted a risk-based deposit insurance assessment system effective in 1993 that applied to all IDIs.[2] The FDIC implemented this assessment system with the goals of making the deposit insurance system fairer to well-run institutions and encouraging weaker institutions to improve their condition, and thus, promote the safety and soundness of IDIs.[3]

In 2006, the FDIC adopted a final rule that created different risk-based assessment systems for large and small IDIs that combined supervisory ratings with other risk measures to differentiate risk and determine

[1] 12 U.S.C. 1817(b).

[2] 57 FR 45263 (Oct. 1, 1992).

[3] As used in this proposed rule, the term "insured depository institution" has the same meaning as it is used in section 3(c)(2) of the FDI Act, 12 U.S.C. 1813(c)(2).

assessment rates.[4] In 2011, the FDIC amended the risk-based assessment system applicable to large IDIs to, among other things, better capture risk at the time the institution assumes the risk, to better differentiate risk among large IDIs during periods of good economic and banking conditions based on how they would fare during periods of stress or economic downturns, and to better take into account the losses that the FDIC may incur if a large IDI fails.[5]

The FDIC is required by statute to set deposit insurance assessments based on risk, and the FDIC's objective in setting forth this proposal is to ensure that banks are assessed in a manner that is fair and accurate. The primary objective of this proposal is to remove a double counting issue in several financial measures used to determine deposit insurance assessments for large and highly complex banks, which could result in a deposit insurance assessment rate for a large or highly complex bank that does not accurately reflect the bank's risk to the deposit insurance fund (DIF), all else equal. Specifically, the proposal would amend the assessment regulations to remove the double counting of a portion of the CECL transitional amounts, in certain financial measures used to determine deposit insurance assessments for large and highly complex banks. In particular, certain financial measures are calculated by summing Tier 1 capital, which includes the CECL transitional amounts, and reserves, which already reflects the implementation of CECL. As a result, a portion of the CECL transitional amounts is being double counted in these measures, which in turn affects assessment rates for large and highly complex banks. The proposal also would adjust the calculation of the loss severity measure to remove the double counting of a portion of the CECL transitional amounts for a large or highly complex bank.

This proposal would amend the deposit insurance system applicable to large and highly complex banks only, and it would not affect regulatory capital or the regulatory capital relief provided in the form of transition

[4] *See* 71 FR 69282 (Nov. 30, 2006). Generally, large IDIs have $10 billion or more in total assets and small IDIs have less than $10 billion in total assets. *See* 12 CFR 327.8(e) and (f). As used in this proposed rule, the term "small bank" is synonymous with "small institution," the term "large bank" is synonymous with "large institution," and the term "highly complex bank" is synonymous with "highly complex institution," as the terms are defined in 12 CFR 327.8.

[5] *See* 76 FR 10672 (Feb. 25, 2011).

provisions that allow banking organizations to phase in the effects of CECL on their regulatory capital ratios.[6] Specifically, in calculating another measure used to determine assessment rates for all IDIs, the Tier 1 leverage ratio, the FDIC would continue to apply the CECL regulatory capital transition provisions, consistent with the regulatory capital relief provided to address concerns that despite adequate capital planning, unexpected economic conditions at the time of CECL adoption could result in higher-than-anticipated increases in allowances.[7]

The proposed amendments to the deposit insurance assessment system and any changes to reporting requirements pursuant to this proposal would be required only while the regulatory capital relief described above is reflected in the regulatory reports of banks.

II. Background

A. Deposit Insurance Assessments

The FDIC charges all IDIs an assessment amount for deposit insurance equal to the IDI's deposit insurance assessment base multiplied by its risk-based assessment rate.[8] An IDI's assessment base and assessment rate are determined each quarter based on supervisory ratings and information collected in the Consolidated Reports of Condition and Income (Call Report) or the Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks (FFIEC 002), as appropriate. Generally, an IDI's assessment base equals its average consolidated total assets minus its average tangible equity.[9]

An IDI's assessment rate is calculated using different methods based on whether the IDI is a small, large,

[6] Banking organizations subject to the capital rule include national banks, state member banks, state nonmember banks, savings associations, and top-tier bank holding companies and savings and loan holding companies domiciled in the United States not subject to the Federal Reserve Board's Small Bank Holding Company Policy Statement (12 CFR part 225, appendix C), but exclude certain savings and loan holding companies that are substantially engaged in insurance underwriting or commercial activities or that are estate trusts, and bank holding companies and savings and loan holding companies that are employee stock ownership plans. *See* 12 CFR part 3 (Office of the Comptroller of the Currency)); 12 CFR part 217 (Board); 12 CFR part 324 (FDIC). *See also* 84 FR 4222 (February 14, 2019) and 85 FR 61577 (September 30, 2020).

[7] *See* 84 FR 4225 (February 14, 2019).

[8] *See* 12 CFR 327.3(b)(1).

[9] *See* 12 CFR 327.5.

or highly complex bank.[10] Large and highly complex banks are assessed using a scorecard approach that combines CAMELS ratings and certain forward-looking financial measures to assess the risk that a large or highly complex bank poses to the DIF.[11] The score that each large or highly complex bank receives is used to determine its deposit insurance assessment rate. One scorecard applies to most large IDIs and another applies to highly complex banks. Both scorecards use quantitative financial measures that are useful in predicting a large or highly complex bank's long-term performance.[12]

As described in more detail below, the FDIC is proposing to amend the assessment regulations to remove the double counting of a portion of the CECL transitional amounts in the calculation of the loss severity measure and certain other financial measures that are calculated by summing Tier 1 capital and reserves, which are used to determine assessment rates for large and highly complex banks.

B. The Current Expected Credit Losses Methodology

In 2016, the Financial Accounting Standards Board (FASB) issued Accounting Standards Update (ASU) No. 2016–13, *Financial Instruments—Credit Losses, Topic 326, Measurement of Credit Losses on Financial Instruments*.[13] The ASU resulted in significant changes to credit loss accounting under U.S. generally accepted accounting principles (GAAP). The revisions to credit loss accounting under GAAP included the introduction of CECL, which replaces the incurred loss methodology for financial assets measured at amortized cost. For these assets, CECL requires banking organizations to recognize lifetime expected credit losses and to incorporate reasonable and supportable forecasts in developing the estimate of lifetime expected credit losses, while also

[10] For assessment purposes, a large bank is generally defined as an institution with $10 billion or more in total assets, a small bank is generally defined as an institution with less than $10 billion in total assets, and a highly complex bank is generally defined as an institution that has $50 billion or more in total assets and is controlled by a parent holding company that has $500 billion or more in total assets, or is a processing bank or trust company. *See* 12 CFR 327.16(a) and (b).

[11] *See* 12 CFR 327.16(b); *see also* 76 FR 10672 (Feb. 25, 2011) and 77 FR 66000 (Oct. 31, 2012).

[12] *See* 76 FR 10688. The FDIC uses a different scorecard for highly complex IDIs because those institutions are structurally and operationally complex, or pose unique challenges and risks in case of failure. 76 FR 10695.

[13] ASU 2016-13 covers measurement of credit losses on financial instruments and includes three subtopics within Topic 326: (i) Subtopic 326-10 Financial Instruments—Credit Losses—Overall; (ii) Subtopic 326-20: Financial Instruments—Credit Losses—Measured at Amortized Cost; and (iii) Subtopic 326-30: Financial Instruments—Credit Losses—Available-for-Sale Debt Securities.

maintaining the current requirement that banking organizations consider past events and current conditions.

CECL allowances cover a broader range of financial assets than the allowance for loan and lease losses (ALLL) under the incurred loss methodology. Under the incurred loss methodology, the ALLL generally covers credit losses on loans held for investment and lease financing receivables, with additional allowances for certain other extensions of credit and allowances for credit losses on certain off-balance sheet credit exposures (with the latter allowances presented as liabilities).[14] These exposures will be within the scope of CECL. In addition, CECL applies to credit losses on held-to-maturity (HTM) debt securities. ASU 2016-13 also introduces new requirements for available-for-sale (AFS) debt securities. The new accounting standard requires that a banking organization recognize credit losses on individual AFS debt securities through credit loss allowances, rather than through direct write-downs, as is currently required under U.S. GAAP. The credit loss allowances attributable to debt securities are separate from the credit loss allowances attributable to loans and leases.

C. The 2019 CECL Rule

Upon adoption of CECL, a banking organization will record a one-time adjustment to its credit loss allowances as of the beginning of its fiscal year of adoption equal to the difference, if any, between the amount of credit loss allowances required under the incurred loss methodology and the amount of credit loss allowances required under CECL. A banking organization's implementation of CECL will affect its retained earnings, deferred tax assets (DTAs), allowances, and, as a result, its regulatory capital ratios.

In recognition of the potential for the implementation of CECL to affect regulatory capital ratios, on February 14, 2019, the FDIC, the Office of the Comptroller of the Currency (OCC), and the Board of Governors of the Federal Reserve System (Board) (collectively, the agencies) issued a final rule that revised certain regulations, including the agencies' regulatory capital regulations (capital rule),[15] to account for the aforementioned changes

[14] "Other extensions of credit" includes trade and reinsurance receivables, and receivables that relate to repurchase agreements and securities lending agreements. "Off-balance sheet credit exposures" includes off-balance sheet credit exposures not accounted for as insurance, such as loan commitments, standby letters of credit, and financial guarantees. The FDIC notes that credit losses for off-balance sheet credit exposures that are unconditionally cancellable by the issuer are not recognized under CECL.

[15] 12 CFR part 3 (OCC); 12 CFR part 217 (Board); 12 CFR part 324 (FDIC).

to credit loss accounting under GAAP, including CECL (2019 CECL rule).[16] The 2019 CECL rule includes a transition provision that allows banking organizations to phase in over a three-year period the day-one adverse effects of CECL on their regulatory capital ratios.

D. The 2020 CECL Rule

As part of the efforts to address the disruption of economic activity in the United States caused by the spread of coronavirus disease 2019 (COVID-19), on March 31, 2020, the agencies adopted a second CECL transition provision through an interim final rule.[17] The agencies subsequently adopted a final rule (2020 CECL rule) on September 30, 2020, that is consistent with the interim final rule, with some clarifications and adjustments related to the calculation of the transition and the eligibility criteria for using the 2020 CECL transition provision.[18] The 2020 CECL rule provides banking organizations that adopt CECL for purposes of GAAP (as in effect January 1, 2020), for a fiscal year that begins during the 2020 calendar year, the option to delay for up to two years an estimate of CECL's effect on regulatory capital, followed by a three-year transition period (*i.e.*, a five-year transition period in total).[19] The 2020 CECL rule does not replace the three-year transition provision in the 2019 CECL rule, which remains available to any banking organization at the time that it adopts CECL.[20]

E. Double Counting of a Portion of the CECL Transitional Amounts in Certain Financial Measures used to Determine Assessments for Large and Highly Complex Banks

[16] 84 FR 4222 (Feb. 14, 2019).

[17] 85 FR 17723 (Mar. 31, 2020).

[18] *See* 85 FR 61577 (Sept. 30, 2020).

[19] A banking organization that is required to adopt CECL under GAAP in the 2020 calendar year, but chooses to delay use of CECL for regulatory reporting in accordance with section 4014 of the Coronavirus Aid Relief, and Economic Security Act (CARES Act), is also eligible for the 2020 CECL transition provision. The CARES Act (Pub. L. 116–136, 4014, 134 Stat. 281 (March 27, 2020)) provides banking organizations optional temporary relief from complying with CECL ending on the earlier of (1) the termination date of the current national emergency, declared by the President on March 13, 2020 under the National Emergencies Act (50 U.S.C. 1601 et seq.) concerning COVID-19, or (2) December 31, 2020. If a banking organization chooses to revert to the incurred loss methodology pursuant to the CARES Act in any quarter in 2020, the banking organization would not apply any transitional amounts in that quarter but would be allowed to apply the transitional amounts in subsequent quarters when the banking organization resumes use of CECL.

[20] *See* 85 FR 61578 (Sept. 30, 2020).

An increase in a banking organization's allowances, including those estimated under CECL, generally will reduce the banking organization's earnings or retained earnings, and therefore, its Tier 1 capital. For banks electing the 2019 CECL rule, the CECL transitional amount is the difference between the closing balance sheet amount of retained earnings for the fiscal year-end immediately prior to the bank's adoption of CECL (pre-CECL amount) and the bank's balance sheet amount of retained earnings as of the beginning of the fiscal year in which it adopts CECL (post-CECL amount). For banks electing the 2020 CECL rule transition provision, retained earnings are increased for regulatory capital calculation purposes by a modified CECL transitional amount that is adjusted to reflect changes in retained earnings due to CECL that occur during the first two years of the five-year transition period. Under the 2020 CECL rule, the change in retained earnings due to CECL is calculated by taking the change in reported adjusted allowances for credit losses (AACL)[21] relative to the first day of the fiscal year in which CECL was adopted and applying a scaling multiplier of 25 percent during the first two years of the transition period. The resulting amount is added to the CECL transitional amount described above. Hence, the modified CECL transitional amount for banks electing the 2020 CECL rule is calculated on a quarterly basis during the first two years of the transition period. The bank reflects that modified CECL transitional amount, which includes 100 percent of the day-one impact of CECL on retained earnings plus a portion of the difference between AACL reported in the most recent regulatory report and AACL as of the beginning of the fiscal year that the banking organization adopts CECL, in the transitional amount applied to retained earnings in regulatory capital calculations.[22]

For banks electing the 2020 CECL rule transition provision that enter the third year of their transition period and for banks electing the three-year 2019 CECL rule transition provision, banks must calculate the

[21] The 2019 CECL rule defined a new term for regulatory capital purposes, adjusted allowances for credit losses (AACL). The meaning of the term AACL for regulatory capital purposes is different from the meaning of the term allowances of credit losses (ACL) used in applicable accounting standards. The term allowance for credit losses as used by the FASB in ASU 2016-13 applies to both financial assets measured at amortized cost and AFS debt securities. In contrast, the AACL definition includes only those allowances that have been established through a charge against earnings or retained earnings. Under the 2019 CECL rule, the term AACL, rather than ALLL, applies to a banking organization that has adopted CECL.

[22] *See* 85 FR 61580 (Sept. 30, 2020).

transitional amount to phase into their retained earnings for purposes of their regulatory capital calculations over a three-year period. For banks electing the 2019 CECL rule, the CECL transitional amount of is the difference between the pre-CECL amount of retained earnings and the post-CECL amount of retained earnings. For banks electing the 2020 CECL rule that enter the third year of their transition, the modified CECL transitional amount is the difference between the bank's AACL at the end of the second year of the transition period and its AACL as of the beginning of the fiscal year of CECL adoption multiplied by 25 percent plus the CECL transitional amount described above. The CECL transitional amount or, at the end of the second year of the transition period for banks electing the 2020 CECL rule, the modified CECL transitional amount, is fixed and must be phased in over the three-year transition period or the last three years of the transition period, respectively, on a straight-line basis, 25 percent in the first year (or third year for banks electing the 2020 CECL rule), and an additional 25 percent of the transitional amount over each of the next two years.[23] At the beginning of the sixth year for banks electing the 2020 CECL rule, or the beginning of the fourth year for banks electing the 2019 CECL rule, the electing bank would have completely reflected in regulatory capital the day-one effects of CECL (plus, for banks electing the 2020 CECL rule, an estimate of CECL's effect on regulatory capital, relative to the incurred loss methodology's effect on regulatory capital, during the first two years of CECL adoption).[24]

Certain financial measures that are used in the scorecard to determine assessment rates for large and highly complex banks are calculated using both Tier 1 capital and reserves. Tier 1 capital is reported in Call Report Schedule RC-R, Part I, item 26, and for banks that elect either the three-year transition provision contained in the 2019 CECL rule or the five-year transition provision contained in the 2020 CECL rule, Tier 1

[23] Thus, when calculating regulatory capital, a bank electing the 2019 CECL rule transition provision would increase the retained earnings reported on its balance sheet by the applicable portion of its CECL transitional amount, i.e., 75 percent of its CECL transitional amount during the first year of the transition period, 50 percent of its CECL transitional amount during the second year of the transition period, and 25 percent of its CECL transitional amount during the third year of the transition period. A bank electing the 2020 CECL rule transition provision would increase the retained earnings reported on its balance sheet by the applicable portion of its modified CECL transitional amount, i.e., 100 percent of its modified CECL transitional amount during the first and second years of the transition period, 75 percent of its CECL modified transitional amount during the third year of the transition period, 50 percent of its modified CECL transitional amount during the fourth year of the transition period, and 25 percent of its CECL transitional amount during the fifth year of the transition period.

[24] *See* 84 FR 4228 (Feb. 14, 2019) and 85 FR 61580 (Sept. 30, 2020).

capital includes (due to adjustments to the amount of retained earnings reported on the balance sheet) the applicable portion of the CECL transitional amount (or modified CECL transitional amount). For deposit insurance assessment purposes, reserves are calculated using the amount reported in Call Report Schedule RC, item 4.c, "Allowance for loan and lease losses." For all banks that have adopted CECL, this Schedule RC line item reflects the allowance for credit losses on loans and leases.[25] The issue of double counting arises in certain financial measures used to determine assessment rates for large and highly complex banks that are calculated using both Tier 1 capital and reserves because the allowance for credit losses on loans and leases is included during the transition period in both reserves and, as a portion of the CECL or modified CECL transitional amount, Tier 1 capital. For banks that elect either the three-year transition provision contained in the 2019 CECL rule or the five-year transition provision contained in the 2020 CECL rule, the CECL transitional amounts, as defined in section 301 of the regulatory capital rules, additionally include the effect on retained earnings, net of tax effect, of establishing allowances for credit losses in accordance with the CECL methodology on HTM debt securities, other financial assets measured at amortized cost, and off-balance sheet credit exposures as of the beginning of the fiscal year of adoption (plus, for banks electing the 2020 CECL rule, the change during the first two years of the transition period in reported AACLs for HTM debt securities, other financial assets measured at amortized cost, and off-balance sheet credit exposures relative to the balances of these AACLs as of the beginning of the fiscal year of CECL adoption multiplied by 25 percent). The applicable portions of the CECL transitional amounts attributable to allowances for credit losses on HTM debt securities, other financial assets measured at amortized cost, and off-balance sheet credit exposures are included in Tier 1 capital only and are not double counted with reserves for deposit insurance assessment purposes.

The CECL effective dates assigned by ASU 2016-13 as most recently amended by ASU No. 2019-10, the optional temporary relief from complying with CECL afforded by the CARES Act, and the transitions provided for under the 2019 CECL rule and 2020 CECL rule, provide that all banks will have completely reflected in regulatory

[25] The allowance for credit losses on loans and leases held for investment also is reported in item 7, column A, of Call Report Schedule RI-B, Part II, Changes in Allowances for Credit Losses.

capital the day-one effects of CECL (plus, if applicable, an estimate of CECL's effect on regulatory capital, relative to the incurred loss methodology's effect on regulatory capital, during the first two years of CECL adoption) by December 31, 2026. As a result, and as discussed below, the proposed amendments to the deposit insurance assessment system and any changes to reporting requirements pursuant to this proposal would be required only while the temporary regulatory capital relief is reflected in the regulatory reports of banks.

III. The Proposed Rule

A. Summary

In calculating certain measures used in the scorecard for determining deposit insurance assessment rates for large and highly complex banks, the FDIC is proposing to remove the applicable portions of the CECL transitional amounts added to retained earnings for regulatory capital purposes and attributable to the allowance for credit losses on loans and leases held for investment under the transitions provided for under the 2019 and 2020 CECL rules. Specifically, in certain scorecard measures which are calculated using the sum of Tier 1 capital and reserves, the FDIC would remove a specified portion of the CECL transitional amount (or modified CECL transitional amount) that is added to retained earnings for regulatory capital purposes when determining deposit insurance assessment rates. The FDIC is also proposing to adjust the calculation of the loss severity measure to remove the double counting of a specified portion of the CECL transitional amounts for a large or highly complex bank.

Absent adjustments to the calculation of certain financial measures in the large and highly complex bank scorecards, the inclusion of the applicable portions of the CECL transitional amounts added to retained earnings for regulatory capital purposes and attributable to the allowance for credit losses on loans and leases held for investment in regulatory capital and the implementation of CECL in calculating reserves will result in temporary double counting of a portion of the CECL transitional amounts in select financial measures used to determine assessment rates for large and highly complex banks. For example, in the denominator of the higher-risk assets to Tier 1 capital and reserves ratio, the applicable portions of the CECL transitional amounts added to retained earnings for regulatory capital purposes and attributable to the allowance for credit losses on loans and leases held for investment would be included in Tier 1 capital, and these portions also would be reflected in the calculation of reserves using the allowance amount reported in Call Report Schedule RC, item 4.c. If left uncorrected, this temporary double counting could result in a deposit insurance assessment rate for a large or highly complex bank that does not accurately reflect the bank's risk to the DIF, all else equal.

In the following simplified, stylized example, illustrated in Table 1 below, consider a hypothetical large bank that has a CECL effective date of January 1, 2020, and elects a five-year transition.[26] On the closing balance sheet date immediately prior to adopting CECL (*i.e.,* December 31, 2019), the electing bank has $1 million of ALLL and $10 million of Tier 1 capital. On the opening balance sheet date immediately after adopting CECL (*i.e.,* January 1, 2020), the electing bank has $1.2 million of allowances for credit losses, of which the entire $1.2 million qualifies as AACL for regulatory capital purposes and is attributable to the allowance for credit losses on loans and leases held for investment.[27] The bank would recognize the adoption of CECL as of January 1, 2020, by recording an increase in its allowances for credit losses, and in its AACL for regulatory capital purposes, of $200,000, with a reduction in beginning retained earnings of $200,000, which flows through and results in Tier 1 capital of $9.8 million. For each of the quarterly reporting periods in year 1 of the five-year transition period (*i.e.,* 2020), the electing bank would increase the retained earnings reported on its balance sheet by $200,000 for purposes of calculating its regulatory capital ratios, resulting in an increase in its Tier 1 capital of $200,000 to $10

[26] This stylized example is included to illustrate the effect of the proposed rule and omits the effects of deferred tax assets on regulatory capital calculations, which are addressed in the agencies' capital rule, the 2019 CECL rule, and the 2020 CECL rule. The example reflects the first-quarter 2020 application by a hypothetical large bank (with no purchased credit-deteriorated assets) that has adopted the five-year CECL transition under the 2020 CECL rule and assumes that the full amount of the CECL transitional amount is attributable to the allowance for credit losses on loans and leases. The example does not reflect any changes over the course of the first quarterly reporting period in year 1 (*i.e.*, no changes in the amounts reported on the bank's balance sheet between January 1 and March 31, 2020, the end of the reporting period for the first quarter). As a consequence, the bank's modified CECL transitional amount as of March 31, 2020 equals its CECL transitional amount. *See* 12 CFR part 3 (OCC); 12 CFR part 217 (Board); 12 CFR part 324 (FDIC). *See also* 84 FR 4222 (February 14, 2019) and 85 FR 61577 (September 30, 2020).

[27] While the CECL transitional amount is calculated using the difference between the closing balance sheet amount of retained earnings for the fiscal year-end immediately prior to a bank's adoption of CECL and the balance sheet amount of retained earnings as of the beginning of the fiscal year in which the bank adopts CECL, the FDIC calculates financial measures used to determine deposit insurance assessments using data reported as of each quarter end.

million, all else equal.[28]

In this example, in determining the hypothetical large bank's deposit insurance assessment rate, the bank's Tier 1 capital of $10 million would include the $200,000 addition to the bank's reported retained earnings due to the CECL transition (entirely attributable to the allowance for credit losses on loans and leases), and its reserves would equal $1.2 million, the entire amount of which is attributable to the allowance for credit losses on loans and leases held for investment. Its combined Tier 1 capital and reserves would equal $11.2 million ($10 million plus $1.2 million), reflecting double counting of the $200,000 applicable portion of the bank's CECL transitional amount attributable to the allowance for credit losses on loans and leases.[29]

Under the proposal, for purposes of calculating assessments for large and highly complex banks, the FDIC would subtract $200,000 from the denominator of financial measures that sum Tier 1 capital and reserves, since the amount of $200,000 is incorporated in both Tier 1 capital (as the applicable portion of the CECL transitional amount in year one of the five-year transition period) and reserves in the denominator. The bank's adjusted Tier 1 capital and reserves would equal $11 million. The FDIC also would adjust the calculation of the loss severity measure by $200,000, as described below.

[28] Under the 2019 CECL rule, when calculating regulatory capital ratios during the first year of an electing bank's CECL adoption date, the bank must phase in 25 percent of the transitional amounts. The bank would phase in an additional 25 percent of the transitional amounts over each of the next two years so that the bank would have phased in 75 percent of the day-one adverse effects of adopting CECL during year three. At the beginning of the fourth year, the bank would have completely reflected in regulatory capital the day-one effects of CECL. Under the 2020 CECL rule, the modified CECL transitional amount is calculated on a quarterly basis during the first two years of the transition period. *See* 12 CFR part 3 (OCC); 12 CFR part 217 (Board); 12 CFR part 324 (FDIC). *See also* 84 FR 4222 (February 14, 2019) and 85 FR 61577 (September 30, 2020).

[29] In this stylized example, the entirety of the CECL transitional amount is attributable to the allowance for credit losses on loans and leases and it equals the modified CECL transitional amount during the first quarter of the transition period. The applicable portion of the CECL transitional amounts is the amount that is double counted in certain financial measures used to determine deposit insurance assessment rates and that the FDIC is proposing to remove from those financial measures. However, CECL transitional amounts may also include amounts attributable to allowances for credit losses under CECL on HTM debt securities, other financial assets measured at amortized cost, and off-balance sheet credit exposures. Under the proposal, in determining a large or highly complex bank's deposit insurance assessment rate, the FDIC would continue to include in Tier 1 capital the applicable portion of any CECL transitional amounts attributable to allowances for credit losses on items other than loans and leases held for investment.

Table 1 – Stylized Example[1] of First-Quarter Application of a Five-Year CECL Transition in Calculating Tier 1 Capital and Reserves for Deposit Insurance Assessment Purposes

In thousands	Dec. 31, 2019	Jan. 1, 2020
Reserves	\$ 1,000 (ALLL)	\$ 1,200 (AACL)
Tier 1 Capital	\$ 10,000	\$ 10,000
Tier 1 Capital and Reserves *(current)*	\$ 11,000	\$ 11,200
Applicable Portion of the CECL Transitional Amount		\$ 200
Tier 1 Capital and Reserves (*proposed*)		\$ 11,000

[1] This stylized example reflects the first-quarter application of a hypothetical bank that has adopted a five-year CECL transition under the 2020 CECL rule and assumes that the full amount of the CECL transitional amount is attributable to the allowance for credit losses on loans and leases. The example does not reflect any changes over the course of the first quarter of 2020 (*i.e.*, no changes in the amounts reported on the bank's balance sheet between January 1 and March 31, 2020, the end of the reporting period for the first quarter). As a consequence, the bank's modified CECL transitional amount as of March 31, 2020, equals its CECL transitional amount. This stylized example omits the effects of deferred tax assets, which are addressed in the agencies' capital rule, the 2019 CECL rule, and the 2020 CECL rule.

This proposal would amend the deposit insurance system applicable to large and highly complex banks only, and would not affect regulatory capital or the regulatory capital relief provided under the 2019 CECL rule or 2020 CECL rule.[30] The FDIC would continue the application of the transition provisions provided for under the 2019 and 2020 CECL rules to the Tier 1 leverage ratio used in determining deposit insurance assessment rates for all IDIs.

Temporary changes to the Call Report forms and instructions would be required to implement the proposed amendments to the assessment system to remove the double counting. These changes would be effectuated in coordination with the other member entities of the Federal Financial Institutions Examination

[30] *See* 12 CFR part 3 (OCC); 12 CFR part 217 (Board); 12 CFR part 324 (FDIC). *See also* 84 FR 4222 (Feb. 14, 2019) and 85 FR 61577 (Sept. 30, 2020).

Council (FFIEC).[31] Any changes to regulatory reporting requirements pursuant to this proposal would be required only while the regulatory capital relief is reflected in the regulatory reports of banks.

B. Adjustments to Certain Measures Used in the Scorecard Approach for Determining Assessments for Large and Highly Complex Banks

The FDIC is proposing to adjust the calculations of certain financial measures used to determine deposit insurance assessment rates for large and highly complex banks to remove the applicable portions of the CECL transitional amounts added to retained earnings that is attributable to the allowance for credit losses on loans and leases held for investment. The FDIC is proposing to remove this part of the CECL transitional amounts because, for large and highly complex banks that have adopted CECL, the measure of reserves used in the scorecard is the allowance for credit losses on loans and leases reported in Call Report Schedule RC, item 4.c.

This amount, which would be reported in a new line item in Schedule RC-O only on the FFIEC 031 and FFIEC 041 versions of the Call Report, would be removed from scorecard measures that are calculated using the sum of Tier 1 capital and reserves, as described in more detail below. The proposal also would adjust the calculation of the loss severity measure to remove the double counting by removing the applicable portions of the CECL transitional amounts added to retained earnings for regulatory capital purposes and attributable to the allowance for credit losses on loans and leases held for investment for large and highly complex banks.

While the FDIC recognizes that by the anticipated effective date of any final rule promulgated by this proposal, numerous large and highly complex banks will have implemented CECL and many will have elected the transition provided under either the 2019 CECL rule or 2020 CECL rule, the FDIC would not make retroactive adjustments to prior quarterly assessments.

1. Credit Quality Measure

The score for the credit quality measure, applicable to large and highly complex banks, is the greater of (1) the ratio of criticized and classified items to Tier 1 capital and reserves score or (2) the ratio of

[31] As discussed in the section on the Paperwork Reduction Act below, the FDIC will submit a request for one additional temporary item on the Call Report (FFIEC 031 and FFIEC 041 only) to make the proposed adjustments described below.

underperforming assets to Tier 1 capital and reserves score.[32] The double counting results in lower ratios and a credit quality measure that reflects less risk than a bank actually poses to the DIF. The FDIC is proposing to adjust the denominator, Tier 1 capital and reserves, used in both ratios by removing the applicable portions of the CECL transitional amounts added to retained earnings for regulatory capital purposes and attributable to the allowance for credit losses on loans and leases held for investment.

2. Concentration Measure

For large banks, the concentration measure is the higher of (1) the ratio of higher-risk assets to Tier 1 capital and reserves or (2) the growth-adjusted portfolio concentration measure. The growth-adjusted portfolio concentration measure includes the ratio of concentration levels for several loan portfolios to Tier 1 capital and reserves.

For highly complex banks, the concentration measure is the highest of three measures: (1) the ratio of higher-risk assets to Tier 1 capital and reserves, (2) the ratio of top 20 counterparty exposures to Tier 1 capital and reserves, or (3) the ratio of the largest counterparty exposure to Tier 1 capital and reserves.[33]

The double counting results in lower ratios and a concentration measure that reflects less risk than a bank actually poses to the DIF. The FDIC is proposing to adjust the denominator, Tier 1 capital and reserves, used in each of these ratios by removing the applicable portions of the CECL transitional amounts added to retained earnings for regulatory capital purposes and attributable to the allowance for credit losses on loans and leases held for investment.

3. Loss Severity Measure

The loss severity measure estimates the relative magnitude of potential losses to the DIF in the event of an IDI's failure.[34] In calculating this measure, the FDIC applies a standardized set of assumptions based on historical failures regarding liability runoffs and the recovery value of asset categories to simulate possible losses

[32] *See* 12 CFR 327.16(b)(ii)(A)(2)(iv).

[33] *See* Appendix A to subpart A of 23 CFR 327.

[34] Appendix D to subpart A of 12 CFR 327 describes the calculation of the loss severity measure.

to the FDIC, reducing capital and assets until the Tier 1 leverage ratio declines to 2 percent. The double counting results in a greater reduction of assets during the capital reduction phase and therefore a lower resolution value of assets at the time of failure, which in turn results in a higher loss severity measure that reflects more risk than a bank actually poses to the DIF. The FDIC is proposing to adjust the calculation of the capital adjustment in the loss severity measure to remove the double counting of the applicable portion of the CECL transitional amounts added to retained earnings for regulatory capital purposes and attributable to the allowance for credit losses on loans and leases held for investment for both large and highly complex banks.[35]

Question 1: The FDIC invites comment on its proposal to amend the assessment regulations to remove the double counting of a part of the CECL transitional amounts due to the inclusion of this amount in certain financial measures used to determine deposit insurance assessments for large and highly complex banks, which could arise when banks elect the transition provision contained in either the 2019 CECL rule or the 2020 CECL rule.

C. Other Conforming Amendments to the Assessment Regulations

The FDIC is proposing to make conforming amendments to the FDIC's assessment regulations to effectuate the adjustments described above. These conforming amendments would ensure that the proposed adjustments to the financial measures used to calculate a large or highly complex bank's assessment rate are properly incorporated into the assessment regulations.

D. Proposed Regulatory Reporting Changes

A bank electing a transition under either the 2019 CECL rule or the 2020 CECL rule must indicate its election to use the 3-year 2019 or the 5-year 2020 CECL transition provision in Call Report Schedule RC-R, Part I, item 2.a. In addition, such an electing bank must report the applicable portions of the transitional amounts under the 2019 CECL rule or the 2020 CECL rule in the affected Call Report items during the transition period. For

[35] The loss severity measure is an average loss severity ratio for the three most recent quarters of data available. It is anticipated that any temporary reporting changes effectuated pursuant to this proposal would be implemented no earlier than the first applicable reporting period following the anticipated effective date of any final rule promulgated by this proposal. As such, the FDIC would adjust the calculation of the loss severity measure to remove the double counting of the specified portion of the CECL transitional amounts for one of the three quarters averaged in the first reporting period following the effective date, for two of the three quarters averaged in the second reporting period following the effective date, and for all three quarters averaged in all subsequent reporting periods, as applicable.

example, an electing bank would add the applicable portion of the CECL transitional amount (or the modified CECL transitional amount) when calculating the amount of retained earnings it would report in Schedule RC-R, Part I, item 2, of the Call Report.[36]

In calculating certain measures used in the scorecard approach for determining deposit insurance assessments for large and highly complex banks, the FDIC is proposing to remove a specified portion of the CECL transitional amounts added to retained earnings under the transitions provided for under the 2020 and 2019 CECL rules. Specifically, in certain measures used in the scorecard approach for determining assessments for large and highly complex banks, the FDIC would remove the applicable portion of the CECL transitional amount (or modified CECL transitional amount) added to retained earnings for regulatory capital purposes (Call Report Schedule RC-R, Part I, Item 2), attributable to the allowance for credits losses on loans and leases held for investment and included in the amount reported on the Call Report balance sheet in Schedule RC, item 4.c.

However, large and highly complex banks that have elected a CECL transition provision do not currently report these specific portions of the CECL transitional amounts in the Call Report. Thus, implementing the proposed amendments to the risk-based deposit insurance assessment system applicable to large and highly complex banks would require temporary changes to the reporting requirements applicable to the Call Report and its related instructions. These reporting changes would be proposed and effectuated in coordination with the other member entities of the FFIEC. As previously described, any changes to reporting requirements for large and highly complex banks pursuant to this proposal would be required only while the temporary relief is reflected in banks' regulatory reports.

E. Expected Effects

The proposed rule would remove the applicable portions of the CECL transitional amounts added to retained earnings for regulatory capital purposes and attributable to the allowance for credit losses on loans and leases held for investment from certain financial measures used in the scorecards that determine deposit

[36] *See* 84 FR at 4227 and 85 FR at 17726.

insurance assessment rates for large and highly complex banks. Absent the proposed rule, this amount would be temporarily double counted and could result in a deposit insurance assessment rate for a large or highly complex bank that does not accurately reflect the bank's risk to the DIF, all else equal. Furthermore, the double counting inherent in the regulation could result in inequitable deposit insurance assessments, as a large or highly complex bank that has not yet implemented CECL or that does not utilize a transition provision could pay a higher or lower assessment rate than a bank that has implemented CECL and utilizes a transition provision, even if both banks pose equal risk to the DIF. The FDIC estimates that the majority of large and highly complex banks are currently paying a lower rate as a direct result of the double counting. However, the FDIC also estimates that a few banks are currently paying a higher rate than they otherwise would pay if the issue of double counting is corrected. The FDIC estimates that the rate these latter banks are paying is higher by only a *de minimis* amount, and occurs where the double counting on the loss severity measure more than offsets the effect of double counting on the other scorecard measures that are calculated using the sum of Tier 1 capital and reserves.

Based on FDIC data as of June 30, 2020, the FDIC estimates that this double counting could be resulting in approximately $55 million in annual foregone assessment revenue, or 0.048 percent of the DIF balance as of that date. This estimate includes the majority of large and highly complex banks that are paying a lower rate due to the double counting and the banks paying a higher rate, compared to if the issue of double counting is corrected. The FDIC expects this estimated amount of foregone assessment revenue to increase in the near-term as additional large and highly complex banks adopt CECL, to the extent those large and highly complex banks elect to apply a transition. This amount also may increase in the near term as large and highly complex banks electing the 2020 CECL rule include in their modified CECL transitional amounts an estimate of CECL's effect on regulatory capital, relative to the incurred loss methodology's effect on regulatory capital, during the first two years of CECL adoption. As of June 30, 2020, the FDIC estimates that 101 of 138 large and highly complex banks had implemented CECL, and that 94 had elected a transition provided under either the 2019 CECL rule or the 2020 CECL rule. As banks phase out the transitional amounts over time, the assessment effect also would decline. As described previously, the optional temporary relief from CECL afforded by the CARES Act, and the transitions provided for under the 2019 CECL rule and 2020 CECL rule, provide that all banks will have completely reflected in regulatory capital the day-one effects of CECL (plus, if applicable, an estimate of CECL's effect on regulatory capital, relative to the incurred loss methodology's effect on regulatory capital, during the first two years of CECL adoption) by December 31, 2026, thereby eliminating the double counting effects from the scorecard for large and highly complex banks. These above estimates are subject to uncertainty given differing CECL implementation dates and the option for large and highly complex banks to choose between the transitions offered under the 2019 CECL rule or the 2020 CECL rule, or to recognize the full impact of CECL on regulatory capital upon implementation.

The proposed rule could pose some additional regulatory costs for large and highly complex banks that elect a transition under either the 2019 CECL rule or the 2020 CECL rule associated with changes to internal systems or processes, or changes to reporting requirements. It is the FDIC's understanding that banks already calculate the portion of the CECL transitional amount (or modified CECL transitional amount) added to retained earnings for regulatory capital purposes that is attributable to the allowance for credit losses on loans and leases held for investment, for internal purposes. As such, the FDIC anticipates that the proposed addition of this temporary item to the Call Report would not impose significant additional burden and any additional costs are likely to be *de minimis*.

F. Alternatives Considered

The FDIC considered the reasonable and possible alternatives described below. The FDIC is required by statute to set deposit insurance assessments based on risk, and the FDIC's objective in setting forth the current proposal is to ensure that banks are assessed in a manner that is fair and accurate. On balance, the FDIC believes the current proposal would adjust for double counting of the applicable portion of the CECL transitional amounts attributable to allowances for credit losses on loans and leases held for investment in certain financial measures used to determine deposit insurance assessment rates for large and highly complex banks in the most appropriate, accurate, and straightforward manner.

One alternative would be to leave in place the current assessment regulations. Under this alternative, the applicable portions of the CECL transitional amounts would be automatically and fully included in both retained earnings as reported for regulatory capital purposes (affecting Tier 1 capital) and reserves, resulting in double counting of the applicable portions of these transitional amounts attributable to allowances for credit losses on loans and leases held for investment in certain financial measures that are used to determine deposit insurance assessment rates for large and highly complex banks. As a result, a large or highly complex bank could pay a deposit insurance assessment rate that does not accurately reflect the bank's risk to the DIF, all else equal. Furthermore, this double counting could result in inequitable deposit insurance assessments, as a large or highly complex bank that has not yet implemented CECL or that does not utilize a transition provision could pay a higher or lower assessment rate than a bank that has implemented CECL and utilizes a transition provision, even if both banks pose equal risk to the DIF. Based on data as of June 30, 2020, the DIF would receive approximately $55 million less annual income than it would have received but for the double counting of parts of the CECL transitional amounts in the scorecard.

The FDIC also considered a second alternative, using a proxy measure based on existing data items on the Call Report to remove the effect of double counting on a large or highly complex bank's deposit insurance assessments. Specifically, the FDIC could use the difference between retained earnings reported on Schedule RC (item 26.a.) and Schedule RC-R (Part I, item 2.) to approximate the amount double counted. This proxy, however, would provide an estimate of the applicable portion of the full CECL transitional amount (or modified CECL transitional amount) rather than the applicable portion of the CECL transitional amount (or modified CECL transitional amount) added retained earnings for regulatory capital purposes and attributable to the allowance for credit losses on loans and leases held for investment, which is the amount the current proposal would remove from certain financial measures used to determine deposit insurance assessment rates for large and highly complex banks. This proxy would include the CECL transitional amounts attributable to establishing allowances for credit losses under CECL on loans and leases held for investment through a charge against retained earnings as of the adoption date of CECL as well as the amounts attributable to establishing, in the same manner as of the same date, allowances for credit losses under CECL on HTM debt securities, other financial assets measured at amortized cost, and off-balance sheet credit exposures. Since the proxy could result in the FDIC reducing Tier 1 capital and reserves by an amount that is greater than the amount double counted, it could harm banks with large reserves for HTM debt securities, other financial assets measured at amortized cost, and off-balance sheet credit exposures by inflating such a bank's credit quality and concentration measures in the scorecards for large and highly complex banks. As a result, the proxy could result in the FDIC applying an adjustment amount that is different from the actual applicable portion of a bank's CECL transitional amount (or modified CECL transitional amount) that was added to retained earnings for regulatory capital purposes and is attributable to the allowance for credit losses on loans and leases held for investment. Thus, applying such an adjustment amount could result in a deposit insurance assessment rate that does not accurately reflect a large or highly complex bank's risk to the DIF, all else equal. The amount by which the proxy measure might differ from the applicable portion of a bank's CECL transitional amount (or modified CECL transitional amount) added to retained earnings for regulatory capital purposes that is attributable to the allowance for credit losses on loans and leases held for investment would vary by bank. While this amount may not be significant in most cases, the FDIC expects that using the proxy would generally result in higher assessments for most banks.

Furthermore, as described above, it is the FDIC's understanding that banks already calculate the applicable portion of the CECL transitional amount (or modified CECL transitional amount) added to retained earnings for regulatory capital purposes and attributable to the allowance for credit losses on loans and leases held for investment, for internal purposes, and as such, the FDIC anticipates that the proposed addition of this temporary item to the Call Report would not impose significant additional burden. The FDIC believes that temporarily collecting this item on the Call Report and using this item to adjust for double counting of a portion of the CECL transitional amounts in certain financial measures used to determine deposit insurance assessments for large and highly complex banks would ensure that banks are assessed in a manner that is fair and accurate, all else equal.

Question 2: The FDIC invites comment on the reasonable and possible alternatives described in this proposed rule. What are other reasonable and possible alternatives that the FDIC should consider?

G. Comment Period, Effective Date, and Application Date

The FDIC is issuing this proposal with a 30-day comment period. Following the comment period, the FDIC expects to issue a final rule with an effective date of April 1, 2021, and applicable to the second quarterly assessment period of 2021 (i.e., April 1-June 30, 2021). The 30-day comment period, along with the expected effective date and the proposed application date, would ensure that the temporary effects of the double counting of the applicable portions of the CECL transitional amounts in select financial measures used in the scorecard approach for determining assessments for large and highly complex banks are corrected, beginning with the second quarterly assessment period of 2021.

IV. Request for Comment

The FDIC is requesting comment on all aspects of the notice of proposed rulemaking, in addition to the specific requests for comment above.

V. Administrative Law Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 et seq., 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 a proposed rule on small entities.[37] However, a regulatory flexibility analysis is not required if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The U.S. Small Business Administration (SBA) has defined "small entities" to include banking organizations with total assets of less than or equal to $600 million.[38] Certain types of rules, such as rules of particular applicability relating to rates, corporate or financial structures, or practices relating to such rates or structures, are expressly excluded from the definition of "rule" for purposes of the RFA.[39] Because the proposed rule relates directly to the rates imposed on IDIs for deposit insurance and to the deposit insurance assessment system that measures risk and determines each bank's assessment rate, the proposed rule is not subject to the RFA. Nonetheless, the FDIC is voluntarily presenting information in this RFA section.

[37] 5 U.S.C. 601 *et seq.*

[38] The SBA defines a small banking organization as having $600 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 year." *See* 13 CFR 121.201 (as amended, effective August 19, 2019). 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." 13 CFR 121.103. Following these regulations, the FDIC uses a covered entity's affiliated and acquired assets, averaged over the preceding four quarters, to determine whether the covered entity is "small" for the purposes of RFA.

[39] 5 U.S.C. 601.

Based on Call Report data as of June 30, 2020, the FDIC insures 5,075 depository institutions, of which 3,665 are defined as small entities by the terms of the RFA.[40] The proposed rule, however, would apply only to institutions with $10 billion or greater in total assets. Consequently, small entities for purposes of the RFA will experience no significant economic impact should the FDIC implement the proposal in a final rule.

B. Riegle Community Development and Regulatory Improvement Act

Section 302(a) of the Riegle Community Development and Regulatory Improvement Act (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 benefits of such regulations. In addition, section 302(b) of RCDRIA requires new regulations and amendments to regulations that impose additional reporting, disclosures, or other new requirements on IDIs generally to take effect on the first day of a calendar quarter that begins on or after the date on which the regulations are published in final form, with certain exceptions, including for good cause.[41] 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.

C. Paperwork Reduction Act

[40] FDIC Call Report data, June 30, 2020.

[41] 5 U.S.C. 553(b)(B).

[41] 5 U.S.C. 553(d).

[41] 5 U.S.C. 601 *et seq.*

[41] 5 U.S.C. 801 *et seq.*

[41] 5 U.S.C. 801(a)(3).

[41] 5 U.S.C. 804(2).

[41] 5 U.S.C. 808(2).

[41] 12 U.S.C. 4802(a).

[41] 12 U.S.C. 4802(b).

The Paperwork Reduction Act of 1995 (PRA) 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 Management and Budget (OMB) control number.[42] The FDIC's OMB control numbers for its assessment regulations are 3064-0057, 3064-0151, and 3064-0179. The proposed rule does not revise any of these existing assessment information collections pursuant to the PRA and consequently, no submissions in connection with these OMB control numbers will be made to the OMB for review. However, the proposed rule affects the agencies' current information collections for the Call Report (FFIEC 031 and FFIEC 041, but not FFIEC 051). The agencies' OMB control numbers for the Call Reports are: OCC OMB No. 1557-0081; Board OMB No. 7100-0036; and FDIC OMB No. 3064-0052. Proposed changes to the Call Report forms and instructions will be addressed in a separate *Federal Register* notice.

D. Plain Language

Section 722 of the Gramm-Leach-Bliley Act[43] requires the Federal banking agencies to use plain language in all proposed and final rulemakings published in the Federal Register after January 1, 2000. The FDIC invites your comments on how to make this proposed rule easier to understand. For example:

- Has the FDIC organized the material to suit your needs? If not, how could the material be better organized?
- Are the requirements in the proposed regulation clearly stated? If not, how could the regulation be stated more clearly?
- Does the proposed regulation contain language or jargon that is unclear? If so, which language requires clarification?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the regulation easier to understand?

[42] 4 U.S.C. 3501-3521.

[43] 12 U.S.C. 4809.

List of Subjects in 12 CFR Part 327

Bank deposit insurance, Banks, banking, Savings associations

Authority and Issuance

For the reasons stated in the preamble, the Federal Deposit Insurance Corporation proposes to amend 12 CFR part 327 as follows:

PART 327—ASSESSMENTS

1. The authority citation for part 327 is revised to read as follows:

Authority: 12 U.S.C. 1813, 1815, 1817-19, 1821.

2. In Appendix A to subpart A, amend the table under section heading, "VI. Description of Scorecard Measures," by:

a. Redesignating footnotes 2 as 3, 3 as 4, 4 as 5, and 5 as 7;

b. Adding a new footnote 2 after various measures described in the table;

c. Adding a new footnote 6 after "Potential Losses/Total Domestic Deposits (Loss Severity Measure)"; and

d. Revising the footnotes in the table to reflect the redesignations.

The revisions and additions read as follows:

Appendix A to Subpart A of Part 327—Method to Derive Pricing Multipliers and Uniform Amount

* * * * *

VI. Description of Scorecard Measures

Scorecard measures[1]	Description
Leverage ratio	Tier 1 capital for Prompt Corrective Action (PCA) divided by adjusted average assets based on the definition for prompt

	corrective action.
Concentration Measure for Large Insured depository institutions (excluding Highly Complex Institutions)	The concentration score for large institutions is the higher of the following two scores:
(1) Higher-Risk Assets/Tier 1 Capital and Reserves[2]	Sum of construction and land development (C&D) loans (funded and unfunded), higher-risk C&I loans (funded and unfunded), nontraditional mortgages, higher-risk consumer loans, and higher-risk securitizations divided by Tier 1 capital and reserves. See Appendix C for the detailed description of the ratio.
(2) Growth-Adjusted Portfolio Concentrations[2]	The measure is calculated in the following steps:
	(1) Concentration levels (as a ratio to Tier 1 capital and reserves) are calculated for each broad portfolio category:
	• C&D,
	• Other commercial real estate loans,
	• First lien residential mortgages (including non-agency residential mortgage-backed securities),
	• Closed-end junior liens and home equity lines of credit (HELOCs),
	• Commercial and industrial loans,
	• Credit card loans, and
	• Other consumer loans.
	(2) Risk weights are assigned to each loan category based on historical loss rates.
	(3) Concentration levels are multiplied by risk weights and squared to produce a risk-adjusted concentration ratio for each portfolio.

	(4) Three-year merger-adjusted portfolio growth rates are then scaled to a growth factor of 1 to 1.2 where a 3-year cumulative growth rate of 20 percent or less equals a factor of 1 and a growth rate of 80 percent or greater equals a factor of 1.2. If three years of data are not available, a growth factor of 1 will be assigned.
	(5) The risk-adjusted concentration ratio for each portfolio is multiplied by the growth factor and resulting values are summed.
	See Appendix C for the detailed description of the measure.
Concentration Measure for Highly Complex Institutions	Concentration score for highly complex institutions is the highest of the following three scores:
(1) Higher-Risk Assets/Tier 1 Capital and Reserves[2]	Sum of C&D loans (funded and unfunded), higher-risk C&I loans (funded and unfunded), nontraditional mortgages, higher-risk consumer loans, and higher-risk securitizations divided by Tier 1 capital and reserves. See Appendix C for the detailed description of the measure.
(2) Top 20 Counterparty Exposure/Tier 1 Capital and Reserves[2]	Sum of the 20 largest total exposure amounts to counterparties divided by Tier 1 capital and reserves. The total exposure amount is equal to the sum of the institution's exposure amounts to one counterparty (or borrower) for derivatives, securities financing transactions (SFTs), and cleared transactions, and its gross lending exposure (including all unfunded commitments) to that counterparty (or borrower). A counterparty includes an entity's own affiliates. Exposures to entities that are affiliates of each other are treated as exposures to one counterparty (or borrower). Counterparty exposure excludes all counterparty exposure to the U.S. Government and departments or agencies of the U.S. Government that is unconditionally guaranteed by the full faith and credit of the United States. The exposure amount for derivatives, including OTC derivatives, cleared transactions that are derivative contracts, and netting sets of derivative contracts, must be calculated using the methodology set forth in 12 CFR 324.34(b), but without any reduction for collateral other than cash collateral that is all or part of variation margin and that satisfies the requirements of 12 CFR 324.10(c)(4)(ii)(C)(*1*)(*ii*) and (*iii*) and 324.10(c)(4)(ii)(C)(*3*) through (*7*). The exposure amount associated with SFTs, including cleared transactions that are SFTs, must be calculated using the standardized approach set forth in 12 CFR 324.37(b) or (c). For both

	derivatives and SFT exposures, the exposure amount to central counterparties must also include the default fund contribution.[3]
(3) Largest Counterparty Exposure/Tier 1 Capital and Reserves[2]	The largest total exposure amount to one counterparty divided by Tier 1 capital and reserves. The total exposure amount is equal to the sum of the institution's exposure amounts to one counterparty (or borrower) for derivatives, SFTs, and cleared transactions, and its gross lending exposure (including all unfunded commitments) to that counterparty (or borrower). A counterparty includes an entity's own affiliates. Exposures to entities that are affiliates of each other are treated as exposures to one counterparty (or borrower). Counterparty exposure excludes all counterparty exposure to the U.S. Government and departments or agencies of the U.S. Government that is unconditionally guaranteed by the full faith and credit of the United States. The exposure amount for derivatives, including OTC derivatives, cleared transactions that are derivative contracts, and netting sets of derivative contracts, must be calculated using the methodology set forth in 12 CFR 324.34(b), but without any reduction for collateral other than cash collateral that is all or part of variation margin and that satisfies the requirements of 12 CFR 324.10(c)(4)(ii)(C)(*1*)(*ii*) and (*iii*) and 324.10(c)(4)(ii)(C)(*3*) through (*7*). The exposure amount associated with SFTs, including cleared transactions that are SFTs, must be calculated using the standardized approach set forth in 12 CFR 324.37(b) or (c). For both derivatives and SFT exposures, the exposure amount to central counterparties must also include the default fund contribution.[3]
Core Earnings/Average Quarter-End Total Assets	Core earnings are defined as net income less extraordinary items and tax-adjusted realized gains and losses on available-for-sale (AFS) and held-to-maturity (HTM) securities, adjusted for mergers. The ratio takes a four-quarter sum of merger-adjusted core earnings and divides it by an average of five quarter-end total assets (most recent and four prior quarters). If four quarters of data on core earnings are not available, data for quarters that are available will be added and annualized. If five quarters of data on total assets are not available, data for quarters that are available will be averaged.
Credit Quality Measure	The credit quality score is the higher of the following two scores:
(1) Criticized and Classified Items/Tier 1 Capital and Reserves[2]	Sum of criticized and classified items divided by the sum of Tier 1 capital and reserves. Criticized and classified items include items an institution or its primary federal regulator have graded “Special Mention” or worse and include retail

	items under Uniform Retail Classification Guidelines, securities, funded and unfunded loans, other real estate owned (ORE), other assets, and marked-to-market counterparty positions, less credit valuation adjustments.[4] Criticized and classified items exclude loans and securities in trading books, and the amount recoverable from the U.S. government, its agencies, or government-sponsored enterprises, under guarantee or insurance provisions.
(2) Underperforming Assets/Tier 1 Capital and Reserves[2]	Sum of loans that are 30 days or more past due and still accruing interest, nonaccrual loans, restructured loans (including restructured 1-4 family loans), and ORE, excluding the maximum amount recoverable from the U.S. government, its agencies, or government-sponsored enterprises, under guarantee or insurance provisions, divided by a sum of Tier 1 capital and reserves.
Core Deposits/Total Liabilities	Total domestic deposits excluding brokered deposits and uninsured non-brokered time deposits divided by total liabilities.
Balance Sheet Liquidity Ratio	Sum of cash and balances due from depository institutions, federal funds sold and securities purchased under agreements to resell, and the market value of available for sale and held to maturity agency securities (excludes agency mortgage-backed securities but includes all other agency securities issued by the U.S. Treasury, U.S. government agencies, and U.S. government-sponsored enterprises) divided by the sum of federal funds purchased and repurchase agreements, other borrowings (including FHLB) with a remaining maturity of one year or less, 5 percent of insured domestic deposits, and 10 percent of uninsured domestic and foreign deposits.[5]
Potential Losses/Total Domestic Deposits (Loss Severity Measure)[6]	Potential losses to the DIF in the event of failure divided by total domestic deposits. Appendix D describes the calculation of the loss severity measure in detail.
Market Risk Measure for Highly Complex Institutions	The market risk score is a weighted average of the following three scores:
(1) Trading Revenue Volatility/Tier 1 Capital	Trailing 4-quarter standard deviation of quarterly trading revenue (merger-adjusted) divided by Tier 1 capital.
(2) Market Risk Capital/Tier 1 Capital	Market risk capital divided by Tier 1 capital. [7]

(3) Level 3 Trading Assets/Tier 1 Capital	Level 3 trading assets divided by Tier 1 capital.
Average Short-term Funding/Average Total Assets	Quarterly average of federal funds purchased and repurchase agreements divided by the quarterly average of total assets as reported on Schedule RC-K of the Call Reports.

[1] The FDIC retains the flexibility, as part of the risk-based assessment system, without the necessity of additional notice-and-comment rulemaking, to update the minimum and maximum cutoff values for all measures used in the scorecard. The FDIC may update the minimum and maximum cutoff values for the higher-risk assets to Tier 1 capital and reserves ratio in order to maintain an approximately similar distribution of higher-risk assets to Tier 1 capital and reserves ratio scores as reported prior to April 1, 2013, or to avoid changing the overall amount of assessment revenue collected. 76 FR 10672, 10700 (February 25, 2011). The FDIC will review changes in the distribution of the higher-risk assets to Tier 1 capital and reserves ratio scores and the resulting effect on total assessments and risk differentiation between banks when determining changes to the cutoffs. The FDIC may update the cutoff values for the higher-risk assets to Tier 1 capital and reserves ratio more frequently than annually. The FDIC will provide banks with a minimum one quarter advance notice of changes in the cutoff values for the higher-risk assets to Tier 1 capital and reserves ratio with their quarterly deposit insurance invoice.

[2] The applicable portions of the current expected credit loss methodology (CECL) transitional amounts attributable to the allowance for credit losses on loans and leases held for investment and added to retained earnings for regulatory capital purposes pursuant to the regulatory capital regulations, as they may be amended from time to time (12 CFR part 3, 12 CFR part 217, 12 CFR part 324, 85 FR 61577 (Sept. 30, 2020), and 84 FR 4222 (Feb. 14, 2019)), will be removed from the sum of Tier 1 capital and reserves.

[3] SFTs include repurchase agreements, reverse repurchase agreements, security lending and borrowing, and margin lending transactions, where the value of the transactions depends on market valuations and the transactions are often subject to margin agreements. The default fund contribution is the funds contributed or commitments made by a clearing member to a central counterparty’s mutualized loss sharing arrangement. The other terms used in this description are as defined in 12 CFR part 324, subparts A and D, unless defined otherwise in 12 CFR part 327.

[4] A marked-to-market counterparty position is equal to the sum of the net marked-to-market derivative exposures for each counterparty. The net marked-to-market derivative exposure equals the sum of all positive marked-to-market exposures net of legally enforceable netting provisions and net of all collateral held under a legally enforceable CSA plus any exposure where excess collateral has been posted to the counterparty. For purposes of the Criticized and Classified Items/Tier 1 Capital and Reserves definition a marked-to-market counterparty position less any credit valuation adjustment can never be less than zero.

[5] Deposit runoff rates for the balance sheet liquidity ratio reflect changes issued by the Basel Committee on Banking Supervision in its December 2010 document, “Basel III: International Framework for liquidity risk measurement, standards, and monitoring,” *http://www.bis.org/publ/bcbs188.pdf*.

[6] The applicable portions of the CECL transitional amounts attributable to the allowance for credit losses on loans and leases held for investment and added to retained earnings for regulatory capital purposes will be removed from the calculation of the loss severity measure.

[7] *Market risk* is defined in 12 CFR 324.202.

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3. In Appendix C to Subpart A, revise the text under section heading, “I. Concentration Measures,” to read as follows:

Appendix C to Subpart A of Part 327—Description of Concentration Measures

I. Concentration Measures

The concentration score for large banks is the higher of the higher-risk assets to Tier 1 capital and reserves score or the growth-adjusted portfolio concentrations score.[1] The concentration score for highly complex institutions is the highest of the higher-risk assets to Tier 1 capital and reserves score, the Top 20 counterparty exposure to Tier 1 capital and reserves score, or the largest counterparty to Tier 1 capital and reserves score.[2] The higher-risk assets to Tier 1 capital and reserves ratio and the growth-adjusted portfolio concentration measure are described herein.

[1] For the purposes of this Appendix, the term “bank” means insured depository institution.

[2] As described in Appendix A to this subpart, the applicable portions of the current expected credit loss methodology (CECL) transitional amounts attributable to the allowance for credit losses on loans and leases held for investment and added to retained earnings for regulatory capital purposes pursuant to the regulatory capital regulations, as they may be amended from time to time (12 CFR part 3, 12 CFR part 217, 12 CFR part 324, 85 FR 61577 (Sept. 30, 2020), and 84 FR 4222 (Feb. 14, 2019)), will be removed from the sum of Tier 1 capital and reserves throughout the large and highly complex bank scorecards, including in the ratio of Higher-Risk Assets to Tier 1 Capital and Reserves, the Growth-Adjusted Portfolio Concentrations Measure, the ratio of Top 20 Counterparty Exposure to Tier 1 Capital and Reserves, and the Ratio of Largest Counterparty Exposure to Tier 1 Capital and Reserves.

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4. In Appendix D to Subpart A, revise the text under section heading, “Appendix D to Subpart A of Part 327 – Description of the Loss Severity Measure,” to add a new footnote 3. The revision and addition read as follows:

Appendix D to Subpart A of Part 327—Description of the Loss Severity Measure

The loss severity measure applies a standardized set of assumptions to an institution's balance sheet to measure possible losses to the FDIC in the event of an institution's failure. To determine an institution's loss severity rate, the FDIC first applies assumptions about uninsured deposit and other unsecured liability runoff, and growth in insured deposits, to adjust the size and composition of the institution's liabilities. Assets are then reduced to match any reduction in liabilities.[1] The institution's asset values are then further reduced so that the Leverage ratio reaches 2 percent.[2, 3] In both cases, assets are adjusted pro rata to preserve the institution's asset composition. Assumptions regarding loss rates at failure for a given asset category and the extent of secured liabilities are then applied to estimated assets and liabilities at failure to determine whether the institution has enough unencumbered assets to cover domestic deposits. Any projected shortfall is divided by current domestic deposits to obtain an end-of-period loss severity ratio. The loss severity measure is an average loss severity ratio for the three most recent quarters of data available.

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[3]The applicable portions of the current expected credit loss methodology (CECL) transitional amounts attributable to the allowance for credit losses on loans and leases held for investment and added to retained earnings for regulatory capital purposes pursuant to the regulatory capital regulations, as they may be amended from time to time (12 CFR part 3, 12 CFR part 217, 12 CFR part 324, 85 FR 61577 (Sept. 30, 2020), and 84 FR 4222 (Feb. 14, 2019)), will be removed from the calculation of the loss severity measure.

* * * * *

5. In Appendix E to subpart A, amend Table E.2 by:

a. Redesignating footnote 1 after "Credit Quality Measure" as 2;

b. Adding a new footnote 1;

c. Adding footnote 2 after "Market Risk Measure for Highly Complex Institutions" and;

d. Revising the footnotes in the table to reflect the redesignations.

The revisions and addition[s] read as follows:

Table E.2—Exclusions From Certain Risk Measures Used to Calculate the Assessment Rate for Large or Highly Complex Institutions

Scorecard Measures[1]	**Description**	**Exclusions**
Leverage Ratio	Tier 1 capital for Prompt Corrective Action (PCA) divided by adjusted average assets based on the definition for prompt corrective action.	No Exclusion
Concentration Measure for Large Insured depository institutions (excluding Highly Complex Institutions)	The concentration score for large institutions is the higher of the following two scores:	
(1) Higher-Risk Assets/Tier 1 Capital and Reserves	Sum of construction and land development (C&D) loans (funded and unfunded), higher-risk commercial and industrial (C&I) loans (funded and unfunded), nontraditional mortgages, higher-risk consumer loans, and higher-risk	No Exclusion

	securitizations divided by Tier 1 capital and reserves. See Appendix C for the detailed description of the ratio.	
(2) Growth-Adjusted Portfolio Concentrations	The measure is calculated in the following steps:	
	(1) Concentration levels (as a ratio to Tier 1 capital and reserves) are calculated for each broad portfolio category:	
	• Constructions and land development (C&D),	
	• Other commercial real estate loans,	
	• First lien residential mortgages (including non-agency residential mortgage-backed securities),	
	• Closed-end junior liens and home equity lines of credit (HELOCs),	
	• Commercial and industrial loans (C&I),	
	• Credit card loans, and	
	• Other consumer loans.	
	(2) Risk weights are assigned to each loan category based on historical loss rates.	
	(3) Concentration levels are multiplied by risk weights and squared to produce a risk-adjusted concentration ratio for each portfolio.	

	(4) Three-year merger-adjusted portfolio growth rates are then scaled to a growth factor of 1 to 1.2 where a 3-year cumulative growth rate of 20 percent or less equals a factor of 1 and a growth rate of 80 percent or greater equals a factor of 1.2. If three years of data are not available, a growth factor of 1 will be assigned.	Exclude from C&I loan growth rate the outstanding amount of loans provided under the Paycheck Protection Program.
	(5) The risk-adjusted concentration ratio for each portfolio is multiplied by the growth factor and resulting values are summed.	
	See Appendix C for the detailed description of the measure.	
Concentration Measure for Highly Complex Institutions	Concentration score for highly complex institutions is the highest of the following three scores:	
(1) Higher-Risk Assets/Tier 1 Capital and Reserves	Sum of C&D loans (funded and unfunded), higher-risk C&I loans (funded and unfunded), nontraditional mortgages, higher-risk consumer loans, and higher-risk securitizations divided by Tier 1 capital and reserves. See Appendix C for the detailed description of the measure.	No Exclusion
(2) Top 20 Counterparty Exposure/Tier 1 Capital and Reserves	Sum of the 20 largest total exposure amounts to counterparties divided by Tier 1 capital and reserves. The total exposure amount is equal to the sum of the institution's exposure amounts to one counterparty (or borrower) for derivatives, securities financing transactions (SFTs), and cleared transactions, and its gross lending exposure (including all unfunded	

	commitments) to that counterparty (or borrower). A counterparty includes an entity's own affiliates. Exposures to entities that are affiliates of each other are treated as exposures to one counterparty (or borrower). Counterparty exposure excludes all counterparty exposure to the U.S. Government and departments or agencies of the U.S. Government that is unconditionally guaranteed by the full faith and credit of the United States. The exposure amount for derivatives, including OTC derivatives, cleared transactions that are derivative contracts, and netting sets of derivative contracts, must be calculated using the methodology set forth in 12 CFR 324.34(b), but without any reduction for collateral other than cash collateral that is all or part of variation margin and that satisfies the requirements of 12 CFR 324.10(c)(4)(ii)(C)(1)(ii) and (iii) and 324.10(c)(4)(ii)(C)(3) through (7). The exposure amount associated with SFTs, including cleared transactions that are SFTs, must be calculated using the standardized approach set forth in 12 CFR 324.37(b) or (c). For both derivatives and SFT exposures, the exposure amount to central counterparties must also include the default fund contribution.	No Exclusion
(3) Largest Counterparty Exposure/Tier 1 Capital and Reserves	The largest total exposure amount to one counterparty divided by Tier 1 capital and reserves. The total exposure amount is equal to the sum of the institution's exposure amounts to one counterparty (or borrower) for derivatives, SFTs, and cleared transactions, and its gross lending exposure (including all unfunded	

	commitments) to that counterparty (or borrower). A counterparty includes an entity's own affiliates. Exposures to entities that are affiliates of each other are treated as exposures to one counterparty (or borrower). Counterparty exposure excludes all counterparty exposure to the U.S. Government and departments or agencies of the U.S. Government that is unconditionally guaranteed by the full faith and credit of the United States. The exposure amount for derivatives, including OTC derivatives, cleared transactions that are derivative contracts, and netting sets of derivative contracts, must be calculated using the methodology set forth in 12 CFR 324.34(b), but without any reduction for collateral other than cash collateral that is all or part of variation margin and that satisfies the requirements of 12 CFR 324.10(c)(4)(ii)(C)(1)(ii) and (iii) and 324.10(c)(4)(ii)(C)(3) through (7). The exposure amount associated with SFTs, including cleared transactions that are SFTs, must be calculated using the standardized approach set forth in 12 CFR 324.37(b) or (c). For both derivatives and SFT exposures, the exposure amount to central counterparties must also include the default fund contribution.	No Exclusion
Core Earnings/Average Quarter-End Total Assets	Core earnings are defined as net income less extraordinary items and tax-adjusted realized gains and losses on available-for-sale (AFS) and held-to-maturity (HTM) securities, adjusted for mergers. The ratio takes a four-quarter sum of merger-adjusted core earnings and divides it by an average of five quarter-end total assets (most recent	Prior to averaging, exclude from total assets for the applicable

	and four prior quarters). If four quarters of data on core earnings are not available, data for quarters that are available will be added and annualized. If five quarters of data on total assets are not available, data for quarters that are available will be averaged.	quarter-end periods the outstanding balance of loans provided under the Paycheck Protection Program.
Credit Quality Measure[2]	The credit quality score is the higher of the following two scores:	
(1) Criticized and Classified Items/Tier 1 Capital and Reserves	Sum of criticized and classified items divided by the sum of Tier 1 capital and reserves. Criticized and classified items include items an institution or its primary federal regulator have graded "Special Mention" or worse and include retail items under Uniform Retail Classification Guidelines, securities, funded and unfunded loans, other real estate owned (ORE), other assets, and marked-to-market counterparty positions, less credit valuation adjustments. Criticized and classified items exclude loans and securities in trading books, and the amount recoverable from the U.S. government, its agencies, or government-sponsored enterprises, under guarantee or insurance provisions.	No Exclusion
(2) Underperforming Assets/Tier 1 Capital and Reserves	Sum of loans that are 30 days or more past due and still accruing interest, nonaccrual loans, restructured loans (including restructured 1--4 family loans), and ORE, excluding the maximum amount recoverable from the U.S. government, its agencies, or government-sponsored enterprises, under guarantee or insurance provisions, divided by a sum of Tier 1 capital and reserves.	No Exclusion

Core Deposits/Total Liabilities	Total domestic deposits excluding brokered deposits and uninsured non-brokered time deposits divided by total liabilities.	Exclude from total liabilities outstanding borrowings from Federal Reserve Banks under the Paycheck Protection Program Liquidity Facility with a maturity of one year or less and outstanding borrowings from the Federal Reserve Banks under the Paycheck Protection Program Liquidity Facility with a maturity of greater than one year.
Balance Sheet Liquidity Ratio	Sum of cash and balances due from depository institutions, federal funds sold and securities purchased under agreements to resell, and the market value of available for sale and held to maturity agency securities (excludes agency mortgage-backed securities but includes all other agency securities issued by the U.S. Treasury, U.S. government agencies, and U.S. government sponsored enterprises) divided by the sum of federal funds purchased and repurchase agreements, other borrowings (including FHLB) with a remaining maturity of one year or less, 5 percent of insured domestic deposits, and 10 percent of uninsured domestic and foreign deposits.	Include in highly liquid assets the outstanding balance of PPP loans that exceed borrowings from the Federal Reserve Banks under the PPPLF, until September 30, 2020, or if extended by the Board of Governors of the Federal Reserve System and the Secretary of the Treasury, until such date of extension. Exclude from other borrowings with a remaining maturity of one year or less the balance of outstanding borrowings from the Federal Reserve Banks under the Paycheck

		Protection Program Liquidity Facility with a remaining maturity of one year or less.
Potential Losses/Total Domestic Deposits (Loss Severity Measure)	Potential losses to the DIF in the event of failure divided by total domestic deposits. Paragraph (a) of this section describes the calculation of the loss severity measure in detail.	Exclusions are described in paragraph (a) of this section.
Market Risk Measure for Highly Complex Institutions[2]	The market risk score is a weighted average of the following three scores:	
(1) Trading Revenue Volatility/Tier 1 Capital	Trailing 4-quarter standard deviation of quarterly trading revenue (merger-adjusted) divided by Tier 1 capital.	No Exclusion
(2) Market Risk Capital/Tier 1 Capital	Market risk capital divided by Tier 1 capital.	No Exclusion
(3) Level 3 Trading Assets/Tier 1 Capital	Level 3 trading assets divided by Tier 1 capital.	No Exclusion
Average Short-term Funding/Average Total Assets	Quarterly average of federal funds purchased and repurchase agreements divided by the quarterly average of total assets as reported on Schedule RC-K of the Call Reports.	Exclude from the quarterly average of total assets the outstanding balance of loans provided under the Paycheck Protection Program.

[1] The applicable portions of the current expected credit loss methodology (CECL) transitional amounts attributable to the allowance for credit losses on loans and leases held for investment and added to retained earnings for regulatory capital purposes pursuant to the regulatory capital regulations, as they may be amended from time to time (12 CFR part 3, 12 CFR part 217, 12 CFR

part 324, 85 FR 61577 (Sept. 30, 2020), and 84 FR 4222 (Feb. 14, 2019)), will be removed from the sum of Tier 1 capital and reserves throughout the large and highly complex bank scorecards, including in the ratio of Higher-Risk Assets to Tier 1 Capital and Reserves, the Growth-Adjusted Portfolio Concentrations Measure, the ratio of Top 20 Counterparty Exposure to Tier 1 Capital and Reserves, the Ratio of Largest Counterparty Exposure to Tier 1 Capital and Reserves, the ratio of Criticized and Classified Items to Tier 1 Capital and Reserves, and the ratio of Underperforming Assets to Tier 1 Capital and Reserves. All of these ratios are described in appendix A of this subpart.

[2] The credit quality score is the greater of the criticized and classified items to Tier 1 capital and reserves score or the underperforming assets to Tier 1 capital and reserves score. The market risk score is the weighted average of three scores—the trading revenue volatility to Tier 1 capital score, the market risk capital to Tier 1 capital score, and the level 3 trading assets to Tier 1 capital score. All of these ratios are described in appendix A of this subpart and the method of calculating the scores is described in appendix B of this subpart. Each score is multiplied by its respective weight, and the resulting weighted score is summed to compute the score for the market risk measure. An overall weight of 35 percent is allocated between the scores for the credit quality measure and market risk measure. The allocation depends on the ratio of average trading assets to the sum of average securities, loans and trading assets (trading asset ratio) as follows: (1) Weight for credit quality score = 35 percent * (1—trading asset ratio); and, (2) Weight for market risk score = 35 percent * trading asset ratio. In calculating the trading asset ratio, exclude from the balance of loans the outstanding balance of loans provided under the Paycheck Protection Program.

(a) *Description of the loss severity measure*. The loss severity measure applies a standardized set of assumptions to an institution's balance sheet to measure possible losses to the FDIC in the event of an institution's failure. To determine an institution's loss severity rate, the FDIC first applies assumptions about uninsured deposit and other liability runoff, and growth in insured deposits, to adjust the size and composition of the institution's liabilities. Exclude total outstanding borrowings from Federal Reserve Banks under the Paycheck Protection Program Liquidity Facility from short-and long-term secured borrowings, as appropriate. Assets are then reduced to match any reduction in liabilities. Exclude from an institution's balance of commercial and industrial loans the outstanding balance of loans provided under the Paycheck Protection Program. In the event that the outstanding balance of loans provided under the Paycheck Protection Program exceeds the balance of commercial and industrial loans, exclude any remaining balance of loans provided under the Paycheck Protection Program first from the balance of all other loans, up to the total amount of all other loans, followed by the balance of agricultural loans, up to the total amount of agricultural loans. Increase cash balances by outstanding loans provided under the Paycheck Protection Program that exceed total outstanding borrowings from Federal Reserve Banks under the Paycheck Protection Program Liquidity Facility, if any. The institution's asset values are then further reduced so that the Leverage Ratio reaches 2 percent. In both cases, assets are adjusted pro rata to preserve the institution's asset composition. Assumptions regarding loss rates at failure for a given asset category and the extent of secured liabilities are then applied to estimated assets and liabilities at failure to determine whether the institution has enough unencumbered assets to cover domestic deposits. Any projected shortfall is divided by current domestic deposits to obtain an end-of-period loss severity ratio. The loss severity measure is an average loss severity ratio for the three most recent quarters of data available. The applicable portions of the current expected credit loss methodology (CECL) transitional amounts attributable to the allowance for credit losses on loans and leases held for investment and added to retained earnings for regulatory capital purposes pursuant to the regulatory capital regulations, as they may be amended from time to time (12 CFR part 3, 12 CFR part 217, 12 CFR part 324, 85 FR 61577 (Sept. 30, 2020), and 84 FR 4222 (Feb. 14, 2019)), will be removed from the calculation of the loss severity measure.

* * * * *

Federal Deposit Insurance Corporation.

By order of the Board of Directors.

Dated at Washington, DC, on [date], 2020.

James P. Sheesley,

Assistant Executive Secretary.

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