

**BILLING CODES: 4810-33-P; 6210-01-P; 6714-01-P**

**DEPARTMENT OF THE TREASURY  
Office of the Comptroller of the Currency  
12 CFR Part 34  
Docket No. OCC-2020-0014  
RIN 1557-AE86**

**FEDERAL RESERVE SYSTEM  
12 CFR Part 225  
Docket No. R-1713  
RIN 7100-AF87**

**FEDERAL DEPOSIT INSURANCE CORPORATION  
12 CFR Part 323  
RIN 3064-AF48**

**Real Estate Appraisals**

**AGENCY:** Office of the Comptroller of the Currency, Treasury (OCC); Board of Governors of the Federal Reserve System (Board); and the Federal Deposit Insurance Corporation (FDIC).

**ACTION:** Interim final rule with request for comments.

**SUMMARY:** The OCC, Board, and FDIC (collectively, the agencies) are adopting an interim final rule to amend the agencies' regulations requiring appraisals of real estate for certain transactions. The interim final rule defers the requirement to obtain an appraisal or evaluation for up to 120 days following the closing of a transaction for certain residential and commercial real estate transactions, excluding transactions for acquisition, development, and construction of real estate. Regulated institutions should make best efforts to obtain a credible valuation of real property collateral before the loan closing, and otherwise underwrite loans consistent with the principles in the agencies' Standards for Safety and Soundness and Real Estate Lending Standards. The agencies are providing this relief to allow regulated institutions to expeditiously extend liquidity to creditworthy households and businesses in light of recent strains on the U.S.

economy as a result of the National Emergency declared in connection with coronavirus disease 2019 (COVID-19).

**DATES:** The interim final rule is effective [INSERT DATE OF PUBLICATION IN FEDERAL REGISTER] through December 31, 2020. Comments on the interim final rule must be received no later than [INSERT 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Interested parties are encouraged to submit written comments jointly to all of the agencies. Commenters are encouraged to use the title “Real Estate Appraisals” to facilitate the organization and distribution of comments among the agencies. Comments should be directed to:

**OCC:** Commenters are encouraged to submit comments through the Federal eRulemaking Portal or e-mail, if possible. Please use the title “Real Estate Appraisals” to facilitate the organization and distribution of the comments. You may submit comments by any of the following methods:

- *Federal eRulemaking Portal – Regulations.gov Classic or Regulations.gov Beta:*

*Regulations.gov Classic:* Go to <https://www.regulations.gov/>. Enter “Docket ID OCC-2020-0014” in the Search Box and click “Search.” Click on “Comment Now” to submit public comments. For help with submitting effective comments please click on “View Commenter’s Checklist.” Click on the “Help” tab on the *Regulations.gov* home page to get information on using *Regulations.gov*, including instructions for submitting public comments.

*Regulations.gov Beta:* Go to <https://beta.regulations.gov/> or click “Visit New *Regulations.gov* Site” from the *Regulations.gov* Classic homepage. Enter “Docket ID OCC-2020-0014” in the Search Box and click “Search.” Public comments can be submitted via the “Comment” box below the displayed document information or by clicking on the document title and then clicking

the “Comment” box on the top-left side of the screen. For help with submitting effective comments please click on “Commenter’s Checklist.” For assistance with the *Regulations.gov* Beta site, please call (877) 378-5457 (toll free) or (703) 454-9859 Monday-Friday, 9am-5pm ET or e-mail *regulations@erulemakinghelpdesk.com*.

- *E-mail: regs.comments@occ.treas.gov.*
- *Mail: Chief Counsel’s Office, Attention: Comment Processing, Office of the Comptroller of the Currency, 400 7th Street, SW., suite 3E-218, Washington, DC 20219.*
- *Hand Delivery/Courier: 400 7th Street, SW., suite 3E-218, Washington, DC 20219.*
- *Fax: (571) 465-4326.*

*Instructions:* You must include “OCC” as the agency name and “Docket ID OCC-2020-0014” in your comment. In general, the OCC will enter all comments received into the docket and publish the comments on the *Regulations.gov* website without change, including any business or personal information provided such as name and address information, e-mail addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

You may review comments and other related materials that pertain to this rulemaking action by any of the following methods:

- *Viewing Comments Electronically – Regulations.gov Classic or Regulations.gov Beta:*  
*Regulations.gov Classic:* Go to <https://www.regulations.gov/>. Enter “Docket ID OCC-2020-0014” in the Search box and click “Search.” Click on “Open Docket Folder” on the right side of the screen. Comments and supporting materials can be viewed and filtered by clicking on “View

all documents and comments in this docket” and then using the filtering tools on the left side of the screen. Click on the “Help” tab on the *Regulations.gov* home page to get information on using *Regulations.gov*. The docket may be viewed after the close of the comment period in the same manner as during the comment period.

*Regulations.gov Beta*: Go to <https://beta.regulations.gov/> or click “Visit New *Regulations.gov Site*” from the *Regulations.gov* Classic homepage. Enter “Docket ID OCC-2020-0014” in the Search Box and click “Search.” Click on the “Comments” tab. Comments can be viewed and filtered by clicking on the “Sort By” drop-down on the right side of the screen or the “Refine Results” options on the left side of the screen. Supporting materials can be viewed by clicking on the “Documents” tab and filtered by clicking on the “Sort By” drop-down on the right side of the screen or the “Refine Results” options on the left side of the screen.” For assistance with the *Regulations.gov* Beta site, please call (877) 378-5457 (toll free) or (703) 454-9859 Monday-Friday, 9am-5pm ET or e-mail [regulations@erulemakinghelpdesk.com](mailto:regulations@erulemakinghelpdesk.com).

The docket may be viewed after the close of the comment period in the same manner as during the comment period.

**Board:** You may submit comments, identified by Docket No. R-1713; RIN 7100-AF87, by any of the following methods:

- Agency website: <http://www.federalreserve.gov>. Follow the instructions for submitting comments at <http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm>.
- E-mail: [regs.comments@federalreserve.gov](mailto:regs.comments@federalreserve.gov). Include docket and RIN numbers in the subject line of the message.
- FAX: (202) 452-3819 or (202) 452-3102.

- Mail: Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW, Washington, DC 20551.

All public comments will be made available on the Board's web site at

<http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm> as submitted, unless modified for technical reasons or to remove personally identifiable information at the commenter's request. Accordingly, comments will not be edited to remove any identifying or contact information. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452-3684.

**FDIC:** You may submit comments, identified by RIN 3064-AF48, by any of the following methods:

- **Agency Website:** <https://www.fdic.gov/regulations/laws/federal/>. Follow the instructions for submitting comments on the Agency website.
- **Email:** [comments@fdic.gov](mailto:comments@fdic.gov). Include the RIN 3064-AF48 in the subject line of the message.
- **Mail:** Robert E. Feldman, Executive Secretary, Attention: Comments/Legal ESS, Federal Deposit Insurance Corporation, 550 17th Street, NW, Washington, DC 20429.

*Instructions:* Comments submitted must include "FDIC" and "RIN 3064-AF48."

Comments received will be posted without change to <https://www.fdic.gov/regulations/laws/federal/>, including any personal information provided.

**FOR FURTHER INFORMATION CONTACT:**

**OCC:** G. Kevin Lawton, Appraiser (Real Estate Specialist), (202) 649-6670; Mitchell Plave, Special Counsel, (202) 649-5490; or Joanne Phillips, Counsel, Chief Counsel's Office (202) 649-5500; Office of the Comptroller of the Currency, 400 7<sup>th</sup> Street, SW, Washington, DC 20219.

For persons who are deaf or hearing impaired, TTY users may contact (202) 649-5597.

**Board:** Anna Lee Hewko, Associate Director, (202) 530-6260; Teresa A. Scott, Manager, Policy Development Section, (202) 973-6114; Carmen Holly, Lead Financial Institution Policy Analyst, (202) 973-6122, Division of Supervision and Regulation; Laurie Schaffer, Deputy General Counsel, (202) 452-2272; Derald Seid, Senior Counsel, (202) 452-2246; Trevor Feigleson, Senior Attorney, (202) 452-3274; David Imhoff Legal Assistant/Attorney, (202) 452-2249, Legal Division, Board of Governors of the Federal Reserve System, 20th and C Streets NW, Washington, DC 20551. For the hearing impaired only, Telecommunications Device for the Deaf (TDD) users may contact (202) 263-4869.

**FDIC:** Beverlea S. Gardner, Senior Examination Specialist, Division of Risk Management and Supervision, (202) 898-3640, [BGardner@FDIC.gov](mailto:BGardner@FDIC.gov); Benjamin K. Gibbs, Counsel, Legal Division, (202) 898-6726; Mark Mellon, Counsel, Legal Division, (202) 898-3884; or, Lauren Whitaker, Senior Attorney, Legal Division, (202) 898-3872, Federal Deposit Insurance Corporation, 550 17th Street, NW, Washington, DC 20429. For the hearing impaired only, TDD users may contact (202) 925-4618.

## **SUPPLEMENTARY INFORMATION:**

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## **I. Introduction**

### ***A. Background***

*Impact of COVID-19 on appraisals and evaluations.* Due to the impact of COVID-19, businesses and individuals have a heightened need for additional liquidity. Being able to quickly access equity in real estate could help address this need. However, government restrictions on non-essential movement and health and safety advisories in response to the National Emergency declared in connection with COVID-19,<sup>1</sup> including those relating to social distancing, have led to complications with respect to performing and completing real property appraisals and evaluations needed to comply with federal appraisal regulations. As a result, some borrowers may experience delays in obtaining funds needed to meet immediate and near-term financial needs.

*Title XI and the appraisal regulations.* Title XI directs each Federal financial institutions regulatory agency to publish appraisal regulations for federally related transactions within its

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<sup>1</sup> Proclamation 9994, 85 FR 15337 (March 18, 2020).

jurisdiction.<sup>2</sup> The purpose of Title XI is to protect federal financial and public policy interests<sup>3</sup> in real estate-related transactions by requiring that real estate appraisals used in connection with federally related transactions (Title XI appraisals) are performed in writing, in accordance with uniform standards, by individuals whose competency has been demonstrated and whose professional conduct will be subject to effective supervision.<sup>4</sup>

Title XI directs the agencies to prescribe appropriate standards for Title XI appraisals under the agencies' respective jurisdictions.<sup>5</sup> At a minimum, the statute provides that a Title XI appraisal must be: (1) performed in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP); (2) a written appraisal, as defined by the statute; and (3) subject to appropriate review for compliance with USPAP.<sup>6</sup> While appraisals are ordinarily completed before a lender and borrower close a real estate transaction, there is no specific requirement in USPAP that appraisals be completed at a specific time relative to the closing of a transaction.

All federally related transactions must have Title XI appraisals. Title XI defines a federally related transaction as a real estate-related financial transaction<sup>7</sup> that the agencies or a

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<sup>2</sup> The term "Federal financial institutions regulatory agencies" means the Board, the FDIC, the OCC, the National Credit Union Administration, and, formerly, the Office of Thrift Supervision. 12 U.S.C. 3350(6).

<sup>3</sup> These interests include those stemming from the federal government's roles as regulator and deposit insurer of financial institutions that engage in real estate lending and investment, guarantor or lender on mortgage loans, and as a direct party in real estate-related financial transactions. These federal financial and public policy interests have been described in predecessor legislation and accompanying Congressional reports. *See* Real Estate Appraisal Reform Act of 1988, H.R. Rep. No. 100-1001, pt. 1, at 19 (1988); 133 Cong. Rec. 33047-33048 (1987).

<sup>4</sup> 12 U.S.C. 3331.

<sup>5</sup> 12 U.S.C. 3339.

<sup>6</sup> *Id.*

<sup>7</sup> 12 U.S.C. 3350(5). A real estate-related financial transaction is defined as any transaction that involves: (i) the sale, lease, purchase, investment in or exchange of real property, including



financial institution regulated by the agencies engages in or contracts for, that requires the services of an appraiser.<sup>8</sup> The agencies have authority to determine those real estate-related financial transactions that do not require the services of an appraiser and thus are not required to have Title XI appraisals.<sup>9</sup> The agencies have exercised this authority by exempting certain categories of real estate-related financial transactions from the agencies' appraisal requirements.<sup>10</sup>

The agencies have used their safety and soundness authority to require evaluations for a subset of transactions for which an appraisal is not required.<sup>11</sup> Under the appraisal regulations, for these transactions, financial institutions that are subject to the agencies' appraisal regulations (regulated institutions) must obtain an appropriate evaluation of real property collateral that is consistent with safe and sound banking practices.<sup>12</sup>

*Authority to defer appraisals and evaluations.* In general, the agencies require that Title XI appraisals for federally related transactions occur prior to closing of a federally related

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interests in property, or financing thereof; (ii) the refinancing of real property or interests in real property; and (iii) the use of real property or interests in property as security for a loan or investment, including mortgage-backed securities.

<sup>8</sup> 12 U.S.C. 3350(4).

<sup>9</sup> Real estate-related financial transactions that the agencies have exempted from the appraisal requirement are not federally related transactions under the agencies' appraisal regulations.

<sup>10</sup> See OCC: 12 CFR 34.43(a); Board: 12 CFR 225.63(a); FDIC: 12 CFR 323.3(a). The agencies have determined that these categories of transactions do not require appraisals by state certified or state licensed appraisers in order to protect federal financial and public policy interests or to satisfy principles of safe and sound banking.

<sup>11</sup> See OCC: 12 CFR 34.43(b); Board: 12 CFR 225.63(b); and FDIC: 12 CFR 323.3(b). Evaluations are required for exempt residential and commercial loans below the thresholds; exempt business loans; exempt subsequent transactions; and transactions subject to the rural residential exemption.

<sup>12</sup> The agencies have provided guidance on appraisals and evaluations through the Interagency Guidelines on Appraisals and Evaluations. See 75 FR 77450 (December 10, 2010), available at <https://occ.gov/news-issuances/federal-register/2010/75fr77450.pdf>.

transaction.<sup>13</sup> The Interagency Guidelines on Appraisals and Evaluations provide similar information about evaluations.<sup>14</sup> Under the interim final rule, deferrals of appraisals and evaluations will allow for expeditious access to credit. The deferrals, which will be temporary, are offered in response to a National Emergency. Regulated institutions that defer receipt of an appraisal or evaluation are still expected to conduct their lending activity consistent with the underwriting principles in the agencies' Standards for Safety and Soundness<sup>15</sup> and Real Estate Lending Standards<sup>16</sup> that focus on the ability of a borrower to repay a loan and other relevant laws and regulations. These deferrals are not an exercise of the agencies' waiver authority, because appraisals and evaluations are being deferred, not waived. The deferrals are also not a waiver of USPAP requirements, given that (1) USPAP does not address the completion of an appraisal assignment with the timing of a lending decision; and (2) the deferred appraisal must be conducted in compliance with USPAP.

The deferral of evaluations reflects the same considerations relating to the impact of COVID-19 as the deferral of appraisals. The agencies require evaluations for certain exempt

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<sup>13</sup> See OCC: 12 CFR 34.43(a), 34.44(b)&(e); Board: 12 CFR 225.63(a), 225.64(b)&(e); FDIC: 12 CFR 323.3(a), 323.4(b)&(e) (requiring an appraisal to (1) contain sufficient information and analysis to support the institution's decision to engage in the transaction, and (2) be based on the definition of market value in the regulation, which takes into account a specified closing date for the transaction).

<sup>14</sup> See 75 FR 77450 (December 10, 2010), available at <https://occ.gov/news-issuances/federal-register/2010/75fr77450.pdf>.

<sup>15</sup> OCC: 12 CFR Part 30, Appendix A; Board: 12 CFR 208, Appendix D-1; and FDIC: 12 CFR Part 364, Appendix A.

<sup>16</sup> OCC: 12 CFR Part 34, Subpart D, Appendix A; Board: 12 CFR 208, Subpart E, Appendix C; and FDIC: 12 CFR Part 365, subpart A, Appendix A. Financial institutions should have a program for establishing the market value of real property to comply with these real estate lending standards, which require financial institutions to determine the value used in loan-to-value calculations based in part on a value set forth in an appraisal or an evaluation.

transactions as a matter of safety and soundness. Evaluations do not need to comply with USPAP, but must be sufficiently robust to support a valuation conclusion. An evaluation can be less complex than an appraisal and usually takes less time to complete than an appraisal, but it also commonly involves physical property inspections. For these reasons, the agencies also are using their safety and soundness authority<sup>17</sup> to allow for deferral of evaluations.

By the end of the deferral period, regulated institutions must obtain appraisals or evaluations that are consistent with safe and sound banking practices, as required by the agencies' appraisal regulations.

### ***B. Summary of the Interim Final Rule***

The interim final rule allows a temporary deferral of the requirements for appraisals and evaluations under the agencies' appraisal regulations. The deferrals apply to both residential and commercial real estate-related financial transactions, excluding transactions for acquisition, development, and construction of real estate. The agencies are excluding transactions for acquisition, development, and construction of real estate because these loans present heightened risks not associated with financing existing real estate.

Under the interim final rule, regulated institutions may close a real estate loan without a contemporaneous appraisal or evaluation, subject to a requirement that institutions obtain the appraisal or evaluation, as would have been required under the appraisal regulations without the deferral, within a grace period of 120 days after closing of the transaction. While appraisals and evaluations can be deferred, the agencies expect institutions to use best efforts and available information to develop a well-informed estimate of the collateral value of the subject property. For purposes of risk-weighting of residential mortgage exposures, an institution's prudent

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<sup>17</sup> See 12 U.S.C. 1831p-1.

underwriting estimation of the collateral value of the subject property will be considered to meet the agencies' appraisal and evaluation requirements during the deferral period.<sup>18</sup> In addition, the agencies continue to expect regulated institutions to adhere to internal underwriting standards for assessing borrowers' creditworthiness and repayment capacity, and to develop procedures for estimating the collateral's value for the purposes of extending or refinancing credit. Transactions for acquisition, development, and construction of real estate are being excluded because repayment of those transactions is generally dependent on the completion or sale of the property being held as collateral as opposed to repayment generated by existing collateral or the borrower. The agencies also expect institutions to develop an appropriate risk mitigation strategy if the appraisal or evaluation ultimately reveals a market value significantly lower than the expected market value. An institution's risk mitigation strategy should consider safety and soundness risk to the institution, balanced with mitigation of financial harm to COVID-19-affected borrowers. The temporary provision permitting regulated institutions to defer an appraisal or evaluation for eligible transactions will expire on December 31, 2020 (a transaction closed on or before December 31, 2020 is eligible for a deferral), unless extended by the agencies. The agencies believe that the limited timeframe for the deferral will in some respects help to manage potential risk by balancing the need for immediate relief due to the National Emergency with safety and soundness concerns for risk to lenders.

## **II. Revisions to the Title XI Appraisal Regulations**

The interim final rule adds a new, temporary provision to the appraisal regulations that provides a 120-day deferral of appraisal and evaluation requirements for all transactions secured by commercial or residential real estate during the COVID-19 pandemic, excluding transactions

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<sup>18</sup> See OCC: 12 CFR 3.32(g); Board: 12 CFR 217.32(g); FDIC: 12 CFR 324.32(g).

for acquisition, development, and construction of real estate. The interim final rule does not revise any of the existing appraisal exceptions or any other requirements with respect to the performance of evaluations.

The interim final rule will allow regulated institutions to quickly provide liquidity to owners of commercial and residential property. The temporary provision allowing regulated institutions to defer appraisals or evaluations for covered transactions will expire on December 31, 2020, unless extended by the agencies.

### **III. Effective Date**

The interim final rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

### **IV. Administrative Law Matters**

#### ***A. Administrative Procedure Act***

The agencies are issuing this interim final rule without prior notice and the opportunity for public comment and the 30-day delayed effective date ordinarily prescribed by the Administrative Procedure Act (APA).<sup>19</sup> Pursuant to section 553(b)(B) of the APA, general notice and the opportunity for public comment are not required with respect to a rulemaking when an “agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.”<sup>20</sup>

The agencies believe that the public interest is best served by implementing the interim final rule as soon as possible. As discussed above, recent events have suddenly and significantly

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<sup>19</sup> 5 U.S.C. 553.

<sup>20</sup> 5 U.S.C. 553(b)(B).

affected global economic activity, increasing businesses' and households' need to have timely access to liquidity from real estate equity. In addition, the spread of COVID-19 has greatly increased the difficulty of performing real estate appraisals and evaluations in a timely manner. This relief will allow regulated institutions to better focus on supporting lending to creditworthy households and businesses in light of recent strains on the U.S. economy as a result of COVID-19, while reaffirming the safety and soundness principle that valuation of collateral is an essential part of the lending decision. For these reasons, the agencies find that there is good cause consistent with the public interest to issue the rule without advance notice and comment.<sup>21</sup>

The APA also requires a 30-day delayed effective date, except for (1) substantive rules which grant or recognize an exemption or relieve a restriction; (2) interpretative rules and statements of policy; or (3) as otherwise provided by the agency for good cause.<sup>22</sup> Because the rules relieve a restriction, the interim final rule is exempt from the APA's delayed effective date requirement.<sup>23</sup> Additionally, the agencies find good cause to publish the interim final rule with an immediate effective date for the same reasons set forth above under the discussion of section 553(b)(B) of the APA.

While the agencies believe that there is good cause to issue the rule without advance notice and comment and with an immediate effective date, the agencies are interested in the views of the public and request comment on all aspects of the interim final rule.

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<sup>21</sup> 5 U.S.C. 553(b)(B); 553(d)(3)

<sup>22</sup> 5 U.S.C. 553(d).

<sup>23</sup> 5 U.S.C. 553(d)(1).

## ***B. Congressional Review Act***

For purposes of Congressional Review Act, the Office of Management and Budget (OMB) makes a determination as to whether a final rule constitutes a “major” rule.<sup>24</sup> If a rule is deemed a “major rule” by the OMB, the Congressional Review Act generally provides that the rule may not take effect until at least 60 days following its publication.<sup>25</sup>

The Congressional Review Act defines a “major rule” as any rule that the Administrator of the Office of Information and Regulatory Affairs of the OMB finds has resulted in or is likely to result in (A) an annual effect on the economy of \$100,000,000 or more; (B) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions, or (C) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.<sup>26</sup>

For the same reasons set forth above with respect to APA requirements, the agencies are adopting the interim final rule without the delayed effective date generally prescribed under the Congressional Review Act. The delayed effective date required by the Congressional Review Act does not apply to any rule for which an agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rule issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.<sup>27</sup> In light of households’ and businesses’ immediate need to access liquidity from real estate equity, combined with the difficulty of obtaining appraisals during the ongoing COVID-19 outbreak, the

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<sup>24</sup> 5 U.S.C. 801 *et seq.*

<sup>25</sup> 5 U.S.C. 801(a)(3).

<sup>26</sup> 5 U.S.C. 804(2).

<sup>27</sup> 5 U.S.C. 808(2).

agencies believe that delaying the effective date of the rule would be contrary to the public interest.

As required by the Congressional Review Act, the agencies will submit the final rule and other appropriate reports to Congress and the Government Accountability Office for review.

### ***C. Paperwork Reduction Act***

In accordance with the requirements of the Paperwork Reduction Act of 1995<sup>28</sup> (PRA), the agencies may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid OMB control number. The agencies have reviewed this final rule and determined that it would not introduce any new or revise any collection of information pursuant to the PRA. Therefore, no submissions will be made to OMB for review.

### ***D. Regulatory Flexibility Act***

The Regulatory Flexibility Act (RFA)<sup>29</sup> generally requires that an agency to consider whether the rule it proposes will have a significant economic impact on a substantial number of small entities.<sup>30</sup> The RFA applies only to rules for which an agency publishes a general notice of proposed rulemaking pursuant to 5 U.S.C. 553(b).<sup>31</sup> As discussed previously, consistent with section 553(b)(B) of the APA, the agencies have determined for good cause that general notice and opportunity for public comment is unnecessary, and therefore the agencies are not issuing a

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<sup>28</sup> 44 U.S.C. 3501-3521.

<sup>29</sup> 5 U.S.C. 601 *et seq.*

<sup>30</sup> 5 U.S.C. 604. Under regulations issued by the Small Business Administration, a small entity includes a depository institution, bank holding company, or savings and loan holding company with total assets of \$600 million or less and trust companies with total assets of \$41.5 million or less. See 13 CFR 121.201.

<sup>31</sup> 5 U.S.C. 604(a).



notice of proposed rulemaking. Accordingly, the agencies have concluded that the RFA's requirements relating to initial and final regulatory flexibility analysis do not apply.

Nevertheless, the agencies seek comment on whether, and the extent to which, the interim final rule would affect a significant number of small entities.

***E. Riegle Community Development and Regulatory Improvement Act of 1994***

Pursuant to section 302(a) of the Riegle Community Development and Regulatory Improvement Act (RCDRIA),<sup>32</sup> in determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on insured depository institutions (IDIs), each Federal banking agency must consider, consistent with the principle 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, disclosure, 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.<sup>33</sup> The interim final rule would not impose any additional reporting, disclosure, or other new requirements on IDIs. Therefore, for the reasons described above, the agencies find good cause exists under section 302 of RCDRIA to publish this interim final rule with an immediate effective date. As such, the interim final rule will be effective on **INSERT**

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<sup>32</sup> 12 U.S.C. 4802(a).

<sup>33</sup> 12 U.S.C. 4802.

**DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Nevertheless, the agencies seek comment on RCDRIA.

#### ***F. Use of Plain Language***

Section 722 of the Gramm-Leach-Bliley Act<sup>34</sup> requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The agencies have sought to present the final rule in a simple and straightforward manner and invite comments on whether there are additional steps the agencies could take to make the rule easier to understand. For example:

- Have the agencies organized the material to suit your needs? If not, how could this material be better organized?
- Are the requirements in the regulation clearly stated? If not, how could the regulation be more clearly stated?
- Does the regulation contain language or jargon that is not clear? 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? If so, what changes to the format would make the regulation easier to understand?
- What else could we do to make the regulation easier to understand?

#### ***G. OCC Unfunded Mandates Reform Act of 1995 Determination***

As a general matter, the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531 *et seq.*, requires the preparation of a budgetary impact statement before promulgating a rule

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<sup>34</sup> 12 U.S.C. 4809.

that includes a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year. However, the UMRA does not apply to final rules for which a general notice of proposed rulemaking was not published.<sup>35</sup> Therefore, because the OCC has found good cause to dispense with notice and comment for this interim final rule, the OCC has not prepared an economic analysis of the rule under the UMRA.

### **List of Subjects**

#### *12 CFR Part 34*

Appraisal, Appraiser, Banks, Banking, Consumer protection, Credit, Mortgages, National banks, Reporting and recordkeeping requirements, Savings associations, Truth in lending.

#### *12 CFR Part 225*

Administrative practice and procedure, Banks, banking, Federal Reserve System, Capital planning, Holding companies, Reporting and recordkeeping requirements, Securities, Stress testing

#### *12 CFR Part 323*

Banks, banking, Mortgages, Reporting and recordkeeping requirements, Savings associations.

## **DEPARTMENT OF THE TREASURY**

### **Office of the Comptroller of the Currency**

#### **12 CFR Chapter I**

#### **Authority and Issuance**

For the reasons set forth in the joint preamble, the OCC amends part 34 of chapter I of title 12 of the Code of Federal Regulations as follows:

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<sup>35</sup> See 2 U.S.C. 1532(a).

**PART 34—REAL ESTATE LENDING AND APPRAISALS**

1. The authority citation for part 34 continues to read as follows:

Authority: 12 U.S.C. 1, 25b, 29, 93a, 371, 1462a, 1463, 1464, 1465, 1701j-3, 1828(o), 3331 *et seq.*, 5101 *et seq.*, and 5412(b)(2)(B), and 15 U.S.C. 1639h.

2. Section 34.43 is amended by adding a new paragraph (f) to read as follows:

The revisions and addition read as set forth below.

**§ 34.43 Appraisals required; transactions requiring a State certified or licensed appraiser.**

\* \* \* \* \*

(f) *Deferrals of appraisals and evaluations for certain residential and commercial transactions.*

(1) *120-day grace period.* The completion of appraisals and evaluations required under paragraphs (a) and (b) of this subpart may be deferred up to 120 days from the date of closing.

(2) *Covered transactions.* The deferrals authorized under paragraph (f)(1) of this section apply to all residential and commercial real estate-secured transactions, excluding transactions for acquisition, development, and construction of real estate.

(3) *Sunset.* The appraisal and evaluation deferrals authorized by paragraph (f) of this section will expire for transactions closing after December 31, 2020.

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**Federal Reserve Board**

**12 CFR Chapter II**

**Authority and Issuance**

For the reasons set forth in the joint preamble, the Board amends part 225 of chapter II of title 12 of the Code of Federal Regulations as follows:

**PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL  
(REGULATION Y)**

3. The authority citation for part 225 continues to read as follows:

Authority: 12 U.S.C. 1817(j)(13), 1818, 1828(o), 1831i, 1831p-1, 1843(c)(8), 1844(b), 1972(l), 3106, 3108, 3310, 3331 *et seq.*, 31206, 31207, and 31209; 15 U.S.C. 1681s, 1681w, 6801 and 6805.

4. Section 225.63 is amended by adding a paragraph (225.63(f)) to read as follows:

**§ 225.63 Appraisals required; transactions requiring a State certified or licensed appraiser.**

\* \* \* \* \*

225.63(f) *Deferrals of appraisals and evaluations for certain residential and commercial transactions.*

(1) *120-day grace period.* The completion of appraisals and evaluations required under paragraphs (a) and (b) of this subpart may be deferred up to 120 days from the date of closing.

(2) *Covered transactions.* The deferrals authorized under paragraph (f)(1) of this section apply to all residential and commercial real estate-secured transactions, excluding transactions for acquisition, development, and construction of real estate.

(3) *Sunset.* The appraisal and evaluation deferrals authorized by paragraph (f) of this section will expire for transactions closing after December 31, 2020.

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**Federal Deposit Insurance Corporation**

**12 CFR Chapter III**

**Authority and Issuance**

For the reasons set forth in the joint preamble, the FDIC amends part 323 of chapter III of title 12 of the Code of Federal Regulations as follows:

9. The authority citation for part 323 continues to read as follows:

Authority: 12 U.S.C. 1818, 1819(a) (“Seventh” and “Tenth”), 1831p–1 and 3331 *et seq.*

10. Section 323.3 is amended by adding a new paragraph (g) as set forth below.

**§ 323.3 Appraisals required; transactions requiring a State certified or licensed appraiser.**

\* \* \* \* \*

(g) *Deferrals of appraisals and evaluations for certain residential and commercial transactions.*

(1) *120-day grace period.* The completion of appraisals and evaluations required under paragraphs (a) and (b) of this subpart may be deferred up to 120 days from the date of closing.

(2) *Covered transactions.* The deferrals authorized under paragraph (g)(1) of this section apply to all residential and commercial real estate-secured transactions, excluding transactions for acquisition, development, and construction of real estate.

(3) *Sunset.* The appraisal and evaluation deferrals authorized by paragraph 323.3(g) will expire for transactions closing after December 31, 2020.

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**Brian P. Brooks,**  
*First Deputy Comptroller of the Currency.*

By order of the Board of Governors of the Federal Reserve System, April 10, 2020.

**Ann Misback,**  
*Secretary of the Board.*

Federal Deposit Insurance Corporation.  
By order of the Board of Directors.  
Dated at Washington, DC, on or about April 10, 2020.

**Robert E. Feldman,**  
*Executive Secretary.*