



## MEMO

**TO:** Board of Directors

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

Mark Pearce, Director  
Division of Depositor and Consumer Protection

**DATE:** December 26, 2023

**RE:** Review of FDIC Regulations in Accordance with the Economic Growth and Regulatory Paperwork Reduction Act (EGRPRA)

### I. Summary

This memorandum seeks approval to publish the attached joint *Federal Register* notice seeking comment on the EGRPRA regulatory review plan as well as the first three categories of regulations to be reviewed. Staff has been working with staff from the Office of the Comptroller of the Currency (OCC) and the Board of Governors of the Federal Reserve System (Board) (collectively, the Agencies), to begin a coordinated and comprehensive review of agency regulations in accordance with the requirements of EGRPRA. Publication of this joint *Federal Register* notice will formally launch the FDIC's comprehensive review of agency regulations required at least once every ten years by EGRPRA.

### II. Recommendation

That the Board of Directors authorize the publication of the joint *Federal Register* notice for a 90-day public comment period.

Concur:

Harrel M. Pettway  
General Counsel

### **III. Discussion**

#### **a. Background**

Section 2222 of EGRPRA (codified at 12 U.S.C. § 3311), provides that, not less frequently than once every 10 years, the Federal Financial Institutions Examination Council (FFIEC) and each appropriate Federal banking agency<sup>1</sup> represented on the FFIEC, must conduct a review of all regulations prescribed by the FFIEC or by any such appropriate Federal banking agency, to identify any outdated, unduly burdensome, or otherwise unnecessary regulations imposed on insured depository institutions.

Working together, the FDIC, the OCC, and the Board completed the last regulatory review under EGRPRA and issued a Joint Report to Congress describing the actions taken by the Agencies as required by EGRPRA in 2017.<sup>2</sup> The Agencies are aiming to complete the next comprehensive regulatory review under EGRPRA in 2026.

FDIC staff has been working with the staffs of the Agencies (and coordinating with the other FFIEC member agency staffs) to develop a comprehensive plan for reviewing agency regulations in accordance with EGRPRA and drafted the attached joint *Federal Register* notice, which outlines that plan and seeks comment on several categories of regulations.

#### **b. The EGRPRA Requirements**

In conducting the regulatory reviews mandated by Section 2222 of EGRPRA, the Agencies must jointly or individually categorize regulations by type, such as “safety and soundness” regulations. The Agencies have identified other categories as described below and shown in the attached chart. Once the Agencies have established appropriate categories, the Agencies must provide notice and seek public comment on those categories of regulations.

<sup>1</sup> The appropriate Federal banking agencies are the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation. See 12 U.S.C. 1813(q).

<sup>2</sup> <https://www.govinfo.gov/content/pkg/FR-2017-03-30/pdf/2017-06131.pdf>.

In particular, Section 2222 of EGRPRA requires that the Agencies ask the public to identify areas of their regulations that are “outdated, unnecessary, or unduly burdensome.” The Agencies are required to issue one or more categories of regulations for comment at regular intervals during the EGRPRA review process so that all of the Agencies’ categories of regulations are published for comment within the 10-year cycle.

Once the categories of regulations have been published for comment, the Agencies must then publish in the *Federal Register* a notice summarizing the comments received, identifying any significant issues, and discussing those issues. EGRPRA also requires the Agencies to “eliminate unnecessary regulations to the extent that such action is appropriate.”<sup>3</sup>

Finally, Section 2222 of EGRPRA requires the FFIEC to submit a Report to Congress within 30 days after the Agencies publish the comment summary and discussion in the *Federal Register*. The Report to Congress must summarize any significant issues raised by the public comments and the relative merits of those issues. The Report also must analyze whether the appropriate Federal banking agency can address, by regulation, the regulatory burdens associated with the issues raised, or whether the regulatory burdens identified must be addressed by legislation.

### **c. The EGRPRA Review Process**

For purposes of conducting the EGRPRA review, the Agencies have grouped their regulations into 12 categories, as used during previous EGRPRA reviews, which in alphabetical order are: (1) Applications and Reporting; (2) Banking Operations; (3) Capital; (4) Community Reinvestment Act; (5) Consumer Protection; (6) Directors, Officers and Employees; (7) International Operations; (8) Money Laundering; (9) Powers and Activities; (10) Rules of Procedure; (11) Safety and Soundness; and (12) Securities. Although EGRPRA does not require the Agencies to review their regulations jointly, the Agencies believe that a joint review is the most effective way for the public to consider the totality of the regulations under review and to achieve EGRPRA’s goals.

<sup>3</sup> Pub.L.104-208, Sept. 30, 1996.



To assist the public's understanding of how the Agencies have organized the EGRPRA review, the Agencies have prepared a chart that lists the categories of regulations, with the three categories of regulations addressed in this *Federal Register* notice appearing as the first three categories in the chart. On the chart, the left column divides the categories into specific subject-matter areas. The headings at the top of the chart identify the types of institutions affected by the regulations.

In determining the categories of rules, the Agencies sought to divide the regulations into logical groupings that are not so broad that the number of regulations presented in any one category will overwhelm potential commenters. The Agencies recognize that the regulations could be categorized in other ways and would welcome comment from the public about the proposed categories and the regulations placed within them. In addition, the Agencies would welcome comment from the public on grouping the remaining categories and the order in which to publish them.

The Agencies plan to publish four *Federal Register* notices over the next 12 months, each addressing one or more categories of rules. Each *Federal Register* notice will have a 90-day comment period. Today, staff are proposing to publish the first of these four notices, which addresses the following three categories: Applications and Reporting; Powers and Activities; and International Operations. Consistent with EGRPRA, the notice invites the public to identify outdated, unnecessary, or unduly burdensome regulatory requirements imposed on insured depository institutions. The notice asks the public to limit comments to the specific categories of rules, and comment on other categories of rules when addressed in future *Federal Register* notices.

Staff will seek Board approval prior to publishing each of the three subsequent notices. At the conclusion of the comment period for each EGRPRA review notice, the Agencies will review the comments and decide whether further action is appropriate with respect to the regulations included in that notice. The Agencies plan to make this decision jointly in the case of interagency rules. Any rulemaking to amend or revise those rules also would be undertaken jointly. For rules issued by a single agency, the issuing agency will review those comments and independently determine whether amendments to its rules are appropriate. If so, that agency



will separately initiate a rulemaking to modify its rules. In all cases, staff will seek Board approval prior to any such action and related request for public comment on any proposed amendments.

Certain FDIC regulations apply only to FDIC employees, concern internal FDIC procedures, or otherwise do not impose any direct effect on FDIC-insured institutions, other financial institutions or the public, and, thus, staff recommends that, similar to previous EGRPRA reviews, they again be excluded from the EGRPRA review.

The Agencies anticipate that *Federal Register* notices seeking public comment on one or more categories of regulations will be published over a two-year period so that the public will have had a chance to review and comment on all regulations subject to this EGRPRA review by the end of 2025. Staff will analyze any comments received and make appropriate recommendations to the Board of Directors concerning any regulatory provisions that should be amended or repealed.

#### **IV. Conclusion**

Attached is the first draft joint *Federal Register* notice, for Board approval, announcing the Agencies' plan to complete the EGRPRA review. The draft notice seeks public comment on the plan and the first three categories of regulations (as noted above).



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