

**DEPARTMENT OF TREASURY**

**Office of the Comptroller of the Currency**

12 CFR Part 3

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**FEDERAL RESERVE SYSTEM**

12 CFR Part 217

Regulation Q

Docket No. R-1487

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**FEDERAL DEPOSIT INSURANCE CORPORATION**

12 CFR Part 324

RIN 3064-AE12

**Regulatory Capital Rules: Regulatory Capital, Revisions to the Supplementary Leverage Ratio**

**AGENCIES:** Office of the Comptroller of the Currency, Treasury; the Board of Governors of the Federal Reserve System; and the Federal Deposit Insurance Corporation.

**ACTION:** Final rule.

**SUMMARY:** In May 2014, the Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (Board), and the Federal Deposit Insurance Corporation (FDIC) (collectively, the agencies) issued a notice of proposed rulemaking (NPR or proposed rule) to revise the definition of the denominator of the supplementary leverage ratio (total leverage exposure) that the agencies adopted in July 2013 as part of comprehensive

revisions to the agencies' regulatory capital rules (2013 revised capital rule). The agencies are adopting the proposed rule as final (final rule) with certain revisions and clarifications based on comments received on the proposed rule.

The final rule revises total leverage exposure as defined in the 2013 revised capital rule to include the effective notional principal amount of credit derivatives and other similar instruments through which a banking organization provides credit protection (sold credit protection); modifies the calculation of total leverage exposure for derivative and repo-style transactions; and revises the credit conversion factors applied to certain off-balance sheet exposures. The final rule also changes the frequency with which certain components of the supplementary leverage ratio are calculated and establishes the public disclosure requirements of certain items associated with the supplementary leverage ratio.

The final rule applies to all banks, savings associations, bank holding companies, and savings and loan holding companies (banking organizations) that are subject to the agencies' advanced approaches risk-based capital rules, as defined in the 2013 revised capital rule (advanced approaches banking organizations), including advanced approaches banking organizations that are subject to the enhanced supplementary leverage ratio standards that the agencies finalized in May 2014 (eSLR standards). Consistent with the 2013 revised capital rule, advanced approaches banking organizations will be required to disclose their supplementary leverage ratios beginning January 1, 2015, and will be required to comply with a minimum supplementary leverage ratio capital requirement of 3 percent and, as applicable, the eSLR standards beginning January 1, 2018.

**DATES:** The final rule is effective January 1, 2015.

**FOR FURTHER INFORMATION CONTACT:**

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## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

The Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (Board), and the Federal Deposit Insurance Corporation (FDIC) (collectively, the agencies) adopted the supplementary leverage ratio in July 2013 as part of comprehensive revisions to the agencies' regulatory capital rule (2013 revised capital rule).<sup>1</sup> Under the 2013 revised capital rule, a minimum supplementary leverage ratio requirement of 3 percent applies to all banking organizations that are subject to the agencies' advanced approaches risk-based capital rule (advanced approaches banking organizations).<sup>2</sup> The supplementary leverage ratio in the 2013 revised capital rule is generally consistent with the international leverage ratio introduced by the Basel Committee on Banking Supervision (BCBS) in 2010 (Basel III leverage ratio). Under the enhanced supplementary leverage ratio standards (eSLR standards) finalized by the agencies in May 2014, U.S. top-tier bank holding companies (BHCs) with more than \$700 billion in consolidated total assets or more than \$10 trillion in assets under custody must maintain a leverage buffer greater than 2 percentage points above the minimum supplementary leverage ratio requirement of 3 percent, for a total of more than 5 percent, to avoid restrictions on capital distributions and discretionary bonus payments.<sup>3</sup> Insured depository institution (IDI) subsidiaries of such BHCs must maintain at least a 6 percent supplementary leverage ratio to be considered "well-capitalized" under the agencies' prompt corrective action framework.

On May 1, 2014, the agencies published in the Federal Register, for public comment, a notice of proposed rulemaking (the NPR or proposed rule) to revise the definition of the

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<sup>1</sup> The Board and the OCC published a joint final rule in the Federal Register on October 11, 2013 (78 FR 62018) and the FDIC published in the Federal Register a substantially identical final rule on April 14, 2014 (79 FR 20754).

<sup>2</sup> 12 CFR 3.10(a)(5) (OCC); 12 CFR 217.10(a)(5) (Board); and 12 CFR 324.10(a)(5) (FDIC).

<sup>3</sup> The eSLR standards were finalized by the agencies on May 1, 2014 (79 FR 24528).

denominator of the supplementary leverage ratio (total leverage exposure).<sup>4</sup> The proposed rule would have revised the supplementary leverage ratio, consistent with the January 2014 BCBS revisions to the Basel III leverage ratio (BCBS 2014 revisions), to incorporate in total leverage exposure the effective notional principal amount of credit derivatives or similar instruments through which a banking organization provides credit protection (sold credit protection), modify the measure of exposure for derivative and repo-style transactions, and revise the credit conversion factors (CCFs) for certain off-balance sheet exposures.<sup>5</sup> It would have required total leverage exposure to be calculated as the mean of total leverage exposure, calculated daily, and required public disclosure of certain items associated with the supplementary leverage ratio. In general, the proposed changes were designed to strengthen the supplementary leverage ratio by more appropriately capturing the exposure of a banking organization's on- and off-balance sheet items.

As discussed further below, the agencies are adopting the proposed rule as final (final rule) with certain revisions and clarifications based on comments received on the proposed rule. In addition, the agencies are revising the calculation of total leverage exposure to provide that the on-balance sheet portion of total leverage exposure will be calculated as the average as of each day of the reporting quarter, but the off-balance sheet portion of total leverage exposure will be calculated as the average of the three month-end amounts of the most recent three months. Consistent with the 2013 revised capital rule, advanced approaches banking organizations will be required to disclose their supplementary leverage ratios beginning January 1, 2015, and will be

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<sup>4</sup> 79 FR 24596 (May 1, 2014).

<sup>5</sup> See BCBS, "Basel III leverage ratio framework and disclosure requirements" (January 2014), available at <http://www.bis.org/publ/bcbs270.htm>. See also BCBS, "Revised Basel III leverage ratio framework and disclosure requirements - consultative document" (June 2013), available at <http://www.bis.org/publ/bcbs251.htm>.

required to comply with the minimum supplementary leverage ratio capital requirement and, as applicable, the eSLR standards, beginning January 1, 2018.

## **II. Summary of Comments on the NPR and Description of the Final Rule**

The agencies sought comment on all aspects of the NPR and received 14 public comments from banking organizations, trade associations representing the banking or financial services industry, an options and futures exchange, a supervisory authority, a public interest advocacy group, three private individuals, and other interested parties. In general, comments from financial services firms, banking organizations, banking trade associations and other industry groups were supportive of the proposed rule because it would enhance international consistency, but were critical of certain aspects of the NPR. Comments from an organization representing smaller banking organizations, a group of state bank supervisors, a public interest advocacy group and two individuals were more generally supportive of the NPR, but they also expressed certain concerns. One individual commenter strongly opposed the proposed rule. A detailed discussion of the proposed rule, commenters' concerns, and the agencies' responses to those concerns are provided in the remainder of this preamble.

### *A. Calibration of the Supplementary Leverage Ratio and the eSLR Standards*

As noted above in Part I above, a U.S. top-tier BHCs with more than \$700 billion in consolidated total assets or more than \$10 trillion in assets under custody must maintain a leverage buffer greater than 2 percentage points above the minimum supplementary leverage ratio requirement of 3 percent, for a total of more than 5 percent, to avoid restrictions on capital distributions and discretionary bonus payments. IDI subsidiaries of such BHCs must maintain at least a 6 percent supplementary leverage ratio to be considered "well capitalized" under the agencies' prompt corrective action framework. The NPR did not propose changes to the

minimum supplementary leverage ratio or eSLR standards, but did propose changes to the denominator of the supplementary leverage ratio, which could require banking organizations subject to the supplementary leverage ratio standards (including the eSLR standards) to hold higher amounts of tier 1 capital to meet the standards. The agencies asked in the proposal whether the proposed changes to the definition of total leverage exposure warranted any changes to the calibration of the minimum ratios, or the well-capitalized or buffer levels of the supplementary leverage ratio.

Some commenters encouraged the agencies to reconsider the eSLR standards in general, raising issues similar to the comments that the agencies received on the proposal to implement the eSLR standards.<sup>6</sup> For example, commenters expressed the view that the eSLR standards were not consistent with the BCBS's leverage ratio framework and could therefore result in competitive disparities across jurisdictions. One commenter expressed disappointment with the decision to bifurcate the eSLR standards for BHCs and IDIs. A number of commenters expressed concern that the NPR, in combination with the eSLR standards, could cause the supplementary leverage ratio to become the binding regulatory capital constraint, rather than a backstop to the risk-based capital measure. These commenters concluded that a consequence of a binding supplementary leverage ratio could be that banking organizations may divest lower risk assets and assume more risk, to the detriment of financial stability.

The agencies considered these comments in connection with adopting the eSLR standards, and the agencies' views on those comments are set forth in the preamble to the final rule implementing the eSLR standards. As noted in that preamble, and discussed further below,

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<sup>6</sup>78 FR 51101 (Aug. 20, 2013).

the agencies believe that the maintenance of a complementary relationship between the leverage and risk-based capital ratios is important to ensure that each type of capital requirement continues to serve as an appropriate counterbalance to offset potential weaknesses of the other. The 2013 revised capital rule implemented the capital conservation buffer framework (which is only applicable to risk-based capital ratios) and increased risk-based capital requirements more than it increased leverage requirements, reducing the ability of the leverage requirements to act as an effective complement to the risk-based requirements, as they had historically. As a result, the degree to which banking organizations could potentially benefit from active management of risk-weighted assets before they breach the leverage requirements may be greater. To account for the increases in stringency in the risk-based capital framework, the agencies calibrated the eSLR standards so that they remain in an effective complementary relationship. The proposed revisions to total leverage exposure were designed to more appropriately capture the exposure of a banking organization's on- and off-balance sheet exposures, which furthers this complementarity.

In adopting the eSLR standards and developing the proposed rule, the agencies considered the combined impact of the eSLR standards and the proposed changes to total leverage exposure.<sup>7</sup> The agencies noted that, quantitatively, compared to the 2013 revised capital rule, the most important changes in total leverage exposure in the proposed rule are (i) the proposed use of standardized CCFs for certain off-balance sheet activities, which should lead to a reduction in total leverage exposure and (ii) the proposed treatment of sold credit derivatives,

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<sup>7</sup> The estimates were generated by using December 2013 Comprehensive Capital Analysis and Review process data (which reflects banking organizations' own projections of their supplementary leverage ratios under the supervisory baseline scenario, including banking organizations' own assumptions about earnings retention and other strategic actions), December Y-9C data, and June 2013 Quantitative Impact Study data.

which should lead to an increase in total leverage exposure. However, the actual total leverage exposure under the proposed rule would be especially sensitive to the volume of sold credit derivatives activities and whether those activities are hedged in a manner recognized under the proposed rule. As discussed in the proposed rule, supervisory estimates suggested that the proposed changes to the definition of total leverage exposure would result in an approximately 8.5 percent aggregate increase in total leverage exposure across the BHCs subject to the eSLR standards, relative to the definition of total leverage exposure in the 2013 revised capital rule. Based on current estimates, total leverage exposure across the eight BHCs subject to the eSLR standards would increase by an average of 2.6 percent under the proposed rule as compared to the definition under the 2013 revised capital rule. In both analyses, on an individual firm basis, for some BHCs subject to the eSLR standards, total leverage exposure increased, while for others it decreased relative to the 2013 revised capital rule definition. The decline from an 8.5 percent to a 2.6 percent aggregate increase reflects a lower estimate of the impact of including the notional amount of credit derivatives, resulting from trade compression and possibly more offsetting of credit derivatives in response to the proposed rule.

Using data as of the second quarter of 2014, the agencies estimate that BHCs subject to the eSLR standards will need to raise in the aggregate approximately \$14.5 billion of tier 1 capital to exceed a 5 percent supplementary leverage ratio under the proposed definition of total leverage exposure, over and above the amount BHCs subject to the eSLR standards would have needed to raise under the definition of total leverage exposure in the 2013 revised capital rule. This is less than the incremental effect estimated in the proposed rule of \$46 billion, based on data as of the fourth quarter of 2013. The change is the result of capital raising by BHCs subject to the eSLR standards, who increased their tier 1 capital by 9.3 percent, in combination with a

2.9 percent increase in total leverage exposure, between the fourth quarter of 2013 and the second quarter of 2014.

Based on these considerations, the agencies believe that the revisions to the definition of total leverage exposure should not affect the calibration of the 5 and 6 percent supplementary leverage ratio thresholds under the eSLR standards.

*B. Total Leverage Exposure Definition*

The proposed rule would have adjusted the measure of total leverage exposure to more appropriately capture the exposure of a banking organization's on- and off-balance sheet items. For example, the proposed rule would have included in total leverage exposure the effective notional principal amount of credit derivatives and other similar instruments through which a banking organization provides credit protection (sold credit protection), which has the effect of increasing total leverage exposure associated with these credit derivatives, and would have introduced graduated CCFs for off-balance sheet exposures, which would reduce total leverage exposure with respect to these items. The proposed rule also would have modified the total leverage exposure calculation for derivative contracts and repo-style transactions in a manner that is intended to ensure that the supplementary leverage ratio appropriately reflects the economic exposure of these activities.

1. Exclusion of certain on-balance sheet assets

Many commenters expressed the view that the definition of total leverage exposure should exclude certain categories of assets. Specifically, commenters encouraged the agencies to exclude from total leverage exposure highly liquid assets, such as cash, claims on central banks, and sovereign securities, particularly U.S. Treasuries. Some commenters expressed concern that

including highly liquid and low-risk assets in total leverage exposure could have negative consequences, including the creation of disincentives for banking organizations to engage in prudent risk management practices. According to commenters, total leverage exposure as proposed could incentivize banking organizations to abandon lower-margin business lines in favor of higher-risk, higher-return activities in order to increase return on equity.

Some commenters also expressed the view that the inclusion of the full value of highly liquid and low-risk assets in total leverage exposure would conflict with the agencies' proposed liquidity coverage ratio (LCR) rulemaking, which requires holdings of high-quality liquid assets (HQLA).<sup>8</sup> These commenters maintained that the proposed changes to the supplementary leverage ratio would increase capital requirements for banking organizations that have been increasing their inventories of HQLA in an effort to comply with the LCR requirements because the proposed supplementary leverage ratio would effectively penalize HQLA with higher capital charges per unit of risk.

Certain commenters also expressed the view that the inclusion of low-risk assets in the definition of total leverage exposure penalizes core aspects of the custody bank business model, including the intermediation of high-volume, low-risk, low-return financial activities and broad reliance on essentially riskless assets, notably central bank deposits. Specifically, these commenters recommended that the final rule exclude deposits with central banks (including Federal Reserve Banks) from total leverage exposure in order to accommodate increases in banking organizations' assets, both temporary and sustained, that occur as a result of macroeconomic factors and monetary policy decisions, particularly during periods of financial

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<sup>8</sup> 78 FR 71818 (Nov. 29, 2013).

market stress. Additionally, these commenters recommended that the agencies adjust the total leverage exposure for central bank deposits associated with excess amounts of operationally-linked client deposit balances. Under this approach, a banking organization would be permitted to deduct its excess operational deposits placed with a central bank from its measure of total leverage exposure, subject to a standardized supervisory factor and excluding any balances resulting from reserve or other similar requirements. Several commenters noted that custody banks, which can experience volatility in deposits tied to day-to-day activities, could potentially take actions, such as limiting payment, clearing and settlement activities, or placing unilateral restrictions on deposit inflows if the definition of total leverage exposure is unchanged from the proposed rule. Some commenters also noted that the daily averaging provision in the NPR, which would allow banking organizations to calculate quarter-end total leverage exposure based on the daily average of exposure amounts throughout the quarter, would not significantly address these concerns.

Alternatively, some commenters suggested that the agencies discount or cap the amount of such assets included in total leverage exposure. In particular, they suggested that the agencies could set certain threshold levels for particular low-risk assets relative to total assets where any holdings of such low-risk assets beyond this threshold would be excluded from total leverage exposure. In addition, some commenters recommended that the agencies preserve flexibility during periods of financial market stress, particularly to address a large temporary increase in a banking organizations' cash account that could lead to a sharp decrease in the banking organization's supplementary leverage ratio.

The agencies addressed similar comments in the final rule implementing the eSLR standards. In general, the supplementary leverage ratio is designed to require a banking

organization to hold a minimum amount of capital against total assets and off-balance sheet exposures, regardless of the riskiness of the individual assets. Excluding central bank deposits would not be consistent with that principle. In response to commenters' concern that total leverage exposure as proposed could incentivize banking organizations to hold higher-risk, higher-return assets, the agencies maintain that the complementary relationship between the leverage and risk-based capital ratios is designed to mitigate any regulatory capital incentives for banking organizations to inappropriately increase their risk profile in response to a strict supplementary leverage ratio.<sup>9</sup> If the supplementary leverage ratio were to become the binding regulatory capital ratio for a particular banking organization, and that banking organization were to acquire more higher-risk assets, risk-weighted assets should increase until the risk-based capital framework becomes binding. Conversely, if a binding risk-based capital ratio induces an institution to expand portfolios whose risk is insufficiently addressed by the risk-based capital framework, its total leverage exposure would increase until the supplementary leverage ratio becomes binding. Regardless of which framework is binding, banking organizations could potentially increase their holdings of assets whose risks are not adequately addressed by the binding framework. In this regard, the agencies note the importance of the complementary nature of the two frameworks in counterbalancing such incentives. Moreover, the agencies observe that banking organizations choose their asset mix based on a variety of factors, including

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<sup>9</sup> The 2013 revised capital rule implemented the capital conservation buffer framework (which is only applicable to risk-based capital ratios) and increased risk-based capital requirements more than it increased leverage requirements, reducing the ability of the leverage requirements to act as an effective complement to the risk-based requirements, as they had historically. As a result, the degree to which banking organizations could potentially benefit from active management of risk-weighted assets before they breach the leverage requirements may be greater. The agencies sought to calibrate the leverage and risk-based standards more closely to each other so that they remain in an effective complementary relationship.

yields available relative to the overall cost of funds, the need to preserve financial flexibility and liquidity, revenue generation and the maintenance of market share and business relationships, and the likelihood that principal will be repaid, in addition to regulatory capital considerations.

In response to commenters' concern that the inclusion of the full value of highly liquid and low-risk assets in total leverage exposure would conflict with the agencies' proposed LCR rulemaking, the agencies believe that while the supplementary leverage ratio requires capital to be held against the HQLA required by the LCR, there are actions a banking organization could take to address an LCR HQLA shortfall, such as reducing short-term funding sources or off-balance sheet requirements, that would not necessarily increase a firm's capital requirement under the supplementary leverage ratio. The agencies believe that, in many ways, the LCR and the supplementary leverage ratio are complementary. In isolation, the supplementary leverage ratio may encourage firms to take greater liquidity risk by purchasing less liquid assets that have a greater yield. In contrast, the LCR, in isolation, may allow the firm to rely on substantial short-term funding as long as the firm also holds HQLA. The two measures together provide assurance that firms that rely substantially on short-term funding hold appropriate capital and liquid assets.

The agencies understand the commenters' observation that the custody banks, which act as intermediaries in high-volume, low-risk, low-return financial activities, may experience increases in assets that occur as a result of macroeconomic factors and monetary policy decisions, particularly during periods of financial market stress. The agencies also recognize that certain monetary policy actions, such as quantitative easing, create additional reserve balances that banking organizations must add to their balance sheets, thereby impacting firms' leverage ratios. Because the supplementary leverage ratio is insensitive to risk, it is possible that banking

organizations' costs of holding low-risk, low-return assets—such as reserve balances—could increase if such ratio becomes the binding regulatory capital constraint. However, as mentioned above, the agencies observe that banking organizations consider many factors beyond regulatory capital requirements, such as yields available relative to the overall cost of funds, the need to preserve financial flexibility and liquidity, revenue generation and the maintenance of market share and business relationships, and the likelihood that principal will be repaid, when choosing an appropriate asset mix.

With regard to the commenters' request to exclude certain low-risk assets, such as cash, central bank deposits, or sovereign securities, from total leverage exposure, the agencies believe that excluding broad categories of assets from the denominator of the supplementary leverage ratio is generally inconsistent with the goal of limiting leverage without differentiating across asset types. Such exclusions could, for example, allow a banking organization to take on additional debt without increasing its supplementary leverage ratio requirements (if the proceeds from such debt are invested in certain types of assets). The agencies therefore believe that all of a banking organization's assets, including those that are viewed as low-risk assets, should be reflected in the supplementary leverage ratio. This makes the supplementary leverage ratio more difficult to arbitrage and results in a simpler calculation. Furthermore, the agencies do not believe that there is sufficient justification to treat certain low-risk assets, such as central bank deposits, differently in the denominator of the supplementary leverage ratio than other low-risk assets, such as cash or U.S. Treasuries. In addition, retaining the treatment as proposed better aligns the supplementary leverage ratio with the Basel III leverage ratio, which promotes international consistency in the calculation of total leverage exposure.

Accordingly, the agencies have decided to not exempt or limit any categories of balance sheet assets from the denominator of the supplementary leverage ratio in the final rule. Thus, all categories of assets, including cash, U.S. Treasuries, and deposits at the Federal Reserve, are included in the denominator of the supplementary leverage ratio.

The agencies note that, under the 2013 revised capital rule, the agencies reserved the authority to consider whether average total consolidated assets or total leverage exposure for a banking organization's supplementary leverage ratio is appropriate given the banking organization's exposures or its circumstances, and the agencies may require adjustments to those amounts. The final rule clarifies that this authority would be applicable by replacing the term "leverage ratio exposure amount" with the defined term "total leverage exposure."

## 2. Cash Variation Margin Associated with Derivative Transactions

The proposed rule would have revised the circumstances under which a banking organization could offset cash collateral received from a counterparty against any positive mark-to-fair value of a derivative contract for purposes of measuring total leverage exposure. Under the 2013 revised capital rule, total leverage exposure includes a banking organization's on-balance sheet assets, including the carrying value, if any, of derivative contracts on the banking organization's balance sheet. For the purpose of determining the carrying value of derivative contracts, U.S. generally accepted accounting principles (GAAP) provide a banking organization the option to reduce any positive mark-to-fair value of a derivative contract by the amount of any cash collateral received from the counterparty, provided the relevant GAAP criteria for offsetting are met (the GAAP offset option).<sup>10</sup> Similarly, under the GAAP offset option, a banking

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<sup>10</sup> See Accounting Standards Codification paragraphs 815-10-45-1 through 7.

organization has the option to offset the negative mark-to-fair value of a derivative contract with a counterparty by the amount of any cash collateral posted to the counterparty.

Under the 2013 revised capital rule, regardless of whether a banking organization uses the GAAP offset option to calculate the on-balance sheet amount of derivative contracts, a banking organization must include any on-balance sheet assets arising from the receipt of cash collateral from the counterparty in its total leverage exposure.

Under the proposed rule, if a banking organization applies the GAAP offset option to determine the carrying value of its derivative contracts, the banking organization would be required to reverse the effect of the GAAP offset option for purposes of determining total leverage exposure, unless the cash collateral recognized to reduce the mark-to-fair value is cash variation margin that satisfies all of the following conditions:

- (1) For derivative contracts that are not cleared through a qualifying central counterparty (QCCP), the cash collateral received by the recipient counterparty is not segregated;
- (2) Variation margin is calculated and transferred on a daily basis based on the mark-to-fair value of the derivative contract;
- (3) The variation margin transferred under the derivative contract or the governing rules for a cleared transaction is the full amount that is necessary to fully extinguish the current credit exposure amount to the counterparty of the derivative contract, subject to the threshold and minimum transfer amounts applicable to the counterparty under the terms of the derivative contract or the governing rules for a cleared transaction;
- (4) The variation margin is in the form of cash in the same currency as the currency of settlement set forth in the derivative contract, provided that, for purposes of this

- paragraph, currency of settlement means any currency for settlement specified in the qualifying master netting agreement,<sup>11</sup> the credit support annex to the qualifying master netting agreement, or in the governing rules for a cleared transaction; and
- (5) The derivative contract and the variation margin are governed by a qualifying master netting agreement between the legal entities that are the counterparties to the derivative contract or by the governing rules for a cleared transaction. The qualifying master netting agreement or the governing rules for a cleared transaction must explicitly stipulate that the counterparties agree to settle any payment obligations on a net basis, taking into account any variation margin received or provided under the contract if a credit event involving either counterparty occurs.

With respect to the potential reduction of gross fair value amounts for cash variation margin, one commenter expressed the view that the calculation of the total exposure measure should follow the treatment of cash collateral under IFRS rather than GAAP. The agencies believe that the netting criteria specified in the proposal, which were developed without regard to whether a banking organization applies GAAP or IFRS, produce an appropriate measure of a banking organization's exposure to derivative transactions. With respect to the first proposed criterion, commenters expressed concern that a banking organization that posts cash variation margin to a counterparty that is not a QCCP may not know whether that counterparty has segregated the cash variation margin that it has received. These commenters recommended that the agencies clarify in the final rule that a banking organization posting cash variation margin may presume that a counterparty has not segregated the cash variation margin received unless required to do so pursuant to applicable legal requirements or under contractual terms. In the

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<sup>11</sup> Qualifying master netting agreement is defined in section 2 of the 2013 revised capital rule.

final rule, the agencies are clarifying that unless segregation is required by law, regulation or any agreement with the counterparty, a banking organization that posts cash variation margin to a counterparty may assume that its counterparty has not segregated the cash variation margin it has received for purposes of meeting this criterion. The agencies also note that “not segregated” in this context means that the cash variation margin received is commingled with the banking organization’s other funds. In other words, the counterparty that receives the cash variation margin should have no unique restrictions on its ability to use the cash received (e.g., the banking organization may use the cash variation margin received similar to other cash held by the banking organization).

With respect to the second criterion, the agencies received a question about the calculation and transfer of cash variation margin on a daily basis. The commenter asked whether the second criterion would be met for certain categories of derivative transactions, such as exchange-traded options and energy derivatives, where variation margin may not be exchanged daily, but is exchanged on a regular basis. In addition, buyers of exchange-traded options do not receive variation margin from the options CCP, who holds the margin collected from option sellers during the course of the contract. For purposes of meeting the second criterion, derivative positions must be valued daily and cash variation margin must be transferred daily to the counterparty or to the counterparty’s account when the threshold and daily minimum transfer amounts are satisfied according to the terms of the derivative contract.

With respect to the third proposed criterion, commenters expressed the view that there may be occasional short-term differences between the amount of the variation margin provided and the mark-to-fair value of derivative contracts. For example, it is a common practice for a morning margin call to be based on the mark-to-fair value of a derivative contract based on the

previous end of business day's valuation. The commenters recommended that the agencies permit such small, temporary differences between the amount of variation margin provided and the current mark-to-fair value, so long as it is clear that the contract governing such transactions requires variation margin for the full amount of the current credit exposure. The agencies agree with the commenters that such temporary differences should not invalidate recognition of the variation margin already received and as such, a morning margin call based on the mark from the end of the previous day should be considered to satisfy this criterion. Therefore, the agencies are clarifying that cash variation margin exchanged on the morning of the subsequent trading day would meet the third criterion for cash variation margin.

As noted in the preamble to the proposed rule, the regular and timely exchange of cash variation margin helps to protect both counterparties from the effects of a counterparty default. The proposed conditions under which cash collateral may be used to offset the amount of a derivative contract were developed to ensure that such cash collateral is, in substance, a form of pre-settlement payment on a derivative contract. This approach is consistent with the design of the supplementary leverage ratio, which generally does not permit banking organizations to use collateral to reduce exposures for purposes of calculating total leverage exposure. The proposed conditions also ensure that the counterparties calculate their exposures arising from derivative contracts on a daily basis and transfer the net amounts owed, as appropriate, in a timely manner. Therefore, with the clarifications noted above, the agencies are finalizing the criteria as proposed for permitting the use of cash variation margin to offset the mark-to-fair value of derivative contracts.

### 3. Credit Derivatives

Under the 2013 revised capital rule, a banking organization would include in total leverage exposure, the potential future exposure (PFE) associated with a credit derivative using the current exposure methodology (CEM) as specified in section 34 of the 2013 revised capital rule. The proposed rule would have required a banking organization to include in total leverage exposure the effective notional principal amount (that is, the apparent or stated notional principal amount multiplied by any multiplier in the derivative contract) of sold credit protection, but permitted the banking organization to reduce the effective notional principal amount of sold credit protection with credit protection purchased under certain conditions. Specifically, a banking organization would be permitted to reduce the effective notional principal amount of sold credit protection on a single exposure by the effective notional principal amount of a credit derivative or similar instrument through which the banking organization has purchased credit protection (purchased credit protection), provided that the purchased credit protection has a remaining maturity that is equal to or greater than the remaining maturity of the sold credit protection, and that the reference exposure of the purchased credit protection refers to the same legal entity and rank pari passu with, or be junior to,<sup>12</sup> the reference exposure of the sold credit protection.

In addition, the NPR would have permitted a banking organization to reduce the effective notional principal amount of sold credit protection that references a single reference exposure using purchased credit protection that references multiple exposures if the purchased credit protection is economically equivalent to buying credit protection separately on each of the individual reference exposures of the sold credit protection. For example, this would be the case

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<sup>12</sup> A credit event on the senior reference exposure must result in a credit event on the junior reference exposure.

if a banking organization were to purchase credit protection on an entire securitization structure or on an entire index that includes the reference exposure of the sold credit protection. However, if a banking organization purchases credit protection that references multiple exposures, but the purchased credit protection is not economically equivalent to buying credit protection separately on each of the individual reference exposures (for example, through an  $n^{\text{th}}$ -to-default credit derivative or a tranche of a securitization), the proposed rule would not have allowed the banking organization to reduce the effective notional principal amount of the sold credit protection that references a single exposure.

Under the NPR, to reduce the effective notional principal amount of sold credit protection that references multiple exposures, such as an index (e.g., the CDX) or a tranche of an index or securitization, the reference exposures of the purchased credit protection would need to refer to the same legal entities and rank pari passu with the reference exposures of the sold credit protection. The purchased credit protection also would need to have a remaining maturity that is equal to or greater than the remaining maturity of the sold credit protection. In addition, the level of seniority of the purchased credit protection would need to rank pari passu to the level of seniority of the sold credit protection. Therefore, offsetting would be recognized only when all of the reference exposures and the level of subordination of protection sold and protection purchased are identical. For example, a banking organization may reduce the effective notional principal amount of the sold credit protection on an index, or a tranche of an index, with purchased credit protection on such index, or a tranche of equal seniority of such index, respectively.

In general, commenters expressed the view that the criteria in the proposed rule under which a banking organization could reduce the effective notional principal amount of sold credit

protection with purchased credit protection were too narrow and would result in an overstatement of the actual economic exposure in some cases. For example, commenters recommended that purchased credit protection that has a residual tenor which is sufficiently long-term be considered eligible to reduce the effective notional amount of sold credit protection if all of the other criteria are met. These commenters expressed the view that such an approach would be appropriate because it would generally disqualify short-term purchased credit protection from reducing the effective notional amount of sold credit protection. In addition, these commenters recommended that purchased credit protection on a junior tranche of a securitization be allowed to offset protection sold on a senior tranche of the same securitization. One comment letter recommended a more restrictive approach, suggesting that offsetting sold credit protection against purchased credit protection should only be allowed if the protection seller has a very high credit rating and is not affiliated with the reference entity.

The agencies believe that the criteria in the proposed rule strike a balance between recognizing the amount of sold credit protection and ensuring that the offsetting purchased credit protection appropriately matches the risks of the underlying reference exposure of the sold credit protection. Further, the proposed criteria for offsetting sold credit protection are generally consistent with the way banking organizations seek to limit their exposure to the underlying reference exposures of sold credit protection by purchasing credit protection on the same or similar exposures of the same or longer maturity. The proposed criteria result in a significant reduction of the effective notional amount of sold credit protection, while capturing the effective notional amount of sold credit protection that a banking organization has not fully hedged. The proposed criteria are also consistent with the Basel III leverage ratio standards. With regard to commenters' suggestions of additional adjustments and modifications to these criteria, changing

the proposed criteria for offsetting sold credit protection would complicate the calculation of total leverage exposure and the impact of any such modifications would likely be immaterial. With regard to the comment that the criteria for reducing the effective notional amount of sold credit protection should be stricter, the agencies believe that restricting the criteria further would unduly penalize banking organizations that have significantly reduced their exposure to the underlying reference exposures through purchasing credit protection. Therefore, the final rule does not modify the proposed criteria to reduce the effective notional amount of sold credit protection.

Commenters also recommended allowing any purchased credit protection which covers the entirety of the subset of exposures covered by the sold credit protection to reduce the effective notional amount of sold credit protection. Specifically, commenters sought clarity regarding a situation in which a banking organization has purchased and sold credit protection on overlapping portions of the same reference index or securitization, but where the purchased credit protection does not cover the entirety of the portion of the index or securitization on which the banking organization has sold protection.

The agencies note that that the final rule does permit a banking organization that has purchased and sold credit protection on overlapping portions of the same reference index, but where the purchased credit protection does not cover the entirety of the portion of the index or securitization on which the banking organization has sold credit protection, to offset the sold credit protection by the overlapping portion of purchased credit protection. For example, if a banking organization has sold credit protection on the 3-7 percent tranche(s) of an index and purchased credit protection on the 5-10 percent tranche(s) of the same index, the banking organization may offset the 5-7 percent portion of the sold credit protection, assuming all of the

other relevant criteria are met. In such situations, offsetting may be recognized because, in accordance with the final rule, all of the reference exposures and the level of subordination of sold credit protection and purchased credit protection are identical for the overlapping portion of purchased and sold credit protection.

Commenters recommended that the agencies clarify that clearing member banking organizations are not required to include the effective notional amount of sold credit protection cleared on behalf of a client through a CCP, and that such a derivative transaction, or other similar instrument, related to the sold credit protection should instead be included in total leverage exposure of the clearing member banking organization in the same manner as other cleared derivatives. The agencies are clarifying that the effective notional principal amounts of sold credit protection that are cleared for clearing member clients through CCPs are not included in a clearing member banking organization's total leverage exposure. In addition, the clearing member banking organization would include such a derivative transaction, or other similar instrument, related to the sold credit protection in its total leverage exposure in the same manner as other cleared derivative transactions (that is, if the clearing member banking organization guarantees the performance of a clearing member client with respect to a cleared transaction, the clearing member banking organization would treat the exposure to the clearing member client as a derivative contract).

In addition, under the proposed rule, for sold credit protection, a banking organization would have accounted for the notional amount of sold credit protection in total leverage exposure through the effective notional principal amount, as well as through CEM (that is, the current credit exposure and the PFE), as described above. In the proposed rule, a banking organization would have been permitted to adjust the PFE for sold credit protection to avoid double-counting

of the notional amounts of these exposures. For example, if the sold credit protection was governed by a qualifying master netting agreement, a banking organization would have been permitted to adjust the PFE for sold credit protection covered by the qualifying master netting agreement. However, a banking organization would have been allowed to adjust only the amount  $A_{\text{gross}}$  of the PFE calculation for sold credit derivatives and would not have been allowed to adjust the net-to-gross ratio (NGR) of the PFE calculation. Finally, a banking organization that elected to adjust the PFE for sold credit derivatives would have been required to do so consistently over time. The agencies did not receive any comments on the PFE adjustment, and are therefore finalizing this aspect of the rule substantively as proposed.

#### 4. Repo-Style Transactions

Under the 2013 revised capital rule, total leverage exposure includes the on-balance sheet carrying value of repo-style transactions, but not the related off-balance sheet exposure for such transactions. The proposed rule set forth a revised treatment of repo-style transactions, including the conditions under which a banking organization would be permitted to measure the exposure of repo-style transactions using the carrying value for the transactions (using the GAAP offset for repo-style transactions, as described below), rather than the gross value of all receivables due from a counterparty. The proposed rule also specified the treatment for a security-for-security repo-style transaction, a repurchase or reverse repurchase transaction or a securities borrowing or lending transaction that is treated as a sale for accounting purposes, and the counterparty credit risk component of repo-style transactions. The proposed rule also clarified the calculation of total leverage exposure for repo-style transactions where a banking organization acts as an agent.

##### a. Criteria for recognizing the GAAP offset for repo-style transactions

For purposes of determining the on-balance sheet carrying value of a repo-style transaction, GAAP permits a banking organization to offset the gross values of receivables due from a counterparty under reverse repurchase agreements by the amount of the payments due to the same counterparty (that is, amounts recognized as payables to the same counterparty under repurchase agreements), provided the relevant accounting criteria are met (GAAP offset for repo-style transactions). The proposed rule specified the criteria for when a banking organization would have been required to reverse the GAAP offset for repo-style transactions for the purposes of calculating total leverage exposure.

If a banking organization entered into repurchase and reverse repurchase transactions with the same counterparty and applied the GAAP offset for repo-style transactions, but the transactions did not meet the criteria described below, the banking organization would have been required to replace the net on-balance sheet assets of the reverse repurchase transactions determined according to GAAP, if any, with the gross value of receivables for those reverse repurchase transactions. Those criteria are:

- (1) The offsetting transactions have the same explicit final settlement date under their governing agreements;
- (2) The banking organization's right to offset the amount owed to the counterparty with the amount owed by the counterparty is legally enforceable in the normal course of business and in the event of receivership, insolvency, liquidation, or similar proceeding; and
- (3) Under the governing agreements, the counterparties intend to settle net, settle simultaneously, or settle according to a process that is the functional equivalent of net settlement. That is, the cash flows of the transactions are equivalent, in effect,

to a single net amount on the settlement date. To achieve this result, both transactions must be settled through the same settlement system and the settlement arrangements must be supported by cash or intraday credit facilities intended to ensure that settlement of both transactions will occur by the end of the business day, and the settlement of the underlying securities does not interfere with the net cash settlement.

With respect to the first proposed criterion, commenters expressed the view that the agencies clarify or revise the final rule to provide that undated repo-style transactions (sometimes referred to as “open” transactions), which can be unwound unconditionally at any time by either counterparty, may be treated as having an effective one-day maturity. Because the proposed rule referred to “explicit” settlement dates, it would not have permitted receivables or payables from “open” transactions to be offset against payables or receivables from overnight transactions (or against other “open” transactions).

The criterion limiting offsetting to those repo-style transactions that have the “same explicit final settlement date” is consistent both with current accounting standards and with the BCBS 2014 revisions to the Basel III leverage ratio. This criterion helps to ensure that the counterparties agree in advance what the settlement date for a repo-style transaction would be, and thus help a banking organization manage its counterparty exposure, including the net amount owed. To promote consistency in the treatment of repo-style transactions, and to ensure banking organizations do not understate their actual exposure to repo-style transactions for the purpose of calculating total leverage exposure, the agencies continue to believe that explicit identical settlement dates established at the origination of repo-style transactions should be a criterion for

offsetting repo-style transactions in the final rule. Therefore, the agencies are finalizing this aspect of the rule as proposed.

With respect to the third criterion, commenters recommended deleting the proposed requirement that “settlement of the underlying securities does not interfere with the net cash settlement.” The commenters expressed the view that the purpose of this requirement is unclear. In the final rule the agencies are clarifying that this criterion requires that the settlement of the underlying securities be subject to a settlement mechanism that results in the functional equivalence of net settlement. In other words, the cash flows of the transactions must be equivalent, in effect, to a single net amount on the settlement date. To achieve such equivalence, all transactions must be settled through the same settlement system, and any settlement system used to settle the transactions must not require all securities to have successfully settled before settling any net cash obligations. The settlement system’s procedures must provide that the failure of any single securities transaction in the settlement system should only delay the matching cash leg (payment) or create an obligation to the settlement system, supported by an associated credit facility. The requirement that settlement of the underlying securities does not interfere with the net cash settlement is not intended to exclude any settlement mechanism, such as a delivery-versus-payment or other mechanism, if it meets these functional requirements. If a settlement system’s procedures allow for all of the above, then the third criterion would be met. If the failure of the securities leg of a transaction in such a system persists at the end of the settlement period, however, then this transaction and its matching cash leg must be split out from the netting set and treated gross for the purposes of total leverage exposure.

In the proposal, the agencies requested comment on the operational implications of the proposed netting criteria for repo-style transactions compared to GAAP, and the magnitude of

the change in total leverage exposure for these transactions compared to GAAP. The agencies also asked about the potential costs of developing the necessary systems to offset amounts recognized as receivables due from a counterparty under reverse repurchase agreements. The agencies did not receive responses to these questions. One comment letter stated that if any additional costs exist, those would not be a valid reason for not requiring the netting criteria as a pre-requisite for the preferential capital treatment for netting.

b. Treatment of security-for-security repo-style transactions

The proposed rule specified how a banking organization would have treated security-for-security repo-style transactions for purposes of calculating total leverage exposure. Under GAAP, in a security-for-security repo-style transaction, the receiver of a security lent (a securities borrower) does not include the security borrowed on its balance sheet provided that the lender has not defaulted under the terms of the transaction. A security that a securities borrower transferred to the lender (a securities lender) as collateral would remain on the securities borrower's balance sheet. Consistent with GAAP, under the proposed rule, a securities borrower would have included a security that is transferred to a securities lender in its total leverage exposure, but the NPR would not have required the securities borrower to adjust its total leverage exposure related to such a transaction, unless and until the security borrower sold the security or the securities lender defaulted. The agencies did not receive any comments on the proposed treatment from the securities borrower's perspective. Therefore, the agencies are adopting the treatment in a security-for-security repo-style transaction for the securities borrower as proposed.

Under GAAP, from a securities lender's perspective, a security received as collateral from a securities borrower is included on the security lender's balance sheet as an asset. In

addition, a securities lender also must continue to include the security that it lent on its balance sheet if the transaction is treated as a secured borrowing. Under the proposal, in a security-for-security repo-style transaction, a securities lender would have been allowed to exclude the security received as collateral from total leverage exposure, unless and until the securities lender sells or re-hypothecates the security. If the securities lender sold or re-hypothecated the security, the securities lender would have been required to include the amount of cash received or, in the case of re-hypothecation, the value of the security pledged as collateral in its total leverage exposure.

Commenters expressed concern that the proposed treatment of security-for security transactions would not achieve consistency across differing accounting frameworks in periods subsequent to a sale or re-hypothecation by a securities lender, and recommended revising the proposed rule to permit banking organizations acting as securities lenders to reduce total leverage exposure by the value of the securities received in a security-for-security repo-style transaction, regardless of whether such banking organization sold or re-hypothecated the securities received.

The agencies have decided not to change the proposal in response to these comments. The proposed approach, which is consistent with international standards, was designed to ensure that a securities lender would not have included both a security lent and a security received in its total leverage exposure, unless the securities lender sold or re-hypothecated the security received. In addition, the agencies believe the proposed treatment appropriately captures the exposure associated with a security that has been re-hypothecated because a banking organization is obligated to return or repurchase the security at a later date. Further, the agencies note that pursuant to the BCBS 2014 revisions, total leverage exposure would include amounts associated

with the sale or re-hypothecation of collateral by a securities lender, thereby eliminating the effect of any differences in accounting frameworks. The agencies are therefore finalizing this aspect of the rule as proposed.

c. Repurchase and securities lending transactions that qualify for sales treatment under U.S. GAAP

The proposed rule specified the treatment for a repurchase or reverse repurchase transaction or a securities borrowing or lending transaction that qualifies for sales treatment under U.S. GAAP (repurchase or securities lending transaction that qualifies for sales treatment under U.S. GAAP). The proposed rule would have required a banking organization to add the value of securities sold under such a repurchase or securities lending transaction that qualifies for sales treatment under U.S. GAAP to total leverage exposure for as long as the transaction is outstanding. The agencies did not receive any comments on this particular aspect of the proposed rule and are finalizing this aspect of the rule as proposed. The agencies are providing clarification of the treatment of a forward agreement associated with a repurchase or securities lending transaction that qualifies for sales treatment under U.S. GAAP. If a repurchase or securities lending transaction qualifies for sales treatment under U.S. GAAP, a banking organization would generally record an associated forward purchase agreement or forward sale agreement, which may be treated as a derivative exposure under GAAP. The replacement cost and PFE associated with this derivative exposure, in combination with the value of the security sold may overstate the actual exposure in total leverage exposure of such a repurchase or securities lending transaction that qualifies for sales treatment under U.S. GAAP. Therefore, the PFE related to a forward agreement associated with a repurchase or securities lending transaction that qualifies for sales treatment under U.S. GAAP may be excluded from total leverage

exposure. Moreover, a forward agreement associated with a repurchase or securities lending transaction that qualifies for sales treatment under U.S. GAAP should not be included in total leverage exposure as an off-balance sheet exposure subject to a CCF.

d. Counterparty credit risk measure

The proposed rule also included a counterparty credit risk measure in total leverage exposure to capture a banking organization's exposure to its counterparty in repo-style transactions. To determine the counterparty exposure for a repo-style transaction, including a transaction in which a banking organization acts as an agent for a customer and indemnifies the customer against loss, the banking organization would subtract the fair value of the instruments, gold, and cash received from a counterparty from the fair value of any instruments, gold, and cash lent to the counterparty. For repo-style transactions that are not subject to a qualifying master netting agreement or that are not cleared, the counterparty exposure measure would be calculated on a transaction-by-transaction basis. However, if a qualifying master netting agreement were in place, or the transactions were cleared, the banking organization would be able to net the total fair value of instruments, gold, and cash lent to a counterparty against the total fair value of instruments, gold, and cash received from the same counterparty across all those transactions. The agencies did not receive any comments on this part of the proposed rule and are adopting it as proposed.

The proposed rule provided that where a banking organization acts as an agent for a repo-style transaction and provides a guarantee (indemnity) to a customer with regard to the performance of the customer's counterparty that is greater than the difference between the fair value of the security or cash lent and the fair value of the security or cash borrowed, the banking

organization would have been required to include the amount of the guarantee that is greater than this difference in its total leverage exposure. The agencies did not receive any comments on this part of the proposed rule and are adopting it as proposed.

e. Repo-style transactions cleared through CCPs

One commenter asked the agencies to clarify the proposed rule with regard to repo-style transactions cleared through CCPs, when a banking organization acting as an agent offers indemnifications to the client. According to the commenter, a banking organization that clears repo-style transactions through a CCP is generally required to post cash collateral to the CCP. The commenter stated that this would likely result in a larger counterparty exposure amount added to total leverage exposure than a similar repo-style transaction executed as a bilateral trade, and would discourage the clearing of repo-style transactions. However, the commenter did not provide any specific proposals to address the disincentives created by the clearing process, and acknowledged that most repo-style transactions are not currently cleared.

The agencies acknowledge that the mechanics of the clearing process currently operate in a manner that results in a larger counterparty exposure than a similar transaction that is not cleared. The treatment is consistent with the approach for repo-style transactions, and the agencies do not believe that there is sufficient justification to provide a different treatment for repo-style transactions cleared through CCPs for purposes of calculating total leverage exposure. Therefore, the agencies are not making any revisions in the final rule to address the clearing of repo-style transactions and are finalizing this aspect of the rule as proposed.

5. Off-Balance Sheet Exposures

Under the 2013 revised capital rule, banking organizations must apply a 100 percent CCF to all off-balance sheet items to calculate total leverage exposure, except for unconditionally cancellable commitments, which are subject to a 10 percent CCF. The NPR would have retained the 10 percent CCF for unconditionally cancellable commitments, but would have replaced the uniform 100 percent CCF for other off-balance sheet items with the CCFs applicable under the standardized approach for risk-weighted assets in section 33 of the 2013 revised capital rule.

Commenters generally supported the adoption of the standardized approach CCFs. However, some commenters expressed concern over the scope of exposures that are treated as off-balance sheet and, therefore, subject to CCFs. Some commenters also requested that the agencies revise the CCFs applicable to certain trade finance exposures to effectively decrease the amount of such exposures included in total leverage exposure, specifically to make the treatment of these exposures consistent with the European Union's treatment under the CRD-IV Directive. Commenters also recommended that the agencies clarify the treatment of certain exposures for purposes of inclusion in total leverage exposure. For example, commenters suggested that the CCF treatment could result in an overstatement of off-balance sheet exposures, specifically with respect to forward-starting reverse repos and securities borrowing transactions that have been entered into at an agreed rate but have not yet been settled. Commenters expressed the view that forward-starting reverse repos should be treated as derivative exposures rather than being assigned a CCF, and that the repo-style transaction counterparty credit risk measure should apply only where a qualifying master netting agreement is in place. Commenters further suggested treating deliverable bond futures and OTC equity forward purchases as derivative exposures rather than off-balance sheet exposures subject to CCFs, because they are trading positions. These commenters opined that total leverage exposure should exclude "forward forward

deposits” that represent the renewal of an existing deposit on its maturity, because including these would double count them. Alternatively, commenters requested that the agencies clarify that “forward asset purchases,” which receive a 100 percent CCF, do not include deliverable bond futures or forward-starting repo transactions.

Under the proposal, off-balance sheet exposures were included in the total leverage exposure in a manner consistent with the standardized approach risk-based capital rules. The treatment of specific instruments depended on the characteristics of those instruments. For example, an exposure that receives a conversion factor under section 33 of the 2013 revised capital rule would receive the same conversion factor for purposes of calculating the total leverage exposure, subject to the minimum 10 percent conversion factor applied to unconditionally cancellable commitments.

Regarding the comment to revise the CCFs applicable to certain trade finance exposures, the agencies have decided not to modify the applicable CCFs for the purposes of calculating total leverage exposure. The proposed approach incorporates off-balance sheet exposures in total leverage exposure in a straightforward manner consistent with existing regulatory approaches and that already have proven effective. Thus, the agencies believe that the standardized CCFs, which also are consistent with international standards, are appropriate for measuring total leverage exposure for off-balance sheet exposures. Accordingly, the agencies have decided to adopt this aspect of the final rule as proposed.

#### 6. Central Clearing of Derivative Transactions

The 2013 revised capital rule provides that a banking organization must include in total leverage exposure the PFE for each derivative contract (or each single-product netting set of such

transactions) to which the banking organization is a counterparty calculated in accordance with section 34 of the 2013 revised capital rule, but without regard to any collateral used to reduce risk-based capital requirements pursuant to section 34(b) of the 2013 revised capital rule.

Although cleared transactions are generally addressed in section 35 of the 2013 revised capital rule, section 35 refers to section 34 for the purpose of determining the PFE of cleared derivative transactions. Thus, for the purpose of measuring total leverage exposure, the PFE for each derivative transaction to which a banking organization is a counterparty, including cleared derivative transactions, should be determined pursuant to section 34. The proposed rule would have revised the description of total leverage exposure to make this point more clear.

When a clearing member banking organization does not guarantee the performance of the CCP, the clearing member banking organization has no payment obligation to the clearing member client in the event of a CCP default. In these circumstances, requiring the clearing member banking organization to include an exposure to the CCP in its total leverage exposure would generally result in an overstatement of total leverage exposure. Therefore, under the proposed rule, and consistent with the Basel III leverage ratio, a clearing member banking organization would not have been required to include in its total leverage exposure an exposure to the CCP for client-cleared transactions if the clearing member banking organization does not guarantee the performance of the CCP to the clearing member client. However, if a clearing member banking organization does guarantee the performance of the CCP to the clearing member client, then the proposed rule would have required a clearing member banking organization to include an exposure to the CCP for the client-cleared transactions in its total leverage exposure.

One commenter requested that the agencies clarify in the final rule the treatment of a cleared derivative transaction where the clearing member and the clearing member client are affiliates. Without clarification, the commenter expressed concern that such a situation could result in a double counting of the transaction in the consolidated banking organization's total leverage exposure.

The agencies are clarifying in the final rule that a banking organization may exclude from its total leverage exposure the clearing member's exposure to its clearing member client for a derivative transaction if the clearing member client and the clearing member are affiliates and consolidated on the banking organization's balance sheet.

Commenters also recommended excluding from a clearing member banking organization's total leverage exposure cash provided by a clearing member client as initial margin and held in a segregated account. The commenters stated that a clearing member banking organization may reflect on its balance sheet both the initial margin passed on to the CCP as well as additional cash initial margin (excess initial margin) requested by the clearing member banking organization but not passed on to the CCP. Commenters further stated that under the customer asset protection rules issued by the CFTC, the clearing member banking organization may not use any segregated cash posted by a clearing member client to support the clearing member banking organization's own operations. In effect, commenters asserted that such segregated cash constitutes an asset of the clearing member client. Commenters also argued that the proposed LCR rules recognize that such segregated cash cannot be treated as an asset available to meet a clearing member banking organization's liquidity needs, even though cash is typically an optimal asset for providing liquidity.

As a general matter the agencies do not believe it is appropriate to exclude segregated or otherwise restricted assets from a banking organization's total leverage exposure and are finalizing this aspect of the rule as proposed.

*C. Daily Averaging*

The 2013 revised capital rule defines the supplementary leverage ratio as the mean of the ratio of tier 1 capital to total leverage exposure calculated as of the last day of each month in the reporting quarter. Under the proposed rule, the numerator of the supplementary leverage ratio, tier 1 capital, would have been calculated as of the last day of each reporting quarter, while total leverage exposure, the denominator of the supplementary leverage ratio, would have been calculated as the mean of the total leverage exposure calculated daily. After calculating quarter-end tier 1 capital, banking organizations would have subtracted from the measure of total leverage exposure the applicable deductions from the quarter-end tier 1 capital for purposes of calculating the quarter-end supplementary leverage ratio.

In the NPR, the agencies asked specific questions about the operational burden of the proposed use of average of daily calculations and the burden associated with several alternatives, such as only requiring daily averaging for on-balance sheet assets. Commenters expressed the view that that the application of daily averaging to off-balance sheet exposures would introduce significant practical complexities with no offsetting compliance benefit. Several commenters supported an alternative approach in which a banking organization would calculate its total leverage exposure for a quarterly reporting period based on the daily average of on-balance sheet assets and the quarter-end balance or an average of month-end off-balance sheet exposures. Commenters expressed the view that such an alternative approach strikes an appropriate balance between the accuracy of reported minimum ratios and operational complexity. Commenters

maintained that off-balance sheet exposure volatility is far less significant than on-balance sheet exposure volatility. In addition, commenters expressed the view that the industry has no operational processes that would permit the daily calculation of certain components of off-balance sheet exposures and that significant systems changes would be required to calculate off-balance sheet exposures on a daily basis. Commenters also recommended that if the final rule were to require the daily averaging of off-balance sheet exposures, this requirement should be implemented on a phased-in basis to allow more time for banking organizations to comply with the requirement.

While calculating total leverage exposure as the mean of the total leverage exposure for each day of the reporting quarter provides the more accurate depiction of total leverage exposure, the agencies recognize the operational burden associated with such calculation for off-balance sheet exposures. For this reason, the agencies are modifying the calculation of total leverage exposure so that the total leverage exposure is calculated as the mean of the on-balance sheet assets calculated as of each day of the reporting quarter, plus the mean of the off-balance sheet exposures calculated as of the last day of each of the most recent three months, minus the applicable deductions under the 2013 revised capital rules. In addition, the agencies have removed the proposed reference to the calculation of tier 1 capital as of the end of the quarter to avoid the implication that the supplementary leverage ratio is calculated only at the end of the quarter.

For purposes of public disclosures and reporting the supplementary leverage ratio on the applicable regulatory reports, a banking organization would calculate the off-balance exposure component of total leverage exposure as the mean of its off-balance sheet exposures as of the last day of each month in the applicable reporting quarter. For example, when a banking

organization prepares a regulatory report for the quarter ending December 31, it would calculate the mean of its off-balance sheet exposures as of October 31, November 30, and December 31. The agencies will continue to monitor this issue and may revisit it at a future date if it is determined that monthly calculation of off-balance sheet exposure raises supervisory concerns. In addition, the agencies are evaluating the calculation methodology for the leverage ratio applicable to all banking organizations and may seek comment on a proposal applicable to advanced approaches banking organizations to align the methodology for calculating on-balance sheet assets for purposes of that leverage ratio and the supplementary leverage ratio in the future.

#### *D. Supervisory Flexibility*

Some commenters recommended that the agencies preserve supervisory flexibility during periods of financial market stress, particularly to address a large, temporary increase in a banking organizations' cash that could lead to a sharp decrease in the banking organization's supplementary leverage ratio. Commenters suggested that the agencies emphasize that falling below the minimum supplementary leverage ratio would not necessarily result in supervisory action, but, at a minimum, would result in heightened supervisory monitoring. Commenters expressed the view that the agencies adopt a formal process to address compliance with the supplementary leverage ratio minimums on a case-by-case basis during periods of financial stress.

As previously noted, under the 2013 revised capital rule, the agencies reserved the authority to consider whether the average total consolidated assets or total leverage exposure for a banking organization's supplementary leverage ratio is appropriate given the banking organization's exposures or circumstances, and the agencies may require adjustments to such exposures. The final rule clarifies that this authority applies to the supplementary leverage ratio

calculation by replacing the term “leverage exposure amount” with the defined term “total leverage exposure.”

*E. Replacement of the Current Exposure Method (CEM)*

The NPR proposed to use the current exposure method (CEM) to measure the total leverage exposure associated with derivative contracts. However, some commenters recommended that the agencies consider the replacement of the CEM with the standardized approach for measuring counterparty credit risk exposures (SA-CCR), recently agreed to by the BCBS though not yet incorporated into its leverage ratio framework.<sup>13</sup> The commenters requested that the agencies address, in the preamble to the final rule, their intention to consider the replacement of the CEM with the SA-CCR, consistent with any final agreement of the BCBS with regard to the SA-CCR and the Basel III leverage ratio, which is currently under consideration. In general, the commenters supported adoption of SA-CCR. The agencies are participating in the BCBS’s development of the international leverage ratio standards, and will consider the extent to which any changes should be made to the calculation of total leverage exposure for derivative contracts in the United States once the BCBS has reached an agreement on whether and how to incorporate the SA-CCR into its leverage ratio.

### **III. Disclosures**

The agencies have long supported meaningful public disclosure by banking organizations of their regulatory capital with the goals of disclosing information in a comparable and consistent manner, and improving market discipline. Consistent with the BCBS 2014 revisions, the

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<sup>13</sup> See BCBS, “The standardised approach for measuring counterparty credit risk exposures” (March 2014), available at <http://www.bis.org/publ/bcbs279.htm>.

agencies are applying additional disclosure requirements related to the calculation of the supplementary leverage ratio to top-tier advanced approaches banking organizations. The agencies believe that the additional disclosures will enhance the transparency and promote consistency among the disclosures related to the supplementary leverage ratio for all internationally active banking organizations.

Specifically, under the final rule, banking organizations will complete two parts of a supplementary leverage ratio disclosure table. Part 1 is designed to summarize the differences between the total consolidated accounting assets reported on a banking organization’s published financial statements and regulatory reports and the calculation of total leverage exposure. Part 2 is designed to collect information on the components of total leverage exposure in more detail, similar to the version of FFIEC 101, Schedule A. The agencies plan to reconsider the regulatory reporting requirements related to the supplementary leverage ratio on FFIEC 101, Schedule A, in the future, to reflect these disclosures and the revisions to the calculation of the total leverage exposure.

Table 13 to section 173 of the 2013 revised capital rule —Supplementary Leverage Ratio

		Dollar Amounts in Thousands			
		Tril	Bil	Mil	Thou
<b>Part 1: Summary comparison of accounting assets and total leverage exposure</b>					
1	Total consolidated assets as reported in published financial statements				
2	Adjustment for investments in banking, financial, insurance or commercial entities that are consolidated for accounting purposes but outside the scope of regulatory consolidation				
3	Adjustment for fiduciary assets recognized on balance sheet but excluded from total leverage exposure				
4	Adjustment for derivative exposures				
5	Adjustment for repo-style transactions				
6	Adjustment for off-balance sheet exposures (that is, conversion to credit equivalent amounts of off-balance sheet exposures)				
7	Other adjustments				
8	Total leverage exposure				

<b>Part 2: Supplementary leverage ratio</b>					
	<b>On-balance sheet exposures</b>				
1	On-balance sheet assets (excluding on-balance sheet assets for repo-style transactions and derivative exposures, but including cash collateral received in derivative transactions)				
2	LESS: Amounts deducted from tier 1 capital				
3	Total on-balance sheet exposures (excluding on-balance sheet assets for repo-style transactions and derivative exposures, but including cash collateral received in derivative transactions) (sum of lines 1 and 2)				
	<b>Derivative exposures</b>				
4	Replacement cost for derivative exposures (that is, net of cash variation margin)				
5	Add-on amounts for potential future exposure (PFE) for derivative exposures				
6	Gross-up for cash collateral posted if deducted from the on-balance sheet assets, except for cash variation margin				
7	LESS: Deductions of receivable assets for cash variation margin posted in derivative transactions, if included in on-balance sheet assets				
8	LESS: Exempted CCP leg of client-cleared transactions				
9	Effective notional principal amount of sold credit protection				
10	LESS: Effective notional principal amount offsets and PFE adjustments for sold credit protection				
11	Total derivative exposures (sum of lines 4 to 10)				
	<b>Repo-style transactions</b>				
12	On-balance sheet assets for repo-style transactions, except include the gross value of receivables for reverse repurchase transactions. Exclude from this item the value of securities received in a security-for-security repo-style transaction where the securities lender has not sold or re-hypothecated the securities received. Include in this item the value of securities that qualified for sales treatment that must be reversed.				
13	LESS: Reduction of the gross value of receivables in reverse repurchase transactions by cash payables in repurchase transactions under netting agreements				
14	Counterparty credit risk for all repo-style transactions				
15	Exposure for repo-style transactions where a banking organization acts as an agent				
16	Total exposures for repo-style transactions (sum of lines 12 to 15)				
	<b>Other off-balance sheet exposures</b>				
17	Off-balance sheet exposures at gross notional amounts				
18	LESS: Adjustments for conversion to credit equivalent amounts				
19	Off-balance sheet exposures (sum of lines 17 and 18)				
	<b>Capital and total leverage exposure</b>				
20	Tier 1 capital				
21	Total leverage exposure (sum of lines 3, 11, 16 and 19)				
	<b>Supplementary leverage ratio</b>				
22	Supplementary leverage ratio				(in percent)

Consistent with the BCBS 2014 revisions, if a banking organization has material differences between its total consolidated assets as reported in published financial statements and

regulatory reports and its reported on-balance sheet assets for purposes of calculating the supplementary leverage ratio, the banking organization must disclose and explain the source of the material differences. In addition, if a banking organization's supplementary leverage ratio changes significantly from one reporting period to another, the banking organization must explain the key drivers of the material changes. Banking organizations must disclose this information quarterly, using the template set forth in Table 13, and make the disclosures publicly available.

In the NPR, the agencies proposed to apply additional disclosure requirements for the calculation of the supplementary leverage ratio to top-tier advanced approaches banking organizations. One comment letter recommended that the final rule clarify that Part 1, line 2 of the disclosure table include associated entities reflected on a banking organization's balance sheet on the basis of proportionate consolidation. The commenter noted that it sent the same suggestion to the BCBS to revise the Basel III leverage ratio disclosure requirements. The agencies proposed disclosure requirements for purposes of reporting of the supplementary leverage ratio consistent with the disclosure requirements in the Basel III leverage ratio. The agencies decided not to revise the disclosure table in response to this comment because proportionate consolidation generally does not apply to the U.S. banking organizations subject to the SLR. If the BCBS reconsiders the Basel III leverage ratio disclosure requirements in light of this comment, then the agencies will consider a revision of the disclosure requirements in the U.S.

Another comment letter stated that the required disclosures do not appear to provide a meaningful breakout of off-balance sheet exposures beyond derivative and repo-style transactions. The comment letter recommended that the agencies consider a more detailed

breakout of off-balance sheet exposures for Part 2, lines 17 and 18. The agencies believe that the table is sufficiently granular, particularly when viewed in combination with the other regulatory disclosure requirements, including the Call Report and FR Y-9C. Therefore, under the final rule, the agencies are not making any changes to the required disclosures.

#### **IV. Regulatory Analyses**

##### *A. Paperwork Reduction Act (PRA)*

Certain provisions of the final rule contain “collection of information” requirements within the meaning of the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501-3521). In accordance with the requirements of the 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 Office of Management and Budget (OMB) control number. The OCC and FDIC will be seeking new OMB Control Numbers. The OMB control number for the Board is 7100-0313 and will be extended, with revision. The information collection requirements contained in this final rule were submitted to OMB for review and approval by the OCC and FDIC under section 3507(d) of the PRA and section 1320.11 of OMB’s implementing regulations (5 CFR part 1320). The Board reviewed the final rule under the authority delegated to the Board by OMB. The final rule contains requirements subject to the PRA. The disclosure requirements are found in section \_\_.173. The disclosure requirements in section \_\_.172 are accounted for in section \_\_.173. This information collection requirement would be consistent with the BCBS 2014 revisions to the Basel III leverage ratio, as mentioned in the Abstract below. The respondents are for-profit financial institutions, not including small businesses (see the agencies’ Regulatory Flexibility Analysis).

The agencies received two comments on the disclosure requirements. One comment letter recommended that the final rule clarify that Part 1, line 2 of the disclosure table include associated entities reflected on a banking organization's balance sheet on the basis of proportionate consolidation. The commenter noted that it sent the same suggestion to the BCBS to revise the Basel III leverage ratio disclosure requirements. The agencies decided not to revise the disclosure table in response to this comment because proportionate consolidation generally does not apply to the U.S. banking organizations subject to the supplementary leverage ratio.

Another comment letter expressed the view that the required disclosures do not appear to provide a meaningful breakout of off-balance sheet exposures beyond derivative and repo-style transactions. The comment letter recommended that the agencies consider a more detailed breakout of off-balance sheet exposures for Part 2, lines 17 and 18. The agencies believe that the table is sufficiently granular, particularly when viewed in combination with the other regulatory disclosure requirements, including the Call Report and FR Y-9C. Therefore, under the final rule, the agencies are finalizing the disclosures requirements as proposed.

The agencies also received three supportive comments regarding the disclosure requirements. These commenters supported the agencies' efforts to increase transparency and consistency in identifying and collecting off-balance sheet activity, aiding both market equity and regulatory oversight.

The agencies have a continuing interest in the public's opinions of our collections of information. At any time, comments are invited on:

(a) Whether the collections of information are necessary for the proper performance of the Agencies' functions, including whether the information has practical utility;

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

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

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

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

All comments will become a matter of public record. Comments on aspects of this final rule that may affect reporting, recordkeeping, or disclosure requirements and burden estimates should be sent to the addresses listed in the ADDRESSES section. A copy of the comments may also be submitted to the OMB desk officer for the agencies: By mail to U.S. Office of Management and Budget, 725 17<sup>th</sup> Street NW, #10235, Washington, DC 20503; by facsimile to 202-395-6974; or by email to: [oir\\_submission@omb.eop.gov](mailto:oir_submission@omb.eop.gov), Attention, Federal Banking Agency Desk Officer.

*Proposed Information collection*

*Title of Information Collection:* Disclosure Requirements Associated with Supplementary Leverage Ratio.

*Frequency of Response:* Quarterly.

*Affected Public:* Businesses or other for-profit.

*Respondents:*

*OCC:* National banks and federal savings associations that are subject to the OCC's advanced approaches risk-based capital rules.

*FDIC:* Insured state nonmember banks and state savings associations that are subject to the FDIC's advanced approaches risk-based capital rules.

*Board:* State member banks, bank holding companies, and savings and loan holding companies that are subject to the Board's advanced approaches risk-based capital rules.

*Abstract:* All banking organizations that are subject to the agencies' advanced approaches risk-based capital rules (advanced approaches banking organizations), as defined in the 2013 revised capital rule, are required to disclose their supplementary leverage ratios beginning January 1, 2015. Advanced approaches banking organizations must report their supplementary leverage ratios on the applicable regulatory reports. Under the final rule, advanced approaches banking organizations would disclose two parts of a supplementary leverage ratio table beginning January 1, 2015. The disclosure requirements are consistent with the calculation of the supplementary leverage ratio in the final rule and with the BCBS 2014 revisions to the Basel III leverage ratio. The agencies believe that the disclosures would enhance the transparency and consistency of reporting requirements for the supplementary leverage ratio by all internationally active organizations.

#### *Disclosure Requirements*

Section \_\_.173 states that advanced approaches banking organizations that have successfully completed parallel run must make the disclosures described in Tables 1 through 12. Under the final rule, advanced approaches banking organizations would be required to make the disclosures described in Table 13 beginning January 1, 2015, regardless of the parallel run status. The agencies do not anticipate an additional initial setup burden for complying with the

disclosure requirements because advanced approaches banking organizations are already subject to reporting the supplementary leverage ratio on the applicable regulatory reports.

*Estimated Burden per Response:*

Disclosure Burden

Section \_\_.173 – 5 hours.

OCC

*Number of respondents:* 14.

*Total estimated annual burden:* 280 hours.

FDIC

*Number of respondents:* 8.

*Total estimated annual burden:* 160 hours.

Board

*Number of respondents:* 20.

*Current estimated annual burden:* 413,986 hours.

*Proposed revisions only estimated annual burden:* 400 hours.

*Total estimated annual burden:* 414,386 hours.

*B. Regulatory Flexibility Act Analysis*

OCC: The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (RFA), requires an agency, in connection with a final rule, to prepare an final regulatory flexibility analysis describing the impact of the rule on small entities (defined by the Small Business Administration for purposes of the RFA to include banking entities with total assets of \$550 million or less) or to certify that the rule will not have a significant economic impact on a substantial number of small entities.

Using the SBA’s size standards, as of December 31, 2013, the OCC supervised 1,231 small entities.<sup>14</sup>

As described in the **Supplementary Information** section of the preamble, the final rule would apply only to advanced approaches banking organizations. Advanced approaches banking organization is defined to include a national bank or Federal savings associations that has, or is a subsidiary of a bank holding company or savings and loan holding company that has, total consolidated assets of \$250 billion or more, total consolidated on-balance sheet foreign exposure of \$10 billion or more, or that has elected to use the advanced approaches framework. After considering the SBA’s size standards and General Principles of Affiliation to identify small entities, the OCC determined that no small national banks or Federal savings associations are advanced approaches banking organizations. Because the final rule applies only to advanced approaches banking organizations, it does not impact any OCC-supervised small entities. Therefore, the OCC certifies that the final rule will not have a significant economic impact on a substantial number of OCC-supervised small entities.

*Board:* The RFA requires an agency to provide a final regulatory flexibility analysis with a final rule or to certify that the rule will not have a significant economic impact on a substantial number of small entities. Under regulations issued by the SBA, a small entity includes a depository institution, bank holding company, or savings and loan holding company with total

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<sup>14</sup> The OCC calculated the number of small entities using the SBA’s size thresholds for commercial banks and savings institutions, and trust companies, which are \$550 million and \$38.5 million, respectively. Consistent with the General Principles of Affiliation, 13 CFR §121.103(a), the OCC counted the assets of affiliated financial institutions when determining whether to classify a national bank or Federal savings association as a small entity. The OCC used December 31, 2013, to determine size because a “financial institution’s assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year.” See footnote 8 of the U.S. Small Business Administration’s *Table of Size Standards*.

assets of \$550 million or less (a small banking organization).<sup>15</sup> As of June 30, 2014, there were approximately 657 small state member banks, 3,716 small bank holding companies, and 254 small savings and loan holding companies.

The Board is providing a final regulatory flexibility analysis with respect to this final rule. As discussed above, this final rule would amend the calculation of total leverage exposure in sections 2 and 10 of the 2013 revised capital rule, and amend sections 172 and 173 of the rule by adding additional disclosure requirements. These amendments would implement changes in line with the BCBS 2014 revisions. The Board received no comments from the public in response to the initial regulatory flexibility analysis or from the Chief Counsel for Advocacy of the Small Business Administration. Thus, no issues were raised in public comments related to the Board's initial regulatory flexibility act analysis and no changes are being made in response to such comments.

The final rule would apply only to advanced approaches banking organizations, which, generally, are banking organizations with total consolidated assets of \$250 billion or more, that have total consolidated on-balance sheet foreign exposure of \$10 billion or more, are a subsidiary of a depository institution that uses the advanced risk-based capital approaches framework, or that elect to use the advanced risk-based capital approaches framework. Currently, no small top-tier bank holding company, top-tier savings and loan holding company, or state member bank is an advanced approaches banking organization, so there would be no additional projected compliance requirements imposed on small bank holding companies, savings and loan holding companies, or state member banks. The Board expects that any small

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<sup>15</sup> See 13 CFR 121.201. Effective July 14, 2014, the SBA revised the size standards for banking organizations to \$550 million in assets from \$500 million in assets. 79 FR 33647 (June 12, 2014).

bank holding companies, savings and loan holding companies, or state member banks that would be covered by this final rule would rely on its parent banking organization for compliance and would not bear additional costs.

The Board is aware of no other Federal rules that duplicate, overlap, or conflict with the final rule. The Board believes that the final rule will not have a significant economic impact on small banking organizations supervised by the Board and therefore believes that there are no significant alternatives to the final rule that would reduce the economic impact on small banking organizations supervised by the Board.

#### *FDIC*

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (RFA) requires an agency to provide, in connection with a notice of final rulemaking, to prepare a Final Regulatory Flexibility Act analysis describing the impact of the rule on small entities (defined by the Small Business Administration for the purposes of the RFA to include banking entities with total assets of \$550 million or less) or to certify that the rule will not have a significant economic impact on a substantial number of small entities.<sup>16</sup>

As described above in this preamble, the final rule amends the definition of total leverage exposure in section 2 of the 2013 revised capital rule, the methodology for determining total leverage exposure under section 10 of the 2013 revised capital rule, and adds an additional disclosure requirement in sections 172 and 173 of the 2013 revised capital rule. All of these changes apply only to advanced approaches banking organizations. Generally, the advanced approaches framework applies to banking organizations that have consolidated total assets equal to \$250 billion or more; have consolidated total on-balance sheet foreign exposure equal to \$10

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<sup>16</sup> Effective July 14, 2014, the SBA revised the size standards for banking organizations to \$550 million in assets from \$500 million in assets. 79 FR 33647 (Jun 12, 2014).

billion or more; are a subsidiary of a depository institution that uses the advanced approaches framework; or elects to use the advanced approaches framework.

As of June 30, 2014, based on a \$550 million threshold, 2 (out of 3,267) small state nonmember banks and no (out of 306) small state savings associations were under the advanced approaches framework. Therefore, the FDIC does not believe that the final rule will result in a significant economic impact on a substantial number of small entities under its supervisory jurisdiction.

The FDIC certifies that the final rule would not have a significant economic impact on a substantial number of small FDIC-supervised institutions.

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

The OCC has analyzed the final rule under the factors set forth in the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1532). Under this analysis, the OCC considered whether the final rule 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 (adjusted annually for inflation).

The final rule revises the calculation of the denominator of the SLR (total leverage exposure) in a manner that is generally consistent with revisions to the international leverage ratio framework published by the BCBS in January 2014. The final rule revises total leverage exposure, as defined in the 2013 revised capital rule, to include the effective notional principal amount of credit derivatives and other similar instruments through which a banking organization provides credit protection (sold credit protection); modifies the calculation of total leverage exposure for derivative and repo-style transactions; and revises the CCFs applied to certain off-balance sheet exposures. The final rule also changes the frequency with which certain

components of the supplementary leverage ratio are calculated and requires the public disclosure of certain items associated with the supplementary leverage ratio.

To estimate the impact of the final rule on capital, OCC staff assumed that all of the affected national banks and Federal savings associations will seek to meet their minimum standard of three percent, or effective minimum of six percent, as appropriate. OCC staff estimated the amount of tier 1 capital that national banks and Federal savings associations will need to comply with the final rule relative to the amount already required to meet existing requirements. To estimate the impact of the final rule on total leverage exposure, OCC staff used a combination of data from regulatory reports and data collected from BHCs as part of a BCBS sponsored quantitative impact study (QIS).

After comparing existing capital requirements with the revised requirements, and considering the cost of systems changes necessary to comply with its final rule, the OCC has determined that its final rule will not result in expenditures by State, local, and Tribal governments, or by the private sector, of \$100 million or more. Accordingly, the OCC has not prepared a written statement to accompany its final rule.

#### *D. Plain Language*

Section 722 of the Gramm-Leach-Bliley Act 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. The agencies did not receive any comment on their use of plain language.

## **List of Subjects**

*12 CFR Part 3*

Administrative practice and procedure, Capital, National banks, Reporting and recordkeeping requirements, Risk.

*12 CFR Part 217*

Administrative practice and procedure, Banks, Banking, Capital, Federal Reserve System, Holding companies, Reporting and recordkeeping requirements, Securities.

*12 CFR Part 324*

Administrative practice and procedure, Banks, banking, Capital Adequacy, Reporting and recordkeeping requirements, Savings associations, State non-member banks.

Office of the Comptroller of the Currency

12 CFR CHAPTER I

Authority and Issuance

For the reasons set forth in the preamble and under the authority of 12 U.S.C. 93a, 1462, 1462a, 1463, 3907, 3909, 1831o, and 5312(b)(2)(B), the Office of the Comptroller of the Currency amends part 3 of chapter I of title 12 of the Code of Federal Regulations amended as follows:

**PART 3—CAPITAL ADEQUACY STANDARDS**

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

**Authority:** 12 U.S.C. 93a, 161, 1462, 1462a, 1463, 1464, 1818, 1828(n), 1828 note, 1831n notes, 1835, 3907, 3909, and 5412(b)(2)(B).

- 2. In § 3.1(d)(4), replace “leverage exposure amount” with “total leverage exposure.”

\* \* \* \* \*

- 3. In § 3.2, revise the definition of “total leverage exposure” to read as follows:

**§ 3.2 Definitions.**

\* \* \* \* \*

Total leverage exposure is defined in § 3.10(c)(4)(ii).

\* \* \* \* \*

- 4. Revise § 3.10(c)(4) to read as follows:

**§ 3.10 Minimum capital requirements.**

\* \* \* \* \*

(c) \* \* \*

(4) Supplementary leverage ratio. (i) An advanced approaches national bank’s or Federal savings association’s supplementary leverage ratio is the ratio of its tier 1 capital to total leverage exposure, the latter which is calculated as the sum of: (A) the mean of the on-balance sheet assets calculated as of each day of the reporting quarter, and (B) the mean of the off-balance sheet exposures calculated as of the last day of each of the most recent three months, minus the applicable deductions under §3.22(a), (c), and (d).

(ii) For purposes of this part, total leverage exposure means the sum of the items described in paragraphs (c)(4)(ii)(A) through (H) of this section, as adjusted pursuant to paragraph (c)(4)(ii)(I) for a clearing member national bank or Federal savings association:

(A) The balance sheet carrying value of all of the national bank's or Federal savings association's on-balance sheet assets, plus the value of securities sold under a repurchase transaction or a securities lending transaction that qualifies for sales treatment under U.S. GAAP, less amounts deducted from tier 1 capital under § 3.22(a), (c), and (d), and less the value of securities received in security-for-security repo-style transactions, where the national bank or Federal savings association acts as a securities lender and includes the securities received in its on-balance sheet assets but has not sold or re-hypothecated the securities received;

(B) The PFE for each derivative contract or each single-product netting set of derivative contracts (including a cleared transaction except as provided in paragraph (c)(4)(ii)(I) of this section and, at the discretion of the national bank or Federal savings association, excluding a forward agreement treated as a derivative contract that is part of a repurchase or reverse repurchase or a securities borrowing or lending transaction that qualifies for sales treatment under U.S. GAAP), to which the national bank or Federal savings association is a counterparty as determined under § 3.34, but without regard to § 3.34(b), provided that:

(1) A national bank or Federal savings association may choose to exclude the PFE of all credit derivatives or other similar instruments through which it provides credit protection when calculating the PFE under § 3.34, but without regard to § 3.34(b), provided that it does not adjust the net-to-gross ratio (NGR); and

(2) A national bank or Federal savings association that chooses to exclude the PFE of credit derivatives or other similar instruments through which it provides credit protection pursuant to paragraph (c)(4)(ii)(B)(1) of this section must do so consistently over time for the calculation of the PFE for all such instruments;

(C) The amount of cash collateral that is received from a counterparty to a derivative contract and that has offset the mark-to-fair value of the derivative asset, or cash collateral that is posted to a counterparty to a derivative contract and that has reduced the national bank's or Federal savings association's on-balance sheet assets, unless such cash collateral is all or part of variation margin that satisfies the following requirements:

(1) For derivative contracts that are not cleared through a QCCP, the cash collateral received by the recipient counterparty is not segregated (by law, regulation or an agreement with the counterparty);

(2) Variation margin is calculated and transferred on a daily basis based on the mark-to-fair value of the derivative contract;

(3) The variation margin transferred under the derivative contract or the governing rules for a cleared transaction is the full amount that is necessary to fully extinguish the net current credit exposure to the counterparty of the derivative contracts, subject to the threshold and minimum transfer amounts applicable to the counterparty under the terms of the derivative contract or the governing rules for a cleared transaction;

(4) The variation margin is in the form of cash in the same currency as the currency of settlement set forth in the derivative contract, provided that for the purposes of this paragraph, currency of settlement means any currency for settlement specified in the governing qualifying

master netting agreement and the credit support annex to the qualifying master netting agreement, or in the governing rules for a cleared transaction;

(5) The derivative contract and the variation margin are governed by a qualifying master netting agreement between the legal entities that are the counterparties to the derivative contract or by the governing rules for a cleared transaction, and the qualifying master netting agreement or the governing rules for a cleared transaction must explicitly stipulate that the counterparties agree to settle any payment obligations on a net basis, taking into account any variation margin received or provided under the contract if a credit event involving either counterparty occurs;

(6) The variation margin is used to reduce the current credit exposure of the derivative contract, calculated as described in § 3.34(a), and not the PFE; and

(7) For the purpose of the calculation of the NGR described in § 3.34(a)(2)(ii)(B), variation margin described in paragraph (c)(4)(ii)(C)(6) of this section may not reduce the net current credit exposure or the gross current credit exposure;

(D) The effective notional principal amount (that is, the apparent or stated notional principal amount multiplied by any multiplier in the derivative contract) of a credit derivative, or other similar instrument, through which the national bank or Federal savings association provides credit protection, provided that:

(1) The national bank or Federal savings association may reduce the effective notional principal amount of the credit derivative by the amount of any reduction in the mark-to-fair value of the credit derivative if the reduction is recognized in common equity tier 1 capital;

(2) The national bank or Federal savings association may reduce the effective notional principal amount of the credit derivative by the effective notional principal amount of a

purchased credit derivative or other similar instrument, provided that the remaining maturity of the purchased credit derivative is equal to or greater than the remaining maturity of the credit derivative through which the national bank or Federal savings association provides credit protection and that:

(i) With respect to a credit derivative that references a single exposure, the reference exposure of the purchased credit derivative is to the same legal entity and ranks pari passu with, or is junior to, the reference exposure of the credit derivative through which the national bank or Federal savings association provides credit protection; or

(ii) With respect to a credit derivative that references multiple exposures, the reference exposures of the purchased credit derivative are to the same legal entities and rank pari passu with the reference exposures of the credit derivative through which the national bank or Federal savings association provides credit protection, and the level of seniority of the purchased credit derivative ranks pari passu to the level of seniority of the credit derivative through which the national bank or Federal savings association provides credit protection;

(iii) Where a national bank or Federal savings association has reduced the effective notional amount of a credit derivative through which the national bank or Federal savings association provides credit protection in accordance with paragraph (c)(4)(ii)(D)(1) of this section, the national bank or Federal savings association must also reduce the effective notional principal amount of a purchased credit derivative used to offset the credit derivative through which the national bank or Federal savings association provides credit protection, by the amount of any increase in the mark-to-fair value of the purchased credit derivative that is recognized in common equity tier 1 capital; and

(iv) Where the national bank or Federal savings association purchases credit protection through a total return swap and records the net payments received on a credit derivative through which the national bank or Federal savings association provides credit protection in net income, but does not record offsetting deterioration in the mark-to-fair value of the credit derivative through which the national bank or Federal savings association provides credit protection in net income (either through reductions in fair value or by additions to reserves), the national bank or Federal savings association may not use the purchased credit protection to offset the effective notional principal amount of the related credit derivative through which the national bank or Federal savings association provides credit protection;

(E) Where a national bank or Federal savings association acting as a principal has more than one repo-style transaction with the same counterparty and has offset the gross value of receivables due from a counterparty under reverse repurchase transactions by the gross value of payables under repurchase transactions due to the same counterparty, the gross value of receivables associated with the repo-style transactions less any on-balance sheet receivables amount associated with these repo-style transactions included under paragraph (c)(4)(ii)(A) of this section, unless the following criteria are met:

(1) The offsetting transactions have the same explicit final settlement date under their governing agreements;

(2) The right to offset the amount owed to the counterparty with the amount owed by the counterparty is legally enforceable in the normal course of business and in the event of receivership, insolvency, liquidation, or similar proceeding; and

(3) Under the governing agreements, the counterparties intend to settle net, settle simultaneously, or settle according to a process that is the functional equivalent of net settlement,

(that is, the cash flows of the transactions are equivalent, in effect, to a single net amount on the settlement date), where both transactions are settled through the same settlement system, the settlement arrangements are supported by cash or intraday credit facilities intended to ensure that settlement of both transactions will occur by the end of the business day, and the settlement of the underlying securities does not interfere with the net cash settlement;

(F) The counterparty credit risk of a repo-style transaction, including where the national bank or Federal savings association acts as an agent for a repo-style transaction and indemnifies the customer with respect to the performance of the customer's counterparty in an amount limited to the difference between the fair value of the security or cash its customer has lent and the fair value of the collateral the borrower has provided, calculated as follows:

(1) If the transaction is not subject to a qualifying master netting agreement, the counterparty credit risk ( $E^*$ ) for transactions with a counterparty must be calculated on a transaction by transaction basis, such that each transaction  $i$  is treated as its own netting set, in accordance with the following formula, where  $E_i$  is the fair value of the instruments, gold, or cash that the national bank or Federal savings association has lent, sold subject to repurchase, or provided as collateral to the counterparty, and  $C_i$  is the fair value of the instruments, gold, or cash that the national bank or Federal savings association has borrowed, purchased subject to resale, or received as collateral from the counterparty:

$$E_i^* = \max \{0, [E_i - C_i]\}; \text{ and}$$

(2) If the transaction is subject to a qualifying master netting agreement, the counterparty credit risk ( $E^*$ ) must be calculated as the greater of zero and the total fair value of the instruments, gold, or cash that the national bank or Federal savings association has lent, sold subject to repurchase or provided as collateral to a counterparty for all transactions included in

the qualifying master netting agreement ( $\sum E_i$ ), less the total fair value of the instruments, gold, or cash that the national bank or Federal savings association borrowed, purchased subject to resale or received as collateral from the counterparty for those transactions ( $\sum C_i$ ), in accordance with the following formula:

$$E^* = \max \{0, [\sum E_i - \sum C_i]\}$$

(G) If a national bank or Federal savings association acting as an agent for a repo-style transaction provides a guarantee to a customer of the security or cash its customer has lent or borrowed with respect to the performance of the customer's counterparty and the guarantee is not limited to the difference between the fair value of the security or cash its customer has lent and the fair value of the collateral the borrower has provided, the amount of the guarantee that is greater than the difference between the fair value of the security or cash its customer has lent and the value of the collateral the borrower has provided;

(H) The credit equivalent amount of all off-balance sheet exposures of the national bank or Federal savings association, excluding repo-style transactions, repurchase or reverse repurchase or securities borrowing or lending transactions that qualify for sales treatment under U.S. GAAP, and derivative transactions, determined using the applicable credit conversion factor under § 3.33(b), provided, however, that the minimum credit conversion factor that may be assigned to an off-balance sheet exposure under this paragraph is 10 percent; and

(I) For a national bank or Federal savings association that is a clearing member:

(1) A clearing member national bank or Federal savings association that guarantees the performance of a clearing member client with respect to a cleared transaction must treat its

exposure to the clearing member client as a derivative contract for purposes of determining its total leverage exposure;

(2) A clearing member national bank or Federal savings association that guarantees the performance of a CCP with respect to a transaction cleared on behalf of a clearing member client must treat its exposure to the CCP as a derivative contract for purposes of determining its total leverage exposure;

(3) A clearing member national bank or Federal savings association that does not guarantee the performance of a CCP with respect to a transaction cleared on behalf of a clearing member client may exclude its exposure to the CCP for purposes of determining its total leverage exposure;

(4) A national bank or Federal savings association that is a clearing member may exclude from its total leverage exposure the effective notional principal amount of credit protection sold through a credit derivative contract, or other similar instrument, that it clears on behalf of a clearing member client through a CCP as calculated in accordance with part (c)(4)(ii)(D); and

(5) Notwithstanding paragraphs (c)(4)(ii)(I)(1), (2), and (3) of this section, a national bank or Federal savings association may exclude from its total leverage exposure a clearing member's exposure to a clearing member client for a derivative contract, if the clearing member client and the clearing member are affiliates and consolidated for financial reporting purposes on the national bank's or Federal savings association's balance sheet.

- 5. Section 3.172 is amended by adding paragraph (d) to read as follows:

**§ 3.172 Disclosure requirements.**

\* \* \* \* \*

(d) Except as otherwise provided in paragraph (b) of this section, an advanced approaches national bank or Federal savings association must publicly disclose each quarter its supplementary leverage ratio and its components as calculated under subpart B of this part in compliance with paragraph (c) of this section; however, the disclosures required under this paragraph are required without regard to whether the national bank or Federal savings association has completed the parallel run process and has received notification from the OCC pursuant to §3.121(d).

- 6. Amend § 3.173 as follows:
  - a. Revise the introductory text of paragraph (a); and
  - b. Add paragraph (c) and Table 13 to § 3.173.

The revision and additions are set forth below.

**§ 3.173 Disclosures by certain advanced approaches national banks and Federal savings associations.**

(a) Except as provided in § 3.172(b), a national bank or Federal savings association described in § 3.172(b) must make the disclosures described in Tables 1 through 13 to § 3.173. The national bank or Federal savings association must make the disclosures required under Tables 1 through 12 publicly available for each of the last three years (that is, twelve quarters) or such shorter period beginning on January 1, 2014. The national bank or Federal savings association must make the disclosures required under Table 13 publicly available beginning on January 1, 2015.

\* \* \* \* \*

(c) Except as provided in § 3.172(b), a national bank or Federal savings association described in § 3.172(d) must make the disclosures described in Table 13 to § 3.173; provided, however, the disclosures required under this paragraph are required without regard to whether the national bank or Federal savings association has completed the parallel run process and has received notification from the OCC pursuant to § 3.121(d). The national bank or Federal savings association must make these disclosures publicly available beginning on January 1, 2015.

**Table 13 to § 3.173**

Supplementary Leverage Ratio

		Dollar Amounts in Thousands			
		Tril	Bil	Mil	Thou
<b>Part 1: Summary comparison of accounting assets and total leverage exposure</b>					
1	Total consolidated assets as reported in published financial statements				
2	Adjustment for investments in banking, financial, insurance or commercial entities that are consolidated for accounting purposes but outside the scope of regulatory consolidation				
3	Adjustment for fiduciary assets recognized on balance sheet but excluded from total leverage exposure				
4	Adjustment for derivative exposures				
5	Adjustment for repo-style transactions				
6	Adjustment for off-balance sheet exposures (that is, conversion to credit equivalent amounts of off-balance sheet exposures)				
7	Other adjustments				
8	Total leverage exposure				
<b>Part 2: Supplementary leverage ratio</b>					
<b>On-balance sheet exposures</b>					
1	On-balance sheet assets (excluding on-balance sheet assets for repo-style transactions and derivative exposures, but including cash collateral received in derivative transactions)				

2	LESS: Amounts deducted from tier 1 capital				
3	Total on-balance sheet exposures (excluding on-balance sheet assets for repo-style transactions and derivative exposures, but including cash collateral received in derivative transactions) (sum of lines 1 and 2)				
	<b>Derivative exposures</b>				
4	Replacement cost for derivative exposures (that is, net of cash variation margin)				
5	Add-on amounts for potential future exposure (PFE) for derivative exposures				
6	Gross-up for cash collateral posted if deducted from the on-balance sheet assets, except for cash variation margin				
7	LESS: Deductions of receivable assets for cash variation margin posted in derivative transactions, if included in on-balance sheet assets				
8	LESS: Exempted CCP leg of client-cleared transactions				
9	Effective notional principal amount of sold credit protection				
10	LESS: Effective notional principal amount offsets and PFE adjustments for sold credit protection				
11	Total derivative exposures (sum of lines 4 to 10)				
	<b>Repo-style transactions</b>				
12	On-balance sheet assets for repo-style transactions, except include the gross value of receivables for reverse repurchase transactions. Exclude from this item the value of securities received in a security-for-security repo-style transaction where the securities lender has not sold or re-hypothecated the securities received. Include in this item the value of securities that qualified for sales treatment that must be reversed.				
13	LESS: Reduction of the gross value of receivables in reverse repurchase transactions by cash payables in repurchase transactions under netting agreements				
14	Counterparty credit risk for all repo-style transactions				
15	Exposure for repo-style transactions where a banking organization acts as an agent				
16	Total exposures for repo-style transactions (sum of lines 12 to 15)				
	<b>Other off-balance sheet exposures</b>				
17	Off-balance sheet exposures at gross notional amounts				
18	LESS: Adjustments for conversion to credit equivalent amounts				
19	Off-balance sheet exposures (sum of lines 17 and 18)				
	<b>Capital and total leverage exposure</b>				

2 0	Tier 1 capital				
2 1	Total leverage exposure (sum of lines 3, 11, 16 and 19)				
	<b>Supplementary leverage ratio</b>				
2 2	Supplementary leverage ratio	(in percent)			

*Board of Governors of the Federal Reserve System*

12 CFR CHAPTER II

Authority and Issuance

For the reasons set forth in the preamble, part 217 of chapter II of title 12 of the Code of Federal Regulations is amended as follows:

**PART 217 – CAPITAL ADEQUACY OF BOARD-RELATED INSTITUTIONS**

- 7. The authority citation for part 217 continues to read as follows:

**Authority:** 12 U.S.C. 248(a), 321–338a, 481-486, 1462a, 1467a, 1818, 1828, 1831n, 1831o, 1831p–l, 1831w, 1835, 1844(b), 1851, 3904, 3906-3909, 4808, 5365, 5368, 5371.

- 8. In § 217.1(d)(4), replace “leverage exposure amount” with “total leverage exposure.”

\* \* \* \* \*

- In § 217.2, revise the definition of “total leverage exposure” to read as follows:

**§ 217.2 Definitions.**

\* \* \* \* \*

*Total leverage exposure* is defined in § 217.10(c)(4)(ii).

\* \* \* \* \*

- 9. Revise § 217.10(c)(4) to read as follows:

**§ 217.10 Minimum capital requirements.**

\* \* \* \* \*

(c) \* \* \*

(4) Supplementary leverage ratio. (i) An advanced approaches Board-regulated institution's supplementary leverage ratio is the ratio of its tier 1 capital to total leverage exposure, the latter which is calculated as the sum of: (A) the mean of the on-balance sheet assets calculated as of each day of the reporting quarter, and (B) the mean of the off-balance sheet exposures calculated as of the last day of each of the most recent three months, minus the applicable deductions under §217.22(a), (c), and (d).

(ii) For purposes of this part, *total leverage exposure* means the sum of the items described in paragraphs (c)(4)(ii)(A) through (H) of this section, as adjusted pursuant to paragraph (c)(4)(ii)(I) for a clearing member Board-regulated institution:

(A) The balance sheet carrying value of all of the Board-regulated institution's on-balance sheet assets, *plus* the value of securities sold under a repurchase transaction or a securities lending transaction that qualifies for sales treatment under U.S. GAAP, less amounts deducted from tier 1 capital under § 217.22(a), (c), and (d), and less the value of securities received in security-for-security repo-style transactions, where the Board-regulated institution

acts as a securities lender and includes the securities received in its on-balance sheet assets but has not sold or re-hypothecated the securities received;

(B) The PFE for each derivative contract or each single-product netting set of derivative contracts (including a cleared transaction except as provided in paragraph (c)(4)(ii)(I) of this section and, at the discretion of the Board-supervised institution, excluding a forward agreement treated as a derivative contract that is part of a repurchase or reverse repurchase or a securities borrowing or lending transaction that qualifies for sales treatment under U.S. GAAP), to which the Board-regulated institution is a counterparty as determined under § 217.34, but without regard to § 217.34(b), provided that:

(1) A Board-regulated institution may choose to exclude the PFE of all credit derivatives or other similar instruments through which it provides credit protection when calculating the PFE under § 217.34, but without regard to § 217.34(b), provided that it does not adjust the net-to-gross ratio (NGR); and

(2) A Board-regulated institution that chooses to exclude the PFE of credit derivatives or other similar instruments through which it provides credit protection pursuant to paragraph (c)(4)(ii)(B)(1) of this section must do so consistently over time for the calculation of the PFE for all such instruments;

(C) The amount of cash collateral that is received from a counterparty to a derivative contract and that has offset the mark-to-fair value of the derivative asset, or cash collateral that is posted to a counterparty to a derivative contract and that has reduced the Board-regulated institution's on-balance sheet assets, unless such cash collateral is all or part of variation margin that satisfies the following requirements:

(1) For derivative contracts that are not cleared through a QCCP, the cash collateral received by the recipient counterparty is not segregated (by law, regulation or an agreement with the counterparty);

(2) Variation margin is calculated and transferred on a daily basis based on the mark-to-fair value of the derivative contract;

(3) The variation margin transferred under the derivative contract or the governing rules for a cleared transaction is the full amount that is necessary to fully extinguish the net current credit exposure to the counterparty of the derivative contracts, subject to the threshold and minimum transfer amounts applicable to the counterparty under the terms of the derivative contract or the governing rules for a cleared transaction;

(4) The variation margin is in the form of cash in the same currency as the currency of settlement set forth in the derivative contract, provided that for the purposes of this paragraph, currency of settlement means any currency for settlement specified in the governing qualifying master netting agreement and the credit support annex to the qualifying master netting agreement, or in the governing rules for a cleared transaction;

(5) The derivative contract and the variation margin are governed by a qualifying master netting agreement between the legal entities that are the counterparties to the derivative contract or by the governing rules for a cleared transaction, and the qualifying master netting agreement or the governing rules for a cleared transaction must explicitly stipulate that the counterparties agree to settle any payment obligations on a net basis, taking into account any variation margin received or provided under the contract if a credit event involving either counterparty occurs;

(6) The variation margin is used to reduce the current credit exposure of the derivative contract, calculated as described in § 217.34(a), and not the PFE; and

(7) For the purpose of the calculation of the NGR described in § 217.34(a)(2)(ii)(B), variation margin described in paragraph (c)(4)(ii)(C)(6) of this section may not reduce the net current credit exposure or the gross current credit exposure;

(D) The effective notional principal amount (that is, the apparent or stated notional principal amount multiplied by any multiplier in the derivative contract) of a credit derivative, or other similar instrument, through which the Board-regulated institution provides credit protection, provided that:

(1) The Board-regulated institution may reduce the effective notional principal amount of the credit derivative by the amount of any reduction in the mark-to-fair value of the credit derivative if the reduction is recognized in common equity tier 1 capital;

(2) The Board-regulated institution may reduce the effective notional principal amount of the credit derivative by the effective notional principal amount of a purchased credit derivative or other similar instrument, provided that the remaining maturity of the purchased credit derivative is equal to or greater than the remaining maturity of the credit derivative through which the Board-regulated institution provides credit protection and that:

(i) With respect to a credit derivative that references a single exposure, the reference exposure of the purchased credit derivative is to the same legal entity and ranks *pari passu* with, or is junior to, the reference exposure of the credit derivative through which the Board-regulated institution provides credit protection; or

(ii) With respect to a credit derivative that references multiple exposures, the reference exposures of the purchased credit derivative are to the same legal entities and rank *pari passu* with the reference exposures of the credit derivative through which the Board-regulated institution provides credit protection, and the level of seniority of the purchased credit derivative ranks *pari passu* to the level of seniority of the credit derivative through which the Board-regulated institution provides credit protection;

(iii) Where a Board-regulated institution has reduced the effective notional amount of a credit derivative through which the Board-regulated institution provides credit protection in accordance with paragraph (c)(4)(ii)(D)(I) of this section, the Board-regulated institution must also reduce the effective notional principal amount of a purchased credit derivative used to offset the credit derivative through which the Board-regulated institution provides credit protection, by the amount of any increase in the mark-to-fair value of the purchased credit derivative that is recognized in common equity tier 1 capital; and

(iv) Where the Board-regulated institution purchases credit protection through a total return swap and records the net payments received on a credit derivative through which the Board-regulated institution provides credit protection in net income, but does not record offsetting deterioration in the mark-to-fair value of the credit derivative through which the Board-regulated institution provides credit protection in net income (either through reductions in fair value or by additions to reserves), the Board-regulated institution may not use the purchased credit protection to offset the effective notional principal amount of the related credit derivative through which the Board-regulated institution provides credit protection;

(E) Where a Board-regulated institution acting as a principal has more than one repo-style transaction with the same counterparty and has offset the gross value of receivables due

from a counterparty under reverse repurchase transactions by the gross value of payables under repurchase transactions due to the same counterparty, the gross value of receivables associated with the repo-style transactions less any on-balance sheet receivables amount associated with these repo-style transactions included under paragraph (c)(4)(ii)(A) of this section, unless the following criteria are met:

(1) The offsetting transactions have the same explicit final settlement date under their governing agreements;

(2) The right to offset the amount owed to the counterparty with the amount owed by the counterparty is legally enforceable in the normal course of business and in the event of receivership, insolvency, liquidation, or similar proceeding; and

(3) Under the governing agreements, the counterparties intend to settle net, settle simultaneously, or settle according to a process that is the functional equivalent of net settlement, (that is, the cash flows of the transactions are equivalent, in effect, to a single net amount on the settlement date), where both transactions are settled through the same settlement system, the settlement arrangements are supported by cash or intraday credit facilities intended to ensure that settlement of both transactions will occur by the end of the business day, and the settlement of the underlying securities does not interfere with the net cash settlement;

(F) The counterparty credit risk of a repo-style transaction, including where the Board-regulated institution acts as an agent for a repo-style transaction and indemnifies the customer with respect to the performance of the customer's counterparty in an amount limited to the difference between the fair value of the security or cash its customer has lent and the fair value of the collateral the borrower has provided, calculated as follows:

(I) If the transaction is not subject to a qualifying master netting agreement, the counterparty credit risk ( $E^*$ ) for transactions with a counterparty must be calculated on a transaction by transaction basis, such that each transaction  $i$  is treated as its own netting set, in accordance with the following formula, where  $E_i$  is the fair value of the instruments, gold, or cash that the Board-regulated institution has lent, sold subject to repurchase, or provided as collateral to the counterparty, and  $C_i$  is the fair value of the instruments, gold, or cash that the Board-regulated institution has borrowed, purchased subject to resale, or received as collateral from the counterparty:

$$E_i^* = \max \{0, [E_i - C_i]\}; \text{ and}$$

(2) If the transaction is subject to a qualifying master netting agreement, the counterparty credit risk ( $E^*$ ) must be calculated as the greater of zero and the total fair value of the instruments, gold, or cash that the Board-regulated institution has lent, sold subject to repurchase or provided as collateral to a counterparty for all transactions included in the qualifying master netting agreement ( $\sum E_i$ ), less the total fair value of the instruments, gold, or cash that the Board-regulated institution borrowed, purchased subject to resale or received as collateral from the counterparty for those transactions ( $\sum C_i$ ), in accordance with the following formula:

$$E^* = \max \{0, [\sum E_i - \sum C_i]\}$$

(G) If a Board-regulated institution acting as an agent for a repo-style transaction provides a guarantee to a customer of the security or cash its customer has lent or borrowed with respect to the performance of the customer's counterparty and the guarantee is not limited to the difference between the fair value of the security or cash its customer has lent and the fair value of the collateral the borrower has provided, the amount of the guarantee that is greater than the

difference between the fair value of the security or cash its customer has lent and the value of the collateral the borrower has provided;

(H) The credit equivalent amount of all off-balance sheet exposures of the Board-regulated institution, excluding repo-style transactions, repurchase or reverse repurchase or securities borrowing or lending transactions that qualify for sales treatment under U.S. GAAP, and derivative transactions, determined using the applicable credit conversion factor under § 217.33(b), provided, however, that the minimum credit conversion factor that may be assigned to an off-balance sheet exposure under this paragraph is 10 percent; and

(I) For a Board-regulated institution that is a clearing member:

(1) A clearing member Board-regulated institution that guarantees the performance of a clearing member client with respect to a cleared transaction must treat its exposure to the clearing member client as a derivative contract for purposes of determining its total leverage exposure;

(2) A clearing member Board-regulated institution that guarantees the performance of a CCP with respect to a transaction cleared on behalf of a clearing member client must treat its exposure to the CCP as a derivative contract for purposes of determining its total leverage exposure;

(3) A clearing member Board-regulated institution that does not guarantee the performance of a CCP with respect to a transaction cleared on behalf of a clearing member client may exclude its exposure to the CCP for purposes of determining its total leverage exposure;

(4) A Board-regulated institution that is a clearing member may exclude from its total leverage exposure the effective notional principal amount of credit protection sold through a

credit derivative contract, or other similar instrument, that it clears on behalf of a clearing member client through a CCP as calculated in accordance with part (c)(4)(ii)(D); and

(5) Notwithstanding paragraphs (c)(4)(ii)(I)(1), (2), and (3) of this section, a Board-regulated institution may exclude from its total leverage exposure a clearing member's exposure to a clearing member client for a derivative contract, if the clearing member client and the clearing member are affiliates and consolidated for financial reporting purposes on the Board-regulated institution's balance sheet.

- 10. Section 217.172 is amended by adding paragraph (d) to read as follows:

**§ 217.172 Disclosure requirements.**

\* \* \* \* \*

(d) Except as otherwise provided in paragraph (b) of this section, an advanced approaches Board-regulated institution must publicly disclose each quarter its supplementary leverage ratio and its components as calculated under subpart B of this part in compliance with paragraph (c) of this section; however, the disclosures required under this paragraph are required without regard to whether the Board-regulated institution has completed the parallel run process and has received notification from the Board pursuant to § 217.121(d).

- 11. Amend § 217.173 as follows:
  - a. Revise the introductory text of paragraph (a); and
  - b. Add paragraph (c) and Table 13 to § 217.173.

The revision and additions are set forth below.

**§ 217.173 Disclosures by certain advanced approaches Board-regulated institutions.**

(a) Except as provided in § 217.172(b), a Board-regulated institution described in § 217.172(b) must make the disclosures described in Tables 1 through 13 to § 217.173. The Board-regulated institution must make the disclosures required under Tables 1 through 12 publicly available for each of the last three years (that is, twelve quarters) or such shorter period beginning on January 1, 2014. The Board-regulated institution must make the disclosures required under Table 13 publicly available beginning on January 1, 2015.

\* \* \* \* \*

(c) Except as provided in §217.172(b), a Board-regulated institution described in § 217.172(d) must make the disclosures described in Table 13 to § 217.173; provided, however, the disclosures required under this paragraph are required without regard to whether the Board-regulated institution has completed the parallel run process and has received notification from the Board pursuant to § 217.121(d). The Board-regulated institution must make these disclosures publicly available beginning on January 1, 2015.

### Table 13 to § 217.173

#### Supplementary Leverage Ratio

		Dollar Amounts in Thousands			
		Tril	Bil	Mil	Thou
<b>Part 1: Summary comparison of accounting assets and total leverage exposure</b>					
1	Total consolidated assets as reported in published financial statements				
2	Adjustment for investments in banking, financial, insurance or commercial entities that are consolidated for accounting purposes but outside the scope of regulatory consolidation				
3	Adjustment for fiduciary assets recognized on balance sheet but excluded from total leverage exposure				

4	Adjustment for derivative exposures				
5	Adjustment for repo-style transactions				
6	Adjustment for off-balance sheet exposures (that is, conversion to credit equivalent amounts of off-balance sheet exposures)				
7	Other adjustments				
8	Total leverage exposure				
<b>Part 2: Supplementary leverage ratio</b>					
<b>On-balance sheet exposures</b>					
1	On-balance sheet assets (excluding on-balance sheet assets for repo-style transactions and derivative exposures, but including cash collateral received in derivative transactions)				
2	LESS: Amounts deducted from tier 1 capital				
3	Total on-balance sheet exposures (excluding on-balance sheet assets for repo-style transactions and derivative exposures, but including cash collateral received in derivative transactions) (sum of lines 1 and 2)				
<b>Derivative exposures</b>					
4	Replacement cost for derivative exposures (that is, net of cash variation margin)				
5	Add-on amounts for potential future exposure (PFE) for derivative exposures				
6	Gross-up for cash collateral posted if deducted from the on-balance sheet assets, except for cash variation margin				
7	LESS: Deductions of receivable assets for cash variation margin posted in derivative transactions, if included in on-balance sheet assets				
8	LESS: Exempted CCP leg of client-cleared transactions				
9	Effective notional principal amount of sold credit protection				
10	LESS: Effective notional principal amount offsets and PFE adjustments for sold credit protection				
11	Total derivative exposures (sum of lines 4 to 10)				
<b>Repo-style transactions</b>					
12	On-balance sheet assets for repo-style transactions, except include the gross value of receivables for reverse repurchase transactions. Exclude from this item the value of securities received in a security-for-security repo-style transaction where the securities lender has not sold or re-hypothecated the securities received. Include in this item the value of securities that qualified for sales treatment that must be reversed.				
13	LESS: Reduction of the gross value of receivables in reverse repurchase transactions by cash payables in repurchase transactions under netting agreements				

1 4	Counterparty credit risk for all repo-style transactions				
1 5	Exposure for repo-style transactions where a banking organization acts as an agent				
1 6	Total exposures for repo-style transactions (sum of lines 12 to 15)				
	<b>Other off-balance sheet exposures</b>				
1 7	Off-balance sheet exposures at gross notional amounts				
1 8	LESS: Adjustments for conversion to credit equivalent amounts				
1 9	Off-balance sheet exposures (sum of lines 17 and 18)				
	<b>Capital and total leverage exposure</b>				
2 0	Tier 1 capital				
2 1	Total leverage exposure (sum of lines 3, 11, 16 and 19)				
	<b>Supplementary leverage ratio</b>				
2 2	Supplementary leverage ratio				(in percent)

## PART 324—CAPITAL ADEQUACY

- 12. The authority citation for part 324 continues to read as follows:

**Authority:** 12 U.S.C. 1815(a), 1815(b), 1816, 1818(a), 1818(b), 1818(c), 1818(t), 1819(Tenth), 1828(c), 1828(d), 1828(i), 1828(n), 1828(o), 1831o, 1835, 3907, 3909, 4808; 5371; 5412; Pub. L. 102-233, 105 Stat. 1761, 1789, 1790 (12 U.S.C. 1831n note); Pub. L. 102-242, 105 Stat. 2236, 2355, as amended by Pub. L. 103-325, 108 Stat. 2160, 2233 (12 U.S.C. 1828 note); Pub. L. 102-242, 105 Stat. 2236, 2386, as amended by Pub. L. 102-550, 106 Stat. 3672, 4089 (12 U.S.C. 1828 note); Pub. L. 111-203, 124 Stat. 1376, 1887 (15 U.S.C. 78o-7 note).

- 13. In § 324.1(d)(4), replace “leverage exposure amount” with “total leverage exposure.”

\* \* \* \* \*

- In § 324.2, revise the definition of “total leverage exposure” to read as follows:

**§ 324.2 Definitions.**

\* \* \* \* \*

*Total leverage exposure* is defined in § 324.10(c)(4)(ii).

\* \* \* \* \*

- 14. Revise § 324.10(c)(4) to read as follows:

**§ 324.10 Minimum capital requirements.**

\* \* \* \* \*

(c) \* \* \*

(4) *Supplementary leverage ratio.* (i) An advanced approaches FDIC-supervised institution’s supplementary leverage ratio is the ratio of its tier 1 capital to total leverage exposure, the latter which is calculated as the sum of: (A) the mean of the on-balance sheet assets calculated as of each day of the reporting quarter, and (B) the mean of the off-balance sheet exposures calculated as of the last day of each of the most recent three months, minus the applicable deductions under §324.22(a), (c), and (d).

(ii) For purposes of this part, *total leverage exposure* means the sum of the items described in paragraphs (c)(4)(ii)(A) through (H) of this section, as adjusted pursuant to paragraph (c)(4)(ii)(I) for a clearing member FDIC-supervised institution:

(A) The balance sheet carrying value of all of the FDIC-supervised institution's on-balance sheet assets, *plus* the value of securities sold under a repurchase transaction or a securities lending transaction that qualifies for sales treatment under U.S. GAAP, less amounts deducted from tier 1 capital under § 324.22(a), (c), and (d), and less the value of securities received in security-for-security repo-style transactions, where the FDIC-supervised institution acts as a securities lender and includes the securities received in its on-balance sheet assets but has not sold or re-hypothecated the securities received;

(B) The PFE for each derivative contract or each single-product netting set of derivative contracts (including a cleared transaction except as provided in paragraph (c)(4)(ii)(I) of this section and, at the discretion of the FDIC-supervised institution, excluding a forward agreement treated as a derivative contract that is part of a repurchase or reverse repurchase or a securities borrowing or lending transaction that qualifies for sales treatment under U.S. GAAP), to which the FDIC-supervised institution is a counterparty as determined under § 324.34, but without regard to § 324.34(b), provided that:

(1) An FDIC-supervised institution may choose to exclude the PFE of all credit derivatives or other similar instruments through which it provides credit protection when calculating the PFE under § 324.34, but without regard to § 324.34(b), provided that it does not adjust the net-to-gross ratio (NGR); and

(2) An FDIC-supervised institution that chooses to exclude the PFE of credit derivatives or other similar instruments through which it provides credit protection pursuant to paragraph (c)(4)(ii)(B)(1) of this section must do so consistently over time for the calculation of the PFE for all such instruments;

(C) The amount of cash collateral that is received from a counterparty to a derivative contract and that has offset the mark-to-fair value of the derivative asset, or cash collateral that is posted to a counterparty to a derivative contract and that has reduced the FDIC-supervised institution's on-balance sheet assets, unless such cash collateral is all or part of variation margin that satisfies the following requirements:

(1) For derivative contracts that are not cleared through a QCCP, the cash collateral received by the recipient counterparty is not segregated (by law, regulation or an agreement with the counterparty);

(2) Variation margin is calculated and transferred on a daily basis based on the mark-to-fair value of the derivative contract;

(3) The variation margin transferred under the derivative contract or the governing rules for a cleared transaction is the full amount that is necessary to fully extinguish the net current credit exposure to the counterparty of the derivative contracts, subject to the threshold and minimum transfer amounts applicable to the counterparty under the terms of the derivative contract or the governing rules for a cleared transaction;

(4) The variation margin is in the form of cash in the same currency as the currency of settlement set forth in the derivative contract, provided that for the purposes of this paragraph, currency of settlement means any currency for settlement specified in the governing qualifying

master netting agreement and the credit support annex to the qualifying master netting agreement, or in the governing rules for a cleared transaction;

(5) The derivative contract and the variation margin are governed by a qualifying master netting agreement between the legal entities that are the counterparties to the derivative contract or by the governing rules for a cleared transaction, and the qualifying master netting agreement or the governing rules for a cleared transaction must explicitly stipulate that the counterparties agree to settle any payment obligations on a net basis, taking into account any variation margin received or provided under the contract if a credit event involving either counterparty occurs;

(6) The variation margin is used to reduce the current credit exposure of the derivative contract, calculated as described in § 324.34(a), and not the PFE; and

(7) For the purpose of the calculation of the NGR described in § 324.34(a)(2)(ii)(B), variation margin described in paragraph (c)(4)(ii)(C)(6) of this section may not reduce the net current credit exposure or the gross current credit exposure;

(D) The effective notional principal amount (that is, the apparent or stated notional principal amount multiplied by any multiplier in the derivative contract) of a credit derivative, or other similar instrument, through which the FDIC-supervised institution provides credit protection, provided that:

(1) The FDIC-supervised institution may reduce the effective notional principal amount of the credit derivative by the amount of any reduction in the mark-to-fair value of the credit derivative if the reduction is recognized in common equity tier 1 capital;

(2) The FDIC-supervised institution may reduce the effective notional principal amount of the credit derivative by the effective notional principal amount of a purchased credit derivative

or other similar instrument, provided that the remaining maturity of the purchased credit derivative is equal to or greater than the remaining maturity of the credit derivative through which the FDIC-supervised institution provides credit protection and that:

(i) With respect to a credit derivative that references a single exposure, the reference exposure of the purchased credit derivative is to the same legal entity and ranks *pari passu* with, or is junior to, the reference exposure of the credit derivative through which the FDIC-supervised institution provides credit protection; or

(ii) With respect to a credit derivative that references multiple exposures, the reference exposures of the purchased credit derivative are to the same legal entities and rank *pari passu* with the reference exposures of the credit derivative through which the FDIC-supervised institution provides credit protection, and the level of seniority of the purchased credit derivative ranks *pari passu* to the level of seniority of the credit derivative through which the FDIC-supervised institution provides credit protection;

(iii) Where an FDIC-supervised institution has reduced the effective notional amount of a credit derivative through which the FDIC-supervised institution provides credit protection in accordance with paragraph (c)(4)(ii)(D)(I) of this section, the FDIC-supervised institution must also reduce the effective notional principal amount of a purchased credit derivative used to offset the credit derivative through which the FDIC-supervised institution provides credit protection, by the amount of any increase in the mark-to-fair value of the purchased credit derivative that is recognized in common equity tier 1 capital; and

(iv) Where the FDIC-supervised institution purchases credit protection through a total return swap and records the net payments received on a credit derivative through which the FDIC-supervised institution provides credit protection in net income, but does not record

offsetting deterioration in the mark-to-fair value of the credit derivative through which the FDIC-supervised institution provides credit protection in net income (either through reductions in fair value or by additions to reserves), the FDIC-supervised institution may not use the purchased credit protection to offset the effective notional principal amount of the related credit derivative through which the FDIC-supervised institution provides credit protection;

(E) Where an FDIC-supervised institution acting as a principal has more than one repo-style transaction with the same counterparty and has offset the gross value of receivables due from a counterparty under reverse repurchase transactions by the gross value of payables under repurchase transactions due to the same counterparty, the gross value of receivables associated with the repo-style transactions less any on-balance sheet receivables amount associated with these repo-style transactions included under paragraph (c)(4)(ii)(A) of this section, unless the following criteria are met:

(1) The offsetting transactions have the same explicit final settlement date under their governing agreements;

(2) The right to offset the amount owed to the counterparty with the amount owed by the counterparty is legally enforceable in the normal course of business and in the event of receivership, insolvency, liquidation, or similar proceeding; and

(3) Under the governing agreements, the counterparties intend to settle net, settle simultaneously, or settle according to a process that is the functional equivalent of net settlement, (that is, the cash flows of the transactions are equivalent, in effect, to a single net amount on the settlement date), where both transactions are settled through the same settlement system, the settlement arrangements are supported by cash or intraday credit facilities intended to ensure

that settlement of both transactions will occur by the end of the business day, and the settlement of the underlying securities does not interfere with the net cash settlement;

(F) The counterparty credit risk of a repo-style transaction, including where the FDIC-supervised institution acts as an agent for a repo-style transaction and indemnifies the customer with respect to the performance of the customer's counterparty in an amount limited to the difference between the fair value of the security or cash its customer has lent and the fair value of the collateral the borrower has provided, calculated as follows:

(1) If the transaction is not subject to a qualifying master netting agreement, the counterparty credit risk ( $E^*$ ) for transactions with a counterparty must be calculated on a transaction by transaction basis, such that each transaction  $i$  is treated as its own netting set, in accordance with the following formula, where  $E_i$  is the fair value of the instruments, gold, or cash that the FDIC-supervised institution has lent, sold subject to repurchase, or provided as collateral to the counterparty, and  $C_i$  is the fair value of the instruments, gold, or cash that the FDIC-supervised institution has borrowed, purchased subject to resale, or received as collateral from the counterparty:

$$E_i^* = \max \{0, [E_i - C_i]\}; \text{ and}$$

(2) If the transaction is subject to a qualifying master netting agreement, the counterparty credit risk ( $E^*$ ) must be calculated as the greater of zero and the total fair value of the instruments, gold, or cash that the FDIC-supervised institution has lent, sold subject to repurchase or provided as collateral to a counterparty for all transactions included in the qualifying master netting agreement ( $\sum E_i$ ), less the total fair value of the instruments, gold, or cash that the FDIC-supervised institution borrowed, purchased subject to resale or received as

collateral from the counterparty for those transactions ( $\sum C_i$ ), in accordance with the following formula:

$$E^* = \max \{0, [\sum E_i - \sum C_i]\}$$

(G) If an FDIC-supervised institution acting as an agent for a repo-style transaction provides a guarantee to a customer of the security or cash its customer has lent or borrowed with respect to the performance of the customer's counterparty and the guarantee is not limited to the difference between the fair value of the security or cash its customer has lent and the fair value of the collateral the borrower has provided, the amount of the guarantee that is greater than the difference between the fair value of the security or cash its customer has lent and the value of the collateral the borrower has provided;

(H) The credit equivalent amount of all off-balance sheet exposures of the FDIC-supervised institution, excluding repo-style transactions, repurchase or reverse repurchase or securities borrowing or lending transactions that qualify for sales treatment under U.S. GAAP, and derivative transactions, determined using the applicable credit conversion factor under §324.33(b), provided, however, that the minimum credit conversion factor that may be assigned to an off-balance sheet exposure under this paragraph is 10 percent; and

(I) For an FDIC-supervised institution that is a clearing member:

(I) A clearing member FDIC-supervised institution that guarantees the performance of a clearing member client with respect to a cleared transaction must treat its exposure to the clearing member client as a derivative contract for purposes of determining its total leverage exposure;

(2) A clearing member FDIC-supervised institution that guarantees the performance of a CCP with respect to a transaction cleared on behalf of a clearing member client must treat its exposure to the CCP as a derivative contract for purposes of determining its total leverage exposure;

(3) A clearing member FDIC-supervised institution that does not guarantee the performance of a CCP with respect to a transaction cleared on behalf of a clearing member client may exclude its exposure to the CCP for purposes of determining its total leverage exposure;

(4) An FDIC-supervised institution that is a clearing member may exclude from its total leverage exposure the effective notional principal amount of credit protection sold through a credit derivative contract, or other similar instrument, that it clears on behalf of a clearing member client through a CCP as calculated in accordance with part (c)(4)(ii)(D); and

(5) Notwithstanding paragraphs (c)(4)(ii)(I)(1), (2), and (3) of this section, an FDIC-supervised institution may exclude from its total leverage exposure a clearing member's exposure to a clearing member client for a derivative contract, if the clearing member client and the clearing member are affiliates and consolidated for financial reporting purposes on the FDIC-supervised institution's balance sheet.

- 15. Section 324.172 is amended by adding paragraph (d) to read as follows:

**§ 324.172 Disclosure requirements.**

\* \* \* \* \*

(d) Except as otherwise provided in paragraph (b) of this section, an advanced approaches FDIC-supervised institution must publicly disclose each quarter its supplementary leverage ratio and its components as calculated under subpart B of this part in compliance with paragraph (c) of

this section; however, the disclosures required under this paragraph are required without regard to whether the FDIC-supervised institution has completed the parallel run process and has received notification from the FDIC pursuant to §324.121(d).

- 16. Amend § 324.173 as follows:
  - a. Revise the introductory text of paragraph (a); and
  - b. Add paragraph (c) and Table 13 to § 3.173.

The revision and additions are set forth below.

**§ 324.173 Disclosures by certain advanced approaches FDIC-supervised institutions.**

(a) Except as provided in § 324.172(b), an FDIC-supervised institution described in § 324.172(b) must make the disclosures described in Tables 1 through 13 to § 324.173. The FDIC-supervised institution must make the disclosures required under Tables 1 through 12 publicly available for each of the last three years (that is, twelve quarters) or such shorter period beginning on January 1, 2014. The FDIC-supervised institution must make the disclosures required under Table 13 publicly available beginning on January 1, 2015.

\* \* \* \* \*

(c) Except as provided in § 324.172(b), an FDIC-supervised institution described in § 324.172(d) must make the disclosures described in Table 13 to § 324.173; provided, however, the disclosures required under this paragraph are required without regard to whether the FDIC-supervised institution has completed the parallel run process and has received notification from the FDIC pursuant to § 324.121(d). The FDIC-supervised institution must make these disclosures publicly available beginning on January 1, 2015.

**Table 13 to § 324.173**

Supplementary Leverage Ratio

		Dollar Amounts in Thousands			
		Tril	Bil	Mil	Thou
<b>Part 1: Summary comparison of accounting assets and total leverage exposure</b>					
1	Total consolidated assets as reported in published financial statements				
2	Adjustment for investments in banking, financial, insurance or commercial entities that are consolidated for accounting purposes but outside the scope of regulatory consolidation				
3	Adjustment for fiduciary assets recognized on balance sheet but excluded from total leverage exposure				
4	Adjustment for derivative exposures				
5	Adjustment for repo-style transactions				
6	Adjustment for off-balance sheet exposures (that is, conversion to credit equivalent amounts of off-balance sheet exposures)				
7	Other adjustments				
8	Total leverage exposure				
<b>Part 2: Supplementary leverage ratio</b>					
<b>On-balance sheet exposures</b>					
1	On-balance sheet assets (excluding on-balance sheet assets for repo-style transactions and derivative exposures, but including cash collateral received in derivative transactions)				
2	LESS: Amounts deducted from tier 1 capital				
3	Total on-balance sheet exposures (excluding on-balance sheet assets for repo-style transactions and derivative exposures, but including cash collateral received in derivative transactions) (sum of lines 1 and 2)				
<b>Derivative exposures</b>					
4	Replacement cost for derivative exposures (that is, net of cash variation margin)				
5	Add-on amounts for potential future exposure (PFE) for derivative exposures				
6	Gross-up for cash collateral posted if deducted from the on-balance sheet assets, except for cash variation margin				

7	LESS: Deductions of receivable assets for cash variation margin posted in derivative transactions, if included in on-balance sheet assets				
8	LESS: Exempted CCP leg of client-cleared transactions				
9	Effective notional principal amount of sold credit protection				
10	LESS: Effective notional principal amount offsets and PFE adjustments for sold credit protection				
11	Total derivative exposures (sum of lines 4 to 10)				
	<b>Repo-style transactions</b>				
12	On-balance sheet assets for repo-style transactions, except include the gross value of receivables for reverse repurchase transactions. Exclude from this item the value of securities received in a security-for-security repo-style transaction where the securities lender has not sold or re-hypothecated the securities received. Include in this item the value of securities that qualified for sales treatment that must be reversed.				
13	LESS: Reduction of the gross value of receivables in reverse repurchase transactions by cash payables in repurchase transactions under netting agreements				
14	Counterparty credit risk for all repo-style transactions				
15	Exposure for repo-style transactions where a banking organization acts as an agent				
16	Total exposures for repo-style transactions (sum of lines 12 to 15)				
	<b>Other off-balance sheet exposures</b>				
17	Off-balance sheet exposures at gross notional amounts				
18	LESS: Adjustments for conversion to credit equivalent amounts				
19	Off-balance sheet exposures (sum of lines 17 and 18)				
	<b>Capital and total leverage exposure</b>				
20	Tier 1 capital				
21	Total leverage exposure (sum of lines 3, 11, 16 and 19)				
	<b>Supplementary leverage ratio</b>				
22	Supplementary leverage ratio				(in percent)

[THIS SIGNATURE PAGE RELATES TO THE ISSUANCE OF THE JOINT NOTICE OF PROPOSED RULEMAKING TITLED “**Regulatory Capital, Revisions to the Supplementary Leverage Ratio**”]

Dated: September 3, 2014

//signed//

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Thomas J. Curry,

Comptroller of the Currency.

[THIS SIGNATURE PAGE RELATES TO THE ISSUANCE OF THE JOINT NOTICE OF PROPOSED RULEMAKING TITLED “**Regulatory Capital, Revisions to the Supplementary Leverage Ratio**”]

By order of the Board of Governors of the Federal Reserve System, September 3, 2014.

//signed//

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Robert deV. Frierson  
Secretary of the Board.

[THIS SIGNATURE PAGE RELATES TO THE ISSUANCE OF THE JOINT NOTICE OF PROPOSED RULEMAKING TITLED “**Regulatory Capital, Revisions to the Supplementary Leverage Ratio**”]

Dated at Washington, D.C., this 3rd day of September 2014

By order of the Board of Directors.

Federal Deposit Insurance Corporation.

//signed//

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Robert E. Feldman,

Executive Secretary.