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Service.

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## DEPARTMENT OF THE TREASURY

### Office of the Comptroller of the Currency

#### 12 CFR Part 3

[Docket ID OCC-2017-0012]

RIN 1557-AE 23

## FEDERAL RESERVE SYSTEM

#### 12 CFR Part 217

[Regulation Q; Docket No. R-1571]

RIN 7100-AE 83

## FEDERAL DEPOSIT INSURANCE CORPORATION

#### 12 CFR Part 324

RIN 3064-AE 63

### Regulatory Capital Rules: Retention of Certain Existing Transition Provisions for Banking Organizations That Are Not Subject to the Advanced Approaches Capital Rules

**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:** The Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation (collectively, the agencies) are adopting a final rule to extend the regulatory capital treatment applicable during 2017 under the regulatory capital rules (capital rules) for certain items. These items include regulatory capital deductions, risk weights, and certain minority interest limitations. The relief provided under the final rule applies to banking organizations that are not subject to the capital rules' advanced approaches (non-advanced approaches banking organizations). Specifically, for these banking organizations, the final rule extends the current regulatory capital treatment of mortgage servicing assets, deferred tax assets arising from temporary differences that could not be realized through net operating loss

carrybacks, significant investments in the capital of unconsolidated financial institutions in the form of common stock, non-significant investments in the capital of unconsolidated financial institutions, significant investments in the capital of unconsolidated financial institutions that are not in the form of common stock, and common equity tier 1 minority interest, tier 1 minority interest, and total capital minority interest exceeding the capital rules' minority interest limitations. Under the final rule, advanced approaches banking organizations continue to be subject to the transition provisions established by the capital rules for the above capital items. Therefore, for advanced approaches banking organizations, their transition schedule is unchanged, and advanced approaches banking organizations are required to apply the capital rules' fully phased-in treatment for these capital items beginning January 1, 2018.

**DATES:** This rule is effective January 1, 2018.

#### FOR FURTHER INFORMATION CONTACT:

**OCC:** Mark Ginsberg, Senior Risk Expert (202) 649-6983; or Benjamin Pegg, Risk Expert (202) 649-7146, Capital and Regulatory Policy; or Carl Kaminski, Special Counsel, or Rima Kundnani, Attorney, Legislative and Regulatory Activities Division, (202) 649-5490, for persons who are deaf or hearing impaired, TTY, (202) 649-5597, Office of the Comptroller of the Currency, 400 7th Street SW., Washington, DC 20219.

**Board:** Constance M. Horsley, Deputy Associate Director, (202) 452-5239; Juan Climent, Manager, (202) 872-7526; Elizabeth MacDonald, Manager, (202) 475-6316; Andrew Willis, Supervisory Financial Analyst, (202) 912-4323; Sean Healey, Supervisory Financial Analyst, (202) 912-4611 or Matthew McQueeney, Senior Financial Analyst, (202) 452-2942, Division of Supervision and Regulation; or Benjamin W. McDonough, Assistant General Counsel, (202) 452-2036; David W. Alexander, Counsel (202) 452-2877, or Mark Buresh, Senior Attorney (202) 452-5270, Legal Division, Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, DC 20551. For the hearing impaired only, Telecommunication Device for the Deaf (TDD), (202) 263-4869.

**FDIC:** Benedetto Bosco, Chief, Capital Policy Section, [bbosco@fdic.gov](mailto:bbosco@fdic.gov); Michael Maloney, Capital Markets Senior Policy Analyst, [mmaloney@fdic.gov](mailto:mmaloney@fdic.gov), Capital Markets Branch, Division of Risk Management

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#### SUPPLEMENTARY INFORMATION:

##### I. Background

In 2013, 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 rules that strengthened the capital requirements applicable to banking organizations supervised by the agencies (capital rules).<sup>1</sup> The capital rules limit the amount of capital that is eligible for inclusion in regulatory capital in cases where the capital is issued by a consolidated subsidiary of a banking organization and not owned by the parent banking organization (minority interest).<sup>2</sup> The capital rules also require amounts of mortgage servicing assets (MSAs), deferred tax assets arising from temporary differences that could not be realized through net operating loss carrybacks (temporary difference DTAs), and certain investments in the capital of unconsolidated financial institutions above certain thresholds to be deducted from a banking organization's regulatory capital.<sup>3</sup>

The capital rules contain transition provisions that phase in certain requirements over several years in order to give banking organizations time to

<sup>1</sup> Banking organizations subject to the agencies' capital rules include national banks, state member banks, state nonmember banks, savings associations, and top-tier bank holding companies and savings and loan holding companies domiciled in the United States that are not subject to the Board's Small Bank Holding Company Policy Statement (12 CFR part 225, appendix C), but excluding certain savings and loan holding companies that are substantially engaged in insurance underwriting or commercial activities or that are estate trusts, or bank holding companies and savings and loan holding companies that are employee stock ownership plans. The Board and the OCC issued a joint final rule on October 11, 2013 (78 FR 62018), and the FDIC issued a substantially identical interim final rule on September 10, 2013 (78 FR 55340). In April 2014, the FDIC adopted the interim final rule as a final rule with no substantive changes. 79 FR 20754 (April 14, 2014).

<sup>2</sup> 12 CFR 217.21 (Board); 12 CFR 3.21 (OCC); 12 CFR 324.21 (FDIC).

<sup>3</sup> See 12 CFR 217.22(c)(4), (c)(5), and (d)(1) (Board); 12 CFR 3.22(c)(4), (c)(5), and (d)(1) (OCC); 12 CFR 324.22(c)(4), (c)(5), and (d)(1) (FDIC). Banking organizations are permitted to net associated deferred tax liabilities against assets subject to deduction.

adjust and adapt to the new requirements.<sup>4</sup> The transition provisions in the capital rules provide for full effectiveness of the minority interest limitations and for fully phased-in deductions of investments in the capital of unconsolidated financial institutions, MSAs, and temporary difference DTAs beginning on January 1, 2018.<sup>5</sup> The transition provisions in the capital rules also provide that the risk weight for MSAs, temporary difference DTAs, and significant investments in the capital of unconsolidated financial institutions in the form of common stock that are not deducted from regulatory capital increase from 100 percent to 250 percent beginning on January 1, 2018.

In anticipation of issuing a separate notice of proposed rulemaking that would include changes to the regulatory capital treatment of MSAs, temporary difference DTAs, investments in the capital of unconsolidated financial institutions, and minority interest, in August 2017, the agencies issued a notice of proposed rulemaking (transitions NPR) that would extend the current transition provisions for these items (*i.e.*, non-advanced approaches banking organizations would continue to apply the transition provisions applicable for calendar year 2017 for these items).<sup>6</sup>

## II. Summary of the Transitions NPR

Since the issuance of the capital rules in 2013, banking organizations and other members of the public have raised concerns regarding the regulatory burden, complexity, and costs associated with certain provisions in the capital rules, particularly for community banking organizations. As explained in the Federal Financial Institutions Examination Council's March 2017 Joint Report to Congress: Economic Growth and Regulatory Paperwork Reduction Act (EGRPRA report), the agencies planned to develop a proposal to simplify certain aspects of the capital rules with the goal of meaningfully reducing regulatory burden on community banking organizations while at the same time maintaining safety and soundness and the quality and quantity of regulatory capital in the banking system.<sup>7</sup>

Consistent with the agencies' statements in the EGRPRA report, in September 2017, the agencies approved a proposed rule to simplify certain aspects of the capital rules with the goal of meaningfully reducing regulatory burden on community banking organizations while at the same time maintaining safety and soundness and the quality and quantity of regulatory capital in the banking system (simplifications NPR).<sup>8</sup>

In preparation for the issuance of the simplifications NPR, the agencies issued the transitions NPR in August 2017 to extend certain transition provisions in the capital rules for non-advanced approaches banking organizations. Specifically, the transitions NPR would extend the current treatment under the capital rules for MSAs, temporary difference DTAs, significant investments in the capital of unconsolidated financial institutions in the form of common stock, non-significant investments in the capital of unconsolidated financial institutions, significant investments in the capital of unconsolidated financial institutions that are not in the form of common stock, and minority interest. The transitions NPR would extend this treatment only for non-advanced approaches banking organizations. As noted, the agencies proposed additional modifications to the treatment of these items in the simplifications NPR.

Under the transitions NPR, non-advanced approaches banking organizations would continue to:

- Deduct from regulatory capital 80 percent of the amount of MSAs, temporary difference DTAs, significant investments in the capital of unconsolidated financial institutions in the form of common stock, non-significant investments in the capital of unconsolidated financial institutions, and significant investments in the capital of unconsolidated financial institutions that are not in the form of common stock that are not includable in regulatory capital;
- Apply a 100 percent risk weight to any amounts of MSAs, temporary difference DTAs, and significant investments in the capital of unconsolidated financial institutions in the form of common stock that are not deducted from capital; and
- Include 20 percent of any common equity tier 1 minority interest, tier 1 minority interest, and total capital minority interest exceeding the capital rules' minority interest limitations

and minority interest. See 82 FR 15900 (March 30, 2017).

<sup>8</sup> 82 FR 49984 (October 27, 2017).

(surplus minority interest) in regulatory capital.

For example, the transitions NPR would require a non-advanced approaches banking organization with an amount of MSAs above the 10 percent common equity tier 1 capital deduction threshold in the capital rules to deduct from common equity tier 1 capital 80 percent of the amount of MSAs above this threshold, and to apply a 100 percent risk weight to the MSAs that are not deducted from common equity tier 1 capital, including the MSAs that otherwise would be deducted but for the transition provisions.

The transitions NPR did not propose to modify the transition provisions applicable to advanced approaches banking organizations. Accordingly, under the proposal, beginning on January 1, 2018, advanced approaches banking organizations would be required to apply the fully phased-in regulatory capital treatment for MSAs, temporary difference DTAs, significant investments in the capital of unconsolidated financial institutions in the form of common stock, non-significant investments in the capital of unconsolidated financial institutions, significant investments in the capital of unconsolidated financial institutions that are not in the form of common stock, and minority interest.<sup>9</sup> The transitions NPR stated that the current regulatory capital treatment for items covered by the proposal strikes an appropriate balance between complexity and risk sensitivity for the largest and most complex banking organizations.<sup>10</sup>

## III. Summary of Comments on the Transitions NPR

The agencies received 36 unique comment letters from banking organizations, trade associations, public interest groups, and private individuals, and nearly 200 uniform letters signed by different banking organizations and

<sup>9</sup> The amendatory text of the respective agencies in this final rule includes the relevant transition provisions for advanced approaches banking organizations for convenient reference only. This final rule does not reflect any change to the transition schedule for advanced approaches banking organizations.

<sup>10</sup> 82 FR 40497 (August 25, 2017). This final rule would require any banking organization meeting the capital rules' definition of an advanced approaches banking organization to fully phase in the capital treatment for these items. Banking organizations that meet the definition of an advanced approaches banking organization and that have not exited parallel run, or that do not calculate risk-weighted assets using the advanced approaches rule (such as intermediate holding companies of foreign banking organizations or certain subsidiaries of advanced approaches banking organizations), are nonetheless advanced approaches banking organizations.

<sup>4</sup> 12 CFR 217.300 (Board); 12 CFR 3.300 (OCC); 12 CFR 324.300 (FDIC).

<sup>5</sup> 12 CFR 217.300(b)(4) and (d) (Board); 12 CFR 3.300(b)(4) and (d) (OCC); 12 CFR 324.300(b)(4) and (d) (FDIC).

<sup>6</sup> 82 FR 40495 (August 25, 2017).

<sup>7</sup> The EGRPRA report stated that such amendments likely would include simplifying the current regulatory capital treatment for MSAs, temporary difference DTAs, holdings of regulatory capital instruments issued by financial institutions;

bank employees. Numerous commenters supported the proposal to extend the 2017 transition provisions in order to reduce operational burden, complexity, and cost of the capital rules, particularly for community banking organizations. Some of these commenters stated that the proposed rule would promote lending and increase shareholder equity. Other commenters criticized the proposal on the grounds that the transitions NPR and simplification NPR do not go far enough. Some commenters argued that the agencies should have proposed freezing additional transition provisions. Also, some commenters recommended that the agencies propose more fundamental changes to the capital rules beyond the revisions proposed by the transitions NPR.

Several commenters criticized the limited scope of application of the transitions NPR, and recommended that the agencies apply the proposed changes to all banking organizations. A few commenters expressed concern about limiting the transitions NPR's scope of application to non-advanced approaches banking organizations; these commenters stated that the proposal would result in calculations of capital arbitrarily based on a banking organization's size. Some commenters criticized the use of the advanced approaches size thresholds more generally, and recommended that the agencies apply other criteria, such as the systemic indicator score for global systemically important bank holding companies (GSIBs), when tailoring the scope of the transitions NPR and, more generally, the regulatory capital rules.<sup>11</sup> These same commenters urged the agencies to revisit the size thresholds for the advanced approaches more generally. Some of these commenters suggested that certain advanced approaches banking organizations are predominantly engaged in traditional banking activities and therefore should not be deemed riskier than smaller non-advanced approaches banking organizations.

The agencies continue to believe that it is appropriate to tailor regulatory capital requirements to different banking organizations based, in certain cases, on the organization's size and level of complexity. In this regard, it is appropriate to impose more stringent capital requirements on more complex banking organizations, even where those banking organizations are not considered GSIBs.<sup>12</sup> The agencies

further note that there are several examples where the capital rules differentiate the treatment of exposures across different types of banking organizations. Such differentiation has generally reflected the variation in the size, complexity, and risk profile of banking organizations as well as considerations around implementation costs and operational burden. For example, banking organizations that engage in substantial trading activities are subject to the agencies' market risk capital rule,<sup>13</sup> which requires banks to calculate market risk capital requirements based on bank models for estimating risk. Banking organizations not subject to the market risk capital rule are not required to develop these models or make adjustments based on market risk. This differentiation was intended to reduce the operational burden for banking organizations that do not have significant trading activities.

The agencies also note that the capital rules differentiated the transition provisions across different types of banking organizations in 2014 when advanced approaches banking organizations were required to begin the transition period for the revised minimum regulatory capital ratios, definitions of regulatory capital, and regulatory capital adjustments and deductions established under the agencies' capital rules, whereas non-advanced approaches banking organizations began their transition period in 2015. As indicated in the preamble to the 2013 final rulemaking to revise the capital rules, the agencies believe that advanced approaches banking organizations have the sophistication and infrastructure to implement and apply the fully phased-in treatment of the capital rules.<sup>14</sup> Further, as indicated in the transitions NPR preamble, the fully phased-in treatment of the items discussed in that proposal remains appropriate for advanced approaches banking organizations given the business models and risk profiles of such banking organizations.

A related concern raised by some commenters was that the proposal would cause risk weights to vary for the same exposure category depending on the nature of the banking organization holding the asset. For the reasons discussed above, the agencies believe that it is appropriate to vary the

treatment of different exposures by the type of firm in the context of the final rule and note that the capital rules currently provide other circumstances where a banking organization may, or must, apply a different treatment to an exposure depending on the characteristics of the banking organization. As discussed, the agencies believe that the more stringent treatment that would apply to advanced approaches banking organizations under the transitions NPR is appropriate and are finalizing the proposal without change.

One commenter argued that the proposal appears to be inconsistent with section 171 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Collins Amendment),<sup>15</sup> which, in the view of the commenter, suggests that the agencies must establish generally applicable risk-based and leverage capital requirements that treat all exposures consistently across all banking organizations regardless of a banking organization's size or total foreign exposure.

The Collins Amendment requires each of the agencies to establish minimum capital requirements for certain supervised banking organizations and authorizes the agencies to establish more stringent capital requirements.<sup>16</sup> Under the proposal, all banking organizations would be subject to minimum capital requirements, as required by the Collins Amendment. Advanced approaches banking organizations would be implicitly required to meet the same capital floor set by the generally applicable capital requirements, but also would be subject to more stringent requirements relative to non-advanced approaches banking organizations, which is permitted by the Collins Amendment.

The capital rules already contain additional capital requirements based on the size or activities of a banking organization. These additional capital requirements (*e.g.*, the countercyclical capital buffer and supplementary leverage ratio) are greater than the minimum risk-based and leverage capital requirements established by the agencies. As noted, additional capital requirements are permitted under the Collins Amendment.

Some commenters argued that the transitions NPR was insufficient and failed to adequately reduce burden. Some argued that the proposal should have included other revisions to more generally address the complexity in the

H) is designed for a different context and purpose than the advanced approaches thresholds.

<sup>13</sup> 12 CFR part 217, subpart F (Board); 12 CFR part 3, subpart F (OCC); 12 CFR part 324, subpart F (FDIC).

<sup>14</sup> 78 FR 62028.

<sup>15</sup> Codified at 12 U.S.C. 5371.

<sup>16</sup> 12 U.S.C. 5371(b).

<sup>11</sup> See 12 CFR part 217, subpart H.

<sup>12</sup> The systemic indicator approach set forth in the Board's rule for GSIBs (12 CFR part 217, subpart

capital rules, namely for community banking organizations, while others asserted that the proposal should have allowed banking organizations to revert to earlier phase-in stages for MSAs or that it should have extended other transition provisions, such as those pertaining to the capital conservation buffer.

The agencies note that the transitions NPR was intended solely to stay the phase-in of certain elements of the capital rules in light of goals stated in the EGRPRA report and in contemplation of the simplifications NPR. In line with this intention, the agencies sought public comment “more narrowly on the changes proposed” in the transitions NPR, including comments on the administrative and operational challenges associated with the proposed changes and the scope of application of the transitions NPR.<sup>17</sup> The agencies believe that the transition provisions in the capital rules provide an adequate amount of time for banking organizations to implement the requirements of the capital rules and are making limited changes to the transition provisions with this final rule solely in anticipation of the possible changes to the capital rules they recommended in the EGRPRA report and proposed in the simplifications NPR. The agencies will consider comments applicable to the proposed changes in the simplifications NPR as part of that rulemaking process.

Several commenters made other suggestions for amendments to the capital rules more generally. For example, commenters argued that the capital rules are generally inappropriate for banking organizations with \$50 billion or less in total consolidated assets, should be restricted in scope to GSIBs, or should measure capital levels using tangible equity or based on the organization’s activities. They also argued that the capital rules require banking organizations to calculate too many capital ratios.

The various capital requirements under the agencies’ rules were designed to ensure that the banking system would be better able to absorb losses and continue lending during periods of economic stress by ensuring that the banking system was safer and more resilient. The capital rules achieved this goal by improving the quality and increasing the quantity of capital across the banking system.<sup>18</sup> The agencies note that various elements of the capital rules are tailored to the size and complexity of covered banking organizations. In addition, the agencies believe that

certain aspects of the capital rules could be revised to reduce regulatory burden while at the same time ensuring an appropriate regulatory capital treatment to address safety and soundness concerns, and have outlined proposed changes to that effect in the simplifications NPR. Furthermore, as noted previously in this preamble, the transitions NPR was intended solely to stay the phase-in of certain elements of the capital rules in light of goals stated in the EGRPRA report and in contemplation of the simplifications NPR. The agencies will consider comments applicable to the proposed changes in the simplifications NPR as part of that rulemaking process.

Several commenters also suggested other specific changes to the capital rules. For example, some commenters suggested changes to the treatment of MSAs more generally, including raising the deduction thresholds and reducing the applicable risk weight. Many commenters suggested that the agencies should amend the treatment of investments in the capital of financial institutions, specifically investments in trust preferred securities, while one commenter criticized the current treatment of high volatility commercial real estate exposures as difficult to apply and requiring too much capital to be held against these exposures. A commenter suggested that the agencies allow advanced approaches banking organizations to neutralize accumulated other comprehensive income in regulatory capital. A commenter criticized the capital rules’ treatment of Subchapter S corporations with respect to the capital conservation buffer. Another commenter criticized the netting treatment for securities financing transactions (SFTs), and urged the agencies to revise the methodology for calculating risk weights for SFTs in the capital rules. Another commenter asserted that the current 100 percent risk weight for exposures to broker-dealers and securities firms is too high. Another commenter argued that agencies should amend the risk weight for certain cleared transactions in the standardized approach to align with the treatment in the advanced approaches. A commenter asserted that the capital rules imposed an inappropriate data collection, technology, and reporting burden on community banking organizations.

As noted previously in this preamble, the transitions NPR was intended solely to stay the phase-in of certain elements of the capital rules in light of goals stated in the EGRPRA report and in contemplation of the simplifications NPR. The agencies will consider

comments applicable to the proposed changes in the simplifications NPR as part of that rulemaking process.

Further, a commenter raised concerns about the implementation of the current expected credit loss (CECL) accounting standard and its impact on capital requirements in the context of the transitions NPR so that banking organizations can evaluate the cumulative effect of all final changes to the capital rules and CECL at one time. The agencies recognize that CECL will affect accounting provisions and, consequently, retained earnings and regulatory capital, and that the amount of the effect will differ among banking organizations. However, in order to provide meaningful burden relief, the transitions NPR will need to be finalized and become effective on or before January 1, 2018, when the regulatory capital treatment for items covered by the transitions NPR would otherwise be fully phased in. That said, the agencies are considering separately whether or not it will be appropriate to make adjustments to the capital rules in response to CECL and its potential impact on regulatory capital.

After consideration of comments received on the transitions NPR, to reduce regulatory burden on non-advanced approaches banking organizations and for the other reasons stated above, and in light of the pendency of the simplifications NPR, the agencies are adopting the proposal as a final rule effective January 1, 2018.

#### IV. Amendments to Reporting Forms

The agencies will clarify the reporting instructions for the Consolidated Reports of Condition and Income (Call Report) (FFIEC 031, FFIEC 041, and FFIEC 051; OMB Control Nos. 1557–0081, 7100–0036, 3604–0052), the OCC will clarify the instructions for OCC DFAST 14A (OMB Control No. 1557–0319), the FDIC will clarify the instructions for FDIC DFAST 14A (OMB Control No. 3064–0189), and the Board will clarify the instructions for the FR Y–9C (OMB Control No. 7100–0128), and the FR Y–14A and FR Y–14Q (OMB Control No. 7100–0341) to reflect the changes to the capital rules resulting from this final rule.

#### V. Regulatory Analyses

##### A. Paperwork Reduction Act

In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521) (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

<sup>17</sup> 82 FR 40497 (August 25, 2017).

<sup>18</sup> 78 FR 62062.

Office of Management and Budget (OMB) control number. The agencies reviewed the final rule and determined that it does not create any new or revise any existing collection of information under section 3504(h) of title 44. Accordingly, no information collection request has been submitted to the OMB for review. The agencies did not receive any comments on the PRA. However, the agencies will clarify the reporting instructions for the Call Report. The revised draft Call Report instructions to reflect the transitions NPR are publicly available at [https://www.ffiec.gov/pdf/FFIEC\\_forms/FFIEC031\\_FFIEC041\\_20170824\\_i\\_draft.pdf](https://www.ffiec.gov/pdf/FFIEC_forms/FFIEC031_FFIEC041_20170824_i_draft.pdf). The OCC and FDIC will clarify the instructions for DFAST 14A, and the Board will clarify the instructions for the FR Y-9C, the FR Y-14A, and the FR Y-14Q to reflect the changes to the capital rules that would be required under this final rule. The updated Call Report instructions will be available at [https://www.ffiec.gov/ffiec\\_report\\_forms.htm](https://www.ffiec.gov/ffiec_report_forms.htm), the updated OCC DFAST 14A instructions will be available at <https://www.occ.gov/tools-forms/forms/bank-operations/stress-test-reporting.html>, the updated FDIC DFAST 14A instructions will be available at <https://www.fdic.gov/regulations/reform/dfast/>, and the updated FR Y-9C, FR Y-14A, and FR Y-14Q instructions will be available at <https://www.federalreserve.gov/apps/reportforms/review.aspx>.

#### 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 a Final Regulatory Flexibility Analysis describing the impact of the rule on small entities (defined by the Small Business Administration (SBA) 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.

As of March 31, 2017, the OCC supervised 972 small entities.<sup>19</sup> The rule applies to all OCC-supervised entities that are not subject to the advanced approaches risk-based capital rules, and thus potentially affects a substantial number of small entities. The OCC has determined that 139 OCC-supervised

small entities will be directly impacted by the final rule provisions pertaining to the transitions for the threshold deduction items, two OCC-supervised small entities will be directly impacted by the final rule provisions pertaining to the transitions for the surplus minority interest, and 596 OCC-supervised small entities will be directly impacted by the final rule provisions that retain the 100 percent risk weight (instead of a 250 percent risk weight) for non-deducted MSAs, temporary difference DTAs, and significant investments in the capital of unconsolidated financial institutions. However, the final rule would provide a small economic benefit to those entities, and value of the change in capital levels will be significant only for three such entities. Thus, the OCC has determined that rule would not have a significant impact on a substantial number of 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 Board is providing a regulatory flexibility analysis with respect to this final rule. RFA generally requires that an agency prepare and make available a final regulatory flexibility analysis in connection with a final rulemaking. As discussed in the Supplemental Information, the final rule revises the transition provisions in the regulatory capital rules to extend the treatment effective for calendar year 2017 for several regulatory capital adjustments and deductions that are subject to multi-year phase-in schedules. Through the simplifications NPR, the agencies have sought public comment on a proposal to simplify certain items of the regulatory capital rules and, thus, the agencies believe it is appropriate to extend the transition provisions currently in effect for these items while the simplifications NPR is pending.

Under regulations issued by the SBA, a small entity includes a bank, bank holding company, or savings and loan holding company with assets of \$550 million or less (small banking organization).<sup>20</sup> As of June 30, 2017, there were approximately 3,451 small bank holding companies, 224 small savings and loan holding companies, and 566 small state member banks. The final rule applies to all state member banks, as well as all bank holding

companies and savings and loan holding companies that are subject to the Board's regulatory capital rules, but excluding state member banks, bank holding companies, and savings and loan holding companies that are subject to the advanced approaches in the capital rules. In general, the Board's capital rules only apply to bank holding companies and savings and loan holding companies that are not subject to the Board's Small Bank Holding Company Policy Statement, which applies to bank holding companies and savings and loan holding companies with less than \$1 billion in total assets that also meet certain additional criteria.<sup>21</sup> Thus, most bank holding companies and savings and loan holding companies affected by the final rule exceed the \$550 million asset threshold at which a banking organization would qualify as a small banking organization.

The agencies received no comments on the initial regulatory flexibility analysis from the public or from the Chief Counsel for Advocacy of the SBA. As discussed in the Supplemental Information, various commenters suggested additional ways for the agencies to more broadly reduce the overall burden of the capital rules.

The final rule does not impact the recordkeeping and reporting requirements for affected small banking organizations. The final rule instead retains the transition provisions in effect for calendar year 2017 for the items that would be affected by the simplifications NPR until the simplifications NPR is finalized or the agencies determine otherwise. The final permits affected small banking organizations, beginning in 2018 and thereafter, to deduct less investments in the capital of unconsolidated financial institutions, MSAs, and temporary difference DTAs from common equity tier 1 capital than would otherwise be required under the current transition provisions. The final rule also allows small banking organizations to continue using a 100 percent risk weight for non-deducted MSAs, temporary difference DTAs and significant investments in the capital of unconsolidated financial institutions rather than the 250 percent risk weight for these items which is scheduled to take effect beginning January 1, 2018. Thus, for small banking organizations that have significant amounts of MSAs or temporary difference DTAs, the final rule could have a temporary positive impact in their capital ratios during 2018 and thereafter.

<sup>19</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.

<sup>20</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).

<sup>21</sup> See 12 CFR 217.1(c)(1)(ii) and (iii); 12 CFR part 225, appendix C; 12 CFR 238.9.

As discussed in the initial regulatory flexibility analysis, the final rule is expected to provide a reduction in capital requirements for small bank holding companies, savings and loan holding companies, and state member banks. Specifically, the impact from increasing the deduction of investments in the capital of unconsolidated financial institutions, MSAs, and temporary difference DTAs from 80 percent of the amounts to be deducted under the capital rules in 2017 to 100 percent in 2018 is estimated to decrease common equity tier 1 capital by 0.02 percent on average across all covered small bank holding companies, savings and loan holding companies, and state member banks. Similarly, the impact from increasing from 80 percent in 2017 to 100 percent in 2018 the exclusion of surplus minority interest is estimated to decrease total regulatory capital by 0.11 percent across the same set of institutions. Based on March 31, 2017 data for the same set of institutions, increasing the risk weight for non-deducted MSAs and temporary difference DTAs to 250 percent from 100 percent would result in an increase in risk-weighted assets of 0.45 percent. Therefore, the final rule's retention of the transition provisions for the regulatory capital treatment of MSAs, temporary difference DTAs, investments in the capital of unconsolidated financial institutions, and minority interest, would have a marginally positive impact on the regulatory capital ratios of small banking organizations.

As discussed, the economic impact of the final rule on small banking organizations is expected to be marginally positive. As a result, the Board did not adopt any alternative to the proposal in the final rule.

**FDIC:** The RFA generally requires that, in connection with a final rule, an agency prepare a regulatory flexibility analysis describing the impact of the final rule on small entities. A regulatory flexibility analysis is not required, however, if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The SBA has defined "small entities" to include banking organizations with total assets less than or equal to \$550 million. As of June 30, 2017, the FDIC supervises 3,717 banking institutions, 2,990 of which qualify as small entities according to the terms of the RFA.

The final rule will extend the current regulatory capital treatment of: (i) MSAs; (ii) temporary difference DTAs; (iii) significant investments in the capital of unconsolidated financial institutions in the form of common

stock; (iv) non-significant investments in the capital of unconsolidated financial institutions; (v) significant investments in the capital of unconsolidated financial institutions that are not in the form of common stock; and (vi) common equity tier 1 minority interest, tier 1 minority interest, and total capital minority interest exceeding the capital rules' minority interest limitations. The transitions NPR will likely pose small economic benefits for small FDIC-supervised institutions by preventing any increase in risk-based capital requirements due to the completion of the transition provisions for the above items.

According to Call Report data (as of June 30, 2017), 424 FDIC-supervised small banking entities reported holding some volume of the above asset classes. Additionally, as of June 30, 2017, the risk-based capital deduction related to these assets under the capital rules has been incurred by only 52 FDIC-supervised small banking entities.

The impact from increasing the deduction of investments in the capital of unconsolidated financial institutions, MSAs, and temporary difference DTAs from 80 percent of the amounts to be deducted under the capital rules (12 CFR 324.300) in 2017 to 100 percent in 2018 would decrease common equity tier 1 capital by 0.02 percent on average across all covered small FDIC-supervised banking institutions. Similarly, the impact from increasing from 80 percent in 2017 to 100 percent under the capital rules (12 CFR 324.300) in 2018 the exclusion of surplus minority interest would decrease total regulatory capital by 0.01 percent across the same set of institutions. Based on June 30, 2017 data for the same set of institutions, increasing the risk weight for non-deducted MSAs and temporary difference DTAs to 250 percent from 100 percent would result in an increase in risk-weighted assets of 0.37 percent. Therefore, retaining the transition provisions for the regulatory capital treatment of MSAs, temporary difference DTAs, investments in the capital of unconsolidated financial institutions, and minority interest will have a marginally positive impact on the regulatory capital ratios of nearly all small FDIC-supervised banking institutions.

FDIC analysis has identified that absent the transitions NPR, 31 small FDIC-supervised banking institutions would have a decrease of 1 percent or more in common equity tier 1 capital, tier 1 capital and or total capital. Furthermore, 31 small FDIC-supervised banking institutions would have an

increase in risk-weighted assets greater than 3 percent absent the transitions NPR. Therefore, the FDIC certifies that this final rule will not have a significant economic impact on a substantial number of small entities that it supervises.

### C. 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 and did not receive any comments on the use of plain language.

### D. OCC Unfunded Mandates Reform Act of 1995 Determination

The OCC analyzed the final rule under the factors set forth in the Unfunded Mandates Reform Act of 1995 (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 for inflation). The OCC has determined that this final rule would not result in expenditures by State, local, and Tribal governments, or the private sector, of \$100 million or more in any one year.<sup>22</sup> Accordingly, the OCC has not prepared a written statement to accompany this NPR.

### E. Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)

For purposes of SBREFA, the OMB makes a determination as to whether a final rule constitutes a "major" rule. If a rule is deemed a "major rule" by the OMB, SBREFA generally provides that the rule may not take effect until at least 60 days following its publication.<sup>23</sup> Notwithstanding any potential delay related to the OMB's pending determination, banking organizations subject to this final rule will be

<sup>22</sup> The OCC estimates that the final rule would lead to an aggregate increase in reported regulatory capital in 2018 for national banks and Federal savings associations compared to the amount they would report if they were required to complete the 2018 phase-in provisions. The OCC estimates that this increase in reported regulatory capital—which could allow banking organizations to increase their leverage and thus increase their tax deductions for interest paid on debt—would have a total aggregate value of approximately \$121 million per year across all directly impacted OCC-supervised entities (that is, national banks and Federal savings associations not subject to the advanced approaches risk-based capital rules).

<sup>23</sup> 5 U.S.C. 801(a)(3).

permitted to elect to comply with it as of January 1, 2018.

SBREFA defines a “major rule” as any rule that the Administrator of the Office of Information and Regulatory Affairs of the OMB finds has resulted in or is likely to result in—(A) an annual effect on the economy of \$100,000,000 or more; (B) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions, or (C) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.<sup>24</sup>

#### F. Administrative Procedure Act

The Administrative Procedure Act (“APA”) requires that a final rule be published in the **Federal Register** no less than 30 days before its effective date unless, among other exceptions, the final rule relieves a restriction.<sup>25</sup> The final rule extends certain transition provisions that were set to expire on December 31, 2017, and thus relieves non-advanced approaches banking organizations from compliance with certain stricter capital requirements that would otherwise have taken effect on January 1, 2018.

#### G. Riegle Community Development and Regulatory Improvement Act of 1994

The Riegle Community Development and Regulatory Improvement Act of 1994 requires that each Federal banking agency, in determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on insured depository institutions, consider, consistent with principles of safety and soundness and the public interest, any administrative burdens that such regulations would place on depository institutions, including small depository institutions, and customers of depository institutions, as well as the benefits of such regulations. In addition, new regulations and amendments to regulations that impose additional reporting, disclosures, or other new requirements on insured depository institutions generally must take effect on the first day of a calendar quarter that begins on or after the date on which the regulations are published in final form.<sup>26</sup> The final rule includes no new reporting, disclosure, or other new

requirements on insured depository institutions as it only delays the implementation of certain requirements in the capital rule for non-advanced approaches organizations.

#### List of Subjects

##### 12 CFR Part 3

Administrative practice and procedure, Capital, National banks, Risk.

##### 12 CFR Part 217

Administrative practice and procedure, Banks, Banking, Capital, Federal Reserve System, Holding companies.

##### 12 CFR Part 324

Administrative practice and procedure, Banks, Banking, Capital adequacy, Savings associations, State non-member banks.

#### Office of the Comptroller of the Currency

For the reasons set out in the joint preamble, the OCC amends 12 CFR part 3 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 note, 1835, 3907, 3909, and 5412(b)(2)(B).

- 2. Section 3.300 is amended by revising paragraph (b)(4), adding paragraph (b)(5), and revising paragraph (d)(1) and table 10 to § 3.300 to read as follows:

#### § 3.300 Transitions.

\* \* \* \* \*

(b) \* \* \*

(4) *Additional transition deductions from regulatory capital.* Except as provided in paragraph (b)(5) of this section:

(i) Beginning January 1, 2014 for an advanced approaches national bank or Federal savings association, and beginning January 1, 2015 for a national bank or Federal savings association that is not an advanced approaches national bank or Federal savings association, and in each case through December 31, 2017, a national bank or Federal savings association, must use Table 7 to § 3.300 to determine the amount of investments in capital instruments and the items subject to the 10 and 15 percent common equity tier 1 capital deduction thresholds (§ 3.22(d)) (that is, MSAs, DTAs arising from temporary differences that the national bank or Federal savings association could not

realize through net operating loss carrybacks, and significant investments in the capital of unconsolidated financial institutions in the form of common stock) that must be deducted from common equity tier 1 capital.

(ii) Beginning January 1, 2014 for an advanced approaches national bank or Federal savings association, and beginning January 1, 2015 for a national bank or Federal savings association that is not an advanced approaches national bank or Federal savings association, and in each case through December 31, 2017, a national bank or Federal savings association must apply a 100 percent risk weight to the aggregate amount of the items subject to the 10 and 15 percent common equity tier 1 capital deduction thresholds that are not deducted under this section. As set forth in § 3.22(d)(2), beginning January 1, 2018, a national bank or Federal savings association must apply a 250 percent risk weight to the aggregate amount of the items subject to the 10 and 15 percent common equity tier 1 capital deduction thresholds that are not deducted from common equity tier 1 capital.

TABLE 7 TO § 3.300

Transition period	Transitions for deductions under § 3.22(c) and (d)—percentage of additional deductions from regulatory capital
Calendar year 2014 .....	20
Calendar year 2015 .....	40
Calendar year 2016 .....	60
Calendar year 2017 .....	80
Calendar year 2018 and thereafter .....	100

(iii) For purposes of calculating the transition deductions in this paragraph (b)(4) beginning January 1, 2014 for an advanced approaches national bank or Federal savings association, and beginning January 1, 2015 for a national bank or Federal savings association that is not an advanced approaches national bank or Federal savings association, and in each case through December 31, 2017, a national bank's or Federal savings association's 15 percent common equity tier 1 capital deduction threshold for MSAs, DTAs arising from temporary differences that the national bank or Federal savings association could not realize through net operating loss carrybacks, and significant investments in the capital of unconsolidated financial institutions in the form of common stock is equal to 15 percent of the sum of the national bank's or Federal savings association's

<sup>24</sup> 5 U.S.C. 804(2).

<sup>25</sup> 5 U.S.C. 553(d)(1).

<sup>26</sup> 12 U.S.C. 4802.



common equity tier 1 elements, after regulatory adjustments and deductions required under § 3.22(a) through (c) (transition 15 percent common equity tier 1 capital deduction threshold).

(iv) Beginning January 1, 2018, a national bank or Federal savings association must calculate the 15 percent common equity tier 1 capital deduction threshold in accordance with § 3.22(d).

(5) *Special transition provisions for non-significant investments in the capital of unconsolidated financial institutions, significant investments in the capital of unconsolidated financial institutions that are not in the form of common stock, MSAs, DTAs arising from temporary differences that the national bank or Federal savings association could not realize through net operating loss carrybacks, and significant investments in the capital of unconsolidated financial institutions in the form of common stock.* Beginning January 1, 2018, a national bank or Federal savings association that is not an advanced approaches national bank or Federal savings association must continue to apply the transition provisions described in paragraphs (b)(4)(i), (ii), and (iii) of this section applicable to calendar year 2017 to items that are subject to deduction under § 3.22(c)(4), (c)(5), and (d), respectively.

\* \* \* \* \*

(d) *Minority interest*—(1) *Surplus minority interest*—(i) *Advanced approaches national bank or Federal savings association surplus minority interest.* Beginning January 1, 2014 through December 31, 2017, an advanced approaches national bank or Federal savings association may include in common equity tier 1 capital, tier 1 capital, or total capital the percentage of the common equity tier 1 minority interest, tier 1 minority interest, and total capital minority interest outstanding as of January 1, 2014, that exceeds any common equity tier 1 minority interest, tier 1 minority interest, or total capital minority interest includable under § 3.21 (surplus minority interest), respectively, as set forth in Table 10 to § 3.300.

(ii) *Non-advanced approaches national bank and Federal savings association surplus minority interest.* A national bank or Federal savings association that is not an advanced approaches national bank or Federal savings association may include in common equity tier 1 capital, tier 1 capital, or total capital 20 percent of the common equity tier 1 minority interest, tier 1 minority interest and total capital

minority interest outstanding as of January 1, 2014, that exceeds any common equity tier 1 minority interest, tier 1 minority interest, or total capital minority interest includable under § 3.21 (surplus minority interest), respectively.

\* \* \* \* \*

TABLE 10 TO § 3.300

Transition period	Percentage of the amount of surplus or non-qualifying minority interest that can be included in regulatory capital during the transition period
Calendar year 2014 .....	80
Calendar year 2015 .....	60
Calendar year 2016 .....	40
Calendar year 2017 .....	20
Calendar year 2018 and thereafter .....	0

\* \* \* \* \*

12 CFR Part 217

**Board of Governors of the Federal Reserve System**

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

**PART 217—CAPITAL ADEQUACY OF BANK HOLDING COMPANIES, SAVINGS AND LOAN HOLDING COMPANIES, AND STATE MEMBER BANKS (REGULATION Q)**

■ 3. 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.

■ 4. Section 217.300 is amended by revising paragraph (b)(4), adding paragraph (b)(5), and revising paragraph (d)(1) and table 10 to § 217.300 to read as follows:

**§ 217.300 Transitions.**

\* \* \* \* \*

(b) \* \* \*

(4) *Additional transition deductions from regulatory capital.* Except as provided in paragraph (b)(5) of this section:

(i) Beginning January 1, 2014 for an advanced approaches Board-regulated institution, and beginning January 1, 2015 for a Board-regulated institution that is not an advanced approaches institution, and in each case through December 31, 2017, an institution, must use Table 7 to § 217.300 to determine

the amount of investments in capital instruments and the items subject to the 10 and 15 percent common equity tier 1 capital deduction thresholds (§ 217.22(d)) (that is, MSAs, DTAs arising from temporary differences that the institution could not realize through net operating loss carrybacks, and significant investments in the capital of unconsolidated financial institutions in the form of common stock) that must be deducted from common equity tier 1 capital.

(ii) Beginning January 1, 2014 for an advanced approaches institution, and beginning January 1, 2015 for an institution that is not an advanced approaches institution, and in each case through December 31, 2017, an institution must apply a 100 percent risk weight to the aggregate amount of the items subject to the 10 and 15 percent common equity tier 1 capital deduction thresholds that are not deducted under this section. As set forth in § 217.22(d)(2), beginning January 1, 2018, a Board-regulated institution must apply a 250 percent risk weight to the aggregate amount of the items subject to the 10 and 15 percent common equity tier 1 capital deduction thresholds that are not deducted from common equity tier 1 capital.

TABLE 7 TO § 217.300

Transition period	Transitions for deductions under § 217.22(c) and (d)—percentage of additional deductions from regulatory capital
Calendar year 2014 .....	20
Calendar year 2015 .....	40
Calendar year 2016 .....	60
Calendar year 2017 .....	80
Calendar year 2018 and thereafter .....	100

(iii) For purposes of calculating the transition deductions in this paragraph (b)(4) beginning January 1, 2014 for an advanced approaches Board-regulated institution, and beginning January 1, 2015 for Board-regulated institution that is not an advanced approaches Board-regulated institution, and in each case through December 31, 2017, an institution's 15 percent common equity tier 1 capital deduction threshold for MSAs, DTAs arising from temporary differences that the institution could not realize through net operating loss carrybacks, and significant investments in the capital of unconsolidated financial institutions in the form of common stock is equal to 15 percent of the sum of the institution's common equity tier 1 elements, after regulatory



adjustments and deductions required under § 217.22(a) through (c) (transition 15 percent common equity tier 1 capital deduction threshold).

(iv) Beginning January 1, 2018 a Board-regulated institution must calculate the 15 percent common equity tier 1 capital deduction threshold in accordance with § 217.22(d).

(5) *Special transition provisions for non-significant investments in the capital of unconsolidated financial institutions, significant investments in the capital of unconsolidated financial institutions that are not in the form of common stock, MSAs, DTAs arising from temporary differences that the Board-regulated institution could not realize through net operating loss carrybacks, and significant investments in the capital of unconsolidated financial institutions in the form of common stock.* Beginning January 1, 2018, a Board-regulated institution that is not an advanced approaches Board-regulated institution must continue to apply the transition provisions described in paragraphs (b)(4)(i), (ii), and (iii) of this section applicable to calendar year 2017 to items that are subject to deduction under § 217.22(c)(4), (c)(5), and (d), respectively.

\* \* \* \* \*

(d) *Minority interest*—(1) *Surplus minority interest*—(i) *Advanced approaches institution surplus minority interest.* Beginning January 1, 2014 through December 31, 2017, an advanced approaches Board-regulated institution may include in common equity tier 1 capital, tier 1 capital, or total capital the percentage of the common equity tier 1 minority interest, tier 1 minority interest and total capital minority interest outstanding as of January 1, 2014 that exceeds any common equity tier 1 minority interest, tier 1 minority interest or total capital minority interest includable under § 217.21 (surplus minority interest), respectively, as set forth in Table 10 to § 217.300.

(ii) *Non-advanced approaches institution surplus minority interest.* A Board-regulated institution that is not an advanced approaches Board-regulated institution may include in common equity tier 1 capital, tier 1 capital, or total capital 20 percent of the common equity tier 1 minority interest, tier 1 minority interest and total capital minority interest outstanding as of January 1, 2014, that exceeds any common equity tier 1 minority interest, tier 1 minority interest or total capital minority interest includable under

§ 217.21 (surplus minority interest), respectively.

\* \* \* \* \*

TABLE 10 TO § 217.300

Transition period	Percentage of the amount of surplus or non-qualifying minority interest that can be included in regulatory capital during the transition period
Calendar year 2014 .....	80
Calendar year 2015 .....	60
Calendar year 2016 .....	40
Calendar year 2017 .....	20
Calendar year 2018 and thereafter .....	0

\* \* \* \* \*

12 CFR Part 324

**Federal Deposit Insurance Corporation**

For the reasons set out in the joint preamble, the FDIC amends 12 CFR part 324 as follows.

**PART 324—CAPITAL ADEQUACY OF FDIC-SUPERVISED INSTITUTIONS**

■ 5. 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).

■ 6. Section 324.300 is amended by revising paragraph (b)(4), adding paragraph (b)(5), and revising paragraph (d)(1) and table 9 to § 324.300 to read as follows:

**§ 324.300 Transitions.**

\* \* \* \* \*

(b) \* \* \*

(4) *Additional transition deductions from regulatory capital.* Except as provided in paragraph (b)(5) of this section:

(i) Beginning January 1, 2014, for an advanced approaches FDIC-supervised institution, and beginning January 1, 2015, for an FDIC-supervised institution that is not an advanced approaches FDIC-supervised institution, and in each case through December 31, 2017, an FDIC-supervised institution, must use Table 7 to § 324.300 to determine the amount of investments in capital

instruments and the items subject to the 10 and 15 percent common equity tier 1 capital deduction thresholds (§ 324.22(d)) (that is, MSAs, DTAs arising from temporary differences that the FDIC-supervised institution could not realize through net operating loss carrybacks, and significant investments in the capital of unconsolidated financial institutions in the form of common stock) that must be deducted from common equity tier 1 capital.

(ii) Beginning January 1, 2014, for an FDIC-supervised advanced approaches institution, and beginning January 1, 2015, for an FDIC-supervised institution that is not an advanced approaches FDIC-supervised institution, and in each case through December 31, 2017, an FDIC-supervised institution must apply a 100 percent risk weight to the aggregate amount of the items subject to the 10 and 15 percent common equity tier 1 capital deduction thresholds that are not deducted under this section. As set forth in § 324.22(d)(2), beginning January 1, 2018, an FDIC-supervised institution must apply a 250 percent risk weight to the aggregate amount of the items subject to the 10 and 15 percent common equity tier 1 capital deduction thresholds that are not deducted from common equity tier 1 capital.

TABLE 7 TO § 324.300

Transition period	Transitions for deductions under § 324.22(c) and (d)—percentage of additional deductions from regulatory capital
Calendar year 2014 .....	20
Calendar year 2015 .....	40
Calendar year 2016 .....	60
Calendar year 2017 .....	80
Calendar year 2018 and thereafter .....	100

(iii) For purposes of calculating the transition deductions in this paragraph (b)(4) beginning January 1, 2014, for an advanced approaches FDIC-supervised institution, and beginning January 1, 2015, for an FDIC-supervised institution that is not an advanced approaches FDIC-supervised institution, and in each case through December 31, 2017, an FDIC-supervised institution's 15 percent common equity tier 1 capital deduction threshold for MSAs, DTAs arising from temporary differences that the FDIC-supervised institution could not realize through net operating loss carrybacks, and significant investments in the capital of unconsolidated financial institutions in the form of common stock is equal to 15 percent of the sum

of the FDIC-supervised institution's common equity tier 1 elements, after regulatory adjustments and deductions required under § 324.22(a) through (c) (transition 15 percent common equity tier 1 capital deduction threshold).

(iv) Beginning January 1, 2018, an FDIC-supervised institution must calculate the 15 percent common equity tier 1 capital deduction threshold in accordance with § 324.22(d).

(5) *Special transition provisions for non-significant investments in the capital of unconsolidated financial institutions, significant investments in the capital of unconsolidated financial institutions that are not in the form of common stock, MSAs, DTAs arising from temporary differences that the FDIC-supervised institution could not realize through net operating loss carrybacks, and significant investments in the capital of unconsolidated financial institutions in the form of common stock.* Beginning January 1, 2018, an FDIC-supervised institution that is not an advanced approaches FDIC-supervised institution must continue to apply the transition provisions described in paragraphs (b)(4)(i), (ii), and (iii) of this section applicable to calendar year 2017 to items that are subject to deduction under § 324.22(c)(4), (c)(5), and (d), respectively.

\* \* \* \* \*

(d) *Minority interest*—(1) *Surplus minority interest*—(i) *Advanced approaches FDIC-supervised institution surplus minority interest.* Beginning January 1, 2014, through December 31, 2017, an advanced approaches FDIC-supervised institution may include in common equity tier 1 capital, tier 1 capital, or total capital the percentage of the common equity tier 1 minority interest, tier 1 minority interest and total capital minority interest outstanding as of January 1, 2014 that exceeds any common equity tier 1 minority interest, tier 1 minority interest or total capital minority interest includable under § 324.21 (surplus minority interest), respectively, as set forth in Table 9 to § 324.300.

(ii) *Non-advanced approaches FDIC-supervised institution surplus minority interest.* An FDIC-supervised institution that is not an advanced approaches FDIC-supervised institution may include in common equity tier 1 capital, tier 1 capital, or total capital 20 percent of the common equity tier 1 minority interest, tier 1 minority interest and total capital minority interest outstanding as of January 1, 2014 that exceeds any common equity tier 1 minority interest, tier 1 minority interest

or total capital minority interest includable under § 324.21 (surplus minority interest), respectively.

\* \* \* \* \*

TABLE 9 TO § 324.300

Transition period	Percentage of the amount of surplus or non-qualifying minority interest that can be included in regulatory capital during the transition period
Calendar year 2014 .....	80
Calendar year 2015 .....	60
Calendar year 2016 .....	40
Calendar year 2017 .....	20
Calendar year 2018 and thereafter .....	0

\* \* \* \* \*

Dated: November 13, 2017.

**Keith A. Noreika,**

*Acting Comptroller of the Currency.*

By order of the Board of Governors of the Federal Reserve System, November 15, 2017.

**Ann E. Misback,**

*Secretary of the Board.*

Dated at Washington, DC this 14th of November, 2017.

By order of the Board of Directors.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**

*Executive Secretary.*

[FR Doc. 2017–25172 Filed 11–20–17; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 100

[Docket Number USCG–2017–0598]

RIN 1625–AA08

### Special Local Regulation; Gulf of Mexico; Englewood, FL

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is establishing a special local regulation on the waters of the Gulf of Mexico in the vicinity of Englewood, Florida during the OPA World Championships High Speed Boat Race, an annually recurring event in the month of November. The special local regulation is necessary to protect the safety of race participants, participant vessels, spectators, and the general public on navigable waters of

the United States during the event. The special local regulation establishes the following three areas: A race area where all persons and vessels, except those persons and vessels participating in the high speed boat races, are prohibited from entering, transiting through, anchoring in, or remaining within; a spectator area where all vessels must be anchored or operate at No Wake Speed; and an enforcement area where designated representatives may control vessel traffic as determined by the prevailing conditions.

**DATES:** This rule is effective without actual notice November 21, 2017. For the purposes of enforcement, actual notice will be used from November 15, 2017 through November 21, 2017.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG–2017–0598 in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Marine Science Technician First Class Michael D. Shackelford, Sector St. Petersburg Prevention Department, Coast Guard; telephone (813) 228–2191, email [Michael.d.shackelford@uscg.mil](mailto:Michael.d.shackelford@uscg.mil).

#### SUPPLEMENTARY INFORMATION:

#### I. Table of Abbreviations

CFR Code of Federal Regulations  
DHS Department of Homeland Security  
FR Federal Register  
NPRM Notice of proposed rulemaking  
§ Section  
U.S.C. United States Code

#### II. Background Information and Regulatory History

The Coast Guard is establishing a special local regulation on the waters of the Gulf of Mexico in the vicinity of Englewood, Florida during the OPA World Championships High Speed Boat Race. The race will normally occur annually from 9 a.m. to 5 p.m. on the third weekend of November (Friday, Saturday, and Sunday). In 2017, the race will occur daily from 9:00 to 5:00 p.m. starting from Friday, November 17, 2017 through Sunday, November 19, 2017. Approximately 60 boats, ranging in length from 22 feet to 50 feet, traveling at speeds in excess of 77 miles per hour are expected to participate. Additionally, it is anticipated that 100 spectator vessels will be present along the race course.

The Coast Guard published a notice of proposed rulemaking (NPRM) on September 26, 2017, entitled “Special Local Regulation; Gulf of Mexico;