eligible partners may be cash, in-kind contributions, or technical assistance. The amount and type of matching funds must be specified in the Conservation Reserve Enhancement Program agreement. At least one-half of the matching funds must be provided as a direct payment to eligible participants. The amount of matching funds an eligible partner must contribute under a Conservation Reserve Enhancement Program agreement will be either:

(1) 30 percent of the total cost of the project, unless a different amount is determined by negotiation between CCC and the eligible partner with whom CCC is entering into the Conservation Reserve Enhancement Program agreement, if the majority of the matching funds to carry out the agreement are provided by one or more eligible partners that are not nongovernmental organizations; or

(2) Not less than 30 percent of the total cost of the project, if a majority of the matching funds to carry out the agreement are provided by one or more nongovernmental organizations.

(d) Notwithstanding § 1410.40(d), cost-share payments, including practice incentive payments, from all sources may exceed 100 percent of the actual cost of establishing eligible practices, but only if specifically authorized by the Conservation Reserve Enhancement Program agreement. Furthermore, a participant may not receive or retain cost-share payments if other Federal cost-share assistance is provided for such acreage under any law.

(e) With regard only to land enrolled as a riparian buffer:

(1) The term ''management'' means an activity conducted by the owner or operator of the land after the riparian buffer is established to regularly maintain or enhance only the vegetative cover throughout the CRP contract period and in accordance with the conservation plan;

(2) Cost-share payments will be made available for approved management as provided for in the Conservation Reserve Enhancement Program agreement:

(i) If such activity has been completed in accordance with the conservation plan; and

(ii) In an amount as provided for in the agreement, but not greater than 100 percent of the normal and customary cost of such activity; but

(iii) No practice incentive payment will be made for such activity; and

(3) If provided for in the Conservation Reserve Enhancement Program agreement, a participant may plant food-producing woody plants as part of the approved cover, provided such plantings:

(i) Contribute to the conservation of soil, water quality, and wildlife habitat;

(ii) Are consistent with recommendations of the applicable State Technical Committee;

(iii) Are consistent with the FOTG; and

(iv) Are provided for in the conservation plan.

(f) Participants may harvest from the food-producing woody plants specified in paragraph (e)(3) of this section only if the following conditions are met:

(1) The criteria in paragraph (e)(3) of this section are met;

(2) The participant agrees to a reduction in the annual rental payment commensurate with the value of the crop harvested;

(3) All the food-producing woody plant species within 35 feet of the water body the riparian buffer is buffering are only native plant species;

(4) The harvesting will not damage the approved cover or otherwise have a negative impact on the resource concern being addressed by the riparian buffer; and

(5) The harvesting is conducted in accordance with the conservation plan.

(g) In the case of a Conservation Reserve Enhancement Program agreement whose purpose is to address regional drought concerns, CCC may:

(1) Enroll otherwise ineligible cropland, marginal pastureland, or grassland, on which the resource concerns identified in the Conservation Reserve Enhancement Program agreement can be addressed if the enrollment of such land is critical to the accomplishment of the purposes of the agreement; and

(2) Determine annual rental payments so as to be consistent with similar Conservation Reserve Enhancement Program agreements, and to ensure regional consistency regarding such payments.

(h) Notwithstanding § 1410.30, generally, enrollment under a Conservation Reserve Enhancement Program will be held on a continuous signup basis. However, the terms and conditions of the Conservation Reserve Enhancement Program agreement will determine the basis of enrollment.

William Beam,
Acting Administrator,
Farm Service Agency.

Margo Erny,
Acting Executive Vice President,
Commodity Credit Corporation.

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FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 327

RIN 3064–AE98

Assessments

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Final rule.

SUMMARY: The FDIC is amending its deposit insurance assessment regulations to apply the community bank leverage ratio (CBLR) framework to the deposit insurance assessment system (CBLR Assessments final rule). The FDIC, the Board of Governors of the Federal Reserve System (Federal Reserve) and the Office of the Comptroller of the Currency (OCC) (collectively, the Federal banking agencies) are considering, and are expected to adopt, a final rule that provides for a simple measure of capital adequacy for certain community banking organizations (CBLR final rule). The CBLR Assessments final rule: prices all insured depository institutions (IDIs) that elect to use the CBLR framework as small institutions; makes technical amendments to the FDIC's assessment regulations to ensure that the assessment regulations continue to reference the prompt corrective action (PCA) regulations for the definitions of capital categories used in the deposit insurance assessment system; and clarifies that an IDI that elects to use the CBLR framework and also meets the definition of a custodial bank will have no change to its custodial bank deduction or reporting items required to calculate the deduction. The final rule does not make any changes to the FDIC's assessment methodology for small or large institutions.

DATES: The final rule is effective January 1, 2020.

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SUPPLEMENTARY INFORMATION:

I. Policy Objectives

The Federal Deposit Insurance Act (FDI Act) requires that the FDIC establish a risk-based deposit insurance assessment system.[1] Pursuant to this requirement, the FDIC first adopted a risk-based deposit insurance assessment system that applied to all insured depository institutions (IDIs) and became effective in 1993.[2] The FDIC implemented a risk-based assessment system with the goals of making the deposit insurance system fairer to well-run institutions and encouraging weaker institutions to improve their condition, and thus, promote the safety and soundness of IDIs.[3] Deposit insurance assessments based on risk also provide incentives for IDIs to monitor and reduce risks that could increase potential losses to the deposit insurance fund (DIF). Since 1993, the FDIC has met its statutory mandate and has pursued these policy goals by periodically introducing improvements to the deposit insurance assessment system's ability to differentiate for risk.

The primary objective of the CBLR Assessments final rule is to incorporate the CBLR framework[4] into the current risk-based deposit insurance assessment system in a manner that maximizes regulatory relief for small institutions and maintains fair and appropriate pricing of deposit insurance. This final rule will only result in a change to assessments for a very limited subset of banks[5]—those banks that elect to use the CBLR framework and would have otherwise been assessed as a large institution under current assessment regulations. Based on data from the Consolidated Reports of Condition and Income (Call Report) as of March 31, 2019, only one bank that was assessed as a large institution also met the qualifying criteria to be eligible to opt into the CBLR framework.

II. Background

The FDIC assesses all IDIs an amount for deposit insurance equal to the bank's deposit insurance assessment base multiplied by its risk-based assessment rate.[6] A bank's assessment base and risk-based assessment rate depend, in part, on items reported on the capital schedule of the Call Report. Under the CBLR final rule, a bank that elects to use the framework will only be required to report the components of its tier 1 leverage ratio (leverage ratio), which will be used to determine whether a bank is deemed ''well capitalized'' and thus in compliance with all regulatory capital requirements.

A. CBLR Framework

On February 8, 2019, the Federal banking agencies published in the **Federal Register** a notice of proposed rulemaking (CBLR NPR) that would have provided a simple alternative methodology to measure capital adequacy for qualifying community banking organizations, consistent with Section 201 of the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA or the Act).[7] [8] In the CBLR NPR, the Federal banking agencies proposed, among other things, to define tangible equity capital (tangible equity).[9] The Federal banking agencies further proposed that a qualifying community banking organization[10] could have elected to use the CBLR framework if its CBLR[11] was greater than 9 percent. Under the proposed CBLR framework, a bank would have reported its CBLR and other relevant information on a simpler regulatory capital schedule in the Call Report, as opposed to the current schedule RC–R of the Call Report.[12] Finally, under the CBLR NPR, a bank that elected to use the CBLR framework would have been required to have a CBLR greater than 9 percent to be considered well capitalized.[13] For banks with a CBLR equal to or less than 9 percent, the Federal banking agencies proposed proxy CBLR thresholds for the adequately capitalized, undercapitalized, and significantly undercapitalized PCA categories.[14]

In response to comments received on the CBLR NPR, the Federal banking agencies adopted a final rule (CBLR final rule) that makes several changes to the proposed CBLR framework.[15] The CBLR final rule provides that to be a ''qualified community banking organization,'' a depository institution or depository institution holding company must not be an advanced approaches banking organization[16] and must have less than $10 billion in total consolidated assets, meet certain risk-based qualifying criteria, and have a leverage ratio of greater than 9 percent.[17] Under the final rule, the numerator of the CBLR is the existing measure of tier 1 capital used by non-advanced approaches banking organizations (replacing the proposed

[1] 12 U.S.C. 1817(b). Generally, a ''risk-based assessment system'' means a system for calculating a depository institution's assessment based on the institution's probability of causing a loss to the Deposit Insurance Fund (DIF) due to the composition and concentration of the institution's assets and liabilities, the likely amount of any such loss, and the revenue needs of the DIF. *See* 12 U.S.C. 1817(b)(1)(C).

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

[3] *See* 57 FR 45264.

[4] In this rule, the term ''CBLR framework'' refers to the simplified reporting of capital adequacy that was adopted by the Federal banking agencies in the CBLR final rule.

[5] As used in this rule, the term ''bank'' is synonymous with the term ''insured depository institution'' as it is used in section 3(c)(2) of the FDI Act, 12 U.S.C. 1813(c)(2).

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

[7] *See* 84 FR 3062 (February 8, 2019).

[8] Public Law 115–174 (May 24, 2018). The Act defines a qualifying community banking organization as a depository institution or depository institution holding company with total consolidated assets of less than $10 billion. *See* section 201(a)(3)(A) of the Act. In addition, the Act states that the Federal banking agencies may determine that a banking organization is not a qualifying community bank based on its risk profile. *See* section 201(a)(3)(B) of the Act. A qualifying community banking organization that reports a CBLR (defined in the Act as the ratio of tangible equity capital to average total consolidated assets, both as reported on an institution's applicable regulatory filing) exceeding the level established by the Federal banking agencies of not less than 8 percent and not more than 10 percent shall be considered well capitalized. *See generally* section 201(b) of the Act.

[9] *See* 84 FR 3068–69 (defining tangible equity capital as total bank equity capital, prior to including minority interests, and excluding accumulated other comprehensive income, deferred tax assets arising from net operating loss and tax credit carryforwards, goodwill, and certain other intangible assets, calculated in accordance with a qualifying community bank organization's regulatory reports).

[10] In accordance with the Act, the Federal banking agencies proposed to define a qualifying community bank generally as a depository institution or depository institution holding company that is not an advanced approaches banking organization and that has less than $10 billion in total consolidated assets and limited amounts of off-balance sheet exposures, trading assets and liabilities, mortgage servicing assets, and certain deferred tax assets. *See* 84 FR 3065–67.

[11] *See* 84 FR 3064 (stating that the CBLR would be calculated as the ratio of tangible equity capital divided by average total consolidated assets).

[12] The Federal banking agencies separately sought comment on proposed revisions to regulatory reports consistent with the changes proposed in the CBLR NPR. *See* 84 FR 16560 (April 19, 2019).

[13] *See* 84 FR 3064 and 3071. However, to be considered and treated as well capitalized under the proposed CBLR framework, and consistent with the Federal banking agencies' current PCA rule, the qualifying community banking organization would have been required to demonstrate that it was not subject to any written agreement, order, capital directive, or prompt corrective action directive to meet and maintain a specific capital level for any capital measure. *See* 84 FR 3064.

[14] *See* 84 FR 3071–72.

[15] *See* 84 FR 61776 (November 13, 2019).

[16] An advanced approaches banking organization is generally defined as a firm with at least $250 billion in total consolidated assets or at least $10 billion in total on-balance sheet foreign exposure, and depository institution subsidiaries of those firms. Proposed rulemakings to tailor capital and liquidity requirements applicable to large banking organizations may result in changing the definition of advanced approaches banking organization. See 83 FR 66024 (December 21, 2018) and 84 FR 24296 (May 24, 2019).

[17] The risk-based qualifying criteria under the CBLR final rule include total off-balance sheet exposures (excluding derivatives other than sold credit derivatives and unconditionally cancelable commitments) of 25 percent or less of total consolidated assets and total trading assets plus trading liabilities of 5 percent or less of total consolidated assets. The Federal banking agencies did not adopt the deferred tax asset and mortgage servicing asset qualifying criteria included as part of the CBLR NPR. *See* 84 FR 61779–82.

measure of tangible equity.) [18] [19] Due to the adoption of tier 1 capital, the CBLR generally is calculated in the same manner as the leverage ratio under the Federal banking agencies' generally applicable risk-based and leverage capital requirements in the agencies' capital rule (generally applicable capital rule)—tier 1 capital divided by average total consolidated assets minus amounts deducted from tier 1 capital.[20] Thus, the CBLR final rule incorporates and refers to the generally applicable capital rule's leverage ratio.

Finally, the Federal banking agencies did not adopt use of the proposed proxy CBLR thresholds for the adequately capitalized, undercapitalized, and significantly undercapitalized PCA categories in the CBLR final rule.[21] Under the CBLR final rule, if a bank that has opted to use the CBLR framework subsequently fails to satisfy one or more of the qualifying criteria, but continues to report a leverage ratio of greater than 8 percent, the bank may continue to use the framework and will be deemed ''well capitalized'' for a grace period of up to two quarters.[22] A qualifying community banking organization will be required to comply with the generally applicable capital rule and file the relevant regulatory reports if the banking organization: (1) Is unable to restore compliance with all qualifying criteria during the two-quarter grace period (including coming into compliance with the greater than 9 percent leverage ratio requirement); (2) reports a leverage ratio of 8 percent or less; or (3) ceases to satisfy the qualifying criteria due to consummation of a merger transaction.[23]

B. Use of Capital Measures in the Current Deposit Insurance Assessment System

Under the FDI Act, the FDIC has the authority to ''establish separate risk-based assessment systems for large and small members of the Deposit Insurance Fund.'' [24] Separate systems for large banks and small banks have been in place since 2007.[25] A bank's quarterly deposit insurance assessment is calculated by multiplying its assessment base by its assessment rate.[26] A bank's assessment base is equal to its average consolidated total assets minus the average tangible equity.[27] Average tangible equity is defined as tier 1 capital.[28] The FDIC also provides a deduction to the assessment base for custodial banks equal to a certain amount of low risk-weighted assets.[29]

Assessment rates for established small banks [30] are calculated based on a formula that uses financial measures and a weighted average of supervisory ratings (CAMELS).[31] The financial measures are derived from a statistical model estimating the probability of failure over three years. The measures are shown in Table 1 below.

TABLE 1—FINANCIAL MEASURES USED TO DETERMINE ASSESSMENT RATES FOR ESTABLISHED SMALL BANKS

Financial measures
• Leverage Ratio.
• Net Income before Taxes/Total Assets.
• Nonperforming Loans and Leases/Gross Assets.
• Other Real Estate Owned/Gross Assets.
• Brokered Deposit Ratio.
• One Year Asset Growth.
• Loan Mix Index.

One of the measures, the Leverage Ratio, is defined as tier 1 capital divided by adjusted average assets (herein referred to as the tier 1 leverage ratio), and is the same calculation as the tier 1 leverage ratio under the generally applicable capital rule. The numerator and denominator of the Leverage Ratio are both based on the definitions for the relevant PCA measure.[32]

C. CBLR Assessments Notice of Proposed Rulemaking

On February 21, 2019, the FDIC published in the **Federal Register** a notice of proposed rulemaking that would amend the deposit insurance assessment regulations to apply the proposed CBLR framework to the deposit insurance assessment system (CBLR Assessments NPR).[33] Under the CBLR Assessments NPR, the FDIC would assess all banks that elect to use the CBLR framework as small banks. Further, because the use of the CBLR or tangible equity as proposed in the CBLR NPR could have resulted in a higher assessment rate or a larger assessment base for a minority of small banks, the FDIC proposed to allow banks that elect to use the CBLR framework the option to use either tangible equity or tier 1 capital for their assessment base calculation, and to have the option to report the tier 1 leverage ratio in addition to the CBLR, with the FDIC applying the value that would result in the lower assessment rate.

The CBLR Assessments NPR also clarified that: (1) A bank that elects to use the CBLR framework and also meets the definition of a custodial bank under the FDIC's assessment regulations would have no change to its custodial bank deduction or reporting items required to calculate the deduction; and (2) the assessment regulations would continue to reference the PCA regulations for the definition of capital categories used in the deposit insurance assessment system, with technical amendments to align with the CBLR NPR.

The FDIC sought comment on every aspect of the CBLR Assessments NPR, including alternatives. The FDIC received one comment from a trade group that generally supported the FDIC's objective of maintaining fair and appropriate pricing of deposit insurance for institutions that elect to use the CBLR framework.

III. The Final Rule

A. Summary

The CBLR Assessments final rule applies the CBLR framework, as adopted by the Federal banking agencies, to the deposit insurance assessment system in a way that, to the fullest extent practicable, reduces regulatory reporting burden consistent with the objective of EGRRCPA.[34] As discussed more fully

[18] For purposes of the CBLR framework, a bank that elects to use the CBLR framework is not required to calculate tier 2 capital and therefore would not be required to make any deductions that would be taken from tier 2 capital or potentially tier 1 capital due to insufficient tier 2 capital. In the CBLR final rule, the Federal banking agencies noted that they do not believe this is a common occurrence and observed that as of March 31, 2019, very few community banking organizations made a deduction from tier 2 capital. *See* 84 FR 61783.

[19] *See* FR 61782–83.

[20] *See* FR 61782–83.

[21] *See* FR 61786.

[22] *See* FR 61786.

[23] *See* FR 61786.

[24] 12 U.S.C. 1817(b)(1)(D).

[25] Under the assessment regulations, a ''small institution'' generally is an institution with less than $10 billion in total assets, and a ''large institution'' generally is an institution with $10 billion or more in total assets. *See* 12 CFR 327.8(e) and (f). A separate system for highly complex institutions (a subset of large institutions) has been in place since 2011. *See* 12 CFR 326.16(b)(2).

[26] 12 CFR 327.3(b)(1).

[27] 12 CFR 327.5(a).

[28] 12 CFR 327.5(a)(2).

[29] *See* 12 CFR 327.5(c). Generally, a custodial bank is defined as an IDI with previous calendar year-end trust assets (that is, fiduciary and custody and safekeeping assets, as reported on Schedule RC–T of the Call Report) of at least $50 billion or those insured depository institutions that derived more than 50 percent of their revenue (interest income plus non-interest income) from trust activity over the previous calendar year. *See* 12 CFR 327.5(c)(1).

[30] Generally, an established institution is one that has been federally insured for at least five years. *See* 12 CFR 327.8(v).

[31] *See* 12 CFR 327.16(a)(1).

[32] *See* 12 CFR 327.16(a)(1)(ii).

[33] *See* 84 FR 5380 (February 21, 2019).

[34] The changes adopted in this final rule do not apply to insured branches of foreign banks. These institutions file the FFIEC 002, which does not include many of the items, including capital

Continued

below, the rule amends the FDIC's assessment regulations to: (1) Price all banks that elect to use the CBLR framework as small banks; (2) make technical amendments to ensure that the assessment regulations continue to reference the PCA regulations for the definitions of capital categories used in the deposit insurance assessment system; and (3) clarify that a bank that elects to use the CBLR framework and also meets the definition of a custodial bank will have no change to its custodial bank deduction or reporting items required to calculate the deduction. The final rule does not make any changes to the FDIC's assessment methodology for small or large institutions. This final rule will only result in a change to assessments in the limited circumstance where a bank that would have otherwise been assessed as a large institution under current assessment regulations elects to use the CBLR framework.

B. Pricing Banks That Elect To Use the CBLR Framework as Small Institutions

Under this CBLR Assessments final rule, the FDIC amends the definition of ''small institution'' to include, as proposed, all banks that elect to use the CBLR framework, even if such a bank would otherwise be classified as a ''large institution'' under the assessment regulations.[35] This modification is necessary because otherwise, the different thresholds used to define a small bank in assessment regulations and a qualifying community banking organization under the CBLR framework could result in a bank that elects to use the framework being assessed as a large bank.[36] In addition, the FDIC also clarifies, as proposed, that a bank with assets of between $5 billion and $10 billion that elects to use the CBLR framework cannot request to be treated as a large bank.[37] The FDIC continues to believe that pricing a bank that uses the CBLR framework as a large bank would not meet the policy objective of maximizing the regulatory relief because the pricing methodology for large banks uses measures that are not reported by small banks. In the absence of this change, a bank that elected to use the CBLR framework and would otherwise be priced as a large institution would be required to report these additional items on their Call Report. Further, the methodology used to price the risk of large institutions is intended for banks with more complex operations and organizational structures, which, in the FDIC's view, is inconsistent with a qualifying community banking organization under the CBLR framework.[38]

C. Technical Changes in Regulations

Under this final rule, the FDIC makes technical amendments to ensure that the assessment regulations will continue to reference the PCA regulations for the definitions of capital categories used in the deposit insurance assessment system. Capital categories for deposit insurance assessment purposes are defined by reference to the agencies' regulatory capital rules that are being amended by the CBLR final rule.[39] As such, changes made by the CBLR final rule, as discussed above, will be automatically incorporated into the assessment regulations; however, technical amendments to the FDIC's assessment regulations are necessary to align with changes to regulatory citations in the CBLR final rule.

D. Clarifications Regarding Custodial Bank Deduction

Through this CBLR Assessments final rule, the FDIC clarifies that any bank that elects to use the CBLR framework and also meets the definition of a custodial bank will experience no change in the reporting that is necessary to calculate and receive the custodial bank deduction under the assessment regulations. The final rule does not change the custodial bank deduction. As mentioned above, in calculating the assessment base for custodial banks, the FDIC excludes a certain amount of low-risk assets, which are reported in Schedule RC–R of the Call Report, subject to the deduction limit.[40] Under the CBLR framework, these line items would not be reported by banks that elect to use the CBLR framework.[41] The FDIC is clarifying that it would not require such a bank to separately report these items in order to continue utilizing the custodial bank deduction. A custodial bank will continue to report the numerical value of its custodial bank deduction and custodial bank deduction limit in Schedule RC–O of the Call Report. Also, the FDIC will require custodial banks to continue to maintain the proper documentation of their calculation for the custodial bank adjustment, and to make that documentation available upon request.[42]

E. Proposed Changes Not Adopted in the CBLR Assessments Final Rule

The FDIC is not adopting several changes to the deposit insurance assessment regulations that were proposed in the CBLR Assessments NPR because the CBLR framework, as adopted in the CBLR final rule, have made them unnecessary. For example, proposed amendments to the FDIC's assessment regulations that were related to the Federal banking agencies' definition of ''tangible equity'' and ''community bank leverage ratio'' in the CBLR NPR were not adopted, rendering proposed conforming changes in the assessment regulations unnecessary.

The FDIC received one comment noting that the flexibility proposed by the FDIC in the CBLR Assessments NPR to banks that elect to use the CBLR framework would be unnecessary if the CBLR and tier 1 leverage ratio are calculated in the same manner. The FDIC agrees.

IV. Expected Effects

The FDIC does not expect that changes to its assessment regulations under this final rule would have a material impact on aggregate assessment revenue or on rates paid by individual institutions. Based on Call Report data as of March 31, 2019, 5,221 out of 5,371 IDIs had less than $10 billion in total

measures, found in the Call Report schedules filed by other IDIs.

[35] A bank that elects to use the CBLR framework and that meets the definition of an established institution under 12 CFR 327.8(v) would be assessed as an established small bank. A bank that elects to use the CBLR framework and that has been federally insured for less than five years would be assessed as a new small bank. *See* 12 CFR 327.8(w).

[36] Under the current assessment regulations, a large bank is reclassified as small once it has reported less than $10 billion in total assets for four consecutive quarters, and a small bank is reclassified as large once it has reported $10 billion or more in total assets for four consecutive quarters. *See* 12 CFR 327.8(e) and (f). Under the CBLR final rule, a qualifying community banking organization is defined generally as a depository institution or depository institution holding company with less than $10 billion in total consolidated assets at the end of the most recent quarter and that meet certain qualifying criteria. *See* 84 FR 61779–82.

[37] Under current regulations, a bank with between $5 billion and $10 billion may request treatment as a large bank for deposit insurance assessments. *See* 12 CFR 327.8(f).

[38] For example, the FDIC uses data on Schedule RC–O regarding higher-risk assets to calculate financial ratios used to determine a large or highly complex institution's assessment rate, and small institutions are not required to report such information.

[39] *See* 12 CFR 327.8(z).

[40] *See* 12 CFR 327.5(c)(2) (the FDIC will exclude from a custodial bank's assessment base the daily or weekly average (depending on how the bank reports its average consolidated total assets) of all asset types described in the instructions to lines 1, 2, and 3 of Schedule RC of the Call Report with a standardized approach risk weight of 0 percent, regardless of maturity, plus 50 percent of those asset types described in the instructions to lines 1, 2, and 3 of Schedule RC of the Call Report, with a standardized approach risk-weight greater than 0 and up to and including 20 percent, regardless of maturity).

[41] *See* 84 FR 3073.

[42] *See* 12 U.S.C. 1817(b)(4).

consolidated assets. In the CBLR final rule, the Federal banking agencies estimate that approximately 85 percent of IDIs with less than $10 billion in total assets would meet the qualifying criteria and thus be eligible to use the CBLR framework under the CBLR final rule.[43] Included in this total are four custodial banks that would meet the definition of a ''qualifying community banking organization'' under the CBLR final rule.

As mentioned above, because the Federal banking agencies incorporate and refer to the generally applicable capital rule's leverage ratio as the CBLR, the CBLR final rule results in no change to the ratio that is utilized in the FDIC's pricing methodology, and therefore no changes are being made to the assessment methodology. Additionally, a custodial bank that elects to use the CBLR framework will be able to continue to report the custodial bank deduction for its assessment base, even though it will not separately report risk-weighted assets used in the calculation of the deduction, and will see no change to its assessment amount.

Finally, the FDIC does not believe that the final rule would affect a significant number of IDIs. As previously stated, the change to the definition of ''small institution'' for assessment purposes will only result in a change to assessments for a bank that elects to use the CBLR framework and would have otherwise been assessed as a large institution under current assessment regulations. Based on Call Report data as of March 31, 2019, only one bank that was assessed as a large institution also met the qualifying criteria to be eligible to opt into the CBLR framework. The annual insurance assessments paid by the institution as a result of the final rule is expected to decline by less than $4 million, or less than one percent of that institution's interest income earned in the prior year.

V. Alternatives Considered

The FDIC solicited comments on several alternatives, including options to offset the impact that any differences in reporting under the CBLR framework and under the Federal banking agencies' generally applicable capital rule could have on the assessment amount of a bank that elects to use the CBLR framework. The FDIC received no comments on the alternatives presented and believes that the changes adopted in this final rule meet its stated policy objectives in the most appropriate and straightforward manner.

[43] *See* 84 FR 61784.

VI. Effective Date

This rule will become effective on January 1, 2020.

VII. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.,* generally requires that, in connection with a final rulemaking, an agency prepare and make available for public comment a final regulatory flexibility analysis describing the impact of the proposed rule on small entities.[44] However, a regulatory flexibility analysis is not required if the agency certifies that the final 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 of less than or equal to $600 million that are independently owned and operated or owned by a holding company with less than or equal to $600 million in total assets.[45] Generally, the FDIC considers a significant effect to be a quantified effect in excess of 5 percent of total annual salaries and benefits per institution, or 2.5 percent of total non-interest expenses. The FDIC believes that effects in excess of these thresholds typically represent significant effects for FDIC-supervised institutions. Certain types of rules, such as rules of particular applicability relating to rates, corporate or financial structures, or practices relating to such rates or structures, are expressly excluded from the definition of ''rule'' for purposes of the RFA. Because the rule relates directly to the rates imposed on IDIs for deposit insurance and to the deposit insurance assessment system that measures risk and determines each bank's assessment rate, the rule is not subject to the RFA. Nonetheless, the FDIC is voluntarily presenting information in this RFA section.

As of March 31, 2019, the FDIC insured 5,371 institutions, of which 4,004 are considered small entities for the purposes of RFA.[46] Of the 4,004 small entities, 3,433 entities qualify for the CBLR framework.

As discussed in Section III, the final rule amends the FDIC's assessment regulations to price all banks that elect to adopt the CBLR framework as small banks. The assessment regulations have previously defined and will continue to define a small bank as generally having less than $10 billion in total assets. Small banking organizations, as defined by the SBA, must have less than $600 million in total assets. Thus, for purposes of the RFA, all small banking organizations are already priced as small banks under the assessment regulations. Electing to adopt the community bank leverage ratio framework will have no effect on the pricing of a small banking organization.

[44] 5 U.S.C. 601 *et seq.*

[45] The SBA defines a small banking organization as having $600 million or less in assets, where an organization's ''assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year.'' See 13 CFR 121.201 (as amended by 84 FR 34261, effective August 19, 2019). In its determination, the ''SBA counts the receipts, employees, or other measure of size of the concern whose size is at issue and all of its domestic and foreign affiliates.'' See 13 CFR 121.103. Following these regulations, the FDIC uses a covered entity's affiliated and acquired assets, averaged over the preceding four quarters, to determine whether the covered entity is ''small'' for the purposes of RFA.

[46] Consolidated Reports of Condition and Income for the quarter ending March 31, 2019.

VIII. Paperwork Reduction Act

In accordance with the requirements of the Paperwork Reduction Act (PRA) of 1995,[47] the FDIC may not conduct or sponsor, and the 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 FDIC's OMB control numbers for its assessment regulations are 3064–0057, 3064–0151, and 3064–0179. The final rule does not revise any of these existing assessment information collections pursuant to the PRA and consequently, no submissions in connection with these OMB control numbers will be made to the OMB for review. However, the final rule will require changes to the instructions for the Call Reports (FFIEC 031, FFIEC 041, and FFIEC 051 (OMB No. 3064–0052 (FDIC), 7100–0036 (Federal Reserve System) and 1557–0081 (Office of the Comptroller of the Currency)), which will be coordinated by the Federal Financial Institutions Examination Council and addressed in a separate **Federal Register** notice.

IX. Riegle Community Development and Regulatory Improvement Act of 1994

Pursuant to section 302(a) of the Riegle Community Development and Regulatory Improvement Act (RCDRIA),[48] in determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on insured depository institutions, each Federal banking agency must consider, consistent with principles of safety and soundness and the public interest, any administrative burdens that such

[47] 44 U.S.C. 3501 *et seq.*

[48] 12 U.S.C. 4802(a).

regulations would place on depository institutions, including small depository institutions, and customers of depository institutions, as well as the benefits of such regulations. In addition, section 302(b) of RCDRIA requires new regulations and amendments to regulations that impose additional reporting, disclosures, or other new requirements on insured depository institutions generally to take effect on the first day of a calendar quarter that begins on or after the date on which the regulations are published in final form.[49]

The amendments to the FDIC's deposit insurance assessment regulations under this final rule do not impose additional reporting, disclosures, or other new requirements. Nonetheless, the FDIC considered the requirements of RCDRIA when finalizing this rule with an effective date of January 1, 2020.

X. Solicitation of Comments on Use of Plain Language

Section 722 of the Gramm-Leach-Bliley Act[50] requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The FDIC has sought to present the final rule in a simple and straightforward manner and did not receive any comments on the use of plain language.

XI. The Congressional Review Act

For purposes of Congressional Review Act, the OMB makes a determination as to whether a final rule constitutes a ''major'' rule.[51] If a rule is deemed a ''major rule'' by the OMB, the Congressional Review Act generally provides that the rule may not take effect until at least 60 days following its publication.[52]

The Congressional Review Act defines a ''major rule'' as any rule that the Administrator of the Office of Information and Regulatory Affairs of the OMB finds has resulted in or is likely to result in—(A) an annual effect on the economy of $100,000,000 or more; (B) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions, or (C) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.[53] The OMB has determined that the final rule is not a major rule for purposes of the Congressional Review Act. The FDIC will submit the final rule and other appropriate reports to Congress and the Government Accountability Office for review.

[49] 12 U.S.C. 4802(b).

[50] Public Law 106–102, section 722, 113 Stat. 1338, 1471 (1999).

[51] 5 U.S.C. 801 *et seq.*

[52] 5 U.S.C. 801(a)(3).

[53] 5 U.S.C. 804(2).

List of Subjects in 12 CFR Part 327

Bank deposit insurance, Banks, Banking, Savings associations.

Authority and Issuance

For the reasons set forth above, the FDIC amends part 327 of title 12 of the Code of Federal Regulations as follows:

PART 327—ASSESSMENTS

■ 1. The authority for 12 CFR part 327 continues to read as follows:

Authority: 12 U.S.C. 1441, 1813, 1815, 1817–19, 1821.

■ 2. Revise § 327.8(e) and (z) to read as follows:

§ 327.8 Definitions.

* * * * *

(e) *Small institution.* (1) An insured depository institution with assets of less than $10 billion as of December 31, 2006, and an insured branch of a foreign institution shall be classified as a small institution.

(2) Except as provided in paragraph (e)(3) of this section, if, after December 31, 2006, an institution classified as large under paragraph (f) of this section (other than an institution classified as large for purposes of §§ 327.9(e) and 327.16(f)) reports assets of less than $10 billion in its quarterly reports of condition for four consecutive quarters, the FDIC will reclassify the institution as small beginning the following quarter.

(3) An insured depository institution that elects to use the community bank leverage ratio framework under 12 CFR 3.12(a)(3), 12 CFR 217.12(a)(3), or 12 CFR 324.12(a)(3), shall be classified as a small institution, even if that institution otherwise would be classified as a large institution under paragraph (f) of this section.

* * * * *

(z) *Well capitalized, adequately capitalized, and undercapitalized.* For any insured depository institution other than an insured branch of a foreign bank, Well Capitalized, Adequately Capitalized, and Undercapitalized have the same meaning as in: 12 CFR 6.4 (for national banks and Federal savings associations), as either may be amended from time to time, except that 12 CFR 6.4(b)(1)(i)(E) and (e), as they may be amended from time to time, shall not apply; 12 CFR 208.43 (for state member institutions), as either may be amended from time to time, except that 12 CFR 208.43(b)(1)(i)(E) and (c), as they may be amended from time to time, shall not apply; and 12 CFR 324.403 (for state nonmember institutions and state savings associations), as either may be amended from time to time, except that 12 CFR 324.403(b)(1)(i)(E) and (d), as they may be amended from time to time, shall not apply.

Federal Deposit Insurance Corporation.

By order of the Board of Directors.

Dated at Washington, DC, on September 17, 2019.

Annmarie H. Boyd,

Assistant Executive Secretary.

[FR Doc. 2019–25897 Filed 12–5–19; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–1105; Product Identifier 2017–SW–023–AD; Amendment 39–19803; AD 2019–23–09]

RIN 2120–AA64

Airworthiness Directives; Bell Helicopter Textron Canada Limited Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for Bell Helicopter Textron Canada Limited (BHTC) Model 427 helicopters. This AD requires inspecting the inboard skin of the vertical fin around the four tailboom attachment points. This AD was prompted by reports of cracked vertical fin skins that resulted from metal fatigue. The actions of this AD are intended to prevent an unsafe condition on these products.

DATES: This AD is effective January 10, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain document listed in this AD as of January 10, 2020.

ADDRESSES: For service information identified in this final rule, contact Bell Helicopter Textron Canada Limited, 12,800 Rue de l'Avenir, Mirabel, Quebec J7J1R4; telephone 450–437–2862 or 800–363–8023; fax 450–433–0272; or at