

management that is independent from the STIF's investment management.

(I) Adopt procedures that require a bank to disclose to STIF participants and to the OCC's Asset Management Group, Credit & Market Risk Division, within five business days after each calendar month-end, the fund's total assets under management (securities and other assets including cash, minus liabilities); the fund's mark-to-market and amortized cost net asset values both with and without capital support agreements; the dollar-weighted average portfolio maturity; the dollar-weighted average portfolio life maturity of the STIF as of the last business day of the prior calendar month; and for each security held by the STIF as of the last business day of the prior calendar month:

(1) The name of the issuer;
 (2) The category of investment;
 (3) The Committee on Uniform Securities Identification Procedures (CUSIP) number or other standard identifier;
 (4) The principal amount;
 (5) The maturity date for purposes of calculating dollar-weighted average portfolio maturity;

(6) The final legal maturity date (taking into account any maturity date extensions that may be effected at the option of the issuer) if different from the maturity date for purposes of calculating dollar-weighted average portfolio maturity;

(7) The coupon or yield; and
 (8) The amortized cost value;

(J) Adopt procedures that require a bank that administers a STIF to notify the OCC's Asset Management Group, Credit & Market Risk Division, prior to or within one business day thereafter of the following:

(1) Any difference exceeding \$0.0025 between the net asset value and the mark-to-market value of a STIF participating interest as calculated using the method set forth in paragraph (b)(4)(iii)(G)(1) of this section;

(2) When a STIF has re-priced its net asset value below \$0.995 per participating interest;

(3) Any withdrawal distribution-in-kind of the STIF's participating interests or segregation of portfolio participants;

(4) Any delays or suspensions in honoring STIF participating interest withdrawal requests;

(5) Any decision to formally approve the liquidation, segregation of assets or portfolios, or some other liquidation of the STIF; or

(6) In those situations when a bank, its affiliate, or any other entity provides a STIF financial support, including a cash infusion, a credit extension, a

purchase of a defaulted or illiquid asset, or any other form of financial support in order to maintain a stable net asset value per participating interest;

(K) Adopt procedures that in the event a STIF has re-priced its net asset value below \$0.995 per participating interest, the bank administering the STIF shall calculate, admit, and withdraw the STIF's participating interests at a price based on the mark-to-market net asset value; and

(L) Adopt procedures that, in the event a bank suspends or limits withdrawals and initiates liquidation of the STIF as a result of redemptions, require the bank to:

(1) Determine that the extent of the difference between the STIF's amortized cost per participating interest and its mark-to-market net asset value per participating interest may result in material dilution of participating interests or other unfair results to participating accounts;

(2) Formally approve the liquidation of the STIF; and

(3) Facilitate the fair and orderly liquidation of the STIF to the benefit of all STIF participants.

* * * * *

Dated: September 26, 2012.

Thomas J. Curry,

Comptroller of the Currency.

[FR Doc. 2012-24375 Filed 10-5-12; 8:45 am]

BILLING CODE 4810-33-P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 46

[Docket ID OCC-2011-0029]

RIN 1557-AD58

Annual Stress Test

AGENCY: Office of the Comptroller of the Currency ("OCC"), Treasury.

ACTION: Final rule.

SUMMARY: This final rule implements section 165(i) of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act") which requires certain companies to conduct annual stress tests pursuant to regulations prescribed by their respective primary financial regulatory agencies. Specifically, this final rule requires national banks and Federal savings associations with total consolidated assets over \$10 billion (defined as "covered institutions") to conduct an annual stress test as prescribed by this rule.

Under the final rule covered institutions are divided into two categories: covered institutions with total consolidated assets between \$10 and \$50 billion, and covered institutions with total consolidated assets over \$50 billion. Based on these categories, covered institutions are subject to different stress test requirements and deadlines for reporting and disclosures. A key difference between these categories is that a national bank or Federal savings association that qualifies as an over \$50 billion covered institution as of October 9, 2012 must conduct the annual stress test under this final rule beginning this year; other covered institutions that qualify as \$10 to \$50 billion covered institutions are not subject to the stress test requirements under this final rule until 2013.

DATES: This rule is effective on October 9, 2012.

FOR FURTHER INFORMATION CONTACT: Darrin Benhart, Deputy Comptroller, Credit and Market Risk, (202) 874-1711; Robert Scavotto, Lead International Expert, International Analysis and Banking Condition, (202) 874-4943; William Russell, National Bank Examiner, (202) 874-5224; Akhtarur Siddique, Deputy Director, Enterprise Risk Analysis Division, (202) 874-4665; Ron Shimabukuro, Senior Counsel, or Alexandra Arney, Attorney, Legislative and Regulatory Activities Division, (202) 874-5090, Office of the Comptroller of the Currency, 250 E Street SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

I. Background

Section 165(i) of the Dodd-Frank Act¹ requires two types of stress testing: (1) Stress tests conducted by the company and (2) stress tests conducted by the Board of Governors of the Federal Reserve System ("Board"). Section 165(i)(2) requires certain financial companies, including national banks and Federal savings associations, to conduct stress tests and requires the Federal primary financial regulatory agency² of those financial companies to issue regulations implementing the stress test requirements. A national bank or Federal savings association must conduct a stress test if its total consolidated assets are more than \$10 billion. Under section 165(i)(2), a financial company is required to submit to the Board and to its primary financial regulatory agency a report at such time,

¹ Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111-203, 124 Stat. 1376 (2010).

² 12 U.S.C. 5301(12).

in such form, and containing such information as the primary financial regulatory agency may require.³ The primary financial regulatory agency is required to define “stress test,” establish methodologies for the conduct of the company-conducted stress test that must include at least three different sets of conditions (baseline, adverse, and severely adverse), establish the form and content of the institution’s report, and compel the institution to publish a summary of the results of the Dodd-Frank Act institutional stress tests.⁴

In addition to the company-run stress tests required under section 165(i)(2), section 165(i)(1) requires the Board to conduct annual analyses of nonbank financial companies supervised by the Board and bank holding companies with total consolidated assets equal to or greater than \$50 billion to determine whether such companies have the capital, on a total consolidated basis, necessary to absorb losses as a result of adverse economic conditions.⁵ The Board published a proposed rule implementing this supervisory stress testing on January 5, 2012.⁶

II. Discussion of Comments on Proposed Rule

The OCC published a notice of proposed rulemaking in the **Federal Register** on January 24, setting forth definitions and rules for scope of application, scenarios, data collection, reporting, and disclosure.⁷ The OCC received 19 comment letters on the proposal. Commenters included banks, industry groups, nonprofit organizations, and individuals. Commenters generally expressed support for the proposed rule and stress testing in general, but several recommended changes to certain provisions of the proposed rule. Many commenters also strongly urged the OCC to coordinate with the Board and Federal Deposit Insurance Corporation (“FDIC”) (collectively, the “agencies”) to make the agencies’ rules on annual stress tests consistent. After careful consideration of these comments, the OCC has modified the proposed rule in certain respects in response to the comments.

A. Coordination With Other Agencies

As noted, section 165(i)(2) of the Dodd-Frank Act requires the primary financial regulators to issue regulations

that include requirements defining “stress test,” establishing methodologies for the conduct of company-run stress tests under at least three different sets of conditions, establishing the form and content of the institution’s report, and compelling the institution to publish a summary of the results. One commenter raised concerns that the OCC would impose unnecessary, multiple stress testing requirements and subject institutions to uncoordinated testing parameters, data requests, and disclosure formats. Other commenters urged consistency and comparability across the agencies’ rules and reconciliation of inconsistencies among the rules of the agencies.

The OCC has worked to minimize any potential duplication related to the annual stress test requirements. In particular, the OCC worked closely with the other agencies to make consistent and comparable the rules’ standards in the areas of scope of application, scenarios, data collection and reporting forms. Each of these areas is discussed in further detail below.

B. Scope of Application and Effective Date of the Rule

In the proposed rule, the OCC defined a “covered institution” as a national bank or Federal savings association with average consolidated assets that exceed \$10 billion, with implementation of the stress testing requirements to begin in late 2012. Several commenters suggested that the OCC delay implementation of the rule, particularly for institutions that have not been previously subject to other stress testing requirements such as the Board’s Comprehensive Capital Analysis and Review (“CCAR”) stress tests. One commenter suggested that the OCC introduce stress test requirements on a rolling basis according to asset size and begin with the largest institutions. Only one commenter indicated that an immediate effective date would provide sufficient time for an institution to conduct its first stress test.

The OCC recognizes that institutions are at different stages in developing their stress testing frameworks and that the agencies only recently issued stress testing guidance.⁸ Therefore, although this rule will apply to all covered institutions, this final rule establishes two categories of covered institutions. The first category consists of national banks and Federal savings associations with average total consolidated assets

greater than \$10 billion but less than \$50 billion, hereinafter referred to as “\$10 to \$50 billion covered institutions.” The second category consists of national banks and Federal savings associations with average total consolidated assets of \$50 billion or more, hereinafter referred to as “over \$50 billion covered institutions.” The OCC is providing a one year delay for \$10 to \$50 billion covered institutions. This delay will allow these covered institutions to continue to develop and implement a robust stress testing framework.

Most national banks with consolidated assets of \$50 billion or more have been subject to previous stress testing, including the 2009 Supervisory Capital Assessment Program (“SCAP”) and the Board’s CCAR stress tests, and consequently, have in place a framework necessary to conduct the stress tests required by this rule. Furthermore, given the size and importance of these covered institutions to the safety and soundness of the United States banking system, the OCC believes it is appropriate for these covered institutions to begin conducting company-run stress tests as soon as possible. Consequently, most national banks and Federal savings associations with consolidated total assets equal to or exceeding \$50 billion will be required to conduct their first annual stress tests under this final rule in the fall of 2012.

The OCC notes, however, that some national banks and Federal savings associations with assets of \$50 billion or more may not be able or ready to conduct the annual stress test this year in a manner that would yield meaningful results. For example, covered institutions that were not subject to SCAP and CCAR may need more time to develop and implement a robust stress testing framework. Therefore the OCC is reserving authority in the rule to permit these national banks and Federal savings associations to delay the application of the requirements under this final rule on a case-by-case basis, subject to such conditions as the OCC may deem appropriate.

One commenter recommended expanding the scope of the rule to include national banks and Federal savings associations with consolidated assets of less than \$10 billion. The OCC believes that stress testing is a good risk management tool that national banks and Federal savings associations of all sizes should consider using in their risk management practices. Moreover, there may be certain situations where, as a supervisory matter, the OCC believes it

³ 12 U.S.C. 5365(i)(2)(B).

⁴ 12 U.S.C. 5365(i)(2)(C).

⁵ 12 U.S.C. 5365(i)(1)(A).

⁶ Enhanced Prudential Standards and Early Remediation Requirements for Covered Companies, 77 FR 594 (January 5, 2012).

⁷ See 77 FR 3408 (January 24, 2012).

⁸ Final joint guidance on Stress Testing for Banking Organizations with More Than \$10 Billion in Total Consolidated Assets. See 77 FR 29458 (May 17, 2012).

is important for an institution with assets less than \$10 billion to conduct a stress test. Therefore, under its general rulemaking authority in 12 U.S.C. 93a and 1463(a)(2), the OCC is reserving authority in the rule to designate a national bank or Federal savings association as a covered institution even if it is not otherwise subject to this final rule.

In addition, the OCC reserves the right to exempt an otherwise covered institution from certain stress test requirements under this final rule to the degree consistent with the requirements of the Dodd-Frank Act.

C. Scenario Development

Several commenters urged the agencies to coordinate regarding the scenarios required to be used by bank holding companies, savings and loan holding companies, banks, and savings associations in conducting the stress tests. The OCC, the Board and the FDIC expect to consult closely to provide common scenarios for use at both the depository institution and holding company levels. As part of the annual scenario development process, the OCC expects to update, make additions to, or otherwise modify the scenarios as appropriate. This process will culminate with the distribution of the scenarios to all covered institutions no later than November 15 of each year. The OCC originally proposed an October 15 date for distribution of the scenarios but believes that a November 15 date will better align the development and issuance of the scenarios with the other agencies.

Several of the commenters also suggested a review process relating to scenario development. The OCC believes that a lengthy annual review process for scenarios is impractical if scenarios are to be finalized and issued without becoming outdated due to economic and financial developments. However, the OCC believes that it is important to have a consistent and transparent framework to support scenario design. Consequently, the OCC expects to consult with the Board and the FDIC as well as public and private sector experts to obtain views on salient risks and to obtain suggestions for the behavior of key economic variables under the stress conditions reflected in the scenarios. The OCC expects to publish for one-time notice and comment a guidance document setting out the annual procedures to be used by the OCC in development of the scenarios.

A question posed in the notice of proposed rulemaking regarding whether to permit covered institutions to

develop their own scenarios generated comments on each side of the issue. After reviewing the comments, the OCC believes that the most compelling argument is that all covered institutions should use the same set of scenarios so that the OCC can better compare results. Therefore, the OCC intends to provide one set of scenarios for use by all covered institutions.

However, the OCC believes there may be circumstances that would warrant the use of different or additional scenarios. For this reason, the OCC reserves the authority to require a covered institution to use different or additional scenarios as the OCC may deem appropriate. For example, a covered institution may conduct business activities or have risk exposures for which different or additional scenarios might better meet the objectives of this rule. Alternatively, at a more systemic level, although the agencies expect to consult closely on scenario development, the agencies may have different views of the risks that should be reflected in the stress scenarios that covered institutions use for the annual stress test. While recognizing this possibility, the OCC anticipates making every effort to avoid differences in the scenarios required by each agency and to distribute the same scenarios to all covered institutions.

D. Definition of Stress Test and Use of Stress Test Results

One commenter noted that the OCC's proposed rule defined "stress test" as a process to assess the impact of scenarios on capital, whereas the Board and FDIC definitions also referred to impact on consolidated earnings and losses. The OCC has modified its definition in the final rule to include impact on consolidated earnings and losses to be consistent with the other agencies' definitions. In addition, the OCC proposal defined a "stress test" to require taking into account several factors including "material" risks, whereas the Board and FDIC proposals did not expressly require the risk to be "material." The OCC has deleted the term "material" from its definition. Thus, under the final rule, a covered institution must be able to assess the potential impact of scenarios on the consolidated earnings, losses, and capital of a covered institution over the planning horizon, taking into account the covered institution's current condition, risks, exposures, strategies, and activities.

The final rule states that covered institutions must consider the results of stress tests conducted under the rule in the normal course of business,

including, but not limited to, the covered institution's capital planning, assessment of capital adequacy, and risk management practices. The OCC believes, as discussed in interagency guidance on stress testing published in May 2012, that stress tests are an important tool for a variety of decisions made by covered institutions.⁹ Such decisions include those related to capital planning and capital adequacy processes, as well as risk management more generally. However, as that guidance notes, such decisions should not be based solely on the results of any single set of stress tests. Rather, covered institutions should consider a range of relevant information when determining appropriate actions. With regard to stress testing, the interagency guidance notes that an effective stress testing framework is part of broader risk management and governance processes and should encompass a broader set of activities and exercises rather than relying on any single test or type of test.

E. Reporting

One commenter urged the agencies to develop common reporting requirements. The OCC recognizes that many covered institutions with consolidated total assets of \$50 billion or more have been subject to stress testing requirements under the Board's CCAR. The OCC also recognizes that these institutions' stress tests will be applied to more complex portfolios and therefore warrant a broader set of reports to capture adequately the results of the company-run stress tests. These reports will necessarily require more detail than would be appropriate for smaller, less complex institutions. Therefore, in response to comments, the OCC has decided to specify separate reporting templates for covered institutions with total consolidated assets between \$10 and \$50 billion and for covered institutions with total consolidated assets of \$50 billion or more. The OCC published for notice and comment specific annual stress test reporting requirements for over \$50 billion covered institutions in a separate final information collection under the Paperwork Reduction Act (44 U.S.C. 3501–3521).¹⁰ The OCC, in consultation

⁹ Supervisory Guidance on Stress Testing for Banking Organizations With More Than \$10 Billion in Total Consolidated Assets, 77 FR 29458 (May 17, 2012).

¹⁰ Agency Information Collection Activities: Proposed Information Collection; Comment Request, "Company-Run Annual Stress Test Reporting Template and Documentation for Covered Institutions with Total Consolidated Assets of \$50 Billion or More under the Dodd-Frank Wall Street Reform and Consumer Protection Act," 77 FR 49485 (August 16, 2012).

with the other agencies, is working to develop a more streamlined reporting template to be used by \$10 to \$50 billion covered institutions subject to the annual stress test rule. The OCC does not expect the reporting requirements for covered institutions to differ materially across agencies.

The OCC notes, however, as discussed in the Paperwork Reduction Act notice for the reporting templates for the over \$50 billion covered institutions, that the OCC will require covered institutions to submit supporting documentation that: (i) clearly describes the methodology used to produce the stress test projections; (ii) explains how the macroeconomic factors were translated into a covered institution's projections; and (iii) explains the technical details of any underlying statistical methods used. Where company-specific assumptions are made that differ from the broad macroeconomic assumptions incorporated in stress scenarios provided by the OCC, the documentation must also describe such assumptions and how those assumptions relate to reported projections.¹¹

One commenter suggested a planning horizon of two years with financial projections for each year rather than each quarter. However, the OCC believes that quarterly projections provide important supervisory information for the evaluation of the covered institutions' stress testing models and underlying assumptions over the course of the scenario. Some commenters suggested that the period of time between the distribution of scenarios by the OCC and the required reporting date was too short. The OCC plans to provide the annual stress test scenarios to covered institutions approximately seven weeks prior to the date by which an over \$50 billion covered institution must report the results of its annual stress test. The OCC believes, based on its supervisory experience with over \$50 billion covered institutions, that this should provide adequate time for these institutions to carry out the required stress tests. For the \$10 to \$50 billion covered institutions, the final rule extends the reporting date to March 31. The OCC believes this later reporting date should provide adequate time for the \$10 to \$50 billion covered institutions to conduct stress tests and report the results.

F. Disclosure

Several commenters expressed concern with disclosing baseline forecasts because these forecasts may be interpreted as earnings guidance. The OCC agrees with this concern and has revised the final rule to require the disclosure of losses only for the severely adverse scenario.

Several commenters noted that an immediate effective date for all institutions with consolidated assets over \$10 billion could impose a significant burden on institutions that had not been subject to disclosure requirements such as those in CCAR. In light of these concerns, the OCC is implementing a one-year delay for application of the annual stress test requirement to covered institutions with consolidated assets between \$10 billion and \$50 billion, and a two-year delay of the disclosure requirement for those covered institutions. Therefore, these institutions would conduct the stress tests required under this rule for the first time in late 2013; the first disclosure of a summary of stress test results would occur in 2015, based on the results of the 2014 stress tests. National banks and Federal savings associations with consolidated assets of \$50 billion or more that are subject to this final rule as of the effective date of this final rule must conduct their first stress test this year, with disclosure required in 2013. However, the OCC retains discretion to delay or otherwise modify the application of the disclosure requirements where the covered institution lacks the ability to conduct stress tests that provide meaningful and useful results.

III. Overview of the Final Rule

This final rule implements the company-conducted stress test requirements for national banks and Federal savings associations as required by section 165(i)(2). Under this final rule, a national bank or a Federal savings association with total consolidated assets of more than \$10 billion, defined as a "covered institution," would be required to conduct an annual stress test as prescribed by this final rule. The OCC is delaying the application of the annual stress test requirements to national banks and Federal savings associations with total consolidated assets between \$10 billion and \$50 billion for one year.

The OCC developed this rule in coordination with the Board and the Federal Insurance Office, as required by section 165(i)(2)(C). The Board and FDIC will issue separate final rules with respect to their supervised entities. For

purposes of this rule, "stress test" is defined as a process to assess the potential impact of hypothetical economic conditions ("scenarios") on the consolidated earnings, losses, and capital of a covered institution over a set period (the "planning horizon"), taking into account the current condition of the covered institution including its risks, exposures, strategies, and activities.

A. The Purpose of Stress Tests

The OCC views the stress tests conducted by covered institutions under the final rule as providing forward-looking information to supervisors to assist in their overall assessments of a covered institution's capital adequacy and to aid in identifying downside risks and the potential impact of adverse outcomes on the covered institution's capital adequacy. In addition, the OCC may use stress tests to determine whether additional analytical techniques and exercises are appropriate for a covered institution to employ in identifying, measuring, and monitoring risks to the financial soundness of the covered institution, and may require a covered institution to implement such techniques and exercises in conducting its stress tests. Further, these stress tests are expected to support ongoing improvement in a covered institution's stress testing practices with respect to its internal assessments of capital adequacy and overall capital planning.

The OCC expects that the annual stress tests required under the final rule will be only one component of the broader stress testing activities conducted by covered institutions. In this regard, the OCC notes that the agencies have recently issued final joint guidance on "Stress Testing for Banking Organizations with More Than \$10 Billion in Total Consolidated Assets."¹² These broader stress testing activities should address the impact of a range of potentially adverse outcomes across a set of risk types affecting aspects of the covered institution's financial condition including, but not limited to, capital adequacy. In addition, a full assessment of a covered institution's capital adequacy should take into account a range of factors, including evaluation of its capital planning processes, the governance over those processes, regulatory capital measures, results of supervisory stress tests where applicable, and market assessments.

¹¹ *Id.* at 49487 (Description of Supporting Documentation).

¹² See 77 FR 29458 (May 17, 2012).

B. Covered Institutions

1. National Banks and Federal Savings Associations

Under this final rule, a covered institution includes a national bank or Federal savings association for which total consolidated assets exceed \$10 billion. Covered institutions are required to conduct annual stress tests as prescribed by this final rule. However, under this final rule covered institutions are divided into two categories: \$10 to \$50 billion covered institutions and over \$50 billion covered institutions. Under this final rule, covered institutions in these different categories may be subject to differing stress test requirements and deadlines for reporting and disclosures.

The OCC recognizes that some of the under \$50 billion covered institutions may be affiliated with larger institutions also subject to requirements for stress testing, reporting and disclosure. In such cases, it may be less burdensome and more appropriate for the covered institution to follow the requirements applicable to over \$50 billion covered institutions. The final rule permits a \$10 to \$50 billion covered institution to choose to conduct its stress test under this part using the requirements applicable to an over \$50 billion covered institution under those circumstances.

The determination as to whether a national bank or Federal savings association is a covered institution is based upon the institution's total consolidated assets averaged over the four most recent consecutive quarters, as reported on the institution's Call Reports for those quarters.¹³ The exact date on which the institution becomes a covered institution is the as-of date of the fourth consecutive Call Report. Unless the OCC determines otherwise, a covered institution will remain subject to the annual stress test requirements under this final rule until its total consolidated assets for each of the four most recent consecutive quarters, as reported on the institution's Call Reports for those quarters, are \$10 billion or less.

The date by which a national bank or Federal savings association must conduct its first annual stress test under this final rule depends on its size category and whether it becomes a covered institution before or after October 9, 2012, the effective date of

this final rule. A national bank or Federal savings association that is subject to this final rule as of October 9, 2012 must conduct the annual stress test under this final rule beginning this year if it is an over \$50 billion covered institution; a \$10 to \$50 billion covered institution would conduct its first annual stress test in 2013.

A national bank or Federal savings association that becomes a covered institution after October 9, 2012 would be required to conduct its first annual stress test in the calendar year following the year in which it becomes a covered institution. For example, a bank for which the four-quarter average of total consolidated assets exceeded \$10 billion on its June 2013 Call Report (based on the average from its September 2012, December 2012, March 2013, and June 2013 Call Reports) would become a covered institution on June 30, 2013. Assuming that the bank's total consolidated assets were less than \$50 billion, this bank would be required to fully implement the stress testing requirements of the rule and conduct its first stress test in the testing cycle beginning in the following calendar year, 2014. The actual time between the date on which a national bank or Federal savings association becomes a covered institution and the as-of date for the institution's first stress test would range from 9 to 18 months, depending on the specific quarter in which the bank triggered the \$10 billion threshold.

In order to maintain necessary supervisory flexibility, the final rule reserves the authority to permit the OCC to designate a national bank or Federal savings association, not otherwise subject to this rule, as a covered institution. Conversely, the OCC also may exempt an otherwise covered institution from, or delay application of, certain of the annual stress test requirements, consistent with the requirements of the Dodd-Frank Act, based on the covered institution's level of complexity, risk profile, or scope of operations. Additionally, the OCC may accelerate or extend any specified deadline for stress testing, reporting or publication of the stress test results, or require additional stress tests, if the OCC determines that such modification of a deadline or additional testing is appropriate in light of the covered institution's activities, operations, risk profile, or regulatory capital. The OCC will apply notice and response procedures consistent with the procedures under 12 CFR 3.12 with respect to the exercise of reservation of authority in this final rule.

2. Federal Branches or Agencies of a Foreign Bank Not Covered

While the requirement to conduct annual stress tests applies to all national banks and Federal savings associations with total consolidated assets of more than \$10 billion, the OCC will not apply the annual stress test requirements of this final rule to Federal branches or agencies of a foreign bank. The company stress test provisions under section 165(i)(2) of the Dodd-Frank Act are intended primarily to assess the impact of stress conditions on a covered institution's capital. Because Federal branches and agencies are not separately capitalized, the application of these requirements to such entities would not be meaningful.

3. Shell Holding Companies and Multi-Bank Holding Companies

When a covered institution comprises the bulk of the assets for a given parent holding company, the inputs to the stress tests conducted by that institution and the holding company, and the conclusions reached, would be expected to be similar. The OCC expects to take this into account in applying the requirements of this rule. For example, for a bank holding company that is essentially a shell holding company with a single national bank that has total consolidated assets of more than \$10 billion, the Board and the OCC would coordinate efforts and communicate with the bank holding company and the bank on how to adequately address their respective stress testing requirements while avoiding duplication of effort.

The OCC recognizes that certain parent company structures may include one or more subsidiary banks or savings associations, each with total consolidated assets greater than \$10 billion. The stress test requirements of section 165(i)(2) apply to the parent company and to each subsidiary bank or savings association of the covered company that has \$10 billion or more in total consolidated assets. The OCC anticipates addressing, on a case-by-case basis through the supervisory process, instances in which it may be appropriate to modify stress testing requirements when there are multiple covered institutions within a single parent organization. In this regard, the OCC notes that even where such a covered institution is required to conduct its own stress test, the OCC does not believe that the covered institution must duplicate unnecessary stress testing systems and processes. A covered institution that is a subsidiary of a holding company subject to the Board's annual stress testing rule

¹³ However, the final rule requires a covered institution that has not filed a Call Report in each of the four most recent quarters must calculate total consolidated assets based on the average total consolidated assets reported in the most recent Call Reports that have been filed.

generally may use the stress testing systems and processes of the holding company. For example, the covered institution may use the same data collection processes, and methods and models for projecting and calculating potential losses, pre-provision net revenues, provisions for loan and lease losses, and pro forma capital positions over the stress testing planning horizon, where appropriate.

C. Stress Test Scenarios

Under the final rule, each covered institution would be required to conduct an annual stress test using its financial data as of September 30th of that year, unless the OCC communicates, in the fourth quarter of that year, a different required as-of date for any or all categories of financial data. The stress test must assess the potential impact of different scenarios on the capital of the covered institution and certain related items over a forward-looking, nine-quarter planning horizon (that is, through the December 31 reporting date of the second calendar year following the year containing the September 30 as-of date), taking into account all relevant exposures and activities.

The OCC will provide a minimum of three economic scenarios, reflecting baseline, adverse, and severely adverse conditions, or such additional conditions as the OCC determines appropriate, no later than November 15, which the covered institution must use for the stress test. While each scenario includes the paths of a number of economic variables that are typically considered in stress test models, the OCC expects that covered institutions may use all or a subset of the economic variables provided, and may extrapolate other variables (such as local economic variables) from the paths of the economic variables provided, as appropriate, to conduct the stress test.

The OCC notes that certain provisions within the final rule relate to covered institutions with significant trading activities. While most covered institutions will follow the stress test procedures outlined, certain covered institutions with significant amounts of trading activities (as determined by the OCC) may be required to include trading and counterparty components in its adverse and severely adverse scenarios. For these covered institutions, the OCC will select an as-of date between October 1 and December 1 of that calendar year for the data used in this component. This date will be communicated to the covered institution no later than December 1 of the calendar year. This provision is

necessary to allow the OCC to tailor the trading and counterparty components for those covered institutions to ensure that the stress tests provide a meaningful identification of downside risks and assessment of the potential impact of adverse outcomes on the covered institution's capital.

The OCC anticipates that the annual stress test scenarios will be revised as appropriate to ensure that each scenario remains relevant under prevailing economic and industry conditions. The OCC will consult closely with the Board and FDIC on the development of the annual stress test scenarios to ensure consistent and comparable stress tests for all covered financial institutions and to minimize regulatory burden. Absent specific supervisory concerns, the OCC anticipates that the annual stress test scenarios will be identical for all covered financial institutions and will be the same as or nearly identical to the scenarios developed by the Board for the supervisory stress tests conducted by the Board under section 165(i)(1).

The OCC anticipates issuing proposed guidance and procedures for scenario development for comment at a later date.

D. Stress Test Methodologies and Practices

The final rule requires each covered institution to use the annual stress test scenarios provided by the OCC in conducting its annual stress tests. Each covered institution must use a planning horizon of at least nine quarters over which the impact of specified scenarios would be assessed. The nine-quarter planning horizon would permit the covered institution to make informed projections of its financial and capital positions for a two-calendar-year period. The covered institution is required to calculate, for each quarter-end within the planning horizon, estimates of pre-provision net revenues ("PPNR"), potential losses, loan loss provisions, and net income that result from the conditions specified in each scenario. A covered institution also is required to calculate, for each quarter-end within the planning horizon, the potential impact on its regulatory capital levels and ratios applicable to the institution under 12 CFR part 3 or 12 CFR part 167, incorporating the effects of any expected capital actions over the planning horizon. The applicable regulatory capital levels and ratios include, for national banks, Minimum Leverage Capital Ratio Requirement (12 CFR 3.6), Risk-Based Capital Guidelines based on Basel I (Appendix A to Part 3), Risk-Based Capital Guidelines; Market Risk Adjustment (Appendix B to Part 3), and

Internal-Ratings-Based and Advanced Measurement Approaches under Basel II (Appendix C to Part 3), and for Federal savings associations, Regulatory Capital Requirements (12 CFR part 167) and Risk-Based Capital Requirements and Internal-Ratings-Based and Advanced Measurement Approaches (Appendix C to part 167).¹⁴ A covered institution also is required to calculate the potential impact on any other capital ratios specified by the OCC. The stress test must incorporate maintenance by the institution of an allowance for loan losses that would be appropriate for credit exposures throughout the planning horizon.

The final rule also requires each covered institution to establish and maintain a system of controls, oversight, and documentation, including policies and procedures, designed to ensure that the stress testing processes used by the covered institution are effective in meeting the requirements of the final rule. The covered institution's policies and procedures must, at a minimum, outline the covered institution's stress testing practices and methodologies, and processes for validating and updating its stress testing practices consistent with relevant supervisory guidance.¹⁵ The covered institution's board of directors, or a committee thereof, must approve and review the policies and procedures related to stress testing of the covered institution as frequently as economic conditions or the condition of the institution may warrant, but at least annually. The covered institution's senior management must establish and maintain a system of controls, oversight, and documentation designed to ensure that the stress test processes satisfy the requirements under this final rule. The board of directors and senior management must be provided with a summary of the stress test results.

E. Reporting and Disclosures

Section 165(i)(2)(B) requires a covered institution to submit a report to the Board and its primary financial regulatory agency at such time, in such form, and containing such information as the primary financial regulatory agency shall require. Section 165(i)(2)(C)(iv) compels the primary financial regulatory agencies to require

¹⁴ The capital adequacy requirements for national banks and Federal savings associations are in the process of being revised to implement changes to the Basel III Capital Framework. See 77 FR 52792 (August 30, 2012), 77 FR 52888 (August 30, 2012), 77 FR 52978 (August 30, 2012).

¹⁵ See Supervisory Guidance on Stress Testing for Banking Organizations With More Than \$10 Billion in Total Consolidated Assets, 77 FR 29458 (May 17, 2012).

a covered institution to publish a summary of its stress test results. This final rule implements the statutory reporting and disclosure requirements.

Specifically, the final rule requires that each over \$50 billion covered institution submit a report of the stress test results and documentation to the OCC and to the Board by January 5. The OCC published for notice and comment specific annual stress test reporting requirements for over \$50 billion covered institutions in a separate final information collection under the Paperwork Reduction Act (44 U.S.C. 3501–3521).¹⁶ For \$10 to \$50 billion covered institutions, the final rule requires that each institution submit a report of the stress test results to the OCC and to the Board by March 31. This final rule makes clear that the annual stress test report, and any other information that the OCC may require to be provided on a supplemental basis, will be confidential and exempt from disclosure under the Freedom of Information Act pursuant to 12 CFR 4.32(b) as a record created or obtained by the OCC in connection with the OCC’s performance of its responsibilities, such as a record concerning supervision, licensing, regulations, and examination, of a national bank, a Federal savings association, a bank holding company, a savings and loan holding company, or an affiliate. The report is the property of the OCC and unauthorized disclosure of the report is generally prohibited pursuant to 12 CFR 4.37.

Consistent with section 165(i)(2), the final rule also requires each covered institution to publish a summary of the results of its annual stress tests after

submitting its annual stress test report to the OCC and the Board. Specifically, under the final rule, a \$10 to \$50 billion covered institution must publish a summary of the results of its annual stress test before June 30, but no earlier than June 15. For an over \$50 billion covered institution, disclosures must be made before March 31, but no earlier than March 15.

The final rule reflects two significant changes from the proposed rule. First, the proposed rule would have required all disclosures to be made no later than April 5. The proposed rule did not distinguish between a \$10 to \$50 billion covered institution and an over \$50 billion covered institution. Consistent with the OCC’s efforts to minimize the regulatory burden on the \$10 to \$50 billion covered institutions, the final rule extends the disclosure due date for these institutions to June 30. Second, this final rule replaces the specific disclosure due date with a 15-day period in which disclosures must be made. This change ensures adequate time for review of stress test results prior to disclosure.

As for the form and content of the publication of the summary of results, at a minimum the summary of the severely adverse scenario shall include a description of the types of risks (such as credit default losses and non-default credit losses by portfolio, trading losses, and risks to non-interest revenue) included in the stress test; a summary description of the methodologies used in the stress test; estimates of aggregate losses, PPNR, provisions, and pro forma capital ratios (including regulatory and any other capital ratios specified by the OCC) at the end of the planning horizon;

and an explanation of the most significant causes of the changes in regulatory capital ratios. The institution must make summary results readily accessible to the public, for example, by publishing those results on a covered institution’s Web site. In order to reduce burden and avoid duplicative regulatory requirements, the OCC is permitting disclosure of the summary of the stress test results by the parent bank holding company or savings and loan holding company of a covered institution if the parent holding company satisfactorily complies with the disclosure requirements under the Board’s Company-Run Stress Test rule. However, the OCC reserves the right to require additional disclosures if the OCC believes that the disclosures at the holding company level do not accurately capture the potential impact of the scenarios on the condition of the covered institution.

F. Process and Timing of Annual Stress Test

As discussed above, covered institutions are subject to an annual stress test cycle under this final rule. *Table 1—Process Overview of Annual Stress Test Cycles for Covered Institutions* sets out the key dates in the annual stress test cycle under the final rule, with differences as noted for over \$50 billion covered institutions and \$10 to \$50 billion covered institutions. As shown in Table 1, the annual stress test cycle consist of three key events: (1) Distribution of the stress test scenarios by the OCC, (2) conducting of the stress test and submission of the Annual Stress Test Report, and (3) publication of required disclosures.

TABLE 1—PROCESS OVERVIEW OF ANNUAL STRESS TEST CYCLES FOR COVERED INSTITUTIONS

Key step	Over \$50 billion	\$10 to \$50 billion
1. OCC distributes scenarios for annual stress tests	By November 15	By November 15.
2. Covered institutions conduct annual stress test and submit Annual Stress Test Report to the OCC and the Board.	By January 5	By March 31.
3. Covered institutions make required public disclosures	Between March 15 and March 31	Between June 15 and June 30.

IV. Regulatory Analysis

A. Administrative Procedure Act

This final rule is effective immediately upon publication in the **Federal Register**. Section 553(d)(3) of the Administrative Procedure Act (“APA”) provides for a delayed effective date after publication of a rule, except “as otherwise provided by the agency for good cause found and published with the rule.” Consistent with section

553(d)(3) and for the reasons discussed below, the OCC finds good cause exists to publish this final rule with an immediate effective date.

Stress tests are a critical supervisory tool that will provide important forward-looking information to supervisors to assist in the overall assessment of a covered institution’s capital adequacy. Stress tests also help determine whether additional analytical techniques and exercises are

appropriate for a covered institution to employ in identifying, measuring, and monitoring risks to the financial soundness of the covered institution. Further, stress tests serve as an ongoing risk management tool that support a covered institution’s forward-looking assessment of its risks and better equips such institutions to address a range of adverse outcomes.

It is necessary for a final rule be in place this fall to ensure that certain

¹⁶ See 77 FR 49485 (August 16, 2012).

large and systemically important covered institutions with assets of \$50 billion or more can begin conducting annual stress tests this year. An immediate effective date will allow the OCC to have in place a stress testing framework to permit a covered institution to begin to build and modify the necessary systems and processes and to integrate such systems with the stress testing systems and processes of its parent bank holding company. These systems and processes establish the basis for a covered institution's stress testing framework and will permit the institution to provide critical supervisory information in a timely manner and help to ensure that covered institutions are prepared for adverse economic situations. The OCC believes that these stress testing systems and processes are essential for the health of such institutions and the overall financial stability of the economy. In addition, an immediate effective date permits the OCC to synchronize its supervisory efforts related to stress testing with the Board and the FDIC, especially where a national bank or Federal savings association is a part of a larger holding company with state nonmember affiliates. Accordingly, the OCC finds good cause for the final rule to take effect immediately upon publication in the **Federal Register**.

B. Riegle Community Development and Regulatory Improvement Act

Section 302 of Riegle Community Development and Regulatory Improvement Act ("RCDRIA") generally requires that regulations prescribed by Federal banking agencies which impose additional reporting, disclosures or other new requirements on insured depository institutions take effect on the first day of a calendar quarter which begins on or after the date on which the regulations are published in final form unless an agency finds good cause that the regulations should become effective sooner. The final rule will be effective immediately upon publication in the **Federal Register**. The first day of a calendar quarter which begins on or after the date on which the regulations are published will be January 1, 2013. Accordingly, the OCC invokes the good cause exception to the publication requirement because the final rule is necessary to address the continuing exposure of the banking industry to potentially adverse economic factors. For the same reasons discussed in support of the good cause waiver from the 30-day delayed effective date required by the APA, the OCC finds that good cause exists for an immediate effective date for the final rule.

C. Paperwork Reduction Act

Request for Comment on Final Information Collection

In accordance with section 3512 of the Paperwork Reduction Act ("PRA") of 1995 (44 U.S.C. 3501–3521), the OCC may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget ("OMB") control number. The information collection requirements contained in this final rule were submitted by the OCC to OMB for review and approval in connection with the proposed rule under section 3506 of the PRA and § 1320.11 of OMB's implementing regulations (5 CFR part 1320 *et seq.*).

In accordance with 5 CFR 1320, OMB withheld approval of the collection instructing the OCC to examine public comment in response to the proposed rule and include in the supporting statement of the next information collection request ("ICR")—to be submitted to OMB at the final rule stage—a description of how the OCC has responded to any public comments on the ICR, including comments on maximizing the practical utility of the collection and minimizing the burden. The OCC received no comments on the ICR and is resubmitting it with the issuance of the final rule, as instructed by OMB.

In addition, a 60-day **Federal Register** notice under the PRA for the reporting templates referenced in this rule was issued on August 16, 2012 (77 FR 49485) and is open for comment until October 15, 2012. Subsequent to the closing of the comment period, the information collection requirements contained in this final rule will be consolidated with the information collection requirements contained in the reporting templates into a single OMB control number.

Title of Information Collection: Recordkeeping and Disclosure Provisions Associated with Annual Stress Test.

Frequency of Response: Annually.
Affected Public: Businesses or other for-profit.

Respondents: National banks and Federal savings associations.

Description of Requirements: Section 46.6(a) specifies the calculations of the potential impact on capital that must be made during each quarter of a planning horizon. Section 46.6(c) requires that each covered institution must establish and maintain a system of controls, oversight, and documentation, including policies and procedures that, at a minimum, describe

the covered institution's stress test practices and methodologies, and processes for updating the covered institution's stress test practices. The board of directors of the covered institution shall approve and review the policies and procedures of the covered institution, as frequently as economic conditions or the condition of the institution may warrant, but no less than annually. The senior management of the covered institution shall establish and maintain a system of controls, oversight, and documentation designed to ensure that the stress test processes satisfy the requirements in this part.

Section 46.7 provides that each covered institution shall report to the OCC and to the Board annually the results of the stress test in the time, manner and form specified by the OCC.

Section 46.8 requires that a covered institution shall publish a summary of the results of its annual stress tests on its Web site or in any other forum that is reasonably accessible to the public. For a \$10 to \$50 billion covered institution the summary must be published in the period from June 15 to June 30 after the date of the report; for an over \$50 billion covered institution the summary must be published in the period from March 15 to March 31 after the date of the report. The summary must include a description of the types of risks being included in the stress test and estimates of aggregate losses, net income, and pro forma capital ratios (including regulatory and any other capital ratios specified by the OCC) over the planning horizon, under the severely adverse scenario.

Estimated PRA Burden:

Rule:

Estimated Number of Respondents: 61.

Estimated Burden per Respondent: 1,040 hours.

Total Annual Burden: 63,440 hours.

Templates:

Estimated Number of Respondents: 20.

Estimated Burden per Respondent: 480 hours.

Total Annual Burden: 9,600 hours.

D. Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* ("RFA"), generally requires that, in connection with a notice of proposed rulemaking, an agency prepare and make available for public comment an initial regulatory flexibility analysis that describes the impact of a proposed rule on small entities.¹⁷ The Small Business

¹⁷ See 5 U.S.C. 603(a).

Administration has defined “small entities” for banking purposes to include a bank or savings association with \$175 million or less in assets.¹⁸

The final rule would apply only to national banks and Federal savings associations with more than \$10 billion in total consolidated assets. No small banking organizations satisfy these criteria. No small entities would be subject to this rule. Therefore, the OCC certifies that the final rule will not have a significant economic impact on a substantial number of small entities.

E. Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, Public Law 104–4 (2 U.S.C. 1532) (“Unfunded Mandates Act”), requires that an agency prepare a budgetary impact statement before promulgating any rule likely to result in 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. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. The OCC has determined that this final rule will not result in expenditures by state, local, and tribal governments, or by the private sector, of \$100 million or more in any one year. Accordingly, this final rule is not subject to section 202 of the Unfunded Mandates Act.

F. Solicitation of Comments and Use of Plain Language

Section 722 of the Gramm-Leach-Bliley Act¹⁹ requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The OCC invited comment on how to make the proposed rule easier to understand. The OCC received one public comment advocating the use of plain language and has made an effort to address this comment in the final rule.

List of Subjects in Part 46

Banking, Banks, Capital, Disclosures, National banks, Recordkeeping, Reporting, Risk, Stress test.

Authority and Issuance

For the reasons stated in the preamble, the OCC is adding part 46 to Title 12, Chapter I of the Code of Federal Regulations to read as follows:

PART 46—ANNUAL STRESS TEST

Sec.

- 46.1 Authority and purpose.
- 46.2 Definitions.
- 46.3 Applicability.
- 46.4 Reservation of authority.
- 46.5 Annual stress test.
- 46.6 Stress test methodologies and practices.
- 46.7 Reports to the Office of the Comptroller of the Currency and the Federal Reserve Board.
- 46.8 Publication of disclosures.

Authority: 12 U.S.C. 93a; 12 U.S.C. 1463(a)(2); 12 U.S.C. 5365(i)(2); 12 U.S.C. 5412(b)(2)(B).

§ 46.1 Authority and purpose.

(a) *Authority.* 12 U.S.C. 93a; 12 U.S.C. 1463(a)(2); 12 U.S.C. 5365(i)(2); 12 U.S.C. 5412(b)(2)(B).

(b) *Purpose.* This part implements 12 U.S.C. 5365(i)(2), which requires a national bank or Federal savings association with total consolidated assets of more than \$10 billion to conduct an annual stress test and establishes a definition of stress test, methodologies for conducting stress tests, and reporting and disclosure requirements.

§ 46.2 Definitions.

For purposes of this part, the following definitions apply:

\$10 to \$50 billion covered institution means a national bank or Federal savings association with average total consolidated assets, calculated as required under this part, that are greater than \$10 billion but less than \$50 billion.

Call Report means the Consolidated Report of Condition and Income.

Covered institution means a \$10 to \$50 billion covered institution or an over \$50 billion covered institution.

Federal savings association has the same meaning as in 12 U.S.C. 1813(b)(2).

Over \$50 billion covered institution means a national bank or Federal savings association with average total consolidated assets, calculated as required under this part, that are not less than \$50 billion.

Planning horizon means a set period of time over which the impact of the scenarios is assessed.

Pre-provision net revenue means the sum of net interest income and non-interest income less expenses before adjusting for loss provisions.

Scenarios means sets of conditions that affect the U.S. economy or the financial condition of a covered institution that the OCC annually determines are appropriate for use in the stress tests under this part,

including, but not limited to, baseline, adverse, and severely adverse scenarios.

Stress test means a process to assess the potential impact of scenarios on the consolidated earnings, losses, and capital of a covered institution over the planning horizon, taking into account the covered institution’s current condition, risks, exposures, strategies, and activities.

§ 46.3 Applicability.

(a) *Measurement of average total consolidated assets for a covered institution.* A covered institution’s average total consolidated assets is calculated as the average of the covered institution’s total consolidated assets, as reported on the covered institution’s Call Reports, for the four most recent consecutive quarters. If the covered institution has not filed a Call Report for each of the four most recent consecutive quarters, the covered institution’s average total consolidated assets is calculated as the average of the covered institution’s total consolidated assets, as reported on the covered institution’s Call Reports, for the most recent one or more consecutive quarters. The date on which a national bank or Federal savings association becomes a covered institution shall be the as-of date of the most recent Call Report used in the calculation of the average.

(b) *First stress test for covered institutions subject to stress testing requirements as of October 9, 2012.* (1) A national bank or Federal savings association that is a \$10 to \$50 billion covered institution, as defined in § 46.2 of this part, as of October 9, 2012 must conduct its first stress test under this part using financial statement data as of September 30, 2013, and report the results of its stress test on or before March 31, 2014.

(2) A national bank or Federal savings association that is an over \$50 billion covered institution, as defined in § 46.2 of this part, as of October 9, 2012 must conduct its first stress test under this part using financial statement data as of September 30, 2012, and report the results of its stress test on or before January 5, 2013.

(c) *Covered institutions that become subject to stress testing requirements after October 9, 2012.* A national bank or Federal savings association that becomes a covered institution, as defined in § 46.2 of this part, after October 9, 2012 shall conduct its first annual stress test under this part beginning in the next calendar year after the date the national bank or Federal savings association becomes a covered institution.

¹⁸ See 13 CFR 121.201.

¹⁹ Public Law 106–102, 113 Stat. 1338, 1471, 12 U.S.C. 4809.

(d) *Ceasing to be a covered institution or changing categories.* (1) A covered institution shall remain subject to the stress test requirements based on its applicable category, as defined in § 46.2 of this part, unless and until total consolidated assets of the covered institution falls below the relevant size threshold for each of four consecutive quarters as reported by the covered institution's most recent Call Reports. The calculation shall be effective on the "as of" date of the fourth consecutive Call Report.

(2) Notwithstanding paragraph (d)(1) of this section, a national bank or Federal savings association that migrates from a \$10 to \$50 billion covered institution to an over \$50 billion covered institution shall be subject to the stress test requirements applicable to an over \$50 billion covered institution immediately as of the date the national bank or Federal savings association satisfies the size threshold for an over \$50 billion covered institution, as defined in § 46.2 of this part.

(e) *Covered institution under bank holding company subject to annual stress test requirements.* (1) Notwithstanding the requirements applicable to a \$10 to \$50 billion covered institution under this part, a \$10 to \$50 billion covered institution that is controlled by a bank holding company or savings and loan holding company that is subject to annual stress test requirements pursuant to applicable regulations of the Board of Governors of the Federal Reserve System may elect to conduct its stress test under this part pursuant to the requirements applicable to an over \$50 billion covered institution.

(2) Any \$10 to \$50 billion covered institution that elects to apply the requirements of an over \$50 billion covered institution under this paragraph shall remain subject to the requirements applicable to an over \$50 billion covered institution until otherwise approved by the OCC.

§ 46.4 Reservation of authority.

(a) *Generally.* The OCC may require a national bank or Federal savings association not otherwise subject to this part to comply with the stress test requirements of this part. With respect to any national bank or Federal savings association subject to the stress test requirements of this part pursuant to § 46.3(a), the OCC may modify or delay some or all of the requirements of this part which include:

(1) *Timing of stress test.* The OCC may accelerate or extend any specified deadline for stress testing, reporting, or

publication of disclosures of the stress test results.

(2) *Stress tests.* The OCC may require additional stress tests not otherwise required by this part or may require or permit different or additional analytical techniques and methods, different scenarios, or different assumptions, as appropriate for the covered institution to use in meeting the stress test requirements of this part. In addition, the OCC may specify a different as-of date for any or all categories of financial data used by the stress test.

(3) *Reporting and disclosures.* The OCC may modify the reporting date or any reporting requirement of a report required by this part, or may require any additional reports relating to stress testing as may be appropriate. The OCC may delay or otherwise modify the publication requirements of this part if the disclosure of stress test results under this part would not provide sufficiently meaningful or useful information to the public. In addition, the OCC may require different or additional disclosures not otherwise required by this part, if the existing disclosures do not adequately address one or more material elements of the stress test.

(b) *Factors considered.* Any exercise of authority under this section by the OCC will be in writing and will consider the nature and level of the activities, complexity, risks, operations, and regulatory capital of the national bank or Federal savings association, in addition to any other relevant factors.

(c) *Notice and comment procedures.* In making a determination under paragraph (a) of this section, the OCC will apply notice and response procedures, in the same manner and to the same extent as the notice and response procedures in 12 CFR 3.12, as appropriate.

§ 46.5 Annual stress test.

Each covered institution must conduct the annual stress test under this part subject to the following requirements:

(a) *Financial data.* A covered institution must use financial data as of September 30 of that calendar year.

(b) *Scenarios provided by the OCC.* In conducting the stress test under this part, each covered institution must use the scenarios provided by the OCC. The scenarios provided by the OCC will reflect a minimum of three sets of economic and financial conditions, including baseline, adverse, and severely adverse scenarios. The OCC will provide a description of the scenarios required to be used by each covered institution no later than November 15 of that calendar year.

(c) *Significant trading activities.* The OCC may require a covered institution with significant trading activities, as determined by the OCC, to include trading and counterparty components in its adverse and severely adverse scenarios. The trading and counterparty position data to be used in this component will be as of a date between October 1 and December 1 of that calendar year that will be selected by the OCC and communicated to the covered institution no later than December 1 of the calendar year.

(d) *Use of stress test results.* The board of directors and senior management of each covered institution must consider the results of the stress tests conducted under this section in the normal course of business, including but not limited to the covered institution's capital planning, assessment of capital adequacy, and risk management practices.

§ 46.6 Stress test methodologies and practices.

(a) *Potential impact on capital.* During each quarter of the planning horizon, a covered institution shall estimate the following for each scenario required to be used:

(1) Pre-provision net revenues, losses, loan loss provisions, and net income, and

(2) The potential impact on the covered institution's regulatory capital levels and ratios applicable to the covered institution under 12 CFR part 3 or part 167, as applicable, and any other capital ratios specified by the OCC, incorporating the effects of any capital actions over the planning horizon and maintenance by the covered institution of an allowance for loan losses appropriate for credit exposures throughout the planning horizon.

(b) *Planning horizon.* A covered institution must use a minimum planning horizon of at least nine quarters, beginning with the first day of the period covered by the stress tests.

(c) *Controls and oversight of stress test processes.* (1) The senior management of the covered institution must establish and maintain a system of controls, oversight, and documentation, including policies and procedures, designed to ensure that the stress test processes used by the covered institution satisfy the requirements in this part. These policies and procedures must, at a minimum, describe the covered institution's stress test practices and methodologies, and processes for validating and updating the covered institution's stress test practices and methodologies consistent with

applicable laws, regulations, and supervisory guidance.

(2) The board of directors of the covered institution, or a committee thereof, shall approve and review the policies and procedures of the covered institution's stress testing processes as frequently as economic conditions or the condition of the institution may warrant, but no less than annually. The board of directors and senior management must be provided with a summary of the stress test results.

§ 46.7 Reports to the Office of the Comptroller of the Currency and the Federal Reserve Board.

(a) *\$10 to \$50 billion covered institution.* A \$10 to \$50 billion covered institution must report to the OCC and to the Board of Governors of the Federal Reserve System, on or before March 31, the results of the stress test in the manner and form specified by the OCC.

(b) *Over \$50 billion covered institution.* An over \$50 billion covered institution must report to the OCC and to the Board of Governors of the Federal Reserve System, on or before January 5, the results of the stress test in the manner and form specified by the OCC.

(c) *Confidentiality of Reports.* As provided by § 4.32(b) of this title, the report required under this section is non-public OCC information because it is deemed to be a record created or obtained by the OCC in connection with the OCC's performance of its responsibilities, such as a record concerning supervision, licensing, regulations, and examination, of a national bank, a Federal savings association, a bank holding company, a savings and loan holding company, or an affiliate. The report is the property of the OCC and unauthorized disclosure of the report is generally prohibited pursuant to § 4.37 of this part.

§ 46.8 Publication of disclosures.

(a) *Publication date.* (1) An over \$50 billion covered institution must publish a summary of the results of its annual stress tests in the period starting March 15 and ending March 31 of the next calendar year.

(2) A \$10 to \$50 billion covered institution must publish a summary of the results of its annual stress test in the period starting June 15 and ending June 30 of the next calendar year.

(3) A \$10 to \$50 billion covered institution that is subject to its first annual stress test pursuant to § 46.3(b)(1) of this part must make its initial public disclosure in the period starting June 15 and ending June 30 of 2015 by disclosing the results of a stress

test conducted in 2014, using financial statement data as of September 30, 2014.

(b) *Publication method.* The summary required under this section may be published on the covered institution's Web site or in any other forum that is reasonably accessible to the public. A covered institution controlled by a bank holding company that is required to conduct an annual company-run stress test under applicable regulations of the Board of Governors of the Federal Reserve System will be deemed to have satisfied the publication requirement of this section when the bank holding company publicly discloses summary results of its annual stress test in satisfaction of the requirements of applicable regulations of the Board of Governors of the Federal Reserve System, unless the OCC determines that the disclosures at the holding company level do not adequately capture the potential impact of the scenarios on the capital of the covered institution.

(c) *Information to be disclosed in the summary.* The information disclosed shall, at a minimum, include—

(1) A description of the types of risks included in the stress test under this part;

(2) A summary description of the methodologies used in the stress test;

(3) Estimates of aggregate losses, pre-provision net revenue, provisions for loan and lease losses, net income, and pro forma capital ratios (including regulatory and any other capital ratios specified by the OCC); and

(4) An explanation of the most significant causes of the changes in regulatory capital ratios.

(d) *Disclosure of estimates for the planning horizon.* (1) The disclosure of the estimates of aggregate losses, pre-provision net revenue, provisions for loan and lease losses, net income, and pro forma capital ratios (including regulatory and any other capital ratios specified by the OCC), as required by paragraph (b) of this section, must reflect the estimated cumulative effects, as well as the estimated capital ratios, at the end of the planning horizon for the severely adverse scenario.

(2) With respect to the capital ratio disclosure required in paragraph (d)(1) of this section, the disclosure must also include the value at the beginning of the planning horizon, and the minimum over the planning horizon of the estimated quarter-end values of each ratio.

Dated: October 1, 2012.

Thomas J. Curry,
Comptroller of the Currency.

[FR Doc. 2012-24608 Filed 10-5-12; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

Docket No. FAA-2012-0379; Airspace
Docket No. 12-ANM-7

Establishment of Class E Airspace; Deer Lodge, MT

AGENCY: Federal Aviation
Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Deer Lodge-City-County Airport, Deer Lodge, MT. Controlled airspace is necessary to accommodate aircraft using new Area Navigation (RNAV) Global Positioning System (GPS) standard instrument approach procedures at Deer Lodge-City-County Airport. This improves the safety and management of Instrument Flight Rules (IFR) operations at the airport.

DATES: Effective date, 0901 UTC, January 10, 2013. The Director of the **Federal Register** approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Eldon Taylor, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203-4537.

SUPPLEMENTARY INFORMATION:

History

On July 17, 2012, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to establish controlled airspace at Deer Lodge, MT (77 FR 41939). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6005, of FAA Order 7400.9W dated August 8, 2012, and effective September 15, 2012, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in that Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) Part 71 by establishing Class E airspace, extending upward from 700 feet above the surface, at Deer Lodge-City-County Airport, to accommodate IFR aircraft executing new RNAV (GPS) standard instrument approach procedures at the airport. This