October 18, 2019

Regulatory Tailoring for Large Domestic and Foreign Banking Organizations

Banking Agencies Finalize Significant Revisions to the Application of Enhanced Prudential Standards and Capital and Liquidity Requirements to Large U.S. and Foreign Banking Organizations

SUMMARY

Over the past week, the federal banking agencies have adopted two final rules (the "*final rules*") that tailor how certain aspects of the post-crisis bank regulatory framework, including certain capital and liquidity requirements and other enhanced prudential standards ("*EPS*"), apply to (1) large U.S. banking organizations and (2) foreign banking organizations that have significant U.S. operations ("*FBOs*"). One of the final rules will be issued jointly by the FDIC, Federal Reserve, and OCC (the "*interagency final rule*"),[1] while the other was issued solely by the Federal Reserve (the "*EPS final rule*").[2] The final rules retain the general framework of the tailoring proposals applicable to domestic banking organizations that were issued in the fourth quarter of 2018 (the "*domestic tailoring proposal*")[3] and the analogous proposals applicable to FBOs issued in the second quarter of 2019 (the "*FBO tailoring proposal*" and, together with the domestic tailoring proposals, the "*tailoring proposals*").[4] Our Memoranda to Clients published on November 5 and April 23 discuss key aspects of the domestic and foreign tailoring proposals, respectively.

The final rules assign all domestic bank holding companies ("*BHCs*") with $100 billion or more in total consolidated assets, FBOs with $100 billion or more in combined U.S. assets, and domestic savings and loan holding companies with $100 billion or more in total consolidated assets that are not substantially engaged in insurance underwriting or commercial activities ("*covered SLHCs*") to one of four categories of tailored regulatory requirements. Category I applies solely to U.S. G-SIBs, while categorization into the remaining three categories is based on measures of size and four other "risk-based indicators." Each FBO will separately be assigned to a category for its U.S. intermediate holding company ("*IHC*") and its combined

U.S. operations ("*CUSO*"), which includes its U.S. branches and agencies and, if applicable, its IHC and other U.S. subsidiaries. The IHC's category will generally determine the requirements that apply at the IHC level, while the CUSO's category will generally determine the requirements that apply to the CUSO. Annex I to this Memorandum summarizes the requirements applicable to firms assigned to Categories I, II, III and IV; BHCs and covered SLHCs with between $50 billion and $100 billion in total consolidated assets, and FBOs with between $50 billion and $100 billion in combined U.S. assets will remain subject to EPS relating to risk committees and risk management, and those FBOs will remain subject to the requirement to form a U.S. IHC if they have U.S. non-branch assets of $50 billion or more.

The final rules largely track the proposed rules, but incorporate "certain targeted changes in response to comments."[5] Notable aspects of the final rules and the accompanying commentary from the agencies include the following:

- ***Application of LCR and SCCL to IHCs based on IHCs' Risk Profiles.*** The final rules apply standardized liquidity requirements (currently limited to the liquidity coverage ratio or "*LCR*" rule) and single-counterparty credit limits ("*SCCL*") to a U.S. IHC based on the size and other risk-based indicators of the U.S. IHC, rather than the CUSO of the FBO, as originally proposed. This revision is intended to "simplify and enhance the focus of the framework."[6]
- ***Ongoing Consideration of FBO U.S. Branch and Agency Standardized Liquidity Requirements.*** Although the FBO tailoring proposal requested comment on the potential application of standardized liquidity requirements to the U.S. branches and agencies of FBOs, the Federal Reserve chose not to propose such requirements at this time. The Federal Reserve notes that it "is still considering whether to develop" such requirements for U.S. branches and agencies of FBOs and intends to "engage in further discussion and evaluation of the issue at the international level" as part of its process for considering any such potential requirements.[7]
- ***No Indexing of Dollar-Based Thresholds.*** The final rules adopt the proposed dollar-based thresholds for the risk-based indicators as proposed, without indexing these thresholds to growth in domestic banking assets or other measures of economic growth, as suggested by commenters. The agencies note that the $100 billion and $250 billion size thresholds are set by statute and argue that "[i]ndexing the other thresholds would add complexity, a degree of uncertainty, and potential discontinuity to the framework."[8] However, the agencies pledge to periodically review the thresholds and to make any revisions through a notice-and-comment rulemaking process.[9]
- ***Finalization of Reduced LCR as Proposed.*** Despite suggestions to align the proposed reduced LCR requirements with the former "modified LCR" requirement applicable to BHCs with $50 billion to $250 billion in total consolidated assets and less than $10 billion in on-balance-sheet foreign exposure, the interagency final rule adopts the reduced LCR requirement as proposed. The reduced LCR is calibrated at 85% of the full LCR requirement for Category III firms with less than $75 billion in weighted short-term wholesale funding ("*wSTWF*") and at 70% of the full LCR requirement for Category IV firms with $50 billion or more in wSTWF. Like the full LCR, the reduced LCR will include the maturity mismatch add-on and, for Category III firms, also apply to any insured depository institution subsidiary with total consolidated assets of $10 billion or more. Notably, under the interagency final rule, holding companies subject to a reduced LCR will be permitted to include HQLA held by a consolidated subsidiary only up to the reduced amount of the subsidiary's outflows (that is, in an amount equal to the subsidiary's net cash outflows as adjusted by the holding company's 70 or 85% outflow adjustment factor), plus additional amounts that would be available for transfer to the holding company during times of stress without statutory, regulatory, contractual or supervisory restrictions. For holding companies subject to the reduced LCR, the limits on the ability to count HQLA at a consolidated subsidiary and the application of the adjustment factor to determine the amount of subsidiary-level HQLA that the

parent may include in its LCR calculations could, in some circumstances, result in corresponding reductions to both the numerator (HQLA) and the denominator (net cash outflows) of the LCR such that, in practice, the "reduced" LCR would not be much reduced compared to the "full" LCR.

- ***Proposed NSFR Not Adopted.*** The final rules do not adopt the proposed net stable funding ratio ("*NSFR*") requirement. The Federal Reserve staff memorandum indicates, however, that, when the proposed NSFR is adopted, the agencies plan to apply an 85% reduced NSFR to Category III firms with less than $75 billion in wSTWF and a 70% reduced NSFR to Category IV firms with $50 billion or more in wSTWF, consistent with the scaling approach for the LCR in the final rules.
- ***Alignment of Highly Liquid Asset Definition with HQLA Requirements.*** The EPS final rule amends the definition of "highly liquid assets" to include all assets that would qualify as HQLA under the LCR rule. The asset must satisfy all of the qualifying criteria for HQLA, including, where applicable, that the asset is "liquid and readily marketable" as defined in the LCR rule and meet additional asset-specific criteria under the LCR rule.[10] The Federal Reserve retains the provision that permits other assets to qualify as highly liquid assets if the banking organization demonstrates to the satisfaction of the Federal Reserve that the other assets meet the qualifying criteria for highly liquid assets. The Federal Reserve clarifies that a banking organization cannot treat such other assets as highly liquid assets until it has received approval from the Federal Reserve and adds that it "expects other assets will qualify as highly liquid assets only in narrow circumstances."[11]
- ***New Guidance on Qualification Criteria for HQLA.*** The LCR rule requires that the management function of a firm charged with managing liquidity risk ("*liquidity management function*") evidence its control over assets in order for them to be eligible as HQLA. In the supplemental information to the interagency final rule, the agencies provide new guidance on this requirement, noting that the current LCR rule does not limit this requirement to the time at which a firm calculates its LCR and that "HQLA that is only available to the liquidity management function of a [firm] at the elected calculation time" would not meet the qualification criteria in the rule.[12]
- ***Separate Proposals on Capital Planning Forthcoming.*** The EPS final rule revises the scope of applicability of the capital plan rule[13] to apply to U.S. BHCs and U.S. IHCs with $100 billion or more in total assets. The supplemental information to the EPS final rule notes that the Federal Reserve intends to separately propose modifications to capital planning requirements at a future date to incorporate the risk-based categories in the final rules, to further tailor the capital planning requirements applicable to Category IV firms,[14] and to establish capital planning requirements for covered SLHCs.

On October 10, Federal Reserve approved the final rules by a vote of four to one. Federal Reserve Board Chair Powell, Vice Chair Clarida, Vice Chair for Supervision Quarles, and Governor Bowman voted in favor of the final rules. Governor Brainard dissented, principally on the grounds that the final rules "go beyond what is required by law" and do not apply "standardized liquidity requirements to the branches and agencies of foreign banks."[15] Vice Chair Quarles stressed in his statement that the Federal Reserve "will be focusing our attention in the coming months on the question of branch liquidity requirements," including "continuing the dialogue at the international level."[16]

On October 15, the FDIC approved the interagency final rule by a vote of three to one. Director Gruenberg dissented, primarily on the grounds that "the current [liquidity] requirements are [already] tailored to size, complexity, and risk profile of the institutions to which they apply."[17] Chairman McWilliams noted that the final rule "represents meaningful and appropriate tailoring to capital and liquidity standards while ensuring that the largest, most systemically important banks remain subject to the most rigorous requirements," including with respect to liquidity standards.[18]

The OCC is expected to adopt the interagency final rule soon.

In addition, the EPS final rule and other recent rulemakings by the FDIC and OCC amend the agencies' stress testing rules to raise the asset threshold for insured depository institutions to conduct company-run stress tests from more than $10 billion to more than $250 billion, to revise the frequency of company-run stress tests and to eliminate the adverse scenario, reducing the number of required stress test scenarios from three to two.[19] Our December 27, 2018 Memorandum to Clients describes the proposed changes to the agencies' company-run stress testing rules, and the changes were adopted as proposed.

The Federal Reserve and the FDIC have also approved final rules tailoring the Dodd-Frank Section 165(d) resolution planning requirements, which will be the focus of a separate, forthcoming Memorandum to Clients.

BACKGROUND

The Economic Growth, Regulatory Relief, and Consumer Protection Act ("*EGRRCPA*") was signed into law on May 24, 2018. As discussed in our Memorandum to Clients, the statute generally preserves the fundamental elements of the regulatory framework established after the 2010 enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("*Dodd-Frank*"), but includes a variety of measures intended to result in meaningful regulatory relief for smaller and certain regional banking organizations.

As relevant here, EGRRCPA increased the statutory asset threshold (often referred to as the "*SIFI*" threshold), above which the Federal Reserve is required to apply the "enhanced prudential standards" under Section 165 of Dodd-Frank to a BHC. The Dodd-Frank SIFI threshold was increased from $50 billion to $100 billion, effective as of May 24, the date of EGRRCPA's enactment, with a further increase to $250 billion to occur 18 months after enactment. The Federal Reserve was authorized, during this 18-month "off-ramp" period, to exempt, by order, any BHC with between $100 billion and $250 billion in total consolidated assets from any EPS requirement.[20] EGRRCPA also granted the Federal Reserve the discretionary authority, after the SIFI threshold increase becomes effective, to apply any EPS to any BHC or BHCs with between $100 billion and $250 billion in total consolidated assets that would otherwise be exempt under the legislation. To exercise this discretionary authority, the Federal Reserve must (1) act by order or rule promulgated pursuant to Section 553 of the Administrative Procedure Act (requiring public notice and comment) and (2) determine that the application of the EPS is "appropriate . . . to prevent or mitigate risks to [U.S.] financial stability" or "to promote the safety and soundness of the [BHC] or [BHCs]," taking into consideration the BHC's or BHCs' capital structure, riskiness, complexity, financial activities, size, and "any other risk-related factors that the [Federal Reserve] deems appropriate."[21] EGRRCPA also amended what was previously an area of regulatory discretion to require instead that the Federal Reserve, in prescribing EPS, differentiate among BHCs "on an individual basis or by category," taking into consideration their capital structure, riskiness, complexity, financial activities (including the financial

activities of their subsidiaries), size, and "any other risk-related factors that the [Federal Reserve] deems appropriate."[22]

FBOs are treated as BHCs for purposes of Section 165,[23] and therefore the increase in the SIFI threshold—from $50 billion to $100 billion, effective as of May 24, 2018 (the date of EGRRCPA's enactment), with a further increase to $250 billion effective November 24, 2019 (18 months after enactment)—applies to FBOs. For FBOs, however, the statutory increases are of limited consequence because the revised SIFI threshold continues to be calculated based on an FBO's total *global* consolidated assets. The final rules focus the application of EPS on FBOs with significant U.S. operations by categorizing FBOs based on the size and risk-based indicators of their U.S. IHCs and CUSO, depending on the EPS.

EGRRCPA did not amend the existing regulations promulgated by the Federal banking agencies that were based on the original Dodd-Frank SIFI threshold, including regulations implementing EPS, nor did it require the Federal banking agencies to modify other regulations implementing other post-crisis regulatory reforms established under (but not required by) Dodd-Frank or other legal authorities. Accordingly, the final rules amend existing regulations to take into account the revised asset thresholds and other statutory changes. The remainder of this Memorandum addresses how and to what extent EPS and post-crisis regulatory reforms relating to capital and liquidity will apply to U.S. banking organizations with $100 billion or more in total consolidated assets and to FBOs, as well as other notable aspects of the final rules.

RISK-BASED CATEGORIES

Under the final rules, which adopt the risk-based indicators as proposed, large U.S. BHCs, covered SLHCs, and FBOs with $100 billion or more in combined U.S. assets will be assigned to one of four risk-based categories of regulatory standards based on whether they have been identified as a U.S. G-SIB and five risk-based indicators. For U.S. banking organizations and covered SLHCs, these risk-based indicators are measured at the level of the top-tier holding company. For FBOs, these risk-based indicators are measured (i) at the U.S. IHC level for supervisory and company-run stress testing requirements, U.S. IHC SCCL requirements, and regulatory capital and standardized liquidity requirements, and (ii) at the level of the FBO's CUSO for all other EPS, including the liquidity stress tests, liquidity buffer, liquidity risk management, and liquidity reporting requirements, as well as requirements relating to risk committees and risk management.

According to the Federal Reserve staff memorandum, 17 FBOs with combined U.S. assets of $100 billion or more would be assigned to Categories II, III and IV and an additional five FBOs with between $50 billion and $100 billion in combined U.S. assets would not be assigned to a category but would remain subject to risk management and risk committee requirements with respect to their U.S. operations, as well as the requirement to form a U.S. IHC if they have $50 billion or more in U.S. non-branch assets. Otherwise, for FBOs with less than $100 billion in combined U.S. assets, EPS would largely defer to compliance with

analogous home-country requirements, including with respect to capital and liquidity stress testing requirements.

- ***Size.*** Consistent with the proposals, the final rules measure size based on a firm's total assets. The agencies declined to use a risk-sensitive measure of size, such as risk-weighted assets, noting that "an approach that relies on risk-weighted assets as an indication of size would not align with the full scope of risks intended to be measured by the size indicator" such as "the risks associated with managerial and operational complexity or the potential for distress at a large banking organization to cause widespread market disruptions."[24]
- ***Cross-Jurisdictional Activity.*** The final rules adopt the cross-jurisdictional activity indicator as proposed. Cross-jurisdictional activity for U.S. banking organizations will be measured based on the sum of cross-jurisdictional assets and liabilities, each as reported on the FR Y-15, consistent with the tailoring proposal. To recognize "the structural differences between foreign and domestic banking organizations," for FBOs, the final rules exclude (i) inter-affiliate liabilities and (ii) inter-affiliate claims secured by financial collateral in accordance with the agencies' capital rules.[25] The agencies note in the supplemental information to the interagency final rule that the "agencies are considering whether additional technical modifications and refinements to the cross-jurisdictional indicator would be appropriate," including with respect to the treatment of derivatives, and the measurement of repurchase agreements and securities financing transactions, which would be considered "in the context of a separate rulemaking process."[26]
- ***Nonbank Assets.*** Nonbank assets will be measured (i) for U.S. banking organizations and U.S. IHCs as the average amount of nonbank assets, as currently reported on the FR Y-9LP, and (ii) for the CUSO of FBOs as the average amount of assets in consolidated U.S. nonbank subsidiaries and equity investments in unconsolidated U.S. nonbank subsidiaries, consistent with the tailoring proposals.[27] The agencies note that "suggested modifications to exclude certain types of assets or entities, or to risk-weight nonbank assets, would not align with the full scope of risks intended to be measured by the indicator," and that such modifications "could undermine the simplicity and transparency of the indicator."[28]
- ***Weighted Short-Term Wholesale Funding.*** The wSTWF measure will track the measure currently reported on the FR Y-15 by holding companies and will be consistent with the calculation used for purposes of the U.S. G-SIB surcharge rule, as proposed. The agencies declined to adopt suggested modifications to the wSTWF measure, noting that "when the [Federal Reserve] established the weights applied in calculating and reporting [wSTWF] for purposes of the GSIB surcharge rule, the [Federal Reserve] took into account the treatment of certain liabilities in the LCR rule and the fire sale risks in key short-term wholesale funding markets," and, accordingly, "the agencies continue to believe the current scope of the weighted [STWF] indicator, and the weights applied in the indicator, are appropriately calibrated for assessing the risk to broader financial stability."[29]
- ***Off-Balance Sheet Exposure.*** The final rules adopt the off-balance sheet exposure indicator as proposed. Off-balance sheet exposure will be measured as total exposure (as defined in the FR Y-15, which includes a banking organization's on-balance sheet assets plus certain off-balance sheet exposures, including derivative exposures, repo-style transactions, and commitments) less total consolidated assets (as reported on the FR Y-9C).[30] Declining to adopt suggested modifications to make the indicator more risk-sensitive, the agencies noted that "excluding certain off-balance sheet exposures would be inconsistent with the purpose of the indicator as a measure of the extent to which customers or counterparties may be exposed to a risk of loss or suffer a disruption in the provision of services."[31]

These risk-based indicators are intended to "generally track measures already used in the agencies' existing regulatory framework and . . . already publicly reported by affected banking organizations."[32] Each risk-based indicator will generally be calculated in accordance with the instructions to the FR Y-15,

FR Y-9LP, FR Y-7Q, or FR Y-9C, as applicable, and must be reported for the top-tier banking organization on a quarterly basis. In some cases, the FR Y-15 will automatically populate line items based on information from other forms. The EPS final rule identifies and maps the specific line items that will be used to calculate each of the risk-based indicators—reproduced as Annex II.[33]

The following describes the bases on which large banking organizations will be assigned to four categories:

- ***Category I.*** Category I standards will apply solely to U.S. G-SIBs. The agencies will use the existing methodology under the Federal Reserve's U.S. G-SIB surcharge rule[34] to determine which banking organizations will be subject to this "most stringent" category of standards.
- ***Category II.*** Category II standards will apply to banking organizations that are not U.S. G-SIBs and that have $700 billion or more in total assets or at least $100 billion in total assets and $75 billion or more in cross-jurisdictional activity.
- ***Category III.*** Category III standards will apply to banking organizations that are not subject to Category I or Category II standards and that have $250 billion or more in total assets or at least $100 billion in total assets and $75 billion or more in any of three indicators: nonbank assets, wSTWF, or off-balance sheet exposures.
- ***Category IV.*** Category IV standards will apply to banking organizations with $100 billion to $250 billion in total assets that do not meet any of the additional thresholds specified for Categories I through III.

The final rules also include an "other" category under which certain prudential standards will apply to firms based on criteria other than those used to define the four categories above. These standards relate to risk committees and risk management, as well as the requirement that certain FBOs establish a U.S. IHC.

REGULATORY TAILORING BY CATEGORY

The final rules apply the same category of standards to both the top-tier holding company and, with respect to applicable capital and standardized liquidity requirements, its subsidiary depository institutions. The following summarizes the prudential standards applicable to U.S. BHCs, Covered SLHCs, U.S. IHCs of FBOs, and CUSOs of FBOs that fall within the four categories. The final rules are generally consistent with the requirements set forth in the tailoring proposals, with the key variation being the use of the U.S. IHC's category, instead of the CUSO's category, to determine the LCR requirements and SCCLs applicable to a U.S. IHC.

- ***Category I.*** The final rules continue to apply "the most stringent prudential standards" to firms in this category, to reflect "the heightened risks [these] banking organizations pose to U.S. financial stability."[35] Accordingly, under the final rules, the following standards will be applicable to Category I firms:
  - ***Capital Requirements.*** These firms will be subject to the same capital requirements currently applicable to them and their depository institution subsidiaries, including (i) both the advanced and standardized approaches,[36] (ii) the U.S. generally applicable leverage ratio, (iii) the enhanced supplementary leverage ratio, (iv) the G-SIB capital surcharge (at the holding company level only), (v) the requirement to recognize most elements of accumulated other comprehensive income ("*AOCI*") in regulatory capital, and (vi) the requirement to expand the capital conservation buffer by the amount of any applicable countercyclical capital buffer.

- ***TLAC Requirements.*** These firms will be subject to the same TLAC and long-term debt requirements currently applicable to them, which apply at the holding company level only.
- ***Standardized Liquidity Requirements.*** These firms will be subject to the same liquidity requirements currently applicable to them and their depository institution subsidiaries with $10 billion or more in total consolidated assets, including the full LCR requirement.[37]
    - Although the proposed NSFR has not been adopted, the staff memorandum released by the Federal Reserve indicates that Category I firms will be subject to the full NSFR when it is adopted.
- ***EPS Requirements.*** With two exceptions, these firms will be subject to the same EPS and capital planning currently applicable to them at the holding company level, including (i) annual supervisory and company-run stress testing, (ii) annual capital plan submissions and limitations on distributions through the CCAR process, (iii) FR Y-14 reporting, (iv) liquidity risk management, (v) monthly internal liquidity stress testing, (vi) liquidity buffer requirements, (vii) reporting of certain liquidity data on the FR 2052a on a daily basis,[38] and (viii) the more stringent single-counterparty credit limits applicable to U.S. G-SIBs.[39]
    - These firms will be required to conduct an annual, but not a mid-cycle, company-run stress test. However, in order to retain flexibility to require firms to conduct more frequent testing if needed, the Federal Reserve will retain discretion to adjust the frequency of a firm's required tests based on the firm's financial condition, size, complexity, risk profile, scope of operations, or activities, or risks to the U.S. economy.[40]
    - Consistent with EGRRCPA, the final rules will eliminate the adverse scenario as a required scenario for supervisory and company-run stress testing.

- ***Category II.*** Under the final rules,[41] the following standards will be applicable to Category II firms:
    - ***Capital Requirements.*** These firms will be subject to (i) both the advanced and standardized approaches, (ii) the U.S. generally applicable leverage ratio, (iii) the supplementary leverage ratio, (iv) the requirement to recognize most elements of AOCI in regulatory capital, and (v) the requirement to expand the capital conservation buffer by the amount of any applicable countercyclical capital buffer.
        - For FBOs, the IHC's category will determine the applicable capital requirements.
    - ***Standardized Liquidity Requirements.*** These firms will be subject to the same standardized liquidity requirements applicable to Category I firms, as noted above.
        - Although the proposed NSFR has not been adopted, the staff memorandum released by the Federal Reserve indicates that Category II firms will be subject to the full NSFR when it is adopted.
        - For FBOs, the IHC's category will determine the applicable standardized liquidity requirements.
    - ***EPS Requirements.***
        - ***Capital Planning and Stress Testing Requirements.*** At the holding company level, these firms will be subject to (i) annual capital plan submissions and limitations on distributions through the CCAR process, (ii) FR Y-14 reporting, (iii) annual supervisory stress tests, and (iv) annual, but not mid-cycle, company-run stress tests. As for other firms, the final rules will eliminate the adverse scenario as a required scenario for supervisory and company-run stress testing, and the Federal Reserve will retain discretion to adjust the frequency of stress testing.[42]
            - For FBOs, the IHC's category will determine the applicable capital planning and stress testing requirements.
        - ***Liquidity-Related EPS.*** Consistent with the proposals, Category II firms will be subject to the same liquidity risk management, monthly liquidity stress testing, liquidity buffer, and daily

liquidity reporting (on form FR 2052a) requirements as Category I firms. As is currently the case, FBOs in this category must conduct such testing separately for each of its CUSO, U.S. IHC, and U.S. branch and agency network, and hold separate buffers for its U.S. IHC and U.S. branch and agency network.

  - For FBOs, the category applicable based on CUSO will determine the applicable EPS relating to liquidity.

- ***SCCL.*** Firms in this category will be subject to the SCCL, but are not subject to the more stringent limits that apply to a U.S. G-SIB.[43]

  - The U.S. IHC of an FBO subject to Category II requirements will be required to comply with the applicable SCCL requirement, while the FBO may comply with the SCCL with respect to its CUSO by certifying that it meets, on a consolidated basis, standards established by its home country supervisor that are consistent with the Basel Large Exposure standard.[44]

  - As noted above, application of the SCCL to U.S. IHCs of FBOs will be based on the U.S. IHC's own risk-based indicators, rather than those of the FBO's CUSO.[45]

- ***Category III.*** Under the final rules, the following standards will be applicable to Category III firms:

  - ***Capital Requirements.*** These firms will not be subject to (i) advanced approaches capital requirements,[46] or (ii) the requirement to recognize most elements of AOCI in regulatory capital, but will be subject to (x) the U.S. generally applicable leverage ratio, (y) the supplementary leverage ratio,[47] and (z) the requirement to expand the capital conservation buffer by the amount of any applicable countercyclical capital buffer.[48]

    - For FBOs, the IHC's category will determine the applicable capital requirements.

  - ***Standardized Liquidity Requirements.*** These firms will only be subject to the full LCR requirement (100%) if the firm has wSTWF of $75 billion or more; all other Category III firms will be subject to a "reduced" LCR requirement of 85%.

    - The denominator for the reduced LCR will be equal to the net cash outflows calculated under the full LCR requirement, multiplied by the 85% factor that reduces its stringency.

    - The LCR requirements will apply to a depository institution that has total consolidated assets of $10 billion or more that is a consolidated subsidiary of a firm subject to Category III standards, at the same level (that is, full or reduced) that applies to the parent banking organization.[49]

    - A firm subject to the reduced LCR requirement will not be permitted to include in its HQLA amount eligible HQLA of a consolidated subsidiary except up to the amount of net cash flows of the subsidiary (as adjusted for the 85 percent factor reducing the stringency of the requirement), plus any amount of assets that would be available for transfer to the top-tier holding company during times of stress without statutory, regulatory, contractual, or other supervisory restrictions.

      - This is different from the approach for the "modified" LCR, previously applicable to BHCs with $50 billion to $250 billion in total consolidated assets and less than $10 billion in on-balance-sheet foreign exposure. Under the modified LCR, a BHC recognizes HQLA held at a consolidated subsidiary up to 100 percent of the net cash outflows of the subsidiary, plus amounts that may be transferred without restriction to the BHC.[50]

      - For holding companies subject to the reduced LCR, the limits on the ability to count HQLA at a consolidated subsidiary and the application of the adjustment factor to determine the amount of subsidiary-level HQLA that the parent may include in its LCR calculations could, in some circumstances, result in corresponding reductions to both the numerator (HQLA) and the denominator (net cash outflows) of the LCR such that, in practice, the "reduced" LCR would not be much reduced compared to the "full" LCR.

        - All other requirements of the LCR rule, including the maturity mismatch add-on requirement, apply to the calculation of both the full and reduced LCR.[51]
        - The final rules do not adopt the proposed NSFR requirement, and the agencies note that comments regarding the NSFR proposal will be addressed in the context of any final rule to adopt an NSFR requirement for large U.S. banking organizations and U.S. IHCs.[52] The Federal Reserve staff memorandum indicates that, once the NSFR is adopted, the agencies plan to apply a "reduced" NSFR of 85% to Category III firms unless they have wSTWF of $75 billion or more, in which case the full NSFR would apply.
        - For FBOs, the IHC's category will determine the applicable standardized liquidity requirements.
    - ***EPS Requirements.***
        - ***Capital Planning and Stress Testing Requirements.*** At the holding company level, these firms will be subject to the following: (i) annual capital plan submissions (including the results of an internal capital stress test) and limitations on distributions through the CCAR process; (ii) annual supervisory stress testing; (iii) biennial company-run stress testing under DFAST; and (iv) FR Y-14 reporting.
            - Category III firms will be required to conduct company-run stress tests under DFAST and publicly disclose the results of those stress tests once every two years, unlike Category I and II firms, which will be required to conduct the stress tests and make the related disclosures annually. As with Category I and Category II firms, the Federal Reserve will retain discretion to adjust the frequency of stress testing.[53]
            - As noted above, for FBOs, the IHC's category will determine the applicable capital planning and stress testing requirements.
        - ***Liquidity-Related EPS.*** At the holding company level, these firms will be subject to the following: (i) liquidity risk management; (ii) monthly internal liquidity stress testing; (iii) liquidity buffer requirements; and (iv) reporting of certain liquidity data on the FR 2052a, with the frequency of reporting dependent on a firm's wSTWF, as noted below.
            - Category III firms subject to the full or reduced LCR will be required to report liquidity data on FR 2052a on a daily or monthly basis, respectively.
            - As noted above, for FBOs, the category applicable based on CUSO will determine the applicable EPS relating to liquidity.
        - ***SCCL.*** At the holding company level, these firms will be subject to single-counterparty credit limits, in the same manner noted above for Category II firms.[54]
            - For FBOs, home-country certification requirements would also apply in the same manner as noted for Category II firms.
- ***Category IV.*** Other than with respect to capital planning requirements and the CCAR process, to which Category IV firms remain subject, firms subject to Category IV standards otherwise will generally be subject to the same capital and liquidity requirements as banking organizations under $100 billion in total consolidated assets, but, unlike those firms, must also monitor and report certain risk-based indicators. At the holding company level, these firms will remain subject to the "core elements" of the liquidity and capital-related EPS and capital planning requirements applicable to firms in Categories I, II and III, but in a way that is "tailor[ed]" to reflect the "lower risk profile and lesser degree of complexity" relative to those other firms.[55] Under the final rules, the following standards will be applicable to Category IV firms:
    - ***Capital Requirements.*** These firms will be excluded from the same capital requirements from which Category III firms are excluded, as noted above, and, in addition, will not be subject to the supplementary leverage ratio or the countercyclical capital buffer.

  - As noted above, for FBOs, the IHC's category will determine the applicable capital requirements.

- ***Standardized Liquidity Requirements.*** These firms will only be subject to a reduced LCR requirement, calibrated at 70% of the full LCR requirement, if they have wSTWF greater than or equal to $50 billion. Aside from the lower calibration, the same reduced LCR requirements noted above for Category III banks will apply, and the former "modified" LCR requirement currently applicable to some Category IV firms is rescinded. The reduced LCR requirement applicable to Category IV firms will be calculated monthly and will not apply to a depository institution subsidiary of a Category IV firm.

  - Although the proposed NSFR has not been adopted, the staff memorandum released by the Federal Reserve indicates that Category IV firms will be subject to a reduced (70%) NSFR requirement when it is adopted if they have wSTWF greater than or equal to $50 billion.

  - For FBOs, the IHC's category will determine the applicable standardized liquidity requirements.

- ***EPS Requirements.***

  - ***Capital Planning and Stress Testing Requirements.*** Category IV firms will be subject to supervisory stress testing every other year, instead of the annual supervisory stress testing applicable to firms in Categories I, II, and III. Category IV firms will no longer be subject to company-run stress testing requirements, but will remain subject to annual capital plan submissions and limitations on distributions through the CCAR process (which the Federal Reserve expects to propose to revise to reflect the biennial supervisory stress testing schedule), and to the FR Y-14 reporting requirements. In addition, the final rules provide the Federal Reserve with authority to adjust the frequency of stress testing requirements based on the risk profile of the firm and other factors.[56] As for other firms, the final rules eliminate the adverse scenario as a required scenario for supervisory stress tests.

    - For FBOs, the IHC's category will determine the applicable capital planning and stress testing requirements.

  - ***Liquidity-Related EPS.*** In respect of liquidity-related EPS, and consistent with the tailoring proposals, these firms will be subject to liquidity stress testing, liquidity buffer and liquidity risk management requirements, but will be required to: (i) calculate collateral positions monthly, as opposed to weekly as is currently required; (ii) establish a more streamlined set of liquidity risk limits than are currently required; and (iii) monitor fewer elements of intraday liquidity risk exposures than are currently monitored. These firms will also be subject to liquidity stress testing quarterly, rather than monthly, and will be required to report a tailored set of liquidity data on the FR 2052a on a monthly basis (but Category IV firms will be permitted to submit the FR 2052a on a T+10 basis, rather than on the T+2 basis applicable to firms in Categories I, II and III). The liquidity buffer requirements for these firms would not change.

    - In response to requests that the Federal Reserve "clarify and confirm that FR 2052a reporting will not implicitly bind [Category IV] firms to the LCR rule," the supplementary information to the EPS final rule "notes that FR 2052a reporting will not be used to implicitly bind firms to an LCR rule."[57]

    - For FBOs, the category applicable based on CUSO will determine the applicable EPS relating to liquidity.

  - ***SCCL.*** Category IV BHCs, covered SLHCs and U.S. IHCs will not be subject to the SCCL.

    - An FBO will be required to certify compliance with home-country SCCL requirements if it has total global consolidated assets of $250 billion or more.

    - As noted above, application of the SCCL to U.S. IHCs of FBOs will be based on the U.S. IHC's own risk profile, rather than that of the FBO's CUSO.

- ***Prudential Standards Applicable Outside the Four-Category Framework.*** Certain prudential standards apply to firms based on criteria other than those of the four-category framework described above.
  - ***Risk Committee and Risk Management Requirements.*** Prior to the passage of EGRRCPA, publicly traded BHCs and FBOs with total consolidated assets of at least $10 billion but less than $50 billion, and all BHCs and FBOs with total consolidated assets of $50 billion or more, were required to comply with certain risk committee and management requirements. EGRRCPA raised the threshold for mandatory application of these requirements to U.S. BHCs and FBOs, and the EPS final rule reflects these changes and similarly raises the thresholds for risk management requirements for FBOs. Specifically:
    - A publicly traded or privately held BHC or covered SLHC with total consolidated assets of $50 billion or more must establish a risk committee that is responsible for the oversight of the enterprise-wide risk management practices;
    - An FBO with total global consolidated assets of $50 billion or more but less than $100 billion, or with total global consolidated assets of $100 billion or more but combined U.S. assets of less than $50 billion, is required to maintain a risk committee and make an annual certification to that effect; and
    - An FBO with total consolidated assets of $100 billion or more and combined U.S. assets of $50 billion or more is required to comply with the more detailed risk-committee and risk management requirements, including the requirement to appoint a U.S. chief risk officer to oversee the risks undertaken by the firm's CUSO.

    For FBOs total global consolidated assets and the size of the CUSO will determine the applicable risk management and risk committee standards.
  - ***Requirement to Form a U.S. IHC.*** Under the EPS final rule, the threshold for requiring FBOs to form a U.S. IHC remains $50 billion or more in U.S. non-branch assets. Firms that are required to establish a U.S. IHC, but that have combined U.S. assets of less than $100 billion (and therefore do not meet the Category IV criteria), must nevertheless comply with certain prudential standards, including risk-based and leverage capital requirements, and the risk management and risk committee requirements described above.

OTHER NOTABLE ASPECTS OF THE RULEMAKING

- ***HQLA Must be "Continually Available" for Use by the Liquidity Management Function.*** As noted above, in the supplemental information to the interagency final rule, the agencies note that "HQLA that is only available to the liquidity management function of a [firm] at the elected calculation time" would not meet the qualification criteria in the rule.
  - The agencies note in the supplemental information that, although "the agencies did not propose to amend other definitions, calculation elements, or public disclosure requirements in the LCR rule beyond those related to the categories of standards [in the final rule], [o]ne commenter . . . expressed concern regarding a statement in the [FBO] proposal that the agencies expect HQLA to be 'continually available' for use by the foreign banking organization's liquidity management function to be considered eligible HQLA" and that this statement in the FBO tailoring proposal would create a new intraday utilization requirement that would require an amendment to the LCR rule.[58]
  - In response to this comment, the agencies note that the LCR rule "specifies that the liquidity management function must evidence its control over the HQLA by either: (i) segregating the HQLA from other assets, with the sole intent to use the HQLA as a source of liquidity, or (ii) demonstrating the ability to monetize the assets and making the proceeds available to the liquidity management function without conflicting with a business or risk management strategy of the banking organization" and that "for a liquidity management function to demonstrate that it has the ability to

monetize the HQLA in a way that does not conflict with the banking organization's business or risk management strategy, the banking organization should be able to demonstrate its ability to monetize the assets and make the proceeds continuously available to the liquidity management function."[59]

- ***Highly Liquid Asset Definition Aligned with HQLA Requirements.*** As noted above, the EPS final rule amends the definition of "highly liquid assets" to include all assets that would qualify as HQLA under the LCR rule. The asset must satisfy all of the qualifying criteria for HQLA, including, where applicable, that the asset is "liquid and readily marketable" as defined in the LCR rule and meets additional asset-specific criteria under the LCR rule.[60]
- ***Federal Reserve Board Approval is Required for Additional "Highly Liquid Assets" to Qualify.*** Regulation YY currently requires that the Federal Reserve Board determine that a banking organization has demonstrated to the satisfaction of the Federal Reserve that other assets meet the qualifying criteria to be considered "highly liquid assets" under the liquidity stress testing and liquidity buffer requirements. The supplemental information to the EPS final rule clarifies that a banking organization cannot treat such other assets as highly liquid assets unless and until it has received such approval from the Federal Reserve Board.[61] In the Federal Reserve staff memorandum accompanying the Federal Reserve's release of the final rule, the staff recommend that the Federal Reserve Board delegate authority to designated staff to determine that an asset meets the criteria to be a highly liquid asset under the Federal Reserve's liquidity stress testing and liquidity buffer requirements.[62]
- ***Federal Reserve May Authorize an FBO to Comply with EPS Through a Subsidiary.*** The EPS final rule amends Regulation YY to include a reservation of authority under which the Federal Reserve may permit an FBO to comply with EPS requirements through a subsidiary foreign bank or company of the FBO. The Federal Reserve notes in the supplemental information to the EPS final rule that in making this determination, it would take into consideration (i) the ownership structure of the FBO, including whether it is owned or controlled by a foreign government, (ii) whether the action would be consistent with the purposes of the EPS final rule, and (iii) any other factors the Federal Reserve considers relevant.[63] In the Federal Reserve staff memorandum accompanying the Federal Reserve's release of the final rule, the staff recommend that the Federal Reserve Board delegate authority to designated staff to determine that an FBO may comply with the requirements of the EPS final rule through a subsidiary.[64]
- ***Consideration of Amendments to the Agencies' Capital Rules is Ongoing.*** The interagency final rule notes that the agencies are still considering amendments to their capital rules that would take into account final Basel III reforms adopted by the Basel Committee on Banking Supervision in December 2017 (commonly referred to as "Basel IV"), "including potentially replacing the advanced approaches with risk-based capital requirements based on the revised Basel standardized approaches for credit risk and operational risk."[65]
- ***Process for Requesting an Alternative Organizational Structure is Amended.*** The EPS final rule includes amendments to the Federal Reserve's process under Regulation YY for requesting an alternative organizational structure for a U.S. IHC, including by clarifying that an FBO may submit a request for an alternative organization structure in the context of a reorganization, anticipated acquisition, or prior to the formation of a U.S. IHC, and by reducing the time period for action by the Federal Reserve on such requests from 180 days to 90 days.[66]
- ***Threshold for U.S. IHC Requirement for FBOs is Retained.*** The Federal Reserve did not propose to revise the $50 billion U.S. non-branch asset threshold for the U.S. IHC requirement applicable to FBOs. Noting that "the U.S. [IHC] requirement has resulted in substantial gains in the resilience and safety and soundness of [FBOs]' U.S. operations" and that EGRRCPA "did not affect the $50 billion threshold for application of the U.S. [IHC] requirement," the EPS final rule retains the $50 billion application threshold.[67] The EPS final rule incorporates this requirement for FBOs with less than $100 billion in combined U.S. assets in Subpart N of Regulation YY. U.S. IHCs subject to Subpart N will be subject to risk management-related EPS and to standardized capital requirements applicable to domestic BHCs of the same size, but will be subject to fewer and less stringent requirements than a

U.S. IHC of an FBO subject to Subpart O of Regulation YY (including liquidity risk management, liquidity stress testing and liquidity buffer requirements).[68]

CHANGES IN FIRM CATEGORIZATION

For a firm to move into a more stringent category of standards (or to determine the category of standards that would apply for the first time), it would rely on an average of the previous four quarters or, if the firm has not reported in each of the previous four quarters, the category would be based on the risk-based indicator level for the quarter or average levels over the quarter or quarters that the firm has reported. To move into a less stringent category of standards, a firm will be required to report risk-based indicator levels below any applicable threshold for the more stringent category in each of the four preceding calendar quarters.[69]

Beyond this general approach to changes in firm categorization, for certain standards, there are specific transition provisions with separate timelines. For example, certain standards applicable to GSIBs, including the GSIB capital surcharge[70] and TLAC requirements,[71] include rule-specific transition provisions. As additional examples, there are also specific transition periods for SCCLs, as well as company-run and supervisory stress test requirements. In addition, the interagency final rule includes transition provisions specific to the LCR rule. For firms that become newly subject to the LCR after the effective date of the final rules, they must comply with the LCR rule on the first day of the third quarter after becoming subject to the LCR rule. In addition, a firm that will be newly subject to the LCR rule that will be required to calculate the LCR daily will be permitted to calculate its LCR on a monthly basis for two quarters before transitioning to daily calculations.[72]

When a firm becomes subject to a more stringent LCR requirement (for example, if a Category III firm's wSTWF increases to $75 billion), there is a two-quarter transition period such that the more stringent LCR requirement begins to apply on the first day of third calendar quarter after the firm becomes subject to the more stringent requirement. When a firm becomes subject to a less stringent LCR requirement (for example, if a Category III firm's wSTWF decreases below $75 billion), the less stringent requirement applies on the first day of the next calendar quarter.

In the absence of transition provisions specific to a given standard, a firm that changes from one category to another must generally comply with the requirements applicable for the new category no later than the first day of the second quarter following the change in category.

EFFECTIVENESS AND TRANSITION PERIODS

The final rules include the following transition periods for firms that will become subject to more stringent standards and for certain reporting changes:

- ***SCCL.*** The EPS final rule provides Category II and Category III U.S. IHCs with less than $250 billion in assets (that is, those not previously subject to the more stringent SCCL requirements applicable to U.S. IHCs with $250 billion or more in total consolidated assets) an additional transition time—until January 1, 2021—to come into compliance with the more stringent SCCL requirements.[73]
  - The more stringent requirements are a net credit exposure limit to a single counterparty of 25 percent of Tier 1 capital, as well as requirements relating to exposures to special purpose vehicles, the application of economic interdependence and control relationship tests, and a daily compliance requirement.
- ***LCR.*** The interagency final rule generally provides a one-year transition period for firms—such as U.S. IHCs that are not BHCs—that become newly subject to an LCR requirement upon the effective date of the final rules.
  - The FBO tailoring proposal also included transition periods for IHCs subject to the modified LCR that become subject to the reduced or full LCR requirement. The final rules do not include a specific transition period for IHCs subject to the modified LCR, which appears to reflect that the proposal would have applied more stringent LCR requirements to a number of modified LCR IHCs as a result of basing the applicable LCR requirements on the CUSO's category, but the final rules would not have that outcome because they base the applicable LCR requirements on the IHC's category.
- ***FBO Reporting.*** To allow firms time to develop reporting and data systems, the final rules provide a phase-in period to meet the expanded reporting requirements in the FR Y-15, under which firms will be required to report the first CUSO data on the FR Y-15 with an as-of date of June 30, 2020, and submit the data to the Federal Reserve no later than August 19, 2020. In light of this initial reporting timeline, for standards based on the CUSO's category, any change in standards will take effect October 1, 2020.[74]
- ***Covered SLHC Requirements and Reporting.*** The final rules provide that covered SLHCs will be required to comply (i) with the EPS relating to risk management, risk committees, liquidity risk management, liquidity stress testing and liquidity buffers on the first day of the fifth quarter following the effective date of the EPS rule, and (ii) with SCCLs and stress-testing requirements on the first day of the ninth quarter following the effective date of the EPS rule. The final rules also provide covered SLHCs with an extended amount of time to file their FR Y-14 series reports for the first time. The EPS final rule includes a table setting forth the initial reporting timeline, reproduced as Annex III.[75]

The interagency and EPS final rules both state that they will become effective 60 days after publication in the Federal Register. In the discussion of administrative law matters of the interagency final rule, the agencies state, however, that the interagency final rule "will be effective on the first day of the first calendar quarter following" 60 days after publication in the Federal Register but that "any banking organization subject to the final rule may elect to adopt amendments on" the date that is 60 days after publication in the Federal Register. It remains to be seen whether the final rules will be effective 60 days after publication in the Federal Register, with the interagency and EPS final rules potentially having different effective dates if they are not published concurrently, or whether the effective date will be as described in the administrative law section of the interagency final rule, which could sync the effective dates while also allowing firms to apply the amendments earlier.

The implementation periods described above, together with an effective date 60 days after publication in the Federal Register, appear designed to allow firms that will benefit from reduced requirements to apply the tailored requirements immediately upon effectiveness, while also allowing firms that will become subject

to new or more stringent requirements a longer and clearly delineated implementation timeline to comply with the new or more stringent requirements.

The effective date will also determine whether the changes to capital requirements—in particular, the AOCI opt-out for Category III firms—will apply as of December 31, 2019, the starting point for projections under CCAR for the 2020 capital planning and stress testing cycle, or a later date. It remains to be seen how the Federal Reserve will incorporate changes to capital rules that become effective in 2020—including the final capital rule simplifications[76]—into projections for the 2020 cycle for non-advanced approaches firms subject to CCAR (Category III and IV firms, under the final rules).

*　　　*　　　*

Copyright © Sullivan & Cromwell LLP 2019

ENDNOTES

1 Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, *Changes to Applicability Thresholds for Regulatory Capital Requirements* (Oct. 10, 2019), *available at* https://www.federalreserve.gov/aboutthefed/boardmeetings/files/tailoring-rule-fr-notice-20191010a1.pdf (hereinafter the "*Interagency Final Rule*").

2 Board of Governors of the Federal Reserve System, *Prudential Standards for Large Bank Holding Companies, Savings and Loan Holding Companies, Foreign Banking Organizations* (Oct. 10, 2019), *available at* https://www.federalreserve.gov/aboutthefed/boardmeetings/files/tailoring-rule-fr-notice-20191010a2.pdf (hereinafter the *"EPS Final Rule*").

3 Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, *Proposed Changes to Applicability Thresholds for Regulatory Capital and Liquidity Requirements*, 83 Fed. Reg. 66,024 (Dec. 21, 2018), *available at* https://www.federalregister.gov/documents/2018/12/21/2018-27177/proposed-changes-to-applicability-thresholds-for-regulatory-capital-and-liquidity-requirements (hereinafter the "*Interagency Domestic Proposal*"); Board of Governors of the Federal Reserve System, *Prudential Standards for Large Bank Holding Companies and Savings and Loan Holding Companies*, 83 Fed. Reg. 61,408 (Nov. 29, 2018), *available at* https://www.federalregister.gov/documents/2018/11/29/2018-24464/prudential-standards-for-large-bank-holding-companies-and-savings-and-loan-holding-companies (hereinafter the "*Federal Reserve Domestic Proposal*").

For further discussion of the Interagency Domestic Proposal and the Federal Reserve Domestic Proposal, see our Memorandum to Clients, *Regulatory Tailoring for Large U.S. Banking Organizations: Federal Bank Regulators Propose Significant Revisions to the Application of Enhanced Prudential Standards and Capital and Liquidity Requirements for Large U.S. Banking Organizations* (Nov. 5, 2018), *available at* https://www.sullcrom.com/files/upload/SC-Publication-Regulatory-Tailoring-for-Large-US-Banking-Organizations.pdf.

4 Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, *Proposed Changes to Applicability Thresholds for Regulatory Capital Requirements for Certain U.S. Subsidiaries of Foreign Banking Organizations and Application of Liquidity Requirements to Foreign Banking Organizations, Certain U.S. Depository Institution Holding Companies, and Certain Depository Institution Subsidiaries* (Apr. 8, 2019), *available at* https://www.federalreserve.gov/newsevents/pressreleases/files/foreign-bank-fr-notice-2-20190408.pdf (hereinafter the "*Interagency FBO Proposal*," adopted by the FDIC on April 16); Board of Governors of the Federal Reserve System, *Prudential Standards for Large Foreign Banking Organizations; Revisions to Proposed Prudential Standards for Large Domestic Bank Holding Companies and Savings and Loan Holding Companies* (May 15, 2019), *available at* https://www.federalregister.gov/documents/2019/05/15/2019-07895/prudential-standards-for-large-foreign-banking-organizations-revisions-to-proposed-prudential (hereinafter the *"Federal Reserve FBO Proposal*").

For further discussion of the Interagency FBO Proposal and the Federal Reserve FBO Proposal, see our Memorandum to Clients, *Regulatory Tailoring for Large U.S. Banking Organizations: Regulatory Tailoring for Foreign Banking Organizations: Federal Bank Regulators Propose Significant Revisions to the Application of Prudential Standards to Foreign Banking Organizations and Seek Comment on Whether to Impose Standardized Liquidity Requirements on their U.S. Branches and Agencies* (Apr. 23, 2019), *available at* https://www.sullcrom.com/files/upload/SC-Publication-Regulatory-Tailoring-for-Foreign-Banking-Organizations.pdf.

5 Memorandum from Federal Reserve Board Staff to the Board of Governors re: Draft final rules to tailor prudential standards to large banking organizations, at 2 (Oct. 10, 2019) (hereinafter the "*Federal Reserve Board Staff Memorandum*"), *available at* https://www.federalreserve.gov/aboutthefed/boardmeetings/files/tailoring-board-memo-20191010.pdf.

ENDNOTES (CONTINUED)

[6] Federal Reserve Board Staff Memorandum, at 2.

[7] Interagency Final Rule, at 102.

[8] Interagency Final Rule, at 54.

[9] Interagency Final Rule, at 54.

[10] *See* 12 C.F.R. 249.20.

[11] EPS Final Rule, at 105.

[12] Interagency Final Rule, at 98-100.

[13] 12 C.F.R. § 225.8. *See also* 12 C.F.R. § 252.153(e)(2)(i).

[14] The Federal Reserve notes in the EPS Final Rule that it "intends to provide greater flexibility to banking organizations subject to Category IV standards in developing their annual capital plans and consider further changes to the FR Y-14 forms as part of a separate proposal." EPS Final Rule, at 119.

[15] Governor Lael Brainard, *Statement on Tailoring Rule, Resolution Plan Rule, and Assessment Proposal for Large Banking Organizations* (Oct. 10, 2019), *available at* https://www.federalreserve.gov/newsevents/pressreleases/brainard-statement-20191010.htm.

[16] Vice Chair Randal K. Quarles, *Opening Statement on Final Rules to Tailor Enhanced Prudential Standards and Resolution Plan Requirements for Large Domestic and Foreign Banks* (Oct. 10, 2019), *available at* https://www.federalreserve.gov/newsevents/pressreleases/quarles-opening-statement-20191010.htm.

[17] Statement by Martin J. Gruenberg, Member, FDIC Board of Directors, *Final Rule on Changes to Applicability Thresholds for Regulatory Capital and Liquidity Requirements* (Oct. 15, 2019).

[18] Statement by FDIC Chairman Jelena McWilliams, *Final Rulemaking: Capital and Liquidity Tailoring for Large Banking Organizations* (Oct. 15, 2019).

[19] Office of the Comptroller of the Currency, *Amendments to the Stress Testing Rule for National Banks and Federal Savings Associations*, 84 Fed. Reg. 54472 (Oct. 10, 2019), *available at* https://www.federalregister.gov/documents/2019/10/10/2019-21843/amendments-to-the-stress-testing-rule-for-national-banks-and-federal-savings-associations; Federal Deposit Insurance Corporation, *Company-Run Stress Testing Requirements for FDIC-Supervised State Nonmember Banks and State Savings Associations* (Oct. 15, 2019), *available at* https://www.fdic.gov/news/board/2019/2019-10-15-notice-sum-b-fr.pdf.

[20] Economic Growth, Regulatory Relief, and Consumer Protection Act, Pub. L. No. 115-174, § 401 (hereinafter "EGRRCPA").

[21] *Id.* § 401(a)(1)(B)(iii).

[22] *Id.* § 401(a)(1)(B)(i); *see* 12 U.S.C. § 5365(a)(2)(A).

[23] 12 U.S.C. § 5311(a)(1).

[24] Interagency Final Rule, at 26.

[25] Interagency Final Rule, at 29. For the CUSO measure, this will exclude all claims between the FBO's U.S. domiciled affiliates, branches and agencies (to the extent not already eliminated in consolidation), and for the U.S. IHC measure, this will eliminate through consolidation all inter-affiliate claims within the U.S. IHC.

Under the final rule, cross-jurisdictional activity is measured based on the instructions to the FR Y-15, and will require FBOs to report the FR Y-15 at the U.S. IHC and CUSO levels, but will not require FBOs to provide standalone data on their U.S. branches and agencies in the revised FR Y-15 reporting form.

ENDNOTES (CONTINUED)

26 Interagency Final Rule, at 35-36.

27 Interagency Final Rule, at 37 and footnote 53. Nonbank assets, for the purposes of the risk-based indicators, would be nonbank assets as reported on line item 17 of the PC-B Memoranda of the FR Y-9LP. The Interagency Final Rule notes that the revised FR Y-15 includes a line item that automatically populates this information.

28 Interagency Final Rule, at 40-41.

29 Interagency Final Rule, at 47.

30 Interagency Final Rule, at 41. Total exposure will be reported for domestic holding companies on the FR Y-15, Schedule A, Line Item 5, and for FBO's U.S. IHCs and CUSO on the FR Y-15, Schedule H, Line Item 5. Total off-balance sheet exposure will be reported as Line Item M5 on Schedules A and H. Interagency Final Rule, at 41 (footnote 58).

31 Interagency Final Rule, at 43.

32 Interagency Final Rule, at 22. BHCs, covered savings and loan holding companies, and U.S. IHCs already report the information required to determine size, wSTWF, and off-balance sheet exposure on the FR Y-15. Such BHCs and covered savings and loan holding companies also currently report the information needed to calculate cross-jurisdictional activity on the FR Y-15. Nonbank assets are reported on FR Form Y-9LP.

33 The EPS Final Rule includes a table identifying "Line Items for Risk-Based Indicators" for each of the five indicators by "reporting unit"—that is, U.S. holding companies, U.S. IHCs of FBOs, and CUSO of FBOs. EPS Final Rule, at 116. Although U.S. intermediate holding companies currently report the FR Y-15, the revised form would reflect the cross-jurisdictional activity indicator as adopted in the final rule.

34 *See* 12 C.F.R. Part 217, Subpart H.

35 Interagency Final Rule, at 54.

36 The agencies separately have proposed to adopt the standardized approach for counterparty credit risk for derivatives exposures (SA-CCR) and to require advanced approaches banking organizations (banking organizations subject to Category I or II standards under the final rules) to use SA-CCR for calculating their risk-based capital ratios and a modified version of SA-CCR for calculating total leverage exposure under the supplementary leverage ratio. If that proposed approach were to be adopted, the agencies would allow other banking organizations (including a Category III firm) to elect to use SA-CCR for calculating derivatives exposure in connection with their risk-based capital ratios, consistent with the SA-CCR proposal. Furthermore, the agencies intend to allow a banking organization subject to Category III standards to elect to use SA-CCR or continue to use the current exposure method for calculating its total leverage exposure for purposes of the supplementary leverage ratio. Interagency Final Rule, at 80.

37 The Interagency Final Rule amends the LCR rule to measure the $10 billion subsidiary depository institution asset threshold based on the value of total consolidated assets over the four most recent calendar quarters.

38 References to submission of the FR2052a data on a daily basis indicate that such data would be required to be submitted for each business day.

39 G-SIBs are required to comply with the Federal Reserve's single-counterparty credit limits rule by January 1, 2020, with other covered firms required to comply by July 1, 2020. *See* Single-Counterparty Credit Limits for Bank Holding Companies and Foreign Banking Organizations, 83 Fed. Reg. 38,460 (August 6, 2018). For more information about this rule, see our Memorandum to Clients, *Single Counterparty Credit Limits: Federal Reserve Board Finalizes Rule to Establish Single Counterparty Credit Limits*, dated June 18, 2018, *available at* https://www.sullcrom.com/siteFiles/Publications/SC_Publication_Federal_Reserve_Finalizes_Single_Counterparty_Credit_Limits.pdf.

ENDNOTES (CONTINUED)

[40] EPS Final Rule, at 69; 12 C.F.R. 252.44, 252.54.

[41] At the holding company level, a U.S. BHC in this category based on their level of cross-jurisdictional activity and with less than $250 billion in total consolidated assets would not have been subject to the single-counterparty credit limits. In addition, firms in this category based on their level of cross-jurisdictional activity, as opposed to size, were not previously subject to daily liquidity reporting requirements on the FR 2052a unless they have $10 trillion or more in assets under custody.

[42] 12 C.F.R. 252.44, 252.54.

[43] The single-counterparty credit limits to which these firms would be subject impose a limit on aggregate net credit exposure to a single counterparty of no more than 25% of Tier 1 capital.

[44] 12 CFR § 252.172(d). EPS Final Rule, at 80. *See also* Basel Committee on Banking Supervision, *Supervisory Framework for Measuring and Controlling Large Exposures* (Apr. 2014).

[45] All U.S. IHCs are subject to a single net aggregate credit exposure limit of 25% of Tier 1 capital, as well as the treatment under the SCCL rule for exposures to SPVs, the economic interdependence and control tests, and the daily compliance requirement. EPS Final Rule at 83. Previously, U.S IHCs with between $50 billion and $250 billion in consolidated assets were subject to a limit of 25 percent of capital stock and surplus, and were not subject to the more stringent requirements relating to SPVs, the economic interdependence and control tests, and the daily compliance requirement

[46] The agencies note in the Interagency Final Rule that the "standardized approach currently represents the binding risk-based capital constraint for the current population of banking organizations that are estimated to be subject to Category III capital requirements," and that therefore "the agencies do not expect that the removal of these requirements would materially change the amount of capital that these banking organizations would be required to hold." Interagency Final Rule, at 77-78.

[47] The Interagency Final Rule notes that firms subject to Category III standards include banking organizations that "may have elevated levels of off-balance sheet exposure that is not accounted for in the U.S. leverage ratio." Interagency Final Rule, at 77.

[48] *See* supra, footnote 33.

[49] Consistent with the proposal, this differs from the former "modified" version of the LCR, which did not apply to the depository institution subsidiaries of BHCs formerly subject to the modified LCR.

[50] Interagency Domestic Proposal, at 66,037.

[51] Section 30 of the LCR rule requires a banking organization, as applicable, to include a maturity mismatch add-on in its total net cash outflow amount, which is calculated as the difference (if greater than zero) between the banking organization's largest net cumulative maturity outflow amount for any of the 30 calendar days following the calculation date and the net day 30 cumulative maturity outflow amount. *See* 12 CFR § 50.30 (OCC); 12 CFR § 249.30 (FRB); and 12 CFR § 329.30 (FDIC).

[52] Interagency Final Rule, at 20 (footnote 28).

[53] 12 C.F.R. 252.44, 252.54.

[54] BHCs included in this category based on their risk profile (i.e., nonbank assets, wSTWF, or off-balance sheet exposures), as opposed to their size, as well as any Covered SLHCs included in this category, were not previously subject to the SCCL, which previously applied (subject to a compliance period that will end on July 1, 2020 for non-G-SIBs) only to U.S. G-SIBs, BHCs with $250 billion or more in total consolidated assets, FBOs with $250 billion or more in total consolidated assets with respect to their CUSO, and separately to any subsidiary U.S. IHC of such an FBO with total consolidated assets of $50 billion or more.

[55] EPS Final Rule, at 76.

ENDNOTES (CONTINUED)

[56] 12 C.F.R. 252.44, 252.54; EPS Final Rule, at 77.

[57] EPS Final Rule, at 129-130.

[58] Interagency Final Rule, at 98-100.

[59] Interagency Final Rule, at 98-100.

[60] *See* 12 C.F.R. 249.20.

[61] EPS Final Rule, at 105.

[62] In the Federal Reserve staff memorandum accompanying the Federal Reserve's release of the final rules, the staff recommend a draft order that "would delegate to the Director of Supervision and Regulation, or his or her delegatee, in consultation with the General Counsel, or his or her delegatee, the authority to determine that (1) an asset meets the criteria to be a highly liquid asset under the [Federal Reserve]'s liquidity stress testing and liquidity buffer requirements . . ." Federal Reserve Board Staff Memorandum, at 15.

[63] EPS Final Rule, at 101.

[64] In the Federal Reserve staff memorandum accompanying the Federal Reserve's release of the final rules, the staff recommend a draft order that "would delegate to the Director of Supervision and Regulation, or his or her delegatee, in consultation with the General Counsel, or his or her delegatee, the authority to determine that . . . (2) that a [FBO] may comply with the requirements in the [Federal Reserve]'s [EPS] rule through a subsidiary." Federal Reserve Board Staff Memorandum, at 15.

[65] Interagency Final Rule, at 74. *See* Basel Committee, Basel III: Finalising Post-Crisis Reforms (Dec. 2017), *available at* https://www.bis.org/bcbs/publ/d424.pdf. For more information about these reforms, see our Memorandum to Clients, *Bank Capital Requirements: Basel Committee Releases Standards to Finalize Basel III Framework*, dated December 19, 2017, *available at* https://www.sullcrom.com/siteFiles/Publications/SC_Publication_Bank_Capital_Requirements_12192017.pdf.

[66] EPS Final Rule, at 100.

[67] EPS Final Rule, at 98.

[68] EPS Final Rule, at 98.

[69] Interagency Final Rule, at 68. The agencies note in the supplemental information that they "retain general authority under their capital and liquidity rules to increase or adjust requirements as necessary on a case-by-case basis." (*See* 12 CFR § 217.1(d); 249.2 (FRB); 12 CFR §§ 324.1(d); 329.2 (FDIC); 12 CFR §§ 3.1(d); 50.2 (OCC)). Interagency Final Rule, at 68 (footnote 79).

[70] *See* 12 C.F.R. § 217.400(b).

[71] *See* 12 C.F.R. § 252.60.

[72] Interagency Final Rule, at 104.

[73] EPS Final Rule, at 83.

[74] EPS Final Rule, at 132.

[75] EPS Final Rule, at 119.

[76] For additional information on the capital simplification final rule, please refer to our Memorandum to Clients, *Bank Capital Requirements: Federal Banking Agencies Finalize Capital Rule Simplifications for Non-Advanced Approaches Banking Organizations*, dated July 12, 2019, *available at* https://www.sullcrom.com/files/upload/SC-Publication-Bank-Capital-Requirements.pdf. Subsequent to the publication of the capital simplifications final rule, the agencies received requests from banking industry groups seeking the ability to adopt the rule earlier than the April 1,

2020 effective date; the agencies subsequently revised the effective date to allow a non-advanced approaches banking organization to implement the amendments on January 1, 2020 or to wait until April 1, 2020. *See* Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, and Federal Deposit Insurance Corporation, *Regulatory Capital Rule: Simplifications to the Capital Rule Pursuant to the Economic Growth and Regulatory Paperwork Reduction Act of 1996; Revised Effective Date* (September 2019), *available at* https://www.fdic.gov/news/board/2019/2019-09-17-notice-sum-f-fr.pdf.

ABOUT SULLIVAN & CROMWELL LLP

Sullivan & Cromwell LLP is a global law firm that advises on major domestic and cross-border M&A, finance, corporate and real estate transactions, significant litigation and corporate investigations, and complex restructuring, regulatory, tax and estate planning matters. Founded in 1879, Sullivan & Cromwell LLP has more than 875 lawyers on four continents, with four offices in the United States, including its headquarters in New York, four offices in Europe, two in Australia and three in Asia.

CONTACTING SULLIVAN & CROMWELL LLP

This publication is provided by Sullivan & Cromwell LLP as a service to clients and colleagues. The information contained in this publication should not be construed as legal advice. Questions regarding the matters discussed in this publication may be directed to any of our lawyers listed below, or to any other Sullivan & Cromwell LLP lawyer with whom you have consulted in the past on similar matters. If you have not received this publication directly from us, you may obtain a copy of any past or future publications by sending an e-mail to SCPublications@sullcrom.com.

CONTACTS

New York

Name	Phone	Email
Thomas C. Baxter Jr.	+1-212-558-4324	baxtert@sullcrom.com
Whitney A. Chatterjee	+1-212-558-4883	chatterjeew@sullcrom.com
H. Rodgin Cohen	+1-212-558-3534	cohenhr@sullcrom.com
Elizabeth T. Davy	+1-212-558-7257	davye@sullcrom.com
Mitchell S. Eitel	+1-212-558-4960	eitelm@sullcrom.com
Michael T. Escue	+1-212-558-3721	escuem@sullcrom.com
Jared M. Fishman	+1-212-558-1689	fishmanj@sullcrom.com
C. Andrew Gerlach	+1-212-558-4789	gerlacha@sullcrom.com
Wendy M. Goldberg	+1-212-558-7915	goldbergw@sullcrom.com
Charles C. Gray	+1-212-558-4410	grayc@sullcrom.com
Shari D. Leventhal	+1-212-558-4354	leventhals@sullcrom.com
Marion Leydier	+1-212-558-7925	leydierm@sullcrom.com
Erik D. Lindauer	+1-212-558-3548	lindauere@sullcrom.com
Mark J. Menting	+1-212-558-4859	mentingm@sullcrom.com
Camille L. Orme	+1-212-558-3373	ormec@sullcrom.com
Stephen M. Salley	+1-212-558-4998	salleys@sullcrom.com
Rebecca J. Simmons	+1-212-558-3175	simmonsr@sullcrom.com
William D. Torchiana	+1-212-558-4056	torchianaw@sullcrom.com
Donald J. Toumey	+1-212-558-4077	toumeyd@sullcrom.com
Marc Trevino	+1-212-558-4239	trevinom@sullcrom.com
Benjamin H. Weiner	+1-212-558-7861	weinerb@sullcrom.com
Mark J. Welshimer	+1-212-558-3669	welshimerm@sullcrom.com
Michael M. Wiseman	+1-212-558-3846	wisemanm@sullcrom.com

Washington, D.C.

Eric J. Kadel, Jr.	+1-202-956-7640	kadelej@sullcrom.com
William F. Kroener III	+1-202-956-7095	kroenerw@sullcrom.com
Stephen H. Meyer	+1-202-956-7605	meyerst@sullcrom.com
Jennifer L. Sutton	+1-202-956-7060	suttonj@sullcrom.com
Andrea R. Tokheim	+1-202-956-7015	tokheima@sullcrom.com
Samuel R. Woodall III	+1-202-956-7584	woodalls@sullcrom.com

Los Angeles

Patrick S. Brown	+1-310-712-6603	brownp@sullcrom.com
William F. Kroener III	+1-310-712-6696	kroenerw@sullcrom.com

Paris

William D. Torchiana	+33-1-7304-5890	torchianaw@sullcrom.com

Tokyo

Keiji Hatano	+81-3-3213-6171	hatanok@sullcrom.com

ANNEX I

Application of Certain EPS, Capital and Liquidity Requirements to Large Banking Institutions[1,2]					
	Category I U.S. G-SIBs	**Category II** ≥$700b Total Assets or ≥$75b Cross-Jurisdictional Activity[3]	**Category III** ≥$250b Total Assets or ≥$75bn in Nonbank Assets, Weighted STWF (wSTWF), or Off-Balance Sheet Exposure	**Category IV** Other Firms with $100b to $250b Total Assets	**Other Firms** $50b to $100b Total Assets
CAPITAL					
TLAC/ Long-Term Debt[4]	✓				
Stress Testing: Company-Run (DFAST)	✓ (Annual)	✓ (Annual)	✓ (Every Two Years)		
Stress Testing: Supervisory	✓ (Annual)	✓ (Annual)	✓ (Annual)	✓ (Two-Year Cycle)	
CCAR	✓	✓	✓	✓ (Two-Year Cycle)	
Annual Capital Plan Submission	✓	✓	✓	✓	
G-SIB Surcharge	✓				
Advanced Approaches	✓	✓			
Countercyclical Capital Buffer	✓	✓	✓		
Opt-Out of AOCI Capital Impact			✓	✓	✓
Capital Rules Simplification			✓ (As non-advanced approaches banking organization)	✓ (As non-advanced approaches banking organization)	✓ (As non-advanced approaches banking organization)

1 FBOs with total consolidated assets of $250 billion or more and combined U.S. assets of less than $100 billion remain subject to requirements regarding risk-based and leverage capital and liquidity risk management that defer to home-country standards. FBOs with total consolidated assets of $100 billion or more and combined U.S. assets of less than $100 billion also remain subject to capital stress testing requirements that defer to home country standards; however, these requirements have been revised to align with the biennial supervisory stress testing cycle for firms with consolidated assets of $100 billion or more but less than $250 billion.

2 The final rules do not amend the Federal Reserve's capital plan rule to incorporate the application of tailored requirements based on these risk-based categories or apply capital planning requirements to covered SHLCs, but the Federal Reserve indicates that it expects to release future proposals to do so.

3 FBOs in Categories II and III continue to be subject to risk-based and leveraged capital requirements and capital stress testing requirements that defer to home-country standards.

4 U.S. IHCs of FBOs that are G-SIBs are also subject to TLAC and long-term debt requirements, but these requirements are not based on the category framework in the final rules. Rather, they are based on whether the FBO parent of a U.S. IHC is a G-SIB.

Application of Certain EPS, Capital and Liquidity Requirements to Large Banking Institutions[1,2]					
	Category I U.S. G-SIBs	**Category II** ≥$700b Total Assets or ≥$75b Cross-Jurisdictional Activity[3]	**Category III** ≥$250b Total Assets or ≥$75bn in Nonbank Assets, Weighted STWF (wSTWF), or Off-Balance Sheet Exposure	**Category IV** Other Firms with $100b to $250b Total Assets	**Other Firms** $50b to $100b Total Assets
SA-CCR (Proposed)	✓	✓	(Optional)	(Optional)	(Optional)
TLAC Holdings (Proposed)[5]	✓	✓			
Generally Applicable Leverage Ratio	✓	✓	✓	✓	✓
Supplementary Leverage Ratio	✓ (Plus Enhanced)	✓	✓		
LIQUIDITY					
LCR	✓	✓	✓ Reduced, 85% (daily) unless ≥$75bn in wSTWF (full)	Reduced, 70% (monthly) only if ≥$50bn in wSTWF (otherwise no requirement)	
NSFR (Proposed)[6]	✓	✓	✓ Reduced, 85% unless ≥$75bn in wSTWF (full)	Reduced, 70% only if ≥$50bn in wSTWF (otherwise no requirement)	
Liquidity Stress Tests[7]	✓ (Monthly)	✓ (Monthly)	✓ (Monthly)	✓ (Quarterly)	
Liquidity Risk Management[6]	✓	✓	✓	✓ (Tailored)	
Liquidity Buffer[6]	✓	✓	✓	✓	
FR 2052a Reporting[6]	✓ (Daily)	✓ (Daily)	✓ (Monthly; daily if ≥$75bn in wSTWF)	✓ (Monthly)	

5 The final rules do not reference the proposal that would require "advanced approaches" banking organizations to deduct certain holdings of TLAC-eligible debt issued by G-SIBs from regulatory capital, which was released on April 2, 2019. The proposal relating to TLAC holdings refers to the domestic tailoring proposals, noting that because the deductions would apply to "advanced approaches" banking organizations, the deductions would be treated as Category I and II standards for purposes of the domestic tailoring proposals.

6 The interagency final rule does not adopt the proposed NSFR requirement, but notes that comments regarding the NSFR proposal will be address in the context of any final rule to adopt an NSFR requirement for large U.S. banking organizations and U.S. IHCs. NSFR information included in this chart is based on the tailoring proposals and could change in any final NSFR rule. The Federal Reserve staff memorandum indicates, however, that the agencies intended to apply the same scaling factors for the NSFR and LCR.

7 With respect to this standard, the category applicable to an FBO is based on the characteristics of its CUSO.

Application of Certain EPS, Capital and Liquidity Requirements to Large Banking Institutions[1,2]					
	Category I U.S. G-SIBs	**Category II** ≥$700b Total Assets or ≥$75b Cross-Jurisdictional Activity[3]	**Category III** ≥$250b Total Assets or ≥$75bn in Nonbank Assets, Weighted STWF (wSTWF), or Off-Balance Sheet Exposure	**Category IV** Other Firms with $100b to $250b Total Assets	**Other Firms** $50b to $100b Total Assets
CERTAIN OTHER ENHANCED PRUDENTIAL STANDARDS					
Risk Committee[8]	✓	✓	✓	✓	✓
Risk Management[7]	✓	✓	✓	✓	✓
Single-Counterparty Credit Limits	✓ G-SIB-specific requirements	✓ BHC/IHC Level (FBOs must meet home country requirement)	✓ BHC/IHC Level (FBOs must meet home country requirement)	FBOs must meet home country requirement if global assets ≥$250bn	FBOs must meet home country requirement if global assets ≥$250bn

8 An FBO with total consolidated assets of $50 billion or more but less than $100 billion, or with total consolidated assets of $100 billion or more but combined U.S. assets of less than $50 billion, is required to maintain a risk committee and make an annual certification to that effect. An FBO with total consolidated assets of $100 billion or more and combined U.S. assets of $50 billion or more is required to comply with more detailed risk-committee and risk management requirements, including the requirement to appoint a U.S. chief risk officer to oversee the risks undertaken by the firm's CUSO.

ANNEX II

Line Items for Risk-Based Indicators

	Reporting Unit		
	U.S. Holding Companies	U.S. IHCs of FBOs	CUSO of FBOs
Size	FR Y-15, Schedule A, Line Item M4	FR Y-15, Schedule H, Line Item M4, Column A	FR Y-15, Schedule H, Line Item M4, Column B
Cross-Jurisdictional Activity	FR Y-15, Schedule E, Line Item 5	FR Y-15, Schedule L, Line Item 4,[9] Column A	FR Y-15, Schedule L, Line Item 4,[9] Column B
Nonbank Assets	FR Y-15, Schedule A, Line Item M6	FR Y-15, Schedule H, Line Item M6, Column A	FR Y-15, Schedule H, Line Item M6, Column B
Short-Term Wholesale Funding	FR Y-15, Schedule G, Line Item 6	FR Y-15, Schedule N, Line Item 6, Column A	FR Y-15, Schedule N, Line Item 6, Column B
Off-Balance Sheet Exposure	FR Y-15, Schedule A, Line Item M5	FR Y-15, Schedule H, Line Item M5, Column A	FR Y-15, Schedule H, Line Item M5, Column B

ANNEX III

First Submission Dates of FR Y-14 for Covered SLHCs

Form	First As-of Date	First Submission Dates
FR Y-14A	12/31/2021	April 5, 2022
FR Y-14Q	6/30/2020	90 days after quarter end for first two quarterly submissions; 65 days after quarter end for the third and fourth quarterly submissions
FR Y-14M	6/30/2020	For the first three monthly submissions, 90 days after the month-end as-of date

[9] On the Federal Reserve's website, in a marked version of the current FR Y-15 showing the Federal Reserve's planned changes to the form pursuant to the final rule, cross-jurisdictional activity appears in Item 5 of Schedule L. *See* https://www.federalreserve.gov/reportforms/formsreview/FR_Y-15%20Form%20Revisions%20Tailoring%20Final%2010-10.pdf.