

# **FEDERAL RESERVE SYSTEM**

## **12 CFR Part 252**

**Regulation YY; Docket No. R-1534**

**RIN 7100-AE 38**

### **Single-Counterparty Credit Limits for Bank Holding Companies and Foreign Banking Organizations**

**AGENCY:** Board of Governors of the Federal Reserve System (Board).

**ACTION:** Notice of proposed rule to modify compliance dates.

**SUMMARY:** On August 6, 2018, the Board of Governors of the Federal Reserve System (Board) published a final rule in the *Federal Register* (83 FR 38460) regarding Single-Counterparty Credit Limits for Bank Holding Companies and Foreign Banking Organizations (final SCCL rule), which was modified by the Board's recent rule establishing risk-based categories for determining prudential standards for large U.S. banking organizations and foreign banking organizations. The final SCCL rule permits a foreign banking organization that is subject to the rule to comply with the requirements applicable to its combined U.S. operations by certifying to the Board that it meets, on a consolidated basis, standards established by its home country supervisor that are consistent with the large exposures framework published by the Basel Committee on Banking Supervision in 2014 (BCBS Large Exposure Standard). The BCBS Large Exposure Standard is consistent with the Board's final SCCL rule. The final SCCL rule had an effective date of October 5, 2018, and an initial compliance date of January 1, 2020, for a foreign banking organization that has the characteristics of a global systemically important banking organization, and July 1, 2020, for any other foreign banking organization subject to the rule, unless that time is extended by the Board in writing. The Board is requesting comment on a

proposed amendment that would modify these initial compliance dates to July 1, 2021, and January 1, 2022, respectively, regarding the SCCL applicable to a foreign banking organization's combined U.S. operations only. The Board is not proposing at this time any amendment that would modify the initial compliance dates in the final rule for, or otherwise amend the application of, single-counterparty credit limits applicable to any U.S. intermediate holding company of a foreign banking organization.

**DATES:** Comments must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** You may submit comments, identified by Docket No. R-1534 and RIN 7100-AE 38, by any of the following methods:

- *Agency website:* <http://www.federalreserve.gov>. Follow the instructions for submitting comments at <https://www.federalreserve.gov/apps/foia/proposedregs.aspx>.
- *Email:* [regs.comments@federalreserve.gov](mailto:regs.comments@federalreserve.gov). Include docket number and RIN in the subject line of the message.
- *Fax:* (202) 452-3819 or (202) 452-3102.
- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available from the Board's website at <http://www.federalreserve.gov/>.

**FOR FURTHER INFORMATION CONTACT:** Constance M. Horsley, Deputy Associate Director, (202) 452-5239; Juan C. Climent, Manager, (202) 872-7526; Lesley Chao, Lead Financial Institution Policy Analyst, (202) 974-7063; or Donald Gabbai, Lead Financial Institution Policy Analyst, (202) 452-3358, Division of Supervision and Regulation; or Laurie Schaffer, Associate General Counsel, (202) 452-2272; Benjamin W. McDonough, Assistant

General Counsel, (202) 452-2036; Chris Callanan, Counsel, (202) 452-3594; Lucy Chang, Counsel, (202) 475-6331; or Jeffery Zhang, Attorney, (202) 736-1968, Legal Division, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

## **SUPPLEMENTARY INFORMATION:**

### **I. DISCUSSION**

On August 6, 2018, the Board published in the *Federal Register* a final rule to establish single-counterparty credit limits (SCCL) for bank holding companies and foreign banking organizations (FBOs) with total consolidated assets of at least \$250 billion, pursuant to section 165(e) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (final SCCL rule).<sup>1</sup> The rule was amended as part of the Board’s recent rule establishing risk-based categories for determining prudential standards for large U.S. banking organizations and foreign banking organizations.<sup>2</sup> For FBOs, the amended final rule establishes separate SCCL applicable to (1) the combined U.S. operations of an FBO that is subject to Category II or III standards or that has total global consolidated assets of \$250 billion or more, and (2) any U.S. intermediate holding company (IHC) that is subject to Category II or III standards.<sup>3</sup> With respect to the SCCL applicable to the combined U.S. operations of an FBO, the final SCCL rule establishes different compliance dates based on whether the FBO has the characteristics of a global systemically

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<sup>1</sup> 83 FR 38460 (Aug. 6, 2019). *See also* 12 U.S.C. § 5365(e).

<sup>2</sup> 84 FR 59032 (Nov. 1, 2019).

<sup>3</sup> The SCCL applicable to a U.S. IHC of an FBO would depend upon the size of the U.S. IHC. *See* 12 CFR 252.172(a)–(c). The Board recently issued a notice of proposed rulemaking concerning the application of enhanced prudential standards, which would, among other things, remove SCCL for U.S. IHCs with less than \$250 billion in total consolidated assets. 84 FR 21988 (May 15, 2019).

important banking organization (GSIB). An FBO that has the characteristics of a GSIB must comply with these SCCL beginning on January 1, 2020, while an FBO that does not have the characteristics of a GSIB must comply beginning on July 1, 2020, unless that time is extended by the Board in writing.<sup>4</sup>

The final SCCL rule allows an FBO to comply with the SCCL applicable to its combined U.S. operations by certifying to the Board that it meets, on a consolidated basis, SCCL standards established by its home country supervisor that are consistent with the large exposures framework published by the Basel Committee on Banking Supervision in 2014 (BCBS Large Exposure Standard). The BCBS Large Exposure Standard is consistent with the Board's final rule.<sup>5</sup>

Since finalization of the final SCCL rule, many foreign banks and their trade associations have noted that, although efforts are underway in many jurisdictions to implement the BCBS Large Exposure Standard, the framework may not be fully implemented in the home countries of FBOs before the initial compliance dates of the final rule. Foreign banks indicated that it would be significantly burdensome to build systems to permit their combined U.S. operations to report compliance with the Board's final SCCL rule solely for use during the implementation gap period, since those FBOs will eventually be subject instead to a home-country large exposures framework consistent with the BCBS Large Exposure Standard on a consolidated basis. Foreign banks have requested that the Board consider either (1) allowing an FBO subject to the Board's final rule to comply through certification if its home country supervisor is "working towards" a framework consistent with the BCBS Large Exposure Standard, or (2) granting temporary relief

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<sup>4</sup> 12 CFR 252.170(c).

<sup>5</sup> 12 CFR 252.172(d).

to an FBO whose home country jurisdiction is working towards a framework consistent with the BCBS Large Exposure Standard.

The home countries of the FBOs whose combined U.S. operations are subject to the Board’s SCCL rule are China, Switzerland, Canada, Japan, and member states of the European Union. Those countries generally have made progress over the past year on implementing the BCBS Large Exposure Standard. At this time, China and Switzerland have final frameworks that have become effective, and Canada finalized an SCCL framework that will become effective on November 1, 2019.<sup>6</sup> The European Union recently finalized an SCCL framework that will become effective on June 28, 2021.<sup>7</sup> Japan does not yet have a final effective framework. Staff expects that the United Kingdom will follow the European Union’s final framework.<sup>8</sup>

In adopting the final rule, the Board agreed to defer to home country compliance with the BCBS Large Exposure Standard to prevent application of two nearly redundant SCCL frameworks to the combined U.S. operations of FBOs.<sup>9</sup>

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<sup>6</sup> See FINMA Circular 2013/7 “Intragroup exposure—banks” and Circular 2019/1 “Risk diversification—banks” (effective as of Jan. 1, 2019); IMF, Peoples Republic of China: Detailed Assessment of Observance of Basel Core Principles for Effective Banking Supervision, IMF Country Report No. 17/403 (Dec. 2017); OSFI Guideline B-2, Large Exposure Limits (effective as of Nov. 1, 2019). Although Canada’s framework is effective as of November 1, 2019, implementation by Canadian banks will begin in Q1 2020.

<sup>7</sup> See Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012.

<sup>8</sup> Correspondence from Stephanie Webster, General Counsel, Institute of International Bankers, to Lucy Chang, Counsel, Board of Governors of the Federal Reserve System (Apr. 1, 2019); Correspondence from Briget Polichene, Chief Executive Officer, Institute of International Bankers, to Lucy Chang, Counsel, Board of Governors of the Federal Reserve System (Oct. 9, 2019).

<sup>9</sup> 83 FR at 38487.

For these reasons, the Board proposes to amend the final SCCL rule to extend the initial compliance dates for the combined U.S. operations of FBOs by 18 months. The Board believes this timeframe would provide a reasonable period for firms to come into compliance with the final SCCL rule, either through direct compliance with the rule or certification. The proposed initial compliance dates applicable to the combined U.S. operations of an FBO would be July 1, 2021, for an FBO that has the characteristics of a GSIB and January 1, 2022, for any other FBO. The Board does not propose to amend the final SCCL rule to extend the initial compliance dates under the final SCCL rule with respect to the SCCL applicable to any U.S. IHC of an FBO. Any U.S. IHC of an FBO is expected to comply with the final SCCL rule on January 1, 2020, or July 1, 2020, as applicable, unless that time is separately extended by the Board in writing.

The Board invites comment on all aspects of this proposal.

*Question 1: Are the proposed extensions of the compliance dates for an FBO to meet the SCCL applicable to its combined U.S. operations appropriate? Why or why not?*

*Question 2: Should the Board consider any shorter or longer extension of the compliance dates for an FBO to meet the SCCL applicable to its combined U.S. operations? If so, what time period should the Board consider and why?*

*Question 3: Under what circumstances, if any, should the Board consider providing additional extensions of the compliance dates related to specific events or circumstances that would apply to a subset of firms? Should the Board consider any alternate arrangements to address such specific events or circumstances, and, if so, why?*

## II. Administrative Law Matters

### A. *Paperwork Reduction Act*

Certain provisions of the proposed rule contain “collections of information” within the meaning of the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. §§ 3501–3521). The Board 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 Board reviewed the proposed rule under the authority delegated to the Board by OMB.

The proposed rule contains revisions to the compliance date for the reporting and recordkeeping requirements subject to the PRA. To implement these requirements, the Board proposes to revise the Single-Counterparty Credit Limits (FR 2590; OMB No. 7100-NEW).

Comments are invited on:

- (a) Whether the proposed collections of information are necessary for the proper performance of the Board’s functions, including whether the information has practical utility;
  - (b) The accuracy of the estimates of the burden of the proposed information collections, including the validity of the methodology and assumptions used;
  - (c) Ways to enhance the quality, utility, and clarity of the information to be collected;
  - (d) Ways to minimize the burden of the information collections on respondents, including through the use of automated collection techniques or other forms of information technology;
- and
- (e) Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

## **Proposed Revision, With Extension, of the Following Information Collection**

*Report title:* Single-Counterparty Credit Limits.

Agency form number: FR 2590.

*OMB control number:* 7100-NEW.

*Frequency:* Quarterly, annual, and event-generated.

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

*Respondents:* U.S. global systemically important bank holding companies (G-SIBs) and other U.S. bank holding companies (BHCs) or savings and loan holding companies (SLHCs) that are subject to Category I, II, or III standards; foreign banking organizations (FBOs) that are subject to Category II or III standards or that have \$250 billion or more in total global consolidated assets; and U.S. intermediate holding companies (IHCs) that are subject to Category II or III standards.

*Estimated number of respondents:* 75.

*Estimated average hours per response:*

### **Reporting**

One-time implementation: 1,273 hours.

Ongoing: 254 hours.

Requests for temporary relief: 10 hours.

### **Recordkeeping**

Recordkeeping: 0.25 hours.

*Estimated annual burden hours:*

### **Reporting**

One-time implementation: 95,475 hours.

Ongoing: 76,200 hours.

Requests for temporary relief: 30 hours.

### **Recordkeeping**

Recordkeeping: 75 hours.

*General description of report:* The FR 2590 is being implemented in connection with the Board's single-counterparty credit limits rule (SCCL rule),<sup>10</sup> which has been codified in the Board's Regulation YY - Enhanced Prudential Standards (12 CFR part 252).<sup>11</sup>

The information collected by the Single-Counterparty Credit Limits reporting form (FR 2590 report) will allow the Board to monitor a covered company's or a covered foreign entity's compliance with the SCCL rule. As amended by the Board's final tailoring rule, a covered company is any U.S. bank holding company (BHC) or savings and loan holding company (SLHC) that is subject to Category I, II, or III standards.<sup>12</sup> A covered foreign entity is any foreign banking organization (FBO) that is subject to Categories II or III standards or that has total global consolidated assets that equal or exceed \$250 billion and any U.S. intermediate holding company (IHC) that is subject to Category II or III standards.<sup>13</sup> In addition to the reporting form, the FR 2590 information collection incorporates notice requirements pertaining to requests that may be made by a covered company or covered foreign entity to request temporary relief from specific requirements of the SCCL rule. A respondent must retain one exact copy of each completed FR 2590 in electronic form, and these records must be kept for at least three years.

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<sup>10</sup> 83 FR 38460 (Aug. 6, 2018).

<sup>11</sup> See 12 CFR 252, subparts H and Q.

<sup>12</sup> 12 CFR 252.70, 252.170; see also 84 FR 59032 (Nov. 1, 2019).

<sup>13</sup> *Id.*

*Legal authorization and confidentiality:* The FR 2590 is authorized pursuant to section 5(c) of the Bank Holding Company Act of 1956 (BHC Act) (12 U.S.C. § 1844(c)) for BHCs and section 10(b) of the Home Owners' Loan Act (12 U.S.C. § 1467a(b)). With respect to FBOs and their subsidiary IHCs, the FR 2590 is authorized pursuant to section 5(c) of the BHC Act, in conjunction with section 8 of the International Banking Act of 1978 (12 U.S.C. § 3106). The FR 2590 is mandatory.

The data collected on the FR 2590 form will be kept confidential under exemption 4 of the Freedom of Information Act (FOIA), which protects from disclosure trade secrets and commercial or financial information (5 U.S.C. § 552(b)(4)), and exemption 8 of FOIA, which protects from disclosure information related to the supervision or examination of a regulated financial institution (5 U.S.C. § 552(b)(8)).

Regarding notices associated with requests for temporary relief from specific requirements of the SCCL rule, a firm may request confidential treatment under the Board's rules regarding confidential treatment of information at 12 CFR 261.15. The Board will consider whether such information may be kept confidential in accordance with exemption 4 of FOIA (5 U.S.C. § 552(b)(4)) or any other applicable FOIA exemption.

*Current Actions:* The final SCCL rule had an effective date of October 5, 2018, and an initial compliance date of January 1, 2020, for a foreign banking organization that has the characteristics of a global systemically important banking organization, and July 1, 2020, for any other foreign banking organization subject to the rule, unless that time is extended by the Board in writing. The Board proposes to modify these initial compliance dates to July 1, 2021, and January 1, 2022, respectively, regarding the SCCL applicable to such a foreign banking organization's combined U.S. operations only. The Board is not proposing any amendment at

this time that would modify the initial compliance dates in the final rule for, or otherwise amend the application of, single-counterparty credit limits applicable to any U.S. intermediate holding company of a foreign banking organization subject to the rule. There are no proposed changes to the reporting or recordkeeping requirements for such entities, and the burden hours would remain the same.

### **B. *Regulatory Flexibility Act***

The Regulatory Flexibility Act (RFA), 5 U.S.C. § 601 *et seq.*, generally requires an agency, in connection with a proposed rule, to prepare and make available for public comment an initial regulatory flexibility analysis that describes the impact of a proposed rule on small entities. However, a regulatory flexibility analysis is not required if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The Small Business Administration (SBA) has defined “small entities” to include banking organizations with total assets of less than or equal to \$600 million.<sup>14</sup> The Board has considered the potential impact of the proposal on small entities in accordance with the RFA. The Board believes that the proposal will not have a significant economic impact on a substantial number of small entities.

As discussed in the **SUPPLEMENTARY INFORMATION**, the final SCCL rule generally applies to U.S. bank holding companies subject to Category I, II, or III standards, and foreign banking organizations that are subject to Category II or III standards or that have total global consolidated assets of at least \$250 billion. Companies that are subject to the final SCCL

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<sup>14</sup> See 13 CFR 121.201. Effective August 19, 2019, the Small Business Administration revised the size standards for banking organizations to \$600 million in assets from \$550 million in assets. See 84 FR 34261 (July 18, 2019). Consistent with the General Principles of Affiliation in 13 CFR § 121.103, the Board counts the assets of all domestic and foreign affiliates when determining if the Board should classify a Board-supervised institution as a small entity.

rule have consolidated assets that substantially exceed the \$600 million asset threshold at which a banking organization is considered a “small entity” under SBA regulations. Because the final SCCL rule does not apply to any small entities for purposes of the RFA, the proposed amendments to the rule to extend the initial compliance dates applicable to FBOs subject to SCCL with respect to their combined U.S. operations would not affect any small entity for purposes of the RFA. The Board’s proposed rule would not impose any new recordkeeping, reporting, or compliance requirements. The Board does not believe that the proposal duplicates, overlaps, or conflicts with any other Federal rules. The Board does not believe that there are any significant alternatives to the proposal which accomplish its stated objectives. In light of the foregoing, the Board does not believe that proposal, if adopted in final form, would have a significant economic impact on a substantial number of small entities. Nonetheless, the Board seeks comment on whether the proposal would impose undue burdens on, or have unintended consequences for, small banking organizations and whether there are ways such potential burdens or consequences could be minimized in a manner consistent with the purpose of the proposal.

### ***C. Solicitation of Comments on the Use of Plain Language***

Section 722 of the Gramm–Leach–Bliley Act requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The Board has sought to present the proposed amendments to the rule in a simple and straightforward manner and invites comment on the use of plain language.

### **List of Subjects in 12 CFR Part 252**

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

## Authority and Issuance

For the reasons stated in the preamble, the Board of Governors of the Federal Reserve System amends 12 CFR part 252 as follows:

### **PART 252—ENHANCED PRUDENTIAL STANDARDS (REGULATION YY).**

#### **§ 252.170 Applicability and general provisions.**

1. Section 252.170, paragraph (c) is revised to read as follows:

\* \* \* \* \*

(c) *Applicability of this subpart—(1) Foreign banking organizations.* (i) A foreign banking organization that is a covered foreign entity as of October 5, 2018, must comply with the requirements of this subpart, including but not limited to § 252.172, beginning on January 1, 2022, unless that time is extended by the Board in writing.

(ii) Notwithstanding paragraph (c)(1)(i) of this section, a foreign banking organization that is a major foreign banking organization as of October 5, 2018, must comply with the requirements of this subpart, including but not limited to § 252.172, beginning on July 1, 2021, unless that time is extended by the Board in writing.

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**By order of the Board of Governors of the Federal Reserve System, November 4, 2019.**

Ann Misback,

*Secretary of the Board.*

Billing Code [ ]-[ ]P