

Rules and Regulations

Federal Register

Vol. 78, No. 250

Monday, December 30, 2013

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Parts 25 and 195

[Docket ID OCC–2013–0024]

RIN 1557–AD77

FEDERAL RESERVE SYSTEM

12 CFR Part 228

[Regulation BB; Docket No. R–1475]

RIN 7100–AE07

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 345

RIN 3064–AD90

Community Reinvestment Act Regulations

AGENCY: Office of the Comptroller of the Currency, Treasury (OCC); Board of Governors of the Federal Reserve System (Board); and Federal Deposit Insurance Corporation (FDIC).

ACTION: Joint final rule; technical amendment.

SUMMARY: The OCC, the Board, and the FDIC (collectively, the Agencies) are amending their Community Reinvestment Act (CRA) regulations to adjust the asset-size thresholds used to define “small bank” or “small savings association” and “intermediate small bank” or “intermediate small savings association.” As required by the CRA regulations, the adjustment to the threshold amount is based on the annual percentage change in the Consumer Price Index.

DATES: Effective January 1, 2014.

FOR FURTHER INFORMATION CONTACT: OCC: Margaret Hesse, Senior Counsel, Community and Consumer Law

Division, (202) 649–6350; Melissa J. Lisenbee, Law Clerk, Legislative and Regulatory Activities Division, (202) 649–5490; or Bobbie K. Kennedy, Bank Examiner, Compliance Policy Division, (202) 649–5470, Office of the Comptroller of the Currency, 400 7th Street SW., Washington, DC 20219.

Board: Catherine M. J. Gates, Senior Project Manager, (202) 452–2099; or Nikita Pastor, Counsel, (202) 452–3667, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551.
FDIC: Patience R. Singleton, Senior Policy Analyst, Supervisory Policy Branch, Division of Depositor and Consumer Protection, (202) 898–6958; or Richard M. Schwartz, Counsel, Legal Division, (202) 898–7424, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

Background and Description of the Joint Final Rule

The Agencies’ CRA regulations establish CRA performance standards for small and intermediate small banks and savings associations. The regulations define small and intermediate small banks and savings associations by reference to asset-size criteria expressed in dollar amounts, and they further require the Agencies to publish annual adjustments to these dollar figures based on the year-to-year change in the average of the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPIW), not seasonally adjusted, for each twelve-month period ending in November, with rounding to the nearest million. 12 CFR 25.12(u)(2), 195.12(u)(2), 228.12(u)(2), and 345.12(u)(2). This adjustment formula was first adopted for CRA purposes by the OCC, Board, and FDIC on August 2, 2005, effective September 1, 2005. 70 FR 44256 (Aug. 2, 2005). As explained in the **SUPPLEMENTARY INFORMATION** section of these agencies’ proposed rule, this particular index is used in other federal lending regulations such as the Home Mortgage Disclosure Act (HMDA). 70 FR 12148 (Mar. 11, 2005). See 12 U.S.C. 2808; 12 CFR 203.2(e)(1). On March 22, 2007, and effective July 1, 2007, the former Office of Thrift Supervision

(OTS), the agency then responsible for regulating savings associations, adopted an annual adjustment formula consistent with that of the other federal banking agencies in its CRA rule previously set forth at 12 CFR 563e. 72 FR 13429 (Mar. 22, 2007). Pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act),¹ and effective July 21, 2011, CRA rulemaking authority for federal and state savings associations was transferred from the OTS to the OCC, and the OCC subsequently republished, at 12 CFR 195, the CRA regulations applicable to those institutions.² In addition, the Dodd-Frank Act transferred responsibility for supervision of savings and loan holding companies and their non-depository subsidiaries from the OTS to the Board, and the Board subsequently amended its CRA regulation to reflect this transfer of supervision authority.³

The threshold for small banks and small savings associations was revised most recently effective January 1, 2013 (77 FR 75521 (Dec. 21, 2012)). The CRA regulations, effective January 1, 2013, provided that banks and savings associations that, as of December 31 of either of the prior two calendar years, had assets of less than \$1.186 billion are small banks or small savings associations. Small banks and small savings associations with assets of at least \$296 million as of December 31 of both of the prior two calendar years and less than \$1.186 billion as of December 31 of either of the prior two calendar years are intermediate small banks or intermediate small savings associations. 12 CFR 25.12(u)(1), 195.12(u)(1), 228.12(u)(1), and 345.12(u)(1). This joint final rule further revises these thresholds.

During the period ending November 2013, the CPIW increased by 1.39 percent. As a result, the Agencies are revising 12 CFR 25.12(u)(1), 195.12(u)(1), 228.12(u)(1), and 345.12(u)(1) to make this annual adjustment. Beginning January 1, 2014, banks and savings associations that, as of December 31 of either of the prior two calendar years, had assets of less than \$1.202 billion are small banks or small

¹ Public Law 111–203, 124 Stat. 1376 (2010).

² See OCC interim final rule, 76 FR 48950 (Aug. 9, 2011).

³ See Board interim final rule, 76 FR 56508 (Sept. 13, 2011).

savings associations. Small banks and small savings associations with assets of at least \$300 million as of December 31 of both of the prior two calendar years and less than \$1.202 billion as of December 31 of either of the prior two calendar years are intermediate small banks or intermediate small savings associations. The Agencies also publish current and historical asset-size thresholds on the Web site of the Federal Financial Institutions Examination Council at <http://www.ffiec.gov/cra/>.

Administrative Procedure Act and Effective Date

Under 5 U.S.C. 553(b)(B) of the Administrative Procedure Act (APA), an agency may, for good cause, find (and incorporate the finding and a brief statement of reasons therefore in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.

The amendments to the regulations to adjust the asset-size thresholds for small and intermediate small banks and savings associations result from the application of a formula established by a provision in the respective CRA regulations that the Agencies previously published for comment. See 70 FR 12148 (Mar. 11, 2005), 70 FR 44256 (Aug. 2, 2005), 71 FR 67826 (Nov. 24, 2006), and 72 FR 13429 (Mar. 22, 2007). Sections 25.12(u)(1), 195.12(u)(1), 228.12(u)(1), and 345.12(u)(1) are amended by adjusting the asset-size thresholds as provided for in §§ 25.12(u)(2), 195.12(u)(2), 228.12(u)(2), and 345.12(u)(2).

Accordingly, since the Agencies' rules provide no discretion as to the computation or timing of the revisions to the asset-size criteria, the Agencies have determined that publishing a notice of proposed rulemaking and providing opportunity for public comment are unnecessary.

The effective date of this joint final rule is January 1, 2014. Under 5 U.S.C. 553(d)(3) of the APA, the required publication or service of a substantive rule shall be made not less than 30 days before its effective date, except, among other things, as provided by the agency for good cause found and published with the rule. Because this rule adjusts asset-size thresholds consistent with the procedural requirements of the CRA rules, the Agencies conclude that it is not substantive within the meaning of the APA's delayed effective date provision. Moreover, the Agencies find that there is good cause for dispensing with the delayed effective date requirement, even if it applied, because

their current rules already provide notice that the small and intermediate small asset-size thresholds will be adjusted as of December 31 based on twelve-month data as of the end of November each year.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) does not apply to a rulemaking where a general notice of proposed rulemaking is not required. 5 U.S.C. 603 and 604. As noted previously, the Agencies have determined that it is unnecessary to publish a general notice of proposed rulemaking for this joint final rule. Accordingly, the RFA's requirements relating to an initial and final regulatory flexibility analysis do not apply.

Paperwork Reduction Act of 1995

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506; 5 CFR 1320), the Agencies reviewed this final rule. No collections of information pursuant to the Paperwork Reduction Act are contained in the final rule.

Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1532 (Unfunded Mandates Act), requires the OCC to prepare a budgetary impact statement before promulgating any final rule for which a general notice of proposed rulemaking was published. As discussed above, the OCC has determined that the publication of a general notice of proposed rulemaking is unnecessary. Accordingly, this joint final rule is not subject to section 202 of the Unfunded Mandates Act.

List of Subjects

12 CFR Part 25

Community development, Credit, Investments, National banks, Reporting and recordkeeping requirements.

12 CFR Part 195

Community development, Credit, Investments, Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 228

Banks, banking, Community development, Credit, Investments, Reporting and recordkeeping requirements.

12 CFR Part 345

Banks, banking, Community development, Credit, Investments, Reporting and recordkeeping requirements.

Department of the Treasury

Office of the Comptroller of the Currency

12 CFR Chapter I

For the reasons discussed in the preamble, 12 CFR parts 25 and 195 are amended as follows:

PART 25—COMMUNITY REINVESTMENT ACT AND INTERSTATE DEPOSIT PRODUCTION REGULATIONS

■ 1. The authority citation for part 25 continues to read as follows:

Authority: 12 U.S.C. 21, 22, 26, 27, 30, 36, 93a, 161, 215, 215a, 481, 1814, 1816, 1828(c), 1835a, 2901 through 2908, and 3101 through 3111.

■ 2. In § 25.12, revise paragraph (u)(1) to read as follows:

§ 25.12 Definitions.

* * * * *

(u) *Small bank*—(1) *Definition.* *Small bank* means a bank that, as of December 31 of either of the prior two calendar years, had assets of less than \$1.202 billion. *Intermediate small bank* means a small bank with assets of at least \$300 million as of December 31 of both of the prior two calendar years and less than \$1.202 billion as of December 31 of either of the prior two calendar years.

* * * * *

PART 195—COMMUNITY REINVESTMENT

■ 3. The authority citation for part 195 is revised to read as follows:

Authority: 12 U.S.C. 1462a, 1463, 1464, 1814, 1816, 1828(c), 2901 through 2908, and 5412(b)(2)(B).

■ 4. In § 195.12, revise paragraph (u)(1) to read as follows:

§ 195.12 Definitions.

* * * * *

(u) *Small savings association*—(1) *Definition.* *Small savings association* means a savings association that, as of December 31 of either of the prior two calendar years, had assets of less than \$1.202 billion. *Intermediate small savings association* means a small savings association with assets of at least \$300 million as of December 31 of both of the prior two calendar years and less than \$1.202 billion as of December 31 of either of the prior two calendar years.

* * * * *

Federal Reserve System**12 CFR Chapter II**

For the reasons set forth in the preamble, the Board of Governors of the Federal Reserve System amends part 228 of chapter II of title 12 of the Code of Federal Regulations as follows:

PART 228—COMMUNITY REINVESTMENT (REGULATION BB)

■ 5. The authority citation for part 228 continues to read as follows:

Authority: 12 U.S.C. 321, 325, 1828(c), 1842, 1843, 1844, and 2901 *et seq.*

■ 6. In § 228.12, revise paragraph (u)(1) to read as follows:

§ 228.12 Definitions.

* * * * *

(u) *Small bank*—(1) *Definition.* *Small bank* means a bank that, as of December 31 of either of the prior two calendar years, had assets of less than \$1.202 billion. *Intermediate small bank* means a small bank with assets of at least \$300 million as of December 31 of both of the prior two calendar years and less than \$1.202 billion as of December 31 of either of the prior two calendar years.

* * * * *

**Federal Deposit Insurance Corporation
12 CFR Chapter III****Authority and Issuance**

For the reasons set forth in the preamble, the Board of Directors of the Federal Deposit Insurance Corporation amends part 345 of chapter III of title 12 of the Code of Federal Regulations to read as follows:

PART 345—COMMUNITY REINVESTMENT

■ 7. The authority citation for part 345 continues to read as follows:

Authority: 12 U.S.C. 1814–1817, 1819–1820, 1828, 1831u and 2901–2908, 3103–3104, and 3108(a).

■ 8. In § 345.12, revise paragraph (u)(1) to read as follows:

§ 345.12 Definitions.

* * * * *

(u) *Small bank*—(1) *Definition.* *Small bank* means a bank that, as of December 31 of either of the prior two calendar years, had assets of less than \$1.202 billion. *Intermediate small bank* means a small bank with assets of at least \$300 million as of December 31 of both of the prior two calendar years and less than \$1.202 billion as of December 31 of either of the prior two calendar years.

* * * * *

Dated: December 18, 2013.

Amy S. Friend,

Senior Deputy Comptroller and Chief Counsel.

By order of the Board of Governors of the Federal Reserve System, under delegated authority, December 19, 2013.

Robert deV. Frierson,

Secretary of the Board.

By order of the Board of Directors.

Dated at Washington, DC, this 19th day of December, 2013.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2013–30960 Filed 12–27–13; 8:45 am]

BILLING CODE 4810–33–P; 6210–01–P; 6714–01–P

BUREAU OF CONSUMER FINANCIAL PROTECTION**12 CFR Part 1003****Home Mortgage Disclosure (Regulation C): Adjustment to Asset-Size Exemption Threshold**

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Final rule; official commentary.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) is publishing a final rule amending the official commentary that interprets the requirements of the Bureau's Regulation C (Home Mortgage Disclosure) to reflect a change in the asset-size exemption threshold for banks, savings associations, and credit unions based on the annual percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W). The exemption threshold is adjusted to increase to \$43 million from \$42 million. The adjustment is based on the 1.4 percent increase in the average of the CPI-W for the 12-month period ending in November 2013. Therefore, banks, savings associations, and credit unions with assets of \$43 million or less as of December 31, 2013, are exempt from collecting data in 2014.

DATES: This final rule is effective January 1, 2014.

FOR FURTHER INFORMATION CONTACT: David Friend, Counsel, Office of Regulations, Consumer Financial Protection Bureau, 1700 G Street NW., Washington, DC 20552 at (202) 435–7700.

SUPPLEMENTARY INFORMATION:**I. Background**

The Home Mortgage Disclosure Act of 1975 (HMDA) (12 U.S.C. 2801–2810) requires most mortgage lenders located

in metropolitan areas to collect data about their housing-related lending activity. Annually, lenders must report those data to the appropriate Federal agencies and make the data available to the public. The Bureau's Regulation C (12 CFR part 1003) implements HMDA.

Prior to 1997, HMDA exempted certain depository institutions as defined in HMDA (*i.e.*, banks, savings associations, and credit unions) with assets totaling \$10 million or less as of the preceding year-end. In 1996, HMDA was amended to expand the asset-size exemption for these depository institutions. 12 U.S.C. 2808(b). The amendment increased the dollar amount of the asset-size exemption threshold by requiring a one-time adjustment of the \$10 million figure based on the percentage by which the CPI-W for 1996 exceeded the CPI-W for 1975, and it provided for annual adjustments thereafter based on the annual percentage increase in the CPI-W, rounded to the nearest multiple of \$1 million dollars.

The definition of “financial institution” in Regulation C provides that the Bureau will adjust the asset threshold based on the year-to-year change in the average of the CPI-W, not seasonally adjusted, for each 12-month period ending in November, rounded to the nearest million. 12 CFR 1003.2. For 2013, the threshold was \$42 million. During the 12-month period ending in November 2013, the CPI-W increased by 1.4 percent. As a result, the exemption threshold is increased to \$43 million. Thus, banks, savings associations, and credit unions with assets of \$43 million or less as of December 31, 2013, are exempt from collecting data in 2014. An institution's exemption from collecting data in 2014 does not affect its responsibility to report data it was required to collect in 2013.

II. Procedural Requirements**Administrative Procedure Act**

Under the Administrative Procedure Act (APA), notice and opportunity for public comment are not required if the Bureau finds that notice and public comment are impracticable, unnecessary, or contrary to the public interest. 5 U.S.C. 553(b)(B). Pursuant to this final rule, comment 1003.2 (Financial institution)—2 in Regulation C, supplement I is amended to update the exemption threshold. The amendment in this final rule is technical and nondiscretionary, and it merely applies the formula established by Regulation C for determining any adjustments to the exemption threshold.