

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Parts 24, 25, 35, and 192

[Docket ID OCC-2022-0002]

RIN 1557-AF26

FEDERAL RESERVE SYSTEM

12 CFR Parts 207 and 228

[Regulation BB; Docket No. R-1830]

RIN 7100-AG75

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 345 and 346

RIN 3064-AG03

Community Reinvestment Act; Supplemental Rule.

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

ACTION: Interim final rule; technical amendments; correction.

SUMMARY: The Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (Board), and the Federal Deposit Insurance Corporation (FDIC) (together referred to as the agencies, and each, individually, the agency) are issuing this supplemental rulemaking related to the agencies' Community Reinvestment Act (CRA) final rule issued on October 24, 2023, and published in the **Federal Register** on February 1, 2024 (2023 CRA Final Rule). The rulemaking has two components. First, the agencies are adopting an

interim final rule that amends, and requests comment on, the applicability date of the facility-based assessment areas provision and public file provision included in the 2023 CRA Final Rule. Second, the agencies are adopting a final rule that makes technical amendments to the 2023 CRA Final Rule and related regulations. In addition to the rulemaking, this document makes a correction to the preamble to the 2023 CRA Final Rule regarding the OCC’s Unfunded Mandates Reform Act (UMRA) regulatory analysis.

DATES: This rule (including interim final rule and technical amendments) is effective on April 1, 2024.

Comments on the interim final rule (regarding the applicability date for §§ 25.16, 25.43, 228.16, 228.43, 345.16, and 345.43) must be received by [INSERT DATE 45 DAYS AFTER PUBLICATION IN THE **FEDERAL REGISTER**].

ADDRESSES: Comments should be directed to:

OCC: Commenters are encouraged to submit comments through the Federal eRulemaking Portal. Please use the title “Community Reinvestment Act; Supplemental Rule” to facilitate the organization and distribution of the comments. You may submit comments by any of the following methods:

- **Federal eRulemaking Portal – Regulations.gov:** Go to <https://regulations.gov/>. Enter “Docket ID OCC-2022-0002” in the search box and click “Search.” Public comments can be submitted via the “Comment” box below the displayed document information or by clicking on the document title and then clicking the “Comment” box on the top-left side of the screen. For help with submitting effective comments, please click on “Commenter’s Checklist.” For assistance with the *Regulations.gov* site, please call (866)

498-2945 (toll free) Monday-Friday, between 8:00 a.m. and 7:00 p.m. ET during Federal business weekdays, or e-mail regulationshelpdesk@gsa.gov.

- **Mail:** Chief Counsel’s Office, Attention: Comment Processing, Office of the Comptroller of the Currency, 400 7th Street, SW, suite 3E-218, Washington, DC 20219.
- **Hand Delivery/Courier:** 400 7th Street, SW, suite 3E-218, Washington, DC 20219.

Instructions: You must include “OCC” as the agency name and “Docket ID OCC-2022-0002” in your comment. In general, the OCC will enter all comments received into the docket and publish the comments on the *Regulations.gov* website without change, including any business or personal information provided such as name and address information, e-mail addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

You may review comments and other related materials that pertain to this action by the following method:

- *Viewing Comments Electronically – Regulations.gov:* Go to <https://regulations.gov/>. Enter “Docket ID OCC-2022-0002” in the search box and click “Search.” Click on the “Documents” tab and then the document’s title. After clicking the document’s title, click the “Browse Comments” tab. Comments can be viewed and filtered by clicking on the “Sort By” drop-down on the right side of the screen or the “Refine Results” option on the left side of the screen. Supporting materials can be viewed by clicking on the “Documents” tab and filtered by clicking on the “Sort By” drop-down on the right side of the screen or the “Refine Documents Results” option on the left side of the screen. For

assistance with the *Regulations.gov* site, please call (866) 498-2945 (toll free) Monday-Friday, during Federal business weekdays, between 8:00 a.m. and 7:00 p.m. ET, or e-mail regulationshelpdesk@gsa.gov.

The docket may be viewed after the close of the comment period in the same manner as during the comment period.

Board: You may submit comments, identified by Docket No. R-1830 and RIN 7100-AG75, by any of the following methods:

- **Agency Website:** <http://www.federalreserve.gov>. Follow the instructions for submitting comments at <http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm>.
- **E-mail:** regs.comments@federalreserve.gov. Include docket and RIN numbers 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.

Instructions: All public comments are available from the Board's website at <http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm> as submitted. Accordingly, comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room M-4365A, 2001 C Street, NW, Washington, DC 20551, between 9:00 a.m. and 5:00 p.m. during Federal business weekdays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452-3684. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to

inspect and photocopy comments. For users of TTY-TRS, please call 711 from any telephone, anywhere in the United States.

FDIC: You may submit comments, identified by RIN 3064-AG03, by any of the following methods:

- **Agency Website:** <https://www.fdic.gov/resources/regulations/federal-register-publications/>.
Follow instructions for submitting comments on the agency website.
- **E-mail:** comments@fdic.gov. Include RIN 3064-AG03 on the subject line of the message.
- **Mail:** James P. Sheesley, Assistant Executive Secretary, Attention: Comments RIN 3064-AG03, Federal Deposit Insurance Corporation, 550 17th Street, NW, Washington, DC 20429.
- **Hand Delivery/Courier:** Comments may be hand-delivered to the guard station at the rear of the 550 17th Street NW building (located on F Street NW) on Federal business weekdays between 7:00 a.m. and 5:00 p.m.

Public Inspection: Comments received, including any personal information provided, may be posted without change to <https://www.fdic.gov/resources/regulations/federal-register-publications/>. Commenters should submit only information that the commenter wishes to make available publicly. The FDIC may review, redact, or refrain from posting all or any portion of any comment that it may deem to be inappropriate for publication, such as irrelevant or obscene material. The FDIC may post only a single representative example of identical or substantially identical comments, and in such cases will generally identify the number of identical or substantially identical comments represented by the posted example. All comments that have

been redacted, as well as those that have not been posted, that contain comments on the merits of this notice will be retained in the public comment file and will be considered as required under all applicable laws. All comments may be accessible under the Freedom of Information Act.

FOR FURTHER INFORMATION CONTACT:

OCC: Heidi M. Thomas, Senior Counsel, or Emily Boyes, Counsel, Chief Counsel's Office, (202) 649-5490; or Vonda Eanes, Director for CRA and Fair Lending Policy, or Cassandra Remmenga, CRA Modernization Program Manager, Bank Supervision Policy, (202) 649-5470, Office of the Comptroller of the Currency, 400 7th Street, SW, Washington, DC 20219. If you are deaf, hard of hearing, or have a speech disability, please dial 711 to access telecommunications relay services.

Board: Dorian Hawkins, Counsel; S. Caroline (Carrie) Johnson, Manager; Lorna Neill, Senior Counsel; Amal Patel, Senior Counsel; or Jaydee DiGiovanni, Counsel; Division of Consumer and Community Affairs or Cody Gaffney, Senior Attorney; Legal Division, Board of Governors of the Federal Reserve System at (202) 452-2412. For users of TDD-TYY, (202) 263-4869 or dial 711 from any telephone anywhere in the United States.

FDIC: Pamela A. Freeman, CRA Program Manager, Supervisory Policy Branch, Division of Depositor and Consumer Protection, (202) 898-3656; Patience R. Singleton, Senior Policy Analyst, Supervisory Policy Branch, Division of Depositor and Consumer Protection, (202) 898-6859; Sherry Ann Betancourt, Counsel, Legal Division, (202) 898-6560; Alys V. Brown, Senior Attorney, Legal Division, (202) 898-3565, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

I. Introduction

The CRA¹ requires the agencies to assess a bank's² record of meeting the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the bank's safe and sound operation. Upon completing this assessment, the statute requires the agencies to "prepare a written evaluation of the institution's record of meeting the credit needs of its entire community, including low- and moderate-income neighborhoods."³ The statute further provides that each agency must consider a bank's CRA performance "in its evaluation of an application for a deposit facility by such institution."⁴ The agencies implement the CRA and establish the framework and criteria by which the agencies assess a bank's performance through their individual CRA regulations.⁵

On October 24, 2023, the agencies issued the 2023 CRA Final Rule amending their CRA regulations to update how CRA activities qualify for consideration, where CRA activities are considered, and how CRA activities are evaluated. The 2023 CRA Final Rule was published in the **Federal Register** on February 1, 2024,⁶ and it takes effect on April 1, 2024, with staggered applicability dates of April 1, 2024, January 1, 2026, and January 1, 2027.

¹ 12 U.S.C. 2901 *et seq.*

² For purposes of this **SUPPLEMENTARY INFORMATION**, the term "bank" includes insured national and State banks, Federal and State savings associations, Federal branches as defined in 12 CFR part 28, insured State branches as defined in 12 CFR 345.11(c), and State member banks as defined in 12 CFR part 208, except as provided in 12 CFR __.11(c). *See also* note 5.

³ 12 U.S.C. 2906(a).

⁴ 12 U.S.C. 2903(a)(2).

⁵ *See* 12 CFR parts 25 (OCC), 228 (Regulation BB) (Board), and 345 (FDIC). For clarity and to streamline references, citations to the agencies' common CRA regulations are provided in the following format: 12 CFR __.xx. For example, references to 12 CFR 25.16 (OCC), 228.16 (Board), and 345.16 (FDIC) are streamlined as follows: "12 CFR __.16."

⁶ 89 FR 6574 (Feb. 1, 2024).

As described in more detail below, this supplemental rulemaking includes two parts. First, the agencies are issuing an interim final rule to extend the applicability date of the facility-based assessment areas provision and the public file provision in the 2023 CRA Final Rule (§§ __.16 and __.43, respectively) from April 1, 2024, to January 1, 2026. The agencies are requesting comment on these changes.

Second, the agencies are issuing a final rule that makes technical amendments to those amendments adopted in the 2023 CRA Final Rule and related regulations. These technical amendments do not change the substance or meaning of the 2023 CRA Final Rule. As discussed in more detail in this **SUPPLEMENTARY INFORMATION**, the technical amendments to the 2023 CRA Final Rule are as follows:

- The agencies are jointly (1) amending the transition provision (§__.51) to clarify the applicability date of the public notice provision (§__.44); and (2) amending the strategic plan provision (§__.27) to correct an omission from the agency-specific amendments.
- The Board and the FDIC are (1) correcting a cross-reference in an otherwise incomplete amendatory instruction for appendix B (Calculations for the Community Development Tests); and (2) amending their agency-specific versions of appendix G, which reproduces the CRA regulations in effect on March 31, 2024 (legacy CRA regulations), to reflect separate amendments made to the bank asset-size thresholds since the issuance of the 2023 CRA Final Rule.
- The Board is making a technical amendment to its authority section in § 228.11.

Further, the agencies are making technical amendments to their regulations implementing the CRA sunshine requirements of the Federal Deposit Insurance Act⁷ (CRA Sunshine regulations) (12 CFR parts 35 (OCC), 207 (Regulation G) (Board), and 346 (FDIC)) and the OCC is making technical amendments to its community and economic development entities, community development projects, and other public welfare investments regulation (Public Welfare Investment regulation) (12 CFR part 24) to update cross-references to their CRA regulations to conform with changes made by the 2023 CRA Final Rule. The OCC also is updating a cross-reference to the agency's CRA regulation in its conversions from mutual to stock form regulation (12 CFR part 192).

Finally, this document corrects language in the preamble of the **Federal Register** notice issuing the 2023 CRA Final Rule with respect to the OCC's UMRA⁸ discussion.

II. Interim Final Rule

As described below, the agencies are issuing an interim final rule to extend the applicability date of the facility-based assessment areas provision and the public file provision in the 2023 CRA Final Rule (§§ __.16 and __.43, respectively) from April 1, 2024, to January 1, 2026. The agencies are requesting comment on these changes.

Facility-based assessment areas (Section __.16). Section __.16 of the 2023 CRA Final Rule provides that a bank must delineate one or more facility-based assessment areas within which the agencies evaluate the bank's record of helping to meet the credit needs of its entire community. This section prescribes the types of deposit-taking facilities that trigger the requirement to

⁷ Codified at 12 U.S.C. 1831y.

⁸ 2 U.S.C. 1531 *et seq.*

delineate a facility-based assessment area, the geographic requirements of a facility-based assessment area, and other limitations on the delineation of facility-based assessment areas. For example, § __.16(b)(2) provides that, except as provided in § __.16(b)(3), each of a bank's facility-based assessment areas must consist of a single metropolitan statistical area (MSA), one or more contiguous counties within an MSA, or one or more contiguous counties within the nonmetropolitan area of a State. Section __.16(b)(3) provides that an intermediate bank or a small bank may adjust the boundaries of its facility-based assessment areas to include only the portion of a county that it reasonably can be expected to serve, further stipulating that such a facility-based assessment area must consist of contiguous whole-census tracts and comply with the limitations in § __.16(c).⁹

As published in the **Federal Register** on February 1, 2024, § __.51(a) of the 2023 CRA Final Rule provides that the facility-based assessment areas requirements in § __.16 apply as of April 1, 2024. In the course of implementation work, the agencies have identified and considered issues arising due to this applicability date, including potential uncertainty raised by some banks regarding how to comply with § __.16 as of April 1, 2024. As a result, and as discussed further below, the agencies are extending the applicability date of § __.16 to January 1, 2026.

Specifically, the agencies recognize that § __.16 references certain provisions and terms of the 2023 CRA Final Rule that do not apply until January 1, 2026.¹⁰ For example, § __.16(a) references “the performance tests and strategic plan described in § __.21” of the 2023 CRA Final

⁹ Section __.16(c) provides that facility-based assessment areas may not reflect illegal discrimination and may not arbitrarily exclude low- or moderate-income census tracts. See § __.16(c)(1) and (2).

¹⁰ See § __.51(a)(2)(i) (listing the provisions of the 2023 CRA Final Rule that apply as of January 1, 2026, including § __.12 (Definitions) and § __.21 (Evaluation of CRA performance in general)).

Rule, which are not applicable until January 1, 2026.¹¹ Additionally, the asset-size thresholds for intermediate small banks and large banks in the agencies' legacy CRA regulations¹² (which apply during the transition period) and the asset-size thresholds for intermediate banks and large banks in the 2023 CRA Final Rule¹³ (which apply as of January 1, 2026) are different. Thus, certain banks that will be considered large banks during the transition period may be considered intermediate banks after the transition period ends, on January 1, 2026. As a result, these large banks will be required to delineate facility-based assessment areas consisting of full counties beginning on April 1, 2024;¹⁴ however, once they are re-designated as intermediate banks as of January 1, 2026, these same banks will have the option to delineate facility-based assessment areas consisting of partial counties.¹⁵ Finally, delineating facility-based assessment areas under new requirements beginning April 1, 2024, involves evaluating banks according to different facility-based assessment area delineation standards within a single year.

On further consideration, the agencies are aligning the applicability date of § __.16 with the applicability date of the performance tests¹⁶ and other geographic area provisions¹⁷—January 1,

¹¹ See § __.51(a).

¹² See § 25.12(u) of appendix G to 12 CFR part 25 (OCC); § 228.12(u) of appendix G to 12 CFR part 228 (Board); and § 345.12(u) of appendix G to 12 CFR part 345 (defining “small bank” and “intermediate small bank”). See also 88 FR 87895 (Dec. 20, 2023) and OCC Bulletin 2023-40 (December 26, 2023) for bank asset-size thresholds effective as of January 1, 2024.

¹³ See §§ 25.12 (OCC); 228.12 (Board); and 345.12 (FDIC) (defining “intermediate bank” and “large bank”) as amended by the 2023 CRA Final Rule.

¹⁴ See § __.16(b)(2).

¹⁵ See § __.16(b)(3).

¹⁶ See § __.22 (Retail lending test), § __.23 (Retail services and products test), § __.24 (Community development financing test), § __.25 (Community development services test), and § __.26 (Limited purpose banks), § __.29 (Small bank performance evaluation), and § __.30 (Intermediate bank performance evaluation). See also § __.27 (Strategic plan).

¹⁷ See § __.17 (Retail lending assessment areas), § __.18 (Outside retail lending areas), and § __.19 (Areas for eligible community development loans, community development investments, and community development services).

2026—to promote greater stability and certainty for banks and other stakeholders in transitioning to the provisions of the 2023 CRA Final Rule. In addition, by moving the applicability date to the beginning of a calendar year, the interim final rule will eliminate potential confusion resulting from evaluating banks according to different facility-based assessment area delineation standards within a single year.

Content and availability of public file (Section __.43). Section __.43 of the 2023 CRA Final Rule requires a bank to maintain a public file, in either paper or digital format, that includes specific information related to the bank’s branches, services, and performance in helping meet community credit needs. Section __.51(a) of the 2023 CRA Final Rule provides that the public file provision in § __.43 applies as of April 1, 2024.

As detailed in the 2023 CRA Final Rule, § __.43 largely retains the public file requirements of the agencies’ legacy CRA regulations,¹⁸ with revisions to clarify aspects of the requirements and to reflect relevant terminology and provisions of the 2023 CRA Final Rule.¹⁹ Under the agencies’ legacy CRA regulations, a bank’s entire public file must be available for public inspection upon request at no cost: (1) at its main office; and (2) if a bank operates in more than one State, at one branch office in each of these States.²⁰ The 2023 CRA Final Rule revised the agencies’ legacy CRA regulations to require any bank with a public website to include its CRA

¹⁸ See 12 CFR __.43 of the agencies’ legacy CRA regulations.

¹⁹ See 89 FR 6574, 7082-7085 (Feb. 1, 2024). For example, for reasons explained in the 2023 CRA Final Rule, the agencies clarified the meaning of “current year” in provisions requiring banks to include in the public file: all written comments received from the public for the current year and the prior two calendar years related to the bank’s performance in helping to meet community credit needs, along with any responses by the bank (§ __.43(a)(1)); and a list of branches opened or closed by the bank during the current year and each of the prior two calendar years (§ __.43(a)(4)). Specifically, “current year” was clarified to require updates to the public file “on a quarterly basis for the prior quarter by March 31, June 30, September 30, and December 31.” See § __.43(a)(1) and (a)(4).

²⁰ See 12 CFR __.43(c)(1) of the agencies’ legacy CRA regulations.

public file on its website.²¹ If a bank does not maintain a public website, the 2023 CRA Final Rule requires a bank to maintain public file information consistent with the agencies’ legacy CRA regulations—namely, at the main office and, if an interstate bank, at one branch office in each State.²²

As with § __.16, the agencies believe that moving the applicability date of § __.43 from April 1, 2024, to January 1, 2026, will alleviate potential confusion in complying with the public file requirements and promote greater stability and certainty for banks and other stakeholders in transitioning to the provisions of the 2023 CRA Final Rule. Consistent with the considerations discussed above regarding § __.16, the agencies recognize that § __.43 references certain provisions and terms of the 2023 CRA Final Rule that do not apply until January 1, 2026, or January 1, 2027.²³ For example, § __.43 refers to terms defined in § __.12 of the 2023 CRA Final Rule that do not apply until January 1, 2026, such as “facility-based assessment areas;”²⁴ “retail lending assessment areas;”²⁵ “operations subsidiaries” or “operating subsidiaries;”²⁶ “large bank;”²⁷ and “small bank.”²⁸

In addition, aligning the applicability date of § __.43 with the performance tests of the 2023 CRA Final Rule—January 1, 2026—will ensure consistency in the public file requirements

²¹ See § __.43(c)(1).

²² See § __.43(c)(2).

²³ See § __.51(a)(2)(i) (listing the provisions of the 2023 CRA Final Rule that apply as of January 1, 2026, including § __.12 (Definitions) and § __.21 (Evaluation of CRA performance in general), and January 1, 2027 (Reporting requirements)).

²⁴ See § __.43(a)(6) and (c)(2)(ii)(B).

²⁵ See § __.43(a)(6).

²⁶ See § __.43(b)(1) and (b)(2)(i).

²⁷ See § __.43(b)(2)(ii).

²⁸ See § __.43(b)(3).

concerning consumer loans during the transition to the 2023 CRA Final Rule. Under the public file provision of the agencies' legacy CRA regulations, the public file of a bank (other than a small bank or a bank that was a small bank during the prior calendar year, as defined in the agencies' legacy CRA regulations²⁹) must include data pertaining to any category of consumer loans the bank has elected to have considered under the lending test.³⁰ Section __.43 of the 2023 CRA Final Rule, however, does not require disclosure of consumer loan information in the public file because most consumer loans will be considered qualitatively under the Retail Services and Products Test (§ __.23),³¹ with the exception of automobile loans for certain banks as specified in the Retail Lending Test provision of the 2023 CRA Final Rule (§ __.22). Again, these performances tests are not applicable until January 1, 2026.³²

In the preamble to the 2023 CRA Final Rule, the agencies noted their commitment to engage with stakeholders in the implementation process and ensure that all stakeholders understand the regulatory requirements.³³ Consistent with this commitment, the agencies have determined that extending the applicability date of §§ __.16 and __.43 to January 1, 2026, is the most clear, timely, and effective way to avoid potential uncertainty that could result from an April 1, 2024 applicability date for these provisions. The agencies remain committed to providing guidance and related resources on §§ __.16 and __.43, as well as all other aspects of the 2023 CRA Final Rule.

²⁹ See § __.12(u) of the agencies' legacy CRA regulations; *see also* 88 FR 87895 (Dec. 20, 2023) and OCC Bulletin 2023-40 (Dec. 26, 2023) (asset-size of a "small bank" as of Jan. 1, 2024).

³⁰ See § __.43(b)(1)(i) of the agencies' legacy CRA regulations.

³¹ See 89 FR 6574, 7084 (Feb. 1, 2024).

³² See § __.51(a)(2)(i).

³³ See 89 FR 6574, 7093 (Feb. 1, 2024).

Although these amendments take effect on April 1, 2024, to coincide with the effective date of the 2023 CRA Final Rule, the agencies are requesting public comment on the changes to the applicability date for the facility-based assessment areas and public file provisions in §§ __.16 and __.43, respectively.

III. Technical Amendments

The agencies are issuing a final rule that makes technical amendments to the 2023 CRA Final Rule and related regulations, as described below. These technical amendments do not change the substance or meaning of the 2023 CRA Final Rule.

Public notice (Section __.44). The agencies are amending the 2023 CRA Final Rule to clarify the agencies' intention that banks may continue to use the CRA Notice in the agencies' legacy CRA regulations until January 1, 2026. Section __.44 of the 2023 CRA Final Rule requires a bank to provide a CRA Notice in the public area of its main office and each of its branches, as set forth in appendix F, that includes, among other things, information about the availability of a bank's public file, the appropriate Federal financial supervisory agency's CRA examination schedule, and how a member of the public may provide public comment. The posting requirement in § __.44 is substantively the same as the longstanding CRA public notice requirement in 12 CFR __.44 (referencing the CRA Notice in appendix B) of the agencies' legacy CRA regulations, which are reproduced in the 2023 CRA Final Rule as appendix G.³⁴

Section __.51(a) of the 2023 CRA Final Rule provides that the public notice requirements in § __.44 apply as of April 1, 2024, but § __.51(a) of the 2023 CRA Final Rule also provides that the CRA Notice reproduced in appendix F is applicable on January 1, 2026. Further, § __.51(a)

³⁴ See appendix G to 12 CFR part 25 (appendix B) (OCC); appendix G to 12 CFR part 228 (appendix B) (Board); and appendix G to 12 CFR part 345 (appendix B) (FDIC).

provides that, with respect to provisions that are not applicable until after April 1, 2024, banks must instead comply with relevant provisions of the agencies' legacy CRA regulations, set forth in appendix G to the 2023 CRA Final Rule.³⁵ Thus, because appendix F expressly does not apply until January 1, 2026, banks would need to comply with § __.44 of the 2023 CRA Final Rule as of April 1, 2024, but use the CRA Notice in appendix G of the 2023 CRA Final Rule, which is the same notice banks were required to use prior to the 2023 CRA Final Rule.

The agencies are amending § __.51(a)(2)(i) to align the applicability date of the substantive public notice requirements in § __.44 with the applicability date of the CRA Notice in appendix F. The amendment to move the applicability date of § __.44 of the 2023 CRA Final Rule to January 1, 2026, has no substantive effect. By providing that both § __.44 and appendix F are applicable as of January 1, 2026, amended § __.51(a)(2)(i) clarifies the agencies' intention in the 2023 CRA Final Rule that banks may continue to use the CRA Notice in the agencies' legacy CRA regulations, as provided in appendix G, to comply with public notice requirements until January 1, 2026.

Asset-size thresholds. As noted, appendix G of the 2023 CRA Final Rule includes the agencies' legacy CRA regulations, and reflects those regulations as of the date the agencies adopted the 2023 CRA Final Rule, October 24, 2023. Since that date, the agencies have increased the bank asset-size thresholds based on the year-to-year change in the average of the Consumer Price Index for Urban Wage Earners and Clerical Workers, pursuant to the annual inflation adjustment mechanism in the agencies' legacy CRA regulations,³⁶ and the Board and

³⁵ See § __.51(a)(2)(iii) (cross-referencing § __.51(a)(2)(i) and (ii)).

³⁶ See §§ __.12(u)(2) of the agencies' legacy CRA regulations.

the FDIC have amended their regulations to reflect this increase.³⁷ These new asset-size thresholds are: (1) for small banks, less than \$1.564 billion as of December 31 of either of the prior two calendar years; and (2) for intermediate small banks, at least \$391 million as of December 31 of both of the prior two calendar years and less than \$1.564 billion as of December 31 of either of the prior two calendar years. The Board and the FDIC are updating the asset-size thresholds in appendix G to reflect these updated thresholds so that appendix G remains consistent with their legacy CRA regulations, as intended.

Agency-specific technical amendments. The agencies are adopting a technical amendment to the agency-specific amendments in the 2023 CRA Final Rule to add a missing conforming amendment in their strategic plan provisions, § __.27. This amendment changes “[Operations subsidiaries or operating subsidiaries]” to “Operation subsidiaries” for the Board and “Operating subsidiaries” for the OCC and the FDIC. The Board and the FDIC also are adopting technical amendments to correct errors in amendatory instructions 50.c. and 73.c. in the 2023 CRA Final Rule that made the instructions inoperable. These amendments correct cross-references in appendix B (Calculations for the Community Development Tests) to the 2023 CRA Final Rule. Further, the Board is making a technical amendment to its authority section in § 228.11 of the 2023 CRA Final Rule to replace “the Federal Reserve” with “the Board.”

CRA Sunshine regulations and OCC Public Welfare Investment regulation. The agencies are amending their CRA Sunshine regulations³⁸ to update the cross-references explained below to

³⁷ 88 FR 87895 (Dec. 20, 2023). The OCC does not amend its CRA regulation to reflect the annually adjusted asset-size thresholds. Instead, it issues an OCC Bulletin to announce the revised thresholds. See OCC Bulletin 2023-40 (December 26, 2023).

³⁸ See 12 CFR parts 35 (OCC), 207 (Regulation G) (Board), and 346 (FDIC).

conform with changes made by the 2023 CRA Final Rule.³⁹ In 2001, the OCC, the Board, the FDIC, and the Office of Thrift Supervision (OTS) published joint rules to implement the CRA sunshine requirements of section 48 of the Federal Deposit Insurance Act, which were contained in section 711 of the Gramm-Leach-Bliley Act.⁴⁰ This statute requires nongovernmental entities or persons, insured depository institutions, and affiliates of insured depository institutions that are parties to certain agreements in fulfillment of the CRA to make the agreements available to the public and the appropriate agency and to file annual reports concerning the agreements with the appropriate agency. The CRA Sunshine regulations contain a number of cross-references to the agencies' CRA regulations.

In addition, the OCC is amending its Public Welfare Investment regulation, 12 CFR part 24, to update cross-references to its CRA regulation, 12 CFR part 25, to conform with changes made by the 2023 CRA Final Rule.⁴¹ Part 24 currently provides that a national bank or national bank subsidiary may make an investment if the investment primarily benefits low- and moderate-income individuals, low- and moderate- income areas, or other areas targeted by a governmental entity for redevelopment, or the investment would receive consideration under 12 CFR 25.23 as a “qualified investment.”

The conforming amendments to the agencies' CRA Sunshine regulations and the OCC's Public Welfare Investment regulation update the cross-references from provisions in the

³⁹ See 89 FR 6574, 6579 (Feb. 1, 2024) (explaining in footnote 14 of the 2023 CRA Final Rule that the agencies would, at a later date, evaluate other rules that cross-reference to the CRA regulations to identify conforming changes that may be appropriate).

⁴⁰ See 66 FR 2052 (Jan. 10, 2001). Since this issuance, the OTS's CRA Sunshine regulation and its rulemaking authority for the CRA sunshine requirements for Federal savings associations transferred to the OCC pursuant to Title III of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111–203, 124 Stat. 1376, 1522 (2010).

⁴¹ The Board's public welfare investment regulations do not cite to its CRA regulations, and thus do not need to be amended. See 12 CFR 208.22. The FDIC does not have public welfare investment regulations.

agencies' legacy CRA regulations to reference the appropriate provisions in appendix G of the 2023 CRA Final Rule. As noted above, appendix G reproduces the agencies' legacy CRA regulations, which apply to banks until superseded by the provisions of the 2023 CRA Final Rule that become applicable on January 1, 2026, or January 1, 2027. The agencies will update the cross-references in the CRA Sunshine regulations again in the future to reflect the appropriate provisions in the 2023 CRA Final Rule prior to these future applicability dates.

Technical amendment to 12 CFR part 192. The OCC regulations governing how a savings association may convert from mutual to stock form of ownership, 12 CFR part 192, currently include a cross-reference to the OCC's former CRA regulation for savings associations, 12 CFR part 195. The OCC integrated its CRA regulation for savings associations into 12 CFR part 25 and repealed part 195 in 2021.⁴² The OCC is updating this cross-reference, contained in 12 CFR 192.200(c), to now refer to 12 CFR part 25.

IV. Regulatory Analysis

Administrative Procedure Act

The interim final rule and technical amendments are effective on April 1, 2024. The Administrative Procedure Act⁴³ (APA) generally requires public notice and an opportunity for comment before a rule becomes effective.⁴⁴ However, the APA provides that the notice-and-comment requirements do not apply “when the agency for good cause finds (and incorporates the

⁴² See 86 FR 71328 (Dec. 15, 2021).

⁴³ 5 U.S.C. 551 *et seq.*

⁴⁴ See 5 U.S.C. 553(b)(A) and (B).

finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.”⁴⁵

In addition, the APA requires that rules be published not less than 30 days before their effective date.⁴⁶ However, the APA provides that the requirement for a 30-day delay before the effective date of a rule does not apply: (1) for substantive rules which grant or recognize an exemption or relieve a restriction; (2) for interpretative rules and statements of policy; or (3) as otherwise provided by the agency “for good cause found and published with the rule.”⁴⁷

As described below, the agencies have determined that there is good cause for adopting the amendments in the interim final rule without advance notice and comment and with less than 30 days before its effective date, and for adopting the technical amendments as a final rule without notice and comment and with less than 30 days before its effective date.

Interim final rule. The agencies have determined that advance public comment on the amendment to extend the applicability date of § __.16 (Facility-based assessment areas) and § __.43 (Content and availability of public file) of the 2023 CRA Final Rule to January 1, 2026, is impracticable, unnecessary, or contrary to the public interest. Compared to the legacy CRA regulations, § __.16 requires certain changes to the requirements for delineating CRA assessment areas based on a bank’s deposit-taking facilities,⁴⁸ and § __.43 similarly requires banks to make certain adjustments to comply with changes to the public file requirements.⁴⁹ As discussed further in the **SUPPLEMENTARY INFORMATION** of this preamble, the agencies have

⁴⁵ 5 U.S.C. 553(b)(B).

⁴⁶ See 5 U.S.C. 553(d).

⁴⁷ 5 U.S.C. 553(d)(1)-(3).

⁴⁸ See 89 FR 6728-6735 (Feb. 1, 2024).

⁴⁹ See 89 FR 7082-7085 (Feb. 1, 2024).

determined that extending the applicability date of §§ __.16 and __.43 to January 1, 2026, will facilitate bank understanding of, and compliance with, these provisions; allay potential uncertainty that may be associated with an April 1, 2024 applicability date; and further secure a stable transition from the agencies' legacy CRA regulations to the provisions of the 2023 CRA Final Rule, for the benefit of all stakeholders. To realize these benefits, the relief provided by this interim final rule is needed on or before April 1, 2024. Advance public comment would impede effectuation of the interim final rule in time to provide the necessary relief.

For the reasons stated above, the agencies also find good cause for this amendment to be effective less than 30 days after publication in the **Federal Register**, on April 1, 2024. In particular, the agencies note both the time-sensitive nature of providing the relief, with the applicability date of §§ __.16 and __.43 otherwise being April 1, 2024, but also that, consistent with another enumerated exception from APA timing requirements noted above, the amendment provides relief from new requirements in §§ __.16 and __.43.⁵⁰

While the agencies believe that there is good cause to issue this interim final rule without advance notice and comment and with an effective date of April 1, 2024, the agencies are interested in the views of the public and request comment on moving the applicability date of §§ __.16 and __.43 from April 1, 2024, to January 1, 2026.

Technical amendments. As explained further in the **SUPPLEMENTARY INFORMATION** of this preamble, the amendment to add § __.44 (Public notice) to the provisions that will apply on January 1, 2026, is a technical amendment with no substantive effect. Amending the applicability date for the public notice provision facilitates compliance by

⁵⁰ See 5 U.S.C. 553(d)(1) and (3).

clarifying that banks may continue to use the CRA Notice in the agencies' legacy CRA regulations⁵¹ until appendix F becomes applicable on January 1, 2026. The agencies therefore find that public comment regarding this amendment is impracticable, unnecessary, or contrary to the public interest. For the same reasons, the agencies also find good cause for an exception to the APA 30-day notice requirement. Providing that this amendment takes effect on April 1, 2024, clarifies the application of these provisions and ensures that banks have timely certainty of the CRA Notice form they may use as of the 2023 CRA Final Rule's April 1, 2024, effective date.

The technical amendments to the bank asset-size thresholds in the Board's and the FDIC's appendix G of the 2023 CRA Final Rule update these thresholds to reflect subsequent amendments to the thresholds, so that the Board's and FDIC's appendix G remains consistent with the legacy CRA regulations, as intended. The Board and the FDIC issued these amendments through a final rule published in the **Federal Register** after they approved the 2023 CRA Final Rule.⁵² Accordingly, the Board and the FDIC find good cause for an exemption from the APA's public notice and comment procedures because public comment regarding these amendments is unnecessary. In addition, the agencies find that good cause exists for these amendments to be effective less than 30 days after publication in the **Federal Register** because the thresholds in appendix G of the Board's and the FDIC's CRA regulations will be immediately inaccurate as of April 1, 2024, absent the amendments in this final rule.

The technical amendments that update cross-references in the agencies' CRA Sunshine regulations and the OCC's Public Welfare Investment regulation correct citations that will be

⁵¹ See appendix B to the agencies' legacy CRA regulations in appendix G of the 2023 CRA Final Rule.

⁵² See 88 FR 87895 (Dec. 20, 2023).

inaccurate as of April 1, 2024, when the 2023 CRA Final Rule is effective, and do not change the substance or meaning of the affected regulations. The agencies accordingly find good cause for an exemption from the APA’s public notice and comment procedures because public comment regarding these amendments is unnecessary. In addition, the agencies find that good cause exists for these amendments to be effective less than 30 days after publication in the **Federal Register** because the citations of the affected regulations will be immediately inaccurate as of April 1, 2024, absent the amendments in this final rule. Similarly, the OCC’s amendment to its conversions from mutual to stock form regulation corrects an outdated cross-reference and has no substantive effect. Therefore, the OCC finds good cause for an exemption from the APA’s public notice and comment provision and the 30-day effective date provision because public comment and a delayed effective date on this amendment are unnecessary.

Congressional Review Act

For purposes of the Congressional Review Act,⁵³ the Office of Management and Budget (OMB) makes a determination as to whether a final rule constitutes a “major rule.” If a rule is deemed a “major rule” by the OMB, the Congressional Review Act generally provides that the rule may not take effect until at least 60 days following its publication. The Congressional Review Act defines a “major rule” as any rule that the Administrator of the Office of Information and Regulatory Affairs of the OMB finds has resulted in or is likely to result in—(1) an annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity,

⁵³ 5 U.S.C. 801 *et seq.*

innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.⁵⁴ The agencies will submit the interim final rule and technical amendments to the OMB for this major rule determination. As required by the Congressional Review Act, the agencies will submit the appropriate report to Congress and the Government Accountability Office for review.⁵⁵

Paperwork Reduction Act

The Paperwork Reduction Act of 1995⁵⁶ states that no agency may conduct or sponsor, nor is the respondent required to respond to, an information collection unless it displays a currently valid OMB control number. The agencies have determined that the interim final rule and technical amendments do not create any new, or revise any existing, collections of information pursuant to the Paperwork Reduction Act.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act (RFA),⁵⁷ an agency must consider the impact of its rules on small entities. Specifically, section 3 of the RFA requires an agency to provide a final regulatory flexibility analysis with a final rule unless the head of the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities⁵⁸ and publishes this certification and a statement of its factual basis in the **Federal Register**.

⁵⁴ See 5 U.S.C. 804(2).

⁵⁵ See 5 U.S.C. 801(a)(1).

⁵⁶ 44 U.S.C. 3501-3521.

⁵⁷ 5 U.S.C. 601 *et seq.*

⁵⁸ Small Business Administration regulations currently define small entities to include banks and savings associations with total assets of \$850 million or less, and trust banks with total assets of \$47.0 million or less. See 13 CFR 121.201, Section 52 – Finance and Insurance, Subsectors 522 (Credit Intermediation and Related Activities) and 523 (Securities, Commodity Contracts, and Other Financial Investments and Related Activities).

However, the RFA does not apply to a rulemaking when a general notice of proposed rulemaking is not required.⁵⁹ As described above, the agencies have determined that they are not required to publish a general notice of proposed rulemaking for the interim final rule or for the technical amendments. Accordingly, the RFA's requirements relating to an initial and final regulatory flexibility analysis do not apply.

Riegle Community Development and Regulatory Improvement Act of 1994

Pursuant to section 302(a) of the Riegle Community Development and Regulatory Improvement Act of 1994 (RCDRIA),⁶⁰ in determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on insured depository institutions, an agency must consider, consistent with principles of safety and soundness and the public interest: (1) any administrative burdens that the rule will place on depository institutions, including small depository institutions and customers of depository institutions; and (2) the benefits of the rule.

Section 302(b) of RCDRIA⁶¹ provides that new regulations and amendments to regulations prescribed by a Federal banking agency which impose additional reporting, disclosures, or other new requirements on insured depository institutions must generally take effect on the first day of a calendar quarter which begins on or after the date on which the regulations are published in final form.

The interim final rule and technical amendments do not impose any additional reporting, disclosure, or other new requirements. Instead, the interim final rule extends the applicability

⁵⁹ See 5 U.S.C. 603 and 604.

⁶⁰ 12 U.S.C. 4802(a).

⁶¹ 12 U.S.C. 4802(b).

date of the 2023 CRA Final Rule’s facility-based assessment areas provision and public file provision, while the technical amendments make non-substantive changes to the agencies’ CRA regulations, the agencies’ CRA Sunshine regulations, the OCC’s Public Welfare Investment regulation, and the OCC’s mutual to stock conversion regulation. Therefore, subsections (a) and (b) of section 302 of RCDRIA are not applicable to this rulemaking action. However, the amendments made by this rulemaking action are effective on April 1, 2024, which is the first date of a calendar quarter.

Plain Language

Section 722(a) of the Gramm-Leach-Bliley Act⁶² requires each Federal banking agency to use plain language in its proposed and final rulemakings. In this notice, the agencies use plain language.

Unfunded Mandates Reform Act

As a general matter, the UMRA⁶³ requires the OCC to prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation and currently \$182 million) in any one year. However, the UMRA does not apply to final rules for which a general notice of proposed rulemaking was not published.⁶⁴ As described above, the OCC has found good cause for an exception to the APA’s

⁶² 12 U.S.C. 4809(a).

⁶³ 2 U.S.C. 1531 *et seq.*

⁶⁴ *See* 2 U.S.C. 1532(a).

notice and comment for the interim final rule and technical amendments. Therefore, the OCC has not prepared an economic analysis of the rule under the UMRA.

V. Federal Register Correction

The OCC is making a correction to its UMRA discussion in the preamble to the 2023 CRA Final Rule (RIN 1557-AF15). This correction clarifies the OCC's expenditure estimates in consideration of the 2023 CRA Final Rule transition provisions.

Correction

In rule document 2023-25797 at 89 FR 6574 in the issue of February 1, 2024, on page 7106, in the second column, the second paragraph that carries over to the third column is replaced to read as follows:

Were the final rule to require full compliance within the first 12 months of the transition period, the OCC estimates that expenditures to comply with mandates during those twelve months would not exceed approximately \$91.8 million (approximately \$7.9 million associated with increased data collection, recordkeeping or reporting; \$82 million for large banks to collect, maintain, and report annually geographic data on deposits; and \$1.9 million for banks' strategic plan submissions).¹⁶⁴⁴ Under the final rule transition provisions, banks have longer than one year, until January 1, 2026, for most substantive provisions, and January 1, 2027, for the reporting requirements, to fully comply with the rule. Therefore, the OCC concludes that the final rule will not result in an expenditure by State, local, and tribal governments, in the aggregate, or by the private sector of \$100 million or more (adjusted for inflation and currently \$182 million annually) in any one year. Accordingly, the OCC has not prepared the budgetary impact statement.

* * * * *

¹⁶⁴⁴ Several commenters addressed the OCC's UMRA analysis of the proposed rule. Some of these commenters stated that the agency underestimated burden of the proposed rule, and others noted that the OCC provided insufficient information about its actual calculations. In drafting the final rule, the OCC considered these comments and made changes from the proposal where appropriate.

List of Subjects

12 CFR Part 24

Community development, Credit, Investments, Low and moderate income housing, Manpower, National banks, Reporting and recordkeeping requirements, Rural areas, Small businesses.

12 CFR Part 25

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

12 CFR Part 35

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

12 CFR Part 192

Reporting and recordkeeping requirements, Savings associations, Securities.

12 CFR Part 207

Banks, Banking, Community development, Holding companies, Reporting and recordkeeping requirements.

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.

12 CFR Part 346

Banks, Banking, Savings associations.

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Chapter I

Authority and Issuance

For the reasons set forth in the preamble and under the authority of 12 U.S.C. 93a and 2905, the Office of the Comptroller of the Currency amends chapter I of title 12 of the Code of Federal Regulations as follows:

**PART 24— COMMUNITY AND ECONOMIC DEVELOPMENT ENTITIES,
COMMUNITY DEVELOPMENT PROJECTS, AND OTHER PUBLIC WELFARE
INVESTMENTS**

1. Revise the authority citation for part 24 to read as follows:

Authority: 12 U.S.C. 24(Eleventh), 93a, 481, and 1818.

§ 24.2 [Amended]

2. In § 24.2:

- a. Amend paragraph (c) by removing “12 CFR 25.23” and adding “§ 25.23 of appendix G to 12 CFR part 25” in its place.

- b. Amend paragraph (f) by removing “12 CFR 25.12(m)” and adding “§ 25.12(m) of appendix G to 12 CFR part 25” in its place.

§ 24.3 [Amended]

3. Amend § 24.3 by removing “12 CFR 25.23” and adding “§ 25.23 of appendix G to 12 CFR part 25” in its place.

§ 24.7 [Amended]

4. In § 24.7, amend paragraph (b) by removing “12 CFR 25.23” and adding “§ 25.23 of appendix G to 12 CFR part 25” in its place.

PART 25—COMMUNITY REINVESTMENT ACT AND INTERSTATE DEPOSIT PRODUCTION REGULATIONS

5. 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, 1462a, 1463, 1464, 1814, 1816, 1828(c), 1835a, 2901 through 2908, 3101 through 3111, and 5412(b)(2)(B).

§ 25.27 [Amended]

6. In § 25.27, amend the subject headings of paragraphs (c)(4) and (c)(4)(i) by removing the text “[*Operations subsidiaries or operating subsidiaries*]” wherever it appears and adding the text “*Operating subsidiaries*” in its place.

§ 25.51 [Amended]

7. In § 25.51, amend paragraph (a)(2)(i) by removing the text “§§ 25.12 through 25.15, 25.17 through 25.30, and 25.42(a)” and adding the text “§§ 25.12 through 25.30, 25.42(a), 25.43, and 25.44” in its place.

PART 35—DISCLOSURE AND REPORTING OF CRA-RELATED AGREEMENTS

8. The authority citation for part 35 continues to read as follows:

Authority: 12 U.S.C. 1, 93a, 1462a, 1463, 1464, 1831y, and 5412(b)(2)(B).

9. Amend § 35.1 by revising paragraph (c) to read as follows:

§ 35.1 Purpose and scope of this part.

* * * * *

(c) *Relation to Community Reinvestment Act.* This part does not affect in any way the Community Reinvestment Act of 1977 (CRA) (12 U.S.C. 2901 *et seq.*), part 25 of this chapter (Community Reinvestment Act and Interstate Deposit Production Regulations), or the OCC's interpretations or administration of that Act or part 25.

* * * * *

10. Amend § 35.4 by revising paragraph (a)(2) to read as follows:

§ 35.4 Fulfillment of the CRA.

(a) * * *

(2) *Activities given favorable CRA consideration.* Performing any of the following activities if the activity is of the type that is likely to receive favorable consideration by a Federal banking agency in evaluating the performance under the CRA of the insured depository institution that is a party to the agreement or an affiliate of a party to the agreement—

(i) Home-purchase, home-improvement, small business, small farm, community development, and consumer lending, as described in § 25.22 of appendix G to 12 CFR part 25, including loan purchases, loan commitments, and letters of credit;

(ii) Making investments, deposits, or grants, or acquiring membership shares, that have as their primary purpose community development, as described in § 25.23 of appendix G to 12 CFR part 25;

(iii) Delivering retail banking services, as described in § 25.24(d) of appendix G to 12 CFR part 25;

(iv) Providing community development services, as described in § 25.24(e) of appendix G to 12 CFR part 25;

(v) In the case of a wholesale or limited-purpose insured depository institution, community development lending, including originating and purchasing loans and making loan commitments and letters of credit, making qualified investments, or providing community development services, as described in § 25.25(c) of appendix G to 12 CFR part 25;

(vi) In the case of a small insured depository institution, any lending or other activity described in § 25.26(a) of appendix G to 12 CFR part 25; or

(vii) In the case of an insured depository institution that is evaluated on the basis of a strategic plan, any element of the strategic plan, as described in § 25.27(f) of appendix G to 12 CFR part 25.

* * * * *

§ 35.6 [Amended]

11. In § 35.6, amend paragraph (b)(7) by removing “(12 CFR 25.43)” and adding “of appendix G to 12 CFR part 25” in its place.

§ 35.11 [Amended]

12. In § 35.11, amend paragraph (d) by removing “(12 CFR 25.43)” and adding “of appendix G to 12 CFR part 25” in its place.

PART 192—CONVERSIONS FROM MUTUAL TO STOCK FORM

13. The authority citation for part 192 continues to read as follows:

Authority: 12 U.S.C. 1462a, 1463, 1464, 1467a, 2901 *et seq.*, 5412(b)(2)(B); 15 U.S.C. 78c, 78l, 78m, 78n, 78w.

§ 192.200 [Amended]

14. Amend § 192.200 in paragraph (c) by removing “under 12 CFR part 195” and adding “under 12 CFR part 25” in its place.

FEDERAL RESERVE SYSTEM

12 CFR Chapter II

Authority and Issuance

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

PART 207—DISCLOSURE AND REPORTING OF CRA-RELATED AGREEMENTS (REGULATION G)

15. The authority citation for part 207 continues to read as follows:

Authority: 12 U.S.C. 1831y.

16. Amend § 207.4 by revising paragraph (a)(2) to read as follows:

§ 207.4 Fulfillment of the CRA.

(a) * * *

(2) *Activities given favorable CRA consideration.* Performing any of the following activities if the activity is of the type that is likely to receive favorable consideration by a Federal banking agency in evaluating the performance under the CRA of the insured depository institution that is a party to the agreement or an affiliate of a party to the agreement—

(i) Home-purchase, home-improvement, small business, small farm, community development, and consumer lending, as described in § 228.22 of appendix G to 12 CFR part 228, including loan purchases, loan commitments, and letters of credit;

(ii) Making investments, deposits, or grants, or acquiring membership shares, that have as their primary purpose community development, as described in § 228.23 of appendix G to 12 CFR part 228;

(iii) Delivering retail banking services, as described in § 228.24(d) of appendix G to 12 CFR part 228;

(iv) Providing community development services, as described in § 228.24(e) of appendix G to 12 CFR part 228;

(v) In the case of a wholesale or limited-purpose insured depository institution, community development lending, including originating and purchasing loans and making loan commitments and letters of credit, making qualified investments, or providing community development services, as described in § 228.25(c) of appendix G to 12 CFR part 228;

(vi) In the case of a small insured depository institution, any lending or other activity described in § 228.26(a) of appendix G to 12 CFR part 228; or

(vii) In the case of an insured depository institution that is evaluated on the basis of a strategic plan, any element of the strategic plan, as described in § 228.27(f) of appendix G to 12 CFR part 228.

* * * * *

§ 207.6 [Amended]

17. In § 207.6, amend paragraph (b)(7) by removing “Regulation BB (12 CFR 228.43)” and adding “appendix G to 12 CFR part 228” in its place.

§ 207.11 [Amended]

18. In § 207.11, amend paragraph (d) by removing “Regulation BB (12 CFR 228.43)” and adding “appendix G to 12 CFR part 228” in its place.

PART 228 – COMMUNITY REINVESTMENT (REGULATION BB)

19. 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.*

§ 228.11 [Amended]

20. In § 228.11, amend paragraph (a) by removing “authorizing the Federal Reserve:” and adding “authorizing the Board:” in its place.

§ 228.27 [Amended]

21. In § 228.27, amend the subject headings of paragraphs (c)(4) and (c)(4)(i), by removing the text “[*Operations subsidiaries or operating subsidiaries*]” wherever it appears and adding the text “*Operations subsidiaries*” in its place.

§ 228.51 [Amended]

22. In § 228.51, amend paragraph (a)(2)(i) by removing the text “§§ 228.12 through 228.15, 228.17 through 228.30, and 228.42(a)” and adding the text “§§ 228.12 through 228.30, 228.42(a), 228.43, and 228.44” in its place.

Appendix B to Part 228 [Amended]

23. In appendix B to part 228, amend paragraphs III.c.1 and 2 by removing the text “12 CFR 25.42(b), 228.42(b), or 345.42(b)” and adding the text “§ 228.42(b) or 12 CFR 25.42(b) or 345.42(b)” in its place.

24. In appendix G, revise § 228.12(u)(1) to read as follows:

Appendix G to Part 228 Community Reinvestment Act (Regulation BB)

* * * * *

§ 228.12 Definitions.

* * * * *

(u) * * * (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 \$1.564 billion. *Intermediate small bank* means a small bank with assets of at least \$391 million as of December 31 of both of the prior two calendar years and less than \$1.564 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 discussed in the preamble, the Federal Deposit Insurance Corporation amends chapter III of title 12 of the Code of Federal Regulations as follows:

PART 345—COMMUNITY REINVESTMENT

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

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

§ 345.27 [Amended]

26. In § 345.27, amend the subject headings of paragraphs (c)(4) and (c)(4)(i) by removing the text “[*Operations subsidiaries or operating subsidiaries*]” wherever it appears and adding the text “*Operating subsidiaries*” in its place.

§ 345.51 [Amended]

27. Amend § 345.51 by, in paragraph (a)(2)(i), removing the text “§§ 345.12 through 345.15, 345.17 through 345.30, and 345.42(a)” and adding the text “§§ 345.12 through 345.30, 345.42(a), 345.43, and 345.44” in its place.

Appendix B to Part 345 [Amended]

28. In appendix B, amend paragraphs III.c.1 and 2 by removing “12 CFR 25.42(b), 228.42(b), or 345.42(b)” and adding “§ 345.42(b) or 12 CFR 25.42(b) or 228.42(b)” in its place.

29. In appendix G, amend § 345.12(u)(1) to read as follows:

Appendix G to Part 345 Community Reinvestment Regulations

* * * * *

§ 345.12 Definitions.

* * * * *

(u) * * * (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 \$1.564 billion. *Intermediate small bank* means a small bank with assets of at least \$391 million as of December 31 of both of the prior two calendar years and less than \$1.564 billion as of December 31 of either of the prior two calendar years.

* * * * *

PART 346—DISCLOSURE AND REPORTING OF CRA-RELATED AGREEMENTS

30. The authority citation for part 346 continues to read as follows:

Authority: 12 U.S.C. 1831y.

31. Amend § 346.4 by revising paragraph (a)(2):

§ 346.4 Fulfillment of the CRA.

(a) * * *

(2) *Activities given favorable CRA consideration.* Performing any of the following activities if the activity is of the type that is likely to receive favorable consideration by a Federal banking agency in evaluating the performance under the CRA of the insured depository institution that is a party to the agreement or an affiliate of a party to the agreement—

(i) Home-purchase, home-improvement, small business, small farm, community development, and consumer lending, as described in § 345.22 of appendix G to 12 CFR part 345, including loan purchases, loan commitments, and letters of credit;

(ii) Making investments, deposits, or grants, or acquiring membership shares, that have as their primary purpose community development, as described in § 345.23 of appendix G to 12 CFR part 345;

(iii) Delivering retail banking services as described in § 345.24(d) of appendix G to 12 CFR part 345;

(iv) Providing community development services, as described in § 345.24(e) of appendix G to 12 CFR part 345;

(v) In the case of a wholesale or limited-purpose insured depository institution, community development lending, including originating and purchasing loans and making loan commitments and letters of credit, making qualified investments, or providing community development services, as described in § 345.25(c) of appendix G to 12 CFR part 345;

(vi) In the case of a small insured depository institution, any lending or other activity described in § 345.26(a) of appendix G to 12 CFR part 345; or

(vii) In the case of an insured depository institution that is evaluated on the basis of a strategic plan, any element of the strategic plan, as described in § 345.27(f) of appendix G to 12 CFR part 345.

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§ 346.6 [Amended]

32. In § 346.6, amend paragraph (b)(7) by removing the text “12 CFR 345.43” and adding the text “§ 345.43 of appendix G to 12 CFR 345” in its place.

§ 346.11 [Amended]

33. In § 346.11, amend paragraph (d) by removing the text “12 CFR 345.43” and adding the text “§ 345.43 of appendix G to 12 CFR 345” in its place.

Michael J. Hsu,
Acting Comptroller of the Currency.

By order of the Board of Governors of the Federal Reserve System.

Ann E. Misback,
Secretary of the Board.

Federal Deposit Insurance Corporation.

By order of the Board of Directors.

Dated at Washington, DC, on March 21, 2024.

James P. Sheesley,
Assistant Executive Secretary.

Billing Codes: 4810-33-P; 6210-01-P; 6714-P