Morocco agree that appropriate remedial actions have been taken.

(d) Each consignment of blueberries must be treated in accordance with 7 CFR part 305 for *C. capitata.*

(e) Each consignment of blueberries must be accompanied by a phytosanitary certificate issued by the NPPO of Morocco with an additional declaration stating that the conditions of this section have been met, and that the consignment has been inspected prior to export from Morocco and found free of *M. fructigena.*

(Approved by the Office of Management and Budget under control number 0579–0421)

Done in Washington, DC, this 23rd day of July 2014.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2014–17843 Filed 7–29–14; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TREASURY

Office of the Comptroller of the Currency

12 CFR Part 3

[Docket ID OCC–2014–0012]

RIN 1557–AD83

FEDERAL RESERVE SYSTEM

12 CFR Part 217

[Regulation Q; Docket No. R–1488]

RIN 7100–AE17

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 324

RIN 3064–AE13

Regulatory Capital Rules: Advanced Approaches Risk-Based Capital Rule, Revisions to the Definition of Eligible Guarantee

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

ACTION: Final rule.

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) (collectively, the agencies) are adopting a final rule that revises the definition of eligible guarantee in the agencies' advanced approaches risk-based capital rule, adopted in the agencies' July 2013 regulatory capital rule (2013 capital rule). The final rule removes the requirement that an eligible guarantee be made by an eligible guarantor for purposes of calculating the risk-weighted assets of an exposure (other than a securitization exposure) under the advanced approaches risk-based capital rule as incorporated into the 2013 capital rule (advanced approaches). The change to the definition of eligible guarantee applies to all banks, savings associations, bank holding companies, and savings and loan holding companies that are subject to the advanced approaches.

DATES: This rule is effective on October 1, 2014. Any company subject to the rule may elect to adopt it before this date.

FOR FURTHER INFORMATION CONTACT:

OCC: Margot Schwadron, Senior Risk Expert; or Roger Tufts, Senior Economic Advisor, Capital Policy, (202) 649–6370; or Carl Kaminski, Counsel, Legislative and Regulatory Activities Division, (202) 649–5490, for persons who are deaf or hard of hearing, TTY, (202) 649–5597, Office of the Comptroller of the Currency, 400 7th Street SW., Washington, DC 20219.

Board: Anna Lee Hewko, Deputy Associate Director, (202) 530–6260; Constance M. Horsley, Assistant Director, (202) 452–5239; Thomas Boemio, Manager, (202) 452–2982; Andrew Willis, Supervisory Financial Analyst, (202) 912–4323; or Justyna Milewski, Financial Analyst, (202) 452–3607, Capital and Regulatory Policy, Division of Banking Supervision and Regulation; or Benjamin McDonough, Senior Counsel, (202) 452–2036; April C. Snyder, Senior Counsel, (202) 452–3099; Christine Graham, Counsel, (202) 452–3005; or Mark Buresh, Attorney, (202) 452–5270, Legal Division, Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, DC 20551. For the hearing impaired only, Telecommunication Device for the Deaf (TDD), (202) 263–4869.

FDIC: Bobby R. Bean, Associate Director, *bbean@fdic.gov;* Ryan Billingsley, Chief, Capital Policy Section, *rbillingsley@fdic.gov;* Benedetto Bosco, Capital Markets Policy Analyst, *bbosco@fdic.gov,* Capital Markets Branch, Division of Risk Management Supervision, *regulatorycapital@fdic.gov* or (202) 898–6888; or Michael Phillips, Counsel, *mphillips@fdic.gov;* Rachel Ackmann, Senior Attorney, *rackmann@fdic.gov;* or Grace Pyun, Senior Attorney, *gpyun@fdic.gov,* Supervision Branch, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

I. Background

On May 1, 2014, 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) (collectively, the agencies) published in the **Federal Register** a joint notice of proposed rulemaking (NPR or proposed rule)[1] seeking public comment on revisions to the definition of eligible guarantee for purposes of calculating the risk-weighted assets of an exposure (other than a securitization exposure) under the advanced approaches risk-based capital rule as incorporated into subpart E (advanced approaches) of the agencies' July 2013 regulatory capital rule (2013 capital rule).[2]

Among other changes, the 2013 capital rule amended the methodologies for calculating risk-weighted assets under the advanced approaches, as well as the standardized approach for regulatory capital in subpart D (standardized approach) of the 2013 capital rule, which is generally consistent with the methodologies for calculating risk-weighted assets established by the Basel Committee on Banking Supervision (BCBS) through its international framework.[3] Specifically, the 2013 capital rule included a definition of ''eligible guarantee'' for purposes of both the standardized approach and the advanced approaches and introduced a definition of ''eligible guarantor.''

The definition of eligible guarantee provided that an eligible guarantee could be provided only by an eligible guarantor. The definition of eligible guarantor includes a sovereign, the Bank for International Settlements, the

[1] 79 FR 24618 (May 1, 2014).

[2] 78 FR 55340 (September 10, 2013) (FDIC) and 78 FR 62018 (October 11, 2013) (OCC and Board). On April 8, 2014, the FDIC adopted as final the 2013 revised capital rule, with no substantive changes.

[3] *See* BCBS, ''Basel II: International Convergence of Capital Measurement and Capital Standards: A Revised Framework'' (November 2005 and revised in June 2006), available at *http://www.bis.org/publ/bcbs128.pdf. See* BCBS, ''Basel III: A Global Regulatory Framework for More Resilient Banks and Banking Systems'' (December 2010 and revised in June 2011), available at *http://www.bis.org/publ/bcbs189.htm.* The BCBS is a committee of banking supervisory authorities, which was established by the central bank governors of the G–10 countries in 1975. More information regarding the BCBS and its membership is available at *http://www.bis.org/bcbs/about.htm.* Documents issued by the BCBS are available through the Bank for International Settlements Web site at *http://www.bis.org.*

International Monetary Fund, the European Central Bank, the European Commission, a Federal Home Loan Bank, the Federal Agricultural Mortgage Corporation (Farmer Mac), a multilateral development bank (MDB), a depository institution, a bank holding company, a savings and loan holding company, a credit union, a foreign bank, and a qualifying central counterparty. The definition of eligible guarantor also includes an entity (other than a special purpose entity) that at the time the guarantee is issued or anytime thereafter, has issued and has outstanding an unsecured debt security that is investment grade; whose creditworthiness is not positively correlated with the credit risk of the exposures for which it has provided guarantees; and that is not an insurance company engaged predominately in the business of providing credit protection (such as a monoline bond insurer or re-insurer).

Following the release of the 2013 capital rule, the agencies received comments raising concerns about the definition of eligible guarantee. Commenters noted that the revisions made to the definition of eligible guarantee changed the recognition of these guarantees for certain exposures under the advanced approaches wholesale framework. For example, several advanced approaches banking organizations [4] observed that middle market and commercial real estate loans often involve guarantors that do not meet the definition of eligible guarantor. The guarantors for such transactions are often related parties such as owners or sponsors that have not issued investment grade debt securities. These commenters argued that such guarantees provide valuable credit risk mitigation that should be recognized under the advanced approaches capital requirements.

As explained in the proposal, the agencies did not intend for the revisions to the definition of eligible guarantee in the 2013 capital rule to prevent advanced approaches banking organizations from recognizing the risk-mitigation benefits of the aforementioned types of guarantees. The agencies believe that these guarantees should continue to qualify as credit risk mitigants for purposes of the advanced approaches because they provide banking organizations with credit enhancement with respect to their exposures.

On May 1, 2014, the agencies published in the **Federal Register**, a proposed rule to effectively revert to the previous treatment of eligible guarantees under the 2007 advanced approaches final rule [5] for non-securitization exposures.[6] Under the proposal, the requirement that an eligible guarantee be provided by an eligible guarantor for exposures that are not securitizations for the purpose of the advanced approaches would be removed from the definition of eligible guarantee. However, the proposed rule would have retained the definition of eligible guarantee in the 2013 capital rule for purposes of calculating risk-weighted assets under the standardized approach because the standardized approach generally assigns a single risk weight to exposures to most corporate borrowers and guarantors and does not incorporate the definition of eligible guarantee into a risk-sensitive methodology like the advanced approaches.

II. Comments

The agencies received two comment letters on the proposed change to the eligible guarantee definition, one from a trade association and the other from a monoline insurance company. The trade association fully supported the proposal, and urged timely adoption of the proposed rule without modification. The commenter also requested that the agencies provide banking organizations with the option to elect the early adoption of the proposed rule before its official effective date so that the amended definition would be available for public disclosures for advanced approaches banking organizations that have completed their parallel run and will publicly disclose their risk-based capital ratios determined using the advanced approaches beginning with the second quarter of 2014.

The monoline insurance company commented that the proposed revisions to the definition of eligible guarantee, and by extension the definition of eligible guarantor under the 2013 capital rule, should be further clarified and expanded under both the standardized approach and advanced approaches to include monoline insurance companies (monoline insurers) that meet certain conditions. According to the commenter, the agencies' definition of eligible guarantor in the 2013 capital rule intended to include monoline insurers that are subsidiaries of depository institution holding companies or nonbank financial companies supervised by the Board pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act because these subsidiaries are subject to extensive supervisory and regulatory standards. The commenter further argued that expanding the definition to include monoline insurers could reduce systemic and prudential risks by reducing interconnectedness as well as reliance on guarantees from the public sector, such as guarantees from sovereigns and government-sponsored enterprises. The commenter also sought clarification as to whether, by virtue of the definition's exclusion of monoline insurers, the agencies also inadvertently excluded from the definition of eligible guarantor depository institution holding companies and nonbank systemically important financial institutions designated by the Financial Stability Oversight Council.

The definition of eligible guarantor in the 2013 capital rule explicitly states that an insurance company engaged predominately in the business of providing credit protection (such as a monoline bond insurer or re-insurer) does not qualify as an eligible guarantor. As stated in the preamble to the 2013 capital rule, the agencies believe that guarantees issued by monoline insurers, including financial guaranty and private mortgage insurers, can exhibit significant wrong-way risk.[7] Thus, modifying the definition of eligible guarantor to include these entities would be contrary to one of the key objectives of the capital framework, which is to mitigate interconnectedness and systemic vulnerabilities within the financial system. The agencies are, therefore, retaining the 2013 capital rule's definition of eligible guarantor. The definition of eligible guarantor in the 2013 capital rule includes depository institution holding companies as well as nonbank financial companies that meet the qualifying criteria included in the definition of eligible guarantor.

III. Final Rule

After carefully considering the comments the agencies are adopting as a final rule the eligible guarantee definition as proposed in the NPR. Under the final rule, an eligible guarantee must be in writing and also be either an unconditional guarantee or a contingent obligation of the U.S. government or its agencies, the enforceability of which is dependent upon some affirmative action on the

[4] Advanced approaches banking organizations generally refers to banking organizations with total consolidated assets of $250 billion or more, that have total consolidated on-balance sheet foreign exposure of $10 billion or more, are a subsidiary of an advanced approaches depository institution, or that elect to use the advanced approaches.

[5] 72 FR 69288 (December 7, 2007).

[6] 79 FR 24618 (May 1, 2014).

[7] 78 FR 62104 (October 11, 2013) (OCC and FRB) and 78 FR 55422 (September 10, 2013) (FDIC).

part of the beneficiary of the guarantee or a third party (for example, meeting servicing requirements). The guarantee also must cover all or a pro rata portion of all contractual payments of the obligated party on the reference exposure and give the beneficiary a direct claim against the protection provider. Additionally, the guarantee must not be unilaterally cancelable by the protection provider for reasons other than the breach of the contract by the beneficiary, and it must be legally enforceable against the protection provider in a jurisdiction where the protection provider has sufficient assets against which a judgment may be attached and enforced (except for a guarantee by a sovereign). The guarantee also must require the protection provider to make payment to the beneficiary on the occurrence of a default (as defined in the guarantee) of the obligated party on the reference exposure in a timely manner without the beneficiary first having to take legal actions to pursue the obligor for payment and must not increase the beneficiary's cost of credit protection on the guarantee in response to deterioration in the credit quality of the reference exposure. Furthermore, the guarantee may not be provided by an affiliate of the banking organization, unless the affiliate is an insured depository institution, foreign bank, securities broker or dealer, or insurance company that does not control the banking organization and is subject to consolidated supervision and regulation comparable to that imposed on depository institutions, U.S. securities broker-dealers, or U.S. insurance companies (as the case may be) and for purposes of §§ _.141 to _.145 of the advanced approaches and of the standardized approach, the guarantee would have to be provided by an eligible guarantor.

IV. Early Compliance

The final rule will be effective October 1, 2014; however, any advanced approaches banking organization may elect to adopt the requirements in the final rule before the effective date.

Subject to certain exceptions, 12 U.S.C. 4802(b) provides that new regulations and amendments to regulations prescribed by a Federal banking agency which impose additional reporting, disclosures, or other new requirements on an insured depository institution shall 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 agencies note that this final rule does not impose any additional reporting or disclosure requirements. Instead, this final rule revises an existing requirement to remove a restriction on the recognition of guarantors for the purpose of calculating minimum risk-based capital requirements. Additionally, section 4802(b) permits persons who are subject to the Federal banking agency regulations to comply with a regulation before its effective date. Accordingly, the agencies will not object if an institution wishes to apply the provisions of this final rule beginning with the date it is published in the **Federal Register**.

V. Regulatory Analyses

A. Paperwork Reduction Act

In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521) (PRA), the agencies 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 agencies have reviewed the final rule and determined that the rule does not introduce any new collection of information pursuant to the PRA.

B. Regulatory Flexibility Act Analysis

OCC: The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (RFA), requires an agency, in connection with a notice of final rulemaking, to prepare a Final Regulatory Flexibility Act analysis describing the impact of the rule on small entities (defined by the Small Business Administration (SBA) for purposes of the RFA to include banking entities with total assets of $550 million or less) or to certify that the rule will not have a significant economic impact on a substantial number of small entities.

Using the SBA's size standards effective on July 14, 2014, the OCC currently supervises approximately 1,200 small entities (361 Federal savings associations, 818 national banks, and 21 trust companies).[8]

As described in the **SUPPLEMENTARY INFORMATION** section of the preamble, the final rule applies only to advanced approaches banking organizations. *Advanced approaches banking organization* is defined to include a national bank or Federal savings associations that has, or is, a subsidiary of a bank holding company or savings and loan holding company that has total consolidated assets of $250 billion or more, total consolidated on-balance sheet foreign exposure of $10 billion or more, or that has elected to use the advanced approaches. After considering the SBA's size standards and General Principals of Affiliation to identify small entities, the OCC determined that no small national banks or Federal savings associations are advanced approaches banking organizations. Because the final rule applies only to advanced approaches banking organizations, it does not impact any OCC-supervised small entities. Therefore, the OCC certifies that the final rule will not have a significant economic impact on a substantial number of OCC-supervised small entities.

Board: The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (RFA) requires an agency to provide a final regulatory flexibility analysis with a final rule or to certify that the rule will not have a significant economic impact on a substantial number of small entities. Under regulations issued by the Small Business Administration, a small entity includes a depository institution, bank holding company, or savings and loan holding company with total assets of $550 million or less (a small banking organization).[9] As of March 31, 2014, there were approximately 653 small state member banks. As of December 31, 2013, there were approximately 3,783 small bank holding companies and approximately 276 small savings and loan holding companies.

The Board is providing a final regulatory flexibility analysis with respect to this final rule. As discussed above, this final rule would amend the definition of ''eligible guarantee'' in section 2 of Regulation Q (12 CFR part 217) for the purposes of calculating risk-weighted assets under the advanced approaches in Regulation Q (12 CFR part 217, subpart E). The Board received no public comments related to the initial Regulatory Flexibility Act analysis in the proposed rule from members of the general public or from the Chief Counsel for Advocacy of the Small Business Administration. Thus,

[8] The OCC calculated the number of small entities using the SBA's size thresholds for commercial banks and savings institutions, and trust companies, which, effective July 14, 2014, are $550 million and $38.5 million, respectively. Consistent with the General Principles of Affiliation 13 CFR 121.103(a), the OCC counted the assets of affiliated financial institutions when determining whether to classify an OCC-supervised entity as a small entity. The OCC used December 31, 2013 to determine size because a ''financial institution's assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year.'' See footnote 8 of the SBA's *Table of Size Standards.*

[9] *See* 13 CFR 121.201. Effective July 14, 2014, the Small Business Administration revised the size standards for banking organizations to $550 million in assets from $500 million in assets. 79 FR 33647 (June 12, 2014).

no issues were raised in public comments related to the Board's initial Regulatory Flexibility Act analysis and no changes are being made in response to such comments.

The final rule would apply only to advanced approaches banking organizations, which, generally, are banking organizations with total consolidated assets of $250 billion or more, that have total consolidated on-balance sheet foreign exposure of $10 billion or more, are a subsidiary of an advanced approaches depository institution, or that elect to use the advanced approaches. Currently, no small top-tier bank holding company, top-tier savings and loan holding company, or state member bank is an advanced approaches banking organization, so there would be no additional projected compliance requirements imposed on small bank holding companies, savings and loan holding companies, or state member banks. The Board expects that any small bank holding companies, savings and loan holding companies, or state member banks that would be covered by this final rule would rely on their parent banking organization for compliance and would not bear additional costs.

The Board believes that the final rule will not have a significant economic impact on small banking organizations supervised by the Board and therefore believes that there are no significant alternatives to the rule that would reduce the economic impact on small banking organizations supervised by the Board.

FDIC: The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (RFA), requires an agency, in connection with a notice of final rulemaking, to prepare a Final Regulatory Flexibility Act analysis describing the impact of the rule on small entities (defined by the Small Business Administration for purposes of the RFA to include banking entities with total assets of $550 million or less) or to certify that the rule will not have a significant economic impact on a substantial number of small entities.

As of March 31, 2014, the FDIC supervised 3,604 small entities. As described in the **SUPPLEMENTARY INFORMATION** section of the preamble, however, the final rule applies only to advanced approaches banking organizations. *Advanced approaches banking organization* is defined to include a state nonmember bank or a State savings association that has, or is a subsidiary of a bank holding company or savings and loan holding company that has, total consolidated assets of $250 billion or more, total consolidated on-balance sheet foreign exposure of $10 billion or more, or that has elected to use the advanced approaches. As of March 31, 2014 based on a $550 million threshold, 2 (out of 3,296) small state nonmember banks and no (out of 308) small state savings associations were under the advanced approaches. Therefore, the FDIC does not believe that the final rule will result in a significant economic impact on a substantial number of small entities under its supervisory jurisdiction.

The FDIC certifies that the final rule will not have a significant economic impact on a substantial number of small FDIC-supervised institutions.

C. OCC Unfunded Mandates Reform Act of 1995 Determination

The OCC has analyzed the final rule under the factors in the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1532). Under this analysis, the OCC considered whether the rule 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 in any one year (adjusted annually for inflation). As detailed in the **SUPPLEMENTARY INFORMATION** section, the final rule revises the definition of eligible guarantee as incorporated into the OCC's advanced approaches risk-based capital rule. In 2013, when the Federal banking agencies revised their respective risk-based capital requirements, they added a requirement that an eligible guarantee be from an eligible guarantor. This rule removes that requirement for the purposes of calculating the risk-weighted asset amount for an exposure (other than for a securitization exposure) under the OCC's advanced approaches risk-based capital rule. For example, the OCC understands that advanced approaches banking organizations commonly obtain guarantees from guarantors that do not qualify as eligible guarantors for exposures in their commercial real estate and other wholesale portfolios. Under this rule, these guarantees will qualify as credit risk mitigants for purposes of the wholesale framework in the advanced approaches risk-based capital rule.

This final rule does not increase the minimum capital requirements for any institutions subject to the OCC's risk-based capital rules. After comparing existing capital levels with these requirements, and considering the burden and other compliance costs associated with the changes, the OCC has determined that its final rule will not result in expenditures by State, local, and tribal governments, or by the private sector, of $100 million or more (adjusted annually for inflation). Accordingly, the OCC is not including a written statement to accompany this proposed rule.

D. 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 agencies have sought to present the final rule in a simple and straightforward manner, and did not receive any comments on the use of plain language.

List of Subjects

12 CFR Part 3

Administrative practice and procedure, Capital, National banks, Reporting and recordkeeping requirements, Risk.

12 CFR Part 217

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

12 CFR Part 324

Administrative practice and procedure, Banks, Banking, Capital Adequacy, Reporting and recordkeeping requirements, Savings associations, State non-member banks.

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, 1462, 1462a, 1463, 1464, 3907, 3909, 1831o, and 5412(b)(2)(B), the Office of the Comptroller of the Currency amends part 3 of chapter I of title 12, Code of Federal Regulations as follows:

PART 3—CAPITAL ADEQUACY STANDARDS

■ 1. The authority citation for part 3 continues to read as follows:

Authority: 12 U.S.C. 93a, 161, 1462, 1462a, 1463, 1464, 1818, 1828(n), 1828 note, 1831n note, 1835, 3907, 3909, and 5412(b)(2)(B).

■ 2. In § 3.2, revise the definition of ''Eligible guarantee'' to read as follows:

§ 3.2 Definitions.

* * * * *

Eligible guarantee means a guarantee that:

(1) Is written;

(2) Is either:

(i) Unconditional; or

(ii) A contingent obligation of the U.S. government or its agencies, the enforceability of which is dependent upon some affirmative action on the part of the beneficiary of the guarantee or a third party (for example, meeting servicing requirements);

(3) Covers all or a pro rata portion of all contractual payments of the obligated party on the reference exposure;

(4) Gives the beneficiary a direct claim against the protection provider;

(5) Is not unilaterally cancelable by the protection provider for reasons other than the breach of the contract by the beneficiary;

(6) Except for a guarantee by a sovereign, is legally enforceable against the protection provider in a jurisdiction where the protection provider has sufficient assets against which a judgment may be attached and enforced;

(7) Requires the protection provider to make payment to the beneficiary on the occurrence of a default (as defined in the guarantee) of the obligated party on the reference exposure in a timely manner without the beneficiary first having to take legal actions to pursue the obligor for payment;

(8) Does not increase the beneficiary's cost of credit protection on the guarantee in response to deterioration in the credit quality of the reference exposure;

(9) Is not provided by an affiliate of the national bank or Federal savings association, unless the affiliate is an insured depository institution, foreign bank, securities broker or dealer, or insurance company that:

(i) Does not control the national bank or Federal savings association; and

(ii) Is subject to consolidated supervision and regulation comparable to that imposed on depository institutions, U.S. securities broker-dealers, or U.S. insurance companies (as the case may be); and

(10) For purposes of §§ 3.141 through 3.145 and subpart D of this part, is provided by an eligible guarantor.

* * * * *

Board of Governors of the Federal Reserve System

12 CFR Chapter II

Authority and Issuance

For the reasons set forth in the preamble, part 217 of chapter II of title 12 of the Code of Federal Regulations is amended as follows:

PART 217—CAPITAL ADEQUACY OF BANK HOLDING COMPANIES, SAVINGS AND LOAN HOLDING COMPANIES, AND STATE MEMBER BANKS (REGULATION Q)

■ 3. The authority citation for part 217 is revised to read as follows:

Authority: 12 U.S.C. 248(a), 321–338a, 481–486, 1462a, 1467a, 1818, 1828, 1831n, 1831o, 1831p–l, 1831w, 1835, 1844(b), 1851, 3904, 3906–3909, 4808, 5365, 5368, 5371.

■ 4. The heading of part 217 is revised to read as set forth above.

■ 5. In § 217.2, revise the definition of ''Eligible guarantee'' to read as follows:

§ 217.2 Definitions.

* * * * *

Eligible guarantee means a guarantee that:

(1) Is written;

(2) Is either:

(i) Unconditional, or

(ii) A contingent obligation of the U.S. government or its agencies, the enforceability of which is dependent upon some affirmative action on the part of the beneficiary of the guarantee or a third party (for example, meeting servicing requirements);

(3) Covers all or a pro rata portion of all contractual payments of the obligated party on the reference exposure;

(4) Gives the beneficiary a direct claim against the protection provider;

(5) Is not unilaterally cancelable by the protection provider for reasons other than the breach of the contract by the beneficiary;

(6) Except for a guarantee by a sovereign, is legally enforceable against the protection provider in a jurisdiction where the protection provider has sufficient assets against which a judgment may be attached and enforced;

(7) Requires the protection provider to make payment to the beneficiary on the occurrence of a default (as defined in the guarantee) of the obligated party on the reference exposure in a timely manner without the beneficiary first having to take legal actions to pursue the obligor for payment;

(8) Does not increase the beneficiary's cost of credit protection on the guarantee in response to deterioration in the credit quality of the reference exposure;

(9) Is not provided by an affiliate of the Board-regulated institution, unless the affiliate is an insured depository institution, foreign bank, securities broker or dealer, or insurance company that:

(i) Does not control the Board-regulated institution; and

(ii) Is subject to consolidated supervision and regulation comparable to that imposed on depository institutions, U.S. securities broker-dealers, or U.S. insurance companies (as the case may be); and

(10) For purposes of §§ 217.141 through 217.145 and subpart D of this part, is provided by an eligible guarantor.

* * * * *

Federal Deposit Insurance Corporation

12 CFR Chapter III

Authority and Issuance

For the reasons set forth in the preamble, part 324 of chapter III of title 12 of the Code of Federal Regulations is amended as follows:

PART 324—CAPITAL ADEQUACY OF FDIC-SUPERVISED INSTITUTIONS

■ 6. The authority citation for part 324 continues to read as follows:

Authority: 12 U.S.C. 1815(a), 1815(b), 1816, 1818(a), 1818(b), 1818(c), 1818(t), 1819(Tenth), 1828(c), 1828(d), 1828(i), 1828(n), 1828(o), 1831o, 1835, 3907, 3909, 4808; 5371; 5412; Pub. L. 102–233, 105 Stat. 1761, 1789, 1790 (12 U.S.C. 1831n note); Pub. L. 102–242, 105 Stat. 2236, 2355, as amended by Pub. L. 103–325, 108 Stat. 2160, 2233 (12 U.S.C. 1828 note); Pub. L. 102–242, 105 Stat. 2236, 2386, as amended by Pub. L. 102–550, 106 Stat. 3672, 4089 (12 U.S.C. 1828 note); Pub. L. 111–203, 124 Stat. 1376, 1887 (15 U.S.C. 78o-7 note).

■ 7. In § 324.2, revise the definition of ''Eligible guarantee'' to read as follows:

§ 324.2 Definitions.

* * * * *

Eligible guarantee means a guarantee that:

(1) Is written;

(2) Is either:

(i) Unconditional, or

(ii) A contingent obligation of the U.S. government or its agencies, the enforceability of which is dependent upon some affirmative action on the part of the beneficiary of the guarantee or a third party (for example, meeting servicing requirements);

(3) Covers all or a pro rata portion of all contractual payments of the obligated party on the reference exposure;

(4) Gives the beneficiary a direct claim against the protection provider;

(5) Is not unilaterally cancelable by the protection provider for reasons other than the breach of the contract by the beneficiary;

(6) Except for a guarantee by a sovereign, is legally enforceable against the protection provider in a jurisdiction

where the protection provider has sufficient assets against which a judgment may be attached and enforced;

(7) Requires the protection provider to make payment to the beneficiary on the occurrence of a default (as defined in the guarantee) of the obligated party on the reference exposure in a timely manner without the beneficiary first having to take legal actions to pursue the obligor for payment;

(8) Does not increase the beneficiary's cost of credit protection on the guarantee in response to deterioration in the credit quality of the reference exposure;

(9) Is not provided by an affiliate of the FDIC-supervised institution, unless the affiliate is an insured depository institution, foreign bank, securities broker or dealer, or insurance company that:

(i) Does not control the FDIC-supervised institution; and

(ii) Is subject to consolidated supervision and regulation comparable to that imposed on depository institutions, U.S. securities broker-dealers, or U.S. insurance companies (as the case may be); and

(10) For purposes of §§ 324.141 through 324.145 and subpart D of this part, is provided by an eligible guarantor.

* * * * *

Dated: July 15, 2014.

Thomas J. Curry,

Comptroller of the Currency.

By order of the Board of Governors of the Federal Reserve System, July 23, 2014.

Robert deV. Frierson,

Secretary of the Board.

Dated at Washington, DC, this 15th day of July, 2014.

By order of the Board of Directors.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2014–17858 Filed 7–29–14; 8:45 am]

BILLING CODE P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1, 30, and 140

RIN 3038–AD88

Enhancing Protections Afforded Customers and Customer Funds Held by Futures Commission Merchants and Derivatives Clearing Organizations; Correction

AGENCY: Commodity Futures Trading Commission.

ACTION: Correcting Amendments.

SUMMARY: The Commodity Futures Trading Commission (''CFTC'') is correcting final rules published in the **Federal Register** of November 14, 2013 (''final rules''). Those rules, which adopted new regulations and amended existing regulations requiring enhanced customer protections, risk management programs, internal monitoring and controls, capital and liquidity standards, customer disclosures, and auditing and examination programs for futures commission merchants, took effect on January 13, 2014. This correction amends erroneous cross-references found in three sections of the final rules. Additionally, this correction amends one section of the final rules to insert language that was in the proposed rulemaking, and which was stated as being adopted in the preamble to the final rules, but was erroneously omitted from the final rule text.

DATES: Effective on July 30, 2014.

FOR FURTHER INFORMATION CONTACT: Thomas Smith, Deputy Director, 202–418–5495, *tsmith@cftc.gov,* or Mark Bretscher, Attorney-Advisor, 312–596–0529, *mbretscher@cftc.gov,* Division of Swap Dealer and Intermediary Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 14, 2013 (78 FR 68506), the CFTC published final rules adopting new regulations and amending existing regulations requiring enhanced customer protections, risk management programs, internal monitoring and controls, capital and liquidity standards, customer disclosures, and auditing and examination programs for futures commission merchants. Those rules in 17 CFR 1.23(d)(2) and 1.23(d)(3) include erroneous cross-references to 17 CFR 1.23(c)(1) and 1.23(c)(2), which do not exist. Instead, the cross-references should be to 17 CFR 1.23(d)(1) and 1.23(d)(2). Accordingly, the Commission is making a correcting amendment which removes the erroneous cross-references to 17 CFR 1.23(c)(1) and 1.23(c)(2), contained in 17 CFR 1.23(d)(2) and 1.23(d)(3), and replaces them with corrected cross-references to 17 CFR 1.23(d)(1) and 1.23(d)(2).

Further, the final rules in 17 CFR 30.7(g)(4) include an erroneous cross-reference to 17 CFR 30.7(h)(2), which should reference 17 CFR 30.7(l), and an erroneous cross-reference to 17 CFR 30.7(g)(2), which should reference 17 CFR 30.7(g)(3). Also, 17 CFR 30.7(g)(5) contains an erroneous cross-reference to 17 CFR 30.7(c)(1) and 30.7(c)(2), which should reference 30.7(g)(3) and 30.7(g)(4). Thus, the Commission is making a correcting amendment to 17 CFR 30.7(g)(4) and 30.7(g)(5) as discussed above.

Additionally, the final rules in 17 CFR 30.7(d)(1) erroneously omitted language that was contained in the proposed rulemaking published on November 14, 2012;[1] and was stated as having been adopted in the preamble to the final rules.[2] The erroneously omitted language states that a futures commission merchant is not required to obtain an acknowledgment letter from a derivatives clearing organization (''DCO'') if the DCO maintains rules that have been submitted to the Commission and that provide for the segregation of customer funds in accordance with all relevant provisions of the Commodity Exchange Act[3] and Commission regulations. Thus, the Commission is making a correcting amendment to 17 CFR 30.7(d)(1) to rectify that error.

Finally, the final rules in 17 CFR 140.91(a)(12) include an erroneous cross-reference to 17 CFR 140.91(a)(8), which should reference 17 CFR 140.91(a)(12). Thus, the Commission is making a correcting amendment to 17 CFR 140.91(a)(12) that removes the erroneous cross-reference to 17 CFR 140.91(a)(8) and replaces it with a cross-reference to 17 CFR 140.91(a)(12).

List of Subjects

17 CFR Part 1

Brokers, Commodity futures, Consumer protection, Reporting and recordkeeping requirements.

17 CFR Part 30

Commodity futures, Consumer protection, Currency, Reporting and recordkeeping requirements.

17 CFR Part 140

Authority delegations (Government agencies), Organization and functions (Government agencies).

In consideration of the foregoing, 17 CFR parts 1, 30, and 140 are corrected by making the following correcting amendments:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

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

Authority: 7 U.S.C. 1a, 2, 5, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6k, 6l, 6m, 6n, 6o, 6p, 6r, 6s, 7, 7a–1, 7a–2, 7b, 7b–3, 8, 9, 10a, 12,

[1] 77 FR 67866 (November 14, 2012).

[2] *See* 78 FR 68506 at 68578, fn 592.

[3] 7 U.S.C. 1 *et seq.*