

Rules and Regulations

Federal Register

Vol. 88, No. 229

Thursday, November 30, 2023

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

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FEDERAL HOUSING FINANCE AGENCY

12 CFR Part 1240

RIN 2590-AB27

Enterprise Regulatory Capital Framework—Commingle Securities, Multifamily Government Subsidy, Derivatives, and Other Enhancements

AGENCY: Federal Housing Finance Agency.

ACTION: Final rule.

SUMMARY: The Federal Housing Finance Agency (FHFA or the Agency) is adopting a final rule that amends several provisions in the Enterprise Regulatory Capital Framework (ERCF) for the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac, and with Fannie Mae, each an Enterprise). The final rule includes modifications related to guarantees on commingled securities, multifamily mortgage exposures secured by government-subsidized properties, and derivatives and cleared transactions, among other items.

DATES: This final rule is effective on April 1, 2024, except for the amendments to §§ 1240.36, 1240.37, and 1240.39, which are effective on January 1, 2026.

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I. Introduction

On March 13, 2023, FHFA published in the **Federal Register** a notice of proposed rulemaking¹ (proposed rule) seeking comments on amendments to the ERCF² that would modify various regulatory capital requirements for the Enterprises. The proposed rule included modifications related to the following items: guarantees on commingled securities, multifamily mortgage exposures secured by properties with a government subsidy, derivatives and cleared transactions, credit scores for single-family mortgage exposures, guarantee assets, mortgage servicing assets (MSAs), time-based calls for credit risk transfer (CRT) exposures, interest-only (IO) mortgage-backed securities (MBS), the single-family countercyclical adjustment, the stability capital buffer, and the compliance date for the advanced approaches.

FHFA proposed these amendments to implement lessons learned through the continued application of the ERCF and to better reflect the risks faced by the Enterprises in operating their businesses. Regulatory capital requirements that properly account for risk will allow the Enterprises to build

capital to enhance their safety and soundness and protect U.S. taxpayers against financial losses. FHFA is now adopting in this final rule many of the proposed amendments, with minor modifications as discussed in the relevant sections of this preamble. FHFA currently is not adopting the proposed amendment related to calculating the representative credit score for a single-family mortgage exposure when multiple credit scores are present. The amendments in the final rule will bolster the ERCF as it aims to ensure that each Enterprise operates in a safe and sound manner and is positioned to fulfill its statutory mission to provide stability and ongoing assistance to the secondary mortgage market throughout the economic cycle, in particular during periods of financial stress.

II. Overview of the Final Rule

FHFA continuously monitors the risks faced by the Enterprises and reviews the appropriateness of the ERCF's capital requirements and buffers to mitigate those risks. After carefully considering the comments on the proposed rule, FHFA has determined that the amendments in the final rule will enhance the ERCF, contribute to the Enterprises' safety and soundness, and better enable the Enterprises to fulfill their statutory mission throughout the economic cycle. Specifically, the final rule will:

- Reduce the risk weight and credit conversion factor for guarantees on commingled securities to 5 percent and 50 percent, respectively,
- Introduce a risk multiplier of 0.6 for multifamily mortgage exposures secured by properties with certain government subsidies,
- Replace the current exposure methodology (CEM) with the standardized approach for counterparty credit risk (SA-CCR) as the method for computing exposure and risk-weighted asset amounts for derivatives and cleared transactions,
- Update the credit score assumption to 680 for single-family mortgage exposures originated without a representative credit score,
- Introduce a risk weight of 20 percent for guarantee assets,
- Align the timing of the first application of the single-family countercyclical adjustment with the first property value adjustment, and

¹ 88 FR 15306.

² 12 CFR part 1240.

• Delay the compliance date for the advanced approaches to January 1, 2028.

FHFA has also identified several aspects of the ERCF where modifications will clarify and enhance the usefulness of the framework. Therefore, the final rule will also:

- Expand the definition of MSAs to include servicing rights on mortgage loans owned by the Enterprise,
- Explicitly permit eligible time-based call options in the CRT operational criteria, subject to certain restrictions,
- Amend the risk weights for IO MBS to 0 percent, 20 percent, and 100 percent, conditional on whether the security was issued by the Enterprise, the other Enterprise, or a non-Enterprise entity, respectively, and
- Clarify the calculation of the stability capital buffer when an increase and a decrease might be applied concurrently.

III. General Overview of Comments on the Proposed Rule

FHFA received 23 public comment letters on the proposed rule from a variety of interested parties, including private individuals, trade associations, consumer advocacy groups, and financial institutions.³ In general, and as discussed in greater detail in the relevant sections of this preamble, commenters were supportive of FHFA's proposed amendments to the ERCF.

One commenter recommended that FHFA consider climate-related financial risks in relation to most topics covered in the proposed rule. FHFA recognizes that climate change poses a serious threat to the U.S. housing finance system and the Agency has been actively working to ensure that its regulated entities are accounting for the risks associated with climate change and natural disasters.⁴ Outside of this rulemaking, FHFA will continue to evaluate how the ERCF can better account for climate-related financial risks.

In addition to the feedback FHFA received on elements of the proposed rule, FHFA also received comments on many issues that are outside the scope of this rulemaking. In these letters,

³ See comments on Enterprise Regulatory Capital Framework—Commingle Securities, Multifamily Government Subsidy, Derivatives, and Other Enhancements, available at <https://www.fhfa.gov/SupervisionRegulation/Rules/Pages/Comment-List.aspx?RuleID=754>. The comment period for the proposed rule closed on May 12, 2023.

⁴ More information on the steps FHFA has taken to evaluate and address climate-related risks can be found on FHFA's website, available at <https://www.fhfa.gov/PolicyProgramsResearch/Programs/Pages/Climate-Change-and-ESG.aspx>.

commenters offered views on important topics such as single-family and multifamily base risk weights, a multifamily countercyclical adjustment, a risk multiplier for multifamily senior housing, defeased loans, early redemption features in senior-subordinated CRT structures, the CRT risk-weight floor, the calculation of the stability capital buffer, the commingling fee, pricing for single-family loans originated by third-parties, the alternative credit score implementation timeline, and the Enterprises' exits from conservatorships. FHFA acknowledges the importance of these topics and will thoroughly consider the public's feedback on these issues when relevant rulemakings and policy decisions are under consideration.

IV. Final Rule Requirements

A. Guarantees on Commingled Securities

The proposed rule would reduce the risk weight under the standardized approach for guarantees on commingled securities from 20 percent to 5 percent and the credit conversion factor for guarantees on commingled securities from 100 percent to 50 percent. A commingled security is a security issued by one Enterprise that is backed, in whole or in part, by collateral issued by the other Enterprise, subject to certain restrictions. FHFA posited that the 20 percent risk weight and 100 percent credit conversion factor for guarantees on commingled securities may not accurately reflect the counterparty risks posed by commingling activities and in certain circumstances may impair the liquidity of the Enterprises' securities, which may adversely affect the nation's housing finance market.

Many commenters supported FHFA's proposal to lower the risk weight and credit conversion factor for guarantees on commingled securities. Several commenters supported the proposed 5 percent risk weight and 50 percent credit conversion factor. Others expressed the view that guarantees on commingled securities should have a risk weight and credit conversion factor lower than 5 percent and 50 percent, respectively, stating that lower capital requirements would enhance the liquidity of the common MBS known as the Uniform Mortgage-Backed Security (UMBS) and foster the stability and liquidity of the secondary mortgage market. Several commenters recommended that FHFA eliminate all capital requirements for guarantees on commingled securities, suggesting that any provisions in the ERCF that might deter commingling activity by hindering

the fungibility of the Enterprises' MBS or by driving commingling fees should be removed. One commenter opposed any non-zero risk weight because in the commenter's view, it results in a double capital charge on the securities underlying the UMBS, as each Enterprise is already required to hold capital for the underlying securities it guarantees.

The final rule adopts FHFA's proposal to reduce the risk weight for guarantees on commingled securities from 20 percent to 5 percent and the credit conversion factor for guarantees on commingled securities from 100 percent to 50 percent. FHFA is adopting a non-zero risk weight and a non-zero credit conversion factor because a key tenet of the ERCF is that all exposures with risk, however small, are capitalized. The Enterprises' obligations do not have an unlimited explicit guarantee of the full faith and credit of the United States, despite the current support of the U.S. Department of the Treasury under the senior preferred stock purchase agreements (PSPAs). Therefore, the counterparty credit risk arising from guarantees on commingled securities is unique to the guaranteeing Enterprise and is not a double counting of the borrower credit risk on the underlying mortgage exposures.

FHFA is retaining the 5 percent risk weight as proposed because the credit exposures arising out of these guarantees and the resultant losses an Enterprise would experience from commingled securities would likely occur in remote circumstances through sustained catastrophic levels of loss after the other Enterprise has exhausted its loss-absorbing financial resources. FHFA will continue to monitor the impact of a non-zero risk weight on the performance of the UMBS in keeping with the intent and purpose of the Single Security Initiative. Conceptually, the risk weight for guarantees on commingled securities in the final rule aligns with the risk-weight floor for retained CRT exposures. In addition, the final rule's 50 percent credit conversion factor for guarantees on commingled securities aligns with the prevailing regulatory capital treatment for off-balance sheet undrawn commitments with an original maturity of more than one year that are not unconditionally cancelable by the Enterprise.

B. Multifamily Government Subsidy Risk Multiplier

The proposed rule would introduce a risk multiplier under the standardized approach equal to 0.6 for any multifamily mortgage exposures secured by one or more properties each with at

least one applicable government subsidy, subject to certain affordability criteria. Under the proposed rule, the applicable government subsidies would be limited to the following three primary subsidy programs: (i) Low-Income Housing Tax Credit (LIHTC),⁵ (ii) Section 8 project-based rental assistance, and (iii) State and local affordable housing programs that require the provision of affordable housing for the life of the loan. A multifamily mortgage exposure meeting the collateral criteria would qualify for the 0.6 risk multiplier if the Enterprise can verify that each property securing the exposure has at least 20 percent of its units restricted as affordable units, where the affordability restriction means the income of the renter is less than or equal to 80 percent of area median income (AMI).

The current rule does not differentiate between multifamily mortgage exposures secured by properties with a government subsidy and by properties without a government subsidy. Properties with government subsidies represent an important segment of the Enterprises' multifamily business models, and as part of the annual acquisition limits, FHFA directs the Enterprises to meet specific affordable housing or mission goals by acquiring multifamily loans collateralized by properties that charge rents affordable to certain segments of the population with specified income levels. Affordable property units are available to renters at a rental rate below the typical market rate, leading to generally strong demand for affordable property units and therefore to relatively stable vacancy rates.

Many commenters expressed support for FHFA's proposal to introduce a government subsidy risk multiplier to reflect that multifamily mortgage exposures associated with government-subsidized properties are less risky than those associated with unsubsidized properties, all else equal. Many commenters supported the 0.6 risk multiplier as proposed, while a few commenters recommended that FHFA adopt a multiplier smaller than 0.6. One commenter recommended that FHFA consider a pro-rated risk multiplier scaled between 0.6 and 1.0 when a multifamily mortgage exposure is secured by multiple properties and

some but not all of the properties have an applicable government subsidy.

One commenter recommended that FHFA require an Enterprise to measure the percentage of affordable units at each property only at acquisition rather than on a quarterly basis, which the commenter understood was FHFA's intent, to avoid operational constraints and be consistent with the application of the housing goals regulation. Multiple commenters recommended that FHFA expand the affordability criteria to allow for exceptions in high-cost and very-high-cost markets. For example, one commenter suggested that an 80 percent of AMI threshold could be used in standard markets, while thresholds of 100 percent of AMI and 120 percent of AMI could be used high-cost and very-high-cost markets, respectively. Several commenters recommended that FHFA expand the list of applicable government subsidies, with suggested additions including the rural rental housing program under Section 515 of the Housing Act of 1949 (Section 515 Rural Rental Housing Loans), Fannie Mae's Sponsor-Initiated Affordability (SIA) and Freddie Mac's Tenant Advancement Commitment (TAC) programs, block grant programs such as HOME Investment Partnerships or Community Development Block Grants, and tax-exempt private activity bonds used for multifamily housing.

The final rule adopts a multifamily government subsidy risk multiplier that is scaled between 0.6 and 1.0 depending on the properties securing the multifamily mortgage exposure. When some but not all properties securing a multifamily mortgage exposure have an applicable government subsidy, each property with an applicable government subsidy will receive a property multiplier of 0.6 and each property without an applicable government subsidy will receive a property multiplier of 1.0, and the government subsidy risk multiplier for the multifamily mortgage exposure will be calculated as a weighted average of the property multipliers using the total number of units per building as weights.

In addition, the final rule adopts the affordability criteria and list of applicable government subsidies substantially as proposed, with the addition of Section 515 Rural Rental Housing Loans as an applicable government subsidy. Section 515 Rural Rental Housing Loans are direct loans made by the United States Department of Agriculture (USDA) to finance affordable rental housing for low- to moderate-income (50 percent to 80 percent of AMI) renters in rural communities. This program is analogous

to Section 8 project-based rental assistance, and as with LIHTC and Section 8, affordability is required for the life of the loan and accompanied by a use restriction. For these reasons, the final rule includes Section 515 Rural Housing Loans as an applicable government subsidy.

To ensure that the applicable subsidy programs meet the affordability criteria without creating ongoing compliance and operational burdens for the Enterprises, the final rule requires that at least 20 percent of the property's units are restricted to be affordable units *per a regulatory agreement, recorded use restriction, a housing-assistance payments contract, or other restrictions codified in loan agreements*. Each program included in the list of applicable government subsidies has its own requirements that ensure the subsidies are significant, long-term, and continuous. By requiring the affordability criteria to be included in contractual provisions, FHFA believes it is not necessary for the final rule to specify that the percentage of affordable units be measured only at acquisition. FHFA expects an Enterprise to validate that a property is receiving a valid government subsidy at acquisition in order for the multifamily mortgage exposure secured by that property to receive a government subsidy risk multiplier less than 1.0, and subsequently not to undertake additional compliance exercises on top of what is required by the subsidy programs themselves.

The final rule does not include a government subsidy risk multiplier less than 0.6. In a data-driven exercise, FHFA determined that a 40 percent decrease in regulatory capital appropriately captures the lower credit risk associated with multifamily mortgage exposures secured by properties with a significant, long-term, and continuous government subsidy. The final rule does not include exceptions for high-cost and very-high-cost markets in order to mitigate the operational complexity of applying the government subsidy risk multiplier, as rental costs and income levels within metro areas change over time.

Finally, the final rule does not include the Enterprises' voluntary rent restriction programs (SIA and TAC), block grant programs, or tax-exempt private activity bonds as applicable government subsidies. While these programs do often support affordable housing and provide benefits to lenders, FHFA sought to include as applicable government subsidies programs administered by the Federal or a State government that span most of the

⁵ Section 42 of the Internal Revenue Code (26 U.S.C.A. § 42); 26 CFR 1.42 (Treasury regulations); each State agency's qualified allocation plan, regulations and compliance manual, along with a list of State and local LIHTC-allocating agencies, can be found at <https://www.huduser.gov/portal/datasets/lihtc.html>.

Enterprises' affordable businesses and that have significant performance data available. Many of the additional programs identified by commenters as recommended inclusions are either non-governmental, are used as a layer in a financing stack in conjunction with an already applicable government subsidy, do not have performance data readily available for FHFA to assess, or are not specifically oriented to the creation or preservation of affordable rental housing.

C. Derivatives and Cleared Transactions

The proposed rule would require an Enterprise to calculate risk-weighted assets for the standardized approach based on the exposure amounts of its over-the-counter (OTC) derivative contracts, cleared derivative contracts, and contributions of commitments to mutualized loss sharing agreements with central counterparties (*i.e.*, default fund contributions) calculated using SA-CCR. The proposed rule would also require an Enterprise to use these same exposure amounts for inclusion in adjusted total assets. The current regulation requires an Enterprise to use the CEM to determine the exposure amounts of its OTC derivative contracts and cleared derivative contracts and the risk-weighted assets amounts of its default fund contributions.

The proposed rule would require an Enterprise to apply SA-CCR in the following ways:

1. Netting Sets

The proposed rule would require an Enterprise to calculate the exposure amount of its derivative contract at the netting set level. The proposed rule would define a netting set to mean either one derivative contract between an Enterprise and a single counterparty, or a group of derivative contracts between an Enterprise and a single counterparty that are subject to a qualifying master netting agreement (QMNA).

2. Hedging Sets

To calculate potential future exposure (PFE), the proposed rule would require an Enterprise to fully or partially net derivative contracts within the same netting set that share similar risk factors. This approach would recognize that derivative contracts with similar risk factors share economically meaningful relationships with close correlations that make netting appropriate.

Under SA-CCR, a hedging set means those derivative contracts within the same netting set that share similar risk factors. The proposed rule would define five types of hedging sets—interest rate,

exchange rate, credit, equity, and commodities—and would provide formulas for netting within each hedging set. Each formula would be particular to each hedging set type and would reflect the regulatory correlation assumptions between risk factors in the hedging set.

3. Derivative Contract Amount for the PFE Component Calculation

The proposed rule would require an Enterprise to use an adjusted derivative contract amount for the PFE component calculation under SA-CCR. However, as part of the estimate, SA-CCR would use updated supervisory factors that reflect the stress volatilities observed during the financial crisis. The supervisory factors would reflect the variability of the primary risk factors of the derivative contract over a one-year time horizon. In addition, SA-CCR would apply a separate maturity factor to each derivative contract that would scale down, if necessary, the default one-year risk horizon of the supervisory factor to the risk horizon appropriate for the derivative contract.

4. Collateral Recognition and Differentiation Between Margined and Unmargined Derivative Contracts

Under the proposed rule, SA-CCR would account for collateral directly within the exposure amount calculation. For replacement cost, the proposed rule would recognize collateral on a one-for-one basis. For PFE, SA-CCR would use the concept of a PFE multiplier, which would allow an Enterprise to reduce the PFE amount through recognition of over-collateralization, in the form of both variation margin and independent collateral. It would also account for negative fair value amounts of the derivative contracts within the netting set. In addition, the proposed rule would differentiate between margined and unmargined derivative contracts, such that the netting set subject to variation margin would always have an exposure amount no higher than an equivalent netting set that is not subject to a variation margin agreement.

To accommodate the introduction of the SA-CCR into the ERCF's standardized approach, the proposed rule would make a series of corresponding modifications, including adding appropriate defined terms to ERCF's definitions and updating the calculation of total risk-weighted assets. Notably, the proposed rule would replace the current requirements for cleared transactions (12 CFR 1240.37) and collateralized transactions (12 CFR 1240.39) with modified requirements from the U.S. banking framework's

advanced approaches (12 CFR 217.133 and 12 CFR 217.132(b)). As a result, the proposed rule's requirements for cleared transactions would reflect the U.S. banking framework's risk weights on cleared transactions and risk-weighted assets on default fund contributions. The proposal would omit exposure calculations related to internal model methodology to reduce reliance on the Enterprises' internal model results.

The proposed rule would maintain the current collateral haircut approach and standard supervisory haircuts for collateralized transactions. However, the proposed rule would remove the current simple approach and add the U.S. banking framework's simple value-at-risk (VaR) methodology.

The proposed rule would also add credit valuation adjustment (CVA) risk-weighted assets to the calculation of standardized total risk-weighted assets. The CVA is a fair value adjustment that reflects counterparty credit risk in the valuation of OTC derivative contracts. CVA risk-weighted assets cover the risk of incurring mark-to-market losses because of the deterioration in the creditworthiness of an Enterprise's counterparties. The proposed rule would include the U.S. banking framework's formulaic simple CVA approach but not the advanced CVA approach to reduce reliance on the Enterprises' internal model results.

Two commenters supported FHFA's proposal to replace CEM with SA-CCR, with certain revisions. Both commenters recommended an implementation timeline of no less than 24 months due to the complexity of implementing SA-CCR and to be generally consistent with the transition period offered to large U.S. banking organizations when they implemented similar financial regulatory reforms.⁶ One commenter recommended that FHFA provide optionality allowing an Enterprise to use either CEM or SA-CCR after any regulatory transition period. The commenter stated that Enterprise derivative portfolios more closely resemble the derivative portfolios of U.S. banking organizations subject to the standardized approach than those subject to the advanced approaches, so CEM might be more appropriate.

The final rule adopts the requirements that an Enterprise must determine the exposure amounts of its OTC derivative contracts, cleared derivative contracts, and default fund contributions, for use in calculating risk-weighted assets under the standardized approach and adjusted total assets, using SA-CCR substantially as proposed, with a

⁶ See 85 FR 4362 (Jan. 24, 2020).

transition period resulting in an effective date of January 1, 2026. FHFA continues to believe that relative to CEM, SA-CCR provides important improvements to risk sensitivity and calibration, including by differentiating between margined and unmargined derivative contracts and recognizing the benefits of netting agreements, resulting in more appropriate capital requirements for derivative contracts. The final rule also adopts the requirement to add CVA risk-weighted assets to the calculation of standardized total risk-weighted assets.

FHFA agrees with commenters that a 24-month transition period will allow the Enterprises a suitable amount of time to update their systems and processes to implement SA-CCR. During the transition period, the Enterprises must continue to use CEM to calculate exposure amounts for derivatives and cleared transactions, as provided in prior §§ 1240.36, 1240.37, and 1240.39.⁷ On January 1, 2026, an Enterprise must calculate exposure amounts for derivatives and cleared transactions using SA-CCR as detailed in this §§ 1240.36, 1240.37, and 1240.39.

Regarding the commenter's suggestion to make SA-CCR an optional requirement, although the Enterprises' derivatives portfolios are relatively uncomplicated today, that may not be the case after the Enterprises exit their conservatorships. Furthermore, in constructing the ERCF, FHFA has consistently developed requirements similar to those applicable to banking organizations subject to the advanced approaches rather than those subject to the standardized approach. For example, the ERCF includes a stability capital buffer (analogous to surcharge for global systemically important banks), a leverage buffer, market risk capital requirements, and operational risk capital requirements, none of which are applicable to banking organizations subject to the standardized approach. Following this reasoning, and to limit certain capital arbitrage opportunities between Enterprises and between the Enterprises and large banking organizations, the final rule does not include CEM as an option for calculating regulatory capital ratios after the transition period.

D. Original Credit Scores for Single-Family Mortgage Exposures Without a Representative Original Credit Score

The proposed rule would require an Enterprise to assign an original credit score of 680 under the standardized

approach to a single-family mortgage exposure without a permissible credit score at origination (unscored), subject to Enterprise verification that none of the borrowers have a credit score at one of the repositories. The current regulation requires an Enterprise to assign a credit score of 600 to any single-family mortgage exposure that is unscored. The current regulation's conservative assignment places single-family mortgage exposures with unscored borrowers in the lowest possible ERCF credit score buckets across the single-family base grids, implying the highest level of risk.

Four commenters expressed full support for FHFA's proposal to increase the assigned original credit score for unscored single-family mortgage exposures from 600 to 680. Therefore, to reflect post-crisis improvements in regulatory, underwriting, and lending standards, as well as the recent inclusions of positive rental payment histories in the Enterprises' automated underwriting systems,⁸ the final rule adopts the requirement to assign an original credit score of 680 to unscored single-family mortgage exposures without a permissible credit score, subject to Enterprise verification that none of the borrowers have a credit score at one of the repositories, as proposed.

E. Guarantee Assets

The proposed rule would introduce a 20 percent risk weight under the standardized approach for an Enterprise's guarantee assets. A guarantee asset is an on-balance sheet asset that represents the present value of a future consideration for providing a financial guarantee on a portfolio of mortgage exposures not recognized on the balance sheet. Examples of such off-balance sheet exposures include, but are not limited to, Freddie Mac's multifamily K-deals, Fannie Mae's multifamily bond credit enhancements, and certain single-family guarantee arrangements without securitization. The current ERCF does not include an explicit risk weight for guarantee assets. As an "other asset" not specifically assigned a different risk weight, an Enterprise is currently required to

⁸ In August 2021, FHFA announced that to expand access to credit in a safe and sound manner, Fannie Mae would begin to consider rental payment history as part of its mortgage underwriting processes (<https://www.fhfa.gov/mobile/Pages/public-affairs-detail.aspx?PageName=FHFA-Announces-Inclusion-of-Rental-Payment-History-in-Fannie-Maes-Underwriting-Process.aspx>). In July 2022, Freddie Mac made a similar announcement (<https://freddiemac.gcs-web.com/news-releases/news-release-details/freddie-mac-takes-further-action-help-renters-achieve>).

assign a 100 percent risk weight (§ 1240.32(i)(5)) to guarantee assets.

One commenter supported FHFA's proposed 20 percent credit risk weight for guarantee assets. In addition, in response to a question posed in the proposed rule, the commenter recommended that FHFA not include guarantee assets in the definition of covered positions subject to market risk capital requirements. The commenter expressed the view that because guarantee assets are not positions held for the purpose of short-term resale or with the intent of benefitting from short-term price movements, the positions do not contribute to an Enterprise's interest rate risk.

The final rule adopts the risk weight of 20 percent for guarantee assets as proposed. In addition, and in consideration of the feedback FHFA received, the final rule does not include guarantee assets in the definition of covered positions subject to market risk capital requirements.

F. Mortgage Servicing Assets

The proposed rule would modify the definition of MSAs to include the contractual right to service any mortgage loans, regardless of the owner of the loan at the time the servicing rights are acquired. Currently, the ERCF defines an MSA as the contractual right to service for a fee mortgage loans that are owned by *others*. Therefore, this definition omits MSAs created when an Enterprise acquires servicing rights on mortgage loans already owned by the Enterprise, bifurcating the capital treatment for MSAs by the owner of the underlying loans.

One commenter supported FHFA's proposal to expand the definition of MSA to include servicing rights on mortgage loans owned by the acquiring Enterprise. No commenters raised objections or provided alternative recommendations to the proposal. The final rule adopts the definition of MSA as proposed.

G. Time-Based Calls for CRT Exposures

The proposed rule would amend the ERCF to permit eligible time-based calls for CRT exposures under the standardized approach, defining an eligible time-based call as a time-based call that:

(i) Is exercisable solely at the discretion of the issuing Enterprise, and with a non-objection letter from FHFA prior to being exercised;

(ii) Is not structured to avoid allocating losses to securitization exposures held by investors or otherwise structured to provide at most

⁷ See 85 FR 82150 (Dec. 17, 2020).

de minimis credit protection to the securitization; and

(iii) Is only exercisable five years after the securitization exposure's issuance date.

Under the current regulation, time-based calls, which are integral to the Enterprises' credit risk management and are routinely used by the Enterprises to manage CRT economics, are not explicitly included as eligible clean-up calls in the credit risk transfer approach.⁹

Three commenters supported FHFA's proposal to permit eligible time-based calls for CRT exposures. One commenter recommended that FHFA modify the proposed definition of time-based calls to be a contractual provision that permits an originating Enterprise to redeem a securitization *or credit risk transfer* exposure on or after a specified redemption or cancellation date to clarify FHFA's intent that eligible time-based calls will be permitted for all CRT exposures. While this is FHFA's intent, the Agency believes that the proposed definition without the phrase "or credit risk transfer" is sufficient because the definition of a securitization exposure in § 1240.2 explicitly includes both retained CRT and acquired CRT exposures. Further, the proposed rule would only modify the operational criteria for credit risk transfers (§ 1240.2(c)), implying that the only securitization exposures that would be affected by the amendment are CRT exposures. One commenter recommended that FHFA modify proposed restriction (i) to be "is exercisable no less than five years after the securitization or credit risk transfer issuance *or effective date*," because the commenter expressed the view that adding "or effective date" would clarify FHFA's intent that eligible time-based calls will be permitted for CRT that do not involve securitizations, such as reinsurance transactions. Finally, one commenter recommended that for CRT involving single-family mortgage exposures with terms less than or equal to 20 years, the proposed five-year exercise restriction be shortened to four years.

The final rule adopts the ERCF amendment permitting eligible time-based calls for CRT exposures substantially as proposed, with revisions reflecting two commenter suggestions. First, the final rule adopts the suggested clarification that an eligible time-based call is one that is exercisable no less than a certain number of years after the securitization or CRT issuance *or effective date*. This

revision reflects FHFA's intent that eligible time-based calls will be permitted for CRT that do not involve securitizations. Second, the final rule adopts the suggested modification to shorten the exercise restriction for CRT involving single-family mortgage exposures with terms less than or equal to 20 years to no less than four years after the CRT issuance or effective date. This revision reflects the risk reduction associated with the faster amortization of shorter-term loans relative to longer-term loans.

H. Interest-Only Mortgage-Backed Securities

The proposed rule would clarify that, under the standardized approach, an Enterprise must assign a zero percent risk weight to an IO MBS issued and guaranteed by the Enterprise, a 20 percent risk weight to an IO MBS issued and guaranteed by the other Enterprise, and a 100 percent risk weight to an IO MBS issued by a non-Enterprise entity. Currently, the ERCF contains conflicting requirements that an Enterprise must assign a zero percent risk weight to any MBS guaranteed by the Enterprise (other than any retained CRT exposure), but also that the risk weight for a non-credit-enhancing IO MBS must not be less than 100 percent.

One commenter supported FHFA's proposal to amend the risk weights for IO MBS to clarify which risk weight must be applied when an IO MBS is issued and guaranteed by the Enterprise versus when an IO MBS is issued by a non-Enterprise entity. No commenters raised objections or provided alternative recommendations to the proposal. The final rule adopts the updated IO MBS risk weights as proposed.

I. Single-Family Countercyclical Adjustment

The proposed rule would require under the standardized approach an Enterprise to apply to a single-family mortgage exposure's loan-to-value ratio (LTV) the first single-family countercyclical adjustment simultaneously with the first property value adjustment, six months after acquisition. Currently, an Enterprise is required to apply the first single-family countercyclical adjustment after acquisition without delay, while the Enterprise is required to apply the first property value adjustment after a six-month delay to allow for a rate of change to be computed following the quarterly release of FHFA's Purchase-only State-level House Price Index.

One commenter supported FHFA's proposal to align the timing between the application of the first single-family

countercyclical adjustment and the first property value adjustment. However, the commenter recommended that both adjustments be applied immediately rather than after a six-month delay. The commenter did not provide analytical support for this recommendation.

The final rule adopts the timing adjustment to the application of the first single-family countercyclical adjustment as proposed. FHFA believes this modification will reduce the volatility in the capital requirement for a single-family mortgage exposure over the first six months after origination and mitigate the incentive for the Enterprises to delay acquiring credit protection.

J. Stability Capital Buffer

The proposed rule would clarify that if an increase and decrease in the stability capital buffer are scheduled for the same date, the Enterprise should rely on the more recent data and implement the decrease, disregarding the increase. Under the ERCF, increases in the stability capital buffer are implemented with a two-year delay, while decreases are implemented with a one-year delay. This delay difference potentially creates a situation where an increase and a decrease in the stability capital buffer are scheduled to become effective at the same time.

One commenter supported FHFA's proposed clarification to the calculation of the stability capital buffer. No commenters raised objections or provided alternative recommendations to the proposal. The final rule adopts the clarification as proposed.

K. Advanced Approaches

The proposed rule would extend the compliance date for an Enterprise's advanced approaches from January 1, 2025, to January 1, 2028. The ERCF's advanced approaches for determining risk-weighted assets rely on an Enterprise's internal models, and require an Enterprise to maintain its own processes for identifying and assessing credit, market, and operational risk. They are intended to ensure that an Enterprise continues to enhance its risk management and analytical systems and not rely solely on its regulator's views on risk tolerance, risk measurement, and capital allocation.

Commenters fully supported FHFA's proposal to extend the compliance date of the advanced approaches. One commenter expressed the view that the advanced approaches are exceptionally burdensome and undermine the capital visibility provided by the ERCF's standardized approach.

⁹ 12 CFR 1240.44.

The final rule extends the compliance date for an Enterprise's advanced approaches to January 1, 2028, as proposed. In the proposed rule, FHFA discussed how U.S. banking regulators were signaling potential changes in the U.S. banking framework that would further strengthen capital rules by reducing reliance on internal bank models. To this end, the OCC, Federal Reserve Board, and the Federal Deposit Insurance Corporation (FDIC) recently issued a notice of proposed rulemaking¹⁰ that would substantially revise the regulatory capital framework for banking organizations with total assets of \$100 billion or more and banking organizations with significant trading activity, including by replacing the advanced approaches with a new expanded risk-based approach.

V. Representative Credit Scores for Single-Family Mortgage Exposures

FHFA currently is not adopting the proposed modification to the procedure for selecting a representative credit score for a single-family mortgage exposure when multiple credit scores have been submitted for at least one borrower. The proposed methodology would have required an Enterprise to use an average credit score for each borrower whenever multiple scores are present as opposed to the current methodology which requires an Enterprise to select the median borrower credit score when three scores are present or the lower borrower credit score when two scores are present.

FHFA proposed this modification to prevent a downward shift in representative credit scores under the current methodology once the Enterprises require a minimum of two, rather than three, credit reports (bi-merge credit score requirement) from the repositories.¹¹ While the implementation date for the bi-merge credit score requirement has yet to be announced, the proposed modification would have positioned the Enterprises to account for the new requirement upon implementation.

Many commenters supported FHFA's proposal to modify the current procedure for selecting a representative credit score for single-family mortgage exposures. However, other commenters expressed concern over the proposed change. Several commenters stated that

it is difficult or impossible to evaluate the proposed change without additional data and when the eventual effects of the bi-merge credit score requirement and the transition to alternative credit scores are not yet known. Others expressed concern that changes to the ERCF could lead to policy changes at the Enterprises that would front-run the implementation of the bi-merge credit score requirement and the transition to alternative credit scores. FHFA also received a number of comments on the bi-merge credit score requirement and on the use of alternative credit scores more generally, but those initiatives are outside the scope of this rulemaking.

One commenter provided empirical support for FHFA's proposal to use the average credit score when multiple scores are present rather than the median/lower score. However, the commenter also suggested that FHFA should require a third score when the two submitted scores are more than 30 points apart to minimize the impact of outliers. In addition, the commenter requested further analysis on, among other things, the potential impact of the bi-merge credit score requirement on race, gender, and geographic location for high-LTV loans with bi-merge representative credit scores greater than or equal to 10 points higher or lower than the score derived under the tri-merge process. Several commenters expressed the view that they could not comment on the appropriateness of the representative credit score proposal until FHFA or the Enterprises released additional data on the bi-merge credit score requirement under Classic FICO scores and under the new alternative credit scoring models. Several commenters also expressed criticism that FHFA's analysis only considered Classic FICO scores, suggesting that the results of the analysis might differ after the Enterprises begin accepting alternative credit scores.

FHFA proposed this narrow change to the calculation of a representative credit scores to prepare the ERCF for the eventual transition to the bi-merge credit score requirement. In March 2023, FHFA and the Enterprises announced plans for stakeholder input on proposed milestones as the Enterprises work to replace the Classic FICO credit score model with the FICO 10T and the VantageScore 4.0 credit score models and transition from the tri-merge requirement to the bi-merge requirement.¹² In September 2023,

FHFA announced additional opportunities for ongoing public engagement to facilitate the transition to updated credit score models and credit report requirements for loans acquired by the Enterprises, and also that the Agency expects the implementation date for the bi-merge requirement to occur later than the first quarter of 2024, as was initially proposed.¹³ In consideration of the delayed implementation date for the bi-merge requirement and the ongoing public engagement related to credit scores, FHFA has determined to not adopt the proposed change to the calculation of representative credit scores at this time.

FHFA may, in the future, finalize this aspect of the proposed rule. The Agency's options for doing so include adopting the changes substantially as proposed without another notice and comment period, reopening the comment period for the proposed change, or reproposing this item in another notice of proposed rulemaking.

VI. Effective Dates

Under the rule establishing the ERCF published on December 17, 2020, an Enterprise will not be subject to any requirement in the ERCF until the compliance date for the requirement as detailed in the ERCF. The effective date for the ERCF was February 16, 2021. With the exception of the amendments related to derivatives and cleared transactions, the effective date for the amendments in this final rule will be April 1, 2024. The effective date for the amendments implementing SA-CCR and for the other amendments to §§ 1240.36, 1240.37, and 1240.39 will be January 1, 2026.

VII. Paperwork Reduction Act

The Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*) requires that regulations involving the collection of information receive clearance from the Office of Management and Budget (OMB). The final rule contains no such collection of information requiring OMB approval under the PRA. Therefore, no information has been submitted to OMB for review.

VIII. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) requires that a regulation that has a significant economic impact on a substantial number of small entities, small businesses, or small organizations must include an initial regulatory flexibility

¹⁰ See 88 FR 64028 (Sept. 18, 2023).

¹¹ FHFA Announces Validation of FICO 10T and VantageScore 4.0 for Use by Fannie Mae and Freddie Mac | Federal Housing Finance Agency, available at <https://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Announces-Validation-of-FICO10T-and-Vantage-Score4-for-FNM-FRE.aspx>.

¹² See <https://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Announces-Public-Engagement-Process-for-Implementation-of-Updated-Credit-Score-Requirements.aspx>.

¹³ See <https://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Announces-Next-Phase-of-Public-Engagement-Process-for-Updated-Credit-Score-Requirements.aspx>.

analysis describing the regulation's impact on small entities. FHFA need not undertake such an analysis if the agency has certified that the regulation will not have a significant economic impact on a substantial number of small entities (5 U.S.C. 605(b)). FHFA has considered the impact of the final rule under the RFA. FHFA certifies that the final rule will not have a significant economic impact on a substantial number of small entities because the final rule is applicable only to the Enterprises, which are not small entities for purposes of the RFA.

IX. Congressional Review Act

In accordance with the Congressional Review Act (5 U.S.C. 801 *et seq.*), FHFA has determined that this final rule is a major rule and has verified this determination with the Office of Information and Regulatory Affairs of OMB.

List of Subjects for 12 CFR Part 1240

Capital, Credit, Enterprise, Investments, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, under the authority of 12 U.S.C. 4511, 4513, 4513b, 4514, 4515–17, 4526, 4611–4612, 4631–36, FHFA amends part 1240 of subchapter C of title 12 of the Code of Federal Regulations chapter XII, as follows:

PART 1240—CAPITAL ADEQUACY OF ENTERPRISES

■ 1. The authority citation for part 1240 continues to read as follows:

Authority: 12 U.S.C. 4511, 4513, 4513b, 4514, 4515, 4517, 4526, 4611–4612, 4631–36.

■ 2. Effective April 1, 2024, amend § 1240.2 by:

■ a. Revising paragraphs (1) through (3) in the definition of “Adjusted total assets”;

■ b. Adding in alphabetical order definitions for “Backtesting,” “Basis derivative contract,” “Commercial end-user,” “Commingled security,” “Credit default swap,” and “Credit valuation adjustment”;

■ c. Removing the definitions of “Current exposure” and “Current exposure methodology”;

■ d. Adding in alphabetical order a definition for “Eligible time-based call”;

■ e. In the definition of “Exposure amount”:

■ i. In paragraph (1), removing the words “; an OTC derivative contract” and adding in their place the words “(other than an OTC derivative contract”;

■ ii. In paragraph (3), adding the words “or exposure at default (EAD)” after the word “amount”;

■ f. Revising paragraph (2) in the definition of “Financial collateral”;

■ g. Adding in alphabetical order definitions for “Guarantee asset” and “Independent collateral”;

■ h. Revising the definition of “Mortgage servicing assets (MSAs)”;

■ i. Adding in alphabetical order a definition for “Net independent collateral amount”;

■ j. Revising the definition of “Netting set”;

■ k. Adding in alphabetical order definitions for “Qualifying cross-product master netting agreement” and “Speculative grade”;

■ l. In the definition of “Standardized total risk-weighted assets”, redesignating paragraphs (1)(vi) and (1)(vii) as paragraphs (1)(vii) and (1)(viii), adding new paragraph (1)(vi), and revising newly designated paragraph (i)(viii); and

■ m. Adding in alphabetical order definitions for “Sub-speculative grade”, “Time-based call”, “Uniform Mortgage-backed Security”, “Value-at-Risk”, “Variation margin”, “Variation margin amount”, and “Volatility derivative contract”.

The revisions and additions read as follows:

§ 1240.2 Definitions.

* * * * *

Adjusted total assets * * *

(1) The balance sheet carrying value of all of the Enterprise's on-balance sheet assets, plus the value of securities sold under a repurchase transaction or a securities lending transaction that qualifies for sales treatment under Generally Accepted Accounting Principles (GAAP), less amounts deducted from tier 1 capital under § 1240.22(a), (c), and (d), and less the value of securities received in security-for-security repo-style transactions, where the Enterprise acts as a securities lender and includes the securities received in its on-balance sheet assets but has not sold or re-hypothecated the securities received, less the fair value of any derivative contracts;

(2)(i) The potential future exposure (PFE) for each netting set to which the Enterprise is a counterparty (including cleared transactions except as provided in paragraph (9) of this definition and, at the discretion of the Enterprise, excluding a forward agreement treated as a derivative contract that is part of a repurchase or reverse repurchase or a securities borrowing or lending transaction that qualifies for sales treatment under GAAP), as determined under § 1240.36(c)(7), in which the term C in § 1240.36(c)(7)(i) equals zero, and, for any counterparty that is not a

commercial end-user, multiplied by 1.4. For purposes of this paragraph, an Enterprise may set the value of the term C in § 1240.36(c)(7)(i) equal to the amount of collateral posted by a clearing member client of the Enterprise in connection with the client-facing derivative transactions within the netting set; and

(ii) An Enterprise may choose to exclude the PFE of all credit derivatives or other similar instruments through which it provides credit protection when calculating the PFE under § 1240.36(c), provided that it does so consistently over time for the calculation of the PFE for all such instruments;

(3)(i)(A) The replacement cost of each derivative contract or single product netting set of derivative contracts to which the Enterprise is a counterparty, calculated according to the following formula, and, for any counterparty that is not a commercial end-user, multiplied by 1.4:

$$\text{Replacement Cost} = \max\{V - CVM_r + CVM_p, 0\}$$

Where:

(1) V equals the fair value for each derivative contract or each single-product netting set of derivative contracts (including a cleared transaction except as provided in paragraph (9) of this definition and, at the discretion of the Enterprise, excluding a forward agreement treated as a derivative contract that is part of a repurchase or reverse repurchase or a securities borrowing or lending transaction that qualifies for sales treatment under GAAP);

(2) CVM_r equals the amount of cash collateral received from a counterparty to a derivative contract and that satisfies the conditions in paragraphs (3)(ii) through (vi) of this definition, or, in the case of a client-facing derivative transaction, the amount of collateral received from the clearing member client; and

(3) CVM_p equals the amount of cash collateral that is posted to a counterparty to a derivative contract and that has not offset the fair value of the derivative contract and that satisfies the conditions in paragraphs (3)(ii) through (vi) of this definition, or, in the case of a client-facing derivative transaction, the amount of collateral posted to the clearing member client;

(B) Notwithstanding paragraph (3)(i)(A) of this definition, where multiple netting sets are subject to a single variation margin agreement, an Enterprise must apply the formula for replacement cost provided in § 1240.36(c)(10)(i), in which the term C_{MA} may only include cash collateral that satisfies the conditions in paragraphs (3)(ii) through (vi) of this definition; and

(C) For purposes of paragraph (3)(i)(A) of this definition, an Enterprise must treat a derivative contract that references an index as if it were multiple derivative contracts each referencing one component of the index if the Enterprise elected to treat the derivative contract as multiple derivative contracts under § 1240.36(c)(5)(vi);

(ii) For derivative contracts that are not cleared through a QCCP, the cash collateral received by the recipient counterparty is not segregated (by law, regulation, or an agreement with the counterparty);

(iii) Variation margin is calculated and transferred on a daily basis based on the mark-to-fair value of the derivative contract;

(iv) The variation margin transferred under the derivative contract or the governing rules of the CCP or QCCP for a cleared transaction is the full amount that is necessary to fully extinguish the net current credit exposure to the counterparty of the derivative contracts, subject to the threshold and minimum transfer amounts applicable to the counterparty under the terms of the derivative contract or the governing rules for a cleared transaction;

(v) The variation margin is in the form of cash in the same currency as the currency of settlement set forth in the derivative contract, provided that for the purposes of this paragraph, currency of settlement means any currency for settlement specified in the governing qualifying master netting agreement and the credit support annex to the qualifying master netting agreement, or in the governing rules for a cleared transaction; and

(vi) The derivative contract and the variation margin are governed by a qualifying master netting agreement between the legal entities that are the counterparties to the derivative contract or by the governing rules for a cleared transaction, and the qualifying master netting agreement or the governing rules for a cleared transaction must explicitly stipulate that the counterparties agree to settle any payment obligations on a net basis, taking into account any variation margin received or provided under the contract if a credit event involving either counterparty occurs;

* * * * *

Backtesting means the comparison of an Enterprise's internal estimates with actual outcomes during a sample period not used in model development. In this context, backtesting is one form of out-of-sample testing.

* * * * *

Basis derivative contract means a non-foreign-exchange derivative contract (*i.e.*, the contract is denominated in a single currency) in which the cash flows of the derivative contract depend on the difference between two risk factors that are attributable solely to one of the following derivative asset classes: Interest rate, credit, equity, or commodity.

* * * * *

Commercial end-user means an entity that:

(1)(i) Is using derivative contracts to hedge or mitigate commercial risk; and

(ii)(A) Is not an entity described in section 2(h)(7)(C)(i)(I) through (VIII) of the Commodity Exchange Act (7 U.S.C. 2(h)(7)(C)(i)(I) through (VIII)); or

(B) Is not a "financial entity" for purposes of section 2(h)(7) of the Commodity Exchange Act (7 U.S.C. 2(h)) by virtue of section 2(h)(7)(C)(iii) of the Act (7 U.S.C. 2(h)(7)(C)(iii)); or

(2)(i) Is using derivative contracts to hedge or mitigate commercial risk; and

(ii) Is not an entity described in section 3C(g)(3)(A)(i) through (viii) of the Securities Exchange Act of 1934 (15 U.S.C. 78c-3(g)(3)(A)(i) through (viii)); or

(3) Qualifies for the exemption in section 2(h)(7)(A) of the Commodity Exchange Act (7 U.S.C. 2(h)(7)(A)) by virtue of section 2(h)(7)(D) of the Act (7 U.S.C. 2(h)(7)(D)); or

(4) Qualifies for an exemption in section 3C(g)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78c-3(g)(1)) by virtue of section 3C(g)(4) of the Act (15 U.S.C. 78c-3(g)(4)).

Commingled security means a resecuritization of UMBS in which one or more of the underlying exposures is a UMBS guaranteed by the other Enterprise or is a resecuritization of UMBS guaranteed by the other Enterprise.

* * * * *

Credit default swap (CDS) means a financial contract executed under standard industry documentation that allows one party (the protection purchaser) to transfer the credit risk of one or more exposures (reference exposure(s)) to another party (the protection provider) for a certain period of time.

* * * * *

Credit valuation adjustment (CVA) means the fair value adjustment to reflect counterparty credit risk in valuation of OTC derivative contracts.

* * * * *

Eligible time-based call means a time-based call that:

(1) Is exercisable solely at the discretion of the originating Enterprise,

provided the Enterprise obtains FHFA's non-objection prior to exercising the time-based call;

(2) Is not structured to avoid allocating credit losses to investors or otherwise structured to provide at most *de minimis* credit protection to the securitization or credit risk transfer; and

(3) Is exercisable no less than five years after the securitization or credit risk transfer issuance date or effective date, where the underlying collateral is mortgage exposures with amortization terms greater than 20 years.

(4) Is exercisable no less than four years after the securitization or credit risk transfer issuance date or effective date, where the underlying collateral is mortgage exposures with amortization terms of 20 years or less.

* * * * *

Financial collateral * * *

(2) In which the Enterprise has a perfected, first-priority security interest or, outside of the United States, the legal equivalent thereof, (with the exception of cash on deposit; and notwithstanding the prior security interest of any custodial agent or any priority security interest granted to a CCP in connection with collateral posted to that CCP).

* * * * *

Guarantee asset means the present value of a future consideration to be received for providing a financial guarantee on a portfolio of mortgage exposures not recognized on the balance sheet.

Independent collateral means financial collateral, other than variation margin, that is subject to a collateral agreement, or in which an Enterprise has a perfected, first-priority security interest or, outside of the United States, the legal equivalent thereof (with the exception of cash on deposit; notwithstanding the prior security interest of any custodial agent or any prior security interest granted to a CCP in connection with collateral posted to that CCP), and the amount of which does not change directly in response to the value of the derivative contract or contracts that the financial collateral secures.

* * * * *

Mortgage servicing assets (MSAs) means the contractual rights to service mortgage loans for a fee.

* * * * *

Net independent collateral amount means the fair value amount of the independent collateral, as adjusted by the standard supervisory haircuts under § 1240.39(b)(2)(ii), as applicable, that a counterparty to a netting set has posted to an Enterprise less the fair value amount of the independent collateral, as

adjusted by the standard supervisory haircuts under § 1240.39(b)(2)(ii), as applicable, posted by the Enterprise to the counterparty, excluding such amounts held in a bankruptcy remote manner or posted to a QCCP and held in conformance with the operational requirements in § 1240.3.

Netting set means a group of transactions with a single counterparty that are subject to a qualifying master netting agreement or a qualifying cross-product master netting agreement. For derivative contracts, netting set also includes a single derivative contract between an Enterprise and a single counterparty.

Qualifying cross-product master netting agreement means a qualifying master netting agreement that provides for termination and close-out netting across multiple types of financial transactions or qualifying master netting agreements in the event of a counterparty's default, provided that the underlying financial transactions are OTC derivative contracts, eligible margin loans, or repo-style transactions. In order to treat an agreement as a qualifying cross-product master netting agreement for purposes of this subpart, an Enterprise must comply with the requirements of § 1240.3(c) with respect to that agreement.

Speculative grade means the reference entity has adequate capacity to meet financial commitments in the near term, but is vulnerable to adverse economic conditions, such that should economic conditions deteriorate, the reference entity would present an elevated default risk.

Standardized total risk-weighted assets

(1) Credit valuation adjustment (CVA) risk-weighted assets as calculated under § 1240.36(d);

(viii) Standardized market risk-weighted assets, as calculated under § 1240.204; minus

Sub-speculative grade means the reference entity depends on favorable economic conditions to meet its financial commitments, such that should such economic conditions deteriorate the reference entity likely

would default on its financial commitments.

Time-based call means a contractual provision that permits an originating Enterprise to redeem a securitization exposure on or after a specified redemption or cancellation date.

Uniform Mortgage-backed Security (UMBS) means the same as that defined in § 1248.1.

Value-at-Risk (VaR) means the estimate of the maximum amount that the value of one or more exposures could decline due to market price or rate movements during a fixed holding period within a stated confidence interval.

Variation margin means financial collateral that is subject to a collateral agreement provided by one party to its counterparty to meet the performance of the first party's obligations under one or more transactions between the parties as a result of a change in value of such obligations since the last time such financial collateral was provided.

Variation margin amount means the fair value amount of the variation margin, as adjusted by the standard supervisory haircuts under § 1240.39(b)(2)(ii), as applicable, that a counterparty to a netting set has posted to an Enterprise less the fair value amount of the variation margin, as adjusted by the standard supervisory haircuts under § 1240.39(b)(2)(ii), as applicable, posted by the Enterprise to the counterparty.

Volatility derivative contract means a derivative contract in which the payoff of the derivative contract explicitly depends on a measure of the volatility of an underlying risk factor to the derivative contract.

§1240.4 [Amended]

■ 3. Effective April 1, 2024, amend § 1240.4 in paragraph (c) by removing the year "2025" and adding in its place the year "2028".

■ 4. Effective April 1, 2024, amend § 1240.31 by:

- a. In paragraph (a)(1)(iv) removing the word "or" after the semicolon;
- b. In paragraph (a)(1)(v) removing the period after "1240.52" and adding "; or" in its place; and
- c. Adding paragraph (a)(1)(vi).

The addition reads as follows:

§ 1240.31 Mechanics for calculating risk-weighted assets for general credit risk.

- (a) * * *
- (1) * * *
- (vi) CVA risk-weighted assets subject to § 1240.36(d).

■ 5. Effective April 1, 2024, amend § 1240.32 by:

- a. Redesignating paragraph (c)(2) as paragraph (c)(3), adding new paragraph (c)(2), and revising redesignated paragraph (c)(3); and
- b. Redesignating paragraph (i)(5) as paragraph (i)(6) and adding new paragraph (i)(5).

The additions and revision read as follows:

§ 1240.32 General risk weights.

- (c) * * *
- (2) An Enterprise must assign a 5 percent risk weight to an exposure to the other Enterprise in a commingled security.

(3) An Enterprise must assign a 20 percent risk weight to an exposure to another GSE, including an MBS guaranteed by the other Enterprise, except for exposures under paragraph (c)(2) of this section.

- (i) * * *
- (5) An Enterprise must assign a 20 percent risk weight to guarantee assets.

■ 6. Effective April 1, 2024, amend § 1240.33 in paragraph (a) by:

- a. Revising paragraph (ii) in the definition of "Adjusted MTMLTV"; and
- b. Revising table 1 to paragraph (a).

The revisions read as follows:

§ 1240.33 Single-family mortgage exposures.

- (a) * * *
- Adjusted MTMLTV* * * *
- (ii) The amount equal to 1 plus either:
 - (A) The single-family countercyclical adjustment available at the time of the exposure's origination if the loan age of the single-family mortgage exposure is less than or equal to 5; or
 - (B) The single-family countercyclical adjustment available as of that time if the loan age of the single-family mortgage exposure is greater than or equal to 6.

TABLE 1 TO PARAGRAPH (a)—PERMISSIBLE VALUES AND ADDITIONAL INSTRUCTIONS

Defined term	Permissible values	Additional instructions
Cohort burnout	<p>“No burnout,” if the single-family mortgage exposure has not had a refinance opportunity since the loan age of the single-family mortgage exposure was 6..</p> <p>“Low,” if the single-family mortgage exposure has had 12 or fewer refinance opportunities since the loan age of the single-family mortgage exposure was 6.</p> <p>“Medium,” if the single-family mortgage exposure has had between 13 and 24 refinance opportunities since the loan age of the single-family mortgage exposure was 6.</p> <p>“High,” if the single-family mortgage exposure has had more than 24 refinance opportunities since the loan age of the single-family mortgage exposure was 6.</p>	High if unable to determine.
Coverage percent	0 percent <= coverage percent <= 100 percent	0 percent if outside of permissible range or unable to determine.
Days past due	Non-negative integer	210 if negative or unable to determine.
Debt-to-income (DTI) ratio.	0 percent < DTI < 100 percent	42 percent if outside of permissible range or unable to determine.
Interest-only (IO)	Yes, no	Yes if unable to determine.
Loan age	0 <= loan age <= 500	500 if outside of permissible range or unable to determine.
Loan documentation ...	None, low, full	None if unable to determine.
Loan purpose	Purchase, cashout refinance, rate/term refinance	Cashout refinance if unable to determine.
MTMLTV	0 percent < MTMLTV <= 300 percent	<p>If the property securing the single-family mortgage exposure is located in Puerto Rico or the U.S. Virgin Islands, use the FHFA House Price Index of the United States.</p> <p>If the property securing the single-family mortgage exposure is located in Hawaii, use the FHFA Purchase-only State-level House Price Index of Guam.</p> <p>If the single-family mortgage exposure was originated before 1991, use the Enterprise’s proprietary housing price index.</p> <p>Use geometric interpolation to convert quarterly housing price index data to monthly data.</p> <p>300 percent if outside of permissible range or unable to determine.</p>
Mortgage concentration risk.	High, not high	High if unable to determine.
MI cancellation feature	Cancellable mortgage insurance, non-cancellable mortgage insurance.	Cancellable mortgage insurance, if unable to determine.
Occupancy type	Investment, owner-occupied, second home	Investment if unable to determine.
OLTV	0 percent < OLTV <= 300 percent	300 percent if outside of permissible range or unable to determine.
Original credit score ...	300 <= original credit score <= 850	<p>If there are credit scores from multiple credit repositories for a borrower, use the following logic to determine a single original credit score:</p> <ul style="list-style-type: none"> • If there are credit scores from two repositories, take the lower credit score. • If there are credit scores from three repositories, use the middle credit score. • If there are credit scores from three repositories and two of the credit scores are identical, use the identical credit score. <p>If there are multiple borrowers, use the following logic to determine a single original credit score:</p> <ul style="list-style-type: none"> • Using the logic above, determine a single credit score for each borrower. • Select the lowest single credit score across all borrowers. <p>The original credit score for the single-family mortgage exposure is 680 if the Enterprise has verified that no borrower has a credit score at any of the three repositories.</p>
Origination channel	Retail, third-party origination (TPO)	600 if outside of permissible range or unable to determine. TPO includes broker and correspondent channels. TPO if unable to determine.
Payment change from modification.	– 80 percent < payment change from modification < 50 percent	<p>If the single-family mortgage exposure initially had an adjustable or step-rate feature, the monthly payment after a permanent modification is calculated using the initial modified rate.</p> <p>0 percent if unable to determine. – 79 percent if less than or equal to – 80 percent.</p> <p>49 percent if greater than or equal to 50 percent.</p>
Previous maximum days past due.	Non-negative integer	181 months if negative or unable to determine.
Product type	<p>“FRM30” means a fixed-rate single-family mortgage exposure with an original amortization term greater than 309 months and less than or equal to 429 months.</p> <p>“FRM20” means a fixed-rate single-family mortgage exposure with an original amortization term greater than 189 months and less than or equal to 309 months.</p> <p>“FRM15” means a fixed-rate single-family mortgage exposure with an amortization term less than or equal to 189 months.</p> <p>“ARM1/1” is an adjustable-rate single-family mortgage exposure that has a mortgage rate and required payment that adjust annually.</p>	<p>Product types other than FRM30, FRM20, FRM15 or ARM 1/1 should be assigned to FRM30.</p> <p>Use the post-modification product type for modified mortgage exposures.</p> <p>ARM 1/1 if unable to determine.</p>
Property type	1-unit, 2–4 units, condominium, manufactured home	Use condominium for cooperatives. 2–4 units if unable to determine.
Refreshed credit score	300 <= refreshed credit score <= 850	<p>If there are credit scores from multiple credit repositories for a borrower, use the following logic to determine a single refreshed credit score:</p>

TABLE 1 TO PARAGRAPH (a)—PERMISSIBLE VALUES AND ADDITIONAL INSTRUCTIONS—Continued

Defined term	Permissible values	Additional instructions
Streamlined refi Subordination	Yes, no 0 percent <= Subordination <= 80 percent	<ul style="list-style-type: none"> • If there are credit scores from two repositories, take the lower credit score. • If there are credit scores from three repositories, use the middle credit score. • If there are credit scores from three repositories and two of the credit scores are identical, use the identical credit score. If there are multiple borrowers, use the following logic to determine a single Refreshed Credit Score: <ul style="list-style-type: none"> • Using the logic above, determine a single credit score for each borrower. • Select the lowest single credit score across all borrowers. 600 if outside of permissible range or unable to determine. No if unable to determine. 80 percent if outside permissible range.

* * * * *

■ 7. Effective April 1, 2024, amend § 1240.34 by:

■ a. Adding in alphabetical order definitions for “Affordable unit” and “Government subsidy” in paragraph (a); and

■ b. Revising table 1 to paragraph (a) and table 4 to paragraph (d).

The additions and revisions read as follows:

§ 1240.34 Multifamily mortgage exposures.

(a) * * *

Affordable unit means a unit within a property securing a multifamily mortgage exposure that can be rented by

occupants with income less than or equal to 80 percent of the area median income where the property resides.

* * * * *

Government subsidy means that the property satisfies both of the following criteria:

(i) At least 20 percent of the property’s units are restricted to be affordable units per a regulatory agreement, recorded use restriction, a housing-assistance payments contract, or other restrictions codified in loan agreements; and

(ii) The property benefits from one of the following government programs:

- (A) Low Income Housing Tax Credits (LIHTC);
- (B) Section 8 project-based rental assistance;
- (C) Section 515 Rural Rental Housing Loans; or
- (D) State/Local affordable housing programs that require the provision of affordable housing for the life of the loan.

* * * * *

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Table 1 to Paragraph (a)—Permissible Values and Additional Instructions

Defined Term	Permissible Values	Additional Instructions
Acquisition DSCR	Greater than or equal to 0.	Origination DSCR if negative or unable to determine. If origination DSCR is unavailable, use underwriting DSCR. If underwriting DSCR is unavailable, use 1.00.
Acquisition LTV	Greater than or equal to 0.	Origination LTV if negative or unable to determine. If origination LTV is unavailable, use underwriting LTV. If underwriting LTV is unavailable, use 100 percent.
Government Subsidy	Yes, no	Yes if at least one property securing the multifamily mortgage exposure has a government subsidy. If the multifamily mortgage exposure is secured by more than one property, calculate a weighted average government subsidy multiplier per the instructions in Table 4 to Paragraph (d). No otherwise
Interest-only	Yes, no.	Yes if unable to determine.
Loan Term	Non-negative integer in years.	11 years if negative or unable to determine.
MTMDSCR	Greater than or equal to 0.	If the MTMDSCR is unavailable, the last observed DSCR can be marked to market using a property NOI index or an NOI estimate based on rent and expense indices. If the index is not sufficiently granular, either because of its frequency or geography, or with respect to a certain multifamily property type, use a more geographically broad index or a recently estimated mark-to-market value.
MTMLTV	Greater than or equal to 0.	If the MTMLTV is unavailable, mark to market using an index. If the index is not sufficiently granular, either because of its frequency or geography or with respect to a certain multifamily property type, use a more geographically broad index or a recently estimated mark-to-market value.
Net Operating Income (NOI) / Net Cash Flow (NCF)	Greater than or equal to 0.	Infer using origination LTV or origination DSCR if NOI/NCF is unavailable. Alternatively, infer using actual MTMLTV or actual MTMDSCR.
Original Amortization Term	Non-negative integer in years.	31 years if negative or unable to determine.
Original Loan Size	Non-negative dollar value.	\$3,000,000 if negative or unable to determine
Payment Performance	Performing, delinquent 60 days or more, re-performing (without modification), modified.	Modified if unable to determine.
Special Product	Not a special product, student housing, rehab/value-add/lease-up, supplemental mortgage exposure.	Rehab/value-add/lease-up if unable to determine.
UPB	UPB > \$0	\$100,000,000 if negative or unable to determine.

* * * * *

(d) * * *

Table 4 to Paragraph (d)—Multifamily Risk Multipliers

Risk Factor	Value or Range	Risk Multiplier
Payment Performance	Performing	1.00
	Delinquent more than 60 days	1.10
	Re-performing (without modification)	1.10
	Modified	1.20
Government Subsidy¹	No	1.00
	Yes	0.60
Interest-Only	No	1.00
	Yes (during the interest-only period)	1.10
Loan Term	Loan term <= 1Yr	0.70
	1Yr < loan term <= 2Yr	0.75
	2Yr < loan term <= 3Yr	0.80
	3Yr < loan term <= 4Yr	0.85
	4Yr < loan term <= 5Yr	0.90
	5Yr < loan term <= 7Yr	0.95
	7Yr < loan term <= 10Yr	1.00
	Loan term > 10Yr	1.15
Original Amortization Term	Original amortization term <= 20Yr	0.70
	20Yr < original amortization term <= 25Yr	0.80
	25Yr < original amortization term <= 30Yr	1.00
	Original amortization term > 30Yr	1.10
Original Loan Size (in millions)	Loan size <= \$2m	1.45
	\$2m < loan size <= \$3m	1.35
	\$3m < loan size <= \$4m	1.25
	\$4m < loan size <= \$5m	1.15
	\$5m < loan size <= \$6m	1.08
	\$6m < loan size <= \$7m	1.02
	\$7m < loan size <= \$8m	0.96
	\$8m < loan size <= \$9m	0.92
	\$9m < loan size <= \$10m	0.88
	\$10m < loan size <= \$11m	0.86
	\$11m < loan size <= \$12m	0.84
	\$12m < loan size <= \$13m	0.82
	\$13m < loan size <= \$15m	0.81
	\$15m < loan size <= \$22m	0.80
	\$22m < loan size <= \$23m	0.79
	\$23m < loan size <= \$24m	0.78
	\$24m < loan size <= \$25m	0.76
	Loan size >\$25m	0.70
	Special Products	Not a special product
Student housing		1.15
Rehab/value-add/lease-up		1.25

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¹ If a multifamily mortgage exposure is collateralized by multiple properties, calculate a weighted average government subsidy multiplier by assigning a 0.6 multiplier to each property with a government subsidy and 1.0 multiplier to

each property without a government subsidy, and using the total number of units in a property as weights.

■ 8. Effective April 1, 2024, amend § 1240.35 by revising paragraphs (b)(3) and (b)(4)(i) to read as follows:

§ 1240.35 Off-balance sheet exposures.

* * * * *

(b) * * *

(3) *50 percent CCF*. An Enterprise must apply a 50 percent CCF to:

(i) The amount of commitments with an original maturity of more than one year that are not unconditionally cancelable by the Enterprise; and

(ii) Guarantees on exposures to the other Enterprise in commingled securities.

(4) * * *

(i) Guarantees, except guarantees included in paragraph (b)(3)(ii) of this section;

* * * * *

■ 9. Effective January 1, 2026, revise § 1240.36 to read as follows:

§ 1240.36 Derivative contracts.

(a) *Exposure amount for derivative contracts.* An Enterprise must calculate the exposure amount or EAD for all its derivative contracts using the standardized approach for counterparty credit risk (SA-CCR) in paragraph (c) of this section for purposes of standardized total risk-weighted assets. An Enterprise must apply the treatment of cleared transactions under § 1240.37 to its derivative contracts that are cleared transactions and to all default fund contributions associated with such derivative contracts for purposes of standardized total risk-weighted assets.

(b) *Methodologies for collateral recognition.* (1) An Enterprise may use the methodologies under § 1240.39 to recognize the benefits of financial collateral in mitigating the counterparty credit risk of repo-style transactions, eligible margin loans, collateralized OTC derivative contracts and single product netting sets of such transactions.

(2) An Enterprise must use the methodology in paragraph (c) of this section to calculate EAD for an OTC derivative contract or a set of OTC derivative contracts subject to a qualifying master netting agreement.

(3) An Enterprise must also use the methodology in paragraph (d) of this section to calculate the risk-weighted asset amounts for CVA for OTC derivatives.

(c) *EAD for derivative contracts—(1) Options for determining EAD.* An Enterprise must determine the EAD for a derivative contract using SA-CCR under paragraph (c)(5) of this section. The exposure amount determined under SA-CCR is the EAD for the derivative contract or derivatives contracts. An Enterprise must use the same methodology to calculate the exposure amount for all its derivative contracts. An Enterprise may reduce the EAD calculated according to paragraph (c)(5) of this section by the credit valuation adjustment that the Enterprise has recognized in its balance sheet valuation

of any derivative contracts in the netting set. For purposes of this paragraph (c)(1), the credit valuation adjustment does not include any adjustments to common equity tier 1 capital attributable to changes in the fair value of the Enterprise's liabilities that are due to changes in its own credit risk since the inception of the transaction with the counterparty.

(2) *Definitions.* For purposes of this paragraph (c), the following definitions apply:

(i) *End date* means the last date of the period referenced by an interest rate or credit derivative contract or, if the derivative contract references another instrument, by the underlying instrument, except as otherwise provided in this paragraph (c).

(ii) *Start date* means the first date of the period referenced by an interest rate or credit derivative contract or, if the derivative contract references the value of another instrument, by underlying instrument, except as otherwise provided in this paragraph (c).

(iii) *Hedging set* means:

(A) With respect to interest rate derivative contracts, all such contracts within a netting set that reference the same reference currency;

(B) With respect to exchange rate derivative contracts, all such contracts within a netting set that reference the same currency pair;

(C) With respect to credit derivative contracts, all such contracts within a netting set;

(D) With respect to equity derivative contracts, all such contracts within a netting set;

(E) With respect to a commodity derivative contract, all such contracts within a netting set that reference one of the following commodity categories: Energy, metal, agricultural, or other commodities;

(F) With respect to basis derivative contracts, all such contracts within a netting set that reference the same pair of risk factors and are denominated in the same currency; or

(G) With respect to volatility derivative contracts, all such contracts within a netting set that reference one of interest rate, exchange rate, credit, equity, or commodity risk factors, separated according to the requirements under paragraphs (c)(2)(iii)(A) through (E) of this section.

(H) If the risk of a derivative contract materially depends on more than one of interest rate, exchange rate, credit, equity, or commodity risk factors, FHFA may require an Enterprise to include the derivative contract in each appropriate hedging set under paragraphs (c)(2)(iii)(A) through (E) of this section.

(3) *Credit derivatives.*

Notwithstanding paragraphs (c)(1) and (2) of this section:

(i) An Enterprise that purchases a credit derivative that is recognized under § 1240.38 as a credit risk mitigant for an exposure is not required to calculate a separate counterparty credit risk capital requirement under this section so long as the Enterprise does so consistently for all such credit derivatives and either includes or excludes all such credit derivatives that are subject to a master netting agreement from any measure used to determine counterparty credit risk exposure to all relevant counterparties for risk-based capital purposes.

(ii) An Enterprise that is the protection provider in a credit derivative must treat the credit derivative as an exposure to the reference obligor and is not required to calculate a counterparty credit risk capital requirement for the credit derivative under this section, so long as it does so consistently for all such credit derivatives and either includes all or excludes all such credit derivatives that are subject to a master netting agreement from any measure used to determine counterparty credit risk exposure to all relevant counterparties for risk-based capital purposes.

(4) *Equity derivatives.* An Enterprise must treat an equity derivative contract as an equity exposure and compute a risk-weighted asset amount for the equity derivative contract under § 1240.51. In addition, if an Enterprise is treating the contract as a covered position under subpart F of this part, the Enterprise must also calculate a risk-based capital requirement for the counterparty credit risk of an equity derivative contract under this section.

(5) *Exposure amount.* (i) The exposure amount of a netting set, as calculated under this paragraph (c), is equal to 1.4 multiplied by the sum of the replacement cost of the netting set, as calculated under paragraph (c)(6) of this section, and the potential future exposure of the netting set, as calculated under paragraph (c)(7) of this section.

(ii) Notwithstanding the requirements of paragraph (c)(5)(i) of this section, the exposure amount of a netting set subject to a variation margin agreement, excluding a netting set that is subject to a variation margin agreement under which the counterparty to the variation margin agreement is not required to post variation margin, is equal to the lesser of the exposure amount of the netting set calculated under paragraph (c)(5)(i) of this section and the exposure amount of the netting set calculated under paragraph (c)(5)(i) as if the netting set

were not subject to a variation margin agreement.

(iii) Notwithstanding the requirements of paragraph (c)(5)(i) of this section, the exposure amount of a netting set that consists of only sold options in which the premiums have been fully paid by the counterparty to the options and where the options are not subject to a variation margin agreement is zero.

(iv) Notwithstanding the requirements of paragraph (c)(5)(i) of this section, the exposure amount of a netting set in which the counterparty is a commercial end-user is equal to the sum of replacement cost, as calculated under paragraph (c)(6) of this section, and the potential future exposure of the netting set, as calculated under paragraph (c)(7) of this section.

(v) For purposes of the exposure amount calculated under paragraph (c)(5)(i) of this section and all calculations that are part of that exposure amount, an Enterprise may elect to treat a derivative contract that is a cleared transaction that is not subject to a variation margin agreement as one that is subject to a variation margin agreement, if the derivative contract is subject to a requirement that the counterparties make daily cash payments to each other to account for changes in the fair value of the derivative contract and to reduce the net position of the contract to zero. If an Enterprise makes an election under this paragraph (c)(5)(v) for one derivative contract, it must treat all other derivative contracts within the same netting set that are eligible for an

election under this paragraph (c)(5)(v) as derivative contracts that are subject to a variation margin agreement.

(vi) For purposes of the exposure amount calculated under paragraph (c)(5)(i) of this section and all calculations that are part of that exposure amount, an Enterprise may elect to treat a credit derivative contract, equity derivative contract, or commodity derivative contract that references an index as if it were multiple derivative contracts each referencing one component of the index.

(6) *Replacement cost of a netting set—*
(i) *Netting set subject to a variation margin agreement under which the counterparty must post variation margin.* The replacement cost of a netting set subject to a variation margin agreement, excluding a netting set that is subject to a variation margin agreement under which the counterparty is not required to post variation margin, is the greater of:

(A) The sum of the fair values (after excluding any valuation adjustments) of the derivative contracts within the netting set less the sum of the net independent collateral amount and the variation margin amount applicable to such derivative contracts;

(B) The sum of the variation margin threshold and the minimum transfer amount applicable to the derivative contracts within the netting set less the net independent collateral amount applicable to such derivative contracts; or

(C) Zero.

(ii) *Netting sets not subject to a variation margin agreement under*

which the counterparty must post variation margin. The replacement cost of a netting set that is not subject to a variation margin agreement under which the counterparty must post variation margin to the Enterprise is the greater of:

(A) The sum of the fair values (after excluding any valuation adjustments) of the derivative contracts within the netting set less the sum of the net independent collateral amount and variation margin amount applicable to such derivative contracts; or

(B) Zero.

(iii) *Multiple netting sets subject to a single variation margin agreement.* Notwithstanding paragraphs (c)(6)(i) and (ii) of this section, the replacement cost for multiple netting sets subject to a single variation margin agreement must be calculated according to paragraph (c)(10)(i) of this section.

(iv) *Netting set subject to multiple variation margin agreements or a hybrid netting set.* Notwithstanding paragraphs (c)(6)(i) and (ii) of this section, the replacement cost for a netting set subject to multiple variation margin agreements or a hybrid netting set must be calculated according to paragraph (c)(11)(i) of this section.

(7) *Potential future exposure of a netting set.* The potential future exposure of a netting set is the product of the PFE multiplier and the aggregated amount.

(i) *PFE multiplier.* The PFE multiplier is calculated according to the following formula:

$$PFE \text{ multiplier} = \min \left(1; 0.05 + 0.95 * e^{\left(\frac{V-C}{1.9*A} \right)} \right)$$

Where:

(A) V is the sum of the fair values (after excluding any valuation adjustments) of the derivative contracts within the netting set;

(B) C is the sum of the net independent collateral amount and the variation margin amount applicable to the derivative contracts within the netting set; and

(C) A is the aggregated amount of the netting set.

(ii) *Aggregated amount.* The aggregated amount is the sum of all hedging set amounts, as calculated under paragraph (c)(8) of this section, within a netting set.

(iii) *Multiple netting sets subject to a single variation margin agreement.* Notwithstanding paragraphs (c)(7)(i) and (ii) of this section and when calculating the potential future exposure for purposes of adjusted total assets, the potential future exposure for multiple netting sets subject to a single variation margin agreement must be calculated according to paragraph (c)(10)(ii) of this section.

(iv) *Netting set subject to multiple variation margin agreements or a hybrid netting set.* Notwithstanding paragraphs (c)(7)(i) and (ii) of this section and when calculating the potential future exposure

for purposes of adjusted total assets, the potential future exposure for a netting set subject to multiple variation margin agreements or a hybrid netting set must be calculated according to paragraph (c)(11)(ii) of this section.

(8) *Hedging set amount—*(i) *Interest rate derivative contracts.* To calculate the hedging set amount of an interest rate derivative contract hedging set, an Enterprise may use either of the formulas provided in paragraphs (c)(8)(i)(A) and (B) of this section:

(A) Formula 1 is as follows:

Hedging set amount

$$= [(AddOn_{TB1}^{IR})^2 + (AddOn_{TB2}^{IR})^2 + (AddOn_{TB3}^{IR})^2 + 1.4 * AddOn_{TB1}^{IR} * AddOn_{TB2}^{IR} + 1.4 * AddOn_{TB2}^{IR} * AddOn_{TB3}^{IR} + 0.6 * AddOn_{TB1}^{IR} * AddOn_{TB3}^{IR}]^{\frac{1}{2}} ; \text{ or}$$

(B) Formula 2 is as follows:

$$\text{Hedging set amount} = |AddOn_{TB1}^{IR}| + |AddOn_{TB2}^{IR}| + |AddOn_{TB3}^{IR}|.$$

Where in paragraphs (c)(8)(i)(A) and (B) of this section:

- (1) $AddOn_{TB1}^{IR}$ is the sum of the adjusted derivative contract amounts, as calculated under paragraph (c)(9) of this section, within the hedging set with an end date of less than one year from the present date;
- (2) $AddOn_{TB2}^{IR}$ is the sum of the adjusted derivative contract amounts, as calculated under paragraph (c)(9) of this section, within the hedging set with an

- end date of one to five years from the present date; and
- (3) $AddOn_{TB3}^{IR}$ is the sum of the adjusted derivative contract amounts, as calculated under paragraph (c)(9) of this section, within the hedging set with an end date of more than five years from the present date.
- (ii) *Exchange rate derivative contracts.* For an exchange rate derivative contract hedging set, the hedging set amount equals the absolute

value of the sum of the adjusted derivative contract amounts, as calculated under paragraph (c)(9) of this section, within the hedging set.

(iii) *Credit derivative contracts and equity derivative contracts.* The hedging set amount of a credit derivative contract hedging set or equity derivative contract hedging set within a netting set is calculated according to the following formula:

$$\text{Hedging set amount} = \left[\left(\sum_{k=1}^K \rho_k * AddOn(Ref_k) \right)^2 + \sum_{k=1}^K (1 - (\rho_k)^2) * (AddOn(Ref_k))^2 \right]^{\frac{1}{2}}$$

Where:

- (A) k is each reference entity within the hedging set.
- (B) K is the number of reference entities within the hedging set.
- (C) $AddOn(Ref_k)$ equals the sum of the adjusted derivative contract amounts, as

- determined under paragraph (c)(9) of this section, for all derivative contracts within the hedging set that reference reference entity k.
- (D) ρ_k equals the applicable supervisory correlation factor, as provided in table 2 to paragraph (c)(11)(ii)(B)(2).

(iv) *Commodity derivative contracts.* The hedging set amount of a commodity derivative contract hedging set within a netting set is calculated according to the following formula:

$$\text{Hedging set amount} = \left[\left(\rho * \sum_{k=1}^K AddOn(Type_k) \right)^2 + (1 - (\rho)^2) * \sum_{k=1}^K (AddOn(Type_k))^2 \right]^{\frac{1}{2}}$$

Where:

- (A) k is each commodity type within the hedging set.
- (B) K is the number of commodity types within the hedging set.
- (C) $AddOn(Type_k)$ equals the sum of the adjusted derivative contract amounts, as determined under paragraph (c)(9) of this section, for all derivative contracts within the hedging set that reference commodity type.
- (D) ρ equals the applicable supervisory correlation factor, as provided in table 2 to paragraph (c)(11)(ii)(B)(2).

Enterprise must calculate a separate hedging set amount for each basis derivative contract hedging set and each volatility derivative contract hedging set. An Enterprise must calculate such hedging set amounts using one of the formulas under paragraphs (c)(8)(i) through (iv) that corresponds to the primary risk factor of the hedging set being calculated.

multiply the adjusted notional amount by each of the supervisory delta adjustment, pursuant to paragraph (c)(9)(iii) of this section, the maturity factor, pursuant to paragraph (c)(9)(iv) of this section, and the applicable supervisory factor, as provided in table 2 to paragraph (c)(11)(ii)(B)(2).

(v) *Basis derivative contracts and volatility derivative contracts.* Notwithstanding paragraphs (c)(8)(i) through (iv) of this section, an

(9) *Adjusted derivative contract amount—(i) Summary.* To calculate the adjusted derivative contract amount of a derivative contract, an Enterprise must determine the adjusted notional amount of derivative contract, pursuant to paragraph (c)(9)(ii) of this section, and

(ii) *Adjusted notional amount.* (A)(1) For an interest rate derivative contract or a credit derivative contract, the adjusted notional amount equals the product of the notional amount of the derivative contract, as measured in U.S. dollars using the exchange rate on the date of the calculation, and the

supervisory duration, as calculated by the following formula:

$$\text{Supervisory duration} = \max \left\{ \frac{e^{-0.05 * (\frac{S}{250})} - e^{-0.05 * (\frac{E}{250})}}{0.05}, 0.04 \right\}$$

Where:

- (i) S is the number of business days from the present day until the start date of the derivative contract, or zero if the start date has already passed; and
- (ii) E is the number of business days from the present day until the end date of the derivative contract.

(2) For purposes of paragraph (c)(9)(ii)(A)(1) of this section:

(i) For an interest rate derivative contract or credit derivative contract that is a variable notional swap, the notional amount is equal to the time-weighted average of the contractual notional amounts of such a swap over the remaining life of the swap; and

(ii) For an interest rate derivative contract or a credit derivative contract that is a leveraged swap, in which the notional amount of all legs of the derivative contract are divided by a factor and all rates of the derivative contract are multiplied by the same factor, the notional amount is equal to the notional amount of an equivalent unleveraged swap.

(B)(1) For an exchange rate derivative contract, the adjusted notional amount is the notional amount of the non-U.S. denominated currency leg of the

derivative contract, as measured in U.S. dollars using the exchange rate on the date of the calculation. If both legs of the exchange rate derivative contract are denominated in currencies other than U.S. dollars, the adjusted notional amount of the derivative contract is the largest leg of the derivative contract, as measured in U.S. dollars using the exchange rate on the date of the calculation.

(2) Notwithstanding paragraph (c)(9)(ii)(B)(1) of this section, for an exchange rate derivative contract with multiple exchanges of principal, the Enterprise must set the adjusted notional amount of the derivative contract equal to the notional amount of the derivative contract multiplied by the number of exchanges of principal under the derivative contract.

(C)(1) For an equity derivative contract or a commodity derivative contract, the adjusted notional amount is the product of the fair value of one unit of the reference instrument underlying the derivative contract and the number of such units referenced by the derivative contract.

(2) Notwithstanding paragraph (c)(9)(ii)(C)(1) of this section, when

calculating the adjusted notional amount for an equity derivative contract or a commodity derivative contract that is a volatility derivative contract, the Enterprise must replace the unit price with the underlying volatility referenced by the volatility derivative contract and replace the number of units with the notional amount of the volatility derivative contract.

(iii) *Supervisory delta adjustments.*

(A) For a derivative contract that is not an option contract or collateralized debt obligation tranche, the supervisory delta adjustment is 1 if the fair value of the derivative contract increases when the value of the primary risk factor increases and -1 if the fair value of the derivative contract decreases when the value of the primary risk factor increases.

(B)(1) For a derivative contract that is an option contract, the supervisory delta adjustment is determined by the following formulas, as applicable:

Table 1 to Paragraph (c)(9)(iii)(B)(1)—Supervisory Delta Adjustment for Options Contracts

	Bought	Sold
Call Options	$\Phi \left(\frac{\ln \left(\frac{P + \lambda}{K + \lambda} \right) + 0.5 * \sigma^2 * T/250}{\sigma * \sqrt{T/250}} \right)$	$-\Phi \left(\frac{\ln \left(\frac{P + \lambda}{K + \lambda} \right) + 0.5 * \sigma^2 * T/250}{\sigma * \sqrt{T/250}} \right)$
Put Options	$-\Phi \left(-\frac{\ln \left(\frac{P + \lambda}{K + \lambda} \right) + 0.5 * \sigma^2 * T/250}{\sigma * \sqrt{T/250}} \right)$	$\Phi \left(-\frac{\ln \left(\frac{P + \lambda}{K + \lambda} \right) + 0.5 * \sigma^2 * T/250}{\sigma * \sqrt{T/250}} \right)$

(2) As used in the formulas in table 1 to paragraph (c)(9)(iii)(B)(1):

(i) E is the standard normal cumulative distribution function;

(ii) P equals the current fair value of the instrument or risk factor, as applicable, underlying the option;

(iii) K equals the strike price of the option;

(iv) T equals the number of business days until the latest contractual exercise date of the option;

(v) λ equals zero for all derivative contracts except interest rate options for the currencies where interest rates have negative values. The same value of λ must be used for all interest rate options that are denominated in the same currency. To determine the value of λ for a given currency, an Enterprise must

find the lowest value L of P and K of all interest rate options in a given currency that the Enterprise has with all counterparties. Then, λ is set according to this formula:

$$\lambda = \max \{ -L + 0.1\%, 0 \}; \text{ and}$$

(vi) σ equals the supervisory option volatility, as provided in table 2 to paragraph (c)(11)(ii)(B)(2).

(C)(1) For a derivative contract that is a collateralized debt obligation tranche,

the supervisory delta adjustment is determined by the following formula:

$$\text{Supervisory Delta Adjustment} = \frac{15}{(1 + 14 * A) * (1 + 14 * D)}$$

(2) As used in the formula in paragraph (c)(9)(iii)(C)(1) of this section:

(i) A is the attachment point, which equals the ratio of the notional amounts of all underlying exposures that are subordinated to the Enterprise's exposure to the total notional amount of all underlying exposures, expressed as a decimal value between zero and one;¹

(ii) D is the detachment point, which equals one minus the ratio of the notional amounts of all underlying exposures that are senior to the Enterprise's exposure to the total notional amount of all underlying exposures, expressed as a decimal value between zero and one; and

(iii) The resulting amount is designated with a positive sign if the collateralized debt obligation tranche was purchased by the Enterprise and is designated with a negative sign if the collateralized debt obligation tranche was sold by the Enterprise.

(iv) *Maturity factor.* (A)(1) The maturity factor of a derivative contract that is subject to a variation margin agreement, excluding derivative contracts that are subject to a variation margin agreement under which the counterparty is not required to post variation margin, is determined by the following formula:

$$\text{Maturity factor} = \frac{3}{2} \sqrt{\frac{\text{MPOR}}{250}}$$

Where Margin Period of Risk (MPOR) refers to the period from the most recent exchange of collateral covering a netting set of derivative contracts with a defaulting counterparty until the derivative contracts are closed out and the resulting market risk is re-hedged.

(2) Notwithstanding paragraph (c)(9)(iv)(A)(1) of this section:

(i) For a derivative contract that is not a client-facing derivative transaction, MPOR cannot be less than ten business days plus the periodicity of re-margining expressed in business days minus one business day;

(ii) For a derivative contract that is a client-facing derivative transaction,

¹ In the case of a first-to-default credit derivative, there are no underlying exposures that are subordinated to the Enterprise's exposure. In the case of a second-or-subsequent-to-default credit derivative, the smallest (n - 1) notional amounts of the underlying exposures are subordinated to the Enterprise's exposure.

cannot be less than five business days plus the periodicity of re-margining expressed in business days minus one business day; and

(iii) For a derivative contract that is within a netting set that is composed of more than 5,000 derivative contracts that are not cleared transactions, or a netting set that contains one or more trades involving illiquid collateral or a derivative contract that cannot be easily replaced, MPOR cannot be less than twenty business days.

(3) Notwithstanding paragraphs (c)(9)(iv)(A)(1) and (2) of this section, for a netting set subject to more than two outstanding disputes over margin that lasted longer than the MPOR over the previous two quarters, the applicable floor is twice the amount provided in paragraphs (c)(9)(iv)(A)(1) and (2) of this section.

(B) The maturity factor of a derivative contract that is not subject to a variation margin agreement, or derivative contracts under which the counterparty is not required to post variation margin, is determined by the following formula:

$$\text{Maturity factor} = \sqrt{\frac{\min(M; 250)}{250}}$$

Where M equals the greater of 10 business days and the remaining maturity of the contract, as measured in business days.

(C) For purposes of paragraph (c)(9)(iv) of this section, if an Enterprise has elected pursuant to paragraph (c)(5)(v) of this section to treat a derivative contract that is a cleared transaction that is not subject to a variation margin agreement as one that is subject to a variation margin agreement, the Enterprise must treat the derivative contract as subject to a variation margin agreement with maturity factor as determined according to (c)(9)(iv)(A) of this section, and daily settlement does not change the end date of the period referenced by the derivative contract.

(v) *Derivative contract as multiple effective derivative contracts.* An Enterprise must separate a derivative contract into separate derivative contracts, according to the following rules:

(A) For an option where the counterparty pays a predetermined amount if the value of the underlying

asset is above or below the strike price and nothing otherwise (binary option), the option must be treated as two separate options. For purposes of paragraph (c)(9)(iii)(B) of this section, a binary option with strike K must be represented as the combination of one bought European option and one sold European option of the same type as the original option (put or call) with the strikes set equal to 0.95 * K and 1.05 * K so that the payoff of the binary option is reproduced exactly outside the region between the two strikes. The absolute value of the sum of the adjusted derivative contract amounts of the bought and sold options is capped at the payoff amount of the binary option.

(B) For a derivative contract that can be represented as a combination of standard option payoffs (such as collar, butterfly spread, calendar spread, straddle, and strangle), an Enterprise must treat each standard option component as a separate derivative contract.

(C) For a derivative contract that includes multiple-payment options, (such as interest rate caps and floors), an Enterprise may represent each payment option as a combination of effective single-payment options (such as interest rate caplets and floorlets).

(D) An Enterprise may not decompose linear derivative contracts (such as swaps) into components.

(10) *Multiple netting sets subject to a single variation margin agreement—(i) Calculating replacement cost.*

Notwithstanding paragraph (c)(6) of this section, an Enterprise shall assign a single replacement cost to multiple netting sets that are subject to a single variation margin agreement under which the counterparty must post variation margin, calculated according to the following formula:

$$\text{Replacement Cost} = \max\{\sum_{NS} \max\{V_{NS}; 0\} - \max\{C_{MA}; 0\}; 0\} + \max\{\sum_{NS} \min\{V_{NS}; 0\} - \min\{C_{MA}; 0\}; 0\}$$

Where:

- (A) NS is each netting set subject to the variation margin agreement MA;
- V_{NS} is the sum of the fair values (after excluding any valuation adjustments) of the derivative contracts within the netting set NS; and
- (B) C_{MA} is the sum of the net independent collateral amount and the variation margin amount applicable to the

derivative contracts within the netting sets subject to the single variation margin agreement.

(ii) *Calculating potential future exposure.* Notwithstanding paragraph (c)(5) of this section, an Enterprise shall assign a single potential future exposure to multiple netting sets that are subject to a single variation margin agreement under which the counterparty must post variation margin equal to the sum of the potential future exposure of each such netting set, each calculated according to paragraph (c)(7) of this section as if such nettings sets were not subject to a variation margin agreement.

(11) *Netting set subject to multiple variation margin agreements or a hybrid netting set—(i) Calculating replacement cost.* To calculate replacement cost for either a netting set subject to multiple variation margin agreements under which the counterparty to each variation margin agreement must post variation margin, or a netting set composed of at least one derivative contract subject to variation margin agreement under which the counterparty must post variation margin and at least one derivative contract that is not subject to such a variation margin

agreement, the calculation for replacement cost is provided under paragraph (c)(6)(i) of this section, except that the variation margin threshold equals the sum of the variation margin thresholds of all variation margin agreements within the netting set and the minimum transfer amount equals the sum of the minimum transfer amounts of all the variation margin agreements within the netting set.

(ii) *Calculating potential future exposure.* (A) To calculate potential future exposure for a netting set subject to multiple variation margin agreements under which the counterparty to each variation margin agreement must post variation margin, or a netting set composed of at least one derivative contract subject to variation margin agreement under which the counterparty to the derivative contract must post variation margin and at least one derivative contract that is not subject to such a variation margin agreement, an Enterprise must divide the netting set into sub-netting sets (as described in paragraph (c)(11)(ii)(B) of this section) and calculate the aggregated amount for each sub-netting set. The aggregated amount for the

netting set is calculated as the sum of the aggregated amounts for the sub-netting sets. The multiplier is calculated for the entire netting set.

(B) For purposes of paragraph (c)(11)(ii)(A) of this section, the netting set must be divided into sub-netting sets as follows:

(1) All derivative contracts within the netting set that are not subject to a variation margin agreement or that are subject to a variation margin agreement under which the counterparty is not required to post variation margin form a single sub-netting set. The aggregated amount for this sub-netting set is calculated as if the netting set is not subject to a variation margin agreement.

(2) All derivative contracts within the netting set that are subject to variation margin agreements in which the counterparty must post variation margin and that share the same value of the MPOR form a single sub-netting set. The aggregated amount for this sub-netting set is calculated as if the netting set is subject to a variation margin agreement, using the MPOR value shared by the derivative contracts within the netting set.

TABLE 2 TO PARAGRAPH (c)(11)(ii)(B)(2)—SUPERVISORY OPTION VOLATILITY, SUPERVISORY CORRELATION PARAMETERS, AND SUPERVISORY FACTORS FOR DERIVATIVE CONTRACTS

Asset class	Category	Type	Supervisory option volatility (percent)	Supervisory correlation factor (percent)	Supervisory factor ¹ (percent)
Interest rate	N/A	N/A	50	N/A	0.50
Exchange rate	N/A	N/A	15	N/A	4.0
Credit, single name	Investment grade	N/A	100	50	0.46
	Speculative grade	N/A	100	50	1.3
	Sub-speculative grade	N/A	100	50	6.0
Credit, index	Investment Grade	N/A	80	80	0.38
	Speculative Grade	N/A	80	80	1.06
Equity, single name	N/A	N/A	120	50	32
Equity, index	N/A	N/A	75	80	20
Commodity	Energy	Electricity	150	40	40
		Other	70	40	18
	Metals	N/A	70	40	18
	Agricultural	N/A	70	40	18
	Other	N/A	70	40	18

¹ The applicable supervisory factor for basis derivative contract hedging sets is equal to one-half of the supervisory factor provided in this table 2, and the applicable supervisory factor for volatility derivative contract hedging sets is equal to 5 times the supervisory factor provided in this table 2.

(d) *Credit valuation adjustment (CVA) risk-weighted assets—(1) In general.* With respect to its OTC derivative contracts, an Enterprise must calculate a CVA risk-weighted asset amount for its portfolio of OTC derivative transactions that are subject to the CVA capital requirement using the simple CVA approach described in paragraph (d)(5) of this section.

(2) [Reserved]

(3) *Recognition of hedges.* (i) An Enterprise may recognize a single name CDS, single name contingent CDS, any other equivalent hedging instrument that references the counterparty directly, and index credit default swaps (CDS_{ind}) as a CVA hedge under paragraph (d)(5)(ii) of this section or paragraph (d)(6) of this section, provided that the position is managed as a CVA hedge in accordance with the Enterprise's hedging policies.

(ii) An Enterprise shall not recognize as a CVA hedge any tranching or nth-to-default credit derivative.

(4) *Total CVA risk-weighted assets.* Total CVA risk-weighted assets is the CVA capital requirement, K_{CVA}, calculated for an Enterprise's entire portfolio of OTC derivative counterparties that are subject to the CVA capital requirement, multiplied by 12.5.

(5) *Simple CVA approach.* (i) Under the simple CVA approach, the CVA capital requirement, K_{CVA} , is calculated according to the following formula:

$$K_{CVA} = 2.33 \times \sqrt{\left(\sum_i 0.5 \times w_i \times (M_i \times EAD_i^{total} - M_i^{hedge} \times B_i) - \sum_{ind} w_{ind} \times M_{ind} \times B_{ind} \right)^2 + A}$$

Where:

$$A = \sum_i 0.75 \times w_i^2 \times (M_i \times EAD_i^{total} - M_i^{hedge} \times B_i)^2$$

- (A) w_i = the weight applicable to counterparty i under table 3 to paragraph (d)(5)(ii);
- (B) M_i = the EAD-weighted average of the effective maturity of each netting set with counterparty i (where each netting set's effective maturity can be no less than one year.)
- (C) EAD_i^{total} = the sum of the EAD for all netting sets of OTC derivative contracts with counterparty i calculated using the standardized approach to counterparty credit risk described in paragraph (c) of this section. When the Enterprise calculates EAD under paragraph (c) of this section, such EAD may be adjusted for purposes of calculating EAD_i^{total} by multiplying EAD by $(1 - \exp(-0.05 \times M_i)) / (0.05 \times M_i)$, where "exp" is the exponential function.
- (D) M_i^{hedge} = the notional weighted average maturity of the hedge instrument.
- (E) B_i = the sum of the notional amounts of any purchased single name CDS referencing counterparty i that is used to hedge CVA risk to counterparty i multiplied by $(1 - \exp(-0.05 \times M_i^{hedge})) / (0.05 \times M_i^{hedge})$.
- (F) M_{ind} = the maturity of the CDS_{ind} or the notional weighted average maturity of any CDS_{ind} purchased to hedge CVA risk of counterparty i.
- (G) B_{ind} = the notional amount of one or more CDS_{ind} purchased to hedge CVA risk for counterparty i multiplied by $(1 - \exp(-0.05 \times M_{ind})) / (0.05 \times M_{ind})$
- (H) w_{ind} = the weight applicable to the CDS_{ind} based on the average weight of the underlying reference names that comprise the index under table 3 to paragraph (d)(5)(ii).

(ii) The Enterprise may treat the notional amount of the index attributable to a counterparty as a single name hedge of counterparty i (B_i) when calculating K_{CVA} , and subtract the notional amount of B_i from the notional amount of the CDS_{ind} . An Enterprise must treat the CDS_{ind} hedge with the notional amount reduced by B_i as a CVA hedge.

TABLE 3 TO PARAGRAPH (d)(5)(ii)—
ASSIGNMENT OF COUNTERPARTY
WEIGHT

Internal PD (in percent)	Weight w_i (in percent)
0.00–0.07	0.70
>0.070–0.15	0.80
>0.15–0.40	1.00
>0.40–2.00	2.00
>2.00–6.00	3.00
>6.00	10.00

■ 10. Effective January 1, 2026, revise § 1240.37 to read as follows:

§ 1240.37 Cleared transactions.

(a) *General requirements—*(1) *Clearing member clients.* An Enterprise that is a clearing member client must use the methodologies described in paragraph (b) of this section to calculate risk-weighted assets for a cleared transaction.

(2) *Clearing members.* An Enterprise that is a clearing member must use the methodologies described in paragraph (c) of this section to calculate its risk-weighted assets for a cleared transaction and paragraph (b) of this section to calculate its risk-weighted assets for its default fund contribution to a CCP.

(b) *Clearing member client Enterprises—*(1) *Risk-weighted assets for cleared transactions.* (i) To determine the risk-weighted asset amount for a cleared transaction, an Enterprise that is a clearing member client must multiply the trade exposure amount for the cleared transaction, calculated in accordance with paragraph (b)(2) of this section, by the risk weight appropriate for the cleared transaction, determined in accordance with paragraph (b)(3) of this section.

(ii) A clearing member client Enterprise's total risk-weighted assets for cleared transactions is the sum of the risk-weighted asset amounts for all of its cleared transactions.

(2) *Trade exposure amount.* (i) For a cleared transaction that is a derivative contract or a netting set of derivative contracts, trade exposure amount equals the EAD for the derivative contract or netting set of derivative contracts calculated using the methodology used to calculate EAD for derivative contracts

set forth in § 1240.36(c), plus the fair value of the collateral posted by the clearing member client Enterprise and held by the CCP or a clearing member in a manner that is not bankruptcy remote.

(ii) For a cleared transaction that is a repo-style transaction or netting set of repo-style transactions, trade exposure amount equals the EAD for the repo-style transaction calculated using the methodology set forth in § 1240.39(b)(2) or (3), plus the fair value of the collateral posted by the clearing member client Enterprise and held by the CCP or a clearing member in a manner that is not bankruptcy remote.

(3) *Cleared transaction risk weights.*

(i) For a cleared transaction with a QCCP, a clearing member client Enterprise must apply a risk weight of:

(A) 2 percent if the collateral posted by the Enterprise to the QCCP or clearing member is subject to an arrangement that prevents any loss to the clearing member client Enterprise due to the joint default or a concurrent insolvency, liquidation, or receivership proceeding of the clearing member and any other clearing member clients of the clearing member; and the clearing member client Enterprise has conducted sufficient legal review to conclude with a well-founded basis (and maintains sufficient written documentation of that legal review) that in the event of a legal challenge (including one resulting from an event of default or from liquidation, insolvency, or receivership proceedings) the relevant court and administrative authorities would find the arrangements to be legal, valid, binding, and enforceable under the law of the relevant jurisdictions.

(B) 4 percent, if the requirements of paragraph (b)(3)(i)(A) of this section are not met.

(ii) For a cleared transaction with a CCP that is not a QCCP, a clearing member client Enterprise must apply the risk weight applicable to the CCP under this subpart D.

(4) *Collateral.* (i) Notwithstanding any other requirement of this section, collateral posted by a clearing member client Enterprise that is held by a custodian (in its capacity as a custodian) in a manner that is bankruptcy remote

from the CCP, clearing member, and other clearing member clients of the clearing member, is not subject to a capital requirement under this section.

(ii) A clearing member client Enterprise must calculate a risk-weighted asset amount for any collateral provided to a CCP, clearing member or a custodian in connection with a cleared transaction in accordance with requirements under this subpart D, as applicable.

(c) *Clearing member Enterprise—(1) Risk-weighted assets for cleared transactions.* (i) To determine the risk-weighted asset amount for a cleared transaction, a clearing member Enterprise must multiply the trade exposure amount for the cleared transaction, calculated in accordance with paragraph (c)(2) of this section by the risk weight appropriate for the cleared transaction, determined in accordance with paragraph (c)(3) of this section.

(ii) A clearing member Enterprise's total risk-weighted assets for cleared transactions is the sum of the risk-weighted asset amounts for all of its cleared transactions.

(2) *Trade exposure amount.* A clearing member Enterprise must calculate its trade exposure amount for a cleared transaction as follows:

(i) For a cleared transaction that is a derivative contract or a netting set of derivative contracts, trade exposure amount equals the EAD calculated using the methodology used to calculate EAD for derivative contracts set forth in § 1240.36(c), plus the fair value of the collateral posted by the clearing member Enterprise and held by the CCP in a manner that is not bankruptcy remote.

(ii) For a cleared transaction that is a repo-style transaction or netting set of repo-style transactions, trade exposure amount equals the EAD calculated under § 1240.39(b)(2) or (3), plus the fair value of the collateral posted by the clearing member Enterprise and held by the CCP in a manner that is not bankruptcy remote.

(3) *Cleared transaction risk weights.* (i) A clearing member Enterprise must apply a risk weight of 2 percent to the trade exposure amount for a cleared transaction with a QCCP.

(ii) For a cleared transaction with a CCP that is not a QCCP, a clearing member Enterprise must apply the risk weight applicable to the CCP according to this subpart D.

(iii) Notwithstanding paragraphs (c)(3)(i) and (ii) of this section, a clearing member Enterprise may apply a risk weight of zero percent to the trade exposure amount for a cleared transaction with a QCCP where the clearing member Enterprise is acting as a financial intermediary on behalf of a clearing member client, the transaction offsets another transaction that satisfies the requirements set forth in § 1240.3(a), and the clearing member Enterprise is not obligated to reimburse the clearing member client in the event of the QCCP default.

(4) *Collateral.* (i) Notwithstanding any other requirement of this section, collateral posted by a clearing member Enterprise that is held by a custodian (in its capacity as a custodian) in a manner that is bankruptcy remote from the CCP, clearing member, and other clearing member clients of the clearing member, is not subject to a capital requirement under this section.

(ii) A clearing member Enterprise must calculate a risk-weighted asset amount for any collateral provided to a CCP, clearing member or a custodian in connection with a cleared transaction in accordance with requirements under this subpart D.

(d) *Default fund contributions—(1) General requirement.* A clearing member Enterprise must determine the risk-weighted asset amount for a default fund contribution to a CCP at least quarterly, or more frequently if, in the opinion of the Enterprise or FHFA, there is a material change in the financial condition of the CCP.

(2) *Risk-weighted asset amount for default fund contributions to nonqualifying CCPs.* A clearing member Enterprise's risk-weighted asset amount for default fund contributions to CCPs that are not QCCPs equals the sum of such default fund contributions multiplied by 1,250 percent, or an amount determined by FHFA, based on factors such as size, structure, and membership characteristics of the CCP and riskiness of its transactions, in cases where such default fund contributions may be unlimited.

(3) *Risk-weighted asset amount for default fund contributions to QCCPs.* A clearing member Enterprise's risk-weighted asset amount for default fund contributions to QCCPs equals the sum of its capital requirement, K_{CM} for each QCCP, as calculated under the methodology set forth in paragraph (d)(4) of this section, multiplied by 12.5.

(4) *Capital requirement for default fund contributions to a QCCP.* A clearing member Enterprise's capital requirement for its default fund contribution to a QCCP (K_{CM}) is equal to:

$$K_{CM} = \max \left\{ K_{CCP} * \left(\frac{DF^{pref}}{DF_{CCP} + DF_{CCPCM}^{pref}} \right); 0.16 \text{ percent} * DF^{pref} \right\}$$

Where:

- (i) K_{CCP} is the hypothetical capital requirement of the QCCP, as determined under paragraph (d)(5) of this section;
- (ii) DF^{pref} is prefunded default fund contribution of the clearing member Enterprise to the QCCP;
- (iii) DF_{CCP} is the QCCP's own prefunded amount that are contributed to the default waterfall and are junior or *pari passu* with prefunded default fund contributions of clearing members of the QCCP; and
- (iv) DF_{CCPCM}^{pref} is the total prefunded default fund contributions from clearing members of the QCCP to the QCCP.

(5) *Hypothetical capital requirement of a QCCP.* Where a QCCP has provided its K_{CCP} , an Enterprise must rely on such disclosed figure instead of calculating K_{CCP} under this paragraph (d)(5), unless the Enterprise determines that a more conservative figure is appropriate based on the nature, structure, or characteristics of the QCCP. The hypothetical capital requirement of a QCCP (K_{CCP}), as determined by the Enterprise, is equal to:

$$K_{CCP} = \sum_{CM_i} EAD_i * 1.6 \text{ percent}$$

Where:

- (i) CM_i is each clearing member of the QCCP; and
 - (ii) EAD_i is the exposure amount of the QCCP to each clearing member of the QCCP, as determined under paragraph (d)(6) of this section.
- (6) *EAD of a QCCP to a clearing member.* (i) The EAD of a QCCP to a clearing member is equal to the sum of the EAD for derivative contracts determined under paragraph (d)(6)(ii) of this section and the EAD for repo-style transactions determined under paragraph (d)(6)(iii) of this section.

(ii) With respect to any derivative contracts between the QCCP and the clearing member that are cleared transactions and any guarantees that the clearing member has provided to the QCCP with respect to performance of a clearing member client on a derivative contract, the EAD is equal to the exposure amount of the QCCP to the clearing member for all such derivative contracts and guarantees of derivative contracts calculated under SA-CCR in § 1240.36(c) (or, with respect to a QCCP located outside the United States, under a substantially identical methodology in effect in the jurisdiction) using a value of 10 business days for purposes of § 1240.36(c)(9)(iv); less the value of all collateral held by the QCCP posted by the clearing member or a client of the clearing member in connection with a derivative contract for which the clearing member has provided a guarantee to the QCCP and the amount of the prefunded default fund contribution of the clearing member to the QCCP.

(iii) With respect to any repo-style transactions between the QCCP and a clearing member that are cleared transactions, EAD is equal to:

$$EAD_i = \max\{EBRM_i - IM_i - DF_i; 0\}$$

Where:

- (A) EBRM_i is the exposure amount of the QCCP to each clearing member for all repo-style transactions between the QCCP and the clearing member, as determined under § 1240.39(b)(2) and without recognition of the initial margin collateral posted by the clearing member to the QCCP with respect to the repo-style transactions or the prefunded default fund contribution of the clearing member institution to the QCCP;
- (B) IM_i is the initial margin collateral posted by each clearing member to the QCCP with respect to the repo-style transactions; and
- (C) DF_i is the prefunded default fund contribution of each clearing member to the
- (D) QCCP that is not already deducted in paragraph (d)(6)(ii) of this section.

(iv) EAD must be calculated separately for each clearing member's sub-client accounts and sub-house account (*i.e.*, for the clearing member's proprietary activities). If the clearing member's collateral and its client's collateral are held in the same default fund contribution account, then the EAD of that account is the sum of the EAD for the client-related transactions within the account and the EAD of the house-related transactions within the account. For purposes of determining such EADs, the independent collateral

of the clearing member and its client must be allocated in proportion to the respective total amount of independent collateral posted by the clearing member to the QCCP.

(v) If any account or sub-account contains both derivative contracts and repo-style transactions, the EAD of that account is the sum of the EAD for the derivative contracts within the account and the EAD of the repo-style transactions within the account. If independent collateral is held for an account containing both derivative contracts and repo-style transactions, then such collateral must be allocated to the derivative contracts and repo-style transactions in proportion to the respective product specific exposure amounts, calculated, excluding the effects of collateral, according to § 1240.39(b) for repo-style transactions and to § 1240.36(c)(5) for derivative contracts.

■ 11. Effective January 1, 2026, revise § 1240.39 to read as follows:

§ 1240.39 Collateralized transactions.

(a) *General.* (1) An Enterprise may use the following methodologies to recognize the benefits of financial collateral (other than with respect to a retained CRT exposure) in mitigating the counterparty credit risk of repo-style transactions, eligible margin loans, collateralized OTC derivative contracts and single product netting sets of such transactions:

- (i) The collateral haircut approach set forth in paragraph (b)(2) of this section; and
- (ii) For single product netting sets of repo-style transactions and eligible margin loans, the simple VaR methodology set forth in paragraph (b)(3) of this section.

(2) An Enterprise may use any combination of the two methodologies for collateral recognition; however, it must use the same methodology for similar exposures or transactions.

(b) *EAD for eligible margin loans and repo-style transactions—*(1) *General.* An Enterprise may recognize the credit risk mitigation benefits of financial collateral that secures an eligible margin loan, repo-style transaction, or single-product netting set of such transactions by determining the EAD of the exposure using:

- (i) The collateral haircut approach described in paragraph (b)(2) of this section; or
- (ii) For netting sets only, the simple VaR methodology described in paragraph (b)(3) of this section.

(2) *Collateral haircut approach—*(i) *EAD equation.* An Enterprise may determine EAD for an eligible margin loan, repo-style transaction, or netting set by setting EAD equal to

$$\max\{0, [(\Sigma E - \Sigma C) + \Sigma(E_s \times H_s) + \Sigma(E_{fx} \times H_{fx})]\},$$

Where:

- (A) ΣE equals the value of the exposure (the sum of the current fair values of all instruments, gold, and cash the Enterprise has lent, sold subject to repurchase, or posted as collateral to the counterparty under the transaction (or netting set));
- (B) ΣC equals the value of the collateral (the sum of the current fair values of all instruments, gold, and cash the Enterprise has borrowed, purchased subject to resale, or taken as collateral from the counterparty under the transaction (or netting set));
- (C) E_s equals the absolute value of the net position in a given instrument or in gold (where the net position in a given instrument or in gold equals the sum of the current fair values of the instrument or gold the Enterprise has lent, sold subject to repurchase, or posted as collateral to the counterparty minus the sum of the current fair values of that same instrument or gold the Enterprise has borrowed, purchased subject to resale, or taken as collateral from the counterparty);
- (D) H_s equals the market price volatility haircut appropriate to the instrument or gold referenced in E_s ;
- (E) E_{fx} equals the absolute value of the net position of instruments and cash in a currency that is different from the settlement currency (where the net position in a given currency equals the sum of the current fair values of any instruments or cash in the currency the Enterprise has lent, sold subject to repurchase, or posted as collateral to the counterparty minus the sum of the current fair values of any instruments or cash in the currency the Enterprise has borrowed, purchased subject to resale, or taken as collateral from the counterparty); and
- (F) H_{fx} equals the haircut appropriate to the mismatch between the currency referenced in E_{fx} and the settlement currency.

(ii) *Standard supervisory haircuts.* Under the standard supervisory haircuts approach:

- (A) An Enterprise must use the haircuts for market price volatility (H_s) in table 1 to paragraph (b)(2)(ii)(A) as adjusted in certain circumstances as provided in paragraphs (b)(2)(ii)(C) and (D) of this section;

TABLE 1 TO PARAGRAPH (b)(2)(ii)(A)—STANDARD SUPERVISORY MARKET PRICE VOLATILITY HAIRCUTS ¹

Residual maturity	Haircut (in percent) assigned based on:						Investment grade securitization exposures (in percent)
	Sovereign issuers risk weight under § 1240.32 ² (in percent)			Non-sovereign issuers risk weight under § 1240.32 (in percent)			
	Zero	20 or 50	100	20	50	100	
Less than or equal to 1 year	0.5	1.0	15.0	1.0	2.0	4.0	4.0
Greater than 1 year and less than or equal to 5 years	2.0	3.0	15.0	4.0	6.0	8.0	12.0
Greater than 5 years	4.0	6.0	15.0	8.0	12.0	16.0	24.0
Main index equities (including convertible bonds) and gold	15.0						
Other publicly traded equities (including convertible bonds)	25.0						
Mutual funds	Highest haircut applicable to any security in which the fund can invest.						
Cash collateral held	Zero.						
Other exposure types	25.0						

¹ The market price volatility haircuts in table 1 are based on a 10 business-day holding period.
² Includes a foreign PSE that receives a zero percent risk weight.

(B) For currency mismatches, an Enterprise must use a haircut for foreign exchange rate volatility (H_{fx}) of 8 percent, as adjusted in certain circumstances as provided in paragraphs (b)(2)(ii)(C) and (D) of this section.

(C) For repo-style transactions and client-facing derivative transactions, an Enterprise may multiply the supervisory haircuts provided in paragraphs (b)(2)(ii)(A) and (B) of this section by the square root of 1/2 (which equals 0.707107). If the Enterprise determines that a longer holding period is appropriate for client-facing derivative transactions, then it must use a larger scaling factor to adjust for the longer holding period pursuant to paragraph (b)(2)(ii)(F) of this section.

(D) An Enterprise must adjust the supervisory haircuts upward on the basis of a holding period longer than ten business days (for eligible margin loans) or five business days (for repo-style transactions), using the formula provided in paragraph (b)(2)(ii)(F) of this section where the conditions in this paragraph (b)(2)(ii)(D) apply. If the number of trades in a netting set exceeds 5,000 at any time during a quarter, an Enterprise must adjust the supervisory haircuts upward on the basis of a minimum holding period of twenty business days for the following quarter (except when an Enterprise is calculating EAD for a cleared transaction under § 1240.37). If a netting set contains one or more trades involving illiquid collateral, an Enterprise must adjust the supervisory haircuts upward on the basis of a minimum holding period of twenty business days. If over the two previous quarters more than two margin disputes on a netting set have occurred that

lasted longer than the holding period, then the Enterprise must adjust the supervisory haircuts upward for that netting set on the basis of a minimum holding period that is at least two times the minimum holding period for that netting set.

(E)(1) An Enterprise must adjust the supervisory haircuts upward on the basis of a holding period longer than ten business days for collateral associated with derivative contracts (five business days for client-facing derivative contracts) using the formula provided in paragraph (b)(2)(ii)(F) of this section where the conditions in this paragraph (b)(2)(ii)(E)(1) apply. For collateral associated with a derivative contract that is within a netting set that is composed of more than 5,000 derivative contracts that are not cleared transactions, an Enterprise must use a minimum holding period of twenty business days. If a netting set contains one or more trades involving illiquid collateral or a derivative contract that cannot be easily replaced, an Enterprise must use a minimum holding period of twenty business days.

(2) Notwithstanding paragraph (b)(2)(ii)(A) or (C) or (b)(2)(ii)(E)(1) of this section, for collateral associated with a derivative contract in a netting set under which more than two margin disputes that lasted longer than the holding period occurred during the two previous quarters, the minimum holding period is twice the amount provided under paragraph (b)(2)(ii)(A) or (C) or (b)(2)(ii)(E)(1).

(F) An Enterprise must adjust the standard supervisory haircuts upward, pursuant to the adjustments provided in paragraphs (b)(2)(ii)(C) through (E) of this section, using the following formula:

$$H_A = H_S \sqrt{\frac{T_M}{T_S}}$$

Where:

- (1) T_M equals a holding period of longer than 10 business days for eligible margin loans and derivative contracts other than client-facing derivative transactions or longer than 5 business days for repo-style transactions and client-facing derivative transactions; H_S equals the standard supervisory haircut; and
- (2) T_S equals 10 business days for eligible margin loans and derivative contracts other than client-facing derivative transactions or 5 business days for repo-style transactions and client-facing derivative transactions.

(G) If the instrument an Enterprise has lent, sold subject to repurchase, or posted as collateral does not meet the definition of financial collateral, the Enterprise must use a 25.0 percent haircut for market price volatility (H_S).

(iii) *Own internal estimates for haircuts.* With the prior written notice to FHFPA, an Enterprise may calculate haircuts (H_S and H_{fx}) using its own internal estimates of the volatilities of market prices and foreign exchange rates.

(A) To use its own internal estimates, an Enterprise must satisfy the following minimum quantitative standards:

(1) An Enterprise must use a 99th percentile one-tailed confidence interval.

(2) The minimum holding period for a repo-style transaction is five business days and for an eligible margin loan is ten business days except for transactions or netting sets for which paragraph (b)(2)(iii)(A)(3) of this section applies. When an Enterprise calculates an own-estimates haircut on a T_N -day holding period, which is different from

the minimum holding period for the transaction type, the applicable haircut (H_M) is calculated using the following square root of time formula:

$$H_M = H_N \sqrt{\frac{T_M}{T_N}}$$

Where:

- (i) T_M equals 5 for repo-style transactions and 10 for eligible margin loans;
- (ii) T_N equals the holding period used by the Enterprise to derive H_N ; and
- (iii) H_N equals the haircut based on the holding period T_N

(3) If the number of trades in a netting set exceeds 5,000 at any time during a quarter, an Enterprise must calculate the haircut using a minimum holding period of twenty business days for the following quarter (except when an Enterprise is calculating EAD for a cleared transaction under § 1240.37). If a netting set contains one or more trades involving illiquid collateral or an OTC derivative that cannot be easily replaced, an Enterprise must calculate the haircut using a minimum holding period of twenty business days. If over the two previous quarters more than two margin disputes on a netting set have occurred that lasted more than the holding period, then the Enterprise must calculate the haircut for transactions in that netting set on the basis of a holding period that is at least two times the minimum holding period for that netting set.

(4) An Enterprise is required to calculate its own internal estimates with inputs calibrated to historical data from a continuous 12-month period that reflects a period of significant financial stress appropriate to the security or category of securities.

(5) An Enterprise must have policies and procedures that describe how it determines the period of significant financial stress used to calculate the Enterprise's own internal estimates for haircuts under this section and must be able to provide empirical support for the period used. The Enterprise must obtain the prior approval of FHFA for, and notify FHFA if the Enterprise makes any material changes to, these policies and procedures.

(6) Nothing in this section prevents FHFA from requiring an Enterprise to use a different period of significant financial stress in the calculation of own internal estimates for haircuts.

(7) An Enterprise must update its data sets and calculate haircuts no less frequently than quarterly and must also reassess data sets and haircuts whenever market prices change materially.

(B) With respect to debt securities that are investment grade, an Enterprise may calculate haircuts for categories of securities. For a category of securities, the Enterprise must calculate the haircut on the basis of internal volatility estimates for securities in that category that are representative of the securities in that category that the Enterprise has lent, sold subject to repurchase, posted as collateral, borrowed, purchased subject to resale, or taken as collateral. In determining relevant categories, the Enterprise must at a minimum take into account:

- (1) The type of issuer of the security;
- (2) The credit quality of the security;
- (3) The maturity of the security; and
- (4) The interest rate sensitivity of the security.

(C) With respect to debt securities that are not investment grade and equity securities, an Enterprise must calculate a separate haircut for each individual security.

(D) Where an exposure or collateral (whether in the form of cash or securities) is denominated in a currency that differs from the settlement currency, the Enterprise must calculate a separate currency mismatch haircut for its net position in each mismatched currency based on estimated volatilities of foreign exchange rates between the mismatched currency and the settlement currency.

(E) An Enterprise's own estimates of market price and foreign exchange rate volatilities may not take into account the correlations among securities and foreign exchange rates on either the exposure or collateral side of a transaction (or netting set) or the correlations among securities and foreign exchange rates between the exposure and collateral sides of the transaction (or netting set).

(3) *Simple VaR methodology.* With the prior written notice to FHFA, an Enterprise may estimate EAD for a netting set using a VaR model that meets the requirements in paragraph (b)(3)(iii) of this section. In such event, the Enterprise must set EAD equal to $\max\{0, [(\Sigma E - \Sigma C) + PFE]\}$, where:

(i) ΣE equals the value of the exposure (the sum of the current fair values of all instruments, gold, and cash the Enterprise has lent, sold subject to repurchase, or posted as collateral to the counterparty under the netting set);

(ii) ΣC equals the value of the collateral (the sum of the current fair values of all instruments, gold, and cash the Enterprise has borrowed, purchased subject to resale, or taken as collateral from the counterparty under the netting set); and

(iii) PFE (potential future exposure) equals the Enterprise's empirically based estimate of the 99th percentile, one-tailed confidence interval for an increase in the value of $(\Sigma E - \Sigma C)$ over a five-business-day holding period for repo-style transactions, or over a ten-business-day holding period for eligible margin loans except for netting sets for which paragraph (b)(3)(iv) of this section applies using a minimum one-year historical observation period of price data representing the instruments that the Enterprise has lent, sold subject to repurchase, posted as collateral, borrowed, purchased subject to resale, or taken as collateral. The Enterprise must validate its VaR model by establishing and maintaining a rigorous and regular backtesting regime.

(iv) If the number of trades in a netting set exceeds 5,000 at any time during a quarter, an Enterprise must use a twenty-business-day holding period for the following quarter (except when an Enterprise is calculating EAD for a cleared transaction under § 1240.37). If a netting set contains one or more trades involving illiquid collateral, an Enterprise must use a twenty-business-day holding period. If over the two previous quarters more than two margin disputes on a netting set have occurred that lasted more than the holding period, then the Enterprise must set its PFE for that netting set equal to an estimate over a holding period that is at least two times the minimum holding period for that netting set.

■ 12. Effective April 1, 2024, amend § 1240.41 by revising paragraph (c)(5), redesignating paragraph (c)(6) as paragraph (c)(7), and adding new paragraph (c)(6).

The revision and addition read as follows:

§ 1240.41 Operational requirements for CRT and other securitization exposures.

* * * * *

(c) * * *

(5) Any clean-up calls relating to the credit risk transfer are eligible clean-up calls;

(6) Any time-based calls relating to the credit risk transfer are eligible time-based calls; and

* * * * *

■ 13. Effective April 1, 2024, amend § 1240.42 by revising paragraph (f) to read as follows.

§ 1240.42 Risk-weighted assets for CRT and other securitization exposures.

* * * * *

(f) *Interest-only mortgage-backed securities.* For non-credit-enhancing interest-only mortgage-backed securities

that are not subject to § 1240.32(c), the risk weight may not be less than 100 percent.

* * * * *

■ 14. Effective April 1, 2024, amend § 1240.400 by revising paragraph (c)(1) and removing paragraph (d).

The revision reads as follows:

§ 1240.400 Stability capital buffer.

* * * * *

(c) * * *

(1) *Increase in stability capital buffer.*

An increase in the stability capital buffer of an Enterprise under this section will take effect (*i.e.*, be incorporated into the maximum payout ratio under table 1 to paragraph (b)(5) in § 1240.11) on January 1 of the year that is one full calendar year after the increased stability capital buffer was calculated, provided that where a stability capital buffer under paragraph (c)(2) of this section is calculated to be a decrease in the stability capital buffer from the previously calculated scheduled increase applicable on the same January 1, the decreased stability capital buffer under paragraph (c)(2) shall take effect.

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Sandra L. Thompson,

Director, Federal Housing Finance Agency.

[FR Doc. 2023-26078 Filed 11-29-23; 8:45 am]

BILLING CODE 8070-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2023-1888; Project Identifier MCAI-2023-00298-E; Amendment 39-22615; AD 2023-23-13]

RIN 2120-AA64

Airworthiness Directives; Rolls-Royce Deutschland Ltd & Co KG Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Rolls-Royce Deutschland Ltd & Co KG (RRD) Model RB211-Trent 800 engines. This AD is prompted by reports of cracks on certain intermediate-pressure compressor (IPC) rotor shaft balance lands. This AD requires initial and repetitive on-wing or in-shop borescope inspections (BSIs) of certain IPC rotor shaft balance lands for cracks, dents, and nicks, and replacement of the IPC rotor shaft if necessary, and would

prohibit the installation of a certain IPC rotor shaft on any engine, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference (IBR). The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective January 4, 2024.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of January 4, 2024.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA-2023-1888; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For service information identified in this final rule, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: ADs@easa.europa.eu; website: easa.europa.eu. You may find this material on the EASA website at ad.easa.europa.eu. You may find this material on the EASA website at ad.easa.europa.eu.

- You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222-5110. It is also available at *regulations.gov* under Docket No. FAA-2023-1888.

FOR FURTHER INFORMATION CONTACT:

Sungmo Cho, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198; phone: (781) 238-7241; email: sungmo.d.cho@faa.gov.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all RRD Model RB211-Trent 800 engines. The NPRM published in the **Federal Register** on September 15, 2023 (88 FR 63539); corrected on September 27, 2023 (88 FR 66314). The NPRM was prompted by EASA AD 2023-0040, dated February 16, 2023 (EASA AD 2023-0040) (also referred to

as the MCAI), issued by EASA, which is the Technical Agent for the Member States of the European Union. The MCAI states that cracking on the IPC rotor shaft balance land has been historically observed on RRD Model RB211-Trent 800 engines. To address this unsafe condition, the manufacturer developed a modification, which introduced a revised balancing method that removed the original balancing weights from the IPC rotor shaft, and published service information to provide instructions for in-service modification. In addition, the manufacturer published service information to provide instructions for in-shop eddy current (EC) inspection of the IPC rotor shaft balance land. Consequently, EASA issued EASA AD 2014-0152, dated June 20, 2014; corrected June 25, 2014; revised March 2, 2018 (EASA AD 2014-0152R1).

Since EASA issued EASA AD 2014-0152R1, the manufacturer determined that certain RB211-Trent 800 engines were not inspected during engine refurbishment. The manufacturer then identified the IPC rotor shaft balance lands that were not inspected and published service information that describes procedures to perform a BSI of the IPC rotor shaft balance land until the in-shop EC inspection is accomplished. To address this, EASA issued the MCAI.

In the NPRM, the FAA proposed to require initial and repetitive on-wing or in-shop BSIs of certain IPC rotor shaft balance lands for cracks, dents, and nicks, and replacement of the IPC rotor shaft if necessary, and proposed to prohibit the installation of a certain IPC rotor shaft on any engine. The FAA is issuing this AD to address the unsafe condition on these products.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA-2023-1888.

Discussion of Final Airworthiness Directive

Comments

The FAA received a comment from The Boeing Company (Boeing). Boeing supported the NPRM without change.

Conclusion

These products have been approved by the aviation authority of another country and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA reviewed the relevant data, considered the comment received, and determined that air safety requires