

# Rules and Regulations

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

The Code of Federal Regulations is sold by the Superintendent of Documents.

## FEDERAL RESERVE SYSTEM

### 12 CFR Part 228

[Regulation BB; Docket No. R-1826]

RIN 7100-AG 73

## FEDERAL DEPOSIT INSURANCE CORPORATION

### 12 CFR Part 345

RIN 3064-AF98

### Community Reinvestment Act Regulations Asset-Size Thresholds

**AGENCY:** Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC).

**ACTION:** Joint final rule; technical amendment.

**SUMMARY:** The Board and the FDIC (collectively, the Agencies) are amending their Community Reinvestment Act (CRA) regulations to adjust the asset-size thresholds used to define “small bank” and “intermediate small bank.” As required by the CRA regulations, the adjustment to the threshold amount is based on the annual percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W).

**DATES:** Effective January 1, 2024.

#### FOR FURTHER INFORMATION CONTACT:

*Board:* Amal S. Patel, Senior Counsel, (202) 912-7879, Division of Consumer and Community Affairs; or Sumeet Shroff, Counsel, (202) 973-5085, Legal Division, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551. For users of Telecommunications Device for the Deaf (TDD) and TTY-TRS, please call 711 from any telephone, anywhere in the United States.

*FDIC:* Patience R. Singleton, Senior Policy Analyst, Supervisory Policy Branch, Division of Depositor and Consumer Protection, (202) 898-6859, [psingleton@fdic.gov](mailto:psingleton@fdic.gov); or Sherry A.

Betancourt, Counsel, (202) 898-6560, [sbetancourt@fdic.gov](mailto:sbetancourt@fdic.gov), or Alys V. Brown, Senior Attorney, (202), 898-3565, [alybrown@fdic.gov](mailto:alybrown@fdic.gov), Legal Division, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

#### SUPPLEMENTARY INFORMATION:

### Background and Description of the Joint Final Rule

The Agencies’ CRA regulations establish CRA performance standards for small and intermediate small banks. The CRA regulations define small and intermediate small banks by reference to asset-size criteria expressed in dollar amounts, and they further require the Agencies to publish annual adjustments to these dollar figures based on the year-to-year change in the average of the CPI-W, not seasonally adjusted, for each 12-month period ending in November, with rounding to the nearest million. 12 CFR 228.12(u)(2) and 345.12(u)(2). This adjustment formula was first adopted for CRA purposes by the Board, the Office of the Comptroller of the Currency (OCC), and the FDIC on August 2, 2005, effective September 1, 2005. 70 FR 44256 (Aug. 2, 2005). At that time, the Agencies noted that the CPI-W is also used in connection with other Federal laws, such as the Home Mortgage Disclosure Act. *See* 12 U.S.C. 2808; 12 CFR 1003.2. On March 22, 2007, and effective July 1, 2007, the former Office of Thrift Supervision (OTS), the agency then responsible for regulating savings associations, adopted an annual adjustment formula consistent with that of the other Federal banking agencies in its CRA rule previously set forth at 12 CFR part 563e. 72 FR 13429 (Mar. 22, 2007).

Pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act),<sup>1</sup> effective July 21, 2011, CRA rulemaking authority for Federal and State savings associations was transferred from the OTS to the OCC, and the OCC subsequently republished, at 12 CFR part 195, the CRA regulations applicable to those institutions.<sup>2</sup> In addition, the Dodd-Frank Act transferred responsibility for supervision of savings and loan holding companies and their non-depository

subsidiaries from the OTS to the Board, and the Board subsequently amended its CRA regulation to reflect this transfer of supervisory authority.<sup>3</sup>

The OCC has determined that it will adjust the asset-size criteria for institutions that are subject to OCC-issued CRA regulations, including national banks and Federal and State savings associations, by a means separate from this rulemaking process.

The threshold for small banks was revised most recently in December 2022 and became effective January 1, 2023. 87 FR 78829 (Dec. 23, 2022). The current CRA regulations provide that banks that, as of December 31 of either of the prior two calendar years, had assets of less than \$1.503 billion are small banks. Small banks with assets of at least \$376 million as of December 31 of both of the prior two calendar years and less than \$1.503 billion as of December 31 of either of the prior two calendar years are intermediate small banks. 12 CFR 228.12(u)(1) and 345.12(u)(1). This joint final rule revises these thresholds.

During the 12-month period ending November 2023, the CPI-W increased by 4.06 percent. As a result, the Agencies are revising 12 CFR 228.12(u)(1) and 345.12(u)(1) to make this annual adjustment. Beginning January 1, 2024, banks that, as of December 31 of either of the prior two calendar years, had assets of less than \$1.564 billion are small banks. Small banks with assets of at least \$391 million as of December 31 of both of the prior two calendar years and less than \$1.564 billion as of December 31 of either of the prior two calendar years are intermediate small banks. The Agencies also publish current and historical asset-size thresholds on the website of the Federal Financial Institutions Examination Council at <https://www.ffiec.gov/cra/>.

### Administrative Procedure Act and Effective Date

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

<sup>1</sup> Public Law 111-203, 124 Stat. 1376 (2010).

<sup>2</sup> *See* OCC interim final rule, 76 FR 48950 (Aug. 9, 2011).

<sup>3</sup> *See* Board interim final rule, 76 FR 56508 (Sept. 13, 2011).

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

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

The effective date of this joint final rule is January 1, 2024. Under 5 U.S.C. 553(d)(3) of the APA, the required publication or service of a substantive rule shall be made not less than 30 days before its effective date, except, among other things, as provided by the agency for good cause found and published with the rule. Because this rule adjusts asset-size thresholds consistent with the procedural requirements of the CRA rules, the Agencies conclude that it is not substantive within the meaning of the APA's delayed effective date provision. Moreover, the Agencies find that there is good cause for dispensing with the delayed effective date requirement, even if it applied, because their current rules already provide notice that the small and intermediate small asset-size thresholds will be adjusted as of December 31 based on 12-month data as of the end of November each year.

#### Regulatory Flexibility Act

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

#### Paperwork Reduction Act of 1995

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521) states that no agency may conduct or sponsor, nor is the respondent required to respond to, an information collection unless it displays a currently valid Office of

Management and Budget (OMB) control number. The Agencies have determined that this final rule does not create any new, or revise any existing, collections of information pursuant to the Paperwork Reduction Act. Consequently, no information collection request will be submitted to the OMB for review.

#### Riegle Community Development and Regulatory Improvement Act of 1994

Section 302 of the Riegle Community Development and Regulatory Improvement Act of 1994 (RCDRIA) (12 U.S.C. 4802) requires that each Federal banking agency, in determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on insured depository institutions (IDIs), consider, consistent with principles of safety and soundness and the public interest, any administrative burdens that such regulations would place on depository institutions, including small depository institutions, and customers of depository institutions, as well as the benefits of such regulations.<sup>4</sup> In addition, new regulations and amendments to regulations that impose additional reporting, disclosures, or other new requirements on IDIs generally must take effect on the first day of a calendar quarter that begins on or after the date on which the regulations are published in final form.<sup>5</sup>

Because the final rule does not impose additional reporting, disclosure, or other requirements on IDIs, section 302 of RCDRIA does not apply. Nevertheless, the requirements of section 302 of RCDRIA, and the administrative burdens and benefits of the final rule, were considered as part of the overall rulemaking process.

#### Congressional Review Act

##### FDIC

For purposes of Congressional Review Act, the OMB makes a determination as to whether a final rule constitutes a "major" rule.<sup>6</sup> If a rule is deemed a "major rule" by the OMB, the Congressional Review Act generally provides that the rule may not take effect until at least 60 days following its publication.<sup>7</sup>

The Congressional Review Act defines a "major rule" as any rule that the Administrator of the Office of Information and Regulatory Affairs of

the OMB finds has resulted in or is likely to result in—(A) an annual effect on the economy of \$100,000,000 or more; (B) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or (C) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.<sup>8</sup> As required by the Congressional Review Act, the FDIC will submit the final rule and other appropriate reports to Congress and the Government Accountability Office for review.

#### List of Subjects

##### 12 CFR Part 228

Banks, Banking, Community development, Credit, Federal Reserve System, Investments, Reporting and recordkeeping requirements.

##### 12 CFR Part 345

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

#### FEDERAL RESERVE SYSTEM

##### 12 CFR Chapter II

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

#### PART 228—COMMUNITY REINVESTMENT (REGULATION BB)

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

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

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

#### § 228.12 Definitions.

\* \* \* \* \*

(u) \* \* \*

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

\* \* \* \* \*

<sup>4</sup> 12 U.S.C. 4802(a).

<sup>5</sup> 12 U.S.C. 4802(b).

<sup>6</sup> 5 U.S.C. 801 *et seq.*

<sup>7</sup> 5 U.S.C. 801(a)(3).

<sup>8</sup> 5 U.S.C. 804(2).

**FEDERAL DEPOSIT INSURANCE CORPORATION****12 CFR Chapter III****Authority and Issuance**

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

**PART 345—COMMUNITY REINVESTMENT**

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

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

■ 4. Section 345.12 is amended by revising paragraph (u)(1) to read as follows:

**§ 345.12 Definitions.**

\* \* \* \* \*

(u) \* \* \*

(1) *Definition.* *Small bank* means a bank that, as of December 31 of either of the prior two calendar years, had assets of less than \$1.564 billion.

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

\* \* \* \* \*

By order of the Board of Governors of the Federal Reserve System, acting through the Secretary of the Board under delegated authority.

**Ann E. Misback,**

*Secretary of the Board.*

Federal Deposit Insurance Corporation.

Dated at Washington, DC, on December 13, 2023.

**James P. Sheesley,**

*Assistant Executive Secretary.*

[FR Doc. 2023–27934 Filed 12–19–23; 8:45 am]

**BILLING CODE 6210–01–P; 6714–01–P**

**DEPARTMENT OF COMMERCE****Bureau of Industry and Security****15 CFR Part 744**

[Docket No. 231214–0304]

RIN 0694–AJ49

**Additions to the Unverified List**

**AGENCY:** Bureau of Industry and Security, Department of Commerce.

**ACTION:** Final rule.

**SUMMARY:** The Bureau of Industry and Security (BIS) is amending the Export

Administration Regulations (EAR) by adding 13 persons to the Unverified List (UVL). The 13 persons are added to the UVL on the basis that BIS was unable to verify their bona fides. All 13 persons are being added under the destination of the People's Republic of China (China).

**DATES:** *This rule is effective:* December 19, 2023.

**FOR FURTHER INFORMATION CONTACT:**

Kevin J. Kurland, Deputy Assistant Secretary for Export Enforcement, Phone: (202) 482–4255 or by email at [UVLRequest@bis.doc.gov](mailto:UVLRequest@bis.doc.gov).

**SUPPLEMENTARY INFORMATION:****Background**

The UVL, found in supplement no. 6 to part 744 of the EAR (15 CFR parts 730–774), contains the names and addresses of foreign persons who are or have been parties to a transaction, as described in § 748.5 of the EAR, involving the export, reexport, or transfer (in-country) of items subject to the EAR. These foreign persons are added to the UVL because BIS or federal officials acting on BIS's behalf were unable to verify their bona fides (*i.e.*, legitimacy and reliability relating to the end-use and end user of items subject to the EAR) through an end-use check. These checks, such as a pre-license check (PLC) or a post-shipment verification (PSV), cannot be completed satisfactorily for reasons outside the U.S. Government's control.

There are a number of reasons why these checks cannot be completed to the satisfaction of the U.S. Government. Section 744.15(c)(1) of the EAR provides illustrative examples of those circumstances, including reasons unrelated to the cooperation of the foreign party subject to the end-use check. Such examples include: (i) During the conduct of an end-use check, the subject of the check is unable to demonstrate the disposition of items subject to the EAR; (ii) The existence or authenticity of the subject of an end-use check cannot be verified (*e.g.*, the subject of the check cannot be located or contacted); (iii) Lack of cooperation by the host government authority prevents an end-use check from being conducted.

BIS's inability to confirm the bona fides of foreign persons subject to end-use checks raises concerns about the suitability of such persons as participants in future exports, reexports, or transfers (in-country) of items subject to the EAR; it also indicates a risk that such items may be diverted to prohibited end uses and/or end users. Under such circumstances, there may not be sufficient information to add the

foreign person at issue to the Entity List under § 744.11 of the EAR. Therefore, BIS may add the foreign person to the UVL.

As provided in § 740.2(a)(17) of the EAR, the use of license exceptions for exports, reexports, and transfers (in-country) involving a party or parties to the transaction who are listed on the UVL is suspended. Additionally, under § 744.15(b) of the EAR, there is a requirement for exporters, reexporters, and transferors to obtain (and maintain a record of) a UVL statement from a party or parties to the transaction who are listed on the UVL before proceeding with exports, reexports, and transfers (in-country) to such persons, when the exports, reexports and transfers (in-country) are not subject to a license requirement. Finally, pursuant to § 758.1(b)(8), Electronic Export Information (EEI) must be filed in the Automated Export System (AES) for all exports of tangible items subject to the EAR where any party to the transaction, as described in § 748.5(d) through (f), is listed on the UVL.

Requests for the removal of a UVL entry must be made in accordance with § 744.15(d) of the EAR. Decisions regarding the removal or modification of a UVL entry will be made by the Deputy Assistant Secretary for Export Enforcement, based on a demonstration by the listed person of their bona fides.

**Additions to the UVL**

This rule adds 13 persons to the UVL by amending supplement no. 6 to part 744 of the EAR to include their names and addresses. BIS is adding these persons pursuant to § 744.15(c) of the EAR. This final rule implements the decision to add the following 13 persons located in China to the UVL:

**China**

- Beijing Jin Sheng Bo Yue Technology Co., Ltd.;
- Beijing Shengbo Xietong Technology Co., Ltd.;
- Fulian Precision Electronics (Tianjin) Co., Ltd.;
- Guangzhou Xinwei Transportation Co., Ltd.;
- Guangzhou Xinyun Intelligent Technology Co., Ltd.;
- Nanning Fulian Fu Gui Precision Industrial Co., Ltd.;
- Ningbo MOOF Trading Co., Ltd.;
- Plexus (Xiamen) Co., Ltd.;
- PNC Systems (Jiangsu) Co., Ltd.;
- Shenzhen Bozhitongda Technologic Co., Ltd.;
- Shenzhen Jia Li Chuang Tech Development Co., Ltd.;
- Shenzhen Jingelang Co., Ltd.; and
- Xi'An Yierda Co., Ltd.