

**SUPPORTING STATEMENT
RISK-BASED CAPITAL STANDARDS:
ADVANCED CAPITAL ADEQUACY FRAMEWORK
OMB CONTROL NO. 1557-0318**

A. Justification.

This Supporting Statement is filed in connection with a notice of proposed rulemaking that would amend the regulatory capital rule to conform the definition of “HVCRE exposure” to the statutory definition of HVCRE ADC loan. Because the agencies’ regulatory capital rules require respondents to disclose and keep a record of their amount of HVCRE exposures, this definitional change revises respondents’ disclosure and recordkeeping requirements associated with the agencies’ regulatory capital rules. This amendment, however, will not result in changes to the burden. In an effort to be consistent across the agencies, the agencies are applying a conforming methodology for calculating the burden estimates. The agencies are also updating the number of respondents based on the current number of supervised entities. The agencies believe that any changes to the information collections associated with the proposed rule are the result of the conforming methodology and updates to the respondent count, and not the result of the proposed rule changes.

1. Circumstances that make the collection necessary:

The agencies¹ risk-based and leverage capital requirements include a common equity tier 1 minimum capital requirement, a higher minimum tier 1 capital requirement, and, for banking organizations subject to the advanced approaches capital rules, a supplementary leverage ratio that incorporates a broader set of exposures in the capital ratio’s denominator measure. Additionally, the agencies’ applied limits on a banking organization’s capital distributions and certain discretionary bonus payments if the banking organization does not hold a specified amount of common equity tier 1 capital in addition to the amount necessary to meet its minimum risk-based capital requirements. The rule also established more conservative standards for including an instrument in regulatory capital. The final rule is consistent with section 171 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act),² which requires the agencies to establish minimum risk-based and leverage capital requirements.

The agencies revised and harmonized their rules for calculating risk-weighted assets to enhance risk sensitivity and address weaknesses identified over recent years. The rules include creditworthiness measures that do not reference credit ratings, consistent with section 939A of the Dodd-Frank Act.³ The revisions include methodologies for determining risk-weighted assets for residential mortgages, securitization exposures, and counterparty credit risk. The rules also introduce disclosure requirements that apply to top-tier banking organizations domiciled in the

¹ Office of the Comptroller of the Currency (OCC), Board of Governors of the Federal Reserve System (FRB), and Federal Deposit Insurance Corporation (FDIC).

² 12 U.S.C. 5371.

³ 15 U.S.C. 78o-7 note.

United States with \$50 billion or more in total assets, including disclosures related to regulatory capital instruments.

The agencies' rules apply to all banking organizations that are currently subject to minimum capital requirements (including national banks, state member banks, state nonmember banks, state and federal savings associations, and bank holding companies domiciled in the United States not subject to the Board's Small Bank Holding Company Policy Statement (12 CFR part 225, Appendix C)), as well as savings and loan holding companies domiciled in the United States (together, banking organizations).

2. Use of the information:

The OCC uses the information collected to meet its statutory obligations to adopt and implement a risk-based capital requirement, determine the qualification of a bank for application of the rule, and assess the adequacy of a qualifying bank's risk-based capital. 12 U.S.C. 93a, 161, 1464, 3907-3909.

Section-by-Section Analysis

Twelve CFR part 3 sets forth the OCC's minimum capital requirements and overall capital adequacy standards for national banks and Federal savings associations.

Section 3.3(c) allows for the recognition of netting across multiple types of transactions or agreements if the institution obtains a written legal opinion verifying the validity and enforceability of the agreement under certain circumstances and maintains sufficient written documentation of this legal review.

Section 3.22(h)(2)(iii)(A) permits the use of a conservative estimate of the amount of an institution's investment in its own capital or the capital of unconsolidated financial institutions held through an index security with prior approval by the OCC.

Section 3.35(b)(3)(i)(A) requires, for a cleared transaction with a qualified central counterparty (QCCP), that a client bank apply a risk weight of two percent, provided that the collateral posted by the bank to the QCCP is subject to certain arrangements and the client bank has conducted a sufficient legal review (and maintains sufficient written documentation of the legal review) to conclude with a well-founded basis that the arrangements, in the event of a legal challenge, would be found to be legal, valid, binding, and enforceable under the law of the relevant jurisdictions.

Section 3.37(c)(4)(i)(E), regarding collateralized transactions, requires that a bank have policies and procedures in place describing how it determines the period of significant financial stress used to calculate its own internal estimates for haircuts and be able to provide empirical support for the period used.

Section 3.41(b)(3), which sets forth operational requirements for securitization exposures, allows a national bank or federal savings association to recognize for risk-based capital purposes,

in the case of synthetic securitizations, a credit risk mitigant to hedge underlying exposures if certain conditions are met. Section 3.41(b)(3) includes a requirement that the national bank or federal savings association obtain a well-reasoned opinion from legal counsel that confirms the enforceability of the credit risk mitigant in all relevant jurisdictions.

Section 3.41(c)(2)(i) requires that a national bank or federal savings association demonstrate its comprehensive understanding of a securitization exposure by conducting an analysis of the risk characteristics of each securitization exposure prior to its acquisition, taking into account a number of specified considerations and documenting the analysis within three business days after the acquisition.

In a case where a national bank or federal savings association provides non-contractual support to a securitization, § 3.42(e)(2) requires the national bank or Federal savings association to publicly disclose that it has provided implicit support to a securitization and the risk-based capital impact to the bank of providing such implicit support.

Section 3.62 sets forth disclosure requirements related to the capital requirements of a national bank or federal savings association. Section 3.61 provides that these requirements apply to a national bank or federal savings association with total consolidated assets of \$50 billion or more that is not a consolidated subsidiary of an entity that is itself subject to Basel III disclosures. For national banks and federal savings associations subject to the disclosure requirements, § 3.62(a) requires quarterly disclosure of information in the applicable tables in § 3.63 and, if a significant change occurs, such that the most recent reported amounts are no longer reflective of the institution's capital adequacy and risk profile, § 3.62(a) requires the national bank or federal savings association to disclose as soon as practicable thereafter a brief discussion of the change and its likely impact. Section 3.62(a) also permits annual disclosure of qualitative information that typically does not change each quarter, provided that any significant changes are disclosed in the interim.

Section 3.62(b) requires that a national bank or federal savings association have a formal disclosure policy approved by the board of directors that addresses its approach for determining the disclosures it makes. The policy must address the associated internal controls and disclosure controls and procedures. Section 3.62(c) permits a national bank or federal savings association to disclose more general information about certain subjects if the national bank or federal savings association concludes that the specific commercial or financial information required to be disclosed under § 3.62 is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552) and the national bank or federal savings association provides the reason the specific items of information have not been disclosed.

Currently, section 3.63 sets forth the specific disclosure requirements for a non-advanced approaches national bank or federal savings association with total consolidated assets of \$50 billion or more that is not a consolidated subsidiary of an entity that is itself subject to Basel III disclosure requirements. Section 3.63(a) requires those institutions to make the disclosures in Tables 1 through 10 in § 3.63 and in § 3.63(b) for each of the last three years beginning on the effective date of the rule. Section 3.63(b) requires quarterly disclosure of an institution's common equity tier 1 capital, additional tier 1 capital, tier 2 capital, tier 1 and total capital ratios,

including the regulatory capital elements and all the regulatory adjustments and deductions needed to calculate the numerator of such ratios; total risk-weighted assets, including the different regulatory adjustments and deductions needed to calculate total risk-weighted assets; regulatory capital ratios during any transition periods, including a description of all the regulatory capital elements and all regulatory adjustments and deductions needed to calculate the numerator and denominator of each capital ratio during any transition period; and a reconciliation of regulatory capital elements as they relate to its balance sheet in any audited consolidated financial statements. Tables 1 through 10 in § 3.63 set forth qualitative and/or quantitative requirements for scope of application, capital structure, capital adequacy, capital conservation buffer, credit risk, counterparty credit risk-related exposures, credit risk mitigation, securitizations, equities not subject to Subpart F (Market Risk requirements) of the rule, and interest rate risk for non-trading activities. Section 3.63 is proposed to be amended to replace references to the allowance for loan and lease losses (ALLL) with the phrase allowance for credit losses (ACL), which is the new accounting terminology for banks that adopt the CECL standard.

Section 3.121 requires a national bank or Federal savings association subject to the advanced approaches risk-based capital requirements to adopt a written implementation plan to address how it will comply with the advanced capital adequacy framework's qualification requirements and also develop and maintain a comprehensive and sound planning and governance process to oversee the implementation efforts described in the plan. Section 3.122 further requires these institutions to: develop processes for assessing capital adequacy in relation to an organization's risk profile; establish and maintain internal risk rating and segmentation systems for wholesale and retail risk exposures, including comprehensive risk parameter quantification processes and processes for annual reviews and analyses of reference data to determine their relevance; document their processes for identifying, measuring, monitoring, controlling, and internally reporting operational risk; verify the accurate and timely reporting of risk-based capital requirements; and monitor, validate, and refine their advanced systems.

Section 3.123 sets forth ongoing qualification requirements that require an institution to notify the OCC of any material change to an advance system and to establish and submit to the OCC a plan for returning to compliance with the qualification requirements.

Section 3.124 requires a national bank or federal savings association to submit to the OCC, within 90 days of consummating a merger or acquisition, an implementation plan for using its advanced systems for the merged or acquired company.

Section 3.132(b)(2)(iii)(A) addresses counterparty credit risk of repo-style transactions, eligible margin loans, and over-the-counter (OTC) derivative contracts, and internal estimates for haircuts. With the prior written approval of the OCC, an institution may calculate haircuts using its own internal estimates of the volatilities of market prices and foreign exchange rates. The section requires national banks and federal savings associations to satisfy certain minimum quantitative standards in order to receive OCC approval to use its own internal estimates.

Section 3.132(b)(3) covers counterparty credit risk of repo-style transactions, eligible margin loans, OTC derivative contracts, and simple Value-at-Risk (VaR) methodology. With the prior written approval of the OCC, a national bank or federal savings association may

estimate exposure at default (EAD) for a netting set using a VaR model that meets certain requirements.

Section 3.132(d)(1) permits the use of the internal models methodology (IMM) to determine EAD for counterparty credit risk for derivative contracts with prior written approval from the OCC. Section 3.132(d)(1)(iii) permits the use of the internal models methodology for derivative contracts, eligible margin loans, and repo-style transactions subject to a qualifying cross-product netting agreement with prior written approval from the OCC.

Section 3.132(d)(2)(iv) addresses counterparty credit risk of repo-style transactions, eligible margin loans, and OTC derivative contracts, and risk-weighted assets using IMM. Under the IMM, an institution uses an internal model to estimate the expected exposure (EE) for a netting set and then calculates EAD based on that EE. An institution must calculate two EEs and two EADs (one stressed and one unstressed) for each netting as outlined in this section. A national bank or federal savings association may use a conservative measure of EAD subject to prior written approval of the OCC.

Section 3.132(d)(3)(vi) addresses counterparty credit risk of repo-style transactions, eligible margin loans, and OTC derivative contracts. To obtain OCC approval to calculate the distributions of exposures upon which the EAD calculation is based, a national bank or federal savings association must demonstrate to the satisfaction of the OCC that it has been using for at least one year an internal model that broadly meets the minimum standards with which the institution must maintain compliance. The institution must have procedures to identify, monitor, and control wrong-way risk throughout the life of an exposure and they must include stress testing and scenario analysis.

Section 3.132(d)(3)(viii) addresses counterparty credit risk of repo-style transactions, eligible margin loans, and OTC derivative contracts. When estimating model parameters based on a stress period, a national bank or federal savings association must use at least three years of historical data that include a period of stress to the credit default spreads of the institution's counterparties. The institution must review the data set and update the data as necessary, particularly for any material changes in its counterparties. The institution must demonstrate at least quarterly that the stress period coincides with increased credit default swap (CDS) or other credit spreads of the institution's counterparties. The institution must have procedures to evaluate the effectiveness of its stress calibration that include a process for using benchmark portfolios that are vulnerable to the same risk factors as the institution's portfolio. The OCC may require the institution to modify its stress calibration to better reflect actual historic losses of the portfolio.

Section 3.132(d)(3)(ix), regarding counterparty credit risk of repo-style transactions, eligible margin loans, and OTC derivative contracts, requires that an institution must subject its internal model to an initial validation and annual model review process that includes consideration of whether the inputs and risk factors, as well as the model outputs, are appropriate. The section requires national banks and federal savings associations to have a backtesting program for its model that includes a process by which unacceptable model performance will be determined and remedied.

Section 3.132(d)(3)(x), regarding counterparty credit risk of repo-style transactions, eligible margin loans, and OTC derivative contracts, provides that a national bank or federal savings association must have policies for the measurement, management, and control of collateral and margin amounts.

Section 3.132(d)(3)(xi), concerning counterparty credit risk of repo-style transactions, eligible margin loans, and OTC derivative contracts, states that an institution must have a comprehensive stress testing program that captures all credit exposures to counterparties and incorporates stress testing of principal market risk factors and creditworthiness of counterparties.

Section 3.141 relates to operational criteria for recognizing the transfer of risk in connection with a securitization. Section 3.141(b)(3) requires a national bank or federal savings association to obtain a well-reasoned legal opinion confirming the enforceability of the credit risk mitigant in all relevant jurisdictions in order to recognize the transference of risk in connection with a synthetic securitization. An institution must demonstrate its comprehensive understanding of a securitization exposure under § 3.141(c)(2) for each securitization exposure by conducting an analysis of the risk characteristics of a securitization exposure prior to acquiring the exposure and document such analysis within three business days after acquiring the exposure. Sections 3.141(c)(2)(i) and (ii) require that institutions, on an on-going basis (at least quarterly), evaluate, review, and update as appropriate the analysis required under this section for each securitization exposure.

Section 3.142(h)(2), regarding the capital treatment for securitization exposures, requires a national bank or federal savings association to disclose publicly if it has provided implicit support to a securitization and the regulatory capital impact to the institution of providing such implicit support.

Section 3.153(b), outlining the Internal Models Approach (IMA) for calculating risk-weighted assets for equity exposures, specifies that a national bank or federal savings association must receive prior written approval from the OCC before it can use IMA by demonstrating to the OCC that the national bank or federal savings association meets certain criteria.

Section 3.172 specifies that each advanced approaches national bank or federal savings association that has completed the parallel run process must publicly disclose its total and tier 1 risk-based capital ratios and their components.

Section 3.173 addresses disclosures by an advanced approaches national bank or federal savings association that is not a consolidated subsidiary of an entity that is subject to the Basel III disclosure requirements. An advanced approaches institution that is subject to the disclosure requirements must make the disclosures described in § 3.173, Tables 1 through 12. The institution must make these disclosures publicly available for each of the last three years (that is, twelve quarters) or such shorter period beginning on the effective date of this subpart E.

The tables in § 3.173 require qualitative and quantitative public disclosures for capital structure, capital adequacy, capital conservation and countercyclical buffers, credit risk,

securitization, operational risk, equities not subject to the market risk capital requirements, and interest rate risk for non-trading activities. Section 3.173 is proposed to be amended to replace references to ALLL with references to ACL for advanced approaches institutions that have adopted the CECL standard, as well as require disclosure of whether an advanced approaches institution is using the optional capital transition adjustment in the proposed rule.

3. *Consideration of the use of improved information technology:*

National banks and federal savings associations may use any information technology that permits review by OCC examiners.

4. *Efforts to identify duplication:*

The required information is unique and is not duplicative of any other information already collected.

5. *If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.*

There are no alternatives that would result in lowering the burden on small institutions, while still accomplishing the purpose of the rule.

6. *Consequences to the Federal program if the collection were conducted less frequently:*

The OCC will not be able to adequately monitor capital levels and ensure safety and soundness if the collection were conducted less frequently.

7. *Special circumstances that would cause an information collection to be conducted in a manner inconsistent with 5 CFR part 1320:*

The information collection will be conducted in a manner consistent with 5 CFR part 1320.

8. *Efforts to consult with persons outside the agency:*

The OCC issued a notice of proposed rulemaking for 60 days of comment concerning the collection.

9. *Payment or gift to respondents:*

None.

10. *Any assurance of confidentiality:*

The information will be kept private to the extent permitted by law.

11. Justification for questions of a sensitive nature:

There are no questions of a sensitive nature in the information collection.

12. Burden estimate:

Section	One-time v. Ongoing	Burden Type	No. Respondents	Responses Per Respondent	Hours per Response	Total Hours
Minimum Capital Ratios						
3.3(c); 3.22(h)(2)(iii)(A)	Ongoing	Recordkeeping	1365	1	16	21,840
Standardized Approach						
3.35(b)(3)(i)(A)	One-time	Recordkeeping	1	1	2	2
3.35(b)(3)(i)(A)	Ongoing	Recordkeeping	1365	1	2	2,730
3.37(c)(4)(i)(E)	One-time	Recordkeeping	1	1	80	80
3.37(c)(4)(i)(E)	Ongoing	Recordkeeping	1365	1	16	21,840
3.41(b)(3) 3.41(c)(2)(i)	One-time	Recordkeeping	1	1	40	40
3.41(c)(2)(i)	Ongoing	Recordkeeping	1365	1	2	2,730
3.42(e)(2) 3.62(a)-(c) 3.63(a)-(b)	One-time	Disclosure	1	1	226.25	226.25
3.42(e)(2) 3.62(a)-(c) 3.63(a)-(b) 3.63 Tables	Ongoing	Disclosure	3	4	131.25	1,575
Advanced Approach						
3.121(b)	Ongoing	Recordkeeping	18	1	330	5,940
3.122(d)-(h); 3.132(b)(3) 3.132(d)(1) 3.132(d)(1)(iii)	Ongoing	Recordkeeping	18	1	16.82	302.76

Section	One-time v. Ongoing	Burden Type	No. Respondents	Responses Per Respondent	Hours per Response	Total Hours
3.122(h)	Ongoing	Recordkeeping	18	1	19	342
3.122(a), 3.123(a), 3.124(a)	Ongoing	Recordkeeping	18	1	27.9	502.2
3.122-3.124	Ongoing	Recordkeeping	18	1	11.05	198.9
3.132(b)(2)(iii) (A)	One-time	Recordkeeping	1	1	80	80
3.132(b)(2)(iii) (A)	Ongoing	Recordkeeping	18	1	16	288
3.132(d)(2)(iv)	One-time	Recordkeeping	1	1	80	80
3.132(d)(2)(iv)	Ongoing	Recordkeeping	18	1	40	720
3.132(d)(3)(vi)	One-time	Recordkeeping	1	1	80	80
3.132(d)(3)(viii)	One-time	Recordkeeping	1	1	80	80
3.132(d)(3)(viii)	Ongoing	Recordkeeping	18	4	10	720
3.132(d)(3)(ix)	One-time	Recordkeeping	1	1	40	40
3.132(d)(3)(ix)	Ongoing	Recordkeeping	18	1	40	720
3.132(d)(3)(x)	One-time	Recordkeeping	1	1	20	20
3.132(d)(3)(xi)	One-time	Recordkeeping	1	1	40	40
3.132(d)(3)(xi)	Ongoing	Recordkeeping	18	1	40	720
3.141(b)(3) 3.141(c)(1) 3.141(c)(2)(i)-(ii) 3.153	One-time	Recordkeeping	1	1	40	40
3.141(c)(2)(i)-(ii)	Ongoing	Recordkeeping	18	4	10	720
3.142 3.171	Ongoing	Disclosures	18	1	5.78	104.4
3.173; Tables 4, 5; 9; 12	One-time	Disclosure	1	1	280	280
3.173; Tables 4; 5; 9; 12	Ongoing	Disclosure	18	4	40.78	2,936.16
Total			1,365			66,017.67

Cost of Hour Burden:

66,017.67 x 117 = \$7,724,067.39

To estimate wages we reviewed data from May 2017 for wages (by industry and occupation) from the U.S. Bureau of Labor Statistics (BLS) for depository credit intermediation (NAICS 522100). To estimate compensation costs associated with the rule, we use \$117 per hour, which is based on the average of the 90th percentile for seven occupations adjusted for inflation (2.2 percent), plus an additional 34.2 percent to cover private sector benefits for financial activities.

13. Estimate of total annual costs to respondents (excluding cost of hour burden in Item #12):

Not applicable.

14. Estimate of annualized costs to the Federal government:

Not applicable.

15. Change in burden:

Prior Burden: 240,711 Burden Hours
Current Burden: 66,017.67 Burden Hours
Difference: -174,693.33 Burden Hours

The decrease in burden is due to the change in the burden calculation methodology, consistent with the other banking agencies. There is no change in burden due to the rule.

16. Information regarding collections whose results are to be published for statistical use:

Not applicable.

17. Reasons for not displaying OMB approval expiration date:

Not applicable.

18. Exceptions to the certification statement:

None.

B. Collections of Information Employing Statistical Methods.

Not applicable.

