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## FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 303, 314, 335, 340, 347, 363, and 380

RIN 3064-AG15

### Adjusting and Indexing Certain Regulatory Thresholds

**AGENCY:** Federal Deposit Insurance Corporation.

**ACTION:** Final rule.

**SUMMARY:** The Federal Deposit Insurance Corporation (FDIC) is adopting this final rule to amend certain regulatory thresholds in the FDIC's regulations to reflect inflation. Specifically, this final rule generally updates such thresholds to reflect inflation from the date of initial implementation or the most recent adjustment and provides for future adjustments pursuant to an indexing methodology. The changes set forth in this final rule preserve the level of certain thresholds set forth in the FDIC's regulations in real terms, thereby avoiding the undesirable and unintended outcome where the scope of applicability for a regulatory requirement changes due solely to inflation rather than actual changes in an institution's size, risk profile, or level of complexity.

**DATES:**

*Effective date:* The final rule is effective January 1, 2026.

*Applicability dates:* An insured depository institution (IDI) need not comply with the applicable 12 CFR part 363 requirements in effect as of December 31, 2025, if the IDI will not be subject to such 12 CFR part 363 requirements under the updated thresholds in effect as of January 1, 2026, as specified in this final rule.

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**SUPPLEMENTARY INFORMATION:**

**Table of Contents**

- I. Introduction
  - A. Background
  - B. Considerations and Policy Objectives for Updating and Indexing Thresholds
  - C. Overview of the Proposal
- II. Overview of Comments Received
  - A. In General
  - B. Expected Effects
  - C. Indexing Methodology
  - D. Effective Date
  - E. Other Comments
- III. Final Rule and Discussion of Comments
  - A. Initial Updates
    1. 12 CFR part 303 (Part 303)—Filing Procedures
    2. 12 CFR part 335 (Part 335)—Securities of State Nonmember Banks and Savings Associations
    3. 12 CFR part 340 (Part 340)—Restrictions on Sale of Assets of a Failed Institution by the Federal Deposit Insurance Corporation
    4. 12 CFR part 347 (Part 347)—International Banking
    5. 12 CFR part 363 (Part 363)—Annual Independent Audits and Reporting Requirements
      - i. Background
      - ii. Overview of Proposed Asset Threshold Updates in Part 363
      - iii. Comments on Part 363
      - iv. Response to Comments on Part 363
      - v. Final Rule
    6. 12 CFR part 380 (Part 380)—Orderly Liquidation Authority
    7. Additional Thresholds
    8. Effective Date of Initial Threshold Updates
    9. Alternatives for Threshold Application
  - B. Indexing Methodology for Future Threshold Adjustments
    1. Description of Proposed Methodology

- i. Comments on the Proposed Methodology
- ii. Response to Comments on the Proposed Methodology
2. Alternatives to the Proposed Indexing Methodology
  - i. Alternative Measures of Indexing: Other Price Indices
  - ii. Alternative Measures of Indexing: Gross Domestic Product
  - ii. Alternative Measures of Indexing: Other Measures
  - iv. Adjustment Frequency Within the Indexing Methodology
  - v. Degree of Automation in Indexing
3. Final Rule—Indexing Methodology
  - i. Indexing Methodology, In General
  - ii. Effective Date and Timing of Future Adjustments
- IV. Economic Analysis
  - A. Expected Scope of Impact
  - B. Estimates of the Number of Directly Affected Entities
  - C. Costs and Benefits of the Final Rule
  - D. Overall Assessment
- V. Administrative Law Matters
  - A. Administrative Procedure Act
  - B. Congressional Review Act
  - C. Paperwork Reduction Act
  - D. Regulatory Flexibility Act Analysis
  - E. Plain Language
  - F. Riegle Community Development and Regulatory Improvement Act of 1994
  - G. Executive Orders 12866 and 13563
  - H. Executive Order 14192

## I. Introduction

### A. Background

Various regulations promulgated by the FDIC use thresholds to determine their scope of applicability. The most common threshold is the amount of total on-balance sheet assets of an institution (measured in dollars), which has long served as a proxy for an institution's size.<sup>1</sup> In some cases, asset-based thresholds are combined with other thresholds to serve as proxies for an institution's risk profile or level of complexity, such as the amount of off-balance sheet exposures or cross-jurisdictional activities.<sup>2</sup> Combining thresholds in this manner allows for a regulatory framework that is tailored to the risks presented by an individual institution or categories of institutions.<sup>3</sup>

<sup>1</sup> See, e.g., 12 CFR 337.12(b) (classifying institutions with less than \$3 billion in assets as small for examination cycle purpose); 12 CFR 324.2 (providing definitions for Category II and III FDIC-supervised institutions).

<sup>2</sup> See, e.g., 12 CFR 329.3.

<sup>3</sup> For example, for large financial institutions with total assets of \$100 billion or more, capital and liquidity requirements increase in stringency based on measures of size, cross-jurisdictional activity,

Continued

Additionally, while most thresholds set a general level of applicability for a regulation, in some instances, thresholds establish exclusions, provide for optionality, or tailor individual requirements within a broad-based regulation to the varying sizes, risk profiles, and levels of complexity of in-scope institutions.

Under the FDIC's regulations, most thresholds are static, with no mechanism for periodic adjustments over time. To change a static threshold, the FDIC must, in general, provide notice and seek comment on any such change before it can be implemented as final.<sup>4</sup> Certain thresholds within the FDIC's regulations are required by statute and therefore cannot be changed without legislative amendments.<sup>5</sup>

The FDIC has occasionally revised discretionary regulatory thresholds or established a mechanism within a regulation to allow for adjustments on a periodic basis. For example, 12 CFR part 345, which implements the Community Reinvestment Act,<sup>6</sup> defines small and intermediate-small banks by reference to asset-size criteria expressed in dollar amounts, which are adjusted annually based on the year-to-year change in inflation through a **Federal Register** notice.<sup>7</sup>

### *B. Considerations and Policy Objectives for Updating and Indexing Thresholds*

As discussed above, the use of applicability thresholds allows the FDIC to differentiate and tailor regulatory requirements based on an institution's size, risk profile, and level of complexity. However, static dollar-based thresholds can lead to unintended policy consequences if threshold levels are not periodically updated or indexed to inflation. For example, smaller and mid-size institutions can become subject to asset-based requirements originally intended for relatively larger institutions solely as a result of growth in price levels, thereby increasing burden for reasons unrelated to changes

in their inflation-adjusted size or risk profile.

Modifications to regulatory thresholds can be made in several ways in order to help preserve their intended application and policy objectives. A threshold may be periodically updated through ad-hoc review, for example, as a one-time update without pre-determining any additional, automatic future adjustments. Such an approach would help to preserve the threshold's intended application since it was first implemented or most recently amended but would not efficiently provide for preservation of the intended threshold level over time. Separately, a regulatory threshold may be automatically adjusted in future periods, for example, through periodic adjustments using a pre-determined indexing methodology based on a certain factor, such as inflation. Automatic adjustments in this way would more efficiently and transparently preserve a threshold's intended application and maintain alignment with intended policy objectives over time. However, if not properly structured for future periods, index-based adjustments can lead to unintended and undesirable outcomes. For example, adjusting regulatory thresholds too frequently and in the absence of meaningful changes in the chosen index can result in inefficiencies, as institutions may incur costs to frequently review their practices to reflect adjusted thresholds. By contrast, infrequent adjustments also result in larger, less gradual adjustments that can impair the certainty and predictability of a regulatory framework and create challenges for regulatory compliance and balance sheet management practices.

Properly structured, appropriately sequenced and predictable threshold adjustments promote consistent application of regulatory requirements over time and contribute to a more durable regulatory framework. In addition, such adjustments can enhance transparency and certainty by providing institutions with a pre-determined schedule for future regulatory changes and therefore allow for more enhanced balance sheet management practices.

### *C. Overview of the Proposal*

On July 28, 2025, the FDIC published a notice of proposed rulemaking (the proposal) in the **Federal Register** that proposed to update and, in the future, adjust certain regulatory thresholds in the FDIC's regulations to reflect inflation and certain other considerations.<sup>8</sup> Under the proposal, the

FDIC would initially update such thresholds to reflect historical inflation<sup>9</sup> (which would be measured as the percentage change in the non-seasonally adjusted Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W)),<sup>10</sup> generally based off the date of initial implementation or the most recent quantitative adjustment. Additionally, the proposal would implement an indexing methodology for subsequent, periodic adjustments for most thresholds that would be effectuated automatically every two consecutive years or during any intervening year when the cumulative change in CPI-W since the last adjustment increases by more than 8 percent.<sup>11</sup>

The FDIC noted in the proposal that the proposal was the first of a multi-phase effort to reevaluate thresholds within the FDIC's regulations, and that the FDIC expects to solicit comment on one or more future proposals to update and adjust additional thresholds.

As discussed in the sections that follow, the FDIC proposed to initially update and thereafter periodically adjust certain thresholds in the following FDIC regulations:

- 12 CFR part 303—Filing Procedures
- 12 CFR part 335—Securities of Nonmember Banks and State Savings Associations
- 12 CFR part 340—Restrictions on Sale of Assets of a Failed Institution by the Federal Deposit Insurance Corporation
- 12 CFR part 347—International Banking
- 12 CFR part 363—Annual Independent Audits and Reporting Requirements
- 12 CFR part 380—Orderly Liquidation Authority

## **II. Overview of Comments Received**

### *A. In General*

The FDIC received over 100 comment letters on the proposal for updating and indexing certain regulatory thresholds,

weighted short-term wholesale funding, nonbank assets, and off-balance sheet exposure. See 12 CFR 252.5, 12 CFR 238.10.

<sup>4</sup> 5 U.S.C. 553(b), (c).

<sup>5</sup> See, e.g., 12 U.S.C. 5365(i)(2)(A), which generally requires financial companies to conduct periodic stress tests if their total consolidated assets are greater than \$250 billion. Pursuant to this statutory language, the FDIC's regulations reiterate this \$250 billion threshold at 12 CFR 325.2(c).

<sup>6</sup> 12 U.S.C. 2901 *et seq.*

<sup>7</sup> Specifically, this adjustment corresponds to the average of the Consumer Price Index for Urban Wage Earners and Clerical Workers, not seasonally adjusted, for each 12-month period ending in November, with rounding to the nearest million. See Community Reinvestment Act Regulations Asset-Size Thresholds, 89 FR 106480, 106481 (Dec. 30, 2024).

<sup>8</sup> 90 FR 35449 (July 28, 2025).

<sup>9</sup> Certain thresholds under the proposal would be updated initially to reflect other considerations. For example, as discussed in section III.A.5 of this **SUPPLEMENTARY INFORMATION**, the proposal would initially update thresholds in 12 CFR part 363 to help ensure sound financial management of the institutions posing the greatest potential risk to the Deposit Insurance Fund. 70 FR 71226, 71227 (Nov. 28, 2005).

<sup>10</sup> The U.S. Bureau of Labor Statistics publishes the CPI-W on a monthly basis. The CPI-W is used to annually adjust benefits paid to Social Security beneficiaries and Supplemental Security Income recipients. U.S. Social Security Administration, CPI for Urban Wage Earners and Clerical Workers, available at [www.ssa.gov/oact/STATS/cpiw.html](http://www.ssa.gov/oact/STATS/cpiw.html).

<sup>11</sup> Any references to inflation in this final rule refer to inflation as measured under the CPI-W, unless specifically noted otherwise.

predominantly from community banking institutions, but also from industry and trade groups representing the banking and financial services industry, accounting firms, public policy and public interest organizations, financial services firms, a law firm, a professional organization of financial regulators, and individuals.

The comments received generally expressed support for the proposal, in particular comments received from community banking institutions. Commenters generally supported the proposed updates to certain regulatory thresholds, with many indicating such updates would provide a meaningful benefit through reduced regulatory burden. In addition, many commenters supported the proposed indexing methodology to adjust thresholds according to changes in inflation in future periods. While some commenters advocated for changes to specific aspects of the proposed indexing methodology, many were supportive of a mechanism to adjust thresholds in future periods generally.

The majority of the comments pertained to part 363 thresholds with most commenters generally supportive of the proposed updates to those thresholds, indicating the proposed changes would result in material cost savings to their institutions and allow for more efficient use of bank resources. A summary of comments related to part 363 thresholds is provided in section III.A.5 of this **SUPPLEMENTARY INFORMATION**, below.

Commenters also expressed a view that the proposed updates would not come at the expense of safety and soundness, as increases in asset size have primarily been a result of factors such as inflation, industry changes, and a pandemic-related surge in deposits, rather than material changes in risk profile and complexity of activities. Several commenters requested that considerations be made regarding timing, including the effective date and retroactive application.

#### *B. Expected Effects*

In general, many commenters indicated the proposal would positively affect their institutions or the banking industry broadly. Many commenters indicated that cost savings from reduced 12 CFR part 363 compliance costs would be reinvested into innovation, technology, lending to the local community, and customer experience. Some commenters stated that failing to index thresholds would constrain intuitions' strategic growth decisions and would allow regulatory requirements to extend far beyond their

original policy scope. One commenter asserted that updating and indexing thresholds reduces regulatory burden on smaller institutions while allowing supervisory focus to remain on larger, systemically significant entities.

Commenters also expressed the view that thresholds included in the proposal are no longer reflective of economic conditions and providing for updates and indexing would ensure thresholds evolve with economic growth. One commenter noted that adjustments to various thresholds, when viewed in aggregate, can have a deregulatory effect on the banking industry by loosening reporting requirements and protections that control risk.

#### *C. Indexing Methodology*

Many commenters supported the proposed indexing methodology and expressed support for subsequent, periodic threshold adjustments that occur automatically. However, some commenters stated that automatic adjustments to thresholds would be complex and unpredictable and could create burden on banks when designing, implementing, and maintaining internal control frameworks. One commenter stated that automatically indexing thresholds erodes transparency and makes it difficult to predict in advance whether an IDI will cross the threshold in the following year.

Comments were mixed as to whether to use CPI-W as the reference index under the proposed indexing methodology. A few commenters supported the FDIC applying the same methodology when updating and adjusting thresholds across its regulations, while others suggested alternatives to CPI-W, including nominal GDP, banking industry assets, or an approach that would tailor the reference index by threshold type. These commenters suggested using CPI-W for consumer-facing monetary thresholds, and nominal GDP for asset-based thresholds. Many of these commenters also noted that the proposed updated thresholds are lower than they would otherwise be if adjusted using growth in GDP as a basis for adjustments. One commenter suggested that thresholds should be raised beyond the rate of inflation, as the number of banks has declined and new bank formations have been low. Additionally, one commenter suggested that thresholds should be adjusted for periods of deflation.

Comments related to an alternative approach discussed in the proposal that allowed for future adjustments only at pre-determined levels (*i.e.*, a milestone approach) were mixed, with

commenters offering diverging perspectives about whether this approach would provide regulatory certainty.

#### *D. Effective Date*

Under the proposal, initial updates would become effective, consistent with applicable law, at the beginning of the first calendar quarter following adoption of the final rule. Several commenters generally requested more time to comply with the proposed threshold changes, while others more specifically recommended a transitional process. Additionally, some commenters requested clarity regarding transition timelines.

Several commenters recommended a specific effective date of January 1, 2025, for the proposed changes, to allow for retroactive application of the updated thresholds. Some commenters suggested that the rule be effective immediately, while one commenter proposed the rule be delayed until January 1, 2027. A number of commenters also suggested that the FDIC determine whether institutions have crossed thresholds by evaluating an institution's assets over a period of time, such as over several quarters or over several years.

#### *E. Other Comments*

Some commenters recommended application of the proposal to additional thresholds. For example, commenters recommended updates and adjustments to thresholds such as the qualifying equity interest of national bank directors threshold, appraisal thresholds for real estate properties, the Community Reinvestment Act intermediate-small bank threshold, bank holding company thresholds, currency transaction reporting thresholds, Dodd-Frank Act's Durbin Amendment threshold, and thresholds used to determine applicability of regulatory capital and liquidity requirements. These commenters requested the FDIC coordinate with the other Federal banking agencies to update additional thresholds that do not appear only within FDIC regulations, as well as coordinate with Congress to update statutory thresholds.

Comments regarding 12 CFR part 363 thresholds were also received as part of the regulatory review being conducted pursuant to the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA).<sup>12</sup> Comments included

<sup>12</sup> The FDIC, together with the Federal Financial Institutions Examination Council, Office of the Comptroller of Currency, and the Board of Governors of the Federal Reserve System (FRB),

recommendations to raise the requirement regarding audited financial statements from \$500 million to \$1 billion and the internal control over financial reporting (ICFR) requirement from \$1 billion to \$2.5 billion or \$10 billion. Additionally, these comments indicated that the Federal Deposit Insurance Corporation Improvement Act (FDICIA) audit and reporting requirements are costly and burdensome for small community banks, and that it is difficult for small, rural banks to comply with audit committee composition requirements. Several commenters suggested tailoring regulatory thresholds by distinguishing banks by asset size, and three comments submitted under the EGRPRA review expressed support for amending 12 CFR part 363 thresholds.

### III. Final Rule and Discussion of Comments

The FDIC carefully considered all comments received and is finalizing the threshold updates and indexing methodology for future adjustments generally as proposed. Except as otherwise provided,<sup>13</sup> the final rule updates the thresholds described below to reflect historical inflation and indexes most of these thresholds to account for future inflation. The FDIC is changing the effective date of future threshold adjustments as discussed in more detail below, as compared to the proposal. Additionally, the FDIC is providing that certain IDIs may be exempted from requirements under 12 CFR part 363 as it relates to future threshold adjustments, as described below.

#### A. Initial Updates

While many commenters were supportive of the policy objectives of the proposal, some expressed reservations related to updating thresholds without reassessing their original policy designs. While these commenters supported updating thresholds included in the proposal

commenced a review under the Economic Growth and Regulatory Paperwork Reduction Act of 1996 in 2024 to solicit feedback from the public on potentially outdated or otherwise unnecessary regulatory requirements. The FDIC has reviewed and considered those comments received pursuant to the EGRPRA review that relate to the thresholds considered within this rulemaking.

<sup>13</sup> As discussed in section III.A.5 of this **SUPPLEMENTARY INFORMATION**, the initial updates to thresholds in 12 CFR part 363 support a key underlying objective of the regulation, while maintaining consistency with the historical scope of applicability and reducing burden for smaller institutions. In addition, one threshold under 12 CFR part 363 that is intended to align to listing standards of the national securities exchanges is not subject to the proposed indexing methodology.

generally, they expressed concern that the proposed updates would inadvertently perpetuate outdated or arbitrary policy design choices without reassessing their basis. As explained in the proposal, the FDIC sought to update thresholds according to changes in inflation since their implementation or most recent adjustment, while also considering policy objectives and intended application. For example, the proposed updates to certain thresholds under 12 CFR part 363 reflected other considerations to help ensure sound financial management of the institutions posing the greatest potential risk to the Deposit Insurance Fund (DIF). As discussed below, the final rule adopts the initial update approach set forth in the proposal.

#### 1. 12 CFR Part 303 (Part 303)—Filing Procedures

Section 19 of the FDI Act (section 19) prohibits, without the prior written consent of the FDIC, a person convicted of any criminal offense involving dishonesty, breach of trust, or money laundering, or who has entered into a pretrial diversion or similar program in connection with a prosecution for such an offense (collectively, covered offenses), from becoming or continuing to serve as an institution-affiliated party.<sup>14</sup> Subpart L of part 303 of the FDIC's regulations implements section 19 and includes separate \$2,500 and \$1,000 *de minimis* thresholds for certain offenses that are excluded from the scope of section 19 and for which no section 19 application is required.<sup>15</sup>

Specifically, under 12 CFR 303.227, the requirements of section 19 do not apply to covered offenses where the individual could have been sentenced to a term of confinement in a correctional facility of three years or less and/or a fine of \$2,500 or less, and that meet the additional criteria set forth in that section. In addition, the requirements of section 19 do not apply to "small dollar, simple theft," which includes, among other requirements, the simple theft of goods, services, or currency (or other monetary instrument) if the value of the currency, goods, or services involved has a value of \$1,000 or less.<sup>16</sup>

For purposes of implementing section 19, an ongoing, significant objective of

<sup>14</sup> 12 U.S.C. 1829.

<sup>15</sup> Note that 12 CFR 303.227 contains 3 different dollar thresholds setting forth different *de minimis* exceptions. The \$2,000 or less threshold for bad checks set forth in 12 CFR 303.227(b)(2)(i) is set by statute (12 U.S.C. 1829(c)(3)(C)) and is therefore not within the FDIC's discretion to adjust and not included in this final rule.

<sup>16</sup> Additional criteria that must be met are set forth in 12 CFR 303.227(b)(3).

the FDIC has been to establish criteria for the *de minimis* exception framework such that it applies to offenses that are relatively minor in nature and help to ensure that prior conduct of the covered party would pose low risk to an IDI. Over time, the FDIC has expanded the scope of the *de minimis* framework based on historical analysis that showed the FDIC routinely approved section 19 applications involving minor offenses.<sup>17</sup> Every expansion of the *de minimis* framework ultimately provided additional relief to potential applicants without undermining the purpose of section 19 or causing undue risk to an institution or the DIF.<sup>18</sup> Under the proposal, the \$2,500 and \$1,000 *de minimis* thresholds would be updated to \$3,500 and \$1,225, respectively, to reflect inflation since these thresholds were previously set.<sup>19</sup>

The FDIC received several comments related to these proposed changes. One commenter supported adjusting the part 303 threshold as described in the proposal because consumer-facing thresholds are more appropriately tied to consumer inflation and CPI-W indexes (in contrast to other thresholds for which the commenter argued that a different methodology would be more appropriate).

After considering the comments received, the FDIC is finalizing the proposed updates to the *de minimis* thresholds, without change. The updates in the final rule help preserve the intended level of these thresholds in real terms while providing meaningful relief from barriers to employment opportunities, consistent with the purpose of section 19 and prior amendments to the *de minimis* exception framework.

<sup>17</sup> For example, in 2018, the FDIC broadened the application of the *de minimis* exception to filing an application due to the minor nature of the offenses and the low risk that the covered party would pose to an IDI based on the conviction or program entry. By modifying these provisions, the FDIC stated it believed that there would be a reduction in the submission of applications where approval has been granted by virtue of the *de minimis* offenses exceptions to filing in the policy statement. 83 FR 38143 (Aug. 3, 2018).

<sup>18</sup> For example, changes to the *de minimis* exception in the final rule published in 2020 would have reduced past applications by approximately 20 percent. Fact Sheet: FDIC Issues Rule on Section 19 of the Federal Deposit Insurance Act (July 2020), available at <https://www.fdic.gov/news/section19-7-24-20.pdf>.

<sup>19</sup> The non-seasonally adjusted CPI-W increased by approximately 38 percent since the \$2,500 *de minimis* threshold was set in 2012 and approximately 23 percent since the \$1,000 *de minimis* threshold was set in 2020.

2. 12 CFR Part 335 (Part 335)—  
Securities of State Nonmember Banks  
and Savings Associations

Part 335 of the FDIC's regulations provides securities registration, recordkeeping, and disclosure requirements for State nonmember banks and State savings associations with one or more classes of securities required to be registered under section 12 of the Securities Exchange Act of 1934 (Exchange Act), as amended.<sup>20</sup> Section 335.801 requires those State nonmember banks and State savings associations to disclose any extensions of credit to insiders that are in excess of 10 percent of the capital account of an institution or \$5 million, whichever is less.<sup>21</sup> The FDIC set the \$5 million threshold in 1979, stating that the prior threshold of \$10 million was too high to allow for meaningful disclosure.<sup>22</sup> The FDIC revisited this amount in 1997 and determined at the time that the overall benefit to the banking industry resulting from continuation of the FDIC's historical disclosure requirements under part 335, including the \$5 million threshold, was in the public interest and appropriate for protection of investors.<sup>23</sup> The proposal would update the \$5 million threshold to \$10 million to reflect inflation since the FDIC's most recent consideration of the threshold.<sup>24</sup>

The FDIC received one comment related to this proposed change. This commenter stated that loosening standards, including the threshold for having to report to the FDIC loans made by banks to insiders, can increase aggregate risk. The commenter recommended that the FDIC monitor and report on the actual impact that comes from adjusting regulatory thresholds so that additional changes can be made if needed.

The final rule adopts the \$10 million threshold for 12 CFR 335.801, as proposed. The final rule preserves the level of this threshold in real terms and helps avoid increases in the number of credit extensions that must be reported to the FDIC due solely to inflation rather than actual changes in the level of risk associated with such transactions.

<sup>20</sup> 12 CFR part 335.

<sup>21</sup> 12 CFR 335.801(d).

<sup>22</sup> 44 FR 33077, 33079 (June 8, 1979).

<sup>23</sup> 62 FR 6852, 6855 (Feb. 14, 1997).

<sup>24</sup> If indexed to inflation since the FDIC's most recent consideration of the indebtedness of management disclosure provisions in 1997, the \$5 million threshold would be \$9.9 million.

3. 12 CFR Part 340 (Part 340)—  
Restrictions on Sale of Assets of a Failed  
Institution by the Federal Deposit  
Insurance Corporation

Part 340 of the FDIC's regulations sets forth restrictions on the FDIC's sale of failed IDI assets to individuals or entities that improperly profited from, or engaged in, wrongdoing at the expense of a failed IDI or, that seriously mismanaged a failed IDI.<sup>25</sup> Among other restrictions, part 340 prohibits a person from acquiring any assets of a failed IDI if the person or its associated person has caused a substantial loss to that failed institution<sup>26</sup> or has demonstrated a pattern or practice causing a substantial loss to one or more failed institutions.<sup>27</sup> Part 340 defines "substantial loss" to include multiple types of loss that all use a threshold of \$50,000 for purposes of determining whether the losses are "substantial."<sup>28</sup> The FDIC added part 340 to the FDIC's regulations in 2000.<sup>29</sup> Subsequent updates to part 340 have not substantively modified the "substantial loss" definition or the \$50,000 threshold.<sup>30</sup> The substantial loss provisions and the \$50,000 threshold are also included in the FDIC's Purchaser Eligibility Certification form, which is required under part 340 for all prospective purchasers of failed IDI assets.<sup>31</sup> The FDIC proposed to revise the "substantial loss" threshold in part 340 by updating the existing threshold from \$50,000 to \$100,000 to reflect inflation since the threshold was added to part 340.<sup>32</sup>

The FDIC is adopting the approach taken in the proposed rule, without change. Updating the threshold for "substantial loss" to reflect inflation preserves the level of the threshold in real terms, while allowing more prospective purchasers to make offers to

<sup>25</sup> 12 CFR 340.1(b).

<sup>26</sup> 12 CFR 340.4(a)(1).

<sup>27</sup> 12 CFR 340.4(c).

<sup>28</sup> 12 CFR 340.2(h).

<sup>29</sup> 65 FR 14816, 14818 (Mar. 20, 2000).

<sup>30</sup> As discussed in more detail below, part 340, including the "substantial loss" provisions and the \$50,000 threshold, was the model for and is intended to match the substantially similar provisions applicable to FDIC-covered financial company asset sales under 12 CFR 380.13. *See* 80 FR 22886 (Apr. 24, 2015) (explaining that, because of the substantially similar language in the statutes authorizing the respective rules, part 340 served as a model for the development of the rules at 12 CFR 380.13.). *See also, id.*, at 80 FR 22887 (describing the updates to part 340 made to ensure consistency between part 340 and 12 CFR 380.13).

<sup>31</sup> The Purchaser Eligibility Certification form, available at <https://www.fdic.gov/asset-sales/purchaser-eligibility-certification-pec.pdf>.

<sup>32</sup> If indexed to inflation since the FDIC established the "substantial loss" threshold in 2000, the \$50,000 threshold would be \$92,666. This updated threshold of \$100,000 approximates inflation adjustments.

buy failed IDI assets. The FDIC expects this update to improve competition for the prices paid for failed IDI assets.

4. 12 CFR Part 347 (Part 347)—  
International Banking

The FDIC issued a final rule in 1998 amending its international banking regulations and consolidating them into part 347.<sup>33</sup> Subpart A to part 347, which implements sections 18(d) and 18(l) of the FDI Act, sets forth the requirements for insured State nonmember bank investments in foreign organizations, permissible foreign financial activities, loans or extensions of credit to or for the account of foreign organizations, and the FDIC's related recordkeeping, supervision, and approval requirements. Subpart A also addresses permissible activities for foreign branches of insured State nonmember banks.

Under subpart A of part 347, a State nonmember bank may hold an equity interest in one or more foreign organizations that underwrite, deal, or distribute equity securities outside of the United States, subject to certain limitations. Two of those limitations include dollar-based thresholds. First, 12 CFR 347.111(a) provides that the aggregate underwriting commitments by foreign organizations for the securities of a single entity, taken together with underwriting commitments by any affiliate of the State nonmember bank under the authority of 12 CFR 211.10(b), may not exceed the lesser of \$60 million or 25 percent of the State nonmember bank's Tier 1 capital. Second, 12 CFR 347.111(b) provides that the equity securities of any single entity held for distribution or dealing by the foreign organizations, taken together with equity securities held for distribution or dealing by any affiliate of the insured State nonmember bank under the authority of 12 CFR 211.10, must not exceed the lesser of \$30 million or 5 percent of the insured State nonmember bank's Tier 1 capital, subject to certain other requirements.

The dollar-based thresholds under subpart A of part 347 were established in 1998 and have not since been updated. To preserve the level of these thresholds in real terms, the proposal would revise these dollar limits on aggregate underwriting commitments and on equity securities held for distribution or dealing to \$120 million and \$60 million, respectively, to approximate inflation adjustments since 1998.

The FDIC received several comments related to the proposed changes. One commenter expressed support for

<sup>33</sup> 63 FR 17056 (Apr. 8, 1998).

raising the dollar limits in part 347, stating that increasing the thresholds would enable IDIs to provide more services internationally and compete with non-U.S. banks, which would help support the competitive position of U.S. institutions internationally. Additionally, one commenter agreed with recognizing inflation within part 347 but noted that adjustments can have a deregulatory effect on the banking industry.

After considering comments received, the FDIC is adopting the proposed changes to part 347 without change. By updating these thresholds, the final rule preserves their levels in real terms and supports the ability of insured State nonmember banks to compete internationally, consistent with policy objectives of part 347.

#### 5. 12 CFR Part 363 (Part 363)—Annual Independent Audits and Reporting Requirements

##### i. Background

Section 112 of the FDICIA added section 36, “Early Identification of Needed Improvements in Financial Management,” to the FDI Act.<sup>34</sup> Section 36 generally subjects IDIs above a certain asset size threshold to an annual independent audit, assessment of the effectiveness of internal control over financial reporting (ICFR), and compliance with designated laws and regulations, as well as related reporting requirements. Section 36 also includes requirements for audit committees of these IDIs. Section 36 grants the FDIC discretion to set the asset size threshold for compliance with these requirements, but it also provides that the threshold shall not be less than \$150 million.<sup>35</sup>

Part 363 of the FDIC’s regulations implements section 36 and requires any IDI with total consolidated assets of \$500 million or more at the beginning of its fiscal year to submit to the FDIC and other appropriate Federal and State supervisory agencies an annual report (Part 363 Annual Report) comprised of audited comparative financial statements, the independent public accountant’s report thereon, a management report containing a statement of management’s responsibilities, and an assessment by management of compliance with applicable laws and regulations.<sup>36</sup> The

Part 363 Annual Report for an IDI with \$1 billion or more in total consolidated assets must also include an assessment by management of the effectiveness of ICFR (within the management report) and the independent public accountant’s attestation report on ICFR.<sup>37</sup> From 1993, the year that the ICFR threshold was implemented at \$500 million, to 2005, the FDIC did not adjust this threshold. In 2005, the ICFR threshold was increased from \$500 million to \$1 billion.<sup>38</sup>

When the FDIC initially implemented part 363 in 1993, use of a \$500 million asset threshold captured approximately 1,000 IDIs (out of approximately 14,000) holding 75 percent of U.S. banking assets, while exempting approximately two-thirds of IDIs that would have been subject to part 363 under a \$150 million threshold.<sup>39</sup> In addition, at the time of initial implementation, more than 96 percent of these covered institutions reported that they were subject to an annual audit by an independent public accountant at the IDI or parent company level. The initial scope of application for part 363 was intended to help ensure sound financial management of the institutions posing the greatest potential risk to the DIF.<sup>40</sup> The 2005 amendment to the ICFR threshold in part 363 reflected a recognition that compliance with the audit and reporting requirements had become more burdensome and costly, particularly for smaller nonpublic institutions.<sup>41</sup> In addition, due to consolidation in the banking and thrift industry and the effects of inflation, the scope of applicability for part 363 had increased to cover more than 1,150 (out of 8,900) IDIs, representing approximately 90 percent of industry assets.<sup>42</sup> Following the 2005 amendment, about 600 of the largest IDIs with approximately 86 percent of industry assets continued to be covered by the ICFR requirements of part 363. This change was intended to achieve meaningful burden reduction in a manner consistent with safety and soundness.<sup>43</sup> Subsequent amendments to part 363 in 2009<sup>44</sup> and 2020<sup>45</sup> did

public companies may have additional requirements under the Sarbanes-Oxley Act of 2002.

<sup>37</sup> See 12 CFR 363.2(b)(3), 363.3(b), and 363.4(a).

<sup>38</sup> 70 FR 71226, 71227 (Nov. 28, 2005).

<sup>39</sup> 58 FR 31332, 31333 (June 2, 1993).

<sup>40</sup> *Id.*

<sup>41</sup> 70 FR 71227.

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> 74 FR 35726 (July 20, 2009).

<sup>45</sup> 85 FR 67427 (Oct. 23, 2020). In 2020, the FDIC adopted an interim final rule allowing IDIs to use total consolidated assets as of December 31, 2019, for purposes of the asset thresholds in part 363 for fiscal years ending in 2021.

not result in permanent changes to the regulatory asset thresholds.

##### ii. Overview of Proposed Asset Threshold Updates in Part 363

Many of the dollar-based thresholds in part 363 have been in place for more than 30 years. The proposal would increase the applicability asset threshold from \$500 million to \$1 billion and the ICFR asset threshold from \$1 billion to \$5 billion. Additionally, the FDIC proposed to increase the threshold related to minimum audit committee requirements for IDIs from the range of \$500 million to less than \$1 billion in total assets to the range of \$1 billion to less than \$5 billion in total assets, as well as the threshold of \$1 billion or more in total assets to \$5 billion or more. The FDIC also proposed to increase the threshold related to additional audit committee requirements from \$3 billion to \$5 billion.<sup>46</sup> Use of these proposed thresholds would help support a key underlying objective of part 363—that is, achieving sound financial management at IDIs posing the greatest risk to the DIF<sup>47</sup>—and maintain consistency with the historical scope of applicability according to several metrics. The proposed \$1 billion and \$5 billion thresholds cover institutions holding approximately 95 and 89 percent of industry assets, respectively. In addition, the proposed increase in the applicability threshold from \$500 million to \$1 billion would result in approximately the same number of institutions being subject to part 363 (approximately 1,000 institutions) in 2025 as were subject to the regulation in 1993 (at its inception) and in 2005 (when the threshold for the ICFR requirements was amended), while removing nearly 800 institutions from the general scope of applicability for part 363. Similarly, the proposed increase in the ICFR threshold from \$1 billion to \$5 billion would be generally consistent with the historical application of such requirements (to approximately 7 percent of institutions) at the time of initial implementation and under the 2005 amendment. The thresholds set forth in the proposed rule also would achieve meaningful burden reduction for the smallest institutions, which would be removed from the

<sup>46</sup> In total, the FDIC is updating 24 regulatory asset thresholds in part 363. Several of these asset thresholds are similar and are repeated throughout part 363 pertaining to the general requirements of part 363, as well as to the holding company requirements of part 363 (for IDIs that are subsidiaries of holding companies), and audit committee composition requirements.

<sup>47</sup> 70 FR 71226, 71227.

<sup>34</sup> 12 U.S.C. 1831m.

<sup>35</sup> Consistent with the statute, the FDIC consulted with the other Federal banking agencies about updating these thresholds and the methodology to adjust affected thresholds in the future.

<sup>36</sup> The requirements under part 363 are set forth in 12 CFR 363.2 and 363.4(a). Part 363 also contains audit committee composition requirements and other reporting and notice requirements. Further,

scope of applicability for reporting requirements and internal control assessments. Furthermore, experience has demonstrated that smaller community institutions, particularly those in rural areas, have had difficulty complying with the audit committee composition requirements. Specifically, these institutions frequently report that it is increasingly difficult to attract and retain individuals who are willing and capable of serving as a member of an audit committee, thereby making compliance with the audit committee composition requirements of part 363 challenging. Irrespective of the changes to part 363 thresholds, IDIs may still be required to have an audit and assess internal controls over financial reporting by their respective States if the institution is State chartered.<sup>48</sup> Additionally, IDIs that are public companies or subsidiaries of public companies that file annual and other periodic reports as required by the Sarbanes-Oxley Act of 2002 are required to have an audit and assess internal controls over financial reporting.<sup>49</sup> As of March 31, 2025, approximately 52 percent of institutions not subject to part 363 still obtained an audit.<sup>50</sup>

The FDIC also proposed an increase to the \$100,000 compensation threshold under part 363 related to the determination of whether a director is considered “independent of management.”<sup>51</sup> Paragraph 28 in appendix A to part 363, “Independent of Management” Considerations, sets forth the criteria a board of directors should consider when determining the independence of an outside director for audit committee purposes. The independence criteria under part 363, including the \$100,000 compensation threshold, are intended to be consistent with those provided under the listing standards of national securities exchanges while providing some

flexibility for smaller nonpublic institutions.<sup>52</sup>

The FDIC implemented the \$100,000 threshold under part 363 in 2009. Since that time, the parallel threshold under the listing standards of national securities exchanges has been raised to \$120,000.<sup>53</sup> Accordingly, the FDIC proposed increasing the \$100,000 compensation threshold under part 363 to \$120,000 to realign it with the parallel threshold set forth in listing standards. This revision also would address the potential unintended outcome where a director could be considered “independent of management” for purposes of listing standards while at the same time being considered “not independent of management” for purposes of part 363.

In contrast to the other part 363 thresholds in the proposed rule that are subject to automatic adjustments in the future, the \$120,000 compensation threshold would not be subject to the proposed indexing methodology described in section III.B of this **SUPPLEMENTARY INFORMATION** as it is intended to align with parallel thresholds under listing standards, which are not subject to an indexing methodology. The FDIC proposed to adjust this threshold in the future to maintain alignment with parallel thresholds in the listing standards of the national securities exchanges.

### iii. Comments on Part 363

The part 363 suggestions most frequently raised by commenters centered on the proposed updated asset threshold for the independent audit requirement, the proposed updated asset threshold for ICFR, the effective date for the updated thresholds, and the application of thresholds using average asset balances as opposed to point-in-time asset balances. Many commenters noted the proposed changes would substantially reduce costs and regulatory burden, particularly for smaller institutions. For example, updating the thresholds for audit, internal control, audit committee composition, and related reporting requirements would alleviate meaningful challenges for smaller institutions that have become scoped into part 363. Commenters also indicated the proposal would reduce burden associated with finding qualified individuals to serve on an audit committee, particularly for institutions in rural areas.

Many commenters were supportive of increasing the audit requirement and ICFR thresholds. Several commenters suggested increasing the \$500 million asset threshold for the audit requirement to an amount other than \$1 billion as proposed. Many of these commenters recommended specific asset thresholds for the part 363 audit requirement, with ranges from \$2 billion to \$10 billion. One commenter suggested a threshold as low as \$750 million, while another commenter suggested a threshold as high as \$15 billion. In addition to the asset threshold for the audit requirement, numerous commenters suggested raising the existing \$1 billion asset threshold for ICFR to \$10 billion instead of \$5 billion as proposed. One commenter suggested eliminating the requirement to file financial statements under certain circumstances.

Commenters advocating for higher thresholds than those set forth in the proposal emphasized the cost and burden that audit and ICFR requirements impose on community banks. Such commenters requested that such burdens be shifted away from smaller institutions and towards larger institutions that pose more significant risks to the banking system, particularly with respect to the ICFR requirements.

Conversely, some commenters objected to the proposed increase in the independent audit requirement from \$500 million to \$1 billion and the ICFR requirement from \$1 billion to \$5 billion on the basis that it could lead to unreliable information in the Consolidated Reports of Condition and Income (Call Report) for those institutions without an independent audit requirement.

Several commenters made suggestions regarding the effective date for the updated thresholds. These commenters generally advocated for a retroactive effective date to provide immediate burden relief for institutions with consolidated total assets below the updated thresholds.

A number of commenters also suggested that the FDIC determine whether institutions have crossed thresholds by evaluating an institution's assets over a period of time, such as over several quarters or over several years. These commenters emphasized that evaluating assets over a period of time (as opposed to a single point in time) would allow for smoother transition runways and thereby reduce cliff effects for institutions as they cross asset thresholds and become subject to additional requirements under part 363.

One commenter requested additional guidance on how to apply updated

<sup>48</sup> See e.g., AL Code 5-2A-22 (2024); CA Fin Code 502 (2024); Conn. Gen. Stat 36a-86; and Ga. Comp. R. & Regs. R. 80-1-14-.01.

<sup>49</sup> Sarbanes-Oxley Act of 2002, Public Law 107-204, 116 Stat. 745 (2002).

<sup>50</sup> Call Report Data, March 31, 2025. The level of audit work performed on an institution is reported in the March Call Report each year and can be found online M.1 in the Memorandum to Schedule RC.

<sup>51</sup> The threshold describes situations where the director has received, or has an immediate family member who has received, during any twelve-month period within the last three years, more than \$100,000 in direct and indirect compensation from the institution, its subsidiaries, and its affiliates for consulting, advisory, or other services other than director and committee fees and pension or other forms of deferred compensation for prior service (provided such compensation is not contingent in any way on continued service).

<sup>52</sup> See 12 CFR part 363, appendix A, paragraph 28.

<sup>53</sup> Nasdaq Stock Market Rules, Rule 5605(a)(2); New York Stock Exchange Listed Company Manual, section 303A.02(b)(ii).

thresholds to IDI subsidiaries of bank holding companies (BHCs) with consolidated assets over \$10 billion, where the IDI's consolidated assets are below that threshold. Additionally, one commenter recommended that 12 CFR 363.3(f) be amended to remove the requirement to comply with the independence standards of the Securities and Exchange Commission (SEC) and Public Company Accounting Oversight Board.

iv. Response to Comments on Part 363

Some commenters advocated for an increase in the audit requirement threshold to an amount greater than the proposed threshold of \$1 billion. However, the \$1 billion threshold would meaningfully reduce burden for community banks, while preserving the objective of the underlying statute, *i.e.*, ensuring early identification of needed improvements in financial management among institutions originally intended to be covered by part 363, on the basis of both the number of IDIs and portion of total industry assets.

As noted above, increasing thresholds as proposed would result in realigning industry coverage with policy objectives while providing meaningful burden reduction for community banks. Most notably, increasing the audit threshold would result in approximately 780 fewer institutions being subject to audit

requirements under part 363. In terms of burden reduction, raising the ICFR threshold from \$1 billion to \$5 billion would result in more than 700 institutions no longer having to satisfy the ICFR requirements under part 363.

Based on the importance of independent audits in identifying weaknesses in internal controls for financial reporting and the reliance on such reporting for prudential standards such as regulatory capital and liquidity, the final rule does not adopt higher thresholds than those proposed. The FDIC and other Federal banking agencies rely upon financial information to evaluate the condition of IDIs, and the independent audit requirement in part 363 helps to ensure the accuracy and integrity of such information. Independent audits also help to identify weaknesses in internal control over financial reporting and risk management at institutions and reinforce corrective measures, thus complementing supervisory efforts in contributing to the safety and soundness of IDIs. The final rule's updates to the thresholds balance burden reduction with threshold levels that are appropriate for requiring compliance with part 363, as they are consistent with those used for purposes of its initial implementation in both the number of institutions and portion of industry assets covered by the regulation.

v. Final Rule

As discussed above, the FDIC has considered the comments received on its proposed amendments to part 363 and is finalizing the updates to these thresholds as proposed. However, as described in more detail in sections III.A.8 and III.B.3.ii of this **SUPPLEMENTARY INFORMATION**, the FDIC is allowing flexibility with respect to compliance with part 363 in certain, specified circumstances.

The final rule updates the applicability asset threshold in part 363 from \$500 million to \$1 billion and the ICFR asset threshold from \$1 billion to \$5 billion. Additionally, the final rule increases the threshold related to minimum audit committee requirements for IDIs from the range of \$500 million to less than \$1 billion in total assets to the range of \$1 billion to less than \$5 billion in total assets, as well as the threshold of \$1 billion or more in total assets to \$5 billion or more. The final rule also increases the threshold related to additional audit committee requirements from \$3 billion to also \$5 billion. Additionally, the final rule updates the compensation threshold in part 363 related to the determination of whether a director is considered "independent of management" from \$100,000 to \$120,000.

TABLE 1—UPDATED PART 363 THRESHOLDS

Table 1—Part 363 updated thresholds		
Citation	Threshold as of January 1, 2025	Updated threshold
363.1(a)	\$500 million	\$1 billion.
363.2(b)(3)	1 billion	5 billion.
363.3(b)	1 billion	5 billion.
363.4(a)(2)	1 billion	5 billion.
363.4(c)(3)	1 billion	5 billion.
363.5(a)(1)	1 billion	5 billion.
363.5(a)(2)	500 million	1 billion.
363.5(a)(2)	1 billion	5 billion.
363.5(b)	3 billion	5 billion.
Guideline 8A	1 billion	5 billion.
Guideline 8A	1 billion	5 billion.
Guideline 10	1 billion	5 billion.
Guideline 18A	1 billion	5 billion.
Guideline 27	1 billion	5 billion.
Guideline 27	500 million	1 billion.
Guideline 27	1 billion	5 billion.
Guideline 28(b)(4)	100 thousand	120 thousand. <sup>54</sup>
Guideline 30(b)	1 billion	5 billion.
Guideline 30(c)	500 million	1 billion.
Guideline 30(c)	1 billion	5 billion.
Guideline 35(a)	500 million	1 billion.
Guideline 35(b)	1 billion	5 billion.
Guideline 35(c)	3 billion	5 billion.
Appendix B item 2(b)	1 billion	5 billion.



## 6. 12 CFR Part 380 (Part 380)—Orderly Liquidation Authority

Part 380 of the FDIC's regulations implements the FDIC's orderly liquidation authority,<sup>55</sup> which applies once the FDIC has been appointed receiver for a covered financial company.<sup>56</sup> Similar to the provisions regarding the sale and purchase of failed IDI asset sales under part 340, 12 CFR 380.13 of the FDIC's regulations sets forth restrictions on the FDIC's sale of failed covered financial company assets to individuals or entities that improperly profited from or engaged in wrongdoing at the expense of a covered financial company or seriously mismanaged a covered financial company.<sup>57</sup> The restrictions under 12 CFR 380.13 apply to the sale and purchase of covered financial company assets in the FDIC's capacity as receiver for a covered financial company or in its corporate capacity.<sup>58</sup>

Among other restrictions, 12 CFR 380.13 prohibits a person from acquiring assets of a covered financial company from the FDIC if the person or its associated person has caused a substantial loss to a covered financial company<sup>59</sup> or has demonstrated a pattern or practice causing a substantial loss to one or more covered financial companies.<sup>60</sup> As in part 340, 12 CFR 380.13 defines "substantial loss" to include multiple types of loss that all use a threshold of \$50,000 to establish the losses as "substantial."<sup>61</sup>

The FDIC added 12 CFR 380.13 to the FDIC's regulations in 2014.<sup>62</sup> From inception, the FDIC has explicitly implemented the requirements in 12 CFR 380.13, including the "substantial loss" provisions and threshold, in a manner consistent with the restrictions related to failed IDI asset sales under

<sup>54</sup> As discussed above, the final rule also raises the threshold set forth in Guideline 28(b)(4) from \$100,000 to \$120,000. This threshold was intended to align with the listing standards of national securities exchanges for purposes of making director independence determinations.

<sup>55</sup> Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) section 201, *et seq.*, 12 U.S.C. 5381, *et seq.*

<sup>56</sup> See Dodd-Frank Act section 202(a), 12 U.S.C. 5382(a) (describing the process for the Secretary of the Treasury to appoint the FDIC as receiver for a covered financial company and commence orderly liquidation of the covered financial company); see also 12 CFR 380.1.

<sup>57</sup> 12 CFR 380.13(a)(1).

<sup>58</sup> 12 CFR 380.13(a)(2)(i).

<sup>59</sup> 12 CFR 380.13(c)(1)(i). Section 380.13 defines material participation in a transaction that caused substantial loss to a covered financial company in 12 CFR 380.13(c)(2).

<sup>60</sup> 12 CFR 380.13(c)(3).

<sup>61</sup> 12 CFR 380.13(b)(6).

<sup>62</sup> 79 FR 20762, 20766–20767 (Apr. 14, 2014).

part 340.<sup>63</sup> Previous revisions to part 340 were also specifically intended to align the requirements in part 340 and 12 CFR 380.13.<sup>64</sup>

Under the proposal, the "substantial loss" threshold in 12 CFR 380.13 would be raised from \$50,000 to \$100,000 to reflect inflation since the threshold was adopted.<sup>65</sup>

One commenter acknowledged the proposed update to the thresholds in part 380 as part of a broader comment on the general deregulatory effects of the proposal. In consideration of the comment received, the FDIC is adopting the approach taken in the proposed rule, without change.<sup>66</sup> Updating the threshold for "substantial loss" to reflect inflation preserves the level of the threshold in real terms and maintains consistency between the "substantial loss" provisions in part 340 and 12 CFR 380.13. The FDIC expects this update to improve competition for sales of covered financial company assets or the prices paid for those assets.

## 7. Additional Thresholds

As described above, the FDIC received several comments advocating for the FDIC to pursue updates and adjustments to thresholds that were not included in the proposal, such as those that are statutory or do not only appear within regulations issued only by the FDIC. The thresholds referenced within these comments were outside the scope of the proposal and therefore are not being considered as part of this final rule.

## 8. Effective Date of Initial Threshold Updates

The FDIC received several comments related to the effective date or the applicability date of the proposal. Some commenters requested retroactive applicability of the rule, while others requested immediate effectiveness. The final rule provides for an effective date of January 1, 2026.

With respect to part 363, the final rule clarifies that IDIs that have prospective filing and compliance requirements based on thresholds in place in 2025,

<sup>63</sup> See *id.* at 79 FR 20762 (explaining that the 12 CFR 380.13 final rule is modeled after the FDIC's regulation at 12 CFR part 340 because the relevant statutory provisions share substantially similar statutory language).

<sup>64</sup> Restrictions on Sale of Assets of a Financial Institution by the Federal Deposit Insurance Corporations, 80 FR 22886, 22886–22887 (Apr. 24, 2015) and 12 CFR 380.13.

<sup>65</sup> If indexed to inflation since the FDIC established the "substantial loss" threshold in 2000, the \$50,000 threshold would be \$92,666. The updated threshold of \$100,000 approximates inflation adjustments.

<sup>66</sup> Consistent with title II of the Dodd-Frank Act, the FDIC consulted with the Financial Stability Oversight Council in updating this threshold.

but will no longer be subject to such requirements as a result of the updated thresholds that will be in effect as of January 1, 2026, are no longer required to comply with such part 363 requirements.

The amendments to part 363 do not relieve public companies or subsidiaries of public companies of their obligation to comply with the internal control assessment requirements imposed by section 404 of the Sarbanes-Oxley Act in accordance with the effective dates for compliance set forth in the SEC's implementing rules.

## 9. Alternatives for Threshold Application

As described above, several commenters suggested alternatives for how thresholds could be applied, such as by applying thresholds based on an average of multiple periods or only after crossing a threshold over consecutive periods. For example, some commenters suggested that thresholds should be effective for an institution only after the institution crosses the thresholds for two consecutive year-end dates or that assets should be averaged over four consecutive quarters for purposes of determining whether a threshold is effective for a particular institution.

The thresholds included in the proposal would generally apply to an institution based on the size of the institution at a point-in-time, rather than over a period of time. Under the proposal, the FDIC intended to update the dollar amount of specific thresholds, but not necessarily the method used to determine whether a threshold is effective for an individual institution, which is set forth in the current regulations. If a future proposal were to update a threshold for which applicability would be measured over a period of time, it may be appropriate to allow for that determination method to continue to be in effect, inclusive of any updates to the threshold dollar amount, consistent with the applicable law. Further, as it relates to part 363, section 36 of the FDI Act exempts small IDIs based on the value of their assets "as of the beginning of [their] fiscal year."<sup>67</sup> The final rule adopts the proposed point-in-time method for determining the applicability of the thresholds included in the rule.

Some commenters also suggested an approach that would tailor the reference index by threshold type, for example by applying CPI–W to consumer-facing monetary thresholds and nominal GDP for asset-based thresholds. As further discussed below, while tailoring the

<sup>67</sup> Section 36(j) of the FDI Act, 12 U.S.C. 1831m(j).

application of a reference index by threshold type may present the advantages described by commenters, it would increase complexity across thresholds included under FDIC regulations. The final rule promotes consistency across FDIC regulations by applying threshold updates and adjustments using a single reference index.

### *B. Indexing Methodology for Future Threshold Adjustments*

Under the proposal, the FDIC would implement an indexing methodology that reflects inflation to make future automatic adjustments to most thresholds discussed above. A discussion of the proposal, comments received, and the final rule is provided below.

#### 1. Description of Proposed Methodology

Under the proposal, the FDIC would generally adjust the dollar thresholds described in section III.A of this **SUPPLEMENTARY INFORMATION** at the end of every consecutive two-year period based on the cumulative percent change of the non-seasonally adjusted CPI-W since the effective date of the final rule. This two-year period was intended to provide an appropriate cadence for capturing meaningful changes in inflation on a timely basis while balancing the frequency with which thresholds are adjusted. To address the possibility of periods of significant inflation, the FDIC further proposed that thresholds subject to the indexing methodology would also be adjusted if the cumulative percent change in the non-seasonally adjusted CPI-W were to exceed 8 percent during any intervening year since the most recent adjustment. By allowing thresholds to be adjusted on an interim basis to reflect periods of significant inflation, the proposal sought to address the possibility that periods of significant inflation may cause thresholds to decrease substantially in real terms before adjustments occur under the two-year cadence.

Under the proposal, the FDIC would not lower thresholds in any given year to reflect periods of deflation.<sup>68</sup> Additionally, thresholds adjusted under the proposed indexing methodology would be rounded based on the size of the threshold (e.g., billions, millions, thousands), generally, to the nearest two significant digits, as appropriate.<sup>69</sup> The

<sup>68</sup> Any periods of deflation would be reflected in future threshold increases, as threshold adjustments in the future would be based on the positive net cumulative change in CPI-W.

<sup>69</sup> For example, a threshold that would otherwise be calculated as \$5.964 million would be rounded to \$6.0 million, or the nearest \$0.1 million.

proposal also provided that prior to rounding, all adjusted thresholds would be calculated based on the cumulative percent change of the non-seasonally adjusted CPI-W since the effective date of the final rule in order to ensure that any distortions due to rounding or non-adjustments for deflation do not carry forward to future adjustments.

To effectuate threshold changes under the proposal, the FDIC would announce threshold adjustments pursuant to the indexing methodology by publishing subsequent final rules in the **Federal Register**. Such final rules would not be subject to notice and comment and would amend the *Code of Federal Regulations* to reflect the adjusted numerical threshold.<sup>70</sup> Further, while the FDIC would intend to publish a final rule in the **Federal Register** for each adjustment, the proposal noted that adjustments would occur even in the absence of a publication in the **Federal Register**. Under the proposal, adjusted thresholds would be effective on April 1 of the year during which the adjustment occurs.<sup>71</sup>

#### i. Comments on the Proposed Methodology

Many commenters agreed with the proposed indexing methodology and supported subsequent, periodic, automatic threshold adjustments. Additionally, many commenters agreed with the policy objectives to preserve threshold levels in real terms by periodically adjusting thresholds to reflect inflation.

However, some commenters stated that automatic adjustments to the thresholds would be complex and unpredictable and could create burden on banks when designing, implementing, and maintaining an internal control framework. One commenter suggested consideration of broader measures of bank complexity beyond asset size when adjusting thresholds, such as business line and geographic scope, and further suggested the indexing methodology should lower thresholds to account for deflation, consistent with raising thresholds to account for inflation.

<sup>70</sup> This process to adjust numerical thresholds in the *Code of Federal Regulations* is similar to the process utilized in the Community Reinvestment Act in which the FDIC and FRB publish a final rule without notice and comment.

<sup>71</sup> For example, the proposal provided that an adjusted threshold that is calculated based on inflation through the end of 2027 would be published during the first quarter of 2028 and would become effective on April 1, 2028.

#### ii. Response to Comments on the Proposed Methodology

As described in section I of this **SUPPLEMENTARY INFORMATION**, the proposed indexing methodology is intended to avoid situations where an institution becomes subject to additional or more stringent regulatory requirements due solely to inflation rather than actual changes in the institution's size, risk profile, or level of complexity. When developing the proposed indexing methodology, the FDIC sought to balance predictability of future adjustments with the potential burden associated with tracking and planning for such changes. For example, as discussed further below, adjustment frequencies longer than the proposed two-year cadence could lessen the burden involved with tracking threshold changes, as it would result in fewer adjustments and potentially improve an institution's ability to plan for and manage its regulatory compliance obligations. However, prolonged adjustments also increase the likelihood that a banking organization will cross thresholds between adjustments due to inflation and therefore could compromise the overarching policy objectives of the proposal. The two-year cadence was intended to reflect meaningful changes in inflation while balancing any potential burden resulting from tracking and planning for threshold adjustments over time.

Additionally, the proposal intended to update and adjust the dollar amount of specific thresholds to reflect inflation, but not necessarily the mechanism to determine how a threshold applies to an individual institution, which is set forth in the current regulations. Accordingly, the FDIC did not consider additional measures of complexity, such as business line or geographic scope, to determine threshold adjustments, which go beyond the scope of the proposal to reflect inflation across certain static, dollar-based thresholds. Lastly, to avoid increased burden for reasons unrelated to changes in inflation-adjusted size or risk profile, and given that periods of deflation have been rare in modern times, the final rule does not reduce thresholds during periods of deflation. However, any period of deflation would nonetheless be reflected in future threshold increases, as in such a scenario thresholds would not increase until the net cumulative change in CPI-W turns positive. In the event that the U.S. economy was to experience a period of sustained deflation, the FDIC may consider revisiting the proposed indexing methodology.

## 2. Alternatives to the Proposed Indexing Methodology

### i. Alternative Measures of Indexing: Other Price Indices

The FDIC proposed using the non-seasonally adjusted CPI-W as its inflation measure for updating and indexing thresholds, but also considered the seasonally-adjusted CPI-W series as well as other price indices such as the Consumer Price Index for All Urban Consumers (CPI-U), Chained CPI-U (C-CPI-U), Producer Price Index (PPI), Personal Consumption Expenditures Price Index (PCEPI), and Gross Domestic Purchases Price Index (GDPPPI). Commenters did not address the alternative price indices to measure inflation for purposes of the proposed indexing methodology.

As noted in the proposal, an advantage of using the CPI-W for updating and indexing thresholds within FDIC regulations is that the CPI-W is already commonly used for this purpose, including by the FDIC and other Federal agencies, such as the Social Security Administration for calculating benefit payments,<sup>72</sup> while the alternatives are less frequently used for updating regulations and may be less familiar to the public. Additionally, as noted in the proposal, the non-seasonally adjusted CPI-W series reflects longer-term changes in inflation, which supports the purpose of updating and indexing thresholds within FDIC regulations.

### ii. Alternative Measures of Indexing: Gross Domestic Product (GDP)

In addition to consumer price indices, the proposal considered use of other types of indices to update and index the regulatory thresholds subject to the proposal. For example, the BEA publishes a GDP data series on a quarterly basis, which measures aggregate U.S. economic activity.<sup>73</sup> Historically, the U.S. economy has expanded in real terms (outside of recessions), which means the (nominal) GDP index has typically increased at a faster rate than the consumer price indices discussed above.<sup>74</sup> As discussed in the proposal, U.S. nominal GDP has increased by 299 percent over the past three decades, compared to a 111

percent increase in the CPI-W over the same period.<sup>75</sup> Therefore, if GDP were used as the basis for updating and indexing thresholds within FDIC regulations, such thresholds would likely increase at a faster rate than under the proposal.

Some commenters supported the use of nominal GDP instead of CPI-W to index thresholds. Several of these commenters indicated that indexing asset-based thresholds to nominal GDP would help to ensure that asset-based thresholds remain proportionate to the size of the broader economy, while another commenter added that banking industry deposits and assets are driven by economic activity, monetary policy, and the money supply, and as such, GDP is a better measure of bank expansion than CPI-W. Some commenters added that indexing methodologies should be tailored to the threshold, such as using nominal GDP to index asset thresholds based on size or risk-based measures and using CPI-W or similar price indices to index consumer-facing thresholds and other thresholds that are less sensitive to the impact of overall growth in the economy. Commenters also noted that thresholds are lower than they would otherwise be if updated and indexed using growth in GDP as a basis for adjustments.

While financial activity is closely related to broader macroeconomic activity and tends to grow together with the economy, using inflation as a basis for updating and indexing thresholds within FDIC regulations would specifically target consumer price levels to ensure dollar thresholds remain relatively consistent over time in real terms. Many commenters agreed with the indexing methodology, as proposed, including the use of consumer price inflation to index thresholds across FDIC regulations. As noted above, adjusting thresholds based on consumer prices is a common practice already in use by the FDIC and other Federal agencies. In addition, use of a single index to adjust thresholds across FDIC regulations would promote consistency and reduce burden from tracking threshold changes.

The FDIC recognizes that the banking industry will generally grow alongside the broader economy. However, the final rule uses CPI-W as the basis for indexing thresholds, consistent with the

proposal. As stated in the proposal, there are several downsides to using GDP for threshold adjustments. GDP is subject to business cycle fluctuations that may not always correspond with price level changes, such as in a “stagflationary” environment where stagnant economic growth occurs simultaneously with inflation. Relatedly, GDP in certain cases may grow fast for a period of years, followed by a downturn marked by slow or negative growth. Additionally, GDP is a lagging indicator that is frequently revised, which may limit the accuracy and durability of threshold adjustments.

Finally, the intent behind many rules that use asset-based thresholds is to target banks of a certain size, rather than a size relative to the broader economy; thus, if the banking industry is growing quickly in real terms alongside a rapidly growing economy, banks are still growing for purposes of the relevant regulations. The FDIC recognizes adjusting thresholds using certain alternative measures, such as GDP, may produce higher threshold levels relative to using CPI-W. However, when evaluating various alternatives, the FDIC primarily considered their alignment with the overall policy objectives of the proposal, rather than targeting a particular threshold level.

### iii. Alternative Measures of Indexing: Other Measures

The proposal also considered and requested comments about updating and indexing thresholds within FDIC regulations using measures of growth in banking or financial sectors. Several commenters supported use of a banking industry growth measure to index thresholds. One commenter stated that use of the actual growth rate in total banking industry assets would be a more direct measure to index asset-based thresholds and, similarly, growth in deposits would be logical for thresholds tied to deposits. Another commenter indicated growth of banking industry assets is a more appropriate measure to index thresholds and would be more representative of the commensurate risk to the DIF and overall banking industry. Another commenter suggested consideration of broader measures of bank complexity beyond asset size, such as the definition of community banking organizations that has been used by FDIC for other purposes.<sup>76</sup>

<sup>76</sup> For example, the FDIC has used a definition of “community banking organization” as part of research efforts. See <https://www.fdic.gov/community-banking-research-program/community-banking-studies>.

<sup>72</sup> See § 345.12(u)(2) of appendix G to 12 CFR part 345; see also 12 CFR 1003.2(g)(1)(i); 20 CFR 404.272.

<sup>73</sup> U.S. Bureau of Labor Statistics, Table 1.1.5. Gross Domestic Product, line 1, available at <https://apps.bea.gov/iTable/?reqid=19&step=2&isuri=1&categories=survey>.

<sup>74</sup> Changes in GDP (sometimes referred to as changes in nominal GDP) can be broken down into changes in prices inflation plus changes in real economic output (real GDP).

<sup>75</sup> Federal Reserve Bank of St. Louis, Gross Domestic Product, available at <https://fred.stlouisfed.org/series/NA000334Q>; see also, Federal Reserve Bank of St. Louis, Consumer Price Index for All Urban Wage Earners and Clerical Workers: All Items in U.S. City Average, available at <https://fred.stlouisfed.org/series/CWUR0000SA0>.

While using banking industry assets as a measure may align threshold levels with changes in the banking industry broadly, it may also result in threshold adjustments that are influenced by factors unrelated to policy objectives of particular FDIC regulations. For example, threshold adjustments using growth in the size of the banking industry or financial sector may be overly influenced by a subset of institutions (for example, large banking organizations) and therefore may not always be representative of, or broadly consistent with, changes occurring across banks of different size ranges. Additionally, as discussed in the proposal, using growth in the size of the banking industry or financial sector would have disadvantages, including that (1) many thresholds are intended to apply to banks of a certain size, not necessarily a fixed proportion of the industry; (2) certain thresholds, including several as part of this proposal, are set at levels that are unrelated to asset size; and (3) these measures could reflect real growth and actual changes in risk profile, as opposed to capturing inflation alone. Compensating for these disadvantages by adding additional conditions to the methodology would be relatively more complex and less transparent to banks and market participants compared to using inflation as a basis for threshold adjustments.

#### iv. Adjustment Frequency Within the Indexing Methodology

As discussed above, under the proposal, thresholds would generally be adjusted every two years or if the cumulative change in non-seasonally adjusted CPI-W exceeded 8 percent during any intervening year since the most recent adjustment.

Some commenters preferred more frequent indexing for certain regulations, such as annually, while other commenters recommended a longer adjustment cadence, such as every three or five years. One commenter suggested that adjusting real estate appraisal thresholds on an annual basis would be commensurate with the original appraisal thresholds and regulatory risk tolerances that were established by the regulators. Commenters supporting a longer adjustment cadence indicated that using a two-year cadence would take considerable regulatory resources and add uncertainty for banks as inflation fluctuates over time.

The proposal considered various other adjustment frequencies, including quarterly, semi-annually, annually, every 3 years, and every 5 years. For

most of the indexing options, including for the CPI-W, an adjustment frequency as short as monthly would be feasible based on data availability. As noted in the proposal, thresholds updated after a shorter adjustment period (e.g., quarterly) would more frequently reflect changes in inflation. A shorter adjustment period would also reduce the number of institutions that cross a threshold between adjustments solely based on growth consistent with consumer prices. A disadvantage of shorter update frequencies is that it may require institutions to more routinely update systems and compliance programs to reflect more frequently adjusted thresholds, relative to longer adjustment frequencies. Longer adjustment frequencies (e.g., every 3 years, every 5 years) generally have the opposite advantages and disadvantages as compared to the shorter adjustment frequencies. Longer adjustment frequencies would lessen the burden involved with tracking threshold changes. However, prolonged adjustments may not sufficiently mitigate the potential for a threshold level to change, in real terms, during the time period between adjustments. Such an approach could therefore heighten the potential for banking organizations to cross thresholds between adjustments solely due to inflation.

The final rule adopts a two-year period for measuring inflation, as proposed, which is intended to provide an appropriate cadence for capturing meaningful changes in inflation on a timely basis while balancing the frequency in which thresholds would be amended. Additionally, by providing for adjustments in intervening years where inflation exceeds 8 percent, the proposal would help mitigate the potential for institutions to cross one or more thresholds when inflation increases significantly during a two-year period. In the event thresholds were increased in two consecutive years due to inflation exceeding 8 percent, the adjustment period would reset, and the next increase would occur after two years, unless inflation exceeded 8 percent again the following year.

The proposal also considered, but the final rule does not adopt, an alternative approach that would adjust thresholds annually based on the change in inflation only if an inflation-adjusted threshold reaches a pre-determined level (i.e., a milestone approach). Under this alternative, for each regulatory threshold, the FDIC would calculate a potential adjusted threshold based on CPI-W measured at the end of each year relative to when a threshold was last adjusted. However, a threshold would

only be adjusted higher if the potential adjusted threshold exceeded a certain milestone amount.

One commenter favored the proposed two-year cadence over the milestone approach, while another commenter favored the automated approach alternative discussed in the proposal relative to the milestone approach. Some commenters supported the milestone approach, stating that it allows threshold adjustments to reflect a material change as a result of inflation, supports transparency, would be more predictable for community banks, and allows them to plan ahead for approaching thresholds that trigger new regulatory requirements. One of these commenters also suggested further exploration of the advantages and disadvantages of the milestone approach.

The milestone approach would provide only for material threshold changes and could support transparency and predictability in future threshold amounts as each milestone would be known in advance. However, the milestone approach may lead to uncertainty in timing, as it may be challenging for the public to track when increases in inflation will trigger the next milestone for each threshold. Relative to an approach with a pre-determined adjustment schedule, the milestone approach would present regulatory compliance planning and management challenges associated with tracking inflation on an ongoing basis, as well as planning for, and managing to, adjustments, which would likely occur at inconsistent frequencies. By contrast, under the final rule, adjustments would be known ahead of time and be made pursuant to an established periodic cadence, which would be expected to simplify planning for, and management of, future threshold adjustments.

#### v. Degree of Automation in Indexing

The proposal provided that the FDIC would, every two years, publish a **Federal Register** notice announcing threshold adjustments based on a pre-determined indexing methodology. The FDIC considered an alternative that would enhance the degree of automation by directly incorporating the indexing calculation into each regulatory threshold. Under this approach, a threshold would be defined within regulation as a starting value multiplied by an index value such as the CPI-W, and the threshold would be automatically adjusted with each update in the index. The proposal discussed using this same approach while adhering to the timing in the proposal,

in which the threshold would increase every two years and would be rounded. The FDIC also considered posting the thresholds on its website and notifying institutions and the public when they are increased.

Some commenters supported the use of automatic adjustments to index the thresholds generally, though they did not refer specifically to the direct referencing of an index as described above. One commenter suggested that automatic adjustments offer transparency and predictability, reducing administrative burden for both banks and regulators. Other commenters indicated that automatic adjustments help ensure that community banks are not unfairly burdened by preventing thresholds from remaining artificially low and imposing undue burden on banks that present low risk to the financial system.

As described in the proposal, the direct reference approach would have the advantage of enhancing the automation, which could help contribute to a relatively more streamlined adjustment process. However, this approach may be less clear for members of the public or regulated entities. Additionally, while the FDIC could post the thresholds on its website, the revised threshold amounts would not be codified in the *Code of Federal Regulations*. On balance, the approach set forth in the proposal would provide relatively more transparency and facilitate compliance with the requirements included in the proposal when compared to the direct reference approach.

### 3. Final Rule—Indexing Methodology

#### i. Indexing Methodology, In General

The FDIC has carefully considered all comments received and is finalizing the indexing methodology for future threshold adjustments as proposed, with a modification to the effective date of future adjustments, as discussed in section III.B.3.ii of this **SUPPLEMENTARY INFORMATION**. Generally, the FDIC will adjust the dollar thresholds described in section III.A of this **SUPPLEMENTARY INFORMATION** at the end of every consecutive two-year period based on the cumulative percent change of the non-seasonally adjusted CPI-W since the effective date of the final rule.

As discussed above, the FDIC recognizes there may be certain advantages of alternative approaches to periodically adjust thresholds, as described by commenters. However, the final rule provides for a consistent and predictable approach that specifically targets price levels to ensure dollar

thresholds remain relatively consistent, in real terms, over time. The indexing methodology included in the final rule enhances transparency and certainty by providing institutions with a pre-determined schedule for future threshold changes. Further, these automatic adjustments will help preserve thresholds' intended scope of application and their alignment with intended policy objectives over time. Accordingly, the indexing methodology contributes to a more durable regulatory framework while avoiding the undesirable and unintended outcome where the scope of applicability for a regulatory requirement changes over time due solely to inflation.

#### ii. Effective Date and Timing of Future Adjustments

In a change from the proposal, which provided for an April 1 effective date for future threshold adjustments, the final rule provides that such adjustments will take effect on October 1. This change is intended to align the effective date with the start date of fiscal years for the majority of IDIs, most of which have fiscal years beginning on October 1 or January 1. The final rule also includes a provision that expressly permits an IDI's appropriate Federal banking agency to exercise discretion to provide exemptive relief to an IDI whose asset size is likely to be below a relevant threshold following a forthcoming threshold adjustment that is scheduled to occur during the IDI's current fiscal year.

Part 363 measures the total consolidated assets of an IDI as of the beginning of its fiscal year to determine the applicability of filing and other compliance requirements under part 363, and IDIs have adopted a variety of dates as the start of their fiscal years. As a result, adjusting thresholds as of any specific date would impact IDIs differently, depending on the start of the IDI's fiscal year. For example, if the rule used January 1 as the date for threshold adjustments, an IDI with a fiscal year beginning on October 1 would immediately commence or continue certain part 363 compliance obligations as of that date, even though the IDI may be removed from the scope of such requirements for future fiscal years when the applicability threshold is adjusted a few months later in January. If an IDI expects to be subject to part 363 requirements as of the start of the fiscal year, the IDI may begin work to engage with an independent public accountant, to establish and/or maintain an adequate internal control structure and procedures over financial reporting, and

to comply with audit committee composition requirements.

The final rule adopts two modifications to reduce the potential for undue compliance burden resulting from the beginning of an IDI's fiscal year not coinciding with the effective date of a future threshold adjustment. First, the final rule adopts an October 1 effective date for future threshold adjustments to coincide as closely as possible with the fiscal years of the majority of IDIs. Second, if an IDI likely will no longer be subject to a part 363 requirement as a result of a threshold adjustment that is scheduled to occur during the IDI's current fiscal year, the final rule includes a provision that expressly permits the IDI's appropriate Federal banking agency to exercise discretion to provide exemptive relief to the IDI.

While policy considerations related to part 363 motivated the FDIC to change the effective date of future part 363 adjustments, the FDIC has decided, for simplicity, to make future adjustments for all thresholds in this final rule effective as of October 1 in the applicable year.

The FDIC is also finalizing a two-year period as the default period for future adjustments and is selecting the CPI-W data series as close to the adjustment date as possible. The first future adjustment will be effective on October 1, 2027, using the CPI-W data through August 30, 2027, relative to the baseline. Future adjustments after October 1, 2027, will be made as of October 1 on a two-year cadence, with the target threshold being calculated based on cumulative CPI-W data through August of the year in which the adjustment is made, relative to the same initial baseline.

### IV. Economic Analysis

The final rule updates certain dollar thresholds within the FDIC's regulations to account for the effects of inflation since the thresholds were first implemented or most recently amended. It also establishes an indexing methodology to preserve these thresholds in real terms going forward. To estimate the expected scope, benefits, and costs of each amendment, the FDIC compared projected outcomes under the final rule to a baseline scenario defined by the dollar thresholds in the FDIC's current regulations.

#### A. Expected Scope of Impact

The final rule is expected to affect IDIs of varying sizes and business models, as well as individuals and entities that interact with the FDIC in applications, filings, or asset

transactions. To assess the expected scope, this analysis considers all relevant regulations and financial conditions data for all IDIs as of the quarter ending June 30, 2025. Specifically:<sup>77</sup>

- *Part 303 (Filing Procedures)*: Applies broadly to IDIs and other entities submitting applications or filings to the FDIC. As of June 30, 2025, there were 4,430 IDIs. The FDIC lacks data on the number of non-IDI applicants.
- *Part 335 (Securities of State Nonmember Banks and Savings Associations)*: Applies to State nonmember banks and State savings associations with one or more classes of securities required to be registered under section 12 of the Exchange Act.<sup>78</sup> As of June 30, 2025, the FDIC supervises 2,808 IDIs that could potentially fall within the scope of this threshold update.
- *Part 340 (Restrictions on Sale of Assets of a Failed Institution by the Federal Deposit Insurance Corporation)*: Applies to persons (both individuals and entities) seeking to purchase assets of failed IDIs in FDIC conservatorship or receivership. Based on counts of

submissions from 2019 through 2023, the FDIC estimates approximately 140 applicants may file part 340 Purchaser Eligibility Certifications (PEC340) annually.

- *Part 347 (International Banking)*: Subpart A to part 347 applies to insured State nonmember banks and their foreign branches. As of June 30, 2025, there were 30 IDIs with foreign subsidiaries, of which five are State nonmember banks subject to Subpart A to part 347.
- *Part 363 (Annual Independent Audits and Reporting Requirements)*: May apply to all IDIs, but with requirements for IDIs that hold total consolidated assets in excess of \$500 million and vary by asset size.<sup>79</sup> As of December 31, 2024, there were 4,496 IDIs, of which 1,802 have total consolidated assets in excess of \$500 million.
- *Part 380 (Orderly Liquidation Authority)*: Applies to persons seeking to purchase assets of failed covered financial companies in FDIC receivership under the Orderly Liquidation Authority. Based on counts of submissions from 2021 through 2023, the FDIC estimates approximately 66

applicants may file part 380 Purchaser Eligibility Certification (PEC380) annually.

*B. Estimates of the Number of Directly Affected Entities*

This section provides the FDIC's estimates of the number of institutions and other entities that may be directly affected by the threshold updates under the final rule. Table 2 summarizes the estimated changes in covered entities relative to current regulations. These estimates rely on available supervisory and application data, historical filing volumes, and conservative assumptions. Across all parts of the FDIC's regulations, the threshold updates in the final rule are expected to reduce the number of institutions subject to certain compliance obligations under parts 303, 335, and 363, and increase the number of entities eligible to engage in specific activities under parts 340 and 380. The largest numerical change in impacted entities will occur under part 363, where higher asset thresholds are expected to reduce the applicable regulatory requirements on several hundred IDIs.

TABLE 2—SUMMARY OF ESTIMATED CHANGES IN THE NUMBER OF COVERED ENTITIES

FDIC Regulation or process	12 CFR §	Current regulations (baseline)		Updated regulations (final rule)		Net effect on number of covered entities* (final rule—baseline)
		Threshold	Covered entities	Threshold	Covered entities	
Part 303—Filing Procedures	§ 303.227(a)(2) & (b)(3)(i) .....	\$2,500/\$1,000 .....	5	\$3,500/\$1,225 .....	4/3	-1/-2
Part 335—Securities of State Nonmember Banks and Savings Associations.	§ 335.801(d) .....	>10% of the equity capital accounts or \$5 million.	9	>10% of the equity capital accounts or \$10 million.	9	0
Part 340—Restrictions on Sale of Assets of a Failed Institution by the FDIC.	§ 340.2(h) .....	\$50,000 .....	140	\$100,000 .....	280	140
Part 347—International Banking.	§ 347.111(a)(1) .....	\$60 million; 25% of bank's Tier 1 capital.	5	\$120 million .....	5	0
	§ 347.111(b)(1) .....	\$30 million; 5% of bank's Tier 1 capital.	5	\$60 million .....	5	0
Part 363—Annual Independent Audits and Reporting Requirements.	§ 363.1(a) .....	\$500 million or more .....	1,802	\$1 billion or more .....	1,024	-778
	§ 363.2(b)(3) .....	\$1 billion or more .....	1,024	\$5 billion or more .....	297	-727
	§ 363.3(b) .....	\$1 billion or more .....	1,024	\$5 billion or more .....	297	-727
	§ 363.5(a)(2) .....	\$500 million or more but less than \$1 billion.	778	\$1 billion or more but less than \$5 billion.	727	-51
	§ 363.5(a)(1) .....	\$1 billion or more .....	1,024	\$5 billion or more .....	297	-727
Part 380—Orderly Liquidation Authority.	§ 363.5(b) .....	More than \$3 billion .....	420	More than \$5 billion .....	297	-123
	Guideline 28(a)(4) .....	\$100,000 .....	1,802	\$120,000 .....	1,802	0
	§ 380.13(b)(6) .....	\$50,000 .....	66	\$100,000 .....	132	66

\* Positive values represent an increase in the number of covered entities attributable to the updated thresholds and negative values represent a decrease in the number of covered entities. Source: FDIC calculations.

<sup>77</sup> Unless otherwise specified, counts of IDIs are taken from Reports of Condition and Income (Call Report) data for the quarter ending June 30, 2025.

<sup>78</sup> Section 12(b) or 12(g), 15 U.S.C. 781(b), (g).

<sup>79</sup> Part 363 requires any IDI with total consolidated assets of \$500 million or more at the beginning of its fiscal year to comply with the requirements therein. Therefore, the FDIC uses data

as of the quarter ending December 31, 2024, for purposes of estimating the effects of the final rule on IDIs subject to part 363.

### Part 303—Filing Procedures

Section 303.227 establishes *de minimis* thresholds for covered offenses under which a convicted person would not be required to submit a section 19 application. The current thresholds are \$2,500 and \$1,000, which the final rule increases to \$3,500 and \$1,225, respectively. From the beginning of 2023 through the first half of 2025, the FDIC received an average of five section 19 applications annually.<sup>80</sup> Because applications can be submitted by both IDIs and individuals, and detailed attribution is unavailable, the FDIC conservatively assumes each application represents a unique IDI. Assuming the number of section 19 applications declines in proportion to the percentage increases in the applicable thresholds—40 percent for the general *de minimis* threshold and 22.5 percent for the small-dollar theft threshold—the number of annual applications is expected to decline to approximately four and three, respectively.

### Part 335—Securities of State Nonmember Banks and Savings Associations

Section 335.801 requires disclosure of extensions of credit to insiders in excess of certain thresholds. The final rule raises the current threshold of \$5 million to \$10 million.<sup>81</sup> The FDIC identified nine IDIs<sup>82</sup> that are subject to the requirements under the Exchange Act and are therefore potentially affected. Because data on insider indebtedness are unavailable, the FDIC conservatively assumes all nine IDIs could be affected, though the actual number may be smaller. Raising this threshold could reduce the number of required insider loan disclosures for affected IDIs, although the extent of these reductions may vary according to each IDI's characteristics.

### Part 340—Restrictions on Sale of Assets of a Failed Institution by the Federal Deposit Insurance Corporation

Section 340 restricts certain individuals and entities from

<sup>80</sup> Section 19 of the FDI Act was significantly amended in December of 2022 by the Fair Hiring in Banking Act. See Public Law 117–263, 136 Stat. 2395, 3411. In a change from the proposal, for purposes of this estimation, the FDIC counts section 19 applications from January 1, 2023, through June 30, 2025, or approximately 2.5 years, for a more accurate depiction of the current rate of applications under the baseline. There were 13 total applications over this time period. 13 applications / 2.5 years = 5 section 19 applications annually.

<sup>81</sup> The final rule does not change the parallel threshold of 10 percent of equity capital.

<sup>82</sup> List of FDIC-Supervised Banks Filing under the Exchange Act, available at <https://www.fdic.gov/analysis/list-fdic-supervised-banks-filing-under-securities-exchange-act>.

purchasing failed-bank assets if they caused a “substantial loss” to an institution. The final rule raises the minimum threshold for “substantial loss” from \$50,000 to \$100,000. Based on historical annual PEC340 submissions from 2019 through 2023, the FDIC estimates approximately 140 submissions annually under the baseline. The volume of submissions in future periods depends on financial and economic conditions and the volume and characteristics of failed bank assets, among other conditions, all of which are difficult to predict. For analytical purposes, the FDIC assumes that the 100 percent increase in the threshold corresponds to a proportional increase in submissions as a result of the final rule, yielding an estimate of 280 unique entities annually. The FDIC acknowledges uncertainty regarding the degree to which the updated threshold will change the volume of submissions.

### Part 347—International Banking

Section 347.111 establishes maximum thresholds for (a) aggregate underwriting commitments and (b) the equity securities held for distribution and dealing by foreign organizations held by insured State nonmember banks. The final rule doubles the current limits of \$60 million and \$30 million to \$120 million and \$60 million, respectively. Based on data from the Federal Financial Institutions Examination Council's National Information Center (NIC), the FDIC identified 30 IDIs with foreign subsidiaries, of which five are State nonmember banks subject to part 347. Given information gaps on business activity, the FDIC conservatively assumes all five banks would be affected.

### Part 363—Annual Independent Audits and Reporting Requirements

Part 363 contains multiple dollar value thresholds tied to an IDI's total consolidated assets as of the beginning of an IDI's most recent fiscal year<sup>83</sup> and one threshold related to compensation. Specifically, the final rule:

- Updates the general applicability threshold from \$500 million to \$1 billion in total assets, removing 778 IDIs from the scope of 12 CFR 363.1(a).
- Updates the total assets thresholds related to ICFR assessment from \$1 billion or more to \$5 billion or more, removing 727 IDIs from the scope of 12 CFR 363.2(b)(3) and 12 CFR 363.3(b).<sup>84</sup>

<sup>83</sup> See, e.g., 12 CFR 363.1.

<sup>84</sup> For 12 CFR 363.2(b)(3), this threshold is referenced in part 363, appendix A, paragraphs 8A and 10, as well as part 363, appendix B, paragraph 2(b). For 12 CFR 363.3(b), this threshold is

• Updates the applicable thresholds for minimum audit committee requirements under 12 CFR 363.5(a)(2) for IDIs between \$500 million to \$1 billion in total assets to IDIs between \$1 billion to \$5 billion, removing a net of 51 IDIs from scope; and under 12 CFR 363.5(a)(1) for IDIs between \$1 billion and \$5 billion in total assets, removing 727 IDIs from scope.<sup>85</sup>

• Updates the \$3 billion threshold for additional audit committee requirements to \$5 billion, removing 123 IDIs from the scope of 12 CFR 363.5(b).<sup>86</sup>

• Updates the \$100,000 compensation threshold for independent directors under Guideline 28(a)(4) to \$120,000.<sup>87</sup>

### Part 380—Orderly Liquidation Authority

Part 380 restricts persons who participated in a transaction that caused a substantial loss to a covered financial company under part 380 from acquiring any assets of a covered financial company under part 380. The final rule raises the minimum threshold of a “substantial loss” from \$50,000 to \$100,000. As previously discussed, the FDIC would receive PECs under part 380 only if it has been appointed receiver for a covered financial company. Based on internal data, the FDIC estimates 66 PEC submissions annually under the baseline.<sup>88</sup> The volume of submissions in future periods depends on financial and economic conditions and the volume and characteristics of failed bank assets, among other conditions, all of which are difficult to predict. For analytical purposes, the FDIC assumes that the 100 percent increase in the threshold corresponds to a proportional increase in submissions as a result of the final rule, yielding an estimate of 132 unique entities annually. The FDIC

referenced in part 363, appendix A, paragraph 18A, as well as part 363, appendix B, paragraph 2(b).

<sup>85</sup> These thresholds are referenced in part 363, appendix A, paragraphs 27, 30(b), 30(c), 35(a), and 35(b). The 778 IDIs currently subject to 12 CFR 363.5(a)(2) would no longer be subject to these requirements, whereas the 727 IDIs with total assets between \$1 billion and \$5 billion would now be subject to the requirements under 12 CFR 363.5(a)(2). Therefore, the FDIC estimates 1,505 IDIs would be affected by this change.

<sup>86</sup> This threshold is referenced in part 363, appendix A, paragraph 35(c).

<sup>87</sup> The FDIC does not have the data necessary to estimate the number of potential directors of IDI audit committees that this update would affect.

<sup>88</sup> The estimates of PEC submissions under part 380 are predicated upon a potential invocation of the Orderly Liquidation Authority. Office of Management and Budget, Information Collection List, Covered Financial Company Asset Sales Prospective Purchaser Eligibility Certification, available at [https://www.reginfo.gov/public/do/PRAICList/ref\\_nbr=202311-3064-003](https://www.reginfo.gov/public/do/PRAICList/ref_nbr=202311-3064-003).

acknowledges uncertainty regarding the degree to which the updated threshold will change the volume of submissions.

#### Indexing Methodology

The final rule also implements an indexing methodology that reflects inflation to make future automatic adjustments to most thresholds discussed above.<sup>89</sup> The FDIC does not have the information necessary to precisely estimate the number of entities that will be affected by future adjustments to these dollar thresholds due to changes in inflation. However, since the indexing methodology under the final rule aligns these dollar thresholds with their real values over time, it will help ensure the number of entities subject to the affected regulations remains consistent with the original policy intent.

#### C. Costs and Benefits of the Final Rule

The threshold updates in the final rule are intended to help preserve certain threshold levels in the FDIC's regulations in real terms to help maintain their intended application and policy objectives. The FDIC expects that the overall effect will reduce unnecessary compliance burden for IDIs, other financial institutions, and certain persons.

#### Part 303—Filing Procedures

Updating *de minimis* thresholds is expected to reduce the number of section 19 applications by an estimated one and two annually. This would lower compliance costs for affected IDIs and individuals and potentially provide more flexibility in hiring. Updating this threshold would reduce the number of individuals screened through the section 19 process. The FDIC does not have the information necessary to fully quantify such effects but concludes that the aggregate cost savings associated with this change would be relatively minor.

#### Part 335—Securities of State Nonmember Banks and Savings Associations

Updating the materiality threshold for insider credit disclosures from \$5

million to \$10 million would likely reduce the number of disclosures for the estimated nine affected IDIs. This change would modestly reduce compliance costs while better aligning reporting requirements with the threshold level related to insider indebtedness in real terms. Although fewer transactions would meet the disclosure threshold, the FDIC expects that transparency into insider relationships of supervisory concern would be preserved. Overall, the FDIC views this as a modest refinement that reduces unnecessary reporting without diminishing oversight effectiveness.

#### Part 340—Restrictions on Sale of Assets of a Failed Institution by the Federal Deposit Insurance Corporation

Updating the minimum threshold for “substantial loss” from \$50,000 to \$100,000 is expected to allow for more individuals and entities to be eligible to purchase assets from failed institutions, increasing competition and potentially raising bid prices. This would benefit the DIF by improving recoveries. A potential cost is a modest increase in the risk of sales to less-qualified buyers, but oversight processes remain in place to mitigate this risk.

#### Part 347—International Banking

Updating underwriting and dealing limits for foreign subsidiaries may permit State nonmember banks to engage in larger or more complex cross-border transactions and improve competitiveness with foreign institutions. These actions may then result in additional compliance obligations for the State nonmember bank from foreign regulatory regimes. However, these costs are expected to be modest relative to the institutions' overall operating expenses and are likely to be one-time or short-term in nature, reflecting transitional adjustments rather than ongoing burdens. Moreover, because participation in such activities remains discretionary and market-driven, IDIs are likely to undertake them only when the expected returns outweigh these rather incremental compliance costs.

#### Part 363—Annual Independent Audits and Reporting Requirements

The most substantial effects of the final rule are associated with part 363, where updated asset thresholds are expected to significantly reduce the number of IDIs subject to independent audit and reporting requirements. Approximately 778 IDIs with assets between \$500 million and \$1 billion, 727 IDIs with assets between \$1 billion and \$5 billion, and 123 IDIs with assets

between \$3 billion to \$5 billion would see reduced compliance obligations. These changes would lower audit-related costs and help preserve certain threshold levels in the FDIC's regulations in real terms to help maintain their intended application and policy objectives. While fewer mid-sized IDIs would be subject to audit and reporting requirements, oversight of the largest and most complex institutions would remain unchanged. Additionally, to the extent that the appropriate Federal banking agency exercises its discretion to provide exemptive relief to IDIs, as described above, such relief may further attenuate compliance costs. The FDIC does not expect these cost savings to be outweighed by any significant increase in the risk profile of IDIs generally or any expected losses to the DIF. As discussed above, the largest IDIs would see no change in requirements. Due to the tailored and measured approach taken to the update of thresholds contained in part 363, the FDIC concludes these changes do not significantly increase risk to the DIF.

#### Part 380—Orderly Liquidation Authority

As with part 340, updating the minimum threshold for “substantial loss” under part 380 would expand eligibility, increasing the number of bidders for failed covered financial company assets. This could improve asset recovery values. A potential cost is the inclusion of some less-qualified buyers, though oversight mechanisms are expected to limit this risk.

#### D. Overall Assessment

Across all parts of the FDIC's regulations, the threshold updates provided by the final rule are expected to reduce compliance obligations for many smaller institutions while expanding eligibility for certain activities under parts 340 and 380. Table 2 shows that the largest scope of affected entities arises from the amendments to part 363, where the final rule would result in hundreds of IDIs no longer expected to be subject to enhanced audit and ICFR requirements. Overall, the FDIC expects the changes to result in reductions in regulatory burden.

The final rule is expected to yield positive net benefits by:

- Reducing compliance burden for hundreds of smaller and mid-sized IDIs.
- Helping preserve threshold levels in the FDIC's regulations in real terms to help maintain their intended application and policy objectives.

<sup>89</sup>The dollar value threshold under 12 CFR part 363, appendix A, paragraph 28(b)(4), pertaining to independence of management is not scheduled to be periodically adjusted for inflation under the final rule. This threshold was initially adopted to follow the parallel threshold under the listing standards of national securities exchanges. Therefore, the revision under the final rule to increase this threshold from \$100,000 to \$120,000 brings it into alignment with these parallel thresholds. See Nasdaq Stock Market Rules, Rule 5605(a)(2), “Definition of Independence;” New York Stock Exchange Listed Company Manual, section 303A.02(b)(ii), “Independence Tests.”



• Enhancing market participation in asset sales, which could improve recoveries to the DIF.

Any potential costs, such as marginal reductions in the frequency of reporting or supervisory review, are expected to be limited in scope and outweighed by the benefits of restoring and preserving threshold levels with their intended application.

## V. Administrative Law Matters

### A. Administrative Procedure Act

The Administrative Procedure Act (APA) requires an agency to publish a substantive rule not less than 30 days before its effective date, except when an agency otherwise publishes in the final rule good cause for providing for an earlier effective date.<sup>90</sup> The FDIC finds that there is good cause to dispense with the 30-day delayed effective date generally prescribed by the APA for this final rule.

The final rule updates for inflation the dollar thresholds used to determine the applicability of certain regulatory requirements, immediately relieving affected institutions and individuals of reporting and compliance burdens. Delaying the effective date of the final rule would impose unnecessary and avoidable costs on regulated institutions and affected individuals. Specifically, a delayed effective date could force institutions that would no longer be subject to the revised thresholds to unnecessarily continue expending resources to meet requirements to which they would no longer be subject. The delayed effective date is both unnecessary and contrary to the public interest because it perpetuates costs of regulatory compliance that serve no prudential purposes. In addition, immediate effectiveness will promote clarity and certainty for affected institutions as they plan compliance activities for upcoming reporting and examination cycles.

Accordingly, the FDIC finds that a delayed effective date is both unnecessary and contrary to the public interest. Therefore, the final rule is effective as of the date set forth under the **DATES** heading, above.

### B. Congressional Review Act

Pursuant to the Congressional Review Act, the Office of Budget and Management (OMB) makes a determination as to whether a final rule constitutes a “major rule,” defined in the Congressional Review Act 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>91</sup> If a rule is determined to be a “major rule” by OMB, the Congressional Review Act generally provides that the rule may not take effect until at least 60 days following its publication.<sup>92</sup> If a rule is not a “major rule,” the rule may take effect after the Federal agency submits to Congress a report required under the Congressional Review Act.<sup>93</sup>

OMB has determined the final rule is not a major rule under the Congressional Review Act. Accordingly, the FDIC will submit the report to Congress required by the Congressional Review Act and proposes an effective date for the final rule as set forth under the **DATES** heading, above.

### C. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA)<sup>94</sup> states that no agency may conduct or sponsor, nor is the respondent required to respond to, an information collection unless it displays a currently valid OMB control number. The FDIC reviewed the final rule and determined that it revises certain information collection requests previously cleared by OMB under the following OMB Control Nos.:

1. 3064–0018: Application Pursuant to Section 19 of the Federal Deposit Insurance Act
2. 3064–0030: Securities of State Nonmember Banks and State Savings Associations
3. 3064–0113: External Audits
4. 3064–0194: Covered Financial Company Asset Purchaser Eligibility Certification

The FDIC will submit the proposed revisions to these information collections to OMB for review under section 3507(d) of the PRA<sup>95</sup> and 5 CFR 1320.11 of the OMB’s implementing regulations.<sup>96</sup>

<sup>91</sup> 5 U.S.C. 804(2).

<sup>92</sup> 5 U.S.C. 801(a)(3).

<sup>93</sup> 5 U.S.C. 801(a)(1).

<sup>94</sup> 44 U.S.C. 3501 through 3521.

<sup>95</sup> 44 U.S.C. 3507(d).

<sup>96</sup> 5 CFR 1320.11.

## Proposed Revisions to Existing Information Collections

*Title of Information Collection:* Application Pursuant to Section 19 of the Federal Deposit Insurance Act.

*OMB Number:* 3064–0018.

*Affected Public:* IDIs and individuals.

*Current Actions:* The final rule revises the currently approved information collection as follows:

The final rule updates the threshold for certain offenses under which no application to the FDIC under section 19 of the FDI Act is required. By updating the dollar threshold for the *de minimis* exception, the final rule decreases the number of respondents required to submit applications to the FDIC. Based on the final rule as well as historical data, the FDIC estimates a decrease from 43 respondents to 17 respondents, resulting in a total annual burden for OMB No. 3064–0018 of 272 hours, a decrease of 416 hours.<sup>97</sup>

*Title of Information Collection:* Securities of State Nonmember Banks and State Savings Associations.

*OMB Number:* 3064–0030.

*Affected Public:* Insured State nonmember banks and State savings associations.

*Current Actions:* The final rule revises the currently approved information collection as follows:

The final rule updates the thresholds for disclosure requirements for extensions of credit to insiders from in excess of 10 percent of the capital account of an institution or \$5 million, whichever is less, to 10 percent of the capital account of an institution or \$10 million. Raising this threshold decreases the total information the FDIC requests from the affected respondents; therefore, it is a substantive modification to the previously approved information collection titled “14A Proxy Statements.” As such, the FDIC is required to submit the information collection for review and approval by OMB.<sup>98</sup> However, based on available historical data, similar reporting requirements imposed by the SEC, and the FDIC’s supervisory experience and expertise, the FDIC does not anticipate a change in the burden estimates for this information collection.

*Title of Information Collection:* External Audits.

*OMB Number:* 3064–0113.

*Affected Public:* All insured financial institutions with total assets of \$1 billion or more and other insured

<sup>97</sup> FDIC Application Pursuant to Section 19 of the Federal Deposit Insurance Act, OMB No. 3064–0018, available at [https://www.reginfo.gov/public/do/PRAViewICR?ref\\_nbr=202407-3064-005](https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202407-3064-005).

<sup>98</sup> 5 CFR 1320.5(g).

<sup>90</sup> 5 U.S.C. 553(d).

financial institutions with total assets of less than \$1 billion that voluntarily choose to comply.

*Current Actions:* The final rule revises the currently approved information collection as follows:

The final rule updates several thresholds in part 363. It raises the general applicability thresholds from

\$500 million to \$1 billion, the ICFR asset threshold from \$1 billion to \$5 billion, and thresholds related to audit committee composition generally from \$500 million to \$1 billion, and from \$1 billion and \$3 billion to \$5 billion. By raising the thresholds in part 363, the final rule changes several existing information collections under OMB

Control No. 3064–0113 by changing the number of respondents or changing the reporting requirements. Accordingly, the FDIC will revise the categories of the existing information collections to better align with proposed rule’s updated thresholds. The updated burden estimates and the information collection categories are as follows:

TABLE 3—SUMMARY OF ESTIMATED ANNUAL BURDEN [OMB No. 3064–0113]

Information Collection (IC) (obligation to respond)	Type of burden (frequency of response)	Number of respondents	Number of responses per respondent	Average time per response (HH:MM)	Annual burden (hours)
<b>Institutions With \$10 Billion or More in Total Consolidated Assets</b>					
1. Annual Report, 12 CFR part 363 (Mandatory) .....	Recordkeeping (Annual) .....	161	1	150:00	24,150
2. Annual Report, 12 CFR part 363 (Mandatory) .....	Reporting (Annual) .....	161	1	150:00	24,150
3. Audit Committee Composition, 12 CFR part 363 (Mandatory) .....	Recordkeeping (Annual) .....	161	1	03:00	483
4. Audit Committee Composition, 12 CFR part 363 (Mandatory) .....	Reporting (Annual) .....	161	1	03:00	483
5. Filing of Other Reports, 12 CFR part 363 (Mandatory) .....	Recordkeeping (Annual) .....	161	1	00:08	21
6. Filing of Other Reports, 12 CFR part 363 (Mandatory) .....	Reporting (Annual) .....	161	1	00:08	21
7. Notice of Change in Accountants, 12 CFR part 363 (Mandatory) .....	Recordkeeping (Annual) .....	40	1	00:15	10
8. Notice of Change in Accountants, 12 CFR part 363 (Mandatory) .....	Reporting (Annual) .....	40	1	00:15	10
<b>Institutions With \$5 Billion to Less Than \$10 Billion in Total Consolidated Assets</b>					
9. Annual Report, 12 CFR part 363 (Mandatory) .....	Recordkeeping (Annual) .....	136	1	125:00	17,000
10. Annual Report, 12 CFR part 363 (Mandatory) .....	Reporting (Annual) .....	136	1	125:00	17,000
11. Audit Committee Composition, 12 CFR part 363 (Mandatory) .....	Recordkeeping (Annual) .....	136	1	03:00	408
12. Audit Committee Composition, 12 CFR part 363 (Mandatory) .....	Reporting (Annual) .....	136	1	03:00	408
13. Filing of Other Reports, 12 CFR part 363 (Mandatory) .....	Recordkeeping (Annual) .....	136	1	00:08	18
14. Filing of Other Reports, 12 CFR part 363 (Mandatory) .....	Reporting (Annual) .....	136	1	00:08	18
15. Notice of Change in Accountants, 12 CFR part 363 (Mandatory) ...	Recordkeeping (Annual) .....	34	1	00:15	9
16. Notice of Change in Accountants, 12 CFR part 363 (Mandatory) ...	Reporting (Annual) .....	34	1	00:15	9
<b>Institutions With \$1 Billion to Less Than \$5 Billion in Total Consolidated Assets</b>					
17. Annual Report, 12 CFR part 363 (Mandatory) .....	Recordkeeping (Annual) .....	727	1	12:30	9,088
18. Annual Report, 12 CFR part 363 (Mandatory) .....	Reporting (Annual) .....	727	1	12:30	9,088
19. Audit Committee Composition, 12 CFR part 363 (Mandatory) .....	Recordkeeping (Annual) .....	727	1	01:00	727
20. Audit Committee Composition, 12 CFR part 363 (Mandatory) .....	Reporting (Annual) .....	727	1	01:00	727
21. Filing of Other Reports, 12 CFR part 363 (Mandatory) .....	Recordkeeping (Annual) .....	727	1	00:08	97
22. Filing of Other Reports, 12 CFR part 363 (Mandatory) .....	Reporting (Annual) .....	727	1	00:08	97
23. Notice of Change in Accountants, 12 CFR part 363 (Mandatory) ...	Recordkeeping (Annual) .....	182	1	00:15	46
24. Notice of Change in Accountants, 12 CFR part 363 (Mandatory) ...	Reporting (Annual) .....	182	1	00:15	46
<b>Institutions With Less Than \$1 Billion of Total Consolidated Assets</b>					
25. Filing of Other Reports, 12 CFR part 363 (Voluntary) .....	Recordkeeping (Annual) .....	3,472	1	00:15	868
26. Filing of Other Reports, 12 CFR part 363 (Voluntary) .....	Reporting (Annual) .....	3,472	2	00:15	1,736
Total Annual Burden (Hours) .....	.....	.....	.....	.....	106,718

Source: FDIC.

**Note:** The estimated annual IC time burden is the product, rounded to the nearest hour, of the estimated annual number of responses and the estimated time per response for a given IC. The estimated annual number of responses is the product, rounded to the nearest whole number, of the estimated annual number of respondents and the estimated annual number of responses per respondent. This methodology ensures the estimated annual burdens in the table are consistent with the values recorded in OMB’s consolidated information system.

Based on the final rule, the FDIC estimates a total annual burden for OMB Control No. 3064–0113 of 106,718 hours, resulting in a burden decrease of 31,496 hours from the most recent PRA renewal.<sup>99</sup>

*Title of Information Collection:* Covered Financial Company Asset Sales Purchaser Eligibility Certification.

*OMB Number:* 3064–0194.

*Affected Public:* Any individual or entity that is a potential purchaser of

assets from (1) the FDIC as receiver for a Covered Financial Company (CFC); or (2) a bridge financial company (BFC) that requires the approval of the FDIC, as receiver for the predecessor CFC and as the sole shareholder of the BFC (e.g., the BFC’s sale of a significant business line).

*Current Actions:* The final rule updates the currently approved information collection as follows:

The final rule updates the “substantial loss” threshold in 12 CFR 380.13 by raising the existing threshold from \$50,000 to \$100,000. Raising this threshold decreases the total

information the FDIC requests from the affected respondents; therefore, it is a substantive modification to the previously approved information collection titled “Covered Financial Company Asset Sales Purchaser Eligibility Certification.”<sup>100</sup> As such, the FDIC is required to submit the information collection for review and approval by OMB.<sup>101</sup> The FDIC does not anticipate a change in the burden

<sup>100</sup> FDIC Covered Financial Company Asset Purchaser Eligibility Certification, OMB No. 3064–0194, available at [https://www.reginfo.gov/public/do/PRAViewICR?ref\\_nbr=202311-3064-003](https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202311-3064-003).

<sup>101</sup> 44 U.S.C. 3507(d).

<sup>99</sup> FDIC External Audits, OMB No. 3064–0113, available at [https://www.reginfo.gov/public/do/PRAViewICR?ref\\_nbr=202207-3064-004](https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202207-3064-004).

estimates for this information collection. This determination is based on the FDIC supervisory experience and analysis of prospective respondents.

#### D. Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act (RFA) generally requires that an agency, in connection with a final rule, to prepare and make available for public comment a final regulatory flexibility analysis that describes the impact of the final rule on small entities.<sup>102</sup> However, a final regulatory flexibility analysis is not required if the agency certifies that the final rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. The Small Business Administration (SBA) has defined “small entities” to include banking organizations with total assets of less than or equal to \$850 million.<sup>103</sup> Generally, the FDIC considers a significant economic impact to be a quantified effect in excess of 5 percent of total annual salaries and benefits or 2.5 percent of total noninterest expenses. The FDIC concludes that effects in excess of one or more of these thresholds typically represent significant economic impacts for IDIs.

To evaluate the impact of this final rule on small entities, this analysis considers all relevant regulations and guidance applicable to these institutions, together with financial data for all IDIs as of the quarter ending June 30, 2025.

#### Part 303—Filing Procedures

Section 303.227 establishes criteria for *de minimis* exemptions under section 19 of the FDI Act, including thresholds of \$2,500 and \$1,000 for certain offenses exempt from the requirement to submit a section 19 application to the FDIC. As previously discussed, the final rule updates these thresholds to \$3,500 and \$1,225, respectively.

To estimate potential effects, the FDIC reviewed the number of section 19 applications received over the period from the beginning of 2023 through June 30, 2025. The FDIC received 13 applications (an average of five annually) submitted by individuals or

IDIs.<sup>104</sup> As discussed in the Economic Analysis section (section IV of this **SUPPLEMENTARY INFORMATION**), the FDIC assumes that each application is submitted by a unique IDI, which serves as a conservative estimate of the number of potentially affected entities.

For the purposes of this analysis the FDIC assumes the number of section 19 applications declines in proportion to the percentage increases in the applicable thresholds. As previously discussed, the final rule increases the *de minimis* threshold by 40 percent; therefore, the FDIC estimates that this aspect of the final rule reduces annual section 19 applications by two, to three. Further, the final rule increases the small-dollar theft threshold by 22.5 percent; therefore, the FDIC estimates that this aspect of the final rule reduces annual section 19 application by one, to four.<sup>105</sup> The FDIC does not have the information necessary to determine the degree to which the changes to the two *de minimis* exemption criteria may interact. Based on Call Report data from June 30, 2025, approximately 70 percent of all IDIs are considered small entities for the purposes of the RFA.<sup>106</sup> Accordingly, the FDIC estimates that up to two small IDIs would no longer need to submit a section 19 application under the final rule.<sup>107</sup> Based on an estimated 16 hours per application for compliance activities under section 19<sup>108</sup> and a wage rate of \$103.70/hour,<sup>109</sup> the FDIC

estimates total annual cost savings of approximately \$3,318.40 across the affected institutions, or approximately \$1,659.20 per small IDI.<sup>110</sup> Given the limited number of affected entities and relatively modest cost savings, the FDIC concludes that these updates do not have a significant economic impact on small IDIs.

#### Part 335—Securities of State Nonmember Banks and Savings Associations

Section 335.801 establishes a threshold for disclosures related to extensions of credit to insiders. As previously discussed, the final rule updates the dollar-based threshold from \$5 million to \$10 million.

The FDIC identified nine FDIC-supervised IDIs<sup>111</sup> subject to the disclosure requirements under the Exchange Act. Of these, one is classified as a small entity for the purposes of the RFA. While the FDIC does not have the information necessary to estimate the change in how many loans to insiders will be reported under the final rule, it finds that the final rule does not have a substantive impact on small FDIC-supervised IDIs because (1) this specific disclosure is just one component of a much larger disclosure—proxy statements—which is otherwise entirely unaffected by the final rule; and (2) it only affects one FDIC-supervised IDI.

#### Part 340—Restrictions on Sale of Assets of a Failed Institution by the Federal Deposit Insurance Corporation

Section 340 relates to restrictions on the sale of failed bank assets to certain persons that have caused a “substantial loss” to an institution. “Substantial loss” is currently defined as greater than \$50,000 in losses, unpaid final judgments, delinquent obligations, or deficiency balance following a foreclosure. As previously discussed, the final rule updates this threshold to greater than \$100,000.

Based on historical annual PEC340 submissions from 2019 through 2023, the FDIC receives approximately 140 submissions annually. As discussed in

and June 2025). For this ICR, the FDIC estimated the following labor allocation for entities complying with these requirements: Executives and Managers (11–0000): 10 percent; Lawyers (23–0000): 20 percent; Compliance Officers (13–1040): 60 percent; and Clerical Workers (43–0000): 10 percent.

<sup>110</sup> Estimated 16 hours per section 19 application × \$103.70/hour wage rate = Estimated \$1,659.20 per application. The FDIC estimates 1 and 2 small entities annually will incur receive cost savings from the final rule’s changes to part 303. 1 small entity × \$1,659.20 = \$1,659.20. 2 small entities × \$1,659.20 = \$3,318.40.

<sup>111</sup> See <https://www.fdic.gov/analysis/list-fdic-supervised-banks-filing-under-securities-exchange-act> for the list of IDIs.

<sup>104</sup> Section 19 of the FDI Act was significantly amended in December of 2022 by the Fair Hiring in Banking Act. See Public Law 117–263, 136 Stat. 2395, 3411. For purposes of this estimation, the FDIC counts section 19 applications from January 1, 2023 through June 30, 2025, or approximately 2.5 years, for a more accurate depiction of the current rate of applications under the baseline. There were 13 total applications over this time period. 13 applications/2.5 years ≈ 5 section 19 applications annually.

<sup>105</sup> For the general *de minimis* threshold: 5 estimated annual section 19 applications × (1 – 0.4, or 40%) = 3 section 19 applications. For the small-dollar theft threshold: 5 estimated annual section 19 applications × (1 – 0.225, or 22.5%) = 3.875, or approximately 4, section 19 applications.

<sup>106</sup> FDIC Call Report Data, June 30, 2025.

<sup>107</sup> Five section 19 applications from unique IDIs × 70 percent of all IDIs classified as small ≈ four small IDIs. A 22.5-percent reduction, corresponding to an increase in the *de minimis* small-dollar theft threshold from \$1,000 to \$1,225, would result in three small IDIs estimated under the final rule. A 40-percent reduction, corresponding to an increase in the general *de minimis* exemption threshold from \$2,500 to \$3,500, would result in two small IDIs estimated under the final rule.

<sup>108</sup> Information collection request ICR 3064–0018 at [https://www.reginfo.gov/public/do/PRAViewICR?ref\\_nbr=202407-3064-005](https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202407-3064-005).

<sup>109</sup> Bureau of Labor Statistics: National Industry-Specific Occupational Employment and Wage Estimates: Industry: Credit Intermediation and Related Activities (5221 and 5223 only) (May 2024), Employer Cost of Employee Compensation (March 2024), and Employment Cost Index (March 2024

<sup>102</sup> 5 U.S.C. 601 *et seq.*

<sup>103</sup> The SBA defines a small banking organization as having \$850 million or less in assets and determines an organization’s assets by averaging the assets reported on its four quarterly financial statements for the preceding year. See 13 CFR 121.201 (as amended by 87 FR 69118, effective December 19, 2022). Following these regulations, the FDIC uses an IDI’s affiliated and acquired assets, averaged over the preceding four quarters, to determine whether the IDI is “small” for the purposes of the RFA.

the Economic Analysis section (section IV of this **SUPPLEMENTARY INFORMATION**), 70 percent of all IDIs are considered small for the purposes of the RFA.<sup>112</sup> Therefore, assuming each is submitted by a unique entity, the FDIC estimates that approximately 98 PEC340s are submitted by small entities.<sup>113</sup>

The FDIC estimates that an entity will incur 30 minutes of labor to submit a PEC340 to the FDIC.<sup>114</sup> Employing a wage rate of \$163.50/hour,<sup>115</sup> the FDIC estimates total annual costs of approximately \$8,011.50 across the affected institutions, or approximately \$81.75 per small IDI.<sup>116</sup> The FDIC concludes that the final rule does not have a substantive impact on small IDIs because the final rule affects a relatively small number small IDIs—just over three percent of all small IDIs.<sup>117</sup>

#### Part 347—International Banking

Section 347.111 contains two relevant thresholds applicable to foreign organizations held by uninsured State nonmember banks: the aggregate underwriting commitment limit of \$60 million and the distribution and dealing limit of \$30 million. As previously discussed, the final rule updates both thresholds to \$120 million and \$60 million, respectively.

Based on data from the NIC, the FDIC identified five State nonmember banks with foreign subsidiaries subject to these provisions, none of which are classified as small for the purposes of the RFA.<sup>118</sup> Consequently, the FDIC finds that these updates do not affect any small FDIC-supervised IDIs.

#### Part 363—Annual Independent Audits and Reporting Requirements

As previously discussed, the final rule updates several dollar thresholds under

<sup>112</sup> FDIC Call Report Data, June 30, 2025.

<sup>113</sup> 140 estimated PEC340 submissions by IDIs × 70 percent = 98 “small” IDIs.

<sup>114</sup> Information collection request ICR 3064–0135 at [https://www.reginfo.gov/public/do/PRAViewICR?ref\\_nbr=202111-3064-002](https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202111-3064-002).

<sup>115</sup> Bureau of Labor Statistics: National Industry-Specific Occupational Employment and Wage Estimates: Industry: Credit Intermediation and Related Activities (5221 and 5223 only) (May 2024), Employer Cost of Employee Compensation (March 2024), and Employment Cost Index (March 2024 and June 2025). For this ICR, the FDIC estimated the following labor allocation for entities complying with these requirements: Executives and Managers (11–0000): 10 percent; and Purchasing Managers (11–3060): 90 percent.

<sup>116</sup> Estimated 98 small IDIs submitting PEC340s × 30 minutes per PEC340 submission = 49 hours. 49 × \$163.50 = \$8,011.50 in total annual costs. \$8,011.50/98 small IDIs = \$81.75 per small IDI.

<sup>117</sup> FDIC Call Report Data, June 30, 2025. 98 estimated small IDIs submitting PEC340s/3,092 “small” IDIs = 3.17 percent of small IDIs.

<sup>118</sup> Federal Reserve National Information Center data as of June 30, 2025. See <https://www.ffiec.gov/npw/> for more information.

part 363.<sup>119</sup> Among these, the most relevant for small entities are the updates in the asset-size threshold from \$500 million to \$1 billion for: Annual audit requirements under 12 CFR 363.1(a), and audit committee requirements under 12 CFR 363.5(a)(2).

As of December 31, 2024, 556 small IDIs report between \$500 million and \$1 billion in assets. These institutions would no longer be subject to the requirements under part 363. Based on estimates of 28 hours per year for compliance activities under part 363<sup>120</sup> and a wage rate of \$99.49 per hour,<sup>121</sup> the FDIC estimates annual cost savings of approximately \$1.55 million across affected institutions, or approximately \$2,800 per small IDI.<sup>122</sup> The FDIC finds these updates to the thresholds do not have a significant effect on small IDIs.

#### Part 380—Orderly Liquidation Authority

Part 380 defines “substantial loss” for restrictions on the sale of failed financial company assets. As previously discussed, the final rule updates this threshold from \$50,000 to \$100,000.

Based on PEC380 submissions, the FDIC estimates approximately 66 submissions annually. Assuming each is submitted by a unique entity and using the FDIC’s previous estimate that 70 percent of all IDIs are small,<sup>123</sup> the FDIC estimates that approximately 46 PEC380s are submitted by small IDIs.<sup>124</sup>

The FDIC estimates that an entity will incur 2.5 hours of labor to submit a PEC380 to the FDIC.<sup>125</sup> Employing a

<sup>119</sup> Part 363 requires any IDI with total consolidated assets of \$500 million or more at the beginning of its fiscal year to comply with the requirements therein. Therefore, the FDIC uses data as of the quarter ending December 31, 2024, for purposes of estimating the effects of the final rule on small IDIs subject to part 363.

<sup>120</sup> Information collection request ICR 3064–0113 at [https://www.reginfo.gov/public/do/PRAViewICR?ref\\_nbr=202207-3064-004](https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202207-3064-004).

<sup>121</sup> Bureau of Labor Statistics: National Industry-Specific Occupational Employment and Wage Estimates: Industry: Credit Intermediation and Related Activities (5221 and 5223 only) (May 2024), Employer Cost of Employee Compensation (March 2024), and Employment Cost Index (March 2024 and June 2025). See Table 2 of the FDIC’s Supporting Statement at [https://www.reginfo.gov/public/do/PRAViewDocument?ref\\_nbr=202207-3064-004](https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=202207-3064-004) for information on the labor allocations for this ICR.

<sup>122</sup> 556 small IDIs × 28 hours in cost savings = 15,568 hours in annual compliance cost savings. 15,568 hours × \$99.48 per hour = \$1,548,704.64, or approximately \$1.55 million. \$1.55 million/556 small IDIs = \$2,787.77, or approximately \$2,800.

<sup>123</sup> FDIC Call Report Data, June 30, 2025.

<sup>124</sup> 66 estimated PEC380 submissions by IDIs × 70 percent = 46.2, or approximately 46 “small” IDIs.

<sup>125</sup> Information collection request ICR 3064–0194 at [https://www.reginfo.gov/public/do/PRAViewICR?ref\\_nbr=202311-3064-003](https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202311-3064-003).

wage rate of \$111.94 per hour,<sup>126</sup> the FDIC estimates total annual costs of approximately \$12,873.10 across the affected institutions, or approximately \$279.85 per small IDI.<sup>127</sup> The FDIC concludes that the final rule does not have a substantive impact on small IDIs because the final rule only affects about one and a half percent of all small IDIs.<sup>128</sup>

#### Summary of Effects on Small Entities

As of the quarter ending June 30, 2025, the FDIC insured 4,430 institutions, of which 3,092 are considered small for the purposes of the RFA. As of the same period the FDIC supervised 2,808 institutions, 2,085 are classified as small.<sup>129</sup> The FDIC estimates that the final rule’s threshold updates in parts 303, 340, 363, and 380 will affect a limited subset of small entities, resulting in minor compliance cost savings or modest incremental costs, not to exceed \$2,800, with parts 347 and 335 impacting zero to one small IDIs.<sup>130</sup>

Even assuming each small IDI was simultaneously affected by all applicable provisions, the estimated cumulative annual cost change, approximately \$4,097.60 per institution,<sup>131</sup> would not exceed five percent of total annual salaries and benefits or 2.5 percent of total noninterest expenses for the vast majority of small IDIs.<sup>132</sup>

<sup>126</sup> Bureau of Labor Statistics: National Industry-Specific Occupational Employment and Wage Estimates: Industry: Credit Intermediation and Related Activities (5221 and 5223 only) (May 2024), Employer Cost of Employee Compensation (March 2024), and Employment Cost Index (March 2024 and June 2025). For this ICR, the FDIC estimated the following labor allocation for entities complying with these requirements: Executives and Managers (11–0000): 10 percent; Lawyers (23–0000): 10 percent; Compliance Officers (13–1040): 10 percent; and Financial Analysts (13–2051): 70 percent.

<sup>127</sup> Estimated 46 small IDIs submitting PEC380s × 2.5 hours per PEC380 submission = 115 hours. 115 × \$111.94 = \$12,873.10 in total annual costs. \$12,873.10/46 small IDIs = \$279.85 per small IDI.

<sup>128</sup> FDIC Call Report Data, June 30, 2025. 46 estimated small IDIs submitting PEC380s/3,092 “small” IDIs = 1.49 percent of small IDIs.

<sup>129</sup> FDIC Call Report Data, June 30, 2025.

<sup>130</sup> Certain aspects of the final rule, such as those pertaining to section 19 and PEC submissions under parts 303, 340, and 380, may affect individuals. The RFA applies to a small entity, which is defined in 5 U.S.C. 601(6) as having “the same meaning as the terms ‘small business’, ‘small organization’ and ‘small governmental jurisdiction’ defined in paragraphs (3), (4) and (5) of” 5 U.S.C. 601. As such, a rule or information collection that affects only natural persons does not affect any small entities.

<sup>131</sup> Approximately \$4,459.20 in estimated annual cost savings (parts 303 and 363) – \$361.60 in estimated annual costs (parts 340 and 380) = \$4,097.60.

<sup>132</sup> The estimated cumulative annual cost change would exceed one of these two thresholds at just three of the 3,092 “small” IDIs identified by the FDIC.

Accordingly, the FDIC certifies that this final rule does not have a significant economic impact on a substantial number of small entities and, therefore, a final regulatory flexibility analysis is not required.

#### E. Plain Language

Section 722 of the Gramm-Leach-Bliley Act requires Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The FDIC invited comments regarding the use of plain language but did not receive any relevant comments. The FDIC sought to clearly state the provisions of the rule in a simple and straightforward manner, using plain language as much as possible.

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

Section 302 of the Riegle Community Development and Regulatory Improvement Act of 1994 (RCDRIA) requires that the Federal banking agencies, including the FDIC, in determining the effective date and administrative compliance requirements of new regulations that impose additional reporting, disclosure, or other requirements on 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 benefit of such regulations. New regulations and amendments to regulations prescribed by a Federal banking agency that impose additional reporting, disclosure, or other new requirements on IDI shall 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, with certain exceptions, including for good cause.

The final rule does not impose additional reporting, disclosure, or other new requirements on IDIs. As such, the provisions of RCDRIA do not apply to the FDIC's determination of the final rule's effective date.

#### G. Executive Orders 12866 and 13563

Under Executive Order 12866, as affirmed and supplemented by Executive Order 13563, "significant regulatory actions" are subject to review by OMB.

The FDIC has submitted this regulatory action to OMB for review. OMB has determined the rule is not a significant regulatory action as defined by section 3(f) of Executive Order

12866. For more information on the analysis conducted in connection with Executive Order 12866, refer to other sections of this **SUPPLEMENTARY INFORMATION**.

#### H. Executive Order 14192

Executive Order 14192 directs agencies, unless prohibited by law, to identify at least 10 existing regulations to be repealed when the agency publicly proposes for notice and comment or otherwise promulgates a new regulation with total costs greater than zero. Executive Order 14192 further requires that new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least 10 prior regulations. An Executive Order 14192 deregulatory action is an action that has been finalized and has total costs less than zero. This final rule is considered an Executive Order 14192 deregulatory action.

#### List of Subjects

##### 12 CFR Part 303

Administrative practice and procedure, Bank deposit insurance, Banks, banking, Reporting and recordkeeping requirements, Savings associations.

##### 12 CFR Part 314

Accounting, Administrative practice and procedure, Authority delegations (Government agencies), Bank deposit insurance, Banks, banking, Brokers, Confidential business information, Credit, Foreign banking, Holding companies, Insurance, Investments, Reporting and recordkeeping requirements, Savings associations, Securities, Trusts and trustees.

##### 12 CFR Part 335

Accounting, Banks, banking, Confidential business information, Reporting and recordkeeping requirements, Securities.

##### 12 CFR Part 340

Banks, banking, Reporting and recordkeeping requirements.

##### 12 CFR Part 347

Authority delegations (Government agencies), Bank deposit insurance, Banks, banking, Credit, Foreign banking, Investments, Reporting and recordkeeping requirements, U.S. investments abroad.

##### 12 CFR Part 363

Accounting, Administrative practice and procedure, Banks, banking,

Reporting and recordkeeping requirements.

#### 12 CFR Part 380

Brokers, Holding companies, Insurance, Investments, Trusts and trustees.

#### Authority and Issuance

For the reasons set forth in the preamble, the Board of Directors of the Federal Deposit Insurance Corporation amends 12 CFR chapter III as follows:

#### PART 303—FILING PROCEDURES

■ 1. The authority citation for part 303 continues to read as follows:

**Authority:** 12 U.S.C. 378, 1464, 1813, 1815, 1817, 1818, 1819(a) (Seventh and Tenth), 1820, 1823, 1828, 1829, 1831a, 1831e, 1831o, 1831p–1, 1831w, 1835a, 1843(l), 3104, 3105, 3108, 3207, 5414, 5415, and 15 U.S.C. 1601–1607.

#### § 303.227 [Amended]

■ 2. Amend § 303.227 by:

- a. In paragraph (a)(2), removing "\$2,500" and adding in its place "\$3,500, as adjusted from time to time in accordance with 12 CFR 314.1,".
- b. In paragraph (b)(3)(i), removing "\$1,000" and adding in its place "\$1,225, as adjusted from time to time in accordance with 12 CFR 314.1,".
- 3. Add part 314 to read as follows:

#### PART 314—INDEXING OF SPECIFIED REGULATORY THRESHOLDS

Sec.

314.1 Threshold indexing.

314.2 [Reserved]

**Authority:** 12 U.S.C. 378, 1464, 1813, 1815, 1817, 1818, 1819, 1819(a) (Seventh and Tenth), 1820, 1821(p), 1823, 1828, 1829, 1831a, 1831e, 1831m, 1831o, 1831p–1, 1831w, 1835a, 1843(l), 3103, 3104, 3105, 3108, 3109, 3207, 5385(h), 5389, 5390(s)(3), 5390(b)(1)(C), 5390(a)(7)(D), 5381(b), 5390(r), 5390(a)(16)(D), 5414, 5415, and 15 U.S.C. 78j–1, 78l(i), 78m, 78n, 78p, 78w, U.S.C. 1601–1607, 5412, 5414, 5415, 7241, 7242, 7243, 7244, 7261, 7262, 7264, and 7265; Pub L. No. 111–203, section 939A, 124 Stat. 1376, 1887 (July 21, 2010) (codified 15 U.S.C. 780–7 note).

#### § 314.1 Threshold indexing.

(a) *Methodology.* The dollar thresholds specified in paragraph (c) of this section shall be adjusted by multiplying the baseline threshold values specified in paragraph (c) of this section by one plus the cumulative percent change in the non-seasonally adjusted Consumer Price Index for Urban Wage Earners and Clerical Workers, measured from the effective date of this rule, as further described in paragraph (b) of this section, and shall

be rounded in accordance with paragraph (d) of this section.

(b) *Frequency*—(1) *In general*—*biennial adjustments*. Except as otherwise provided in paragraph (b)(2), (b)(3), or (b)(4) of this section, the adjustments described in paragraph (a) of this section shall be effective on October 1 following each consecutive two-year period ending August 30, and using the non-seasonally adjusted Consumer Price Index for Urban Wage Earners and Clerical Workers as of August 30 of that year.

(2) *2027 adjustment*. The first adjustment described in paragraph (a) of this section, which shall be effective on October 1, 2027, shall be made using one plus the cumulative percent change in the non-seasonally adjusted Consumer Price Index for Urban Wage Earners and Clerical Workers through August 30, 2027.

(3) *Periods of high inflation—annual adjustments*. If the cumulative percent change of the non-seasonally adjusted Consumer Price Index for Urban Wage Earners and Clerical Workers, measured over the 12-month period ending August 30 following the year in which the most recent adjustment was made exceeds 8 percent, then the dollar thresholds shall be adjusted in accordance with paragraph (a) of this section using the cumulative percent change of the non-seasonally adjusted Consumer Price Index for Urban Wage Earners and Clerical Workers, measured over the 12-month period ending August 30 with an effective date of October 1 following the year in which the most recent adjustment was made.

(4) *Periods of negative inflation—no adjustments*. Notwithstanding paragraph (b)(1) or (b)(2) of this section, if an adjustment of dollar thresholds using the cumulative percent change of the non-seasonally adjusted Consumer Price Index for Urban Wage Earners and Clerical Workers from the effective date of this rule or the most recent adjustment, as applicable, would not result in an increase from the current dollar thresholds, no adjustment will be made pursuant to paragraph (a) of this section.

(c) *Specified thresholds*. The thresholds in the following sections shall be adjusted in accordance with paragraph (a) of this section relative to the baseline threshold values as of January 1, 2026, specified in paragraphs (c)(1) through (31) of this section:

(1) Section 303.227(a)(2) of this chapter, baseline threshold value \$3,500;

(2) Section 303.227(b)(3)(i) of this chapter, baseline threshold value \$1,225;

(3) Section 335.801(d) of this chapter, baseline threshold value \$10,000,000;

(4) Section 340.2(h)(1) of this chapter, baseline threshold value \$100,000;

(5) Section 340.2(h)(2) of this chapter, baseline threshold value \$100,000;

(6) Section 340.2(h)(3) of this chapter, baseline threshold value \$100,000;

(7) Section 340.2(h)(4) of this chapter, baseline threshold value \$100,000;

(8) Section 347.111(a)(1) of this chapter, baseline threshold value \$120,000,000;

(9) Section 347.111(b)(1) of this chapter, baseline threshold value \$60,000,000;

(10) Section 363.1(a) of this chapter, baseline threshold value \$1,000,000,000;

(11) Section 363.2(b)(3) of this chapter, baseline threshold value \$5,000,000,000;

(12) Section 363.3(b) of this chapter, baseline threshold value \$5,000,000,000;

(13) Section 363.4(a)(2) of this chapter, baseline threshold value \$5,000,000,000;

(14) Section 363.4(c)(3) of this chapter, baseline threshold value \$5,000,000,000;

(15) Section 363.5(a)(1) of this chapter, baseline threshold value \$5,000,000,000;

(16) Both thresholds in § 363.5(a)(2) of this chapter, baseline threshold values of \$1,000,000,000 or more but less than \$5,000,000,000;

(17) Section 363.5(b) of this chapter, baseline threshold value \$5,000,000,000;

(18) Both thresholds in paragraph (8)(A) of appendix A of part 363 of this chapter, baseline threshold value \$5,000,000,000;

(19) Paragraph (10) of appendix A of part 363 of this chapter, baseline threshold value \$5,000,000,000;

(20) Paragraph (18)A of appendix A of part 363 of this chapter, baseline threshold value \$5,000,000,000;

(21) All three thresholds in paragraph (27) of appendix A of part 363 of this chapter, with the first baseline threshold value being \$5,000,000,000 or more and the second and third baseline threshold values being \$1,000,000,000 or more but less than \$5,000,000,000;

(22) Paragraph (30)(b) of appendix A of part 363 of this chapter, baseline threshold value \$5,000,000,000;

(23) Both thresholds in paragraph (30)(c) of appendix A of part 363 of this chapter, baseline threshold value \$1,000,000,000 or more but less than \$5,000,000,000;

(24) Paragraph (35)(a) of appendix A of part 363 of this chapter, baseline threshold value \$1,000,000,000;

(25) Paragraph (35)(b) of appendix A of part 363 of this chapter, baseline threshold value \$5,000,000,000;

(26) Paragraph (35)(c) of appendix A of part 363 of this chapter, baseline threshold value \$5,000,000,000;

(27) Paragraph 2(b) of appendix B of part 363 of this chapter, baseline threshold value \$5,000,000,000;

(28) Section 380.13(b)(6)(i) of this chapter, baseline threshold value \$100,000;

(29) Section 380.13(b)(6)(ii) of this chapter, baseline threshold value \$100,000;

(30) Section 380.13(b)(6)(iii) of this chapter, baseline threshold value \$100,000; and

(31) Section 380.13(b)(6)(iv) of this chapter, baseline threshold value \$100,000.

(d) *Rounding*. When adjusting thresholds under this section, each threshold shall be rounded based on the size of the threshold (*e.g.*, thousands, millions, billions) to the nearest number with two significant digits.

(e) *Effective date of threshold adjustments*. The FDIC shall announce the thresholds adjusted in accordance with this section by publishing in the **Federal Register** a final rule without notice and comment. Such adjusted thresholds shall be effective on October 1 of the year during which an adjustment is made.

(f) *Failure to publish final rule in Federal Register*. In the event, for any reason, a final rule is not published in the **Federal Register** in a year in which an adjustment is made under this section, the thresholds specified in paragraph (c) of this section will adjust as provided in this section and be effective on October 1, notwithstanding the lack of a final rule published in the **Federal Register**.

#### § 314.2 [Reserved]

### PART 335—SECURITIES OF STATE NONMEMBER BANKS AND STATE SAVINGS ASSOCIATIONS

■ 4. The authority citation for part 335 continues to read as follows:

**Authority:** 12 U.S.C. 1819, 15 U.S.C. 78j–1, 78l(i), 78m, 78n, 78p, 78w, 5412, 5414, 5415, 7241, 7242, 7243, 7244, 7261, 7262, 7264, and 7265.

#### § 335.801 [Amended]

■ 5. In § 335.801(d) introductory text, remove “\$5 million,” and add in its place “\$10 million, as adjusted from time to time in accordance with 12 CFR 314.1.”

### PART 340—RESTRICTIONS ON SALE OF ASSETS OF A FAILED INSTITUTION BY THE FEDERAL DEPOSIT INSURANCE CORPORATION

■ 6. The authority citation for part 340 continues to read as follows:

**Authority:** 12 U.S.C. 1819 (Tenth), 1821(p).

#### § 340.2 [Amended]

■ 7. In § 340.2(h), remove “\$50,000” wherever it appears and add in its place “\$100,000, as adjusted from time to time in accordance with 12 CFR 314.1”.

### PART 347—INTERNATIONAL BANKING

■ 8. The authority citation for part 347 continues to read as follows:

**Authority:** 12 U.S.C. 1813, 1815, 1817, 1819, 1820, 1828, 3103, 3104, 3105, 3108, 3109; Pub L. No. 111–203, section 939A, 124 Stat. 1376, 1887 (July 21, 2010) (codified 15 U.S.C. 78o–7 note).

#### § 347.111 [Amended]

■ 9. Amend § 347.111 by:

- a. In paragraph (a)(1), removing “\$60 million” and adding in its place “\$120 million, as adjusted from time to time in accordance with 12 CFR 314.1,”; and
- b. In paragraph (b)(1) introductory text, removing “\$30 million” and adding in its place “\$60 million, as adjusted from time to time in accordance with 12 CFR 314.1,”.

### PART 363—ANNUAL INDEPENDENT AUDITS AND REPORTING REQUIREMENTS

■ 10. The authority citation for part 363 continues to read as follows:

**Authority:** 12 U.S.C. 1831m.

#### § 363.1 [Amended]

■ 11. In § 363.1(a), remove “\$500 million” and add in its place “\$1 billion, as adjusted from time to time in accordance with 12 CFR 314.1,”.

#### § 363.2 [Amended]

■ 12. In § 363.2(b)(3) introductory text, remove “\$1 billion” and add in its place “\$5 billion, as adjusted from time to time in accordance with 12 CFR 314.1,”.

#### § 363.3 [Amended]

■ 13. In § 363.3(b) introductory text, remove “\$1 billion” and add in its place “\$5 billion, as adjusted from time to time in accordance with 12 CFR 314.1,”.

#### § 363.4 [Amended]

■ 14. Amend § 363.4 by:

- a. In paragraph (a)(2), removing “\$1 billion” and adding in its place “\$5 billion, as adjusted from time to time in accordance with 12 CFR 314.1,”; and

■ b. In paragraph (c)(3), removing “\$1 billion” and adding in its place “\$5 billion, as adjusted from time to time in accordance with 12 CFR 314.1,”.

#### § 363.5 [Amended]

■ 15. Amend § 363.5 by:

- a. In paragraph (a)(1), removing “\$1 billion” and adding in its place “\$5 billion, as adjusted from time to time in accordance with 12 CFR 314.1,”;
  - b. In paragraph (a)(2), removing “\$500 million” and adding in its place “\$1 billion, as adjusted from time to time in accordance with 12 CFR 314.1,”;
  - c. In paragraph (a)(2), removing “\$1 billion” and adding in its place “\$5 billion, as adjusted from time to time in accordance with 12 CFR 314.1,”; and
  - d. In paragraph (b), removing “\$3 billion” and adding in its place “\$5 billion, as adjusted from time to time in accordance with 12 CFR 314.1,”.
- 16. Add § 363.6 to read as follows:

#### § 363.6 Discretion to exempt certain insured depository institutions from this part.

If an insured depository institution likely will no longer be subject to a requirement of this part as a result of the application of a threshold adjusted in accordance with § 314.1 of this chapter that is scheduled to occur during the insured depository institution’s current fiscal year, the appropriate Federal banking agency with respect to the insured depository institution may exercise discretion to not require compliance from the insured depository institution with respect to such requirement as of the beginning of the insured depository institution’s current fiscal year. If the insured depository institution’s total assets exceed such a threshold subsequent to the threshold adjustment occurring, the insured depository institution would be required to comply with the relevant requirement notwithstanding this section, unless the appropriate Federal banking agency again drew the same conclusion with respect to a future threshold adjustment.

#### Appendix A to Part 363 [Amended]

■ 17. Amend appendix A to part 363 by:

- a. In paragraph 8A introductory text, removing “\$1 billion”, wherever it appears, and adding in its place “\$5 billion, as adjusted from time to time in accordance with 12 CFR 314.1,”;
- b. In paragraph 10, removing “\$1 billion” and adding in its place “\$5 billion, as adjusted from time to time in accordance with 12 CFR 314.1,”;
- c. In paragraph 18A introductory text, removing “\$1 billion” and adding in its place “\$5 billion, as adjusted from time

to time in accordance with 12 CFR 314.1,”;

■ d. In paragraph 27:

- i. Removing “\$1 billion”, wherever it appears, and adding in its place “\$5 billion, as adjusted from time to time in accordance with 12 CFR 314.1,”; and
  - ii. Removing “\$500 million” and adding in its place “\$1 billion, as adjusted from time to time in accordance with 12 CFR 314.1,”;
- e. In paragraph 28(b)(4), removing “\$100,000” and adding in its place “\$120,000”;
- f. In paragraph 30(b), removing “\$1 billion” and adding in its place “\$5 billion, as adjusted from time to time in accordance with 12 CFR 314.1,”;
- g. In paragraph 30(c):
- i. Removing “\$500 million” and adding in its place “\$1 billion, as adjusted from time to time in accordance with 12 CFR 314.1,”; and
  - ii. Removing “\$1 billion” and adding in its place “\$5 billion, as adjusted from time to time in accordance with 12 CFR 314.1,”;
- h. In paragraph 35(a) introductory text, removing “\$500 million” and adding in its place “\$1 billion, as adjusted from time to time in accordance with 12 CFR 314.1,”;
- i. In paragraph 35(b), removing “\$1 billion” and adding in its place “\$5 billion, as adjusted from time to time in accordance with 12 CFR 314.1,”; and
  - j. In paragraph 35(c), removing “\$3 billion” and adding in its place “\$5 billion, as adjusted from time to time in accordance with 12 CFR 314.1,”.

#### Appendix B to Part 363 [Amended]

■ 18. In appendix B to part 363, paragraph 2(b), remove “\$1 billion” and add in its place “\$5 billion, as adjusted from time to time in accordance with 12 CFR 314.1,”.

### PART 380—ORDERLY LIQUIDATION AUTHORITY

■ 19. The authority citation for part 380 continues to read as follows:

**Authority:** 12 U.S.C. 5385(h); 12 U.S.C. 5389; 12 U.S.C. 5390(s)(3); 12 U.S.C. 5390(b)(1)(C); 12 U.S.C. 5390(a)(7)(D); 12 U.S.C. 5381(b); 12 U.S.C. 5390(r); 12 U.S.C. 5390(a)(16)(D).

#### § 380.13 [Amended]

■ 20. In § 380.13(b)(6), remove “\$50,000” wherever it appears and add in its place “\$100,000, as adjusted from time to time in accordance with 12 CFR 314.1”.

Federal Deposit Insurance Corporation.

By order of the Board of Directors.

Dated at Washington, DC, on November 25, 2025.

Jennifer M. Jones,

Deputy Executive Secretary.

[FR Doc. 2025-21914 Filed 12-3-25; 8:45 am]

BILLING CODE 6714-01-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket Number USCG-2025-0366]

RIN 1625-AA87

#### Security Zone; Coast Guard Base San Juan, San Juan Harbor, Puerto Rico

**AGENCY:** Coast Guard, Department of Homeland Security.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is revising the permanent security zone of the Coast Guard Base San Juan in San Juan, Puerto Rico. This security zone is necessary to protect the public and the Coast Guard base from potential subversive acts. This rulemaking prohibits entry of vessels or persons into this security zone extending 200 feet seaward from the water's edge of the Coast Guard Base San Juan unless specifically authorized by the Captain of the Port, Sector San Juan or their designated representative.

**DATES:** This rule is effective January 5, 2026.

**ADDRESSES:** To view available documents go to <https://www.regulations.gov> and search for USCG-2025-0366.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this rule, contact Lieutenant Commander Rachel E. Thomas, Sector San Juan, Waterways Management Division Chief, Coast Guard; telephone (571) 613-1417, email [Rachel.E.Thomas@uscg.mil](mailto:Rachel.E.Thomas@uscg.mil).

#### SUPPLEMENTARY INFORMATION:

##### I. Table of Abbreviations

CFR Code of Federal Regulations  
COTP Captain of the Port  
DHS Department of Homeland Security  
FR Federal Register  
NPRM Notice of proposed rulemaking  
§ Section  
U.S.C. United States Code

##### II. Background and Authority

The Coast Guard docking facilities at Base San Juan in La Puntilla Old San Juan, Puerto Rico are home to several Coast Guard cutters and Coast Guard small boats. The Coast Guard base has

experienced a number of potential threat incidents, including unknown vessels mooring up to the Coast Guard piers and suspected photography surveillance by unknown individuals located near the Coast Guard base. These incidents pose a potential threat to national security and could lead to subversive acts against the personnel or equipment located at the Coast Guard base. The Captain of the Port (COTP) Sector San Juan has determined that potential threats associated with the access of unknown individuals to Base San Juan is a safety concern for anyone within 200 feet of the water's edge of the Coast Guard Base San Juan. This final rule reduces the existing security zone for Coast Guard Base San Juan described in 33 CFR 165.776 so it does not encroach on the navigable channel. The rule sustains a sufficient security zone to address the potential threat to national security by prohibiting all persons and vessels from entering in, transiting through or remaining in a security zone extending within 200 feet of the water's edge of the Coast Guard Base San Juan.

On July 30, 2025, the Coast Guard published a notice of proposed rulemaking (NRPM) titled, "Security Zone; Base San Juan, San Juan, PR" (90 FR 35839). In that NRPM, we stated why we issued the NRPM and invited comments on our proposed regulatory action related to this security zone amendment.

Under the authority in 46 U.S.C. 70051 and 70124, the COTP has determined that this rule is necessary to protect personnel, vessels, the marine environment, and the Coast Guard base from potential subversive acts. No vessel or person will be permitted to enter the security zone without obtaining permission from the COTP or their designated representative.

##### III. Discussion of Comments and the Rule

During the comment period that ended on August 29, 2025, we received one comment. The commenter supported the establishment of the security zone but asked why we chose 120 yards. The COTP San Juan has reevaluated this distance and determined that the proposed 120-yard zone was inconsistent with the proposed latitude and longitude coordinates and would encroach upon the navigable channel. Therefore, the final rule will implement a 200-foot security zone for the reasons set forth below. The commenter expressed support for the use of proper signage, barriers, or other appropriate boundaries to prevent inadvertent crossings.

Barriers and boundaries will not be installed as they could interfere with operations. The revised security zone has been reduced in size and no longer encroaches upon the navigable channel, thereby minimizing the risk of inadvertent crossings. Further, the final rule establishes a uniform distance of 200 feet from the water's edge of Coast Guard Base San Juan, which is anticipated to be more intuitive for mariners.

The final rule also corrects two typographical errors in the NPRM proposed regulatory text by: (1) Eliminating the duplicate phrase "Security Zone;" in the title; and (2) correcting the name of "Sector San Juan" in the final sentence of the regulatory text, as the word "San" was inadvertently omitted in the NPRM.

This rule establishes a security zone extending 200 feet seaward from the water's edge of the base. No vessel or person is permitted to enter the security zone without obtaining permission from the COTP or their designated representative. The regulatory text appears at the end of this document.

#### IV. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders.

##### A. Impact on Small Entities

The Coast Guard certifies that, although some small entities may intend to transit the security zone above, this rule will not have a significant economic impact on a substantial number of small entities, as mandated by the Regulatory Flexibility Act of 1980, 5 U.S.C. 601-612 for the following reasons. Vessel traffic will be able to safely transit around this security zone. This security zone will only impact a small, designated area and only extends 200 feet from Base San Juan.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), if this rule will affect your small business, organization, or governmental jurisdiction and you have questions, contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards by calling 1-888-REG-FAIR (1-888-734-3247).