

interest in this rulemaking and provide a telephone number for contact. DOE requests persons selected to be heard to submit an advance copy of their statements at least two weeks before the public meeting. At its discretion, DOE may permit any person who cannot supply an advance copy of their statement to participate, if that person has made advance alternative arrangements with the Building Technologies Program. The request to give an oral presentation should ask for such alternative arrangements.

C. Conduct of Public Meeting

DOE will designate a DOE official to preside at the public meeting and may also employ a professional facilitator to aid discussion. The meeting will not be a judicial or evidentiary-type public hearing, but DOE will conduct it in accordance with section 336 of EPCA. (42 U.S.C. 6306) A court reporter will record the proceedings and prepare a transcript. DOE reserves the right to schedule the order of presentations and to establish the procedures governing the conduct of the public meeting. After the public meeting, interested parties may submit further comments on the proceedings as well as on any aspect of the rulemaking until the end of the comment period.

The public meeting will be conducted in an informal conference style. DOE will present summaries of comments received before the public meeting, allow time for presentations by participants, and encourage all interested parties to share their views on issues affecting this rulemaking. Each participant will be allowed to make a prepared general statement (within DOE-determined time limits) prior to the discussion of specific topics. DOE will permit other participants to comment briefly on any general statements.

At the end of all prepared statements on a topic, DOE will permit participants to clarify their statements briefly and comment on statements made by others. Participants should be prepared to answer questions from DOE and other participants concerning these issues. DOE representatives may also ask questions of participants concerning other matters relevant to this rulemaking. The official conducting the public meeting will accept additional comments or questions from those attending, as time permits. The presiding official will announce any further procedural rules or modification of the above procedures that may be needed for the proper conduct of the public meeting.

A transcript of the public meeting will be included in the docket, which can be viewed as described in the *Docket* section at the beginning of this notice. In addition, any person may buy a copy of the transcript from the transcribing reporter.

D. Submission of Comments

DOE will accept comments, data, and other information regarding the proposed rule before or after the public meeting, but no later than the date provided at the beginning of this NOPM. Please submit comments, data, and other information as provided in the **ADDRESSES** section. Submit electronic comments in WordPerfect, Microsoft Word, PDF, or text (ASCII) file format and avoid the use of special characters or any form of encryption. Comments in electronic format should be identified by the docket number EERE-2010-BT-STD-0037 and/or RIN 1904-AC39 and wherever possible carry the electronic signature of the author. No telefacsimiles (faxes) will be accepted.

According to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit two copies: One copy of the document including all the information believed to be confidential and one copy of the document with the information believed to be confidential deleted. DOE will make its own determination as to the confidential status of the information and treat it according to its determination.

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include (1) a description of the items; (2) whether and why such items are customarily treated as confidential within the industry; (3) whether the information is generally known by or available from other sources; (4) whether the information has previously been made available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting person which would result from public disclosure; (6) a date upon which such information might lose its confidential nature due to the passage of time; and (7) why disclosure of the information would be contrary to the public interest.

V. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this NOPM.

Issued in Washington, DC, on January 17, 2012.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

[FR Doc. 2012-1350 Filed 1-23-12; 8:45 am]

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DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 46

[Docket ID OCC-2011-0029]

RIN 1557-AD58

Annual Stress Test

AGENCY: Office of the Comptroller of the Currency (“OCC”), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would implement section 165(i) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”) which requires certain companies to conduct annual stress tests pursuant to regulations prescribed by their respective primary financial regulatory agencies. Specifically, this proposed rule would require national banks and Federal savings associations with total consolidated assets of more than \$10 billion to conduct an annual stress test as prescribed by this proposed rule. In addition to the annual stress test requirement, such institutions would be subject to certain reporting and disclosure requirements.

DATES: Comments must be received by March 26, 2012.

ADDRESSES: Please use the title “Annual Stress Test” to facilitate the organization and distribution of the comments. You may submit comments by any of the following methods:

- *Email:*
regs.comments@occ.treas.gov.
- *Mail:* Office of the Comptroller of the Currency, 250 E Street, SW., Mail Stop 2-3, Washington, DC 20219.
- *Fax:* (202) 874-5274.
- *Hand Delivery/Courier:* 250 E Street SW., Mail Stop 2-3, Washington, DC 20219.

Instructions: You must include “OCC” as the agency name and “Docket Number OCC-2011-0029” in your comment. In general, OCC will enter all comments received into the docket and publish them on the Regulations.gov Web site without change, including any business or personal information that you provide such as name and address

information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

You may review comments and other related materials that pertain to this notice by any of the following methods:

- *Viewing Comments Personally:* You may personally inspect and photocopy comments at the OCC, 250 E Street SW., Washington, DC. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 874-4700. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

- *Docket:* You may also view or request available background documents and project summaries using the methods described above.

FOR FURTHER INFORMATION CONTACT: Robert Scavotto, Lead International Expert, International Analysis and Banking Condition (202) 874-4943, Tanya Smith, Lead Expert, Regulatory Capital and Operational Risk (202) 874-4464, Akhtarur Siddique, Deputy Director, Enterprise Risk Analysis Division (202) 874-4665, Ron Shimabukuro, Senior Counsel, or Alexandra Arney, Attorney, Legislative and Regulatory Activities Division (202) 874-6104, Office of the Comptroller of the Currency, 250 E Street SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

I. Background

Section 165(i) of the Dodd-Frank Act¹ created two types of stress testing requirements: stress tests conducted by the company and stress tests conducted by the Board of Governors of the Federal Reserve System (“Board”). Section 165(i)(2) requires certain financial companies, including national banks and Federal savings associations, to conduct stress tests and requires the primary financial regulatory agency² of those financial companies to issue regulations implementing the stress test requirements. A national bank or Federal savings association is subject to the stress test requirements if its total consolidated assets are more than \$10 billion. Under section 165(i)(2), a

financial company is required to submit to the Board and to its primary financial regulatory agency a report at such time, in such form, and containing such information as the primary financial regulatory agency may require.³ The primary financial regulatory agency is required to define “stress test,” establish methodologies for the conduct of the company-conducted stress test that must include at least three different sets of conditions (baseline, adverse, and severely adverse), establish the form and content of the institution’s report, and compel the institution to publish a summary of the results of the Dodd-Frank institutional stress tests.⁴

In general, section 165 of the Dodd-Frank Act sets forth a number of requirements and responsibilities for the Board related to supervision and prudential standards for nonbank financial companies and bank holding companies with total consolidated assets equal to or greater than \$50 billion. In addition to the company stress tests required under section 165(i)(2), section 165(i)(1) requires the Board to conduct annual analyses of nonbank financial companies supervised by the Board and bank holding companies with total consolidated assets equal to or greater than \$50 billion to determine whether such companies have the capital, on a total consolidated basis, necessary to absorb losses as a result of adverse economic conditions.⁵ The Board published a proposed rule implementing this supervisory stress testing on January 5, 2012.⁶

II. Overview of the Proposed Rule

As required by section 165(i)(2), this proposed rule implements the company-conducted stress test requirements for national banks and Federal savings associations. Under this proposed rule, a national bank or a Federal savings association with total consolidated assets of more than \$10 billion, defined as a “covered institution,” would be required to conduct an annual stress test as prescribed by this proposed rule. The OCC is developing this rule in coordination with the Board and the Federal Insurance Office, as required by section 165(i)(2)(C). The Board and Federal Deposit Insurance Corporation (“FDIC”) are planning to issue separate proposed rules with respect to their

supervised entities.⁷ For purposes of this rule, the proposed rule defines a stress test as a process to assess the potential impact of hypothetical economic conditions (“scenarios”) on the capital of a covered institution over a set period (the “planning horizon”), taking into account the current condition of the covered institution including its material risks, exposures, strategies, and activities.

A. The Purpose of Stress Tests

The OCC views the stress tests conducted by covered institutions under the proposed rule as providing forward-looking information to supervisors to assist in their overall assessments of a covered institution’s capital adequacy and to aid in identifying downside risks and the potential impact of adverse outcomes on the covered institution’s capital adequacy. In addition, the OCC may use stress tests to determine whether additional analytical techniques and exercises are appropriate for a covered institution to employ in identifying, measuring, and monitoring risks to the financial soundness of the covered institution, and may require a covered institution to implement such techniques and exercises in conducting its stress tests. Further, these stress tests are expected to support ongoing improvement in a covered institution’s stress testing practices with respect to its internal assessments of capital adequacy and overall capital planning.

The OCC expects that the annual stress tests required under the proposed rule would be only one component of the broader stress testing activities conducted by covered institutions. In this regard, the OCC notes that the federal banking agencies have recently issued for public comment proposed joint guidance on “Stress Testing for Banking Organizations with More Than \$10 Billion in Total Consolidated Assets.” See 76 FR 35072 (June 15, 2011). These broader stress testing activities should address the impact of a range of potentially adverse outcomes across a set of risk types affecting aspects of the covered institution’s financial condition other than capital adequacy. In addition, a full assessment of a covered institution’s capital adequacy must take into account a range of factors, including evaluation of its

⁷ The Board published its proposed rule on January 5. See 77 FR 594, Jan. 5, 2012. Certain of the Board’s supervised entities, *i.e.* those subject to the Board-conducted tests, will be required by the Board to self-stress test more frequently, on a semi-annual basis. 12 U.S.C. 5365(i)(2)(A). The FDIC rule has not been published as of the publication of this proposed rule.

³ 12 U.S.C. 5365(i)(2)(B).

⁴ 12 U.S.C. 5365(i)(2)(C).

⁵ 12 U.S.C. 5365(i)(1)(A).

⁶ Enhanced Prudential Standards and Early Remediation Requirements for Covered Companies, 77 FR 594, Jan. 5, 2012.

¹ Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111-203, 124 Stat. 1376 (2010).

² 12 U.S.C. 5301(12).

capital planning processes, the governance over those processes, regulatory capital measures, results of supervisory stress tests where applicable, and market assessments.

B. Covered Institutions

1. National Banks and Federal Savings Associations

Under this proposed rule, a covered institution would include a national bank or Federal savings association for which total consolidated assets averaged over the four most recent consecutive quarters exceeds \$10 billion. A covered institution would be required to conduct annual stress tests as prescribed by this proposed rule.

An institution is a covered institution on the effective date of the final rule based upon the institution's total consolidated assets averaged over the four consecutive quarters preceding the effective date, as reported on the institution's regulatory condition reports for those quarters. For national banks, the regulatory condition report is the Consolidated Reports of Income and Condition ("Call Report") required under 12 U.S.C. 161; for Federal savings associations, the regulatory condition report is the Thrift Financial Report.⁸ Unless the OCC determines otherwise, a covered institution will remain subject to the company-conducted stress tests under the proposed rule until its total consolidated assets averaged over the four most recent consecutive quarters, as reported on the institution's regulatory condition reports for those quarters, are \$10 billion or less.

An institution becomes a covered institution after the effective date of the final rule based upon the average of the institution's total consolidated assets over the four most recent consecutive quarters, as reported on the institution's regulatory condition reports for those quarters. The date on which such an institution becomes a covered institution is the as-of date of the fourth consecutive regulatory condition report that causes the institution's average total consolidated assets for four consecutive quarters to exceed \$10 billion. An institution that becomes a covered institution after the effective date of the rule would be required to fully implement the stress testing requirements of the rule, and conduct its first annual stress test according to the annual cycle specified by the OCC

in this rule, in the calendar year following the calendar year in which the institution becomes a covered institution.

For example, a national bank for which the four-quarter average of total consolidated assets exceeded \$10 billion on its June 2013 Call Report (based on the average from its September 2012, December 2012, March 2013, and June 2013 Call Reports) would become a covered institution on June 30, 2013. The newly covered institution would be required to fully implement the stress testing requirements of the rule and conduct its first stress test in the testing cycle beginning in the following calendar year, 2014. Because the stress tests under the proposed rule will be undertaken annually and according to an OCC-specified timeline that is uniform across all covered institutions, the time between the date at which an institution becomes a covered institution and the date at which the institution must conduct its first stress test may be more than or less than one year, depending on the specific quarter in which the institution becomes covered.

The OCC also may designate an institution as a covered institution or exempt an otherwise-covered institution from certain, or all, of the Dodd-Frank stress testing requirements based on the institution's level of complexity, risk profile, or scope of operations. Additionally, the OCC may accelerate or extend any specified deadline for stress testing, reporting or publication of the stress test results, or require additional stress tests, if the OCC determines that such modification of a deadline or additional testing is appropriate in light of the institution's activities, operations, risk profile, or regulatory capital. With respect to the exercise of the reservation of authority in this proposed rule, the OCC is considering adopting notice and response procedures similar to those provided under 12 CFR 3.12.

Question 1. Is the proposed method of calculating total consolidated assets, for purposes of determining when an institution becomes a covered institution and ceases to be a covered institution, appropriate?

Question 2. Does the proposed rule's requirement that a newly covered institution run its first stress test in the year following the calendar year in which the institution becomes a covered institution provide sufficient time for an institution to fully implement the stress testing requirements? Conversely, should a newly covered institution be required to run its first stress test on a faster timeline, for example by requiring an institution that becomes a covered

institution no less than 90 days before September 30 of a calendar year to comply with the requirements of this proposed rule beginning on September 30 of that calendar year?

2. Federal Branches or Agencies of a Foreign Bank Not Covered

While the requirement to conduct annual stress tests applies to all national banks and Federal savings associations with total consolidated assets of more than \$10 billion, the OCC proposes not to apply the annual stress test requirements of this proposed rule to Federal branches or agencies of a foreign bank. The company stress test provisions under section 165(i)(2) of the Dodd-Frank Act are by design intended to assess capital adequacy, and since Federal branches and agencies are not separately capitalized, the application of these requirements to Federal branches and agencies would not be meaningful.

C. Stress Test Scenarios

Under the proposed rule each covered institution would be required to conduct an annual stress test using covered institution financial data as of September 30th of that year to assess the potential impact of different scenarios on the capital of that institution and certain related items over a forward-looking, nine-quarter planning horizon (that is, through the December 31 reporting date of the second calendar year following the year containing the September 30 as-of date), taking into account all relevant exposures and activities. The OCC will provide a minimum of three economic scenarios, reflecting baseline, adverse, and severely adverse conditions, or such additional conditions as the OCC determines appropriate, which the covered institution must use for the stress test. The OCC anticipates that the annual stress test scenarios will be revised as appropriate to ensure that each scenario remains relevant under prevailing economic and industry conditions.

As discussed in Section F on Process Overview, the OCC plans to provide the annual stress test scenarios to covered institutions approximately two months in advance of the time by which the institution must report the results of its annual stress test. The OCC believes that two months should be sufficient time to permit covered institutions to ensure that staff, data, and other resources are adequately prepared to carry out required stress tests, while also ensuring that the set of conditions reflected in the scenarios remains relevant.

The OCC plans to coordinate the development of the annual stress test

⁸ Beginning with the March 31, 2012 report date, savings associations will be required to file the Consolidated Reports of Condition and Income (Call Reports) instead of the Thrift Financial Report. After that time, the regulatory condition report for both national banks and savings associations will be the Call Report.

scenarios on an interagency basis with the FDIC and the Board to ensure consistent and comparable stress testing for all covered financial institutions and to minimize regulatory burden. The OCC anticipates issuing proposed guidance and procedures for scenario development for comment at a later date. Absent specific supervisory concerns, the OCC anticipates that the annual stress test scenarios will be identical for all covered financial institutions. To the extent possible, the OCC expects that the annual stress test scenarios that may result from the interagency scenario development process may be similar to the scenarios developed by the Board for the supervisory stress tests conducted by the Board under section 165(i)(1).

Question 3. Should the OCC permit a covered institution to develop and use its own scenarios for the annual stress tests required under this part? If so, what guidance should the OCC provide on the covered institution's scenario development, if any? What are the costs and benefits of permitting a covered institution to use its own scenarios? What are the costs and benefits of requiring a covered institution to use OCC-provided scenarios?

Question 4. Assuming that the OCC provides the scenarios for the annual stress tests required under this part, what level of detail should be included in those scenarios? Should the scenarios just address general macroeconomic factors or provide more specifics? For example, should the OCC supplement the scenarios with market price and rate "shocks" to address short-term volatility associated with certain trading positions and trading-related exposures? If so, how should such rate shocks be incorporated into the stress testing framework?

D. Stress Test Methodologies and Practices

The proposed rule states that each covered institution would be required to use the annual stress test scenarios provided by the OCC in conducting its annual stress tests. Each covered institution must use a planning horizon of at least nine quarters over which the impact of specified scenarios would be assessed. The covered institution would be required to calculate, for each quarter-end within the planning horizon, estimates of revenues, potential losses, and loan loss provisions that would result from the conditions specified in each scenario. A covered institution also would be required to calculate, for each quarter-end within the planning horizon, the potential impact on its regulatory capital levels

and ratios applicable to the institution under 12 CFR part 3 or 12 CFR part 167, incorporating the effects of any expected capital distributions over the planning horizon. The applicable regulatory capital levels and ratios would include, for national banks, Minimum Capital Ratios (12 CFR 3.6), Risk-Based Capital Guidelines based on Basel I (Appendix A to part 3), Risk-Based Capital Guidelines; Market Risk Adjustment (Appendix B to part 3), and Internal-Ratings-Based and Advanced Measurement Approaches under Basel II (Appendix C to Part 3), and for federal savings associations, Regulatory Capital Requirements (12 CFR part 167) and Risk-Based Capital Requirements and Internal-Ratings-Based and Advanced Measurement Approaches (Appendix C to part 167). A covered institution would also be required to calculate the potential impact on any other capital ratios specified by the OCC. The stress test must incorporate maintenance by the institution of an allowance for loan losses that would be appropriate for credit exposures throughout the planning horizon.

The proposed rule also would require each covered institution to establish and maintain a system of controls, oversight, and documentation, including policies and procedures, designed to ensure that the stress testing processes used by the institution are effective in meeting the requirements of the proposed rule. The covered institution's policies and procedures must, at a minimum, outline the covered institution's stress testing practices and methodologies and processes for updating its stress testing practices consistent with relevant supervisory guidance. The covered institution's board of directors must approve and review the policies and procedures of the covered institution, as frequently as economic conditions or the condition of the institution may warrant, at least annually. The covered institution's senior management must establish and maintain a system of controls, oversight, and documentation designed to ensure that the stress test processes satisfy the requirements under this proposed rule.

Question 5. What are the anticipated costs on covered institutions, and sources of those costs, associated with internal data collection and developing methodologies for stress testing under the requirements in the proposed rule?

E. Reporting and Disclosures

Section 165(i)(2)(B) requires a covered institution to submit a report to the Board and to its primary financial regulatory agency at such time, in such form, and containing such information

as the primary financial regulatory agency shall require. Section 165(i)(2)(C)(iv) compels the primary financial regulatory agencies to require a covered institution to publish a summary of its stress test results. This proposed rule would implement the statutory reporting and disclosure requirements. Specifically, the proposed rule requires that each covered institution submit a report to the OCC and to the Board of the results of the stress test by January 5. The exact form and contents of this report will be the subject of a separate future proposal. At this time, the OCC anticipates that the annual stress test report, and any other information that the OCC may require to be provided on a supplemental basis, will be confidential. The OCC plans to publish for notice and comment both specific annual stress test reporting requirements and related instructions in a separate proposed information collection under the Paperwork Reduction Act.⁹

Consistent with section 165(i)(2), the proposed rule also would require each covered institution to publish a summary of the results of its annual stress tests within 90 days of submitting its annual stress test report to the OCC and the Board. At a minimum, the summary shall include a description of the types of risks (such as credit default losses and non-default credit losses by portfolio, trading losses, and risks to non-interest revenue) included in the stress test, and estimates of aggregate losses, net income, and pro forma capital levels and capital ratios (including regulatory and any other capital ratios specified by the OCC) over the planning horizon, under each scenario. Summary results must be made readily accessible to the public, for example, by publication on a covered institution's Web site. In order to avoid duplicative regulatory requirements, the OCC is proposing to permit disclosure of the summary of results by the parent bank holding company or savings and loan holding company of a covered institution if the parent holding company satisfactorily complies with the disclosure requirements under the Board's Company-Run Stress Test rule.¹⁰ However, the OCC reserves the right to require additional disclosures if the OCC believes that the disclosures at the holding company level do not accurately capture the potential impact

⁹ 44 U.S.C. 3501-3521.

¹⁰ Section 46.8 of the proposed rule includes citations to the Board's Company-Run Stress Test proposed rule (proposed 12 CFR Part 252, Subpart C), 77 FR 594, Jan. 5, 2012. The Board's proposal has not yet been finalized.

of the scenarios on the condition of the covered institution.

Question 6. Is the proposed method of public disclosure appropriate, and why? If not, what alternatives would be more appropriate? Should additional disclosure be required, such as, for example, pre-provision net revenue, allowance for loan losses, or a description of the methodologies used by the covered institution? What are your concerns with public disclosures, including the details of the disclosure and qualitative information and the manner of disclosure? How could these concerns be mitigated or addressed by the agencies while still meeting the statutory mandate for public disclosure?

F. Process and Timing of Annual Stress Test

As discussed above, covered institutions will be subject to an annual stress test cycle under this proposed rule. For illustration purposes, Table 1—Process Overview of Annual Stress Test Cycles for Covered Institutions sets out the OCC best estimate for key dates in the annual stress test cycle under the proposed rule.

TABLE 1—PROCESS OVERVIEW OF ANNUAL STRESS TEST CYCLES FOR COVERED INSTITUTIONS

[Using covered institution financial data as of September 30th]

Key step	Proposed timeframe
1. OCC publishes scenarios for annual stress tests.	By mid-October.
2. Covered institutions conduct annual stress test and submit Annual Stress Test Report to the OCC and the Board.	By January 5.
3. Covered institutions make required public disclosures.	By early April.

As noted in Table 1, the annual stress test cycle consist of three key events: (1) Publication of the stress test scenarios by the OCC, (2) conducting of the stress test and submission of the Annual Stress Test Report, and (3) publication of required disclosures. The OCC recognizes that certain parent company structures may include one or more subsidiary banks or savings associations, each with total consolidated assets greater than \$10 billion. The company-conducted stress test requirements of section 165(i)(2) apply to the parent company and to each subsidiary bank or savings association of the covered company that

has \$10 billion or more in total consolidated assets.

The OCC recognizes the possibility that different covered institutions within a given parent institution may be required to conduct stress tests using different scenarios, if the scenarios required by their respective primary federal financial regulators are different. In this regard, the OCC intends to coordinate with the Board and the FDIC on the development of the three scenarios that will be specified each year under these regulations. The OCC anticipates making every effort to avoid differences in the scenarios required by each primary federal financial regulator under the regulations implementing section 165(i)(2), and understands the Board and the FDIC to be in agreement.

When a covered institution comprises the bulk of the assets for a given parent holding company, the inputs to the stress tests conducted by that institution and the holding company, and the conclusions reached, would be expected to be similar. For example, for a bank holding company that is essentially a shell holding company with a single national bank that has total consolidated assets of more than \$10 billion, the Board and the OCC would coordinate efforts and communicate with the bank holding company and the bank on how to adequately address their respective stress testing requirements while avoiding duplication of effort. This may include consideration of whether the parent holding company may produce one consolidated set of stress tests when the inputs and results of the particular test will be substantially similar. In other instances, there may be economically meaningful differences in the vulnerability to economic stress of separate covered institutions within the same parent organization. The OCC anticipates addressing, on a case-by-case basis through the supervisory process, instances in which it may be appropriate to modify stress testing requirements for this part when there are multiple covered institutions within a single parent organization.

Question 7. Is the proposed timing of stress testing appropriate, and why? If not, what alternatives would be more appropriate? What, if any, specific challenges exist with respect to the proposed steps and timeframes? What specific alternatives exist to address these challenges that still allow the OCC to meet its statutory requirements? Please comment on the use of the September 30 “as of” date for financial data, the January 5 reporting date, the deadline for public disclosure, and the sufficiency of time for completion of the stress test.

Question 8. Would an immediately effective date in a final rule provide sufficient time for an institution that is covered at the effective date of the rule to conduct its first annual stress test?

Question 9. Should the rule require a covered institution to take into account the results of any stress tests conducted pursuant to the rule in taking future actions, such as making changes to capital structure, exposures, concentrations, risk positions, or recovery plans, or generally improving overall risk management?

III. Request for Comments

In addition to the specifically enumerated questions in the preamble, the OCC requests comment on all aspects of this proposed rule. The OCC requests that, for the specifically enumerated questions, commenters include the number of the question in their response to make review of the comments more efficient.

IV. Regulatory Analysis

A. Paperwork Reduction Act

Request for Comment on Proposed Information Collection

In accordance with section 3512 of the Paperwork Reduction Act (“PRA”) of 1995 (44 U.S.C. 3501–3521), the OCC may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (“OMB”) control number. The information collection requirements contained in this notice of proposed rulemaking have been submitted by the OCC to OMB for review and approval under section 3506 of the PRA and § 1320.11 of OMB’s implementing regulations (5 CFR part 1320 *et seq.*). The information collection requirements are found in §§ 46.5–46.8.

Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the OCC’s functions, including whether the information has practical utility;

(b) The accuracy of the estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or startup costs and costs of operation, maintenance,

and purchase of services to provide information.

All comments will become a matter of public record. Comments should be addressed to: Communications Division, Office of the Comptroller of the Currency, Public Information Room, Mailstop 2–3, Attention: 1557–NEW, 250 E Street SW., Washington, DC 20219. In addition, comments may be sent by fax to (202) 874–5274, or by electronic mail to regs.comments@occ.treas.gov. You may personally inspect and photocopy comments at the OCC, 250 E Street SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 874–4700. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect and photocopy comments.

Additionally, you should send a copy of your comments to the OMB Desk Officer, by mail to U.S. Office of Management and Budget, 725 17th Street NW., 10235, Washington, DC 20503, or by fax to 202–395–6974.

Proposed Information Collection

Title of Information Collection: Annual Stress Test.

Frequency of Response: Annually.

Affected Public: Businesses or other for-profit.

Respondents: National banks, Federal savings associations, and Federal savings banks.

Description of Requirements:

Section 46.6(a) specifies the calculations of the potential impact on capital that must be made during each quarter of a planning horizon. Section 46.6(c) requires that each covered institution must establish and maintain a system of controls, oversight, and documentation, including policies and procedures that, at a minimum, describe the covered institution's stress test practices and methodologies, and processes for updating the covered institution's stress test practices. The board of directors of the covered institution shall approve and review the policies and procedures of the covered institution, as frequently as economic conditions or the condition of the institution may warrant, but no less than annually. The senior management of the covered institution shall establish and maintain a system of controls, oversight, and documentation designed to ensure that the stress test processes satisfy the requirements in this part.

Section 46.7 provides that each covered institution shall report to the OCC and to the Board annually the

results of the stress test in the time, manner and form specified by the OCC.

Section 46.8 requires that, within 90 days of the due date of the report, a covered institution shall publish a summary of the results of its annual stress tests on its Web site or in any other forum that is reasonably accessible to the public. The summary must include a description of the types of risks being included in the stress test and estimates of aggregate losses, net income, and pro forma capital levels and capital ratios (including regulatory and any other capital ratios specified by the OCC) over the planning horizon, under each scenario.

Estimated PRA Burden:

Estimated Number of Respondents: 61.

Estimated Burden per Respondent: 1,040 hours.

Total Annual Burden: 63,440 hours.

B. Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* ("RFA"), generally requires that, in connection with a notice of proposed rulemaking, an agency prepare and make available for public comment an initial regulatory flexibility analysis that describes the impact of a proposed rule on small entities.¹¹ The Small Business Administration has defined "small entities" for banking purposes to include a bank or savings association with \$175 million or less in assets.¹²

The proposed rule would apply only to national banks and Federal savings associations with more than \$10 billion in total consolidated assets. No small banking organizations satisfy these criteria. No small entities would be subject to this rule. Therefore, the OCC certifies that the proposed rule would not, if promulgated, have a significant economic impact on a substantial number of small entities.

C. Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, Public Law 104–4 (2 U.S.C. 1532) ("Unfunded Mandates Act"), requires that an agency prepare a budgetary impact statement before promulgating any rule likely to result in a Federal mandate that may result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires an agency to identify and

consider a reasonable number of regulatory alternatives before promulgating a rule. The OCC has determined that this proposed rule will not result in expenditures by state, local, and tribal governments, or by the private sector, of \$100 million or more in any one year. Accordingly, this proposal is not subject to section 202 of the Unfunded Mandates Act.

D. Solicitation of Comments and Use of Plain Language

Section 722 of the Gramm-Leach-Bliley Act¹³ requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The OCC invites comment on how to make the proposed rule easier to understand. For example:

- Is the material organized to suit your needs? If not, how could the OCC present the rule more clearly?
- Are the requirements in the rule clearly stated? If not, how could the rule be more clearly stated?
- Do the regulations contain technical language or jargon that is not clear? If so, which language requires clarification?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the regulation easier to understand? If so, what changes would achieve that?
- Is this section format adequate? If not, which of the sections should be changed and how?
- What other changes can the agencies incorporate to make the regulation easier to understand?

List of Subjects in Part 46

Banking, Banks, Capital, Disclosures, National banks, Recordkeeping, Reporting, Risk, Stress test.

Authority and Issuance

For the reasons stated in the preamble, the OCC proposes to add part 46 to Title 12, Chapter I of the Code of Federal Regulations to read as follows:

PART 46—ANNUAL STRESS TEST

- Sec.
- 46.1 Authority and purpose.
 - 46.2 Definitions.
 - 46.3 Applicability.
 - 46.4 Reservation of authority.
 - 46.5 Annual stress test.
 - 46.6 Stress test methodologies and practices.
 - 46.7 Report to the Office of the Comptroller of the Currency and the Federal Reserve Board.
 - 46.8 Publication.

¹¹ See 5 U.S.C. 603(a).

¹² See 13 CFR 121.201.

¹³ Public Law 106–102, 113 Stat. 1338, 1471, 12 U.S.C. 4809.

Authority: 12 U.S.C. 93a; 12 U.S.C. 5365(i)(2).

§ 46.1 Authority and purpose.

(a) *Authority.* 12 U.S.C. 93a; 12 U.S.C. 5365(i)(2).

(b) *Purpose.* This part implements 12 U.S.C. 5365(i)(2), which requires annual stress tests to be conducted by financial companies with total consolidated assets of more than \$10 billion and establishes a definition of stress test, methodologies for conducting stress tests, and reporting and disclosure requirements.

§ 46.2 Definitions.

For purposes of this part, the following definitions apply:

Board means the Board of Governors of the Federal Reserve System.

Covered institution means a national bank or Federal savings association whose average total consolidated assets, calculated as required under this part, exceeds \$10 billion.

Federal savings association has the same meaning as in 12 U.S.C. 1813(b)(2).

Regulatory condition report means:

(a) For a Federal savings association, either the Thrift Financial Report or the Consolidated Report of Condition and Income (Call Report), as appropriate; and

(b) For a national bank, the Consolidated Report of Condition and Income (Call Report).

Planning horizon means a set period of time over which the impact of the scenarios is assessed.

Pre-provision net revenue means the sum of net interest income and non-interest income less expenses before adjusting for loss provisions.

Scenario means a set of hypothetical economic conditions.

Stress test means a process to assess the potential impact of scenarios on the capital of a covered institution over the planning horizon, taking into account the covered institution's current condition, material risks, exposures, strategies, and activities.

§ 46.3 Applicability.

(a) *Scope.* This part applies to a national bank or Federal savings association that meets the definition of a "covered institution."

(b) *Election to apply stress test requirements.* Any national bank or Federal savings association may elect to be a covered institution and subject to the requirements of this section.

(c) *Measurement of total consolidated assets for purpose of being deemed a covered institution.* An institution's total consolidated assets are deemed to

be more than \$10 billion when its average total consolidated assets over the four most recent consecutive quarters, as reported on the institution's regulatory condition reports for those four quarters, exceeds \$10 billion.

(d) *Institutions subject to stress testing requirements as of the effective date.* A national bank or Federal savings association that is a covered institution shall be subject to this part on [the effective date of the final rule] and will conduct its first stress test under this part using financial statement data as of September 30, 2012, with results reported as required under this part in January 2013.

(e) *Institutions subject to stress testing requirements after effective date.* A national bank or Federal savings association that qualifies as a covered institution after the effective date of this part shall be subject to the requirements of this part in the next calendar year after the calendar year containing the date upon which it becomes a covered institution. The date upon which an institution becomes a covered institution shall be the as-of date of the fourth consecutive regulatory condition report that causes the institution's average total consolidated assets for four consecutive quarters to exceed \$10 billion.

(f) *Ceasing to be a covered institution.* A covered institution shall remain subject to this part until its average total consolidated assets over the four most recent consecutive quarters, as defined in this part, are \$10 billion or less. The date upon which an institution ceases to be a covered institution shall be the as-of date of the fourth consecutive regulatory condition report that causes the institution's four-quarter average to fall to \$10 billion or less.

§ 46.4 Reservation of authority.

The OCC may require a national bank or Federal savings association not otherwise subject to this part to comply with the requirements of this part, or may exempt any covered institution from some or all of the requirements of this part, if the OCC determines in writing that the application or exemption of the requirements of this part is appropriate in light of the institution's level of complexity, risk profile, or scope of operations. Notwithstanding sections 46.3, 46.5, 46.7, and 46.8 the OCC may accelerate or extend any specified deadline for stress testing, reporting or publication of the stress test results, or require additional stress tests, if the OCC determines that such modification of a deadline or additional testing is appropriate in light of the institution's

activities, operations, risk profile, or regulatory capital. If the OCC determines that the stress testing methodologies and practices of a covered institution are deficient under section 46.6 of this part, the OCC may determine that additional analytical techniques and exercises are appropriate for an institution to use in identifying, measuring, and monitoring risks to the financial soundness of the company, and require a covered institution to implement such techniques and exercises in order to fulfill the requirements of this part. The OCC reserves authority to require covered institutions to make additional publication beyond that specified in section 46.8 of this part if the OCC determines that the publication does not adequately address one or more material elements of the stress test.

§ 46.5 Annual stress test.

Each covered institution must complete an annual stress test in accordance with the following requirements:

(a) *Financial data.* The stress test must use financial data of the covered institution as of September 30 of that calendar year.

(b) *Scenarios provided by the OCC.* In conducting its stress tests under this section, each covered institution must use scenarios provided by the OCC that reflect a minimum of three sets of economic and financial conditions, including a baseline, adverse, and severely adverse scenario. In advance of these stress tests, the OCC will provide to all covered institutions a description of the baseline, adverse, and severely adverse scenarios that each covered institution shall use to conduct its annual stress tests under this part.

(c) *Methodologies and practices.* The stress test shall be conducted in accordance with the methodologies and practices described in section 46.6.

§ 46.6 Stress test methodologies and practices.

(a) *Potential impact on capital.* During each quarter of the planning horizon, a covered institution shall calculate the following for each economic scenario:

(1) Pre-provision net revenues, market and credit losses, and loan loss reserves, and

(2) The potential impact on the covered institution's regulatory capital levels and ratios applicable to the institution under 12 CFR part 3, 12 CFR part 167, and any other capital ratios specified by the OCC, incorporating the effects of any expected capital distributions over the planning horizon and maintenance by the institution of an

allowance for loan losses appropriate for credit exposures throughout the planning horizon.

(b) *Planning horizon.* Each covered institution must use a planning horizon of at least nine quarters.

(c) *Controls and oversight of stress test processes.* (1) Each covered institution must establish and maintain a system of controls, oversight, and documentation, including policies and procedures, designed to ensure that the stress test processes used by the covered institution satisfy the requirements in this part. These policies and procedures must, at a minimum, describe the covered institution's stress test practices and methodologies, and processes for updating the covered institution's stress test practices.

(2) The board of directors of the covered institution shall approve and review the policies and procedures of the covered institution, as frequently as economic conditions or the condition of the institution may warrant, but no less than annually. The senior management of the covered institution shall establish and maintain a system of controls, oversight, and documentation designed to ensure that the stress test processes satisfy the requirements in this part.

§ 46.7 Report to the Office of the Comptroller of the Currency and the Federal Reserve Board.

On or before January 5, each covered institution shall report to the OCC and to the Board the results of the stress test in the time, manner and form specified by the OCC.

§ 46.8 Publication.

(a) Within ninety (90) days following the due date of the report required under section 46.7 of this part, a covered institution shall publish a summary of the results of its annual stress tests. The summary may be published on the covered institution's Web site or in any other forum that is reasonably accessible to the public. A covered institution controlled by a bank holding company that is required to conduct an annual company-run stress test under [INSERT CITATION TO 12 CFR PART 252 SUBPART G] will be deemed to have satisfied the publication requirement of this section when the bank holding company publicly discloses summary results of its annual stress test in satisfaction of [INSERT CITATION TO 12 CFR 252.148], unless the OCC determines that the disclosures at the holding company level do not adequately capture the potential impact of the scenarios on the capital of the covered institution.

(b) *Information to be disclosed in the summary.* The information disclosed shall, at a minimum, include—

- (1) A description of the types of risks being included in the stress test; and
- (2) Estimates of aggregate losses, net income, and pro forma capital levels and capital ratios (including regulatory and any other capital ratios specified by the OCC) over the planning horizon, under each scenario.

Dated: January 18, 2012.

John Walsh,

Acting Comptroller of the Currency.

[FR Doc. 2012-1274 Filed 1-23-12; 8:45 am]

BILLING CODE 4810-33-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA-2011-1386; Airspace Docket No. 11-ANE-11]

RIN 2120-AA66

Proposed Modification, Revocation and Establishment of Air Traffic Service Routes; Windsor Locks Area; CT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to modify four VOR Federal airways, revoke one VOR Federal airway, and establish three area navigation (RNAV) routes in the vicinity of Windsor Locks, CT. The FAA is proposing this action to adjust the airway route structure due to the planned decommissioning of the Bradley VHF omnirange/tactical air navigation (VORTAC) aid located on Bradley International Airport property, Windsor Locks, CT.

DATES: Comments must be received on or before March 9, 2012.

ADDRESSES: Send comments on this proposal to the Docket Management Facility, U.S. Department of Transportation, Docket Operations, M-30, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001; telephone: (202) 366-9826. You must identify FAA Docket No. FAA-2011-1386 and Airspace Docket No. 11-ANE-11 at the beginning of your comments. You may also submit comments through the Internet at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Paul Gallant, Airspace, Regulations and ATC Procedures Group, Office of Airspace

Services, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA-2011-1386 and Airspace Docket No. 11-ANE-11) and be submitted in triplicate to the Docket Management Facility (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at <http://www.regulations.gov>.

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to FAA Docket No. FAA-2011-1386 and Airspace Docket No. 11-ANE-11." The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at <http://www.regulations.gov>. Recently published rulemaking documents can also be accessed through the FAA's web page at <http://www.faa.gov>, or the **Federal Register's** web page at <http://www.gpoaccess.gov/fr/index.html>.

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and