

Regulatory Relief Act

Key Implementation Considerations

May 24, 2018

This morning, the President signed into law the “Economic Growth, Regulatory Relief, and Consumer Protection Act” (the “Act”). The Act contains the first major package of revisions to the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (“Dodd-Frank”). As described in our companion [Alert Memorandum](#), the Act leaves the architecture and core features of Dodd-Frank intact but significantly recalibrates requirements in several areas important to banking organizations and other financial institutions, particularly mid-size and smaller institutions.

This Alert summarizes the Act’s key implementation considerations in two sets of tables.

First, our “Key Changes and Implementation Considerations” tables briefly summarize key provisions of the Act—including the revised asset thresholds that will provide relief from a number of regulatory requirements for many banking organizations—and indicate whether a provision is **self-executing** or **requires implementation through new or revised regulations**. The provisions summarized in these tables are categorized as follows:

- Enhanced Prudential Standards
- Regulatory Capital and Liquidity Requirements
- The Volcker Rule
- Securities Law Changes
- Community Bank Relief
- Consumer Reporting, Consumer Financial Protection and Cybersecurity

Second, our “Selected Regulations and Proposed Rules Tied to Dodd-Frank EPS Thresholds” tables identify **selected existing and proposed regulations** directly or potentially indirectly linked to Dodd-Frank asset thresholds. In some cases, the thresholds are **modified by the Act**, and in others the regulatory agencies may **consider modifying** them because of changes in the Act.

If you have any questions concerning this memorandum, please reach out to your regular firm contact or the following authors:

Derek M. Bush
+1 202 974 1526
dbush@cgsh.com

Katherine M. Carroll
+1 202 974 1584
kcarroll@cgsh.com

Hugh C. Conroy, Jr.
+1 212 225 2828
hconroy@cgsh.com

Michael H. Krimminger
+1 202 974 1720
mkrimminger@cgsh.com

Jack Murphy
+1 202 974 1580
jmurphy@cgsh.com

Allison H. Breault
+1 202 974 1532
abreault@cgsh.com

Zachary L. Baum
+1 202 974 1873
zbaum@cgsh.com

Rebecca F. Green
+1 202 974 1591
regreen@cgsh.com

Alexander Young-Anglim
+1 212 225 2917
ayounganglim@cgsh.com



KEY CHANGES AND IMPLEMENTATION CONSIDERATIONS¹

I. HIGHER THRESHOLDS FOR ENHANCED PRUDENTIAL STANDARDS AND RELATED REQUIREMENTS

The Act makes significant changes to the enhanced prudential standards (“EPS”) provisions of Dodd-Frank. EPS include heightened capital, liquidity and risk management standards and incorporate resolution planning requirements, mandatory stress testing and single counterparty credit limits for large bank holding companies (“BHCs”) and foreign banking organizations (“FBOs”).

PROVISION	SUMMARY	IMPLEMENTATION	AGENCY
1. Increased Asset Thresholds for Application of EPS and Related Requirements			
Applicability of EPS generally	<ul style="list-style-type: none"> ◦ Raises asset threshold for EPS from \$50 billion to \$250 billion. ◦ FRB retains discretion to apply EPS to BHCs with over \$100 billion in assets. ◦ BHCs that are global systemically important banks (“<u>GSIBs</u>”) automatically covered. <p>(Sec. 401(a), (d), (f))</p>	<p>Self-executing and partially effective immediately:</p> <ul style="list-style-type: none"> ◦ <i>Immediately exempt:</i> \$50 billion to \$100 billion. ◦ <i>Exempt within 18 months:</i> \$100 billion to \$250 billion (unless exemption timing accelerated by FRB or FRB uses discretion to apply EPS). 	FRB
Risk committee requirement for publicly-traded BHCs	<p>Raises asset threshold for the Dodd-Frank risk committee requirement for publicly traded BHCs from \$10 billion to \$50 billion; FRB retains discretion to require risk committee at smaller institutions.</p> <p>(Sec. 401(a)(4))</p>	<p>Self-executing and effective immediately; however, FRB likely to amend risk committee rules.</p>	FRB

¹ Relevant agencies: Board of Governors of the Federal Reserve System (“FRB”); Federal Deposit Insurance Corporation (“FDIC”); Office of the Comptroller of the Currency (“OCC”); Department of the Treasury (“Treasury”); Financial Stability Oversight Council (“FSOC”); Securities and Exchange Commission (“SEC”); Commodity Futures Trading Commission (“CFTC”); National Credit Union Association (“NCUA”); Consumer Financial Protection Bureau (“CFPB”); Federal Trade Commission (“FTC”); Government Accountability Office (“GAO”); and Social Security Administration (“SSA”).

PROVISION	SUMMARY	IMPLEMENTATION	AGENCY
Prior FRB approval for acquisitions of interests in large nonbank financial companies	<p>Raises asset threshold to \$250 billion for FRB prior approval requirement to acquire a voting interest in certain nonbank companies with over \$10 billion in assets.</p> <p>(Sec. 401(c)(1)(E))</p>	<p>Self-executing and partially effective immediately:</p> <ul style="list-style-type: none"> ◦ <i>Immediately exempt:</i> \$50 billion to \$100 billion. ◦ <i>Exempt within 18 months:</i> \$100 billion to \$250 billion (unless exemption timing accelerated by FRB). 	FRB
2. Stress Testing Requirements			
Supervisory DFAST stress tests	<ul style="list-style-type: none"> ◦ Raises asset threshold for annual Dodd-Frank Act stress testing (“DFAST”) supervisory stress tests from \$50 billion to \$250 billion. ◦ Institutions with assets of \$100 billion to \$250 billion subject to “periodic” stress tests. <p>(Sec. 401(a)(5), (d)-(e))</p>	<p>Self-executing and partially effective immediately:</p> <ul style="list-style-type: none"> ◦ <i>Immediately exempt:</i> \$50 billion to \$100 billion. ◦ <i>Subject to “periodic” supervisory stress testing within 18 months:</i> \$100 billion to \$250 billion. <p>Would <u>not</u> automatically raise the \$50 billion threshold for application of Comprehensive Capital Analysis and Review (“CCAR”) and the FRB’s capital plan rule (12 C.F.R. § 225.8), which remain within FRB discretion. Therefore, any change to CCAR or capital plan rule thresholds would require revisions by the FRB.</p>	FRB
Company-run DFAST stress tests (annual/semi-annual)	<ul style="list-style-type: none"> ◦ Generally exempts BHCs, insured depository institutions (“IDIs”) and savings and loan holding companies (“SLHCs”) under \$250 billion in assets from company-run stress tests. <ul style="list-style-type: none"> - FRB can “designate” such an institution as subject to “periodic” stress tests. ◦ “Periodic” company-run stress tests required over \$250 billion. 	<p>Self-executing and partially effective immediately:</p> <ul style="list-style-type: none"> ◦ <i>Immediately exempt:</i> \$50 billion to \$100 billion. ◦ <i>Exempt within 18 months:</i> \$100 billion to \$250 billion (unless exemption timing accelerated by FRB). 	FRB

PROVISION	SUMMARY	IMPLEMENTATION	AGENCY
	(401(a)(5), (d))		
Frequency of stress tests and number of scenarios	<ul style="list-style-type: none"> ◦ Annual supervisory stress tests and periodic company-run stress tests required for BHCs, SLHCs and IDIs over \$250 billion (up from \$50 billion) and reduced number of scenarios (from 3 to 2), eliminating the “adverse” scenario (leaving only “baseline” and “severely adverse”). ◦ Periodic supervisory stress tests required for BHCs, SLHCs and IDIs between \$100 billion and \$250 billion (up from \$50 billion) and entity to be evaluated as to whether it has “the capital . . . necessary to absorb losses as a result of adverse economic conditions”. (Sec. 401(a)(5), (e))	Requires revisions to DFAST regulations (12 C.F.R. Part 252, Subparts B, E and F (BHCs and SLHCs) and 12 C.F.R. Parts 46 and 325 (IDIs)); timing not specified.	FRB OCC FDIC

PROVISION	SUMMARY	IMPLEMENTATION	AGENCY
3. Foreign Banking Organizations			
IHCs and EPS	Provides “clarification” that nothing in the Act may be construed (1) to affect the legal effect of the FRB’s Intermediate Holding Company (“ <u>IHC</u> ”) rules as applied to FBOs with \$100 billion or more in assets (up from \$50 billion) or (2) to limit the FRB’s authority to require an IHC, impose EPS or tailor the regulation of an FBO with \$100 billion or more in assets. (Sec. 401(g))	Requires revisions to thresholds applicable to FBOs and their IHCs. <u>See</u> 12 C.F.R. Part 252, Subparts L through P. Suggests Congressional intent for relief from IHC requirement for FBOs between \$50 billion and \$100 billion in assets.	FRB
4. Other			
Credit exposure reports	Authorizes (does not require) FRB rules regarding BHC reporting of credit exposure to the FRB, the FDIC and the FSOC. (Sec. 401(a)(2)-(3))	May require amendments to resolution plans and credit exposure rule (12 C.F.R. Parts 243 (BHCs) and 381 (IDIs)).	FRB
Assessments	<ul style="list-style-type: none"> ◦ Eliminates assessments on BHCs with less than \$250 billion in assets (up from \$50 billion) to fund expenses of the Office of Financial Research. ◦ Requires the FRB to tailor other EPS assessments for BHCs between \$100 billion and \$250 billion. (Sec. 401(c)(1)(D))	Self-executing and effective immediately; however, Treasury expected to revise 31 C.F.R. Part 150. Requires revisions to FRB’s assessments rule (12 C.F.R. Part 246).	FRB

II. SELECTED CHANGES TO REGULATORY CAPITAL AND LIQUIDITY REQUIREMENTS

The Act provides that banks and BHCs with less than \$10 billion in total consolidated assets that maintain a “community bank leverage ratio” of at least 8-10% will be deemed “well capitalized” and be exempt from U.S. risk-based capital rules and leverage ratio requirements; amends the Supplementary Leverage Ratio (“SLR”) for custody banks to exempt from the SLR denominator funds on deposit with certain central banks; permits more favorable treatment of liquid, readily-marketable and investment grade municipal bonds for liquidity coverage ratio (“LCR”) purposes; and prohibits the federal banking agencies from assigning heightened risk weights to high volatility commercial real estate (“HVCRE”) exposures unless the exposures are classified as HVCRE acquisition, development, and construction loans.

PROVISION	SUMMARY	IMPLEMENTATION	AGENCY
1. Community Bank Capital Requirements			
Community bank leverage ratio *	<p>IDs and BHCs under \$10 billion in assets that maintain a “community bank” leverage ratio of 8-10% would be “qualifying community banks,” exempt from U.S. risk-based capital rules and generally applicable leverage ratio, and deemed “well capitalized”.</p> <p>(Sec. 201)</p>	<p>Requires rulemaking; timing not specified.</p> <p>Unclear how the provision may impact the Agencies’ current proposal to simplify the capital rules for banking organizations with assets under \$250 billion. The agencies may determine that the establishment of a community bank leverage ratio eliminates the need for the Simplification Proposal or certain of its components. <u>See</u> 82 Fed. Reg. 49984 (Oct. 27, 2017) (the “<u>Simplification Proposal</u>”).</p>	FRB OCC FDIC
Expanded application of Small Bank Holding Company Policy Statement*	<p>Threshold for “small bank holding company” increased from \$1 billion to \$3 billion in assets, subject to certain conditions.</p> <p>(Sec. 207)</p>	<p>Requires revisions to the Policy Statement (12 C.F.R. Part 225, Appendix C) within 180 days of enactment.</p>	FRB

* Asterisk (*) indicates that Act explicitly directs agency or agencies to promulgate or revise rules or to undertake other action.

PROVISION	SUMMARY	IMPLEMENTATION	AGENCY
2. Supplementary Leverage Ratio			
Exemption from SLR calculation for custodial banks' central bank deposits*	Exempts funds of a custodial bank that are deposited with a central bank from the SLR. (Sec. 402)	Requires revisions to the agencies' capital rules (12 C.F.R. §§ 3.10, 217.10 and 324.10). FRB has indicated the Act likely to result in a recalibration of its proposed revision to the enhanced SLR. <u>See</u> 83 Fed. Reg. 17317 (Apr. 19, 2018).	FRB OCC FDIC
3. Liquidity Coverage Ratio			
Municipal bonds as high quality liquid assets*	Permits more favorable treatment of municipal bonds (as Level 2B high quality liquid assets), so long as the bonds are liquid, readily-marketable and investment grade. (Sec. 403)	Requires revisions 90 days after enactment to 12 C.F.R. Parts 50 and 329. FRB already modified 12 C.F.R. Part 249 in 2016.	FRB OCC FDIC
4. Higher Risk Real Estate Loans			
High volatility commercial real estate ("HVCRE") loans*	Prohibits banking agencies from assigning a heightened risk weight to a HVCRE exposure under any risk-based capital requirement unless the exposure is an HVCRE loan for acquisition, development, and construction. (Sec. 214)	Requires revisions to definition of "high volatility commercial real estate (HVCRE) exposure" in the agencies' capital rules (12 C.F.R. Parts 3, 217 and 324); timing not specified. Overrides the agencies' proposed revisions to HVCRE in the Simplification Proposal and may require re-proposal.	FRB OCC FDIC

III. THE VOLCKER RULE

The Act fully exempts from the Volcker Rule any IDI, its holding company and affiliates with less than \$10 billion of total consolidated assets and total trading assets and liabilities of 5% or less of total consolidated assets.

The Act also significantly reduces the impact of the prohibition in the Volcker Rule’s “asset management exemption” on a banking entity or its affiliate sharing a name or a variant with a covered fund that the banking entity sponsors and/or invests in pursuant to that exemption.

PROVISION	SUMMARY	IMPLEMENTATION	AGENCY
Small institutions exempt	Exempts from the Volcker Rule BHCs and banks with (1) assets under \$10 billion and (2) total trading assets and liabilities of 5% or less of total consolidated assets. (Sec. 203)	Self-executing and effective immediately; however, agencies likely to amend definition of “banking entity” in Volcker Rule regulations.	FRB OCC FDIC SEC CFTC
Relief from fund name-sharing prohibition	Amends the “asset management exemption” to allow a banking entity-affiliated investment adviser to share a name with a covered fund that the banking entity sponsors or invests in pursuant to that exemption, so long as (i) the investment adviser is not, and does not share the same name or a variation of the same name as, an IDI, an IDI holding company or an FBO that is “treated as” a BHC by virtue of having a U.S. banking presence (e.g., a branch or agency), and (ii) the name does not contain the word “bank”. (Sec. 204)	Self-executing and effective immediately; however, agencies likely to amend conditions of “asset management exemption” in Volcker Rule regulations.	FRB OCC FDIC SEC CFTC

IV. SELECTED CHANGES TO SECURITIES LAWS

The Act provides that certain small venture capital funds may rely on the exemption from the definition of “investment company” in the Investment Company Act of 1940 (the “1940 Act”). It also expands federal exemptions from state Blue Sky Laws to cover securities qualified for trading in the national market system; directs the SEC to conduct a study on the costs and benefits of algorithmic trading; directs the SEC to issue rules permitting publicly listed closed-end funds greater flexibility to use the securities offering and proxy access rules; and eliminates an exemption from registration under the 1940 Act for funds organized in Puerto Rico and the U.S. territories.

PROVISION	SUMMARY	IMPLEMENTATION	AGENCY
Exemption from state Blue Sky Laws	Amends the Securities Act of 1933 to exempt from state regulation all securities offerings qualified for trading in the national market system (rather than listing individual exchanges). (Sec. 501)	Self-executing and effective immediately.	SEC
Study on algorithmic trading*	Requires the SEC to report on the risks and benefits of algorithmic trading in U.S. capital markets. (Sec. 502)	Self-executing; report must be delivered within 18 months.	SEC
1940 Act exemption for venture capital funds	Expands Section 3(c)(1) of the 1940 Act to exempt from registration venture capital (“ <u>VC</u> ”) funds that have (1) not more than \$10 million in aggregate capital contributions and uncalled committed capital and (2) no more than 250 investors. (Sec. 504)	Self-executing and effective immediately. Inadvertently includes these small VC funds as “covered funds” for Volcker Rule purposes; effect uncertain.	SEC

PROVISION	SUMMARY	IMPLEMENTATION	AGENCY
Elimination of 1940 Act exemption for certain funds organized in Puerto Rico and U.S. territories	Eliminates Section 6(a)(1) exemption from registration under the 1940 Act for funds organized under the laws of Puerto Rico and the U.S. territories. (Sec. 506)	Self-executing and effective immediately; however, existing funds receive a 3-year transition period that may be extended by the SEC for up to 3 additional years.	SEC
Closed-end investment companies*	Permits 1940 Act-registered, publicly listed closed-end investment funds to use the securities offering and proxy access rules available to other issuers to reduce filing requirements and restrictions on communication with investors. (Sec. 509)	Requires rulemaking; regulations must be proposed no later than 1 year after enactment and finalized no later than 2 years after enactment. If SEC does not promulgate a rule within 2 years, closed-end funds are automatically deemed “eligible issuers” under SEC’s “Securities Offering Reform” rule.	SEC

V. SELECTED RELIEF FOR COMMUNITY BANKS AND OTHER SMALLER FINANCIAL INSTITUTIONS

The Act provides that certain mortgage loans originated by small IDIs or insured credit unions would be treated as qualified mortgages for purposes of the Truth in Lending Act; exempts certain small real estate loans in rural areas from appraisal requirements; exempts certain smaller institutions from escrow requirements; permits certain small depository institutions to file short-form call reports; creates an option for certain federal thrifts to be treated as national banks; and extends the examination cycle for certain small institutions.

PROVISION	SUMMARY	IMPLEMENTATION	AGENCY
“Ability to repay” safe harbor	Deems certain mortgages originated and held in portfolio by IDIs or insured credit unions with assets under \$10 billion to be “qualified mortgages” satisfying the “ability to repay” requirements under the Truth in Lending Act.	Self-executing and effective immediately; however, CFPB likely to amend 12 C.F.R. § 1026.43 (Regulation Z).	CFPB

PROVISION	SUMMARY	IMPLEMENTATION	AGENCY
	(Sec. 101)		
Exemption from real estate appraisal standards	Exempts certain loans under \$400,000 on real property in rural areas from appraisal requirements under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989. (Sec. 103)	Self-executing and effective immediately; however, agencies likely to amend appraisal standards.	FRB OCC FDIC NCUA
Exemption from consumer mortgage escrow requirements*	Exempts certain smaller institutions that originated 1000 or fewer loans in the prior year from escrow requirements under the Truth in Lending Act. (Sec. 108)	Requires revisions to Regulation Z escrow requirements; timing not specified.	CFPB
Short-form reporting*	Directs federal banking agencies to issue rules reducing reporting requirements for IDIs under \$5 billion in assets that satisfy other agency-specified criteria. (Sec. 205)	Requires rulemaking; timing not specified.	FRB OCC FDIC
Covered savings associations*	Directs the OCC to issue rules to allow smaller federal thrifts under \$20 billion to elect to be treated as national banks. (Sec. 206)	Requires rulemaking; timing not specified.	OCC

PROVISION	SUMMARY	IMPLEMENTATION	AGENCY
Extended exam cycle	Expands availability of extended examination cycle (18 months) for “well capitalized” / “well managed” IDIs with less than \$3 billion in assets. (Sec. 210)	Self-executing and effective immediately.	FRB OCC FDIC

VI. SELECTED CONSUMER REPORTING, CONSUMER FINANCIAL PROTECTION AND CYBERSECURITY PROVISIONS

The Act makes changes to mortgage lender reporting requirements enacted in Dodd-Frank and recently implemented through CFPB regulation. The Act also institutes a number of consumer protection reforms, including measures targeting identity fraud, providing for consumers to place freezes on their credit reports without charge and facilitating the removal of defaults from the consumer credit reports of private student loan borrowers.

PROVISION	SUMMARY	IMPLEMENTATION	AGENCY
Home Mortgage Disclosure Act (“HMDA”)	Exempts certain IDIs and insured credit unions with specified minimum Community Reinvestment Act ratings from Dodd-Frank and certain CFPB disclosure requirements. (Sec. 104(a))	Self-executing and effective immediately; however, CFPB likely to amend lists of exempt institutions and transactions in 12 C.F.R. § 1003.3 (Regulation C).	CFPB
HMDA study*	Requires study on amount of data available after amendment to disclosure requirements under the HMDA. (Sec. 104(b))	Self-executing; study must be conducted at least 2 years after enactment; report to be delivered to Congress not more than 3 years after enactment.	GAO
Exemption from definition of brokered deposits	Exempts certain “reciprocal deposits” placed by an IDI through a deposit placement network from treatment as brokered deposits. (Sec. 202)	Self-executing and effective immediately; however, FDIC likely to amend 12 C.F.R. § 337.6 and Financial Institution Letter 42-206 (June 30, 2016).	FDIC

PROVISION	SUMMARY	IMPLEMENTATION	AGENCY
Reducing identity fraud*	Requires Social Security Commissioner to modify an existing database or develop a new one to permit verification of consumer fraud protection data. (Sec. 215)	Requires action by Social Security Commissioner; timing not specified.	SSA
Report on cyber threats*	Requires Treasury to report on cyber risks to financial institutions and capital markets. (Sec. 216)	Self-executing ; report must be delivered not more than 1 year after enactment.	Treasury
Consumer credit reporting	Requires consumer credit reporting agencies to permit unlimited free security freezes and removals of security freezes, among other requirements; preempts state laws to provide standardized timelines for placing and removing freezes. (Sec. 301)	Self-executing ; <u>however</u> , FTC also required to develop central webpage to link to each credit reporting agency's webpage providing access to security freezes; effective in 120 days.	FTC
Report on consumer credit rating agencies	Requires GAO report on consumer credit rating agencies, including applicable legal and regulatory structure; errors and accuracy of reports; how consumers appeal/expunge errors; and data security. (Sec. 308)	Self-executing ; report must be delivered to Congress within 1 year.	GAO

PROVISION	SUMMARY	IMPLEMENTATION	AGENCY
Rehabilitation of private education loans	<ul style="list-style-type: none">◦ Permits student loan borrowers to request removal of a student loan default from their credit reports if borrower completes a rehabilitation program.◦ Requires GAO report on the implementation of such rehabilitation programs by financial institutions. <p>(Sec. 602)</p>	Self-executing; however, CFPB may amend Regulation V accordingly. Report must be delivered to Congress within 1 year.	CFPB FRB OCC FDIC

SELECTED REGULATIONS AND PROPOSED RULES TIED TO DODD-FRANK EPS THRESHOLDS

By raising the Dodd-Frank EPS thresholds, the Act will have direct and potential indirect effects on existing regulations, proposed regulations and regulatory guidance where the Dodd-Frank thresholds have been used, even where not required by statute. The following chart lists selected regulations and proposed rules tied to the Dodd-Frank EPS thresholds that either require amendment or could be reconsidered by the agencies.

PROVISION	ASSET THRESHOLD PRIOR TO ACT	CITATION	COMMENTS	AGENCY
REGULATIONS				
1. EPS				
<u>DFAST Supervisory Stress Testing</u> : BHCs with assets of \$50 billion or more are subject to annual supervisory stress tests conducted by the FRB as part of DFAST.	\$50 billion	12 C.F.R. Part 252, Subpart E	The Act increases the threshold for annual supervisory stress tests to \$250 billion in total assets. For BHCs between \$100 and \$250 billion, supervisory stress tests will be “periodic”.	FRB
<u>DFAST Company-Run Stress Testing</u> : BHCs, SLHCs and IDIs with assets of \$10 billion or more must conduct annual and semi-annual company-run stress tests as part of DFAST.	\$10 billion	12 C.F.R. § 252.154 (FRB) 12 C.F.R. § 46 (OCC) 12 C.F.R. § 325.1 (FDIC)	The Act increases the threshold to \$250 billion, and company-run stress tests will become “periodic”.	FRB OCC FDIC
<u>Liquidity Buffer and Liquidity Stress Testing Requirement</u> : BHCs with	\$50 billion	12 C.F.R. §§ 252.34 and 252.35	The Act increases the threshold to \$250 billion.	FRB

PROVISION	ASSET THRESHOLD PRIOR TO ACT	CITATION	COMMENTS	AGENCY
assets of \$50 billion or more are subject to requirements related to liquidity risk management, liquidity stress testing, liquidity buffers, contingency funding plans and cash flow projections.				
<p><u>FBOs</u>: FBOs with non-branch U.S. assets of \$50 billion or more must establish an IHC and comply with risk-based and leverage capital, risk management, liquidity risk and stress testing requirements.</p> <p>FBOs with assets in their combined U.S. operations of \$50 billion or more must comply with risk-based and leverage capital, risk management, liquidity risk and stress testing requirements.</p>	\$50 billion	12 C.F.R. Part 252, Subpart O	Likely to be reconsidered. Any revisions to the threshold would need to be made by the FRB amending Regulation YY (since the threshold, like the IHC requirement itself, was created by FRB rule, and not Dodd-Frank).	FRB
<p><u>Leverage Limits</u>: FBOs and BHCs with assets of \$50 billion or more must comply with debt-to-equity limits upon a determination that the BHC or FBO poses a grave threat to the financial stability of the U.S.</p>	\$50 billion	12 C.F.R. Part 252, Subpart U	The Act increases the threshold to \$250 billion.	FRB

PROVISION	ASSET THRESHOLD PRIOR TO ACT	CITATION	COMMENTS	AGENCY
<u>Risk Management Committee and Chief Risk Officer</u> : BHCs with assets of \$50 billion or more and publicly traded BHCs with assets of greater than \$10 billion and less than \$50 billion must establish a risk committee of the board of directors and employ a chief risk officer.	\$50 billion \$10 billion if publicly traded	12 C.F.R. § 252.33 12 C.F.R. § 252.21	The Act increases the threshold for the risk committee for publicly traded BHCs from \$10 billion to \$50 billion.	FRB
2. Regulatory Capital and Liquidity Requirements				
<u>Capital Planning and CCAR</u> : BHCs with assets of \$50 billion or more are required to submit annual capital plans for review and approval to the FRB as part of the annual CCAR program.	\$50 billion	12 C.F.R. § 225.8	Likely to be reconsidered. The FRB retains discretion to determine threshold for applicability.	FRB
<u>Public Disclosure of Capital Requirements</u> : Banking entities with assets of \$50 billion or more must publicly disclose quantitative and qualitative information related to capital requirements.	\$50 billion	12 C.F.R. § 217.61 (FRB) 12 C.F.R. § 3.61 (OCC) 12 C.F.R. § 324.61 (FDIC)	The FRB retains discretion to determine thresholds since these “pillar 3” requirements implement the Basel capital framework rather than Dodd-Frank.	FRB OCC FDIC
<u>Liquidity Coverage Ratio</u> : BHCs and SLHCs with assets equal to or greater than \$50 billion are required to	\$50 billion for modified; \$250 billion (or \$10 billion in on-balance	12 C.F.R. Part 249, Subpart G	Likely to be reconsidered. The agencies take the position that the LCR and the NSFR proposal implement the Basel	FRB

PROVISION	ASSET THRESHOLD PRIOR TO ACT	CITATION	COMMENTS	AGENCY
maintain sufficient high quality liquid assets to meet projected cash outflows during a 30-day stress period.	sheet foreign exposure) for full LCR.		liquidity framework (rather than Dodd-Frank), suggesting that changes to LCR thresholds would require amendments to Regulation YY. However, liquidity requirements are listed as EPS in Dodd-Frank.	
3. Volcker Rule				
<u>Enhanced Compliance Program:</u> Banking entities subject to trading desk metrics reporting and banking entities with total assets of \$50 billion or more are required to comply with enhanced minimum standards for their compliance programs.	\$50 billion or metrics filer	12 C.F.R. § 248.20 (FRB) 12 C.F.R. § 44.20 (OCC) 12 C.F.R. § 351.20 (FDIC)	Likely to be reconsidered. The agencies have discretion to revise this threshold, which is not imposed by statute. Discussing the origin of the \$50 billion threshold for application of the enhanced compliance program in the preamble to the final Volcker Rule, the agencies note that “[b]anking entities with total assets of \$50 billion or more are among the most complex banking entities and have been found by Congress to pose sufficient risk to the financial stability of the United States to warrant being generally subject to [EPS]” under Dodd-Frank.	FRB OCC FDIC SEC CFTC
<u>Trading Desk Metrics Reporting:</u> Banking entities with total trading assets and liabilities of \$10 billion or more are required to report trading desk metrics.	\$10 billion	12 C.F.R. § 248.20 (FRB) 12 C.F.R. § 44.20 (OCC)	The agencies have discretion to revise this threshold, which is not imposed by statute.	FRB OCC FDIC SEC CFTC

PROVISION	ASSET THRESHOLD PRIOR TO ACT	CITATION	COMMENTS	AGENCY
		12 C.F.R. § 351.20 (FDIC)		
<u>Market-Making Exemption–Definition of “Client,” “Customer” and “Counterparty”</u> : In connection with the market-making exemption’s requirement that inventory be held to meet the reasonably expected near-term demands of “clients, customers and counterparties”, a trading desk of an entity with at least \$50 billion in total trading assets and liabilities generally will <u>not</u> be treated as a client, customer, or counterparty.	\$50 billion in total trading assets and liabilities	12 C.F.R. § 248.4(b)(3) (FRB) 12 C.F.R. § 44.4(b)(3) (OCC) 12 C.F.R. § 351.4(b)(3) (FDIC)	The agencies have discretion to revise this threshold, which is not imposed by statute.	FRB OCC FDIC SEC CFTC
4. Resolution Planning				
<u>Filing Resolution Plans</u> : BHCs and IDIs with total assets of \$50 billion or more are required to file resolution plans. BHC with non-bank assets of \$100 billion or less and total IDI assets that comprise 85% or more of such BHC’s total consolidated U.S. assets is eligible to file a tailored resolution plan. Material entities, for resolution planning purposes, subject to a	\$50 billion \$100 billion	12 C.F.R. Part 243 (FRB) 12 C.F.R. Parts 360 and 381 (FDIC)	The Act increases the threshold to \$250 billion for BHC resolution plans. The FDIC could revisit the threshold for IDI resolution plans, although it is unlikely to eliminate the resolution plan requirement entirely for IDIs under the BHC thresholds because the FDIC is responsible for bank resolutions irrespective of the asset threshold or systemic importance of the bank. The FRB and FDIC would have discretion to address the material entities threshold.	FRB FDIC

PROVISION	ASSET THRESHOLD PRIOR TO ACT	CITATION	COMMENTS	AGENCY
resolution regime other than the Bankruptcy Code with assets of less than \$50 billion can be excluded from the strategic analysis of the covered company's resolution plan if they do not conduct a critical operation.				
<u>Credit Exposure Reports</u> : BHCs with assets of \$50 billion or more must disclose credit exposures to "significant nonbank financial companies" and "significant bank holding companies" that have assets of \$50 billion or more.	\$50 billion	12 C.F.R. § 242.4	The Act increases the threshold for application to \$250 billion. FRB would have discretion to revise the counterparty threshold.	FRB
<u>Qualified Financial Contracts (IDIs)</u> : IDIs with assets of \$50 billion or more are subject to recordkeeping requirements for qualified financial contracts.	\$50 billion	12 C.F.R. § 371.2	No direct effect. The FDIC could revisit this threshold, but it is not considered likely unless the FDIC revisits the equivalent threshold for IDI plans.	FDIC
<u>Qualified Financial Contracts (Financial Companies)</u> : Certain financial companies (as defined in Title II of Dodd-Frank) with assets of \$50 billion or more are subject to recordkeeping requirements for qualified financial contracts.	\$50 billion	31 C.F.R. § 148.2	No direct effect. The Treasury QFC record-keeping rule is authorized under Title II of Dodd-Frank (the Orderly Liquidation Authority). It may be adjusted to reflect the greatly reduced likelihood that non-banks with assets below some threshold, perhaps \$250 billion, would be resolved under the Orderly Liquidation Authority.	Treasury

PROVISION	ASSET THRESHOLD PRIOR TO ACT	CITATION	COMMENTS	AGENCY
5. Other				
<p><u>Assessments</u>: BHCs, SLHCs, and foreign bank holding companies with assets of \$50 billion or more must pay assessments to fund supervision by the FRB.</p> <p>IDIs with assets of \$50 billion or more are subject to higher assessments to fund the FDIC's deposit insurance fund ("DIF").</p> <p>IDIs with trust assets of \$50 billion or more are treated as "custodial banks" for purposes of calculating assessments to fund the DIF.</p>	\$50 billion	<p>12 C.F.R. § 246.3 (FRB)</p> <p>12 C.F.R. §§ 327.5 and 327.8 (FDIC)</p>	<p>The Act increases the threshold for application to BHCs, SLHCs and foreign bank holding companies to \$250 billion.</p> <p>The Act does not affect the threshold for increased assessments of IDIs to fund the DIF. The FDIC could revisit this threshold, but it is not considered likely.</p>	FRB FDIC
<p><u>Supervision and Regulation of Nonbank Financial Companies</u>: Certain nonbank financial companies with assets of \$50 billion or more may be subject to supervision by the FRB upon a determination that the company could pose a threat to the financial stability of the U.S.</p>	\$50 billion	12 C.F.R. Part 1310, Appendix A	No direct effect. The FSOC would have discretion to adjust this threshold upward to align with the new EPS thresholds, but this is not expected to be a priority.	FSOC
<p><u>Heightened Risk Governance Standards for National Banks and Savings Associations</u>: National banks and federal savings associations with assets of \$50 billion or more are</p>	\$50 billion	12 CFR Part 30, Appendix D	Although the Act does not directly affect the threshold, the OCC referred to the EPS in Dodd-Frank when adopting heightened standards and could raise the threshold.	OCC

PROVISION	ASSET THRESHOLD PRIOR TO ACT	CITATION	COMMENTS	AGENCY
expected to establish a governance framework consistent with OCC heightened expectations for large institutions.				
<u>Standards for Recovery and Resolution Planning</u> : Management and boards of directors of insured national banks, insured federal savings associations and insured federal branches with assets of \$50 billion or more are subject to heightened expectations for recovery and resolution planning.	\$50 billion	12 CFR Part 30, Appendix E	Although the Act does not directly affect the threshold, in the adopting release the OCC linked the threshold for the guidance to the threshold for resolution planning requirements under Dodd-Frank. The OCC could raise this threshold.	OCC
SELECTED PROPOSED RULES AND GUIDANCE				
<u>Stress Buffers Proposal</u> : BHCs with \$50 billion or more in total consolidated assets would be subject to stress capital buffer and stress leverage buffer requirements.	\$50 billion	83 Fed. Reg. 18160 (Apr. 25, 2018)	The threshold for application of the stress buffers is closely tied to the \$50 billion threshold for application of the FRB capital plan rule and CCAR and will likely depend on whether the FRB exercises its discretion to require BHCs and IHCs below \$250 billion in total assets to remain subject to CCAR and the capital plan rule (see above).	FRB
<u>Principles of Effective Senior Management</u> : BHCs and SLHCs with assets of \$50 billion or more, FBOs	\$50 billion	83 Fed. Reg. 1351 (Jan. 11, 2018)	No direct effect. The FRB would have discretion to raise the thresholds.	FRB

PROVISION	ASSET THRESHOLD PRIOR TO ACT	CITATION	COMMENTS	AGENCY
<p>with combined U.S. assets of \$50 billion or more, and systemically important nonbank financial companies designated for supervision by the FRB would be expected to follow core principles of effective senior management, the management of business lines and independent risk management and controls.</p>				
<p><u>Large Financial Institution Rating System</u>: BHCs, non-insurance non-commercial SLHCs, and IHCs with assets of \$50 billion or more would be subject to a new rating scale for capital planning and positions, liquidity risk management and positions and governance and controls in lieu of a standalone composite rating.</p>	\$50 billion	82 Fed. Reg. 39049 (Aug. 17, 2017)	No direct effect. The FRB would have discretion to raise this threshold.	FRB
<p><u>Supervisory Expectation for Boards of Directors</u>: BHCs and SLHCs with assets of \$50 billion or more would be expected to follow certain attributes of effective boards of directors, including setting clear expectations, active management, accountability and supporting independent risk management (among others).</p>	\$50 billion	82 Fed. Reg. 37219 (Aug. 9, 2017)	No direct effect. The FRB would have discretion to raise the thresholds.	FRB

PROVISION	ASSET THRESHOLD PRIOR TO ACT	CITATION	COMMENTS	AGENCY
<u>Cyber Risk Management Standards:</u> Banking organizations with \$50 billion or more in total consolidated assets would be subject to cyber risk management standards regarding governance, management, dependency management, incident response, cyber resilience and situational awareness.	\$50 billion	81 Fed. Reg. 74315 (Oct. 26, 2016)	No direct effect. The agencies would have discretion to raise the threshold.	FRB OCC FDIC
<u>Executive Compensation Limits:</u> BHCs, SLHCs and IDIs with assets of \$50 billion or more would be required to defer incentive-based compensation of significant risk takers and senior executive officers.	\$50 billion	81 Fed. Reg. 37670 (June 10, 2016) (re-proposal) 76 Fed. Reg. 21170 (Apr. 2011) (initial proposal)	No direct effect. The agencies would have discretion to raise the threshold.	FRB OCC FDIC
<u>Net Stable Funding Ratio (“NSFR”):</u> Banking organizations with assets greater than \$50 billion would be subject to a requirement to maintain net stable funding adequate to cover projected outflows over a 1 year horizon.	\$50 billion	81 Fed. Reg. 35124 (June 1, 2016)	Likely to be revisited. The agencies take the position that the NSFR proposal (and the LCR) implement the Basel liquidity framework (rather than Dodd-Frank). However, liquidity requirements are listed as EPS in Dodd-Frank, suggesting that the threshold may be reconsidered.	FRB OCC FDIC
<u>Single-Counterparty Credit Limits (“SCCL”):</u> BHCs with total assets of \$50 billion or more would be prohibited from having credit	\$50 billion	81 Fed. Reg. 14327 (Mar. 16, 2016) (re-proposal)	Although the Act requires amendments to the SCCL’s general applicability threshold of \$50 billion, it does not directly affect the applicability thresholds for additional	FRB

PROVISION	ASSET THRESHOLD PRIOR TO ACT	CITATION	COMMENTS	AGENCY
exposure to any unaffiliated company that exceeds 25% of its consolidated capital stock and surplus.		77 Fed. Reg. 594 (Jan. 5, 2012) (initial proposal)	requirements in the proposal that apply only to advanced approaches banking organizations and GSIBs.	
<u>Early Remediation Requirements:</u> BHCs with total assets of \$50 billion or more would be subject to an “early remediation” regime to reduce financial distress at BHCs before potential insolvency and to reduce the potential harm caused by insolvency.	\$50 billion	77 Fed. Reg. 594 (Jan. 5, 2012)	The Act increases the threshold for early remediation requirements to \$250 billion and thus would require revisions to the proposal.	FRB

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