ALERT MEMORANDUM

October 28, 2019

Agencies Adopt Final Rules Tailoring Enhanced Prudential Standards

The Federal Reserve Board and the Federal Deposit Insurance Corporation[1] have released two final rules to tailor the application of enhanced prudential standards to large U.S. and foreign banking organizations:

— A Board-only release that finalizes the application of enhanced prudential standards (stress testing, capital planning, liquidity stress testing, liquidity risk management, single counterparty credit limits and overall risk management) to U.S. bank holding companies, certain savings and loan holding companies and FBOs; and

— A joint release tailoring the application of capital and liquidity rules to these banking organizations.

The Final Rules leave in place the core post-crisis regulatory framework created by the Dodd-Frank Act, while creating tiered thresholds that modify the stringency and applicability of the regulations. Notwithstanding significant comments about how the proposals could have been made more risk-sensitive, the Agencies opted for simplicity and generally adopted the Rules as proposed.

While the Final Rules include positive changes for most banking organizations, a limited number of institutions (particularly certain FBOs and savings and loan holding companies) will be required to comply with some of the enhanced prudential standards for the very first time. Large FBOs also will be subject to more comprehensive reporting requirements across their U.S. operations, requiring accounting and technology build-outs. In addition, whether this relief translates into a meaningful reduction in compliance burden will depend in large part on whether and how examiners make corresponding changes to supervisory expectations across the categories.

The Board also indicated that some elements of the Final Rules may be subject to further revisions in forthcoming rulemakings, and further tailoring of certain related rules and regulatory reports is expected.

The Final Rules become effective 60 days after publication in the Federal Register, and compliance dates will span 2020 and 2021.

The charts in the Appendix provide several different visual perspectives of the categorization framework.

Our earlier observations on the proposals are available here (U.S. banking organizations) and here (FBOs).

[1] At the time of this publication, the Office of the Comptroller of the Currency had yet to approve officially the joint proposal.

Categorization Framework and Risk-Based Indicators

The Final Rules[2] divide large U.S. banking organizations and foreign banking organizations ("FBOs") into four categories based on size and observable risk factors, with generally less stringent requirements for those in lower tiers:

— **Category I** includes U.S. global systemically important banks ("GSIBs").

— **Category II** includes any U.S. banking organization or intermediate holding company ("IHC"), or FBO (with regard to its U.S. operations), with either

- o total assets of $700 billion or more, or
- o $75 billion or more in cross-jurisdictional activity ("CJA").

— **Category III** includes any U.S. banking organization or IHC, or FBO (with regard to its U.S. operations), with either

- o total assets of $250 billion or more (that is not in Category II), or
- o $75 billion or more in (a) weighted short-term wholesale funding ("wSTWF"), (b) nonbank assets or (c) off-balance sheet exposures.

— **Category IV** includes any U.S. banking organization or IHC, or FBO (with regard to its U.S. operations), that has at least $100 billion in total assets and is not in Categories I, II or III.

— **Other Firms** include any U.S. banking organization or IHC with at least $50 billion but less than $100 billion in total assets, or any FBO with at least $100 billion in total global assets if its U.S. assets are at least $50 billion but less than $100 billion.

Categorization by Legal Entity

A banking organization may need to determine a categorization for different legal entities within its group.

Foreign Banking Organizations

FBOs are divided into categories under the same general framework as U.S. banking organizations. Size and risk-based indicators are calculated separately for an FBO's combined U.S. operations ("CUSO") and its IHC (if it has one). Based on the Board's projections, many FBOs' IHCs are in lower categories than their CUSO.

The Final Rules include one key change for FBOs by calibrating most enhanced prudential standards ("EPS") for IHCs solely on the size and risk profile of the IHC, and not based on attributes of its parent foreign bank's CUSO as proposed. This resolves one of the most significant objections by FBOs to the proposed categorization framework, which would have elevated standardized liquidity requirements and single counterparty credit limits ("SCCL") applicable to an IHC on the basis of CUSO size and risk profile.

Insured Depository Institution Subsidiaries

Insured depository institution ("IDI") subsidiaries of bank holding companies ("BHCs"), savings and loan holding companies, IHCs or FBOs generally are subject to the requirements applicable to their parent's category with respect to the EPS applicable to IDIs (i.e., capital and standardized liquidity).

[2] "Prudential Standards for Large Bank Holding Companies, Savings and Loan Holding Companies, and Foreign Banking Organizations" (Oct. 10, 2019), https://www.federalreserve.gov/aboutthefed/boardmeetings/files/tailoring-rule-fr-notice-20191010a2.pdf; "Changes to applicability thresholds for regulatory capital and liquidity requirements" (Oct. 10, 2019), https://www.federalreserve.gov/aboutthefed/boardmeetings/files/tailoring-rule-fr-notice-20191010a1.pdf.

Risk-based Indicators

The Federal Reserve Board ("Board"), the Federal Deposit Insurance Corporation ("FDIC") and the Office of the Comptroller of the Currency ("OCC," and together with the Board and the FDIC, the "Agencies") adopted as proposed the calculation methodologies for each risk-based indicator and left the $75 billion thresholds unchanged.

CJA remains the sole risk-based indicator that may place an institution into Category II, reflecting the primacy of the Agencies' concerns regarding risks posed by the operational complexity of internationally active institutions. The wSTWF indicator also remains significant relative to the other indicators, as liquidity requirements may change considerably over a relatively small range of wSTWF, as discussed further below.

In calculating CJA, FBOs (but not U.S. banking organizations) may deduct certain interaffiliate claims and liabilities, reflecting acknowledgement by the Agencies of the different characteristics of FBOs' U.S. operations.

Enhanced Prudential Standards

The categorization framework of the Final Rules dictates the applicability and stringency of the current and proposed EPS: capital and stress testing, liquidity coverage ratio ("LCR"), the proposed net stable funding ratio ("NSFR"), liquidity stress testing and risk management, overall risk management, SCCL and certain reporting requirements.

— **Category I** U.S. GSIBs will see no changes to the EPS that apply to them, except that the mid-cycle company-run capital stress test and the adverse scenario (in both the supervisory and company-run stress tests) have been eliminated, consistent with 2018's Economic Growth, Regulatory Relief, and Consumer Protection Act. However, the Board retains discretion to require more frequent company-run or supervisory stress testing for firms in Categories I through IV, based on the institution's financial condition, size, complexity, risk profile, scope of operations, or activities, or risks to the U.S. economy.

— **Category II** standards differ from current U.S. GSIB standards only in the elimination of the mid-cycle company-run capital stress test. Only one U.S. banking organization is projected by the Board to be placed in Category II. For that institution (not a U.S. GSIB), placement in Category II would represent a meaningful increase in regulatory stringency.

While no IHCs are projected by the Board to be scoped into Category II, the CUSO of several FBOs will be placed into this Category. Categorization of FBOs' CUSO primarily affects frequency of the CUSO's Regulation YY liquidity stress tests, frequency of CUSO Form FR 2052a liquidity reporting (with an increase in frequency to daily for some Category II FBOs), possibility of certain reductions in CUSO liquidity risk management requirements (for Category IV FBOs), and frequency and content of resolution plans.

— **Category III**. U.S. banking organizations and IHCs in Category III will receive some relief from current capital and liquidity requirements, but will remain subject to the SCCL.

- *Capital*. Category III institutions will not be subject to (or be required to opt out of) the advanced approaches risk-based capital rules, and may opt out of including accumulated other comprehensive income ("AOCI") in regulatory capital.[3] Accordingly, Category III institutions will not be "advanced approaches banking

[3] Category III institutions that elect to opt out of including AOCI in regulatory capital must do so in the first FR Y-9C filing after the Final Rules become effective.

organizations" for purposes of other rules that may differentiate requirements based on that status. However, they remain subject to two requirements that apply to advanced approaches organizations under current capital rules:

  - a minimum supplementary leverage ratio ("SLR") of 3%, and
  - the countercyclical capital buffer ("CCyB"), which is currently set at 0.

- *Stress Testing*. Category III institutions receive modest relief from company-run stress testing, which must now be publicly disclosed only every other year, rather than annually. However, they remain subject to annual supervisory stress testing (i.e., CCAR and DFAST) and the annual capital plan submission requirement.
- *Liquidity*. Category III institutions (and their IDI subsidiaries with total assets of $10 billion or more) may fall into one of two standardized liquidity categories:
  - reduced daily LCR and NSFR (once finalized) set at 85% of the full requirement, with Form FR 2052a liquidity reporting monthly; or
  - if an institution has wSTWF of $75 billion or greater, full (100%) daily LCR and NSFR (once finalized), with Form FR 2052a liquidity reporting daily.
- *SCCL*. U.S. banking organizations and IHCs in Category III or higher are subject to the SCCL; FBOs with $250 billion or more of total global assets may comply with regard to their CUSO by meeting home country standards consistent with the Basel large exposures regime. The Final Rules relieve Category IV IHCs of SCCL obligations, but for certain IHCs with under $250 billion in assets that are subject to Category III standards because of the risk indicator thresholds, the SCCL will become more stringent than current requirements (i.e., limits calculated based on Tier 1 capital rather than capital and surplus, and application of the SPV look-through and economic interdependence and control tests). In addition, in contrast to the current SCCL rule, a U.S. banking organization with under $250 billion in assets may be subjected to the SCCL if it is in Category III because it crossed a risk indicator threshold.

— **Category IV**. U.S. banking organizations and IHCs (and their IDI subsidiaries) in Category IV would receive the most significant relief relative to current obligations with respect to each of the enhanced prudential standards.

- *Capital*. Category IV institutions will not be subject to (or be required to opt out of) the advanced approaches risk-based capital rules, the SLR or the CCyB and may opt out of including AOCI in regulatory capital.
- *Stress Testing*. Category IV institutions will not be required to conduct company-run stress tests and will be subject to supervisory stress testing on a two-year cycle. They will continue to submit an annual capital plan that will be reviewed as part of the regular supervisory process, but the Federal Reserve indicated that it would propose in the near future additional flexibility in the capital planning process for Category IV institutions. In one of the more controversial features of the Final Rules, Category IV institutions will remain subject to Form FR Y-14 reporting.
- *Liquidity*. Category IV institutions will not be subject to standardized LCR or NSFR requirements, unless they have wSTWF of greater than $50 billion, in which case they would be subject to a reduced monthly LCR and NSFR (once finalized) set at 70% of the full requirement. All Category IV IDI subsidiaries are exempted from LCR and NSFR requirements regardless of their asset size.
- *SCCL*. Category IV U.S. banking organizations and IHCs are not subject to the SCCL. An FBO with $250 billion or more of total global assets may comply with SCCL applicable to its CUSO

by certifying that it meets, on a consolidated basis, standards established by its home country supervisor that are consistent with the Basel large exposures regime. FBOs with less than $250 billion of total global assets are not subject to an SCCL requirement in the United States.

Capital and Stress Testing

Advanced Approaches

The Agencies have effectively raised the threshold for application of the advanced approaches capital requirements to

— $700 billion in total assets (up from $250 billion), or

— $75 billion in CJA (up from $10 billion in foreign exposure).

Although Category III institutions are relieved from the advanced approaches, they nonetheless will be required to meet other regulatory requirements that have traditionally applied to institutions that meet the current thresholds for the advanced approaches, such as the SLR and the CCyB. As noted above, all IHCs are relieved from the advanced approaches, but may still be required to comply with the SLR, CCyB and/or AOCI effects depending upon the IHC's Category.

Capital Simplifications Rule

The Final Rules also clarify that Category III and IV banking organizations will be permitted to take advantage of the recent simplifications to the standardized approach adopted by the Agencies in July 2019.[4] This clarification is particularly significant for IHCs in these Categories that will no longer be considered "advanced approaches banking organizations" (i.e., those with $250 billion in total assets or $10 billion or more in foreign exposure).

Under the Simplifications Rule, which applies only to "non-advanced approaches banking organizations", Category III and IV banking organizations will benefit from:

— simpler capital requirements for mortgage servicing assets, certain deferred tax assets and investments in the capital of unconsolidated financial institutions; and

— a less punitive treatment for determining the amount of capital issued by a consolidated subsidiary to third parties that may be recognized in regulatory capital (generally known as minority interests).

The Simplifications Rule becomes effective for all non-advanced approaches banking organizations beginning April 1, 2020. However, the Agencies recently determined to permit early adoption beginning January 1, 2020.[5] Board staff has informally clarified that this early adoption is available for all banking organizations, including BHCs and IHCs that determine their initial categorization as Category III or IV upon submission of their December 31, 2019 Form FR Y-15. While the FR Y-9C has not yet been updated to reflect the changes necessitated by the Simplifications Rule, Board staff has also indicated informally that they are working to propose and finalize the appropriate changes to the FR Y-9C before April 1, 2020.

Standardized Approach to Counterparty Credit Risk

The Final Rules also clarify the applicability of the pending proposal on the Standardized Approach to Counterparty Credit Risk ("SA-CCR proposal"). Like the Simplifications Rule, the SA-CCR proposal

[4] "Simplifications to the Capital Rule Pursuant to the Economic Growth and Regulatory Paperwork Reduction Act of 1996", 84 Fed. Reg. 35234 (July 22, 2019) (the "Simplifications Rule").

[5] To date only the FDIC has adopted these changes to the effective date, but the Board and the OCC are expected to approve this modification to permit early adoption of the Simplification Rule shortly. "Regulatory Capital Rule: Simplifications to the Capital Rule Pursuant to the Economic Growth and Regulatory Paperwork Reduction Act of 1996; Revised Effective Date" (Sept. 17, 2019), https://www.fdic.gov/news/board/2019/2019-09-17-notice-sum-f-fr.pdf.

includes differential treatment for advanced approaches banking organizations.

The Final Rules note that banking organizations subject to Category I and II standards would be required to use SA-CCR for calculating their risk-based capital ratios and a modified version of SA-CCR to calculate total leverage exposure under the SLR if the SA-CCR proposal is adopted. Non-advanced approaches banking organizations subject to Category III or IV standards would have the option to elect to use SA-CCR or the current exposure method ("CEM") for calculating derivatives exposure in connection with their risk-based capital and SLR.

The SA-CCR proposal, if finalized as proposed, would also permit SA-CCR as a method to value derivative contracts for purposes of the SCCL, although advanced approaches organizations may continue to use the internal models method and non-advanced approaches organizations (Category III and IV firms) would have the option of using CEM or SA-CCR.

Total Loss-Absorbing Capacity Deductions

The Final Rules do not specifically discuss the Agencies' proposal to require advanced approaches banking organizations to deduct from regulatory capital certain investments in unsecured debt securities (whether or not they qualify as total loss-absorbing capacity ("TLAC")) issued by U.S. and non-U.S. GSIBs and their IHCs. However, if adopted as proposed, this deduction requirement for TLAC-related holdings would apply only to Category I and II banking organizations under the Final Rules.

Forthcoming Capital-related Rulemakings

While the Final Rules modify the scope and frequency of applicability of capital planning requirements and supervisory stress testing, the Board did not include any modifications to the underlying capital planning and supervisory stress testing requirements. Instead, the Board indicated that it intends to propose modifications to capital planning requirements in a separate forthcoming rulemaking.

In addition, aspects of the scope of applicability of current supervisory stress testing rules for U.S. BHCs are determined by whether a BHC is "large and complex" or "large and non-complex." The Final Rules did not modify these definitions, but the Board indicated it would also address this differentiation (which may be supplanted by the categorization framework) in the forthcoming capital planning rulemaking. See page 11 for a list of potential forthcoming rulemakings in connection with the Final Rules.

IDI Stress Testing Requirements

In addition to the changes to the IHC and BHC stress testing requirements discussed above, the Final Rules, in conjunction with similar final revisions by the OCC and FDIC, also raise the minimum asset threshold for state member banks, state non-member banks and national banks to conduct stress tests from $10 billion to $250 billion. In addition, banks with total consolidated assets of more than $250 billion are now required to conduct stress tests every other year, rather than annually. As an exception to the two-year cycle, banks that are subsidiaries of BHCs or IHCs subject to Category I or Category II standards are required to conduct a stress test on an annual basis.

The Final Rules also remove the adverse scenario from the list of required scenarios in the Board's stress testing rules and the Board's Policy Statement on the Scenario Design Framework for Stress Testing.

Liquidity

The level of short-term wholesale funding remains a key constraining factor for institutions in Categories III and IV. For example, if an institution's wSTWF increases from under $50 billion to over $75 billion, that institution can cross from no standardized liquidity requirement to the full daily standardized liquidity requirements.

The Final Rules calibrate the factors for the application of the reduced LCR and proposed NSFR:

— the top of the proposed range (85%) for the reduced *daily* LCR and proposed NSFR for Category III institutions with less than $75 billion of wSTWF; other Category III institutions (and their IDI subsidiaries with total assets of $10 billion or more) must meet the full daily LCR and proposed NSFR; and

— the bottom of the proposed range (70%) for the reduced *monthly* LCR and proposed NSFR for Category IV institutions with $50 billion or greater of wSTWF (although such requirements would not apply to IDI subsidiaries of a Category IV institution); other Category IV institutions are not subject to standardized liquidity requirements.

Reduced Liquidity Coverage Ratio

The "reduced" LCR adopted by the Agencies in the Final Rules is more stringent than the current "modified" LCR. The reduced LCR would not carry over:

— the exclusion of the maturity mismatch add-on to the total net cash outflow calculation;

— the single 70% factor (now 70% or 85% depending upon categorization);

— the uniform requirement for monthly calculation (now monthly or daily depending upon categorization); or

— the exemption for IDI subsidiaries (other than for IDI subsidiaries of Category IV institutions, even if the institution has between $50 and $75 billion in wSTWF).

Net Stable Funding Ratio

The Final Rules imply an effective re-proposal of the NSFR, which would apply at a "reduced" level to institutions in Category III with less than $75 billion in wSTWF and to institutions in Category IV with $50 billion or more in wSTWF. The Agencies indicated that the new categorization framework would be taken into account when they finalize the NSFR proposal released in 2016.

Branch Liquidity Requirements

The Board decided against issuing a proposed rule at this time to impose a standardized liquidity requirement on U.S. branches and agencies of FBOs. The Board indicated that it is "still considering whether to develop and propose" such a requirement. Application of this requirement would have represented a significant policy shift from the traditional approach in Regulation YY to permit branches and agencies to rely on a combination of home-country standards and principles-based liquidity buffer requirements. The Board intends to "engage in further discussion and evaluation of the issue at the international level", expected to include coordinating through the Financial Stability Board.

Single Counterparty Credit Limits

The categorization framework modifies the applicability of the SCCL from the 2018 final SCCL rule (which has not yet become effective). Unlike the other EPS, application of (or relief from) the SCCL may vary based on several factors, such as whether an institution is a U.S. banking organization or an FBO and whether it is scoped into an applicable Category based on size or a risk-based indicator:

— Category IV U.S. institutions (generally those below $250 billion of total assets) will remain outside the SCCL rule. However, a U.S. banking organization that has less than $250 billion of total assets may become subject to the SCCL if it crosses into Category III through a risk-based indicator (in contrast to the current SCCL scope which had only a size threshold). The Final Rules therefore provide additional avenues for firms to become subject to the SCCL relative to current requirements.

— Category IV IHCs also will be scoped out of the SCCL. This is important regulatory relief for these IHCs, which will now be on a more equal footing with domestic counterparts because the 2018 SCCL rule had scoped in all IHCs while covering U.S. BHCs only if they have greater than $250 billion in total assets.

— Category III IHCs with over $250 billion of total assets and that therefore are scoped in based on size will see no change to their SCCL requirements. But IHCs in Category III by operation of a risk-based indicator rather than their size will see more stringent requirements, as the Board removed certain more flexible standards that it had applied to

IHCs between $50 billion and $250 billion under the 2018 SCCL rule.

- In particular, these IHCs will be required to calculate the limits based on a denominator of Tier 1 capital (rather than capital and surplus) and to apply the more complicated special purpose vehicle look-through and economic interdependence and control tests.
- These IHCs will, however, be provided a transition period, as they will be permitted to comply with the 2018 SCCL from July 1, 2020 until January 1, 2021, at which time they will be required to comply with the more stringent version adopted under the Final Rules.

In addition, the Final Rules maintain the requirement that FBOs with more than $250 billion in total global assets may comply at the CUSO level through a certification of compliance with home-country standards that are consistent with the Basel large exposures regime. However, the Final Rules do not provide any timing relief for FBOs whose home countries have not yet adopted a large exposures regime, with the rule text continuing to indicate that CUSO of "major" foreign banks (i.e., those that would be a GSIB under the Basel Committee's GSIB methodology or that the Board determines would meet the criteria for a U.S. or non-U.S. GSIB) are required to comply or certify substituted compliance by January 1, 2020, and CUSO of other foreign banks are required to comply or certify substituted compliance by July 1, 2020.[6] The reporting form associated with the SCCL (the proposed Form FR 2590) was not released with the Final Rules, and it is anticipated the Form and its instructions may shed further light on this and related issues.

Reporting and Transition

While the Final Rules are effective 60 days after publication in the Federal Register, compliance is phased in during 2020 and 2021. Most U.S. institutions will benefit from the relatively short effectiveness period, but several FBOs and IHCs will need to build compliance and regulatory reporting infrastructure to meet newly imposed requirements (i.e., the "reduced" LCR, the revised SCCL) and revised reporting forms (i.e., CUSO-wide Form FR Y-15 reporting, increased frequency of Form FR 2052a reporting).

Foreign Banking Organizations

The revised Form FR Y-15 for FBOs will include two key differences:

— Appropriate line items to deduct certain interaffiliate transactions from CJA, and

— A column to report data for CUSO that will be used to determine the categorization of an FBO.

However, the Final Rules appear to require IHCs to determine their initial categorization upon the effective date of the Final Rules using the current, unrevised Form FR Y-15 from the four quarters in calendar year 2019. FBOs and their IHCs will not be required to file the revised Form FR Y-15 until August 2020, for the quarter ended June 30, 2020.

Because the calculation methodology for CJA will be a key determinant in the categorization of an IHC, it remains unclear whether an IHC that exceeds the $75 billion CJA threshold based on its unrevised 2019 filings will be expected to comply initially with Category II requirements and then be permitted to move to Category III (perhaps as many as four quarters after filing the first revised Form FR Y-15).

By contrast, FBOs' CUSO will be categorized on the basis of the first filing (June 30, 2020 as-of date) of the revised Form FR Y-15 and must comply with enhanced

[6] The Final Rule removes the SCCL applicable to "major" IHCs by eliminating the defined term "Major U.S. Intermediate Holding Companies." However, there currently are no IHCs that meet or exceed the $500 billion asset size threshold relevant to this definition.

prudential standards applicable to its Category from October 1, 2020. The relatively short timeframe to file the CUSO's first-ever Form FR Y-15 could introduce a significant compliance burden relative to U.S. banking organizations and/or could surface data quality issues. It is yet unclear whether flexibility may be provided for an FBO to categorize its CUSO, or change its categorization, based on Form FR Y-15 filings shortly after the first August 2020 submission, or whether the CUSO may have to wait for four quarters of lower indicators before being permitted to change.

Liquidity Reporting

Although the LCR and proposed NSFR are applied based on IHC attributes, frequency of liquidity reporting on Form FR 2052a is determined based on CUSO attributes. This has led to a divergence between the stringency of the underlying EPS and the frequency of reporting for some FBOs. For example, an FBO with a large branch and a small IHC may be placed in Category II due to the size of its CUSO (and therefore report liquidity positions daily), but its IHC may be placed in Category IV (and therefore not be subject to any standardized liquidity requirement). These institutions will face a reporting schedule that is not tailored to the applicable liquidity requirements, and will need to build infrastructure to report daily.

INITIAL CATEGORIZATION AND REPORTING DATES

	U.S. Organizations	IHCs	CUSO
Date for first categorization under 12 CFR 252.5	Effective date of final rule	Effective date of final rule	June 30, 2020 (compliance required by October 1, 2020)
First as-of date for amended FR Y-15	June 30, 2020	June 30, 2020	June 30, 2020
First as-of date for amended FR 2052a	June 30, 2020	October 1, 2020	October 1, 2020

This chart is adapted from the Board's chart in the Final Rules.

KEY EFFECTIVENESS AND COMPLIANCE DATES

— **General Effective Date:** 60 days after publication in the Federal Register.

— **Removal of the Mid-cycle Stress Test:** Beginning with the 2020 stress test cycle.

— **FBO and IHC Reporting and Categorization**

- *Initial Categorization (IHCs Only):* March 6, 2019, using data on the current Forms FR Y-15 filed for the four quarters of 2019.
- *Filing of Revised Form FR Y-15 (IHCs and FBOs):* August 19, 2020, using data as of June 30, 2020.

— **Initial Liquidity Reporting on Revised Form FR 2052a:** First report using data as of June 30, 2020 (U.S. banking organizations) or October 1, 2020 (IHCs and FBOs).

— **Liquidity Coverage Ratio:** Dates vary depending upon whether institution was already subject to the LCR prior to the Final Rules' effective date, and depending upon whether the LCR is becoming more stringent or less stringent for the institution based on its categorization.

— **SCCL**

- January 1, 2020 for FBOs that are "major foreign banking organizations" as of October 5, 2018.
- July 1, 2020 for FBOs and IHCs that are "covered foreign entities" as of October 5, 2018.
- January 1, 2021 for Category II and III IHCs that have less than $250 billion in assets to comply with the revised SCCL.

POTENTIAL FORTHCOMING RULEMAKINGS AND GUIDANCE

— ***Capital Plan Rule*****:** The Board plans to release a revised capital plan rule in the future. This forthcoming proposal is expected to provide additional flexibility, particularly for Category IV institutions that will be subject to biennial CCAR and DFAST. In addition, the proposal is expected to clarify the definition of "large and noncomplex", which is currently used to determine the scope of CCAR requirements.

— ***Stress Capital Buffer*****:** According to Vice Chair Quarles, the Board is working towards finalizing a stress capital buffer framework for the 2020 stress tests that will maintain the basic framework of the proposal (i.e., replacing the fixed 2.5% risk-based capital buffer with a firm-specific buffer based on stress test results), while incorporating specific changes to smooth the potential volatility of the buffer calibration and provide additional transparency to firms regarding the stress tests. According to Vice Chair Quarles, the stress capital buffer may, however, be reproposed to incorporate revisions to address its potential procyclicality, including by adjusting how the CCyB functions.

— ***Standardized Liquidity Requirements and Related Reporting Obligations***

- A final rule to adopt the proposed NSFR or an additional rulemaking regarding the proposed NSFR is expected.
- The Board is evaluating whether to require FBOs that report the FR 2052a on a monthly basis (i.e., Category III FBOs with less than $75bn in wSTWF and all Category IV FBOs) to report wSTWF on Form FR Y-15 using an average of day-end data (rather than an average of month-end data as required by the Final Rules).

— ***SCCL Implementation Gap Relief*****:** Under the Final Rules, many FBOs are required to certify compliance with home country SCCL standards that are consistent with the Basel large exposure regime.

- It is possible that not all home country regulators will adopt such SCCL rules in time for the first compliance date (January 1, 2020 for major FBOs) or the subsequent compliance date (July 1, 2020 for other FBOs).
- The reporting form associated with the SCCL (the proposed Form FR 2590) was not released with the Final Rules, and it is anticipated the Form and its instructions, or related guidance, may shed further light on this and related issues.

— ***Branch Liquidity Requirements*****:** The Board has not adopted standardized branch liquidity requirements at this time. The Board is still contemplating whether to develop and propose such requirements, subject to a policymaking process that will include international consultation coordinated through the Financial Stability Board.

— ***FFIEC 009/Cross-Jurisdictional Activity*****:** The Board stated that it is considering the appropriateness of "additional technical modifications and refinements" to the CJA indicator, based on a review of how claims and liabilities are calculated for purposes of Form FFIEC 009.

— ***Basel IV Implementation*****:** The Agencies are considering how to implement recent revisions to the Basel capital framework regarding methodologies for credit risk, operational risk and market risk, including potentially replacing the advanced approaches with requirements based on the revised Basel standardized approaches for credit risk and operational risk.

HIGHLIGHTS FOR FBOS

— ***Calibration of IHC Enhanced Prudential Standards Based on IHC Attributes***

- Most EPS for IHCs are calibrated based solely on the size and risk profile of the IHC, not the FBO's CUSO. The proposal would have applied SCCL and standardized liquidity requirements on the basis of CUSO attributes.
- Under the Final Rules, effects of an FBO's categorization based on CUSO attributes generally are limited to determining the frequency with which an FBO must conduct liquidity stress testing and liquidity reporting, the possibility of certain reductions in CUSO liquidity risk management requirements, and the frequency and content of resolution plans.

— ***Categorization and Transition***

- Initial categorization of an IHC must occur as of the effective date based on Form FR Y-15 data from 2019. However, an IHC is not required to file a revised FR Y-15 until August 2020 (as of June 30, 2020), and this gap raises questions about both the stringency of, and the length of time an IHC must comply with, its initial categorization.
- FBOs must file their first Form FR Y-15 reports for their CUSOs in August 2020 (as of June 30, 2020), and CUSOs must comply with the requirements of the resulting categorization by October 1, 2020.

— ***SCCL***

- Category II and III IHCs will need to calculate the SCCL based on Tier 1 capital and apply the special purpose vehicle look-through and economic interdependence/control tests. However, these IHCs may apply the less stringent 2018 SCCL rule from July 1, 2020, and comply with the enhanced requirements by January 1, 2021.
- The Board has not yet proposed relief for FBOs required to make a home country SCCL certification whose home countries might not adopt Basel-consistent SCCL rules in time for the first compliance date (January 1, 2020 for major FBOs) or the subsequent compliance date (July 1, 2020 for other FBOs).

— ***Liquidity Requirements for U.S. Branches and Agencies*****:** The Board did not impose a standardized liquidity requirement for the U.S. branches and agencies of FBOs, though they are contemplating whether to do so in the future after consulting with foreign regulators.

— ***Calculation of CJA*****:** The CJA risk-based indicator was adopted as proposed. As a result, FBOs can exclude interaffiliate liabilities and interaffiliate claims collateralized by financial collateral from the calculation.

— ***Reporting*****:** FBOs face short timelines for compliance with new reporting requirements:

- Form FR Y-15 reports must include CUSO attributes for the first time in the August 2020 filing (as of June 30, 2020).
- Some FR 2052a reporters will be undertaking daily reporting for the first time starting in October 2020.

Contacts

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

Michael H. Krimminger
Partner
Washington, D.C.
+1 202 974 1720
mkrimminger@cgsh.com

Derek M. Bush
Partner
Washington, D.C.
+1 202 974 1526
dbush@cgsh.com

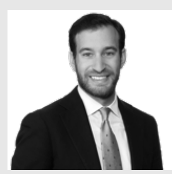
Katherine Mooney Carroll
Partner
Washington, D.C.
+1 202 974 1584
kcarroll@cgsh.com

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

Jack Murphy
Senior Counsel
Washington, D.C.
+1 202 974 1580
jmurphy@cgsh.com

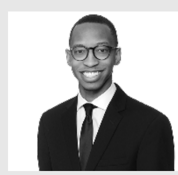
Allison H. Breault
Senior Attorney
Washington, D.C.
+1 202 974 1532
abreault@cgsh.com

Patrick Fuller
Senior Attorney
Washington, D.C.
+1 202 974 1534
pfuller@cgsh.com



Zachary L. Baum
Associate
Washington, D.C.
+1 202 974 1873
zbaum@cgsh.com

Lauren Gilbert
Associate
New York
+1 212 225 2624
lgilbert@cgsh.com



Brandon Hill
Associate
New York
+1 212 225 2331
bhill@cgsh.com

Julia A. Knight
Associate
New York
+1 212 225 2304
jknight@cgsh.com

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

Appendices

The charts in the appendices are as follows:

- Appendix A: Firm Categorization According to Board Projections and Movement Relative to Domestic and Foreign Bank Proposals
- Appendix B1: Capital and Stress Testing Requirements for U.S. Banking Organizations and Intermediate Holding Companies
- Appendix B2: Liquidity and Other Requirements for U.S. Banking Organizations and Intermediate Holding Companies
- Appendix C: Foreign Banks: Combined U.S. Operations Requirements and Intermediate Holding Company Requirements

Each of these charts was adapted from a visual in the domestic bank proposal, the foreign bank proposal or the Final Rules.

Glossary:

AOCI – accumulated other comprehensive income
CCAR – Comprehensive Capital Analysis and Review
CJA – cross-jurisdictional activity
CUSO – combined U.S. operations
DFAST – Dodd Frank Act Stress Test
FBO – foreign banking organization
GSIB – global systemically important bank
IHC – intermediate holding company
LCR – liquidity coverage ratio rule
LTD – long-term debt
NBA – nonbank assets
NSFR – net stable funding ratio proposed rule
OBE – off-balance sheet exposure
SCCL – single counterparty credit limits
TLAC – total loss absorbing capacity
wSTWF – weighted short-term wholesale funding

Appendix A: Firm Categorization According to Board Projections and Movement Relative to Domestic and Foreign Bank Proposals

List of Domestic Firms by Projected Category

	Category I	Category II	Category III	Category IV	Other Firms
	U.S. GSIBs	≥ $700b Total Assets or ≥ $75b in CJA	≥ $250b Total Assets or ≥ $75b in NBA, wSTWF, or OBE	Other firms with $100b to $250b Total Assets	$50b to $100b Total Assets
U.S. Domestic Banking Org.	Bank of America Bank of New York Mellon Citigroup Goldman Sachs JPMorgan Chase Morgan Stanley State Street Wells Fargo	Northern Trust	Capital One Charles Schwab PNC Financial U.S. Bancorp	Ally Financial American Express BB&T Corp. Citizens Financial Discover Fifth Third Huntington KeyCorp M&T Bank Regions Financial SunTrust Inc. Synchrony Financial	Comerica Inc. CIT Group Inc. E*TRADE Financial NY Community Bancorp Silicon Valley Bank

List of Foreign Firms by Projected Category (standards vary by legal entity)

	Category I	Category II	Category III	Category IV[1]	Other Firms
	U.S. GSIBs	≥ $700b Total Assets or ≥ $75b in CJA	≥ $250b Total Assets or ≥ $75b in NBA, wSTWF, or OBE	Other firms with $100b to $250b Total Assets	$50b to $100b Total Assets
Intermediate Holding Company			Barclays* Credit Suisse Deutsche Bank HSBC Toronto-Dominion UBS	Bank of Montreal BNP Paribas MUFG Royal Bank of Canada Banco Santander	BBVA
Combined U.S. Operations		Barclays Credit Suisse Deutsche Bank MUFG	HSBC Mizuho Royal Bank of Canada Toronto-Dominion UBS	Banco Santander Bank of Nova Scotia Bank of Montreal BBVA BNP Paribas BPCE Société Generálé Sumitomo Mitsui	[Bank of China][1] Canadian Imperial Crédit Agricole I & C Bank of China Norinchukin Rabobank

Red text denotes banks that (1) are projected by the Board to be subject to a more stringent category under the Final Rules than was projected under the respective proposed rules for foreign banks and domestic banks or (2) did not appear in the Board's projected categorization accompanying the proposed rules. **Red text** also denotes the Board's placement into Category II of certain foreign banks that were projected to be in Category II or III in the categorization accompanying the proposed rules.

Green text denotes banks that (1) are projected by the Board to be subject to a less stringent category under the Final Rules than was projected under the respective proposed rules for foreign banks and domestic banks or (2) appeared in the Board's projected categorization accompanying the proposed rules but are projected by the Board to fall outside the categorization. **Green text** also denotes the Board's placement into Category III of certain foreign banks that were projected to be in Category II or III in the categorization accompanying the proposed rules.

Black text denotes no change in terms of category projected by the Board.

[1] The foreign bank proposal projected that Bank of China would be subject to Category IV, but Bank of China did not appear in Final Rule projections.

Board Notes to the Categorization:

Projected categories are based on data for Q1 2019. Actual categories would be based on 4-quarter averages. For certain measures for foreign banks, conservative assumptions were used to estimate incomplete data.

* Identifies firms that would be subject to Category III standards with weighted short-term wholesale funding of more than $75 billion. Firms subject to Category III standards with weighted short-term wholesale funding of $75 billion or more would be subject to full standardized liquidity requirements.

Appendix B1: Capital and Stress Testing Requirements for U.S. Banking Organizations and Intermediate Holding Companies

Category I (U.S.) U.S. GSIBs	No Category I Equivalent for FBOs	Category II (U.S.) ≥ $700b Total Assets or ≥ $75b in CJA	Category II (IHC) ≥ $700b Total Assets or ≥ $75b in CJA	Category III (U.S.) ≥ $250b Total Assets or ≥ $75b in NBA, wSTWF, or OBE	Category III (IHC) ≥ $250b Total Assets or ≥ $75b in NBA, wSTWF, or OBE	Category IV (U.S.) $100b to $250b Total Assets	Category IV (IHC) $100b to $250b Total Assets	Other Firms (U.S.) $50b to $100b Total Assets	Other Firms (IHC) $50b to $100b Total Assets
TLAC/LTD			**Internal TLAC/LTD***		**Internal TLAC/LTD***		**Internal TLAC/LTD***		
Stress Testing • Annual CCAR • Annual DFAST • Annual capital plan submission • Annual company-run stress test disclosure • No mid-cycle stress test		**Stress Testing** • Annual CCAR • Annual DFAST • Annual capital plan submission • Annual company-run stress test disclosure • No mid-cycle stress test	**Stress Testing** • Annual CCAR • Annual DFAST • Annual capital plan submission • Annual company-run stress test disclosure • No mid-cycle stress test	**Stress Testing** • Annual CCAR • Annual DFAST • Annual capital plan submission • Company-run stress test disclosure every other year • No mid-cycle stress test	**Stress Testing** • Annual CCAR • Annual DFAST • Annual capital plan submission • Company-run stress test disclosure every other year • No mid-cycle stress test	**Stress Testing** • CCAR every other year • DFAST every other year • Annual capital plan submission • No company-run stress test disclosure	**Stress Testing** • CCAR every other year • DFAST every other year • Annual capital plan submission • No company-run stress test disclosure		
Risk-based capital • GSIB surcharge • Advanced approaches • Countercyclical Buffer • No opt-out of AOCI capital impact		**Risk-based capital** • Advanced approaches • Countercyclical Buffer • No opt-out of AOCI capital impact	**Risk-based capital** • Countercyclical Buffer • No opt-out of AOCI capital impact	**Risk-based capital** • Countercyclical Buffer • Allow opt-out of AOCI capital impact	**Risk-based capital** • Countercyclical Buffer • Allow opt-out of AOCI capital impact	**Risk-based capital** • Allow opt-out of AOCI capital impact	**Risk-based capital** • Allow opt-out of AOCI capital impact	**Risk-based capital** • Allow opt-out of AOCI capital impact	**Risk-based capital** • Allow opt-out of AOCI capital impact
Leverage Capital • Enhanced supplementary leverage ratio		**Leverage Capital** • Supplementary leverage ratio	**Leverage Capital** • Supplementary leverage ratio	**Leverage Capital** • Supplementary leverage ratio	**Leverage Capital** • Supplementary leverage ratio	**Leverage Capital**	**Leverage Capital**	**Leverage Capital**	**Leverage Capital**

Unless stated otherwise, in this chart and in the following chart, IHC characteristics determine IHC categorization.

*Requirement only applies to IHCs of GSIB parents.

Appendix B2: Liquidity and Other Requirements for U.S. Banking Organizations and Intermediate Holding Companies (IHCs)

	Category I (U.S.) U.S. GSIBs	No Category I Equivalent for FBOs	Category II (U.S.) ≥ $700b Total Assets or ≥ $75b in CJA	Category II (IHC) ≥ $700b Total Assets or ≥ $75b in CJA	Category III (U.S.) ≥ $250b Total Assets or ≥ $75b in NBA, wSTWF, or OBE	Category III (IHC) ≥ $250b Total Assets or ≥ $75b in NBA, wSTWF, or OBE	Category IV (U.S.) $100b to $250b Total Assets	Category IV (IHC) $100b to $250b Total Assets	Other Firms (U.S.) $50b to $100b Total Assets	Other Firms (IHC) $50b to $100b Total Assets
Liquidity	**Standardized** • Full daily LCR (100%) • Full daily NSFR (100%)		**Standardized** • Full daily LCR (100%) • Full daily NSFR (100%)	**Standardized** • Full daily LCR (100%) • Full daily NSFR (100%)	**Standardized** • If wSTWF < $75b: Reduced daily LCR and proposed NSFR (85%) • If wSTWF ≥ $75b: Full daily LCR and proposed NSFR (100%)	**Standardized** • If wSTWF < $75b: Reduced daily LCR and proposed NSFR (85%) • If wSTWF ≥ $75b: Full daily LCR and proposed NSFR (100%)	**Standardized** • If wSTWF ≥ $50b, reduced monthly LCR and proposed NSFR (70%) • No LCR or proposed NSFR otherwise	**Standardized** • If wSTWF ≥ $50b, reduced monthly LCR and proposed NSFR (70%) • No LCR or proposed NSFR otherwise		
	Reporting • Report FR 2052a daily		**Reporting** • Report FR 2052a daily	**Reporting**** • Report FR 2052a daily	**Reporting** • If wSTWF < $75b: report FR 2052a monthly • If wSTWF ≥ $75b: Report FR 2052a daily	**Reporting**** • If wSTWF < $75b: report FR 2052a monthly • If wSTWF ≥ $75b: Report FR 2052a daily	**Reporting** • Report FR 2052a monthly even if no LCR/NSFR	**Reporting**** • Report FR 2052a monthly even if no LCR/NSFR		
	Firm-specific • Liquidity stress tests (monthly) • Liquidity risk management		**Firm-specific** • Liquidity stress tests (monthly) • Liquidity risk management	**Firm-specific**** • Liquidity stress tests (monthly) • Liquidity risk management	**Firm-specific** • Liquidity stress tests (monthly) • Liquidity risk management	**Firm-specific**** • Liquidity stress tests (monthly) • Liquidity risk management	**Firm-specific** • Liquidity stress tests (quarterly) • Reduced liquidity risk management	**Firm-specific**** • Liquidity stress tests (quarterly) • Reduced liquidity risk management		**Home country requirements**** • Home country liquidity stress test if global assets ≥ $250b
SCCL	**SCCL** • More restrictive 15% limit to "major" parties		**SCCL** • Modified to be applicable even if < $250b	**SCCL** • CUSO must meet home country SCCL consistent with Basel** • IHC-level SCCL (no limited application afforded to $50b - $250b IHCs)	**SCCL** • Modified to be applicable even if < $250b	**SCCL** • CUSO must meet home country SCCL consistent with Basel** • IHC-level SCCL (no limited application afforded to $50b - $250b IHCs)	**SCCL** • Does not apply	**SCCL** • CUSO must meet home country SCCL consistent w/Basel if global assets ≥ $250b** • IHC exempt	**SCCL** • Does not apply	**SCCL** • CUSO must meet home country SCCL consistent w/Basel if global assets ≥ $250b** • IHC exempt
Risk management	**Risk Management** • Risk committee • Chief risk officer		**Risk Management** • Risk committee • Chief risk officer	**Risk Management**** • U.S. risk committee • Chief risk officer	**Risk Management** • Risk committee • Chief risk officer	**Risk Management**** • U.S. risk committee • Chief risk officer	**Risk Management** • Risk committee • Chief risk officer	**Risk Management**** • U.S. risk committee • Chief risk officer	**Risk Management** • Risk committee • Chief risk officer	**Risk Management**** • U.S. risk committee • Chief risk officer

**Requirements apply at the level of the CUSO and categorization is based on CUSO characteristics.

Appendix C: Foreign Banks: CUSO Requirements and IHC Requirements

	Category II (IHC) ≥ $700b Total Assets or ≥ $75b in CJA	Category II (CUSO) ≥ $700b U.S. Assets or ≥ $75b in CJA	Category III (IHC) ≥ $250b Total Assets or ≥ $75b in NBA, wSTWF, or OBE	Category III (CUSO) ≥ $250b U.S. Assets or ≥ $75b in NBA, wSTWF, or OBE	Category IV (IHC) Other firms with $100b to $250b Total Assets	Category IV (CUSO) Other firms with $100b to $250b U.S. Assets	Other Firms (IHC) $50b to $100b Total Assets	Other Firms (CUSO) $50b to $100b U.S. Assets
Capital	**Stress Testing** • Annual company-run stress test disclosure • Annual supervisory stress testing • Annual capital plan submission **Risk-Based Capital** • Advanced approaches • Countercyclical Buffer • No opt-out of AOCI capital impact **Leverage capital** • Supplementary leverage ratio	**Stress Testing** • Must be subject to home-country capital stress testing regime (stress tests annual) **Risk-Based and Leverage Capital** • Must certify to Basel-consistent capital adequacy standards	**Stress Testing** • Company-run stress test disclosure every other year • Annual supervisory stress testing • Annual capital plan submission **Risk-Based Capital** • Countercyclical Buffer • Allow opt-out of AOCI capital impact **Leverage capital** • Supplementary leverage ratio	**Stress Testing** • Must be subject to home-country capital stress testing regime (stress tests annual) **Risk-Based and Leverage Capital** • Must certify to Basel-consistent capital adequacy standards	**Stress Testing** • Supervisory stress testing (two-year cycle) • Annual capital plan submission **Risk-Based Capital** • Allow opt-out of AOCI capital impact **Leverage capital**	**Stress Testing** • Must be subject to home-country capital stress testing regime (stress tests biennial) **Risk-Based and Leverage Capital** • Must certify to Basel-consistent capital adequacy standards	**Risk-Based Capital** • Allow opt-out of AOCI capital impact **Leverage capital**	**Stress Testing** • If total global assets ≥ $100b, must be subject to home-country capital stress testing regime (stress tests annual if total global assets ≥ $250b, biennial otherwise) **Risk-Based and Leverage Capital** • If total global assets ≥ $250b, must certify to Basel-consistent capital adequacy standards
Risk Management		**Risk Committee** • Required (with liquidity risk management function) • U.S. Chief Risk Officer		**Risk Committee** • Required (with liquidity risk management function) • U.S. Chief Risk Officer		**Risk Committee** • Required (with liquidity risk management function) • U.S. Chief Risk Officer		**Risk Committee** • Required • U.S. Chief Risk Officer
SCCL	**SCCL** • IHC level SCCL	**SCCL** • Meet home country requirement	**SCCL** • IHC level SCCL	**SCCL** • Meet home country requirement		**SCCL** • Meet home country requirement if total global assets ≥ $250b		**SCCL** • Meet home country requirement if total global assets ≥ $250b
Standardized Liquidity	**Standardized** • Full LCR (100%) • Proposed full daily NSFR (100%)		**Standardized** • If wSTWF < $75b: Reduced daily LCR and NSFR (85%) • If wSTWF ≥ $75b: Full daily LCR and proposed NSFR (100%)		**Standardized** • If wSTWF < $50b: No LCR and NSFR • If wSTWF ≥ $50b: Reduced monthly LCR and proposed NSFR (70%)			
Enhanced Prudential Standards Liquidity Requirements		**Reporting** • Report FR 2052a daily **Internal** • Liquidity stress tests (monthly) • Liquidity risk management		**Reporting** • If wSTWF < $75b: Report FR 2052a monthly • If wSTWF ≥ $75b: Report FR 2052a daily **Internal** • Liquidity stress tests (monthly) • Liquidity risk management		**Reporting** • Report FR 2052a monthly even if no LCR/NSFR at IHC level **Internal** • Liquidity stress tests (quarterly) • Tailored liquidity risk management		**Internal** • If total global assets ≥ $250bn, must conduct annual Basel-consistent internal liquidity stress test for FBO or CUSO

This chart assumes that all CUSOs in Categories II and III have combined U.S. assets of $100b or greater. Chart does not include certain requirements applicable to foreign banks with limited U.S. presences and total global assets that are greater than or equal to $50b.