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June 30, 2020

The Honorable Mike Crapo
Chairman
The Honorable Sherrod Brown
Ranking Member
Committee on Banking, Housing, and Urban Affairs
United States Senate

The Honorable Maxine Waters
Chairwoman
The Honorable Patrick McHenry
Ranking Member
Committee on Financial Services
House of Representatives

Subject: *Department of the Treasury, Office of the Comptroller of the Currency; Federal Reserve System, Federal Deposit Insurance Corporation: Liquidity Coverage Ratio Rule: Treatment of Certain Emergency Facilities*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of the Treasury, Office of the Comptroller of the Currency; Federal Reserve System; Federal Deposit Insurance Corporation (the agencies) entitled “Liquidity Coverage Ratio Rule: Treatment of Certain Emergency Facilities” (RINs: 1557-AE92; 7100-AF90; 3064-AF51). We received the rule on June 12, 2020. It was published in the *Federal Register* as an interim final rule and became effective on May 6, 2020. 85 Fed. Reg. 26835. The agencies requested public comments by June 5, 2020. *Id.*

According to the agencies, to facilitate use of the Money Market Mutual Fund Liquidity Facility (MMLF) and the Paycheck Protection Program Liquidity Facility (PPPLF), and to ensure that the effects of their use are consistent and predictable under the Liquidity Coverage Ratio (LCR) rule, the agencies are adopting this interim final rule to require banking organizations to neutralize the effect under the LCR rule of participating in the MMLF and the PPPLF. The agencies stated that the Board of Governors of the Federal Reserve System (Board) authorized the establishment of the MMLF and the PPPLF, pursuant to section 13(3) of the Federal Reserve Act, Pub. L. No. 63-43, 38 Stat. 251 (Dec. 23, 1913), to provide liquidity to the money market sector, small business lenders, and the broader credit markets in order to stabilize the financial system.

The Congressional Review Act (CRA) requires a 60-day delay in the effective date of a major rule from the date of publication in the *Federal Register* or receipt of the rule by Congress, whichever is later. 5 U.S.C. § 801(a)(3)(A). The 60-day delay in effective date can be waived, however, if the agency finds for good cause that delay is impracticable, unnecessary, or contrary to the public interest, and the agency incorporates a statement of the findings and its

reasons in the rule issued. 5 U.S.C. §§ 553(b)(3)(B), 808(2). The agencies stated that they believe the public interest is best served by implementing the interim final rule immediately upon publication in the *Federal Register*. The agencies stated that in the absence of this interim final rule, banking organizations may be restricted in their ability to use the MMLF and PPPLF due to potential effects on their LCRs. The urgent funding pressures facing small businesses and money market mutual funds justify the adoption of this interim final rule as quickly as possible, according to the agencies.

Enclosed is our assessment of the agencies' compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shari Brewster, Assistant General Counsel, at (202) 512-6398.

A handwritten signature in black ink that reads "Shirley A. Jones". The signature is written in a cursive, flowing style.

Shirley A. Jones
Managing Associate General Counsel

Enclosure

cc: Shaquita Merritt
Program Specialist
Chief Counsel's Office
Department of the Treasury

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMPTROLLER OF THE CURRENCY;
FEDERAL RESERVE SYSTEM;
FEDERAL DEPOSIT INSURANCE CORPORATION
ENTITLED
“LIQUIDITY COVERAGE RATIO RULE: TREATMENT OF
CERTAIN EMERGENCY FACILITIES”
(RIN: 1557-AE92; 7100-AF90; 3064-AF51)

(i) Cost-benefit analysis

In their submission to us, the Department of the Treasury, Office of the Comptroller of the Currency (OCC); Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC) (collectively, the agencies) indicated that they did not prepare an analysis of the costs and benefits of this final rule.

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603-605, 607, and 609

The agencies stated that they are not required to conduct a regulatory flexibility analysis. The agencies noted that rules that are exempt from notice and comment are also exempt from RFA requirements, including conducting a regulatory flexibility analysis.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

The agencies stated that the Act does not apply to final rules for which a general notice of proposed rulemaking was not published. Therefore, according to the agencies, because they found good cause to dispense with notice and comment for the interim final rule, they did not prepare an economic analysis of the rule under the Act.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

The agencies determined they had good cause to waive notice and public procedure. According to the agencies, the containment measures adopted in response to the public health concerns have slowed economic activity in the United States. In particular, the agencies noted that these containment measures have acutely affected small businesses, money market mutual funds (MMFs), and financial markets generally. The agencies stated that significantly tighter financial conditions and the increased cost of credit for most borrowers have severely affected small businesses. According to the agencies, as millions of Americans have been ordered to stay home, severely reducing their ability to engage in normal commerce, revenue streams for many small businesses have collapsed. The agencies noted that this has resulted in severe liquidity constraints at small businesses and has forced many small businesses to close temporarily or furlough employees. The agencies stated that continued access to

financing will be crucial for small businesses to weather economic disruptions caused by the containment measures adopted in response to the public health concerns and, ultimately, to help restore economic activity. Additionally, the agencies noted that sudden disruptions in financial markets have put increasing liquidity pressure on MMFs. Given these pressures, stated the agencies, MMFs have been faced with increased redemption requests from clients with immediate cash needs. According to the agencies, the MMFs may need to sell a significant number of assets to meet these redemption requests, which could further increase market pressures. The agencies stated that to provide liquidity to banking organizations that lend to small business and the broader credit markets, and to prevent the disruption in the money markets from destabilizing the financial system, the Board, with approval of the Secretary of the Treasury, authorized each of the Federal Reserve Banks to extend credit under the Paycheck Protection Program Liquidity Facility (PPPLF) and the Federal Reserve Bank of Boston to establish the Money Market Mutual Fund Liquidity Facility (MMLF). According to the agencies, this interim final rule will provide certainty to covered companies regarding the liquidity treatment of inflows and outflows related to these Federal Reserve lending programs. The agencies stated that in the absence of this interim final rule, banking organizations may be restricted in their ability to use the MMLF and PPPLF due to potential effects on their Liquidity Coverage Ratios. The urgent funding pressures facing small businesses and MMFs justify the adoption of this interim final rule as quickly as possible, according to the agencies. For these reasons, the agencies find that there is good cause consistent with the public interest to issue the interim final rule without advance notice and comment. However, according to the agencies, while they believe that there is good cause to issue the interim final rule without advance notice and comment and with an immediate effective date, the agencies are interested in the views of the public and requested comment on all aspects of the interim final rule. Comments must have been received by June 5, 2020.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501-3520

According to the agencies, this interim final rule does not introduce any new information collection requirements (ICRs) or revise any existing ICRs pursuant to PRA for OCC and FDIC. Therefore, the agencies stated that no submissions will be made by the agencies to the Office of Management and Budget (OMB) for review. According to the agencies, the interim final rule does, however, affect the Board's current ICR for the Complex Institution Liquidity Monitoring Report (OMB Control Number 7100-0361). The Board estimated 917,440 annual burden hours associated with this information collection.

Statutory authorization for the rule

The agencies promulgated this final rule pursuant to sections 1 *et seq.*, 93a, 248(a), 321-338a, 481-486, 1462 *et seq.*, 1467a(g)(1), 1815, 1816, 1818, 1819, 1828, 1831p-1, 1831o-1, 1844(b), 3101 *et seq.*, 5365, 5366, 5368, and 5412 of title 12, United States Code.

Executive Order No. 12,866 (Regulatory Planning and Review)

As independent regulatory agencies, the agencies are not subject to the Order.

Executive Order No. 13,132 (Federalism)

As independent regulatory agencies, the agencies are not subject to the Order.