updated threshold for the asset-size exemption available publicly as soon as possible after all data needed for the calculation are available, the Bureau is making the final rule effective immediately upon publication in the **Federal Register**.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) does not apply to a rulemaking where general notice of proposed rulemaking is not required. 5 U.S.C. 603 and 604. As noted previously, the Bureau has determined that it is unnecessary to publish a general notice of proposed rulemaking for this final rule. Accordingly the RFA's requirements relating to an initial and final regulatory flexibility analysis do not apply.

List of Subjects in 12 CFR Part 1003

Banks, Banking, Credit unions, Mortgages, National banks, Savings associations, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons set forth in the preamble, the Bureau of Consumer Financial Protection amends 12 CFR part 1003 as follows:

PART 1003—HOME MORTGAGE DISCLOSURE (REGULATION C)

■ 1. The authority citation for part 1003 continues to read as follows:

Authority: 12 U.S.C. 2803, 2804, 2805, 5512, 5581.

■ 2. In Supplement I to part 1003, under *Section 1003.2—Definitions,* under the definition *''Financial institution'',* paragraph 2 is revised to read as follows:

Supplement I to Part 1003—Staff Commentary

* * * * *

Section 1003.2—Definitions

* * * * *

Financial institution.

* * * * *

2. *Adjustment of exemption threshold for banks, savings associations, and credit unions.* For data collection in 2013, the asset-size exemption threshold is $42 million. Banks, savings associations, and credit unions with assets at or below $42 million as of December 31, 2012, are exempt from collecting data for 2013.

* * * * *

Dated: December 21, 2012.

Richard Cordray,

Director, Consumer Financial Protection Bureau.

[FR Doc. 2012–31311 Filed 12–28–12; 8:45 am]

BILLING CODE 4810–AM–P

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 3

Minimum Capital Ratios; Issuance of Directives

CFR Correction

In Title 12 of the Code of Federal Regulations, Parts 1 to 199, revised as of January 1, 2012, on page 52, in appendix C to Part 3, Part I, Section 1 is revised to read as follows:

Appendix C to Part 3—Capital Adequacy Guidelines for Banks: Internal-Ratings-Based and Advanced Measurement Approaches

* * * * *

Part I. General Provisions

Section 1. Purpose, Applicability, Reservation of Authority, and Principle of Conservatism

(a) *Purpose.* This appendix establishes:

(1) Minimum qualifying criteria for banks using bank-specific internal risk measurement and management processes for calculating risk-based capital requirements;

(2) Methodologies for such banks to calculate their risk-based capital requirements; and

(3) Public disclosure requirements for such banks.

(b) *Applicability.* (1) This appendix applies to a bank that:

(i) Has consolidated assets, as reported on the most recent year-end Consolidated Report of Condition and Income (Call Report) equal to $250 billion or more;

(ii) Has consolidated total on-balance sheet foreign exposure at the most recent year-end equal to $10 billion or more (where total on-balance sheet foreign exposure equals total cross-border claims less claims with head office or guarantor located in another country plus redistributed guaranteed amounts to the country of head office or guarantor plus local country claims on local residents plus revaluation gains on foreign exchange and derivative products, calculated in accordance with the Federal Financial Institutions Examination Council (FFIEC) 009 Country Exposure Report);

(iii) Is a subsidiary of a depository institution that uses 12 CFR part 3, appendix C, 12 CFR part 208, appendix F, 12 CFR part 325, appendix D, or 12 CFR part 567, appendix C, to calculate its risk-based capital requirements; or

(iv) Is a subsidiary of a bank holding company that uses 12 CFR part 225, appendix G, to calculate its risk-based capital requirements.

(2) Any bank may elect to use this appendix to calculate its risk-based capital requirements.

(3) A bank that is subject to this appendix must use this appendix unless the OCC determines in writing that application of this appendix is not appropriate in light of the bank's asset size, level of complexity, risk profile, or scope of operations. In making a determination under this paragraph, the OCC will apply notice and response procedures in the same manner and to the same extent as the notice and response procedures in 12 CFR 3.12.

(c) *Reservation of authority*—(1) *Additional capital in the aggregate.* The OCC may require a bank to hold an amount of capital greater than otherwise required under this appendix if the OCC determines that the bank's risk-based capital requirement under this appendix is not commensurate with the bank's credit, market, operational, or other risks. In making a determination under this paragraph, the OCC will apply notice and response procedures in the same manner and to the same extent as the notice and response procedures in 12 CFR 3.12.

(2) *Specific risk-weighted asset amounts.* (i) If the OCC determines that the risk-weighted asset amount calculated under this appendix by the bank for one or more exposures is not commensurate with the risks associated with those exposures, the OCC may require the bank to assign a different risk-weighted asset amount to the exposures, to assign different risk parameters to the exposures (if the exposures are wholesale or retail exposures), or to use different model assumptions for the exposures (if relevant), all as specified by the OCC.

(ii) If the OCC determines that the risk-weighted asset amount for operational risk produced by the bank under this appendix is not commensurate with the operational risks of the bank, the OCC may require the bank to assign a different risk-weighted asset amount for operational risk, to change elements of its operational risk analytical framework, including distributional and dependence assumptions, or to make other changes to the bank's operational risk management processes, data and assessment systems, or quantification systems, all as specified by the OCC.

(3) *Regulatory capital treatment of unconsolidated entities.* If the OCC determines that the capital treatment for a bank's exposure or other relationship to an entity not consolidated on the bank's balance sheet is not commensurate with the actual risk relationship of the bank to the entity, for risk-based capital purposes, it may require the bank to treat the entity as if it were consolidated onto the bank's balance sheet and require the bank to hold capital against the entity's exposures. The OCC will look to the substance of and risk associated with the transaction as well as other relevant factors the OCC deems appropriate in determining whether to require such treatment and in determining the bank's compliance with minimum risk-based capital requirements. In making a determination under this paragraph, the OCC will apply notice and response procedures in the same manner and to the same extent as the notice and response procedures in 12 CFR 3.12.

(4) *Other supervisory authority.* Nothing in this appendix limits the authority of the OCC under any other provision of law or regulation to take supervisory or enforcement action, including action to address unsafe or unsound practices or conditions, deficient capital levels, or violations of law.

(d) *Principle of conservatism.* Notwithstanding the requirements of this appendix, a bank may choose not to apply a provision of this appendix to one or more exposures, provided that:

(1) The bank can demonstrate on an ongoing basis to the satisfaction of the OCC that not applying the provision would, in all circumstances, unambiguously generate a risk-based capital requirement for each such exposure greater than that which would otherwise be required under this appendix;

(2) The bank appropriately manages the risk of each such exposure;

(3) The bank notifies the OCC in writing prior to applying this principle to each such exposure; and

(4) The exposures to which the bank applies this principle are not, in the aggregate, material to the bank.

* * * * *

[FR Doc. 2012–31485 Filed 12–28–12; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 32

[Docket ID OCC–2012–0007]

RIN 1557–AD59

Lending Limits

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is amending its lending limits rule to extend the rule's temporary exception for credit exposures arising from a derivative transaction or securities financing transaction from January 1, 2013 to July 1, 2013.

DATES: This final rule is effective December 31, 2012. The effective date of amendatory instruction 3a of the interim final rule published on June 21, 2012, 77 FR 37277, is delayed from January 1, 2013 to July 1, 2013.

FOR FURTHER INFORMATION CONTACT: Jonathan Fink, Assistant Director, Bank Activities and Structure Division, (202) 649–5593; Heidi M. Thomas, Special Counsel, Legislative and Regulatory Activities Division, (202) 649–5490; or Kurt Wilhelm, Director for Financial Markets, (202) 649–6437, Office of the Comptroller of the Currency, Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

I. Description of Final Rule

Section 5200 of the Revised Statutes, 12 U.S.C. 84, provides that the total loans and extensions of credit by a national bank to a person outstanding at one time shall not exceed 15 percent of the unimpaired capital and unimpaired surplus of the bank if the loan or extension of credit is not fully secured, plus an additional 10 percent of unimpaired capital and unimpaired surplus if the loan is fully secured. Section 5(u)(1) of the Home Owners' Loan Act (HOLA), 12 U.S.C. 1464(u)(1), provides that section 5200 of the Revised Statutes ''shall apply to savings associations in the same manner and to the same extent as it applies to national banks.'' In addition, section 5(u)(2) of HOLA, 12 U.S.C. 1464(u)(2), includes exceptions to the lending limits for certain loans made by savings associations. These HOLA provisions apply to both Federal and state-chartered savings associations.

Section 610 of the Dodd-Frank Wall Street Reform and Consumer Protection Act [1] (Dodd-Frank Act) amended section 5200 of the Revised Statutes to provide that the definition of ''loans and extensions of credit'' includes any credit exposure to a person arising from a derivative transaction, repurchase agreement, reverse repurchase agreement, securities lending transaction, or securities borrowing transaction between a national bank and that person. This amendment was effective July 21, 2012. By virtue of section 5(u)(1) of the HOLA, this new definition of ''loans and extensions of credit'' applies to all savings associations as well as to national banks.

On June 21, 2012, the OCC published in the **Federal Register** an interim final rule that, among other things, amended the OCC's lending limits regulation, 12 CFR part 32, by implementing section 610 of the Dodd-Frank Act.[2] Specifically, the interim final rule amended part 32 to provide national banks and savings associations with different options for measuring the appropriate credit exposures of derivatives transactions and securities financing transactions, including an internal model option. The interim final rule was effective on July 21, 2012. Because the OCC recognized that national banks and savings associations would need additional time to comply with these new provisions, the interim final rule provided at 12 CFR 32.1(d) that the requirements of part 32 only apply to a credit exposure arising from a derivative transaction or securities financing transaction on or after January 1, 2013.[3]

Based on the public comments received on the interim final rule, the OCC concludes that institutions that wish to use an internal model method to determine credit exposure for derivative transactions and securities financing transactions may not have sufficient time to develop a model, receive approval for its use, and implement the model before the January 1, 2013 expiration of the temporary exception. Moreover, for many institutions with large portfolios, the other non-model methods to measure credit exposure provided by the rule often would not be optimal. For the foregoing reasons, the OCC is extending this exception to July 1, 2013,[4] in advance of finalizing the interim final rule. As indicated in the preamble to the interim final rule, notwithstanding this extension, the OCC retains full authority to address credit exposures that present undue concentrations on a case-by-case basis through our existing safety and soundness authorities.

II. Notice and Comment

This final rule is effective on December 31, 2012. Pursuant to the Administrative Procedure Act (APA), at 5 U.S.C. 553(b)(B), notice and comment are not required prior to the issuance of a final rule if an agency, for good cause, finds that ''notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.''

This final rule extends the temporary exception from the lending limits rules for extensions of credit arising from derivative transactions or securities financing transactions from January 1, 2013 to July 1, 2013 in order to provide national banks and savings associations with additional time to comply with these provisions. The rule makes no substantive changes to the lending limits rule. Furthermore, on November 16, 2012, the OCC announced its intention to extend this temporary exception,[5] thereby giving notice to

[1] Public Law 111–203, 124 Stat. 1376 (2010).

[2] 77 FR 37265 (June 21, 2012).

[3] The interim final rule also removed from the lending limits rule the securities reverse repurchase provision, redesignated as § 32.2(q)(1)(vii), on January 1, 2013 to correspond to the expiration of the exception for the section 610-related provisions. This final rule changes the date of this removal to July 1, 2013 as a conforming change.

[4] The OCC issued OCC Bulletin 2012–36 on November 16, 2012, to provide notice prior to finalizing the interim final rule of its intention to extend the exception to April 1, 2013 so that national banks and savings associations could adjust their preparations for compliance accordingly. Since then, the OCC has determined that it is more appropriate to extend the exception to July 1, 2013.

[5] *See* OCC Bulletin 2012–36.