

number of small business entities in accord with the spirit and purposes of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Accordingly, a regulatory flexibility analysis is not required. The impact of this proposed rule on banks regardless of size is expected to be minimal. Further, this proposed rule generally would apply to larger banks with significant trading account activities and would cover only trading activities and foreign exchange and commodity positions throughout the bank.

Board Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act, the Board does not believe this proposal would have a significant impact on a substantial number of small business entities in accord with the spirit and purposes of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Accordingly, a regulatory flexibility analysis is not required. In addition, because the risk-based capital standards generally do not apply to bank holding companies with consolidated assets of less than \$150 million, this proposal would not affect such companies.

FDIC Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601 *et seq.*), it is certified that the proposed rule would not have a significant impact on a substantial number of small entities.

IX. Paperwork Reduction Act and Regulatory Burden

OCC Regulatory Burden

Section 302 of the Riegle Community Development and Regulatory Improvement Act of 1994, Pub. L. 103-325, 108 Stat. 2160 (September 23, 1994), provides that the federal banking agencies must consider the administrative burdens and benefits of any new regulations that impose additional requirements on insured depository institutions. As discussed, this proposed rule would affect only a small number of banks and generally would cover only trading account activities and foreign exchange and commodity positions throughout the bank. Additionally, any burden imposed would be lessened to the extent that a bank may use its own qualifying internal market risk model. The OCC believes that any additional burden placed on a bank is outweighed by the advantages of greater accuracy in risk management and capital allocation,

which contribute to increased safety and soundness in the banking system.

Board Paperwork Reduction Act and Regulatory Burden

The Board has determined that this proposal would not increase the regulatory paperwork burden of banking organizations pursuant to the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Section 302 of the Riegle Community Development and Regulatory Improvement Act of 1994 (Pub. L. 103-325, 108 Stat. 2160) provides that the federal banking agencies must consider the administrative burdens and benefits of any new regulations that impose additional requirements on insured depository institutions. As noted above, the proposed market risk measure would affect only a small number of institutions. The Board believes that any additional burden placed on these institutions is outweighed by the advantages of greater accuracy in risk measurement and capital allocation, which contribute to increased safety and soundness in the banking system.

FDIC Paperwork Reduction Act

The FDIC has determined that his proposed rulemaking does not contain any collections of information as defined by the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

X. OCC Executive Order 12866 Determination

The Comptroller of the Currency has determined that this notice of proposed rulemaking is not a significant regulatory action under Executive Order 12866.

XI. OCC Unfunded Mandates Reform Act of 1995 Determination

Section 202 of the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act), Pub. L. 104-4, 109 Stat. 48 (March 22, 1995) requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. Because the OCC has determined that this notice of proposed rulemaking will not result in expenditures by state, local and tribal governments, or by the private sector, of more than \$100 million in any one year,

the OCC has not prepared a budgetary impact statement or specifically addressed the regulatory alternatives considered. As discussed in the preamble, this proposed rule may require additional capital for market risks. However, the application of this proposed rule would be generally limited to banks with significant trading account activities and would cover only foreign exchange and commodity positions throughout the bank. Currently, the OCC estimates that less than 25 national banks will be subject to the requirements of this proposed rule. In addition, any burden imposed on this small group of national banks would be lessened to the extent that a bank may use its own qualifying internal market risk model.

List of Subjects

12 CFR Part 3

Administrative practice and procedure, Capital, National banks, Reporting and recordkeeping requirements, Risk.

12 CFR Part 208

Accounting, Agriculture, Banks, banking, Confidential business information, Crime, Currency, Federal Reserve System, Mortgages, Reporting and recordkeeping requirements, Securities.

12 CFR Part 225

Administrative practice and procedure, Banks, banking, Federal Reserve System, Holding companies, Reporting and recordkeeping requirements, Securities.

12 CFR Part 325

Administrative practice and procedure, Banks, banking, Capital adequacy, Reporting and recordkeeping requirements, Savings associations, State non-member banks.

Authority and Issuance

OFFICE OF THE COMPTROLLER OF THE CURRENCY

12 CFR Chapter I

For the reasons set out in the preamble, part 3 of title 12, chapter I of the Code of Federal Regulations is proposed to be amended as set forth below.

PART 3—MINIMUM CAPITAL RATIOS; ISSUANCE OF DIRECTIVES

1. The authority citation for part 3 continues to read as follows:

Authority: 12 U.S.C. 93a, 161, 1818, 1828(n), 1828 note, 1831n note, 1835, 3907, and 3909.