

Signed in Washington, DC, on December 19, 2017.

Heather Manzano,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 2017-27894 Filed 12-26-17; 8:45 am]

BILLING CODE 3410-08-P

FEDERAL ELECTION COMMISSION

11 CFR Part 111

[Notice 2017-18]

Civil Monetary Penalties Annual Inflation Adjustments

AGENCY: Federal Election Commission.

ACTION: Final rule.

SUMMARY: As required by the Federal Civil Penalties Inflation Adjustment Act of 1990, the Federal Election Commission is adjusting for inflation the civil monetary penalties established under the Federal Election Campaign Act, the Presidential Election Campaign Fund Act, and the Presidential Primary Matching Payment Account Act. The civil monetary penalties being adjusted are those negotiated by the Commission or imposed by a court for certain statutory violations, and those imposed by the Commission for late filing of or failure to file certain reports required by the Federal Election Campaign Act. The adjusted civil monetary penalties are calculated according to a statutory formula and the adjusted amounts will apply to penalties assessed after the effective date of these rules.

DATES: This final rule is effective on December 27, 2017.

FOR FURTHER INFORMATION CONTACT: Mr. Neven F. Stipanovic, Acting Assistant General Counsel, or Mr. Eugene J. Lynch, Paralegal, Office of General Counsel, (202) 694-1650 or (800) 424-9530.

SUPPLEMENTARY INFORMATION: The Federal Civil Penalties Inflation Adjustment Act of 1990 (the “Inflation Adjustment Act”),¹ as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the “2015 Act”),² requires federal agencies, including the Commission, to adjust for inflation the civil monetary penalties within their jurisdiction according to prescribed formulas. A civil monetary penalty is “any penalty,

fine, or other sanction” that (1) “is for a specific monetary amount” or “has a maximum amount” under federal law; and (2) that a federal agency assesses or enforces “pursuant to an administrative proceeding or a civil action” in federal court.³ Under the Federal Election Campaign Act, 52 U.S.C. 30101-46 (“FECA”), the Commission may seek and assess civil monetary penalties for violations of FECA, the Presidential Election Campaign Fund Act, 26 U.S.C. 9001-13, and the Presidential Primary Matching Payment Account Act, 26 U.S.C. 9031-42.

The Inflation Adjustment Act requires federal agencies to adjust their civil penalties annually, and the adjustments must take effect no later than January 15 of every year.⁴ Pursuant to guidance issued by the Office of Management and Budget,⁵ the Commission is now adjusting its civil monetary penalties for 2018.⁶

The Commission must adjust for inflation its civil monetary penalties “notwithstanding Section 553” of the Administrative Procedures Act (“APA”).⁷ Thus, the APA’s notice-and-comment and delayed effective date requirements in 5 U.S.C. 553(b)-(d) do not apply because Congress has specifically exempted agencies from these requirements.⁸

Furthermore, because the inflation adjustments made through these final rules are required by Congress and involve no Commission discretion or policy judgments, these rules do not need to be submitted to the Speaker of the House of Representatives or the President of the Senate under the Congressional Review Act, 5 U.S.C. 801 *et seq.* Moreover, because the APA’s notice-and-comment procedures do not apply to these final rules, the Commission is not required to conduct a regulatory flexibility analysis under 5 U.S.C. 603 or 604. *See* 5 U.S.C. 601(2), 604(a). Nor is the Commission required to submit these revisions for congressional review under FECA. *See* 5 U.S.C. 30111(d)(1), (4) (providing for

congressional review when Commission “prescribe[s]” a “rule of law”).

The new penalty amounts will apply to civil monetary penalties that are assessed after the date the increase takes effect, even if the associated violation predated the increase.⁹

Explanation and Justification

The Inflation Adjustment Act requires the Commission to annually adjust its civil monetary penalties for inflation by applying a cost-of-living-adjustment (“COLA”) ratio.¹⁰ The COLA ratio is the percentage that the Consumer Price Index (“CPI”) ¹¹ “for the month of October preceding the date of the adjustment” exceeds the CPI for October of the previous year.¹² To calculate the adjusted penalty, the Commission must increase the most recent civil monetary penalty amount by the COLA ratio.¹³ According to the Office of Management and Budget, the COLA ratio for 2018 is 0.02041, or 2.041%; thus, to calculate the new penalties, the Commission must multiply the most recent civil monetary penalties in force by 1.02041.¹⁴

The Commission assesses two types of civil monetary penalties that must be adjusted for inflation. First are penalties that are either negotiated by the Commission or imposed by a court for violations of FECA, the Presidential Election Campaign Fund Act, or the Presidential Primary Matching Payment Account Act. These civil monetary penalties are set forth at 11 CFR 111.24. Second are the civil monetary penalties assessed through the Commission’s Administrative Fines Program for late filing or non-filing of certain reports required by FECA. *See* 52 U.S.C. 30109(a)(4)(C) (authorizing Administrative Fines Program), 30104(a) (requiring political committee treasurers to report receipts and disbursements within certain time periods). The penalty schedules for these civil monetary penalties are set out at 11 CFR 111.43 and 111.44.

1. 11 CFR 111.24—Civil Penalties

FECA establishes the civil monetary penalties for violations of FECA and the other statutes within the Commission’s jurisdiction. *See* 52 U.S.C. 30109(a)(5), (6), (12). Commission regulations in 11

⁹ Inflation Adjustment Act § 6.

¹⁰ The COLA ratio must be applied to the most recent civil monetary penalties. Inflation Adjustment Act, § 4(a); *see also* OMB Memorandum at 2.

¹¹ The Inflation Adjustment Act, sec. 3, uses the CPI “for all-urban consumers published by the Department of Labor.”

¹² Inflation Adjustment Act, § 5(b)(1).

¹³ Inflation Adjustment Act, § 5(a), (b)(1).

¹⁴ OMB Memorandum at 1.

¹ Public Law 101-410, 104 Stat. 890 (codified at 28 U.S.C. 2461 note), amended by Debt Collection Improvement Act of 1996, Public Law 104-134, sec. 31001(s)(1), 110 Stat. 1321, 1321-373; Federal Reports Elimination Act of 1998, Public Law 105-362, sec. 1301, 112 Stat. 3280.

² Public Law 114-74, 701, 129 Stat. 584, 599.

³ Inflation Adjustment Act § 3(2).

⁴ Inflation Adjustment Act § 4(a).

⁵ *See* Inflation Adjustment Act § 7(a) (requiring OMB to “issue guidance to agencies on implementing the inflation adjustments required under this Act”); *see also* Memorandum from Mick Mulvaney, Director, Office of Management and Budget, to Heads of Executive Departments and Agencies, M-18-03 (Dec. 15, 2017), <https://www.whitehouse.gov/wp-content/uploads/2017/11/M-18-03.pdf> (“OMB Memorandum”).

⁶ Inflation Adjustment Act § 5.

⁷ Inflation Adjustment Act § 4(b)(2).

⁸ *See, e.g., Asiana Airlines v. FAA*, 134 F.3d 393, 396-99 (D.C. Cir. 1998) (finding APA “notice and comment” requirement not applicable where Congress clearly expressed intent to depart from normal APA procedures).

CFR 111.24 provide the current inflation-adjusted amount for each such civil monetary penalty. To calculate the adjusted civil monetary penalty, the

Commission multiplies the most recent penalty amount by the COLA ratio and rounds that figure to the nearest dollar.

The actual adjustment to each civil monetary penalty is shown in the chart below.

Section	Most recent civil penalty	COLA	New civil penalty
11 CFR 111.24(a)(1)	\$19,057	1.02041	\$19,446
11 CFR 111.24(a)(2)(i)	40,654	1.02041	41,484
11 CFR 111.24(a)(2)(ii)	66,666	1.02041	68,027
11 CFR 111.24(b)	5,701	1.02041	5,817
11 CFR 111.24(b)	14,252	1.02041	14,543

2. 11 CFR 111.43, 111.44— Administrative Fines

FECA authorizes the Commission to assess civil monetary penalties for violations of the reporting requirements of 52 U.S.C. 30104(a) according to the penalty schedules “established and published by the Commission.” 52 U.S.C. 30109(a)(4)(C)(i). The Commission has established two such schedules: The schedule in 11 CFR 111.43(a) applies to reports that are not election sensitive, and the schedule in 11 CFR 111.43(b) applies to reports that are election sensitive.¹⁵ Each schedule contains two columns of penalties, one for late-filed reports and one for non-filed reports, with penalties based on the level of financial activity in the report and, if late-filed, its lateness.¹⁶ In addition, 11 CFR 111.43(c) establishes a civil monetary penalty for situations in

which a committee fails to file a report and the Commission cannot calculate the relevant level of activity. Finally, 11 CFR 111.44 establishes a civil monetary penalty for failure to file timely reports of contributions received less than 20 days, but more than 48 hours, before an election. *See* 52 U.S.C. 30104(a)(6).

To determine the adjusted civil monetary penalty amount for each level of activity, the Commission multiplies the most recent penalty amount by the COLA ratio and rounds that figure to the nearest dollar. The new civil monetary penalties are shown in the schedules in the rule text, below.

List of Subjects in 11 CFR Part 111

Administrative practice and procedures, Elections, Law enforcement, Penalties.

For the reasons set out in the preamble, the Federal Election

Commission amends subchapter A of chapter I of title 11 of the Code of Federal Regulations as follows:

PART 111—COMPLIANCE PROCEDURE (52 U.S.C. 30109, 30107(a))

■ 1. The authority citation for part 111 continues to read as follows:

Authority: 52 U.S.C. 30102(i), 30109, 30107(a), 30111(a)(8); 28 U.S.C. 2461 nt.

§ 111.24 [Amended]

■ 2. Section 111.24 is amended as follows:

In the table below, for each section indicated in the left column, remove the number indicated in the middle column, and add in its place the number indicated in the right column.

Section	Remove	Add
111.24(a)(1)	\$19,057	\$19,446
111.24(a)(2)(i)	40,654	41,484
111.24(a)(2)(ii)	66,666	68,027
111.24(b)	5,701	5,817
111.24(b)	14,252	14,543

■ 3. Section 111.43 is amended by revising paragraphs (a), (b), and (c) to read as follows:

§ 111.43 What are the schedules of penalties?

(a) The civil money penalty for all reports that are filed late or not filed,

except election sensitive reports and pre-election reports under 11 CFR 104.5, shall be calculated in accordance with the following schedule of penalties:

If the level of activity in the report was:	And the report was filed late, the civil money penalty is:	Or the report was not filed, the civil money penalty is:
\$1–4,999.99 ^a	[\$34 + (\$6 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$333 × [1 + (.25 × Number of previous violations)].
\$5,000–9,999.99	[\$66 + (\$6 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$400 × [1 + (.25 × Number of previous violations)].
\$10,000–24,999.99	[\$142 + (\$6 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$667 × [1 + (.25 × Number of previous violations)].
\$25,000–49,999.99	[\$283 + (\$27 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$1200 × [1 + (.25 × Number of previous violations)].
\$50,000–74,999.99	[\$426 + (\$107 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$3828 × [1 + (.25 × Number of previous violations)].

¹⁵ Election sensitive reports are certain reports due shortly before an election. *See* 11 CFR 111.43(d)(1).

¹⁶ A report is considered to be “not filed” if it is never filed or is filed more than a certain number of days after its due date. *See* 11 CFR 111.43(e).

If the level of activity in the report was:	And the report was filed late, the civil money penalty is:	Or the report was not filed, the civil money penalty is:
\$75,000–99,999.99	$[\$567 + (\$142 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$4961 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$100,000–149,999.99	$[\$850 + (\$178 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$6380 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$150,000–199,999.99	$[\$1135 + (\$212 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$7797 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$200,000–249,999.99	$[\$1417 + (\$248 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$9214 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$250,000–349,999.99	$[\$2127 + (\$283 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$11,341 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$350,000–449,999.99	$[\$2836 + (\$283 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$12,758 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$450,000–549,999.99	$[\$3544 + (\$283 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$13,466 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$550,000–649,999.99	$[\$4253 + (\$283 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$14,177 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$650,000–749,999.99	$[\$4961 + (\$283 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$14,885 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$750,000–849,999.99	$[\$5670 + (\$283 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$15,594 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$850,000–949,999.99	$[\$6380 + (\$283 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$16,302 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$950,000 or over	$[\$7088 + (\$283 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$17,011 \times [1 + (.25 \times \text{Number of previous violations})]$.

^a The civil money penalty for a respondent who does not have any previous violations will not exceed the level of activity in the report.

(b) The civil money penalty for election sensitive reports that are filed late or not filed shall be calculated in accordance with the following schedule of penalties:

If the level of activity in the report was:	And the report was filed late, the civil money penalty is:	Or the report was not filed, the civil money penalty is:
\$1–\$4,999.99 ^a	$[\$66 + (\$13 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$667 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$5,000–\$9,999.99	$[\$134 + (\$13 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$800 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$10,000–24,999.99	$[\$200 + (\$13 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$1200 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$25,000–49,999.99	$[\$426 + (\$34 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$1866 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$50,000–74,999.99	$[\$638 + (\$107 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$4253 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$75,000–99,999.99	$[\$850 + (\$142 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$5670 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$100,000–149,999.99	$[\$1276 + (\$178 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$7088 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$150,000–199,999.99	$[\$1701 + (\$212 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$8505 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$200,000–249,999.99	$[\$2127 + (\$248 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$10,633 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$250,000–349,999.99	$[\$3190 + (\$283 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$12,758 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$350,000–449,999.99	$[\$4253 + (\$283 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$14,177 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$450,000–549,999.99	$[\$5316 + (\$283 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$15,594 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$550,000–649,999.99	$[\$6380 + (\$283 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$17,011 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$650,000–749,999.99	$[\$7442 + (\$283 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$18,430 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$750,000–849,999.99	$[\$8505 + (\$283 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$19,846 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$850,000–949,999.99	$[\$9569 + (\$283 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$21,263 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$950,000 or over	$[\$10,633 + (\$283 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$22,682 \times [1 + (.25 \times \text{Number of previous violations})]$.

^a The civil money penalty for a respondent who does not have any previous violations will not exceed the level of activity in the report.

(c) If the respondent fails to file a required report and the Commission cannot calculate the level of activity under paragraph (d) of this section, then the civil money penalty shall be \$7,797.

* * * * *

§ 111.44 [Amended]

■ 4. In § 111.44, amend paragraph (a)(1) by removing “\$139” and adding in its place “\$142”.

Dated: December 19, 2017.

On behalf of the Commission.

Steven T. Walther,

Chairman, Federal Election Commission.

[FR Doc. 2017–27808 Filed 12–26–17; 8:45 am]

BILLING CODE 6715–01–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Parts 25 and 195

[Docket ID OCC–2017–0025]

RIN 1557–AE30

FEDERAL RESERVE SYSTEM

12 CFR Part 228

[Regulation BB; Docket No. R–1574]

RIN 7100–AE84

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 345

RIN 3064–AE58

Community Reinvestment Act Regulations

AGENCY: Office of the Comptroller of the Currency, Treasury (OCC); Board of Governors of the Federal Reserve System (Board); and Federal Deposit Insurance Corporation (FDIC).

ACTION: Joint final rule; technical amendment.

SUMMARY: The OCC, the Board, and the FDIC (collectively, the Agencies) are amending their Community Reinvestment Act (CRA) regulations to adjust the asset-size thresholds used to define “small bank” or “small savings association” and “intermediate small bank” or “intermediate small savings association.” As required by the CRA regulations, the adjustment to the threshold amount is based on the annual percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI–W). The FDIC is also amending its definition

of “consumer loan” to correct a typographical error included in a CRA final rule issued on November 24, 2017.

DATES: *Effective Date:* January 1, 2018.

FOR FURTHER INFORMATION CONTACT:

OCC: Emily Boyes, Attorney, Community and Consumer Law Division, (202) 649–6350; Christopher Rafferty, Law Clerk, Legislative and Regulatory Activities Division, (202) 649–5490; for persons who are deaf or hearing impaired, TTY, (202) 649–5597; or Vonda Eanes, Director, Compliance Risk Policy Division, (202) 649–5470, Office of the Comptroller of the Currency, 400 7th Street SW, Washington, DC 20219.

Board: Amal S. Patel, Senior Supervisory Consumer Financial Services Analyst, (202) 912–7879; or Cathy Gates, Senior Project Manager, (202) 452–2099, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

FDIC: Patience R. Singleton, Senior Policy Analyst, Supervisory Policy Branch, Division of Depositor and Consumer Protection, (202) 898–6859; or Richard M. Schwartz, Counsel, Legal Division, (202) 898–7424, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

Background and Description of the Joint Final Rule

The Agencies’ CRA regulations establish CRA performance standards for small and intermediate small banks and savings associations. The CRA regulations define small and intermediate small banks and savings associations by reference to asset-size criteria expressed in dollar amounts, and they further require the Agencies to publish annual adjustments to these dollar figures based on the year-to-year change in the average of the CPI–W, not seasonally adjusted, for each 12-month period ending in November, with rounding to the nearest million. 12 CFR 25.12(u)(2), 195.12(u)(2), 228.12(u)(2), and 345.12(u)(2). This adjustment formula was first adopted for CRA purposes by the OCC, the Board, and the FDIC on August 2, 2005, effective September 1, 2005. 70 FR 44256 (Aug. 2, 2005). The Agencies noted that the CPI–W is also used in connection with other federal laws, such as the Home Mortgage Disclosure Act. *See* 12 U.S.C. 2808; 12 CFR 1003.2. On March 22, 2007, and effective July 1, 2007, the former Office of Thrift Supervision (OTS), the agency then responsible for regulating savings associations, adopted

an annual adjustment formula consistent with that of the other federal banking agencies in its CRA rule previously set forth at 12 CFR part 563e. 72 FR 13429 (Mar. 22, 2007).

Pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act),¹ effective July 21, 2011, CRA rulemaking authority for federal and state savings associations was transferred from the OTS to the OCC, and the OCC subsequently republished, at 12 CFR part 195, the CRA regulations applicable to those institutions.² In addition, the Dodd-Frank Act transferred responsibility for supervision of savings and loan holding companies and their non-depository subsidiaries from the OTS to the Board, and the Board subsequently amended its CRA regulation to reflect this transfer of supervisory authority.³

The threshold for small banks and small savings associations was revised most recently in December 2016 and became effective January 18, 2017. 82 FR 5354 (Jan. 18, 2017). The current CRA regulations provide that banks and savings associations that, as of December 31 of either of the prior two calendar years, had assets of less than \$1.226 billion are small banks or small savings associations. Small banks and small savings associations with assets of at least \$307 million as of December 31 of both of the prior two calendar years and less than \$1.226 billion as of December 31 of either of the prior two calendar years are intermediate small banks or intermediate small savings associations. 12 CFR 25.12(u)(1), 195.12(u)(1), 228.12(u)(1), and 345.12(u)(1). This joint final rule revises these thresholds.

During the 12-month period ending November 2017, the CPI–W increased by 2.11 percent. As a result, the Agencies are revising 12 CFR 25.12(u)(1), 195.12(u)(1), 228.12(u)(1), and 345.12(u)(1) to make this annual adjustment. Beginning January 1, 2018, banks and savings associations that, as of December 31 of either of the prior two calendar years, had assets of less than \$1.252 billion are small banks or small savings associations. Small banks and small savings associations with assets of at least \$313 million as of December 31 of both of the prior two calendar years and less than \$1.252 billion as of December 31 of either of the prior two calendar years are intermediate small banks or intermediate small savings

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

² *See* OCC interim final rule, 76 FR 48950 (Aug. 9, 2011).

³ *See* Board interim final rule, 76 FR 56508 (Sept. 13, 2011).