

Regulatory Alert

Regulatory Insights for Financial Services

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Recovery Planning: OCC Proposed Rule

The Office of the Comptroller of the Currency (OCC) issues a notice of [proposed rulemaking](#) to amend its recovery planning guidelines (Guidelines), which are generally applicable to insured national banks, federal savings associations, and federal branches of foreign banks with total consolidated assets of \$250 billion or more (collectively, covered banks). The amendments would:

- Lower the covered bank threshold from \$250 billion to \$100 billion in total consolidated assets.
- Add a testing standard that mandates periodic, but at least annual, testing of the recovery plan and its elements to validate the plan’s effectiveness during severe stress.

- Clarify that a recovery plan must consider financial risk and non-financial risk (including operational and strategic risks).

Key features of the OCC Guidelines require each covered bank to develop and maintain a recovery plan that is specific to that covered bank and appropriate for its individual size, risk profile, activities, and complexity, including the complexity of its organizational and legal entity structure. The plan should consider both financial risk and non-financial risk (including operational and strategic risk), and include the following elements:

Recover Plan Elements	Description
Overview	Overall organizational and legal entity structure, including its material entities, critical operations, core business lines, core management information systems, and interconnections and interdependencies.
Triggers	Financial and non-financial triggers that reflect the bank's specific vulnerabilities.
Options for Recovery	A range of credible options, including execution and timing, to restore financial strength and viability, thereby allowing the bank to continue to operate as a going concern and to avoid liquidation or resolution.
Impact Assessments	For each recovery option, assessment, and description of effects, including implications for capital, liquidity, funding, profitability, material entities, critical operations, core business lines, risk profile as well as potential legal, market, or regulatory obstacles.
Escalation Procedures	Process for escalating decision-making to senior management or the board of directors in response to the breach of any trigger.
Management Reports	Reporting sufficient data and information to senior management or board to make timely decisions regarding the appropriate actions necessary to respond to the breach of a trigger.
Communications Procedures	Process for notifying OCC about significant trigger breaches and actions taken; internal and external communication processes.
Other	Any additional information communicated in writing by the OCC regarding the bank's recovery plan.

As proposed, compliance with the rule would require:

- Current covered banks (those with \$250 billion or more in total consolidated assets) to comply with the amendments within 12 months after the effective date.
- Newly covered banks (with total consolidated assets between \$100 billion and \$250 billion in total consolidated assets) to comply with the Guidelines within 12 months after the effective date and 18 months to comply with the testing standard.
- Banks that become covered banks after the effective date to comply with the Guidelines within 12 months after the date they become a

covered bank and 18 months to comply with the testing standard.

Comments will be accepted through August 2, 2024.

The OCC proposal follows soon after the Federal Deposit Insurance Corporation's (FDIC) final rule on resolution plans for insured depository institutions with \$100 billion or more in total assets (see KPMG Regulatory Alert [here](#)). Separately, the FDIC and Federal Reserve Board are expected to release final guidance on "living wills" to be submitted by Category II and III financial institutions (see KPMG Regulatory [here](#) on the release of the previously proposed guidance).

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