posed by uncleared swaps to swap dealers, major swap participants, and the overall U.S. financial system.[1] In this regard, the CFTC Margin Rules—and other rules around the world requiring margin for uncleared swaps—are a fundamental component of the regulatory reforms adopted in the wake of the 2008 financial crisis.

In 2016, the CFTC adopted its cross-border margin rule to permit swap dealers and major swap participants located in non-U.S. jurisdictions to comply with the CFTC's Margin Rules by meeting the similar rules of their home jurisdiction *if* the Commission has deemed those rules comparable.[2] This framework for ''substituted compliance'' supports the global nature of the swaps market and conforms to the directive in the Dodd-Frank Act for the Commission to consult and coordinate with international regulators to establish consistent international standards for the regulation of swaps entities and activities.[3] The substituted compliance framework helps reduce duplicative and overlapping regulatory requirements where effective comparable regulation exists, facilitates the ability of U.S. market participants to compete in foreign jurisdictions, and is consistent with the principle of international comity.

The CFTC's cross-border margin rule establishes an outcomes-based approach that considers a number of factors and does not require strict conformity with the CFTC Margin Rules. As I have said before, a comparability determination should not be based solely on the home country's written laws and regulations, but also consider the country's broader system of regulation, including oversight and enforcement. In addition, the nature of the other country's relevant markets may be taken into account. Finally, in considering these issues, the Commission should keep in mind the principle of comity: The reciprocal recognition of the legislative, executive, and judicial acts of another jurisdiction.[4]

The Australia Determination finds the margin requirements for uncleared swaps under Australian laws, regulations, standards, and other materials comparable in outcome to the CFTC's Margin Rules. The CFTC staff engaged with staff of the Australian Prudential Regulation Authority (''APRA''), and evaluated prudential standards and other materials provided by APRA to develop an understanding of APRA's regulatory objectives, the products and entities subject to margin requirements, the treatment of inter-affiliate swaps, and other aspects of APRA's margin rules. The in-depth analysis outlined in today's Australia Determination reflects a holistic understanding by the Commission of APRA's margin rules and its prudential oversight practices. The analysis also observes that the CFTC Margin Rules and APRA's margin requirements for uncleared swaps are not identical. In a number of instances, APRA's specific requirements are not as comprehensive as the CFTC's Margin Rules. However, the determination explains how mitigating factors—such as certain of APRA's risk management requirements and differences in the size of the two countries' swap markets and of the market participants in them—support a determination that the two systems of regulation have similar outcomes.

For example, unlike the CFTC Margin Rule, APRA only requires that variation margin be exchanged between counterparties whose average notional amount of uncleared swaps exceeds a certain threshold. However, as noted in the determination, Australia's non-centrally cleared swaps market is highly concentrated in large entities that exceed that threshold, and the large majority of transactions would therefore be subject to variation margin. Furthermore, as noted in the determination, if an Australian entity that would otherwise be subject to the CFTC Margin Rules, but for substituted compliance, enters into swaps with any U.S. entity covered by the CFTC Margin Rules, then both entities are required to exchange margin under our rules. This reduces the potential for risks from swap activities overseas finding their way to the United States.

As with other jurisdictions where the legal and regulatory structure does not mirror our own, and the substituted compliance determinations are based on the overall outcome of the regulatory system, subsequent monitoring may be appropriate to confirm that our initial understanding of the regulatory structure and the expected outcomes is accurate. Accordingly, I encourage the CFTC staff to periodically assess the implementation of this determination to confirm our expectations are accurate.

I thank the CFTC staff for their thorough work on this determination and appreciate their responsiveness to our comments and suggestions. I would also like to thank my fellow Commissioners for their collaboration in helping us reach this positive outcome.

[FR Doc. 2019–06319 Filed 4–2–19; 8:45 am]

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[1] *See* Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants, 81 FR 636 (Jan. 6, 2016).

[2] *See* Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants–Cross-Border Application of the Margin Requirements, 81 FR 34818 (May 31, 2016).

[3] *See* Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376, at section 752 (2010).

[4] *See* Restatement (Third) of The Foreign Relations Law in the United States, section 101 (1987) (Am. Law Inst. 2019); *https://www.law.cornell.edu/wex/comity.*

DEPARTMENT OF THE TREASURY

31 CFR Part 34

RIN 1505–AC55

Gulf Coast Restoration Trust Fund

AGENCY: Office of the Fiscal Assistant Secretary, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury (Treasury) is issuing a final rule to revise the method by which the statutory three percent limitation on administrative costs (referred to throughout this notice as the ''three percent administrative cost cap'') is applied under the Direct Component, Comprehensive Plan Component, and Spill Impact Component under the Resources and Ecosystem Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012, (RESTORE Act or Act). This revision will help ensure that the Gulf Coast States and localities have the necessary funding to efficiently and effectively oversee and manage projects and programs for ecological and economic restoration of the Gulf Coast Region while ensuring compliance with the statutory three percent administrative cost cap.

DATES: Effective May 3, 2019.

FOR FURTHER INFORMATION CONTACT: The Office of Gulf Coast Restoration at *restoreact@treasury.gov,* or Laurie McGilvray, Program Director, at 202–622–7340.

SUPPLEMENTARY INFORMATION:

I. Background

The RESTORE Act makes funds available for the ecological and economic restoration of the Gulf Coast Region, and certain programs with respect to the Gulf of Mexico, through a trust fund in the Treasury of the United States known as the Gulf Coast Restoration Trust Fund (trust fund). The trust fund holds 80 percent of the administrative and civil penalties paid under the Federal Water Pollution Control Act after July 6, 2012, in connection with the *Deepwater Horizon* Oil Spill.

Treasury administers two of the five components established by the Act, the Direct Component and Centers of Excellence Research Grants Program. The Act also established an independent Federal entity, the Gulf Coast Ecosystem Restoration Council (Council), to administer two components of the Act, the Comprehensive Plan Component and the Spill Impact Component. The National Oceanic and Atmospheric Administration (NOAA) administers one component, the NOAA RESTORE Act Science Program. This final rule only affects grants under the Direct Component, Comprehensive Plan Component, and Spill Impact Component of the Act, which are collectively referred to throughout this notice as the three ''components.''

On December 14, 2015, Treasury promulgated final regulations concerning the RESTORE Act, codified at 31 CFR part 34, which became

effective on February 12, 2016 (the ''regulations''). 80 FR 77239. They contain two relevant limitations on the amount of grant funds that may be used for administrative costs.

First, the regulations subject grants to government-wide cost principles. They define ''administrative costs'' as ''indirect costs for administration'' and provide that such ''[c]osts must comply with administrative requirements and cost principles in applicable federal laws and policies on grants.'' 31 CFR 34.2, 34.200(a)(1). They exclude ''indirect costs that are identified specifically with, or readily assignable to, facilities'' from the definition of ''administrative costs.''

Indirect cost principles are contained in the Office of Management and Budget (OMB) ''Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards'' (the Uniform Guidance) in 2 CFR part 200, which Treasury has adopted. 2 CFR 1000.10. Indirect costs are defined in 2 CFR 200.56 and are allowable subject to Subpart E of 2 CFR part 200 and Appendix VII.

Under Subpart E, a grant recipient's negotiated indirect cost rate agreement (NICRA) with its cognizant agency determines the allowable indirect cost rate for the recipient's grants, taking into account the unique circumstances and cost structure of the recipient. The NICRA, or a de minimis rate if elected, must be used across all of the recipient's federal grants.[1] 2 CFR 200.414(c)(1). In accordance with the Uniform Guidance, Appendix VII—State and Local Government and Indian Tribe Indirect Cost Proposals, these allowable indirect costs are computed on each individual Federal award.

The second limitation on the amount of RESTORE Act grant funds that can be used for administrative costs under the three components is a three percent administrative cost cap. The Act provides that ''[o]f the amounts received by a Gulf Coast State . . ., not more than 3 percent may be used for administrative costs . . . .'' 33 U.S.C. 1321(t)(1)(B)(iii)(I). The Act does not specify the method by which this three percent administrative cost cap is to be applied. Treasury's regulations, however, currently provide that the three percent administrative cost cap is to be applied on a grant-by-grant basis: ''The three percent limit is applied to the total amount of funds received by a recipient under each grant.'' 31 CFR 34.204(a). In other words, under the current regulations, the administrative costs associated with each particular grant may not exceed three percent of the total amount of that grant.

II. Description of the Proposed Rule

On June 20, 2018, Treasury published a Notice of Proposed Rulemaking (NPRM) proposing to provide a recipient the option to apply the three percent administrative cost cap, within each component, on either a grant-by-grant basis or on an aggregate basis. 83 FR 28563. The NPRM proposed that the three percent administrative cost cap may be applied, for each component, to a Gulf Coast State, coastal political subdivision, or coastal zone parish's trust fund allocation, *i.e.,* to the aggregate of (1) all grants received by it under that component and (2) the amount in the trust fund for the same component that is allocated to, but not yet received by it. Amounts ''allocated to, but not yet received'' refer only to funds presently in the trust fund and not to future deposits into the trust fund[2] and include the following amounts with respect to each component: (1) With respect to the Direct Component, amounts made available in equal shares for the Gulf Coast States in accordance with 31 CFR 34.302; (2) with respect to the Comprehensive Plan Component, the estimated aggregate cost of all projects approved for funding included in all approved Funded Priorities Lists; and (3) with respect to the Spill Impact Component, amounts allocated to the Gulf Coast States in accordance with 31 CFR 34.502 and 40 CFR 1800.500.

The Act does not require that Treasury administer the administrative cost cap on a grant-by-grant basis, and because Treasury's regulations allocate precise sums to specific entities based on criteria in the Act, it is possible to administer it on an aggregate basis. In the NPRM, Treasury proposed permitting recipients, if they so choose, to allocate administrative costs by component from their ''pool'' in the trust fund toward the indirect costs in their grants to recover the maximum amount of indirect costs allowed under the Act, and to more efficiently and effectively oversee and manage projects and programs. Under the proposal, if a recipient's allowable indirect costs for administration for one grant are less than three percent of the total amount of that grant, the difference would be available to cover allowable indirect costs for administration exceeding three percent on other grants. However, at no time would the total amount of administrative costs of a Gulf Coast State, coastal political subdivision, or coastal zone parish be permitted to exceed three percent of the aggregate of (1) all grants received by it under one of the three components, and (2) the amount in the trust fund for the same component that is allocated to, but not yet received by such Gulf Coast State, coastal political subdivision, or coastal zone parish. Also, at no time would a recipient be able to recover more in indirect costs under an individual award than it would receive under its NICRA or its de minimis rate. Treasury will address a recipient's selection of its method for calculating administrative indirect costs during the application submission and review process or in reviewing a request to amend a prior award. At least annually, Treasury will post publicly the amounts available in the administrative cost ''pool'' by component, simultaneously with its updates to the trust fund allocations.

In § 34.204(a)(1)(ii) of the proposed rule, Treasury also added ''recipient and'' before ''subrecipient'' in the last sentence to clarify that Federal grant law and policies apply to recipient costs as well as to subrecipient costs. (As discussed below, this addition is located at section 34.204(a)(2) in the final rule.) Treasury also stated in the proposed rule that it would conduct a retrospective analysis of the aggregate method no later than seven years after the date this final rule becomes effective, to ''consider whether the revision ensures that the Gulf Coast states, coastal political subdivisions, and coastal zone parishes have the necessary funding to efficiently and effectively oversee and manage projects and programs for ecological and economic restoration of the Gulf Coast Region while ensuring compliance with the statutory three percent administrative cost cap, and whether it helps them to administer RESTORE Act grant projects effectively and efficiently.'' NPRM § 34.204(a)(2). Treasury has removed the second use of ''effectively and efficiently'' as redundant with the first use of it in the sentence. (As explained below, Treasury

[1] Subpart E provides that when a recipient has never had a NICRA and receives $35 million or less in direct federal funding, a de minimis rate of 10 percent of modified total direct costs may be used to calculate its allowable indirect costs in lieu of establishing a NICRA. 2 CFR 200.414(f), 2 CFR part 200, Appendix VII(D)(1)(b).

[2] BP Exploration & Production Inc. began making annual civil penalty payments in April 2017, and is expected to continue to make annual payments through mid-2031 pursuant to a consent decree entered on April 4, 2016 under the Federal Water Pollution Control Act (Clean Water Act), of which eighty percent of the total will be deposited into the Gulf Coast Restoration Trust Fund and invested. The annual payments into the trust fund through 2031 are expected to total $4.4 billion. In 2032, BP will make a final payment in the form of penalty interest.

has also moved the language in § 34.204(a)(2) of the proposed rule to § 34.204(a)(3) of the final rule.)

III. Public Comments and Changes From the Proposed Rule

The NPRM invited public comments on all aspects of the proposed revision for 30 days. Nine commenters submitted written responses to the NPRM, all of which Treasury has reviewed. The following is a discussion of relevant comments and Treasury's responses. Treasury is adopting the rule as proposed with only two changes, as discussed below.

One commenter asked whether the three percent for administrative costs may be used by a grantee together with the de minimis ten percent for indirect cost limits.[3] Under Treasury's regulations, administrative costs are defined as ''indirect costs for administration'' (*i.e.,* not direct costs for administration). If a recipient has a de minimis rate of ten percent of modified total direct costs, the recipient may be reimbursed for indirect costs for administration up to three percent of the total award amount. This calculation currently is applied to each grant. Under this final rule, a recipient eligible to use the de minimis rate may be able to be reimbursed for indirect costs for administration that exceed the three percent cap for a particular grant, up to ten percent of the modified total direct costs, if that recipient has received less than three percent of the total award amount for indirect costs for administration on the total of the aggregate of (1) all grants received by it under that component and (2) the amount in the trust fund for the same component that is allocated to, but not yet received by it.

Three commenters expressed support for the aggregate method because it would allow greater reimbursement for indirect costs incurred.[4] One commenter expressed support for the greater flexibility the proposed rule would provide to recipients in applying the three percent administrative cost cap.[5]

Four commenters requested clarification as to whether the proposed rule would apply to previously awarded grants.[6] This final rule does not require that recipients change the method by which they calculate their administrative costs. It provides an alternative to the grant-by-grant method required under Treasury's current regulation. Indirect costs on previously awarded grants under each of the three components may be reimbursed using the aggregate method, up to the amount of the recipient's NICRA or de minimis rate, provided sufficient funds are available in the recipient's administrative cost pool. A Direct Component, Comprehensive Plan Component or Spill Impact Component recipient with sufficient funds available in its administrative cost pool wishing to recover indirect costs in an amount up to its NICRA or de minimis rate on a prior award may request a grant amendment. Treasury and the Council will provide guidance to their respective recipients to assist them in applying the aggregate method to calculate administrative costs and to keep track of the amount available for administrative costs in their administrative cost pool for each component.

Treasury also solicited information from eligible recipients as to how they would manage and track administrative indirect costs under each method. One eligible recipient explained that under the aggregate method, for each component, it will update the calculations of its administrative cost pools at least annually and reconcile its calculations with Treasury's calculations.[7] Treasury and the Council will provide technical assistance to their respective recipients to help ensure that administrative indirect costs are accurately tracked across grants.

Treasury also asked eligible recipients in the NPRM whether there was any additional burden associated with managing the administrative indirect cost cap using the aggregate method. One eligible recipient responded that the use of the aggregate method would impose an ''additional burden'' under all three components, but added that the additional burden would be less than the burden currently imposed under the grant-by-grant method, so that the net effect would be less of a burden upon recipients.[8]

Two commenters suggested that the language in § 34.204(a)(1)(ii) of the proposed rule be reorganized for clarity.[9] Specifically, they pointed out that the final two sentences of § 34.204(a)(1)(ii) of the proposed rule differ in subject matter from the rest of the paragraph and should therefore be in a different paragraph. Treasury agrees and has moved those sentences to § 34.204(a)(2) of the final rule. Treasury also has moved the language in § 34.204(a)(2) of the proposed rule to § 34.204(a)(3) of the final rule.

One commenter requested that Treasury clarify in the preamble that projects under the Comprehensive Plan Component that are under consideration by the Council but not yet approved for funding are not included in the aggregate three percent cost calculation.[10] The clarification has been made to the reference to the Comprehensive Plan Component's Funded Priorities List in Section II. Description of the Proposed Rule above.

IV. Procedural Requirements

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) generally requires agencies to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedures Act or any other statute, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

Six of the 20 Louisiana parishes and six of the 23 Florida counties eligible to receive grants under the RESTORE Act have fewer than 50,000 residents. (2010 U.S. Census) and thus qualify as small governmental jurisdictions under the Regulatory Flexibility Act. (5 U.S.C. 601(5)). Treasury anticipates that this final rule will have no significant economic impact on these small entities because all recipients have the option to continue applying the three percent administrative cost cap on a grant-by-grant basis. Accordingly, Treasury certifies that this final rule will not have a significant impact upon a substantial number of small entities, and no regulatory flexibility analysis is required.

B. Regulatory Planning and Review (Executive Orders 12866 and 13563)

This final rule affects those entities in the five Gulf Coast States that are eligible to receive funding under the RESTORE Act, and is focused on the environmental restoration and economic recovery of the Gulf Coast Region in the aftermath of the Deepwater Horizon oil spill. The amounts made available from the trust fund will continue efforts that provide for the long-term health of the ecosystems and economy of this region.

[3] Tangipahoa Parish, Louisiana.

[4] Texas Commission on Environmental Quality, Alabama Gulf Coast Recovery Council, and Mississippi Department of Environmental Quality.

[5] Mississippi Department of Environmental Quality.

[6] Texas Commission on Environmental Quality, Alabama Gulf Coast Recovery Council, Mississippi Department of Environmental Quality, and Gulf Coast Ecosystem Restoration Council.

[7] Texas Commission on Environmental Quality.

[8] Texas Commission on Environmental Quality.

[9] Texas Commission on Environmental Quality and Gulf Coast Ecosystem Restoration Council.

[10] Gulf Coast Ecosystem Restoration Council.

Because it increases recipients' flexibility in how they apply the statutory three percent administrative cost cap, Treasury believes this final rule is an Executive Order 13771 deregulatory action. In accordance with Executive Order 12866, as supplemented by Executive Order 13563, OMB has designated this rule as a significant regulatory action and has reviewed this final rule. This final rule finalizes without significant change the proposed rule discussed above.

C. Congressional Review Act

The Congressional Review Act (5 U.S.C. 801 *et seq.*) generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2) and will become effective 30 days after publication.

D. Catalog of Federal Domestic Assistance

The affected program for Treasury is listed in the Catalog of Federal Domestic Assistance under 21.015, Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States. The affected programs for the Council are listed under 87.051, and 87.052, for its Comprehensive Plan and Spill Impact Components, respectively.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires federal agencies to assess the effects of their regulatory actions. In particular, the Unfunded Mandates Reform Act addresses actions that may result in the expenditure by a state, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Treasury believes that because this final rule will not result in an aggregate expenditure by a state, local, or tribal government, or by the private sector of $100,000,000 or more, the Unfunded Mandates Reform Act does not require an analysis of this final rule.

List of Subjects in 31 CFR Part 34

Coastal zone, Fisheries, Grant Programs, Grants administration, Intergovernmental relations, Marine resources, Natural resources, Oil pollution, Research, Science and technology, Trusts and trustees, Wildlife.

For the reasons set forth herein, the Department of the Treasury amends 31 CFR part 34 to read as follows:

PART 34—RESOURCES AND ECOSYSTEMS SUSTAINABILITY, TOURIST OPPORTUNITIES, AND REVIVED ECONOMIES OF THE GULF COAST STATES

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

Authority: 31 U.S.C. 301; 31 U.S.C. 321; 33 U.S.C. 1251 *et seq.*

■ 2. Amend § 34.204 by revising paragraph (a) to read as follows:

§ 34.204 Limitations on administrative costs and administrative expenses.

(a)(1) Of the amounts received by a Gulf Coast State, coastal political subdivision, or coastal zone parish from Treasury under the Direct Component, or from the Council under the Comprehensive Plan Component or Spill Impact Component, not more than three percent may be used for administrative costs. The three percent limit on administrative costs may be applied to the total amount of funds received by a recipient under each of the three components either on a grant-by-grant basis or on an aggregate basis. For the latter method, amounts used for administrative costs under each of the three components may not at any time exceed three percent of the aggregate of:

(i) The amounts received under a component by a recipient, beginning with the first grant through the most recent grant, and

(ii) The amounts in the Trust Fund that are allocated to, but not yet received under such component by a Gulf Coast State, coastal political subdivision, or coastal zone parish under § 34.103, consistent with the definition of administrative costs in § 34.2.

(2) The three percent limit does not apply to the administrative costs of subrecipients. All recipient and subrecipient costs are subject to the cost principles in Federal laws and policies on grants.

(3) Treasury will conduct a retrospective analysis of this provision no later than seven years after the date it becomes effective. This review will consider whether the revision ensures that the Gulf Coast States, coastal political subdivisions, and coastal zone parishes have the necessary funding to efficiently and effectively oversee and manage projects and programs for ecological and economic restoration of the Gulf Coast Region while ensuring compliance with the statutory three percent administrative cost cap.

* * * * *

David A. Lebryk,

Fiscal Assistant Secretary.

[FR Doc. 2019–06404 Filed 4–2–19; 8:45 am]

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DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 54

[Docket ID: DOD–2017–OS–0045]

RIN 0790–AJ98

Allotments for Child and Spousal Support

AGENCY: Office of the Under Secretary of Defense (Comptroller), DoD.

ACTION: Final rule.

SUMMARY: This final rule removes DoD's regulation that relates to allotments for child and spousal support because it duplicates DoD's internal policy on statutorily required child or child and spousal support allotments that cover members of the Military Services on extended active duty. This internal policy is located in the DoD Financial Management Regulation, Volume 7A, Chapter 41 ''Garnishments and Other Involuntary Allotments.''

DATES: This rule is effective on April 3, 2019.

FOR FURTHER INFORMATION CONTACT: Kellie Allison at 703–614–0410.

SUPPLEMENTARY INFORMATION: It has been determined that publication of this CFR part removal for public comment is impracticable, unnecessary, and contrary to public interest since it is based on removing DoD internal policies and procedures that are publically available on the Department's website.

DoD internal guidance will continue to be published in DoD's Financial Management Regulation, Volume 7A, Chapter 41, available at *http://comptroller.defense.gov/Portals/45/documents/fmr/archive/07aarch/07a_41_Dec10.pdf.*

Removal of this part does not reduce burden or costs to the public as it will not change how notification is provided under Volume 7A, Chapter 41. This rule is not significant, therefore the requirements of Executive Order 13771, ''Reducing Regulation and Controlling Regulatory Costs,'' do not apply.