



441 G St. N.W.
Washington, DC 20548

B-333891

March 9, 2022

The Honorable Ron Wyden
Chairman
The Honorable Mike Crapo
Ranking Member
Committee on Finance
United States Senate

The Honorable Richard Neal
Chairman
The Honorable Kevin Brady
Ranking Member
Committee on Ways and Means
House of Representatives

Subject: *Department of the Treasury, Internal Revenue Service: Guidance on the Transition from Interbank Offered Rates to Other Reference Rates*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of the Treasury, Internal Revenue Service (IRS) entitled “Guidance on the Transition from Interbank Offered Rates to Other Reference Rates” (RIN: 1545-BO91). We received the rule on January 3, 2022. It was published in the *Federal Register* as final regulations on January 4, 2022. 87 Fed. Reg. 166. The effective date is March 7, 2022.¹

According to IRS, the final rule provides guidance on the tax consequences of the transition away from the use of certain interbank offered rates in debt instruments, derivative contracts, and other contracts. IRS stated that the final rule is necessary to address the possibility that a modification of the terms of a contract to replace such an interbank offered rate with a new reference rate could result in the realization of income, deduction, gain, or loss for federal income tax purposes, or could have other tax consequences. IRS also stated that the final rule will affect parties to contracts that reference certain interbank offered rates.

Enclosed is our assessment of IRS’s compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the

¹ Although GAO received this major rule on January 3, 2022, the *Congressional Record* does not yet reflect receipt. However, according to IRS, the rule was mailed to both the House and the Senate on January 5, 2022. We will update this report as more information becomes available.

subject matter of the rule, please contact Shari Brewster, Assistant General Counsel, at (202) 512-6398.

A handwritten signature in black ink that reads "Shirley A. Jones". The signature is written in a cursive style with a large, flowing "S" at the beginning and a long, sweeping "J" at the end.

Shirley A. Jones
Managing Associate General Counsel

Enclosure

cc: Carrie E. Mudd
Director, Legal Processing Division
Department of the Treasury

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE
ENTITLED
“GUIDANCE ON THE TRANSITION FROM INTERBANK
OFFERED RATES TO OTHER REFERENCE RATES”
(RIN: 1545-BO91)

(i) Cost-benefit analysis

In its submission to us, IRS indicated that it did not prepare an analysis of the costs and benefits of this final rule.

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603–605, 607, and 609

IRS certified that this final rule will not have a significant economic impact on a substantial number of small entities.

(iii) Agency actions relevant to sections 202–205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532–1535

IRS determined that this final rule does not include any federal mandate that may result in expenditures by state, local, or tribal governments, or by the private sector in excess of \$100 million or more in 1995 dollars, adjusted for inflation.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

IRS published a proposed rule on October 9, 2019. 84 Fed. Reg. 54068. IRS stated that it received eight public comments on the proposed rule. IRS provided a summary of and responded to the comments in the final rule.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501–3520

In its submission to us, IRS stated that this final rule does not contain a collection of information requiring approval by the Office of Management and Budget (OMB) under the PRA.

Statutory authorization for the rule

IRS promulgated this final rule pursuant to sections 148, 860G, 988, 1275, 7701, and 7805 of title 26, United States Code.

Executive Order No. 12866 (Regulatory Planning and Review)

IRS stated that this final rule has been designated by the Office of Information and Regulatory Affairs as economically significant under the Order pursuant to the Memorandum of Agreement (April 11, 2018) between the Department of the Treasury and OMB regarding review of tax regulations.

Executive Order No. 13132 (Federalism)

IRS stated that this final rule does not have Federalism implications and does not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Order.