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Transmittal – See OCC 2020-11

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Regulatory Capital Rule: Final Rulemaking

Summary

The Office of the Comptroller of the Currency (OCC) and the Board of Governors of the Federal Reserve System published a final rule in the *Federal Register* today that replaces their existing risk-based and leverage capital rules. The final rule is consistent with the interim final rule published by the Federal Deposit Insurance Corporation (collectively, the new capital rule, or rule). The rule establishes a new regulatory capital framework that incorporates revisions to the Basel capital framework, including Basel III and other elements. The rule strengthens the definition of regulatory capital, increases risk-based capital requirements, and amends the methodologies for determining risk-weighted assets. The rule applies to all national banks and federal savings associations (collectively, banks). Subject to various transition periods, the rule is effective for advanced approaches banks on January 1, 2014, and for all other banks on January 1, 2015.

To

Chief Executive Officers of All National Banks and Federal Savings Associations, Department and Division Heads, All Examining Personnel, and Other Interested Parties

Highlights

- Implements strict eligibility criteria for regulatory capital instruments.
- Revises the Prompt Corrective Action framework to incorporate new regulatory capital minimum thresholds.
- Adds a new common equity tier 1 capital ratio of 4.5 percent and increases the minimum tier 1 capital ratio requirement from 4.0 percent to 6.0 percent.
- Improves the measure of risk-weighted assets to enhance risk sensitivity.
- Retains the existing regulatory capital framework for one- to four-family residential mortgage exposures.
- Allows banks not subject to the advanced approaches rule to retain the existing treatment for accumulated other comprehensive income through a one-time election.
- Allows certain depository institution holding companies to continue to include in tier 1 capital previously issued trust preferred securities and cumulative perpetual preferred stock.
- Limits capital distributions and certain discretionary bonus payments if banks do not maintain a capital conservation buffer of common equity tier 1 capital above minimum capital requirements.
- Removes references to credit ratings consistent with the Dodd-Frank Wall Street Reform and Consumer Protection Act and provides alternative measures of creditworthiness.
- Establishes due diligence requirements for securitization exposures.

Note for Community Banks

To aid smaller, less complex banks, the OCC published the *New Capital Rule Community Bank Guide* and the *New Capital Rule Quick Reference Guide for Community Banks.* Links to these guides are attached below. These guides do not provide complete coverage of the rule. Therefore, community banks also should review the portions of the rule that are relevant to them.

Background

The rule emphasizes common equity tier 1 capital, the most loss-absorbing form of capital, and implements strict eligibility criteria for regulatory capital instruments. The rule also replaces the existing generally applicable capital standards with a “Standardized Approach” that includes expanded recognition of collateral and guarantors and increased capital requirements for past-due loans, high-volatility commercial real estate exposures, and certain short-term loan commitments.

For the largest, most internationally active banks, the rule includes a countercyclical capital buffer, a new minimum supplementary leverage ratio that takes into account off-balance-sheet exposures, and additional capital charges and standards for derivatives exposures. The rule also introduces enhanced disclosure requirements applicable to the top-tier entity in a banking organization that is domiciled in the United States and has $50 billion or more in total assets.

The rule implements transition provisions, including those applicable to the new minimum capital ratio requirements, the capital conservation buffer, and the regulatory capital adjustments and deductions. The rule also expands the scope of the market risk rule to include federal savings associations engaged in significant levels of trading activity.

Depository holding companies with less than $15 billion in total consolidated assets as of December 31, 2009, and mutual holding companies organized before May 19, 2010, may grandfather trust preferred securities and cumulative preferred stock issued before May 19, 2010, and include those instruments, subject to limits, in tier 1 capital (i.e., additional tier 1 capital).

Further Information

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Related Link:

- Final Rule (PDF)
- *New Capital Rule Community Bank Guide* (PDF)
- *OCC's New Capital Rule Quick Reference Guide for Community Banks* (PDF)