

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Parts 300 and 319

[Docket No. 95-098-2]

Importation of Fruits and Vegetables

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of reopening and extension of comment period.

SUMMARY: We are reopening and extending the comment period for our proposed rule that would amend the regulations regarding the importation of fruits and vegetables by allowing a number of previously prohibited fruits and vegetables to be imported into the United States from certain parts of the world. This extension will provide interested persons with additional time in which to prepare comments on the proposed rule.

DATES: Consideration will be given only to written comments on Docket No. 95-098-1 that are received on or before September 3, 1996.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 95-098-1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road, Riverdale, MD 20737-1238. Please state that your comments refer to Docket No. 95-098-1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690-2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Mr. Peter Grosser, Senior Operations Officer, Port Operations, PPQ, APHIS, 4700 River Road Unit 139, Riverdale, MD 20737-1236; (301) 734-8295.

SUPPLEMENTARY INFORMATION: On July 2, 1996, we published in the Federal Register (61 FR 34379-34385, Docket No. 95-098-1) a proposal to amend the regulations in 7 CFR parts 300 and 319 by allowing a number of previously prohibited fruits and vegetables to be imported into the United States from certain parts of the world. All of the fruits and vegetables, as a condition of entry, would be subject to inspection, disinfection, or both, at the port of first arrival as may be required by a U.S. Department of Agriculture inspector. In addition, some of the fruits and vegetables would be required to undergo prescribed treatments for injurious plant pests as a condition of entry, or to meet other special conditions.

Comments on all portions of Docket No. 95-098-1 except the proposed rule's information collection and recordkeeping requirements that are subject to the Paperwork Reduction Act were required to be received on or before August 1, 1996. By that date, we received two comments requesting an extension of the comment period for the rule portion of the proposed rule. These requests were made by a representative of industry and a representative of State government.

In response to these requests, we are reopening and extending the comment period on Docket No. 95-098-1 so that comments on any portion of the proposed rule will be considered if we receive them by September 3, 1996. We believe that this action will allow the representatives requesting extension of the comment period and all other interested persons adequate opportunity to prepare and submit comments.

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 151-167, 450, 2803, and 2809; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.2(c).

Done in Washington, DC, this 12th day of August 1996.

Terry L. Medley,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96-20920 Filed 8-15-96; 8:45 am]

BILLING CODE 3410-34-P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 3

[Docket No. 96-16]

RIN 1557-AB14

FEDERAL RESERVE SYSTEM

12 CFR Parts 208 and 225

[Regulations H and Y; Docket No. R-0930]

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 325

RIN 3064-AB78

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 567

[Docket No. 96-58]

RIN 1550-AA98

Risk-Based Capital Standards; Collateralized Transactions

AGENCIES: Office of the Comptroller of the Currency, Treasury; Board of Governors of the Federal Reserve System; Federal Deposit Insurance Corporation; and Office of Thrift Supervision, Treasury.

ACTION: Joint notice of proposed rulemaking.

SUMMARY: The Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (Board), the Federal Deposit Insurance Corporation (FDIC), and the Office of Thrift Supervision (OTS) (Agencies) are proposing to amend their respective risk-based capital standards to make uniform the Agencies' treatments for transactions supported by qualifying collateral. The proposal would implement part of section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994, which requires the Agencies to work jointly to make uniform their regulations and guidelines implementing common statutory or supervisory policies. The effect of the proposal would be to allow banks, bank

holding companies, and savings associations (institutions) to hold less capital for certain transactions collateralized by cash or qualifying securities.

DATES: Comments must be received on or before October 15, 1996.

ADDRESSES: Comments should be directed to:

OCC: Comments may be submitted to Docket No. 96-16, Communications Division, Third Floor, Office of the Comptroller of the Currency, 250 E Street, S.W., Washington, D.C., 20219. Comments will be available for inspection and photocopying at that address. In addition, comments may be sent by facsimile transmission to FAX number (202) 874-5274, or by electronic mail to REG.COMMENTS@OCC.TREAS.GOV.

Board: Comments directed to the Board should refer to Docket No. R-0930 and may be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington D.C., 20551. Comments may also be delivered to Room B-2222 of the Eccles Building between 8:45 a.m. and 5:15 p.m. weekdays, or the guard station in the Eccles Building courtyard on 20th Street, N.W. (between Constitution Avenue and C Street) at any time. Comments may be inspected in Room MP-500 of the Martin Building between 9 a.m. and 5 p.m. weekdays, except as provided in 12 CFR 261.8 of the Board's rules regarding availability of information.

FDIC: Written comments should be sent to Jerry L. Langley, Executive Secretary, Attention: Room F-402, Federal Deposit Insurance Corporation, 550 17th Street N.W., Washington, D.C., 20429. Comments may be hand delivered to Room F-402, 1776 F Street N.W., Washington, D.C., 20429 on business days between 8:30 a.m. and 5 p.m. (Fax number (202) 898-3838; Internet address: comments@fdic.gov). Comments will be available for inspection and photocopying in Room 7118, 550 17th Street, N.W., Washington, D.C., 20429, between 9 a.m. and 4:30 p.m. on business days.

OTS: Send comments to Manager, Dissemination Branch, Records Management and Information Policy, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C., 20552, Attention Docket No. 96-58. These submissions may be hand-delivered to 1700 G Street, N.W., from 9:00 a.m. to 5:00 p.m. on business days; they may be sent by facsimile transmission to FAX number (202) 906-7755. Comments will be available for inspection at 1700 G

Street, N.W., from 9:00 a.m. until 4:00 p.m. on business days.

FOR FURTHER INFORMATION CONTACT:

OCC: Roger Tufts, Senior Economic Advisor (202/874-5070), Christina Benson, Capital Markets Specialist (202/874-5070), Office of the Chief National Bank Examiner, or Ronald Shimabukuro, Senior Attorney (202/874-5090), Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, S.W., Washington, D.C., 20219.

Board: Roger Cole, Deputy Associate Director (202/452-2618), Norah Barger, Manager (202/452-2402), Barbara Bouchard, Supervisory Financial Analyst (202/452-3072), Division of Banking Supervision and Regulation. For the hearing impaired *only*, Telecommunication Device for the Deaf (TDD), Dorothea Thompson (202/452-3544), Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington D.C., 20551.

FDIC: For supervisory issues, Stephen G. Pfeifer, Examination Specialist, Accounting Section, Division of Supervision (202/898-8904); for legal issues, Gerald J. Gervino, Senior Attorney, Legal Division (202/898-3723), Federal Deposit Insurance Corporation, 550 17th Street N.W., Washington, D.C., 20429.

OTS: John F. Connolly, Senior Program Manager for Capital Policy, (202) 906-6465, Supervision Policy; or Deborah Dakin, Assistant Chief Counsel, (202) 906-6445, Regulations and Legislative Division, Office of the Chief Counsel, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C., 20552.

SUPPLEMENTARY INFORMATION: Section 303(a)(2) of the Riegle Community Development and Regulatory Improvement Act of 1994, Pub. L. 103-325, 108 Stat. 2160, 2215 (September 23, 1994), codified at 12 U.S.C. 4803, provides that the Agencies shall, consistent with the principles of safety and soundness, statutory law and policy, and the public interest, work jointly to make uniform all regulations and guidelines implementing common statutory or supervisory policies. In this regard, the Agencies have been reviewing, on an interagency basis, their capital standards to identify areas where they have substantively different capital treatments for particular transactions.

Since December 1994, the four Agencies have had three different rules for the capital treatment of transactions that are supported by qualifying collateral. These rules constitute one of the more substantive differences among

the Agencies' capital standards. The FDIC's and OTS's risk-based capital standards provide that the portion of a transaction collateralized by cash on deposit in the lending institution or by the market value of central government securities of the OECD-based group of countries¹ (OECD securities) may be assigned to the 20 percent risk category.² The Board's general rule is similar to the FDIC's and OTS's, but there is a limited exception. Under the Board's risk-based capital guidelines, transactions fully collateralized with cash or OECD securities with a positive margin (that is, the market value of the collateral is greater than the amount of the claim) may be eligible for a zero percent risk weight. An institution must maintain a positive margin on a daily basis, fully taking into account any change in the institution's exposure to the obligor or counterparty under a claim in relation to the market value of the collateral. The OCC's rule permits the portion of a transaction that is collateralized with a positive margin by cash or OECD securities, which must be marked-to-market daily, to receive a zero percent risk weight.

The Agencies are proposing to amend their respective risk-based capital standards to achieve uniformity in the treatment of collateralized transactions. This joint proposal would permit portions of claims (including repurchase agreements) collateralized by cash on deposit with the lending institution or by securities issued or guaranteed by the U.S. Treasury, U.S. government agencies, or the central governments in other OECD countries to be eligible for a zero percent risk weight. To qualify for the zero percent risk category, the collateralized arrangement would have to specify the portion of the claim that will be continuously collateralized either in terms of an identified dollar amount or a percentage of the claim. In the case of off-balance-sheet derivative contracts, the collateralized portion could be specified in terms of an identified dollar amount or a percentage of the current or potential future exposure.

Under this joint proposal, the arrangement must also require maintenance on a daily basis of a

¹ The OECD-based group of countries comprises all full members of the Organization for Economic Cooperation and Development (OECD), as well as countries that have concluded special lending arrangements with the International Monetary Fund associated with the Fund's General Arrangements to Borrow.

² Portions of claims collateralized by U.S. government-sponsored agency securities are also eligible for a 20 percent risk weight. The Agencies are not proposing to change the risk weighting for these collateralized transactions.

positive margin of collateral on the specified collateralized portion, taking into account daily changes in the value of the institution's credit exposure and the market value of the collateral. The Agencies note that for certain transactions where the market value of the collateral (e.g., the redemption value of cash on deposit) is fixed and the value of the exposure seldom fluctuates, ensuring maintenance of a positive collateral margin on a daily basis may not actually entail daily mark-to-market calculations, such as in the case of a loan collateralized by a certificate of deposit. Where only a portion of a collateralized claim qualifies for the zero percent risk category, the remaining portion should be assigned to the risk category appropriate to the obligor, or if relevant, the guarantor or other collateral.

In all cases, the collateralized arrangement should ensure that institutions maintain control over the collateral. The proposal has an accommodation for instances where an institution is acting as a customer's agent involving the lending or sale of the customer's securities that is collateralized by cash delivered to the institution. In this situation, the transaction would be deemed to be collateralized by cash on deposit with the lending institution provided that (a) any indemnification provided by the institution to the customer is limited to no more than the difference between the market value of the securities lent or sold and the cash collateral received and (b) any reinvestment risk associated with that cash collateral is borne by the customer.

While the proposal would permit certain partially collateralized claims to qualify for the zero percent risk category, the Agencies reiterate their longstanding supervisory guidance and remind institutions that engaging in transactions such as securities lending or repurchase agreements on a less than fully collateralized basis may be considered an unsafe and unsound practice.

Regulatory Flexibility Act Analysis

OCC Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act, the Comptroller of the Currency certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities in accord with the spirit and purposes of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Accordingly, a regulatory flexibility analysis is not required. The proposed rule would reduce regulatory

burden by allowing banks to hold less capital for certain transactions collateralized by cash or qualifying securities. This proposed rule clarifies and makes uniform existing regulatory requirements for national banks. The economic impact of this proposed rule on banks, regardless of size, is expected to be minimal.

Board Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act, the Board does not believe this proposal would have a significant impact on a substantial number of small business entities in accord with the spirit and purposes of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Accordingly, a regulatory flexibility analysis is not required. In addition, because the risk-based capital guidelines generally do not apply to bank holding companies with consolidated assets of less than \$150 million, this proposal would not affect such companies. The amendment concerns capital requirements for collateralized transactions which may be entered into by depository institutions of any size. While larger institutions may enter into more sophisticated transactions, the amendment would equally favor smaller institutions, even if their collateralized transactions are less complex. The effect of the proposal would be to reduce regulatory burden on depository institutions by allowing the institutions to hold less capital for certain transactions collateralized by cash or qualifying securities.

FDIC Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601 *et seq.*), it is certified that the proposal would not have a significant impact on a substantial number of small entities. The amendment concerns capital requirements for collateralized transactions which may be entered into by depository institutions of any size. While larger institutions may enter into more sophisticated transactions, the amendment would equally favor smaller institutions, even if their collateralized transactions are less complex. The effect of the proposal would be to reduce regulatory burden on depository institutions by allowing the institutions to hold less capital for certain transactions collateralized by cash or qualifying securities.

OTS Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act, the OTS

certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities. The amendment concerns capital requirements for collateralized transactions which may be entered into by depository institutions of any size. While larger institutions may enter into more sophisticated transactions, the amendment would equally favor smaller institutions, even if their collateralized transactions are less complex. The effect of the proposal would be to reduce regulatory burden on depository institutions by allowing the institutions to hold less capital for certain transactions collateralized by cash or qualifying securities.

Paperwork Reduction Act

The Agencies have determined that this proposal would not increase the regulatory paperwork burden of banking organizations pursuant to the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

OCC and OTS Executive Order 12866 Determination

The Comptroller of the Currency and the Director of the OTS have determined that this proposed rule does not constitute a "significant regulatory action" for the purposes of Executive Order 12866.

OCC and OTS Unfunded Mandates Reform Act of 1995 Determinations

Section 202 of the Unfunded Mandates Reform Act of 1995, Pub. L. 104-4 (Unfunded Mandates Act) requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year. If a budgetary impact statement is required, Section 205 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. As discussed in the preamble, this proposed rule is limited to changing the risk weighting of transactions collateralized by cash or securities issued or unconditionally guaranteed by the U.S. Government or its agencies, or the central government of an OECD country, from the 20 percent to the zero percent risk weight category under the Agencies' risk-based capital rules. In addition, with respect to the OCC, this proposal clarifies and makes uniform existing regulatory requirements for national banks. The OCC and OTS have therefore determined that the proposed

rule will not result in expenditures by State, local, or tribal governments or by the private sector of \$100 million or more. Accordingly, the OCC and OTS have not prepared a budgetary impact statement or specifically addressed the regulatory alternatives considered.

List of Subjects

12 CFR Part 3

Administrative practice and procedure, Capital, National banks, Reporting and recordkeeping requirements, Risk.

12 CFR Part 208

Accounting, Agriculture, Banks, banking, Confidential business information, Crime, Currency, Federal Reserve System, Mortgages, Reporting and recordkeeping requirements, Securities.

12 CFR Part 225

Administrative practice and procedure, Banks, banking, Federal Reserve System, Holding companies, Reporting and recordkeeping requirements, Securities.

12 CFR Part 325

Administrative practice and procedure, Banks, banking, Capital adequacy, Reporting and recordkeeping requirements, Savings associations, State non-member banks.

12 CFR Part 567

Capital, Reporting and recordkeeping requirements, Savings associations.

Authority and Issuance

Office of the Comptroller of the Currency

12 CFR CHAPTER I

For the reasons set out in the preamble, part 3 of chapter I of title 12 of the Code of Federal Regulations is proposed to be amended as follows:

PART 3—MINIMUM CAPITAL RATIOS; ISSUANCE OF DIRECTIVES

1. The authority citation for part 3 continues to read as follows:

Authority: 12 U.S.C. 93a, 161, 1818, 1828(n), 1828 note, 1831n note, 3907, and 3909.

2. In appendix A to part 3, paragraph (a)(1)(viii) and footnote 15 in paragraph (b)(1)(v) of section 3 are revised to read as follows:

Appendix A to Part 3—Risk-Based Capital Guidelines

* * * * *

Section 3. Risk Categories/Weights for On-Balance Sheet Assets and Off-Balance Sheet Items

* * * * *

(a) * * *
(1) * * *

(viii) That portion of claims specified as collateralized by cash on deposit with the bank or by securities issued or unconditionally guaranteed by the United States Government or its agencies, or the central governments of an OECD country, provided that:^{9a}

(A) The bank specifies in the collateral agreement the collateralized portion of the claim either in terms of an identified dollar amount or a percentage of the claim (or in the case of an off-balance-sheet derivative contract, in terms of an identified dollar amount or a percentage of the current or potential future exposure);^{9b} and

(B) The bank specifies in the collateral agreement that the customer is obligated to maintain on a daily basis a positive margin of collateral on the specified portion of the claim that fully takes into account daily changes in the value of the bank's credit exposure and in the market value of the collateral.

* * * * *

(b) * * *
(v) * * *¹⁵

* * * * *

Dated: July 26, 1996.

Eugene A. Ludwig,

Comptroller of the Currency.

Federal Reserve System

12 CFR CHAPTER II

For the reasons set forth in the preamble, parts 208 and 225 of chapter II of title 12 of the Code of Federal Regulations are proposed to be amended as follows:

PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM (REGULATION H)

1. The authority citation for part 208 continues to read as follows:

^{9a} Claims collateralized by securities issued or guaranteed by the United States Government or its agencies, or the central government of an OECD country include securities lending transactions, repurchase agreements, collateralized letters of credit, such as reinsurance letters of credit, and other similar financial guarantees. Swaps, forwards, futures, and options transactions are also eligible, if they meet the collateral requirements.

^{9b} See footnote 22 in section 3(b)(5)(iii) of this appendix A (collateral held against derivative contracts).

¹⁵ * * * When the bank is acting as a customer's agent in a transaction involving the loan or sale of the customer's securities collateralized by cash delivered to the bank, the transaction is deemed to be collateralized by cash on deposit with the bank provided that any obligation by the bank to indemnify the customer is limited to no more than the difference between the market value of the securities lent or sold and the cash collateral received, and any reinvestment risk associated with the collateral is borne by the customer.

Authority: 12 U.S.C. 36, 248(a), 248(c), 321-338a, 371d, 461, 481-486, 601, 611, 1814, 1823(j), 1828(o), 1831o, 1831p-1, 3105, 3310, 3331-3351, and 3906-3909; 15 U.S.C. 78b, 781(b), 781(g), 781(i), 780-4(c)(5), 78q, 78q-1, and 78w; 31 U.S.C. 5318; 42 U.S.C. 4012a, 4104a, 4104b, 4106, and 4128.

2. In appendix A to part 208 section III.C.1., the paragraph immediately following the heading is designated as paragraph a. and the second paragraph is designated as paragraph b. and revised to read as follows:

Appendix A to Part 208—Capital Adequacy Guidelines for State Member Banks: Risk-Based Measure

* * * * *

III. * * *
C. * * *

1. Category 1: zero percent. a. * * *

b. This category also includes the portions of claims (including repurchase agreements) collateralized by cash on deposit with the lending bank or by securities issued or unconditionally guaranteed by the U.S. Treasury, U.S. government agencies, or the central government in other OECD-based countries, provided that the collateralized arrangement:

(1) Specifies the collateralized portion of the claim either in terms of an identified dollar amount or a percentage of the claim (or, in the case of an off-balance-sheet derivative contract, either in terms of an identified dollar amount or a percentage of the current or potential future exposure); and

(2) Requires the maintenance on a daily basis of a positive margin of collateral on the specified portion of the claim that fully takes into account daily changes in the value of the bank's credit exposure and in the market value of the collateral.

* * * * *

3. In appendix A to part 208, the last sentence of section III.D.1.i. is revised to read as follows:

* * * * *

III. * * *
D. * * *

1. * * *

i. * * * When a bank is acting as a customer's agent in a transaction involving the loan or sale of the customer's securities that is collateralized by cash delivered to the lending bank, the transaction is deemed to be collateralized by cash on deposit with the bank for purposes of determining the appropriate risk-weight category, provided that any indemnification is limited to no more than the difference between the market value of the securities lent or sold and the cash collateral received, and any reinvestment risk associated with the cash collateral is borne by the customer.

* * * * *

4. In appendix A to part 208, Attachment III, category 1, paragraph 5 is revised to read as follows:

* * * * *

Attachment III—Summary of Risk Weights and Risk Categories for State Member Banks

Category 1: Zero Percent

* * * * *

5. Portions of claims (including repurchase agreements) collateralized by cash on deposit with the lending bank or by securities issued or unconditionally guaranteed by OECD central governments or U.S. government agencies, provided that the collateralization arrangement (a) specifies the collateralized portion of the claim either in terms of an identified dollar amount or a percentage of the claim (or, in the case of an off-balance-sheet derivative contract, either in terms of an identified dollar amount or a percentage of the current or potential future exposure); and (b) requires the maintenance of a positive collateral margin on a daily basis that fully takes into account daily changes in the value of the bank's credit exposure and in the market value of the collateral.

* * * * *

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (REGULATION Y)

1. The authority citation for part 225 continues to read as follows:

Authority: 12 U.S.C. 1817(j)(13), 1818, 1828(o), 1831i, 1831p-1, 1843(c)(8), 1844(b), 1972(1), 3106, 3108, 3310, 3331-3351, 3907, and 3909.

2. In appendix A to part 225 section III.C.1., the paragraph immediately following the heading is designated as paragraph a. and the second paragraph is designated as paragraph b. and revised to read as follows:

Appendix A to Part 225—Capital Adequacy Guidelines for Bank Holding Companies: Risk-Based Measure

* * * * *

III. * * *

C. * * *

1. *Category 1: zero percent a.* * * *

b. This category also includes the portions of claims (including repurchase agreements) collateralized by cash on deposit with the lending banking organization or by securities issued or unconditionally guaranteed by the U.S. Treasury, U.S. government agencies, or the central government in other OECD-based countries, provided that the collateralized arrangement:

(1) Specifies the collateralized portion of the claim either in terms of an identified dollar amount or a percentage of the claim (or, in the case of an off-balance-sheet derivative contract, either in terms of an identified dollar amount or a percentage of the current or potential future exposure); and

(2) Requires the maintenance on a daily basis of a positive margin of collateral on the specified portion of the claim that fully takes into account daily changes in the value of the banking organization's credit exposure and in the market value of the collateral.

* * * * *

3. In appendix A to part 225, the last sentence in section III.D.1.i. is revised to read as follows:

* * * * *

III. * * *

D. * * *

1. * * *

i. * * * When a banking organization is acting as a customer's agent in a transaction involving the loan or sale of the customer's securities that is collateralized by cash delivered to the lending banking organization, the transaction is deemed to be collateralized by cash on deposit with the banking organization for purposes of determining the appropriate risk-weight category, provided that any indemnification is limited to no more than the difference between the market value of the securities lent or sold and the cash collateral received, and any reinvestment risk associated with the cash collateral is borne by the customer.

* * * * *

4. In appendix A to part 225, Attachment III, category 1, paragraph 5 is revised to read as follows:

* * * * *

Attachment III—Summary of Risk Weights and Risk Categories for Bank Holding Companies

Category 1: Zero Percent

* * * * *

5. Portions of claims (including repurchase agreements) collateralized by cash on deposit with the lending banking organization or by securities issued or unconditionally guaranteed by OECD central governments or U.S. government agencies, provided that the collateralization arrangement (a) specifies the collateralized portion of the claim either in terms of an identified dollar amount or a percentage of the claim (or, in the case of an off-balance-sheet derivative contract, either in terms of an identified dollar amount or a percentage of the current or potential future exposure); and (b) requires the maintenance of a positive collateral margin on a daily basis that fully takes into account daily changes in the value of the banking organization's credit exposure and in the market value of the collateral.

* * * * *

By order of the Board of Governors of the Federal Reserve System, August 8, 1996.

William W. Wiles,

Secretary of the Board.

Federal Deposit Insurance Corporation

12 CFR CHAPTER III

For the reasons set forth in the preamble, part 325 of chapter III of title 12 of the Code of Federal Regulations is proposed to be amended as follows:

PART 325—CAPITAL MAINTENANCE

1. The authority citation for part 325 continues to read as follows:

Authority: 12 U.S.C. 1815(a), 1815(b), 1816, 1818(a), 1818(b), 1818(c), 1818(t), 1819(Tenth), 1828(c), 1828(d), 1828(i),

1828(m), 1828(o), 1831o, 1835, 3907, 3909, 4808; Pub. L. 102-233, 105 Stat. 1761, 1789, 1790 (12 U.S.C. 1831n note); Pub. L. 102-242, 105 Stat. 2236, 2355, 2386 (12 U.S.C. 1828 note).

2. In appendix A to part 325, section II.C, the first two paragraphs under Category 1—*Zero Percent Risk Weight* are designated as paragraphs a. and b., respectively, and a new paragraph c. is added to read as follows:

Appendix A to Part 325—Statement of Policy on Risk-Based Capital

* * * * *

II. Procedures for Computing Risk-Weighted Assets

* * * * *

C. * * *

Category 1—*Zero Percent Risk Weight.* a.

* * *

b. * * *

c. This category also includes the portions of claims (including repurchase agreements) collateralized by cash on deposit with the lending bank or by securities issued or unconditionally guaranteed by the U.S. Treasury, U.S. government agencies, or the central government in other OECD countries, provided that the collateralized arrangement:

(1) Specifies the collateralized portion of the claim either in terms of an identified dollar amount or a percentage of the claim (or, in the case of an off-balance-sheet derivative contract, either in terms of an identified dollar amount or a percentage of the current or potential future exposure); and

(2) Requires the maintenance on a daily basis of a positive margin of collateral on the specified portion of the claim that fully takes into account daily changes in the value of the bank's credit exposure and in the market value of the collateral.

* * * * *

3. In appendix A to part 325, section II.C., the three paragraphs under Category 2—*20 Percent Risk Weight* are designated as paragraphs a. through c., respectively, the phrase "portions of claims collateralized by cash held in a segregated deposit account of the lending bank;" is removed from the newly designated paragraph a., and the first sentence of the newly designated paragraph b. is revised to read as follows:

* * * * *

II. * * *

C. * * *

* * * * *

Category 2—*20 Percent Risk Weight.* a.

* * *

b. This category also includes claims on, and portions of claims guaranteed by, U.S. Government-sponsored agencies, portions of claims collateralized by securities issued or guaranteed by U.S. Government-sponsored agencies, and the portions of claims (including repurchase agreements) collateralized by cash on deposit in the lending bank or by securities issued or guaranteed by OECD central governments

that do not qualify for the zero percent risk weight category. * * *

4. In appendix A to part 325, section II.D.1, the eight paragraphs are designated as paragraphs a. through h., respectively, and the newly designated paragraph h. is amended by adding a sentence to the end of the paragraph to read as follows:

* * * * *
II. * * *
D. * * *

1. Items with a 100 Percent Conversion Factor. a. * * *

* * * * *
h. * * * When a bank is acting as a customer's agent in a transaction involving the loan or sale of the customer's securities that is collateralized by cash delivered to the lending bank, the transaction is deemed to be collateralized by cash on deposit with the bank for purposes of determining the appropriate risk-weight category, provided that any indemnification is limited to no more than the difference between the market value of the securities lent or sold and the cash collateral received, and any reinvestment risk associated with the cash collateral is borne by the customer.

* * * * *
5. In appendix A to part 325 under Table II—Summary of Risk Weights and Risk Categories, a period is added at the end of paragraph (6) and a new paragraph (7) is added under Category 1—Zero Percent Risk Weight to read as follows:

* * * * *

Table II—Summary of Risk Weights and Risk Categories

Category 1—Zero Percent Risk Weight

* * * * *

(7) Portions of claims (including repurchase agreements) collateralized by cash on deposit with the lending bank or by securities issued or unconditionally guaranteed by the U.S. Treasury, U.S. Government agencies, or the central government in other OECD countries, provided that the collateralization arrangement (a) specifies the collateralized portion of the claim either in terms of an identified dollar amount or a percentage of the claim (or, in the case of an off-balance-sheet derivative contract, either in terms of an identified dollar amount or a percentage of the current or potential future exposure); and (b) requires the maintenance of a positive collateral margin on a daily basis that fully takes into account daily changes in the value of the bank's credit exposure and in the market value of the collateral.

* * * * *

6. In appendix A to part 325 under Table II—Summary of Risk Weights and Risk Categories, paragraphs (6) and (7) under Category 2—20 Percent Risk Weight are revised to read as follows:

* * * * *

Table II—Summary of Risk Weights and Risk Categories

* * * * *

Category 2—20 Percent Risk Weight

* * * * *

(6) Portions of claims (including repurchase agreements) collateralized³ by securities issued or guaranteed by the U.S. Treasury, U.S. Government agencies, or the central government in other OECD countries that do not qualify for the zero percent risk weight category, or that are collateralized by securities issued or guaranteed by U.S. Government-sponsored agencies.

(7) Portions of loans and other claims collateralized by cash on deposit in the lending bank that do not qualify for the zero percent risk weight category.

* * * * *

By order of the Board of Directors.

Dated at Washington, D.C., this 17th day of June, 1996.

Federal Deposit Insurance Corporation
Valerie J. Best,
Assistant Executive Secretary.

Office of Thrift Supervision

12 CFR CHAPTER V

For the reasons set forth in the preamble, part 567 of chapter V of title 12 of the Code of Federal Regulations is proposed to be amended as set forth below:

PART 567—CAPITAL

1. The authority citation for part 567 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 1828 (note).

2. Section 567.6 is amended by:

a. Redesignating footnotes 8, 9, 10, and 11 as footnotes 10, 11, 12, and 13, respectively.

b. Adding paragraph (a)(1)(i)(H); and
c. Adding a sentence at the end of paragraph (a)(2)(i)(E).

The additions read as follows:

§ 567.6 Risk-based capital credit risk-weight categories.

(a) * * *

(1) * * *

(i) * * *

(H) That portion of claims collateralized by cash on deposit with the lending savings association or by securities issued or unconditionally guaranteed by the United States Treasury, the United States Government or its agencies, or the central government in other OECD countries,⁸

³ Degree of collateralization is determined by current market value.

⁸ Claims collateralized by securities issued or guaranteed by the United States Treasury, the United States Government or its agencies, or the central government of an OECD country include securities lending transactions, repurchase agreements, collateralized letters of credit, such as

provided that the collateralized arrangement:

(1) Specifies the collateralized portion of the claim either in terms of an identified dollar amount or a percentage of the claim (or, in the case of an off-balance-sheet derivative contract, either in terms of an identified dollar amount or a percentage of the current or potential future exposure);⁹ and

(2) Requires the maintenance on a daily basis of a positive margin of collateral on the specified portion of the claim that fully takes into account daily changes in the value of the savings association's credit exposure and in the market value of the collateral.

* * * * *

(2) * * *

(i) * * *

(E) * * * When the savings association is acting as a customer's agent in a transaction involving the loan or sale of the customer's securities that is collateralized by cash delivered to the lending savings association, the transaction is deemed to be collateralized by cash on deposit with the savings association for purposes of determining the appropriate risk weight category, provided that any obligation of the savings association to indemnify the customer is limited to no more than the difference between the market value of the securities lent or sold and the cash collateral received, and any reinvestment risk associated with the collateral is borne by the customer.

* * * * *

Dated: July 23, 1996.

Office of Thrift Supervision
Jonathan L. Fiechter,
Acting Director.

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FEDERAL HOUSING FINANCE BOARD

12 CFR Parts 932 and 941

[No. 96-55]

Selection and Compensation of Federal Home Loan Bank Employees; Selection of the Director of the Office of Finance and Compensation of the Employees of the Office of Finance

AGENCY: Federal Housing Finance Board.

ACTION: Proposed rule.

reinsurance letters of credit, and other similar financial guarantees. Swaps, forwards, futures and options transactions are also eligible, if they meet the collateral requirements.

⁹ See paragraph (a)(2)(v) of this section.