



Federal Deposit Insurance Corporation
550 17th Street, NW, Washington, D.C. 20429-9990

Financial Institution Letter
FIL-112-2008
October 29, 2008

REGULATORY CAPITAL CALCULATIONS

Tax Effect of Losses on Fannie Mae and Freddie Mac Preferred Stock

Summary: Section 301 of the Emergency Economic Stabilization Act of 2008 (EESA) provides tax relief to banks that have suffered losses on certain holdings of Federal National Mortgage Association (Fannie Mae) and Federal Home Loan Mortgage Corporation (Freddie Mac) perpetual preferred stock by changing the character of these losses from capital to ordinary for federal income tax purposes. The federal banking agencies will allow banks to recognize the effect of the tax change enacted in Section 301 of EESA in their third quarter 2008 regulatory capital calculations.

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Related Topics:

Consolidated Reports of Condition and Income
(Call Report)
Regulatory Capital Standards (Part 325 of the
FDIC's Regulations)

Attachment:

Interagency Statement on the Regulatory Capital
Impact of Losses on Fannie Mae and Freddie Mac
Preferred Stock

Contact:

FDIC Regional Accountant or Robert Storch,
Chief Accountant, Division of Supervision and
Consumer Protection, on 202-898-8906 or
rstorch@fdic.gov

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Highlights:

- Banks holding Fannie Mae and Freddie Mac perpetual preferred stock for purposes other than trading are presumed to have incurred other-than-temporary impairment losses if the cost basis of these investments is well in excess of the current market price of the stock. These losses must be recognized in earnings in the Call Reports for September 30, 2008.
- Prior to the enactment of the EESA on October 3, 2008, losses on sales of Fannie Mae and Freddie Mac preferred stock by banks generally were considered capital gains and losses for federal income tax purposes.
- Section 301 of EESA allows banks to treat losses on certain sales of this preferred stock as ordinary rather than capital losses, but under generally accepted accounting principles banks may not record the effect of this tax change in their balance sheets and income statements for financial and regulatory reporting purposes until the period in which the law is enacted, i.e., the fourth quarter of 2008.
- For purposes of the regulatory capital calculations in their September 30, 2008, Call Reports, but not for balance sheet and income statement purposes, banks may elect to adjust the tax effect of losses on Fannie Mae and Freddie Mac perpetual preferred stock as if Section 301 of EESA had been enacted in the third quarter of 2008.
- The attached Interagency Statement and its Call Report Appendix provide regulatory reporting instructions that explain how banks should reflect the effect of this tax change in the measurement of regulatory capital in Schedule RC-R, Regulatory Capital, for September 30, 2008.