



Alerts

Fed Adopts New Capital Rules

July 8, 2013

Corporate / Financial Institutions Alert

In August 2012, the various federal banking agencies proposed three separate notices related to capital and risk-weighted assets. The 972-page rule approved by the Federal Reserve (the Fed) on July 2, 2013 consolidated these notices with selected changes.

The Federal Deposit Insurance Corporation (FDIC) has indicated that it will consider this matter as an interim final rule on July 9, 2013, while the Office of the Comptroller of the Currency (OCC) expects to consider the matter as a final rule by the same date.

Beginning on January 1, 2015, smaller, noncomplex banking organizations will be subject to the revised definitions of regulatory capital, the new minimum regulatory capital ratios, and the regulatory capital adjustments and deductions according to the rule's transition provisions.

All banking organizations will have to begin calculating standardized total risk-weighted assets in accordance with the final rule on January 1, 2015. The transition period for capital conservation and capital buffers will start on January 1, 2016.

The Fed issued a table which highlights the provisions most relevant to smaller organizations. It can be found [here](#).

As with the proposed rule, the new rule provides that: "Generally, BHCs with total consolidated assets of less than \$500 million remain subject to the [Fed's] Small Bank Holding Company Policy Statement."

Three areas of concern in the proposed rules dealt with the following:

- residential mortgages,
- trust preferred securities and cumulative perpetual preferred stock,
- accumulated other comprehensive income (AOCI)

Residential Mortgages. As proposed, the rule would have required banks to assign risk-weightings to one-to-four family residential mortgages of between 35 percent and 200 percent based on the loan-to-value ratio and the risk category of the exposure.

These requirements were dropped from the final rule. Properly underwritten

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residential mortgages secured by a first lien on a one-to-four family residential property will be risk-weighted at 50 percent, while all other such loans will be risk-weighted at 100 percent.

Trust Preferred Securities and Cumulative Perpetual Preferred Stock. The rule originally provided that organizations with less than \$15 billion in assets would have 10 years to phase-out nonqualifying tier 1 capital instruments from regulatory capital.

The final rule permanently grandfathers these instruments for organizations with less than \$15 billion in assets. These instruments include trust preferred securities and cumulative perpetual preferred stock issued before May 19, 2010, that bank holding companies included in their tier 1 capital under the general risk-based capital rules.

AOCI. The final rule provides that banks not subject to the advanced approaches rule (banks with assets of less than \$250 billion or fewer than \$10 billion in foreign exposures) may make a one-time election to exclude most elements of AOCI when calculating regulatory capital under the final rule and instead use the treatment provided in the current general risk-based capital rules.

The election must be made in the first call report or FR Y-9 filed following the date the organization becomes subject to the final rule.

For more information, please contact [Tim Sullivan](#) or your regular [Hinshaw attorney](#).

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