Below are some questions and answers on the Interagency Policy Statement on Documentation for Loans to Small- and Medium-sized Businesses and Farms. Participation in this minimal loan documentation program is commonly referred to as having a loan "basket."

What is the purpose of the loan "basket?"

The "basket" was developed to help ease the "credit crunch" by encouraging banks to make small business and farm loans which they might not otherwise have made because of potential regulator criticism over lack of documentation.

Does every 1 and 2 rated bank have to establish a loan "basket?"

No, this program is entirely voluntary. Each bank should assess its own situation and determine whether or not using the "basket" would enable the bank to better serve small business credit needs of the community.

What is the procedure for a composite "3" rated bank to apply to use the "basket?"

A well or adequately capitalized "3" rated bank interested in establishing a "basket" of its loan portfolio should send a written request to its supervisory office, stating that the bank wishes to participate in the minimal loan documentation program. Banking Bulletin 93-46, Interagency Policy on Small Business Loan Documentation (Supplement) permits "3" rated banks to apply to participate in the program, and provides guidance to those banks wishing to participate.

What criteria will the OCC use when evaluating requests from composite "3" rated banks wishing to use the "basket?"

The supervisory office will evaluate, among other things, the following:

- Capital ratios to ensure that they are at or above levels established for adequately capitalized banks under Prompt Corrective Action, Section 131 of FDICIA;
- The most recent report of examination to determine whether there are signs of current underwriting problems.
- Compliance with any formal or informal administrative action, to assure that the bank is in substantial compliance;
- CAMEL factors to be certain that they are stabilized and improving.

May a bank put its special mention loans in the "basket?"

Yes, the bank may put any loan in the "basket" as long as the loan is not 60 days or more past due.

Why should a bank use the "basket?"

The bank may be better able to serve the needs of small business customers by making loans to them which may lack certain documentation, but are otherwise consistent with the bank's underwriting standards. In some cases, the borrower may be so well known to the bank that the management believes it does not need the documentation an examiner may expect to assess creditworthiness and repayment capacity, or to support the taking of pledged collateral. In other cases, the loans may be so small that extensive documentation seems unreasonable. Whatever the situation, the "basket" allows the bank to determine the documentation needed to support the loan and, at the same time, be assured that an examiner will not question that judgment.

What types of documentation are appropriate for a bank to obtain, even for loans in the "basket?"

Prior to making any loan, the bank should know the purpose of the loan and the source of repayment. In addition, the bank should assure itself that the borrower has the ability and desire to repay the loan in a timely manner. Thus, documentation maintained by the bank should support the decision to grant the credit and allow for follow-up monitoring, as the bank would perform with any loan.

Does the bank have to obtain an appraisal for loans in the "basket" that are supported by real estate?

The original guidance for the "basket" states that the bank must comply with applicable laws, rules, and regulations. Therefore, if the loan is subject to the appraisal regulation, the bank would have to obtain a qualifying appraisal or evaluation, where appropriate.

How will an examiner treat "basket" loans during the examination?

In the questions and answers provided in BB 93-23 dated April 26, 1993, we answered the question "What procedures must an examiner perform during an examination with regard to the 'exempt portion' of the loan portfolio?" At that time we said that examiners may decide to check the bank's compliance with the policy, and if they do, then obtain and review the bank's listing of loans comprising the "exempt portion" of the portfolio to determine whether any ineligible loans have been erroneously assigned to the "basket."

In addition, in response to the question "When may an examiner actually review a loan that has been assigned to the 'exempt portion' of the loan portfolio?" we said that the examiner needed a good reason to review these loans. Several examples are listed. However, basically the examiner should not review these loans unless they are more than 60 days past due, unless he/she has reason to believe that the loans are not in compliance with applicable law and regulations, unless part of a relationship is subject to classification, or unless there is reason to believe that an exempt loan would cause the bank to exceed the legal lending limit.

In no case, may an examiner criticize a loan assigned to the "basket" for documentation deficiencies. However, if the bank chooses to take the loan out of the "basket," the loan may be subject to criticism for documentation, if appropriate.

What is the responsibility of the board of directors regarding the "basket?"

The board of directors is responsible for the operation and condition of the bank. This responsibility is no different for the "basket." If the bank chooses to participate in the minimal loan documentation program, the board should acknowledge the bank's participation in its meeting minutes and assign responsibility for maintaining sufficient records to comply with the program. Any policies regarding the "basket" should be approved in the normal course of business, as any other policy is approved.

What kind of policy is required by the bank for "basket" lending?

There is no required policy regarding lending with the "basket." As with any other type of lending, the bank must comply with all applicable laws, rules, and regulations and grant credit on a safe and sound basis.

If a bank's CAMEL rating changes, going from a composite "2" to a composite "3," and the bank is using the "basket," what do they need to do?

If a bank was eligible to have a "basket" when the loans were assigned to it, the bank may continue using it. However, no new loans may be added to the "basket" until the bank makes a written request to their supervisory office seeking permission to continue in the program and that request is approved.

How does the bank reserve for loans in the "basket?"

They reserve for these loans just like they would reserve for any other loan. There is no special reserve requirement or methodology just because the loan is in the "basket."

Are there any specific types of loans which may not be in the "basket?"

No, any type of loan may be placed into the "basket," as long as it meets the criteria regarding size and purpose. The "Interagency Policy Statement on Documentation for Loans to Small- and Medium-sized Businesses and Farms" dated March 30, 1993 states that the criteria for a loan to qualify for inclusion in the "basket" is:

> To qualify for the exemption, each loan may not exceed the lesser of $900,000 or three percent of the institution's total capital, and the aggregate value of the loans may not exceed 20 percent of its total capital. In addition, loans selected for this exemption by an institution must not be delinquent as of the selection date, and each institution must comply with applicable lending limits and other laws and regulations in making these loans. Furthermore, such loans may not be made to an insider.

This means that the "basket" may contain real estate loans, installment loans, time secured and unsecured loans, construction loans, etc.