

# RESCINDED

OCC BULLETIN 2009-35

Transmittal - See OCC 2015-38

**Subject:** Risk-based Capital Requirements for National Banks, State Member Banks, and Division Heads, All Other Banks, and Other Interested Parties

**Modifications:**

**Date:** December 31, 2009

## Description: Final Rule

The Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision published in the *Federal Register* on November 20, 2009, a final rule concerning the risk-based capital treatment for one-to-four family residential mortgages modified under the U.S. Treasury Department's Home Affordable Mortgage Program (program). This bulletin transmits and briefly summarizes that rule, which finalized the interim final rule published June 30, 2009.

## Summary

The program provides a framework for mortgage lenders and servicers to restructure certain one-to-four family mortgages to make them more affordable. Under the OCC's general risk-based capital rules, mortgages modified pursuant to the program would be considered "restructured" and thus no longer eligible for a 50 percent risk weight; such mortgages would receive a 100 percent risk weight. The final rule changes the general risk-based capital rules so that a mortgage loan modified under the program will retain the risk weight assigned prior to the modification, so long as the loan continues to meet other prudential criteria. The final rule clarifies that mortgage loans that have program modifications in the trial period, and not yet permanent, qualify for the risk-based capital treatment contained in the rule. However, a modified loan that was receiving a 100 percent risk weight because it was 90 days or more past due or on non-accrual would be eligible to return to the 50 percent risk weight category only after demonstration of a sustained period of repayment performance consistent with current OCC practice, generally expected to be a minimum of six months.

## Further Information

For further information about this bulletin, contact the Office of the Chief National Bank Examiner (202) 649-6370.

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## Related Links

- [Final Rule 74 FR 60137](#)