

# RESCINDED

OCC BULLETIN 2010-5

**Subject:** Capital Treatment for FAS 166 and FAS 167  
**To:** Chief Executive Officers of All National  
Bank and Division Heads, All  
Personnel, and Other Interested  
Parties

Transmittal - See OCC 2015-38

**Date:** February 4, 2010

## Description: Final Rule

The Office of the Comptroller of the Currency, 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 January 28, 2010, a final rule amending risk-based capital requirements relating to the Financial Accounting Standard Board's (FASB) adoption of Statement No. 166, *Accounting for Transfers of Financial Assets - an Amendment of FASB Statement No. 140* (FAS 166) and FASB Statement No. 167, *Amendments to FASB Interpretation No. 46(R)* (FAS 167). This bulletin transmits and summarizes the interagency final rule.

## Summary

On June 12, 2009, the FASB issued FAS 166 and FAS 167, which becomes effective as of the beginning of each reporting entity's first annual reporting period that begins after November 15, 2009. FAS 166 and 167, which FASB has codified as Accounting Standard Codification Topics 860, *Transfers and Servicing*, and 810, *Consolidation*, respectively, modify the treatment under U.S. generally accepted accounting principles (GAAP) of certain structured finance transactions involving a special purpose entity known as a variable interest entity (VIE). Under FAS 167, banks may be required to consolidate assets, liabilities, and equity in certain VIEs that were not consolidated under the standards that FAS 166 and 167 replaced.

The final rule retains GAAP as the foundation for calculating risk-based capital requirements for exposures in consolidated VIEs under the agencies' general and advanced approaches risk-based capital frameworks (collectively, risk-based capital frameworks) and the agencies' leverage capital rules. The final rule also eliminates provisions in the risk-based capital frameworks that permitted banks to exclude GAAP-consolidated asset-backed commercial paper (ABCP) program assets from risk-weighted assets. Finally, the rule provides a reservation of authority that permits the agencies to require banks to treat VIEs that are not consolidated under GAAP as if they are consolidated under the agencies' risk-based capital frameworks.

In order to avoid abrupt adjustments that could undermine or complicate government actions to support the provision of credit to U.S. households and businesses in the current economic environment, the final rule provides an optional two-quarter implementation delay followed by an optional two-quarter phase-in of the effect of the accounting changes on risk-weighted assets and the amount of banks' allowance for loan and lease losses includable in Tier 2 capital. The final rule does not provide any transition relief for a bank's leverage ratio requirement.

## For Further Information

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

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/signed/

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## Related Links

- [Final Rule 75 FR 4636](#)