RESCINDED

Transmittal – See OCC 2020-11

OCC Bulletin 2017-32| August 29, 2017

Regulatory Capital Rule: Notice of Proposed Rulemaking

Summary

The Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation (collectively, the agencies) are seeking comment on a proposed rule, applicable to non-advanced approaches national banks and federal savings associations (collectively, banks) that would maintain the capital rule's 2017 transition provisions for several regulatory capital deductions and certain other requirements that are subject to multi-year phase-in schedules (transitions notice of proposed rulemaking (NPR)) in the regulatory capital rules. Specifically, the agencies propose to maintain the capital rule's 2017 transition provisions for the regulatory capital treatment of the following items: (i) mortgage servicing assets (MSAs), (ii) deferred tax assets (DTA) arising from temporary differences that could not be realized through net operating loss carrybacks (temporary difference DTA), (iii) investments in the capital of unconsolidated financial institutions (both significant and non-significant investments), and (iv) minority interest included in regulatory capital. This proposed rule would maintain the 2017 transition provisions for certain items for non-advanced approaches banks while the agencies work on the NPR to simplify certain aspects of the capital rules (simplifications NPR).

To

Chief Executive Officers of All National Banks and Federal Savings Associations, Department and Division Heads, All Examining Personnel, and Other Interested Parties

Note for Community Banks

The proposed rule applies to community banks, specifically all non-advanced approaches banks (that is, all banks that are part of banks with less than $250 billion in total consolidated assets and less than $10 billion in total consolidated foreign financial exposure).

Highlights

- This transitions NPR would require non-advanced approaches banks to apply risk weight and deductions applicable during 2017 for MSAs, temporary difference DTAs, and significant and non-significant investments in the capital of unconsolidated financial institutions until any changes to the treatment of these items proposed in the simplifications NPR become effective.
- In accordance with table 7 of section 300 of the capital rules, non-advanced approaches banks would deduct 80 percent of the amount of any of these items that is not includable in regulatory capital, until further notice.
- Under this transitions NPR, non-advanced approaches banks would apply a 100 percent risk weight to any non-deducted amounts of MSAs, temporary difference DTAs, or significant investments in the capital of unconsolidated financial

institutions in the form of common stock and continue to apply the current risk weights under the capital rules to any non-deducted amounts of non-significant investments in the capital of unconsolidated financial institutions and significant investments in the capital of unconsolidated financial institutions not in the form of common stock.

- In addition, under this transitions NPR, non-advanced approaches banks would continue including 20 percent of any common equity tier 1 minority interest, tier 1 minority interest, and total capital minority interest exceeding the capital rule's minority interest limitations (surplus minority interest) in regulatory capital until any changes to the treatment of minority interest proposed in the simplifications NPR become effective.
- This transitions NPR would not apply to advanced approaches banks, which would continue to apply the capital rules' existing transition provisions.

Background

Since issuance of the capital rules in 2013, banks and members of the public have raised concerns regarding the regulatory burden, complexity, and costs associated with certain aspects of the capital rules. As described in the March 2017 "Joint Report to Congress: Economic Growth and Regulatory Paperwork Reduction Act" (EGRPRA report), the agencies are working on a simplifications NPR. As provided in the EGRPRA report, such amendments likely would include (1) replacing the framework's complex treatment of high-volatility commercial real estate exposures with a more straightforward treatment for most acquisition, development, or construction loans; (2) simplifying the current regulatory capital treatment for MSAs, temporary difference DTAs, and holdings of regulatory capital instruments issued by financial institutions; and (3) simplifying the current limitations on minority interests in regulatory capital.

The current capital rules require that MSAs, temporary difference DTAs, and certain investments in the capital of unconsolidated financial institutions above certain thresholds be deducted from regulatory capital. The capital rules established transition provisions that phase in certain requirements over several years in order to give banks sufficient time to adapt to the requirements. The deduction treatments for investments in the capital of unconsolidated financial institutions, MSAs, and temporary difference DTAs are subject to transition provisions until January 1, 2018. Starting January 1, 2018, MSAs, temporary difference DTAs and significant investments in the capital of unconsolidated financial institutions in the form of common stock that are not deducted from regulatory capital will be assigned a 250 percent risk weight. Likewise, the minority interest limitations in the capital rules become fully effective January 1, 2018. In this rulemaking, the agencies are proposing to maintain the 2017 transition provisions for these items for non-advanced approaches banks until the agencies have the opportunity to consider comments on the forthcoming capital simplifications NPR. Advanced approaches banks would continue to apply the current capital rules and transitions, including those that are effective January 1, 2018.

Further Information

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Related Link

- Regulatory Capital Rules: Retention of Certain Existing Transition Provisions for Banking Organizations That Are Not Subject to the Advanced Approaches Capital Rules (PDF)