RESCINDED

Transmittal – See OCC 2020-11

OCC Bulletin 2017-56| November 22, 2017

Regulatory Capital Rule: Final Rule

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 issuing a final rule, applicable to non-advanced approaches national banks and federal savings associations (collectively, banks), that will maintain the capital rules' 2017 transition provisions for several regulatory capital deductions and certain other requirements that are subject to multi-year phase-in schedules (transitions final rule) in the regulatory capital rules. Specifically, the final rule will maintain the capital rules' 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 (significant and non-significant investments), and (iv) minority interest included in regulatory capital. This final rule will maintain the 2017 transition provisions for certain items for non-advanced approaches banks. On October 27, 2017, the agencies published a proposed rule to simplify certain aspects of the capital rules, which includes proposed simplifications to the capital treatment for items covered by this final rule. The agencies expect that the capital treatment and transition provisions for items covered by this final rule will change once the simplification proposal is finalized and effective.

The effective date of this final rule is January 1, 2018.

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 final rule applies to community banks, specifically all non-advanced approaches banks (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 exposures).

Highlights

- This transitions final rule will require non-advanced approaches banks to continue to use risk weight and deduction treatment applicable during 2017 for MSAs, temporary difference DTAs, and significant and non-significant investments in the capital of unconsolidated financial institutions.
- In accordance with table 7 of section 300 of the capital rules, non-advanced approaches banks will continue to deduct 80 percent of the amount of any of these items that is not includable in regulatory capital.
- Under this transitions final rule, non-advanced approaches banks will continue to assign 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 final rule, non-advanced approaches banks will 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.
- This transitions final rule will not apply to advanced approaches banks, which will 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 have been working to simplify certain aspects of the capital rules and on September 27, 2017, the agencies proposed a rule to achieve that objective in the agencies' capital rules (simplifications NPR). As provided in the EGRPRA report, amendments in the simplifications NPR 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 December 31, 2017. Absent this rulemaking, 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 maintaining the 2017 transition provisions for these items for non-advanced approaches banks. The agencies expect that the simplifications final rule will change the capital treatment and transition provisions for items covered by this final rule. Advanced approaches banks will 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

- Final Rule (PDF)