

Schedule CMR but will be required to provide selected information in the manner determined by the OTS. The Director of the OTS or his designee may, within his discretion, require any otherwise exempt savings association to file the Schedule CMR on a quarterly basis.

(c) A savings association's interest rate risk exposure is measured by the decline in the NPV that would result from a 200 basis point increase or decrease in market interest rates, except when the 3-month Treasury bond equivalent yield falls below 400 basis points. In that case, the decrease will be equal to one-half of that Treasury rate.

(d) If a savings association, demonstrates to the OTS that it has reduced its IRR, in dollar amount, by the end of the quarter following the reporting date of the Schedule CMR on which the savings association's IRR component was based, the IRR component shall be lowered to that amount.

(e) Exception. Notwithstanding paragraph (a) of this section, upon the request by a savings association, the Director of the OTS, or his designee, may waive or defer, but not lower except as a result of an appeal, a savings association's IRR component. For example, the Director may determine that a waiver or deferral is warranted if the savings association has taken meaningful steps to reduce or control its interest rate risk exposure.

(f) Manuals describing the OTS Model and guidance issued by the OTS will be provided to savings associations and will be available, upon request, to others at the address set forth in § 516.1(a) of this chapter.

[58 FR 45813, Aug. 31, 1993, as amended at 59 FR 12811, Mar. 18, 1994]

§ 567.8 Leverage ratio.

Savings associations shall have and maintain core capital, as defined at 12 CFR 567.5(a), in an amount equal to at least 3.0% of adjusted total assets.

§ 567.9 Tangible capital requirement.

(a) Savings associations shall have and maintain tangible capital in an amount equal to at least 1.5% of adjusted total assets.

(b) The following elements, less the amount of any deductions pursuant to paragraph (c) of this section, comprise a savings association's tangible capital:

(1) Common stockholders' equity (including retained earnings);

(2) Noncumulative perpetual preferred stock and related earnings;

(3) Nonwithdrawable accounts and pledged deposits that would qualify as core capital under § 567.5 of this part; and

(4) Minority interests in the equity accounts of fully consolidated subsidiaries.

(c) *Deductions from tangible capital.* In calculating tangible capital, a savings association must deduct from assets, and, thus, from capital:

(1) Intangible assets, as defined in § 567.1 of this part, and servicing assets not includable in tangible capital pursuant to § 567.12 of this part.

(2) Investments, both equity and debt, in subsidiaries that are not includable subsidiaries (including those subsidiaries where the savings association has a minority ownership interest), except as provided in paragraphs (c)(3) and (c)(4) of this section.

(3) If a savings association has any investments (both debt and equity) in one or more subsidiary(ies) engaged as of April 12, 1989 and continuing to be engaged in any activity that would not fall within the scope of activities in which includable subsidiaries may engage, it must deduct such investments from assets and, thus, tangible capital in accordance with this paragraph (c)(3). The savings association must first deduct from assets and, thus, capital the amount by which any investments in such a subsidiary(ies) exceed the amount of such investments held by the savings association as of April 12, 1989. Next, the savings association must deduct from assets and, thus, tangible capital the lesser of:

(i) The savings association's investments in and extensions of credit to the subsidiary as of April 12, 1989; or

(ii) The savings association's investments in and extensions of credit to the subsidiary on the date as of which the savings association's capital is being determined.

(4) If a savings association holds a subsidiary (either directly or through a subsidiary) that is itself a domestic depository institution the Office may, in its sole discretion upon determining that the amount of tangible capital that would be required would be higher if the assets and liabilities of such subsidiary were consolidated with those of the parent savings association than the amount that would be required if the parent savings association's investment were deducted pursuant to paragraphs (c)(2) and (c)(3) of this section, consolidate the assets and liabilities of that subsidiary with those of the parent savings association in calculating the capital adequacy of the parent savings association, regardless of whether the subsidiary would otherwise be an includable subsidiary as defined in § 567.1 of this part.

[54 FR 49649, Nov. 30, 1989, as amended at 57 FR 33441, July 29, 1992; 59 FR 4788, Feb. 2, 1994; 60 FR 39232, Aug. 1, 1995; 62 FR 66264, Dec. 18, 1997; 63 FR 42678, Aug. 10, 1998]

§ 567.10 Consequences of failure to meet capital requirements.

(a) *Capital plans.* (1) [Reserved]

(2) The Director shall require any savings association not in compliance with capital standards to submit a capital plan that:

(i) Addresses the savings association's need for increased capital;

(ii) Describes the manner in which the savings association will increase capital so as to achieve compliance with capital standards;

(iii) Specifies types and levels of activities in which the savings association will engage;

(iv) Requires any increase in assets to be accompanied by increase in tangible capital not less in percentage amount than the leverage limit then applicable;

(v) Requires any increase in assets to be accompanied by an increase in capital not less in percentage amount than required under the risk-based capital standard then applicable; and

(vi) Is acceptable to the Director.

(3) To be acceptable to the Director under this section, a plan must, in addition to satisfying all of the requirements set forth in paragraphs (a)(2)(i) through (a)(2)(v) of this section, con-

tain a certification that while the plan is under review by the Office, the savings association will not, without the prior written approval of the Regional Director:

(i) Grow beyond net interest credited;

(ii) Make any capital distributions; or

(iii) Act inconsistently with any other limitations on activities established by statute, regulation or by the Office in supervisory guidance for savings associations not meeting capital standards.

(4) If the plan submitted to the Director under paragraph (a)(2) of this section is not approved by the Office, the savings association shall immediately and without any further action, be subject to the following restrictions:

(i) It may not increase its assets beyond the amount held on the day it receives written notice of the Director's disapproval of the plan; and

(ii) It must comply with any other restrictions or limitations set forth in the written notice of the Director's disapproval of the plan.

(b) On or after January 1, 1991, the Director shall:

(1) Prohibit any asset growth by any savings association not in compliance with capital standards, *except* as provided in paragraph (d) of this section; and

(2) Require any savings association not in compliance with capital standards to comply with a capital directive issued by the Director which may include the restrictions contained in paragraph (e) of this section and any other restrictions the Director determines appropriate.

(c) A savings association that wishes to obtain an exemption from the sanctions provided in paragraph (b)(2) of this section must file a request for exemption with the Regional Director. Such request must include a capital plan that satisfies the requirements of paragraph (a)(2) of this section.

(d) The Director may permit any savings association that is subject to paragraph (b) of this section to increase its assets in an amount not exceeding the amount of net interest credited to the savings association's deposit liabilities, if: