(q) *Total capital* means assets minus liabilities, valued in accordance with generally accepted accounting principles (GAAP), except that liabilities shall not include obligations to retire stock protected under section 4.9A of the Act.

[53 FR 39247, Oct. 6, 1988, as amended at 56 FR 2675, Jan. 24, 1991; 59 FR 37404, July 22, 1994; 62 FR 4446, Jan. 30, 1997; 63 FR 39225, July 22, 1998]

§ 615.5205 Minimum permanent capital standards.

Each institution shall at all times maintain permanent capital at a level of at least 7 percent of its risk-adjusted asset base.

[62 FR 4446, Jan. 30, 1997]

§ 615.5210 Computation of the permanent capital ratio.

(a) The institution's permanent capital ratio shall be determined on the basis of the financial statements of the institution prepared in accordance with generally accepted accounting principles except that the obligations of the Farm Credit System Financial Assistance Corporation issued to repay banks in connection with the capital preservation and loss-sharing agreements described in section 6.9(e)(1) of the Act shall not be considered obligations of any institution subject to this regulation prior to their maturity.

(b) The institution's asset base and permanent capital shall be computed using average daily balances for the most recent 3 months.

(c) The institution's permanent capital ratio shall be calculated by dividing the institution's permanent capital, adjusted in accordance with paragraph (e) of this section (the numerator), by the risk-adjusted asset base (the denominator), to derive a ratio expressed as a percentage.

(d) Until September 27, 2002, payments of assessments to the Farm Credit System Financial Assistance Corporation, and any part of the obligation to pay future assessments to the Farm Credit System Financial Assistance Corporation that is recognized as an expense on the books of a bank or association, shall be included in the capital of such bank or association for the purpose of determining its compliance with regulatory capital requirements, to the extent allowed by section 6.26(c)(5)(G) of the Act. If the bank directly or indirectly passes on all or part of the payments to its affiliated associations pursuant to section 6.26(c)(5)(D) of the Act, such amounts shall be included in the capital of the associations and shall not be included in the capital of the bank. After September 27, 2002, no payments of assessments or obligations to pay future assessments may be included in the capital of the bank or association.

(e) For the purpose of computing the institution's permanent capital ratio, the following adjustments shall be made prior to assigning assets to risk-weight categories and computing the ratio:

(1) Where two Farm Credit System institutions have stock investments in each other, such reciprocal holdings shall be eliminated to the extent of the offset. If the investments are equal in amount, each institution shall deduct from its assets and its total capital an amount equal to the investment. If the investments are not equal in amount, each institution shall deduct from its total capital and its assets an amount equal to the smaller investment. The elimination of reciprocal holdings required by this paragraph shall be made prior to making the other adjustments required by this section.

(2) Where a Farm Credit Bank or an agricultural credit bank is owned by one or more Farm Credit System institutions, the double counting of capital shall be eliminated in the following manner:

(i) All equities of a Farm Credit Bank or agricultural credit bank that have been purchased by other Farm Credit institutions shall be considered to be permanent capital of the Farm Credit Bank or agricultural credit bank.

(ii) Each Farm Credit Bank or agricultural credit bank and each of its affiliated associations may enter into an agreement that specifies, for the purpose of computing permanent capital only, a dollar amount and/or percentage allotment of the association's allocated investment between the bank and the association. The following conditions shall apply:

(A) The agreement shall be for a term of 1 year or longer.

(B) The agreement shall be entered into on or before its effective date.

(C) The agreement may be amended according to its terms, but no more frequently than annually except in the event that a party to the agreement is merged or reorganized, or in the event of a reallotment pursuant to paragraph (e)(2)(ii)(G) of this section. The agreement shall include a provision addressing how the agreement will be amended if a reallotment is required by paragraph (e)(2)(ii)(G) of this section.

(D) On or before the effective date of the agreement, a certified copy of the agreement, and any amendments thereto, shall be sent to the field office of the Farm Credit Administration responsible for examining the institution. A copy shall also be sent within 30 calendar days of adoption to the bank's other affiliated associations.

(E) Unless the parties otherwise agree, if the bank and the association have not entered into a new agreement on or before the expiration of an existing agreement, the existing agreement shall automatically be extended for another 12 months, unless either party notifies the Farm Credit Administration in writing of its objection to the extension prior to the expiration of the existing agreement.

(F) In the absence of an agreement between a Farm Credit Bank or an agricultural credit bank and one or more associations, or in the event that an agreement expires and at least one party has timely objected to the continuation of the terms of its agreement, the following formula shall be applied with respect to the allocated investments held by those associations with which there is no agreement (nonagreeing associations), and shall not be applied to the allocated investments held by those associations with which the bank has an agreement (agreeing associations):

(*1*) The allotment formula shall be calculated annually.

(*2*) The permanent capital ratio of the Farm Credit Bank or agricultural credit bank shall be computed as of the date that the existing agreement terminates, using a 3-month average daily balance, excluding the allocated investment from nonagreeing associations but including any allocated investments of agreeing associations that are allotted to the bank under applicable allocation agreements. The permanent capital ratio of each nonagreeing association shall be computed as of the same date using a 3-month average daily balance, and shall be computed excluding its allocated investment in the bank.

(*3*) If the permanent capital ratio for the Farm Credit Bank or agricultural credit bank calculated in accordance with paragraph (e)(2)(ii)(F)(*2*) of this section is 7 percent or above, the allocated investment of each nonagreeing association whose permanent capital ratio calculated in accordance with paragraph (e)(2)(ii)(F)(*2*) of this section is 7 percent or above shall be allotted 50 percent to the bank and 50 percent to the association.

(*4*) If the permanent capital ratio of the Farm Credit Bank or agricultural credit bank calculated in accordance with paragraph (e)(2)(ii)(F)(*2*) of this section is 7 percent or above, the allocated investment of each nonagreeing association whose capital ratio is below 7 percent shall be allotted to the association until the association's capital ratio reaches 7 percent or until all of the investment is allotted to the association, whichever occurs first. Any remaining unallotted allocated investment shall be allotted 50 percent to the bank and 50 percent to the association.

(*5*) If the permanent capital ratio of the Farm Credit Bank or agricultural credit bank calculated in accordance with paragraph (e)(2)(ii)(F)(*2*) of this section is less than 7 percent, the amount of additional capital needed by the bank to reach a permanent capital ratio of 7 percent shall be determined, and an amount of the allocated investment of each nonagreeing association shall be allotted to the Farm Credit Bank or agricultural credit bank as follows:

(*i*) If the total of the allocated investments of all nonagreeing associations is greater than the additional capital needed by the bank, the allocated investment of each nonagreeing association shall be multiplied by a fraction whose numerator is the amount of capital needed by the bank and whose denominator is the total amount of allocated investments of the nonagreeing associations, and such amount shall be allotted to the bank. Next, if the permanent capital ratio of any nonagreeing association is less than 7 percent, a sufficient amount of unallotted allocated investment shall then be allotted to each nonagreeing association, as necessary, to increase its permanent capital ratio to 7 percent, or until all such remaining investment is allotted to the association, whichever occurs first. Any unallotted allocated investment still remaining shall be allotted 50 percent to the bank and 50 percent to the nonagreeing association.

(*ii*) If the additional capital needed by the bank is greater than the total of the allocated investments of the nonagreeing associations, all of the remaining allocated investments of the nonagreeing associations shall be allotted to the bank.

(G) If a payment or part of a payment to the Farm Credit System Financial Assistance Corporation pursuant to section 6.9(e)(3)(D)(ii) of the Act would cause a bank to fall below its minimum permanent capital requirement, the bank and one or more associations shall amend their allocation agreements to increase the allotment of the allocated investment to the bank sufficiently to enable the bank to make the payment to the Farm Credit System Financial Assistance Corporation, provided that the associations would continue to meet their minimum permanent capital requirement. In the case of a nonagreeing association, the Farm Credit Administration may require a revision of the allotment sufficient to enable the bank to make the payment to the Farm Credit System Financial Assistance Corporation, provided that the association would continue to meet its minimum permanent capital requirement. The Farm Credit Administration Board may, at the request of one or more of the institutions affected, waive the requirements of this paragraph (e)(2)(ii)(G) if the Board deems it is in the overall best interest of the institutions affected.

(3) A Farm Credit Bank or agricultural credit bank and a recipient, other than an association, of allocated earnings from such bank may enter into an agreement specifying a dollar amount and/or percentage allotment of the recipient's allocated earnings in the bank between the bank and the recipient. Such agreement shall comply with the provisions of paragraph (e)(2) of this section, except that, in the absence of an agreement, the allocated investment shall be allotted 100 percent to the allocating bank and 0 percent to the recipient. All equities of the bank that are purchased by a recipient shall be considered as permanent capital of the issuing bank.

(4) A bank for cooperatives and a recipient of allocated earnings from such bank may enter into an agreement specifying a dollar amount and/or percentage allotment of the recipient's allocated earnings in the bank between the bank and the recipient. Such agreement shall comply with the provisions of paragraph (e)(2) of this section, except that, in the absence of an agreement, the allocated investment shall be allotted 100 percent to the allocating bank and 0 percent to the recipient. All equities of a bank that are purchased by a recipient shall be considered as permanent capital of the issuing bank.

(5) Where a bank or association invests in an association to capitalize a loan participation interest, the investing institution shall deduct from its total capital an amount equal to its investment in the participating institution.

(6) The double-counting of capital by a service corporation chartered under section 4.25 of the Act and its stockholder institutions shall be eliminated by deducting an amount equal to the institution's investment in the service corporation from its total capital.

(7) Each institution shall deduct from its total capital an amount equal to all goodwill, whenever required.

(8) To the extent an institution has deducted its investment in another Farm Credit institution from its total capital, the investment may be eliminated from its asset base.

(9) Where a Farm Credit Bank and an association have an enforceable written agreement to share losses on specifically identified assets on a predetermined quantifiable basis, such assets shall be counted in each institution's risk-adjusted asset base in the same proportion as the institutions have agreed to share the loss.

(10) The permanent capital of an institution shall exclude the net effect of all transactions covered by the definition of ''accumulated other comprehensive income'' contained in the Statement of Financial Accounting Standards No. 130, as promulgated by the Financial Accounting Standards Board.

(11) For purposes of calculating capital ratios under this part, deferred-tax assets are subject to the conditions, limitations, and restrictions described in this paragraph.

(i) Each institution shall deduct an amount of deferred-tax assets, net of any valuation allowance, from its assets and its total capital that is equal to the greater of:

(A) The amount of deferred-tax assets that are dependent on future income or future events in excess of the amount that is reasonably expected to be realized within 1 year of the most recent calendar quarter-end date, based on financial projections for that year, or

(B) The amount of deferred-tax assets that are dependent on future income or future events in excess of ten (10) percent of the amount of core surplus that exists before the deduction of any deferred-tax assets.

(ii) For purposes of this calculation:

(A) The amount of deferred-tax assets that can be realized from taxes paid in prior carryback years and from the reversal of existing taxable temporary differences shall not be deducted from assets and from equity capital.

(B) All existing temporary differences should be assumed to fully reverse at the calculation date.

(C) Projected future taxable income should not include net operating loss carryforwards to be used within 1 year or the amount of existing temporary differences expected to reverse within that year.

(D) Financial projections shall include the estimated effect of tax-planning strategies that are expected to be implemented to minimize tax liabilities and realize tax benefits. Financial projections for the current fiscal year (adjusted for any significant changes that have occurred or are expected to occur) may be used when applying the capital limit at an interim date within the fiscal year.

(E) The deferred tax effects of any unrealized holding gains and losses on available-for-sale debt securities may be excluded from the determination of the amount of deferred-tax assets that are dependent upon future taxable income and the calculation of the maximum allowable amount of such assets. If these deferred-tax effects are excluded, this treatment must be followed consistently over time.

(f) The risk-adjusted asset base (denominator) shall be determined in the following manner:

(1) Each asset on the institution's balance sheet and each off-balance-sheet item, adjusted by the appropriate credit conversion factor in paragraph (f)(3) of this section, shall be assigned to one of five risk categories in accordance with this section. The aggregate dollar value of the assets in each category shall be multiplied by the percentage weight assigned to that category. The sum of the weighted dollar values from each of the five risk categories shall comprise the denominator for computation of the permanent capital ratio.

(2) Balance sheet assets shall be assigned to the percentage risk categories as follows:

(i) *Category 1: 0 Percent.*

(A) Cash on hand and demand balances held in domestic or foreign banks.

(B) Claims on Federal Reserve Banks.

(C) Goodwill.

(D) Direct claims on and portions of claims unconditionally guaranteed by the United States Treasury, United States Government agencies, or central governments in other OECD countries. A United States Government agency is defined as an instrumentality of the United States Government whose obligations are fully and explicitly guaranteed as to the timely repayment of principal and interest by the full faith and credit of the United States Government.

(ii) *Category 2: 20 Percent.*

(A) Portions of loans and other assets collateralized by United States Government-sponsored agency securities. A United States Government-sponsored agency is defined as an agency originally chartered or established to serve public purposes specified by the United States Congress but whose obligations are not explicitly guaranteed by the full faith and credit of the United States Government.

(B) Portions of loans and other assets conditionally guaranteed by the United States Government or its agencies.

(C) Portions of loans and other assets collateralized by securities issued or guaranteed (fully or partially) by the United States Government or its agencies (but only to the extent guaranteed).

(D) Claims on domestic banks (exclusive of demand balances).

(E) Claims on, or guarantees by, OECD banks.

(F) Claims on non-OECD banks with a remaining maturity of 1 year or less.

(G) Investments in State and local government obligations backed by the ''full faith and credit of State or local government.'' Other claims (including loans) and portions of claims guaranteed by the full faith and credit of a State government (but only to the extent guaranteed).

(H) Claims on official multinational lending institutions or regional development institutions in which the United States Government is a shareholder or contributor.

(I) Loans and other obligations of and investments in Farm Credit institutions.

(J) Local currency claims on foreign central governments to the extent that the Farm Credit institution has local liabilities in that country.

(K) Cash items in the process of collection.

(iii) *Category 3: 50 Percent.*

(A) All other investment securities with maturities under 1 year.

(B) Rural housing loans secured by first lien mortgages or deeds of trust.

(iv) *Category 4: 100 Percent.*

(A) All other claims on private obligors.

(B) Claims on non-OECD banks with a remaining maturity greater than 1 year.

(C) All other assets not specified above, including but not limited to, leases, fixed assets, and receivables.

(D) All non-local currency claims on foreign central governments, as well as local currency claims on foreign central governments that are not included in Category 2(J).

(3) Off-Balance-Sheet Items.

(i) The dollar amount of off-balance-sheet items that shall be assigned to a risk-weight category for inclusion in the denominator shall be determined by multiplying the face amount of the item by the appropriate credit conversion factor set forth in paragraph (f)(3)(ii) of this section. The resulting amount shall be then assigned to the appropriate risk-weight category described in paragraph (f)(2) of this section on the basis of the type of obligor.

(ii) Credit conversion factors shall be applied to off-balance-sheet items as follows:

(A) *0 Percent.*

(*1*) Unused commitments with an original maturity of 14 months or less; or

(*2*) Unused commitments with an original maturity of greater than 14 months if:

(B) *20 Percent*

(*1*) Short-term, self-liquidating, trade-related contingencies, including but not limited to, commercial letters of credit.

(C) *50 Percent*

(*1*) Transaction-related contingencies (e.g. bid bonds, performance bonds, warranties, and performance-based standby letters of credit related to a particular transaction).

(*2*) Unused loan commitments with an original maturity exceeding 14 months, including underwriting commitments and commercial credit lines.

(*3*) Revolving underwriting facilities (RUFs), note issuance facilities (NIFs) and other similar arrangements pursuant to which the institution's customer can issue short-term debt obligations in its own name, but for which the institution has a legally binding commitment to either:

(*i*) Purchase the obligations the customer is unable to sell by a stated date; or

(*ii*) Advance funds to its customer if the obligations cannot be sold.

(D) *100 Percent*

(*1*) Direct credit substitutes including financial-guarantee-type standby letters of credit that support financial claims on the account party. The face amount of a direct credit substitute shall be netted against any participations sold in that item. The amount not so sold shall be assigned to a risk-weight category using the criteria of § 615.5210(f)(2).

(*2*) Acquisitions of risk participations in bankers acceptances and participations in direct credit substitutes.

(*3*) Sale and repurchase agreements and asset sales with recourse, if not already included on the balance sheet.

(*4*) Forward agreements (i.e., contractual obligations) to purchase assets, including financing facilities with certain drawdown.

(iii) *Credit equivalents of interest rate contracts and foreign contracts.* (A) Credit equivalents of interest rate contracts and foreign exchange contracts (except single currency floating/floating interest rate swaps) shall be determined by adding the replacement cost (mark-to-market value, if positive) to the potential future credit exposure, determined by multiplying the notional principal amount by the following credit conversion factors as appropriate.

CONVERSION FACTOR MATRIX

[In Percent]

Remaining maturity	Interest rate	Exchange rate	Commodity
1 year or less	0.0	1.0	10.0
Over 1 to 5 years	0.5	5.0	12.0
Over 5 years	1.5	7.5	15.0

(B) For any derivative contract that does not fall within one of the categories in the above table, the potential future credit exposure shall be calculated using the commodity conversion factors. The net current exposure for multiple derivative contracts with a single counterparty and subject to a qualifying bilateral netting contract shall be the net sum of all positive and negative mark-to-market values for each derivative contract. The positive sum of the net current exposure shall be added to the adjusted potential future credit exposure for the same multiple contracts with a single counterparty. The adjusted potential future credit exposure shall be computed as

$A_{net} = (0.4 \times A_{gross}) + 0.6\ (NGR \times A_{gross})$ where:

(*1*) A_{net} is the adjusted potential future credit exposure;

(*2*) A_{gross} is the sum of potential future credit exposures determined by multiplying the notional principal amount by the appropriate credit conversion factor; and

(*3*) NGR is the ratio of the net current credit exposure divided by the gross current credit exposure determined as the sum of only the positive mark-to-markets for each derivative contract with the single counterparty.

(iv) Credit equivalents of single currency floating/floating interest rate swaps shall be determined by their replacement cost (mark-to-market).

[53 FR 39247, Oct. 6, 1988, as amended at 54 FR 31323, July 28, 1989; 59 FR 37404, July 22, 1994; 62 FR 4446, Jan. 30, 1997; 63 FR 39226, July 22, 1998]

§ 615.5215 Distribution of earnings.

The boards of directors of System institutions may not reduce the permanent capital of the institution through the payment of patronage refunds or dividends, or the retirement of stock or allocated equities except retirements pursuant to §§ 615.5280 and 615.5290 if, after or due to the action, the permanent capital of the institution would fail to meet the minimum permanent capital adequacy standard established under § 615.5205 for that period. This