

thrift that is owned by a foreign bank meets the threshold levels for mandatory application of the advanced approaches, the U.S. bank or thrift would be a core bank. If it does not meet those thresholds, it would have the choice to opt-in to the advanced approaches (and be subject to the same supervisory framework as other U.S. banking organizations) or to remain a general bank. A top-tier U.S. bank holding company that is owned by a foreign bank also would be subject to the same threshold levels for core bank determination and would be subject to the applicable U.S. bank holding company capital rules. However, Federal Reserve SR Letter 01-1 (January 5, 2001) would remain in effect. Thus, subject to the conditions in SR Letter 01-1, a top-tier U.S. bank holding company that is owned or controlled by a foreign bank that is a qualifying financial holding company generally would not be required to comply with the Board's capital adequacy guidelines.

The Agencies are interested in comment on the extent to which alternative approaches to regulatory capital that are implemented across national boundaries might create burdensome implementation costs for the U.S. subsidiaries of foreign banks.

B. Implementation for Advanced Approach Organizations

As noted earlier, U.S. banking organizations that apply the advanced approaches would be required to comply with supervisory standards prior to use.

The BSC has targeted December 31, 2006 as the effective date for the international capital rules based on the New Accord. The Agencies are proposing an implementation date of January 1, 2007. The establishment of a final effective date in the United States, however, would be contingent on the issuance for public comment of a Notice of Proposed Rulemaking, and subsequent finalization of any changes in capital regulations that the Agencies ultimately decide to adopt.

Because of the need to pre-qualify for the advanced approaches, banking organizations would need to take a number of steps upon the finalization of any changes to the capital regulations. These steps would include developing detailed written implementation plans for the A-IRB approach and the AMA and keeping their primary supervisors advised of these implementation plans and schedules. Implementation plans would need to address all supervisory standards for the A-IRB approach and the AMA, include objectively measurable milestones, and demonstrate that adequate resources would be

realistically budgeted and made available. An institution's board of directors would need to approve its implementation plans.

The Agencies expect core banks to make every effort to meet the supervisory standards as soon as practicable. In this regard, it is possible that some core banks would not qualify to use the advanced approaches in time to meet the effective date that is ultimately established. For those banking organizations, the implementation plan would need to identify when the supervisory standards would be met and when the institution would be ready for implementation. The Agencies note that developing an appropriate infrastructure to support the advanced approaches for regulatory capital that fully complies with supervisory conditions and expectations and the associated supervisory guidance will be challenging. The Agencies believe, however, that institutions would need to be fully prepared before moving to the advanced approaches.

Use of the advanced approaches would require the primary Federal supervisor's approval. Core banks unable to qualify for the advanced approaches in time to meet the effective date would remain subject to the general risk-based capital rules existing at that time. The Agencies would consider the effort and progress made to meet the qualifying standards and would consider whether, under the circumstances, supervisory action should be taken against or penalties imposed on individual core banks that have not adhered to the schedule outlined in the implementation plan they submitted to their primary Federal supervisor.

Opt-in banks meeting the supervisory standards could seek to qualify for the advanced approaches in time to meet the ultimate final effective date or any time thereafter. Institutions contemplating opting-in to the advanced approaches would need to provide notice to, and submit an implementation plan and schedule to be approved by, their primary Federal supervisor. As is true of core banks, opt-in banks would need to allow ample time for developing and executing implementation plans.

An institution's primary Federal supervisor would have responsibility for determining the institution's readiness for an advanced approach and would be ultimately responsible, after consultation with other relevant supervisors, for determining whether the institution satisfies the supervisory expectations for the advanced approaches. The Agencies recognize

that a consistent and transparent process to oversee implementation of the advanced approaches would be crucial. The Agencies intend to develop interagency validation standards and procedures to help ensure consistency. The Agencies would consult with each other on significant issues raised during the validation process and ongoing implementation.

C. Other Considerations

General Banks

The Agencies expect that the vast majority of U.S. institutions would be neither core banks nor opt-in banks. Most institutions would remain subject to the general risk-based capital rules. However, as has been the case since the 1988 Accord was initially implemented in the United States, the Agencies will continue to make necessary modifications to the general risk-based capital rules as appropriate. In the event changes are warranted, the Agencies could implement revisions through notice and comment procedures prior to the proposed effective date of the advanced approaches in 2007.

The Agencies seek comment on whether changes should be made to the existing general risk-based capital rules to enhance their risk-sensitivity or to reflect changes in the business lines or activities of banking organizations without imposing undue regulatory burden or complication. In particular, the Agencies seek comment on whether any changes to the general risk-based capital rules are necessary or warranted to address any competitive equity concerns associated with the bifurcated framework.

Majority-Owned or Controlled Subsidiaries

The New Accord generally applies to internationally active banking organizations on a fully consolidated basis. Thus, consistent with the Agencies' general risk-based capital rules, subsidiaries that are consolidated under U.S. generally accepted accounting principles (GAAP) typically should be consolidated for regulatory capital calculation purposes under the advanced approaches as well.¹¹ With regard to investments in consolidated insurance underwriting subsidiaries, the New Accord notes that deconsolidation of assets and deduction of capital is an

¹¹ One notable exception exists at the bank level where there is an investment in a financial subsidiary as defined in the Gramm-Leach-Bliley Act of 1999. For such a subsidiary, assets would continue to be deconsolidated from the bank's on-balance-sheet assets, and capital at the subsidiary level would be deducted from the bank's capital.