

Schedule RC-R of the Call Report and Schedule HC-R of the FR Y-9C, they should exclude the amount of minority interest associated with such consolidated ABCP programs. With respect to the TFR, when sponsoring savings associations report on line CCR125, "Minority Interest in Includable Consolidated Subsidiaries," of Schedule CCR, they should exclude the amount of minority interest associated with such consolidated ABCP programs.

This interim risk-based capital (and the associated regulatory capital reporting) treatment will expire on April 1, 2004. If the agencies have not implemented an alternative risk-based capital approach for banking organizations that sponsor ABCP programs prior to the expiration of the interim treatment, then sponsoring banking organizations will be required to subject ABCP program assets that are consolidated under FIN 46 to the applicable risk-based capital treatment for on-balance sheet assets. The agencies reserve the authority to require sponsoring banking organizations to hold an alternative amount of risk-based capital against ABCP program assets at any time during the period this interim treatment is in effect in the event that an agency determines that the application of these risk-based capital requirements does not adequately address the risks present in a sponsoring banking organization's involvement with an ABCP program.

This interim risk-based capital treatment has no bearing on the accounting requirements as established by GAAP or the manner in which banking organizations report consolidated on-balance sheet assets. In addition, the interim capital treatment does not affect the denominator of the tier 1 leverage capital ratio calculation, which will continue to be based primarily on on-balance sheet assets as reported under GAAP. Thus, in accordance with FIN 46, banking organizations must include all assets of consolidated ABCP programs in on-balance sheet assets for purposes of calculating the tier 1 leverage capital ratio. In addition, in contrast to many other cases where minority interest in consolidated subsidiaries may be included as a component of tier 1 capital and, hence, incorporated into the tier 1 leverage capital ratio calculation, minority interest related to sponsoring banking organizations' ABCP program assets consolidated as a result of FIN 46 are not included in tier 1 capital. Thus, the reported tier 1 leverage capital ratio for a sponsoring banking organization will be lower than if only its ABCP

program assets were consolidated. However, the agencies anticipate that the exclusion of minority interests related to consolidated ABCP program assets will not significantly affect the tier 1 leverage capital ratio of sponsoring banking organizations because the equity in ABCP programs generally is small relative to the capital levels of sponsoring banking organizations.

The agencies seek comment on all aspects of the interim rule. In a related notice of proposed rulemaking published elsewhere in today's **Federal Register**, the agencies are soliciting comments on the removal of the April 1, 2004 sunset provision contained in this interim final rule so that assets of ABCP programs consolidated under FIN 46 and any associated minority interest would continue to be excluded from risk-weighted assets and tier 1 capital, respectively, of sponsoring banking organizations for purposes of calculating the risk-based capital ratios. The proposed elimination of the sunset provision is conditional upon the agencies implementing appropriate risk-based capital requirements for all risk exposures arising from ABCP programs.

Thus, the agencies also have proposed that liquidity facilities with an original maturity of one year or less that banking organizations provide to ABCP programs be converted to on-balance sheet credit equivalent amounts using the 20 percent credit conversion factor (as opposed to the existing zero percent credit conversion factor) and assigned to the appropriate risk weight category according to the underlying assets or obligor, after consideration of any guarantees or collateral, or external credit ratings if the risk exposure is an asset-or mortgage-backed security. In general, this capital requirement on short-term liquidity facilities would be in addition to existing risk-based capital requirements for credit enhancements provided to ABCP programs.

Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act, the agencies have determined that this interim rule would not have a significant impact on a substantial number of small entities in accordance with the spirit and purposes of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Accordingly, a regulatory flexibility analysis is not required. In addition, the interim rule would reduce regulatory burden with respect to the agencies' risk-based capital standards.

Administrative Procedure Act

Pursuant to section 553 of the Administrative Procedure Act, 5 U.S.C. 553, the agencies find good cause for issuing this interim rule in advance of the receipt of comments from interested parties. The agencies believe that it is important to make this interim final rule effective before banking organizations must calculate their regulatory risk-based capital ratios at the end of the third quarter 2003. If ABCP program assets are consolidated under FIN 46, then the resulting capital requirement might not be commensurate with the risk inherent in sponsoring banking organizations' involvement with such programs. The agencies are seeking public comment on the interim final rule and, in a related notice of proposed rulemaking, are seeking comment on an alternative risk-based capital treatment for the risk exposures arising from this activity.

In addition, under section 553(d)(3) of the Administrative Procedure Act, an agency may issue an interim rule or a final rule without delaying its effective date for 30 days from the date of publication if the agency finds good cause and publishes its finding with the rule. The agencies have determined that the issuance of this interim rule without delaying its effective date for 30 days from the date of publication will provide certainty for banking organizations in calculating their regulatory capital ratios for the third quarter 2003.

Paperwork Reduction Act

The agencies have determined that this interim rule does not involve a collection of information pursuant to the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Unfunded Mandates Reform Act of 1995

OCC: Section 202 of the Unfunded Mandates Reform Act of 1995, Pub. L. 104-4 (Unfunded Mandates Act) requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. This interim rule is designed to temporarily offset the effect on risk-based capital ratios of FIN 46 with