

(k) *Other variable interest entities subject to consolidation.* (1) If a bank that is required to consolidate the assets of a variable interest entity under generally accepted accounting principles, the bank must assess risk-based capital charge based on the appropriate risk weight of the consolidated assets in accordance with section 3(a) of this appendix A. In such case, direct credit substitutes and recourse obligations (including residual interests), and loans that sponsoring banks provide to such asset-backed commercial paper programs are not subject to any capital charge under section 4 of this appendix A.

(2) This section 4(k) of this appendix A is effective from July 1, 2003 until April 1, 2004.

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Dated: September 4, 2003.

John D. Hawke, Jr.

Comptroller of the Currency.

## Federal Reserve System

### 12 CFR Chapter II

#### Authority and Issuance

■ For the reasons set forth in the joint preamble, the Board of Governors of the Federal Reserve System amends parts 208 and 225 of chapter II of title 12 of the Code of Federal Regulations as follows:

#### PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM (REGULATION H)

■ 1. The authority citation for part 208 continues to read as follows:

**Authority:** 12 U.S.C. 24, 36, 92a, 93a, 248(a), 248(c), 321–338a, 371d, 461, 481–486, 601, 611, 1814, 1816, 1818, 1820(d)(9), 1823(j), 1828(o), 1831, 1831o, 1831p–1, 1831r–1, 1831w, 1831x, 1835a, 1882, 2901–2907, 3105, 3310, 3331–3351, and 3906–3909; 15 U.S.C. 78b, 78l(b), 78l(g), 78l(i), 78o–4(c)(5), 78q, 78q–1, and 78w; 31 U.S.C. 5318; 42 U.S.C. 4012a, 4104a, 4104b, 4106, and 4128.

■ 2. In Appendix A to part 208, the following amendments are made:

■ a. In section II.A.1.c., *Minority interest in equity accounts of consolidated subsidiaries*, two new sentences are added at the end of the paragraph.

■ b. In section III.B.—

■ i. In paragraph 3.a., paragraphs xiv. and xv. are redesignated xv. and xvi.;

■ ii. In paragraph 3.a., a new paragraph xiv., *Sponsor*, is added; and

■ iii. A new paragraph 6 is added at the end of section II. B.

#### Appendix A to Part 208—Capital Adequacy Guidelines for State Member Banks: Risk-Based Measure

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II. \* \* \*

A. \* \* \*

1. \* \* \*

c. \* \* \* In addition, minority interests in consolidated asset-backed commercial paper programs (as defined in section III.B.6. of this appendix) that are sponsored by a bank are not to be included in the bank's Tier 1 or total capital base if the bank excludes the consolidated assets of such programs from risk-weighted assets pursuant to section III.B.6. of this appendix. This capital treatment for minority interests in consolidated asset-backed commercial paper programs will be effective from July 1, 2003 and will expire on April 1, 2004.

\* \* \* \* \*

III. \* \* \*

B. \* \* \*

3. \* \* \*

a. \* \* \*

xiv. *Sponsor* means a bank that establishes an asset-backed commercial paper program; approves the sellers permitted to participate in the program; approves the asset pools to be purchased by the program; or administers the asset-backed commercial paper program by monitoring the assets, arranging for debt placement, compiling monthly reports, or ensuring compliance with the program documents and with the program's credit and investment policy.

\* \* \* \* \*

6. *Asset-backed commercial paper programs.* a. An asset-backed commercial paper (ABCP) program typically is a program through which a bank provides funding to its corporate customers by sponsoring and administering a bankruptcy-remote special purpose entity that purchases asset pools from, or extends loans to, the bank's customers. The ABCP program raises the cash to provide the funding through the issuance of commercial paper in the market.

b. A bank that qualifies as a primary beneficiary and must consolidate an ABCP program that is defined as a variable interest entity under GAAP may exclude the consolidated ABCP program assets from its risk-weighted assets provided that the bank is the sponsor of the consolidated ABCP program. If a bank excludes such consolidated ABCP program assets, the bank must apply the appropriate risk-based capital charge against any risk exposures of the bank arising in connection with such ABCP programs, including direct credit substitutes, recourse obligations, residual interests, liquidity facilities, and loans, in accordance with sections III.B.3., III.C. and III.D. of this appendix.

c. This capital treatment for consolidated assets of certain ABCP programs will be effective from July 1, 2003 and will expire on April 1, 2004.

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#### PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (REGULATION Y)

■ 1. The authority citation for part 225 continues to read as follows:

**Authority:** 12 U.S.C. 1817(j)(13), 1818, 1828(o), 1831i, 1831p–1, 1843(c)(8), 1844(b), 1972(1), 3106, 3108, 3310, 3331–3351, 3907, and 3909; 15 U.S.C. 6801 and 6805.

■ 2. In Appendix A to part 225, the following amendments are made:

■ a. In section II.A.1.c., *Minority interest in equity accounts of consolidated subsidiaries*, two new sentences are added at the end of the paragraph.

■ b. In section III.B.—

■ i. In paragraph 3.a., paragraphs xiv. and xv. are redesignated xv. and xvi.;

■ ii. In paragraph 3.a., a new paragraph xiv., *Sponsor*, is added; and

■ iii. A new paragraph 6 is added at the end of section III.B.

#### Appendix A to Part 225—Capital Adequacy Guidelines for Bank Holding Companies: Risk-Based Measure

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II. \* \* \*

A. \* \* \*

1. \* \* \*

c. \* \* \* In addition, minority interests in consolidated asset-backed commercial paper programs (as defined in section III.B.6. of this appendix) that are sponsored by a banking organization are not to be included in the organization's Tier 1 or total capital base if the organization excludes the consolidated assets of such programs from risk-weighted assets pursuant to section III.B.6. of this appendix. This capital treatment for minority interests in consolidated asset-backed commercial paper programs will be effective from July 1, 2003 and will expire on April 1, 2004.

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III. \* \* \*

B. \* \* \*

3. \* \* \*

a. \* \* \*

xiv. *Sponsor* means a bank holding company that establishes an asset-backed commercial paper program; approves the sellers permitted to participate in the program; approves the asset pools to be purchased by the program; or administers the asset-backed commercial paper program by monitoring the assets, arranging for debt placement, compiling monthly reports, or ensuring compliance with the program documents and with the program's credit and investment policy.

\* \* \* \* \*

6. *Asset-backed commercial paper programs.* a. An asset-backed commercial paper (ABCP) program typically is a program through which a banking organization provides funding to its corporate customers by sponsoring and administering a bankruptcy-remote special purpose entity that purchases asset pools from, or extends loans to, the organization's customers. The ABCP program raises the cash to provide the funding through the issuance of commercial paper in the market.

b. A banking organization that qualifies as a primary beneficiary and must consolidate an ABCP program that is defined as a variable interest entity under GAAP may exclude the consolidated ABCP program assets from its risk-weighted assets provided that the bank holding company is the sponsor of the consolidated ABCP program. If a banking organization excludes such ABCP