

program assets, the banking organization must apply the appropriate risk-based capital charge against any risk exposures of the organization 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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By order of the Board of Governors of the Federal Reserve System, September 12, 2003.

Jennifer J. Johnson,
Secretary of the Board.

Federal Deposit Insurance Corporation 12 CFR Chapter III

Authority and Issuance

■ For the reasons set forth in the joint preamble, the Board of Directors of the Federal Deposit Insurance Corporation amends part 325 of chapter III of title 12 of the Code of Federal Regulations as follows:

PART 325—CAPITAL MAINTENANCE

■ 1. The authority citation for part 325 continues to read as follows:

Authority: 12 U.S.C. 1815(a), 1815(b), 1816, 1818(a), 1818(b), 1818(c), 1818(t), 1819(Tenth), 1828(c), 1828(d), 1828(i), 1828(n), 1828(o), 1831o, 1835, 3907, 3909, 4808; Pub. L. 102–233, 105 Stat. 1761, 1789, 1790 (12 U.S.C. 1831n note); Pub. L. 102–242, 105 Stat. 2236, 2355, as amended by Pub. L. 103–325, 108 Stat. 2160, 2233 (12 U.S.C. 1828 note); Pub. L. 102–242, 105 Stat. 2236, 2386, as amended by Pub. L. 102–550, 106 Stat. 3672, 4089 (12 U.S.C. 1828 note).

■ 2. In Appendix A to part 325, the following amendments are made:

■ a. In section I.A.1.iii, the four undesignated paragraphs are designated (a), (b), (c), and (d), and a new paragraph (e) is added to that section.

■ b. In section II.B—

■ i. In paragraph 5.a., paragraphs (15) and (16) are redesignated (16) and (17);

■ ii. In paragraph 5.a., a new paragraph (15), *Sponsor*, is added; and

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

Appendix A to Part 325—Statement of Policy on Risk-Based Capital

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I. * * *

A. * * *

1. * * *

iii. * * *

(e) Minority interests in consolidated asset-backed commercial paper programs (as defined in section II.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 II.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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II. * * *

B. * * *

5. * * *

a. * * *

(15) *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 generally accepted accounting principles may exclude the consolidated ABCP program assets from 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 assess 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 II.B.5., II.C., and II.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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By order of the Board of Directors.
Dated at Washington, DC, this 5th day of September 2003.

Federal Deposit Insurance Corporation.
Robert E. Feldman,
Executive Secretary.

DEPARTMENT OF THE TREASURY Office of Thrift Supervision

12 CFR Chapter V

Authority and Issuance

■ For the reasons set out in the preamble, part 567 of chapter V of title 12 of the

Code of Federal Regulations is amended as follows:

PART 567—CAPITAL

■ 1. The authority citation for part 567 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 1828 (note).

■ 2. Section 567.1 is amended by adding a definition of "asset backed commercial paper program" to read as follows:

§ 567.1 Definitions

* * * * *

Asset backed commercial paper program. The term *asset backed commercial paper program* (ABCP) means a program that issues commercial paper backed assets or exposures held in a bankruptcy-remote special purpose entity. The term *sponsor* of an ABCP means a savings association that either:

- (1) Establishes an ABCP program;
- (2) Approves the sellers permitted to participate in the program;
- (3) Approves the asset pools to be purchased by the program; or
- (4) Administers the ABCP 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.

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■ 3. Section 567.5 is amended by revising paragraph (a)(1)(iii) to read as follows:

§ 567.5 Components of capital.

(a) * * *

(1) * * *

(iii) Minority interests in the equity accounts of subsidiaries that are fully consolidated. However, minority interests in consolidated ABCP programs sponsored by a savings association are excluded from the association's core capital or total capital base if the consolidated assets are excluded from risk-weighted assets pursuant to § 567.6 (a)(3). This capital treatment for minority interests in consolidated ABCP programs will be effective from July 1, 2004 to April 1, 2004.

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■ 4. Amend § 567.6 by adding new paragraphs (a)(3) and (4) to read as follows:

§ 567.6 Risk-based capital credit risk-weight categories.

(a) * * *

(3) *Asset-backed commercial paper programs.* (i) A savings association that qualifies as a primary beneficiary and must consolidate an ABCP program that is defined as a variable interest entity