

have sought to present their proposed rules in a simple and straightforward manner. The agencies invite comments on whether there are additional steps the agencies could take to make the rules easier to understand.

### List of Subjects

#### 12 CFR Part 3

Administrative practice and procedure, Capital, National banks, Reporting and recordkeeping requirements, Risk.

#### 12 CFR Part 208

Accounting, Agriculture, Banks, Banking, Confidential business information, Crime, Currency, Federal Reserve System, Mortgages, Reporting and recordkeeping requirements, Securities.

#### 12 CFR Part 225

Administrative practice and procedure, Banks, Banking, Federal Reserve System, Holding companies, Reporting and recordkeeping requirements, Securities.

#### 12 CFR Part 325

Administrative practice and procedure, Bank deposit insurance, Banks, Banking, Capital adequacy, Reporting and recordkeeping requirements, Savings associations, State non-member banks.

#### 12 CFR Part 567

Capital, Reporting and recordkeeping requirements, Savings associations.

### DEPARTMENT OF THE TREASURY

#### Office of the Comptroller of the Currency

#### 12 CFR Chapter 1

#### Authority and Issuance

For the reasons set out in the joint preamble, part 3 of chapter I of title 12 of the Code of Federal Regulations is proposed to be amended as follows:

### PART 3—MINIMUM CAPITAL RATIOS; ISSUANCE OF DIRECTIVES

1. The authority citation for part 3 continues to read as follows:

**Authority:** 12 U.S.C. 93a, 161, 1818, 1828(n), 1828 note, 1831n note, 1835, 3907, and 3909.

2. Appendix A to part 3 is amended as follows:

A. In section 1, paragraphs (c)(3) and (c)(30) are republished.

B. In section 2, paragraph (a)(3) is revised.

C. In section 3, paragraphs (b)(2)(ii), (b)(3)(i), and (b)(4)(i) are revised; and new paragraph (b)(3)(ii) is added.

D. In section 4:

i. Paragraphs (a)(5) through (a)(16) are redesignated as paragraphs (a)(7) through (a)(18); newly redesignated paragraphs (a)(15) through (a)(18) are redesignated as paragraphs (a)(16) through (a)(19); and new paragraphs (a)(5), (a)(6) and (a)(15) are added.

ii. Paragraphs (j) and (k) are revised;

iii. New paragraphs (l) and (m) are added.

E. In section 5, Tables 1 through 4 are removed.

### Appendix A to Part 3—Risk-Based Capital Guidelines

#### Section 1. Purpose, Applicability of Guidelines and Definitions

\* \* \* \* \*

(c) \* \* \*

(3) *Asset-backed commercial paper program* means a program that issues commercial paper backed by assets or other exposures held in a bankruptcy-remote, special-purpose entity.

\* \* \* \* \*

(30) *Sponsor* means a bank that:

(i) Establishes an asset-backed commercial paper program;

(ii) Approves the sellers permitted to participate in an asset-backed commercial paper program;

(iii) Approves the asset pools to be purchased by an asset-backed commercial paper program; or

(iv) 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.

\* \* \* \* \*

#### Section 2. Components of Capital

\* \* \* \* \*

(a) \* \* \*

(3) Minority interests in the equity accounts of consolidated subsidiaries, except that the following are not included in Tier 1 capital or total capital:

(i) Minority interests in a small business investment company or investment fund that holds nonfinancial equity investments and minority interests in a subsidiary that is engaged in a nonfinancial activities and is held under one of the legal authorities listed in section 1(c)(21) of this appendix A.

(ii) Minority interests in consolidated asset-backed commercial paper programs sponsored by a bank if the consolidated assets are excluded from risk-weighted assets pursuant to section 4(j)(1) of this appendix A.

\* \* \* \* \*

#### Section 3. Risk Categories/Weights for On-Balance Sheet Assets and Off-Balance Sheet Items

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(ii) Unused portion of commitments, including home equity lines of credit, and

eligible liquidity facilities (as defined in accordance with section 4(l)(2) of this appendix A) provided to asset-backed commercial paper programs, in form or in substance, with an original maturity exceeding one-year<sup>17</sup>; and

\* \* \* \* \*

(3) \* \* \* (i) Trade-related contingencies which are short-term self-liquidating instruments used to finance the movement of goods and are collateralized by the underlying shipment (an example is a commercial letter of credit); and

(ii) Unused portion of eligible liquidity facilities (as defined in accordance with section 4(l)(2) of this appendix A) provided to an asset-backed commercial paper program, in form or in substance, with an original maturity of one year or less.

(4) \* \* \* (i) Unused portion of commitments, including liquidity facilities not provided to asset-backed commercial paper programs, with an original maturity of one year or less;

\* \* \* \* \*

#### Section 4. Recourse, Direct Credit Substitutes and Positions in Securitizations

\* \* \* \* \*

(a) \* \* \*

(5) *Early amortization trigger* means a contractual requirement that, if triggered, would cause a securitization to begin repaying investors prior to the originally scheduled payment dates.

(6) *Excess spread* generally means gross finance charge collections and other income received by the trust or special purpose entity minus certificate interest, servicing fees, charge-offs, and other trust or special purpose entity expenses.

\* \* \* \* \*

(15) *Revolving retail credit* means an exposure to an individual or a business where the borrower is permitted to vary both the drawn amount and the amount of repayment within an agreed limit under a line of credit (such as personal or business credit card accounts).

\* \* \* \* \*

(j) *Asset-backed commercial paper programs subject to consolidation.* (1) A bank that qualifies as a primary beneficiary and must consolidate an asset-backed commercial paper program as a variable interest entity under generally accepted accounting principles may exclude the consolidated asset-backed commercial paper program assets from risk-weighted assets if the bank is the sponsor of the consolidated asset-backed commercial paper program.

(2) If a bank excludes such consolidated asset-backed commercial paper program assets from risk-weighted assets, the bank must assess the appropriate risk-based capital charge against any risk exposures of the bank arising in connection with such asset-backed commercial paper program, including direct credit substitutes, recourse obligations, residual interests, liquidity facilities, and loans, in accordance with sections 3 and 4(b) of this appendix A.

<sup>17</sup> Participations in commitments are treated in accordance with section 4 of this appendix A.