

Supervisors' Committee) and endorsed by the central bank governors of the G-10 countries. The agencies view the risk-based capital and leverage requirements as minimum standards, and most institutions are expected to operate with capital levels well above the minimums, particularly those institutions that are expanding or experiencing unusual or high levels of risk.

The OCC, the FRB, and the FDIC, under the auspices of the Federal Financial Institutions Examination Council (FFIEC), have developed uniform Reports of Condition and Income (Call Reports) for all insured commercial banks and FDIC-supervised savings banks. The OTS requires each OTS-supervised savings association to file the Thrift Financial Report (TFR). The reporting standards for recognition and measurement in the Call Report and the TFR are consistent with generally accepted accounting principles (GAAP). Thus, there are no significant differences in regulatory accounting standards for regulatory reports filed with the Federal banking agencies. Only one minor difference remains between the accounting standards of the OTS and those of the other Federal banking agencies, and that difference relates to push-down accounting, as more fully explained below.

#### *Differences in Capital Standards Among the Federal Banking Agencies*

##### **Subordinate Organizations Other Than Financial Subsidiaries**

Banks supervised by the OCC, the FRB, and the FDIC generally consolidate all significant majority-owned subsidiaries, including banking and finance subsidiaries, of the parent banking organization for regulatory capital purposes. This practice assures that capital requirements are related to the risks to which the banking organization is exposed. When banking and finance subsidiaries are not consolidated for financial reporting purposes under GAAP, the aggregate amount of investments in such subsidiaries is deducted from a bank's total capital.

For other subsidiaries that are not consolidated on a line-for-line basis for financial reporting purposes, joint ventures, and associated companies, the parent banking organization's investment in each such entity may be treated in any of three ways for risk-based capital purposes, depending upon the circumstances: the entity's balance sheet may be consolidated on a *pro-rata* basis, the banking organization's investment in the entity may be

deducted entirely from capital, or the banking organization's investment in the entity may be assigned to the 100 percent risk-weight category. These options for handling unconsolidated subsidiaries, joint ventures, and associated companies for purposes of determining the capital adequacy of the parent banking organization provide the agencies with the flexibility necessary to ensure that institutions maintain capital levels that are commensurate with the actual risks involved.

Under the OTS' capital regulations, a statutorily mandated distinction is drawn between subsidiaries (majority-owned) engaged in activities that are permissible for national banks and subsidiaries engaged in "impermissible" activities for national banks. Where subsidiaries engage in activities that are impermissible for national banks, the OTS requires the deduction of the parent's investment in these subsidiaries from the parent's assets and capital. If a subsidiary's activities are permissible for a national bank, that subsidiary's assets are generally consolidated with those of the parent on a line-for-line basis. If a subordinate organization, other than a subsidiary, engages in impermissible activities, the OTS will generally deduct investments in and loans to such organization. If a subordinate organization, other than a subsidiary, engages solely in permissible activities, the OTS may, depending upon the nature and risk of the activity, either assign investments in and loans to such organizations to the 100 percent risk-weight category or require full deduction of the investments and loans.

##### **Financial Subsidiaries**

The Gramm-Leach-Bliley Act (GLBA) amends the National Banking Act to permit national banks to conduct certain expanded financial activities through financial subsidiaries. Section 121(a) of the GLBA (12 U.S.C. 24a) imposes a number of conditions and requirements upon national banks that have financial subsidiaries, including specifying the treatment that applies for regulatory capital purposes. The statute requires that a national bank deduct from assets and tangible equity the aggregate amount of its equity investments in financial subsidiaries. The statute further requires that the financial subsidiary's assets and liabilities not be consolidated with those of the parent national bank for applicable capital purposes.

GLBA also amends the Federal Deposit Insurance Act to provide that an insured State bank is, among other limitations, subject to the capital

deduction and deconsolidation requirements that apply to a national bank if the State bank holds an interest in a subsidiary that engages as principal in activities that would only be permissible for a national bank to conduct through a financial subsidiary. Under section 121(d) of GLBA (12 U.S.C. 1831w), a State bank that holds an interest in any financial subsidiary—whether conducting activities as a principal or agent—must comply with all of the same conditions that apply to a national bank, including the capital deduction and deconsolidation requirement. The OCC, the FDIC, and the FRB adopted final rules implementing their respective provisions of section 121 of GLBA for national banks in March 2000, for state nonmember banks in January 2001, and for state member banks in August 2001. GLBA did not provide new authority to OTS-regulated institutions to own, hold or operate financial subsidiaries, as defined.

##### **Nonfinancial Equity Investments**

Under final rules jointly published by the OCC, the FRB, and the FDIC, on January 25, 2002 (67 FR 3783), subject to certain exceptions, covered equity investments in nonfinancial companies are subject to a Tier 1 capital charge (for both risk-based and leverage capital purposes) that increases in steps as the banking organization's level of concentration in equity investments increases. The GLBA authorizes financial holding companies, which are bank holding companies granted expanded investment and activity authority by the GLBA, to acquire or control shares, assets, or ownership interests of any nonfinancial company as part of a bona fide underwriting, or merchant or investment banking activity. Banks and bank holding companies supervised by the OCC, the FDIC, or the FRB also have authority, which predated GLBA, to make limited equity investments in nonfinancial companies under various other legal authorities.

OTS-regulated holding companies grandfathered by GLBA have no statutory limits on their investments. Nongrandfathered holding companies may make equity investments in nonfinancial companies of the type authorized for financial holding companies (*e.g.*, *bona fide* underwriting or merchant or investment banking activity). The OTS does not prescribe specific capital regulations for OTS-regulated holding companies.