

### Collateralized Transactions

The FRB and the OCC assign a zero percent risk weight to certain claims collateralized by cash on deposit in the institution or by securities issued or guaranteed by the U.S. government, U.S. government agencies, or the central governments of other countries that are members of the Organization of Economic Cooperation and Development (OECD). To qualify for the zero percent risk weight, the OCC and the FRB rules require the collateral to be marked-to-market daily and a positive margin of collateral protection to be maintained daily. The FRB requires qualifying claims to be fully collateralized, while the OCC rule permits partial collateralization.

The FDIC and the OTS assign a 20 percent risk weight to claims collateralized by cash on deposit in the institution or by securities issued or guaranteed by the U.S. government, U.S. government agencies, or other OECD central governments.

In a final interagency rule assigning a 20 percent risk weight to certain claims on qualifying securities firms, which was published in the **Federal Register** on April 9, 2002, (67 FR 16971), the FDIC and the OTS conformed their rules to assign a zero percent risk weight to certain collateralized claims on qualifying securities firms that are marked to market daily and have a positive margin of collateral. The rule became effective July 1, 2002. The actions taken by the FDIC and the OTS in adopting the April 9, 2002, rule for claims on qualifying securities firms eliminates a portion of the capital difference regarding collateralized transactions between these agencies and the OCC and the FRB.

### Noncumulative Perpetual Preferred Stock

Under the Federal banking agencies' capital standards, noncumulative perpetual preferred stock is a component of Tier 1 capital. The capital standards of the OCC, the FRB, and the FDIC require noncumulative perpetual preferred stock to give the issuer the option to waive the payment of dividends and to provide that waived dividends neither accumulate to future periods nor represent a contingent claim on the issuer.

The practical effect of these requirements is that if a bank supervised by the OCC, the FRB, or the FDIC issues perpetual preferred stock and is required to pay dividends in a form other than cash—e.g., stock—when cash dividends are not or cannot be paid, the bank does not have the option to waive

or eliminate dividends and the stock would not qualify as noncumulative. If an OTS-supervised savings association issues perpetual preferred stock that requires the payment of dividends in the form of stock when cash dividends are not paid, the stock may, subject to supervisory approval, qualify as noncumulative.

### Equity Securities of Government-Sponsored Enterprises

The FRB, the FDIC, and the OTS apply a 100 percent risk weight to equity securities of government-sponsored enterprises (GSEs), other than the 20 percent risk weighting of Federal Home Loan Bank stock held by banking organizations as a condition of membership. The OCC applies a 20 percent risk weight to all GSE equity securities. This difference arises because the OCC's risk-based capital standards specify that "securities" of GSEs, which includes both debt and equity securities, qualify for the 20 percent risk weight. In contrast, the risk-based capital standards of the FRB, the FDIC, and the OTS apply a 20 percent risk weight only to debt claims on these companies.

### Limitation on Subordinated Debt and Limited-Life Preferred Stock

The OCC, the FRB, and the FDIC limit the amount of subordinated debt and intermediate-term preferred stock that may be treated as part of Tier 2 capital to 50 percent of Tier 1 capital. The OTS does not prescribe such a limit. In addition, for banking organizations supervised by the OCC, the FRB, and the FDIC, these maturing instruments must be discounted by 20 percent in each of the last five years before maturity. The OTS provides thrifts the option of using either the discounting approach used by the other Federal banking agencies, or an approach which, during the last seven years of the maturing instrument's life, allows for the full inclusion of all such instruments, provided that the amount maturing in any one year does not exceed 20 percent of the thrift's total capital.

### Pledged Deposits, Nonwithdrawable Accounts, and Certain Certificates

The OTS capital regulations permit mutual savings associations to include in Tier 1 capital pledged deposits and nonwithdrawable accounts to the extent that such accounts or deposits have no fixed maturity date, cannot be withdrawn at the option of the accountholder, and do not earn interest that carries over to subsequent periods. The OTS also permits the inclusion of net worth certificates, mutual capital

certificates, and income capital certificates complying with applicable OTS regulations in savings associations' Tier 2 capital. The OCC, the FRB, and the FDIC do not expressly address these instruments in their regulatory capital standards, and they generally are not recognized as Tier 1 or Tier 2 capital components.

### Servicing Assets and Intangible Assets

The Federal banking agencies' capital rules permit servicing assets and purchased credit card relationships to be included in assets (*i.e.*, not be deducted), subject to certain limits. The aggregate regulatory capital limit on these two categories of assets is 100 percent of Tier 1 capital. However, within this overall limit, nonmortgage servicing assets are combined with purchased credit card relationships and this combined amount is limited to no more than 25 percent of an institution's Tier 1 capital. Before applying these Tier 1 capital limits, mortgage servicing assets, nonmortgage servicing assets, and purchased credit card relationships are each valued at the lesser of 90 percent of their fair value or 100 percent of their book value (net of any valuation allowances).

A recent statutory change permits the agencies to eliminate this 10 percent fair value discount from their capital standards if the agencies determine that such assets can be valued at 100 percent of their book value consistent with safety and soundness. The agencies are considering how best to make such a determination. Any servicing assets and purchased credit card relationships that exceed the relevant limits, as well as all other intangible assets such as goodwill and core deposit intangibles, are deducted from capital and assets in calculating an institution's Tier 1 capital.

Although the Federal banking agencies' regulatory capital treatment of servicing assets and intangible assets is fundamentally the same, the OTS' capital rules contain one difference that, with the passage of time, continues to lose significance. Under its rules, the OTS has grandfathered, *i.e.*, does not deduct from regulatory capital, core deposit intangibles acquired before February 1994 up to 25 percent of Tier 1 capital.

### Covered Assets

The OCC, the FRB, and the FDIC generally place assets subject to guarantee arrangements by the FDIC or the former Federal Savings and Loan Insurance Corporation in the 20 percent risk weight category. The OTS places