

conclusions. OFHEO notes that its revision to the estimate of the impact of the change was not a violation of the guidelines in this area. The initial error was rectified immediately and the correct information was published in the **Federal Register** and was available to all commenters during the entire comment period. With respect to the issue of replicability, the stress test model set forth in the Rule has been replicated by the Enterprises and largely incorporated into their operations. The ability of the Enterprises' to replicate the model demonstrates that OFHEO has met the burden imposed by both OFHEO's and OMB's data quality guidelines. OFHEO will continue to assist others to replicate the stress test by making available the stress test computer code and by publishing a stylized data set for their use in testing and replication.

Paperwork Reduction Act

These amendments do not contain any information collection requirements that require the approval of OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires that a regulation that has a significant economic impact on a substantial number of small entities, small businesses, or small organizations must include an initial regulatory flexibility analysis describing the regulation's impact on small entities. Such an analysis need not be undertaken if the agency has certified that the regulation does not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b). OFHEO has considered the impact of the regulation under the Regulatory Flexibility Act. The General Counsel of OFHEO certifies that this regulation is not likely to have a significant economic impact on a substantial number of small business entities because the regulation is applicable only to the Enterprises, which are not small entities for purposes of the Regulatory Flexibility Act.

List of Subjects in 12 CFR Part 1750

Capital classification, Mortgages, Risk-based capital.

Accordingly, for the reasons stated in the preamble, OFHEO amends 12 CFR part 1750 as follows:

PART 1750—CAPITAL

1. The authority citation for part 1750 continues to read as follows:

Authority: 12 U.S.C. 4513, 4514, 4611, 4612, 4614, 4615, 4618.

2. Amend Appendix A to subpart B of part 1750 as follows:

- a. Revise Table 3–59 in paragraph 3.7.2.3;
- b. Revise paragraph 3.10.3.2 [a] 2.; and
- c. Add new paragraph 3.12.3 [a] 9. after paragraph 3.12.3 [a] 8.

Appendix A to Subpart B of Part 1750—Risk-Based Capital Test Methodology and Specifications

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3.7.2.3 * * *

TABLE 3–59—AGGREGATE ENTERPRISE AMORTIZED ORIGINAL LTV (AOLTV₀) DISTRIBUTION¹

Original LTV	UPB Distribution	Wt Avg AOLTV for Range
00<LTV<=60		
60<LTV<=70		
70<LTV<=75		
75<LTV<=80		
80<LTV<=90		
90<LTV<=95		
95<LTV<=100		
100<LTV		

¹ **Source:** RBC Report, combined Enterprises single-family sold loan portfolio. Table 3–59 is updated as necessary with combined Enterprises single-family sold loan group data from the RBC Report in accordance with OFHEO guideline #404. The contents of the table appear at <http://www.OFHEO.gov>.

Note: Amortized Original LTV (also known as the "current-loan-to-original-value" ratio) is the Original LTV adjusted for the change in UPB but not for changes in property value.

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3.10.3.2 * * *

[a] * * *

2. **Common Stock.** In the first year of the Stress Test, dividends are paid on common stock in each of the four quarters after preferred dividends, if any, are paid unless the Enterprise's capital is, or after the payment, would be, below the estimated minimum capital requirement.

- a. **First Quarter.** In the first quarter, the dividend is the dividend per share ratio for common stock from the quarter preceding the Stress Test times the current number of shares of common stock outstanding.

b. *Subsequent Quarters.*

(1) In the three subsequent quarters, if the preceding quarter's after tax income is greater than after tax income in the quarter preceding the Stress Test, (adjusted by the ratio of the Enterprise's retained earnings and retained earnings after adjustments are made that revert investment securities and derivatives to amortized cost), pay the larger of (1) the dividend per share ratio for common stock from the quarter preceding the Stress Test times the current number of shares of common stock outstanding or (2) the average dividend payout ratio for common stock for the four quarters preceding the start of the Stress Test times the preceding quarter's after tax income (adjusted by the reciprocal of the ratio of the Enterprise's retained earnings and retained earnings after adjustments are made that revert investment securities and derivatives to amortized cost) less preferred dividends paid in the current quarter. In no case may the dividend payment exceed an amount equal to core capital less the estimated minimum capital requirement at the end of the preceding quarter.

(2) If the previous quarter's after tax income is less than or equal to after tax income in the quarter preceding the Stress Test (adjusted by the ratio of the Enterprise's retained earnings and retained earnings after adjustments are made that revert investment securities and derivatives to amortized cost), pay the lesser of (1) the dividend per share ratio for common stock for the quarter preceding the Stress Test times the current number of shares of common stock outstanding or (2) an amount equal to core capital less the estimated minimum capital requirement at the end of the preceding quarter, but not less than zero.

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3.12.3 * * *

[a] * * *

- 9. Subtract the net increase (or add the net decrease) in Retained Earnings related to Fair Value Hedges at the start of the stress test made in accordance with section 3.10.3.6.2[a]1.b. of this appendix.