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(l) *Type III security* means an investment security that does not qualify as a Type I, II, IV, or V security. Examples of Type III securities include corporate bonds and municipal bonds that do not satisfy the definition of Type I securities pursuant to paragraph (j) of §1.2 or the definition of Type II securities pursuant to paragraph (k) of §1.2.

(m) *Type IV security* means:

(1) A small business-related security as defined in section 3(a)(53)(A) of the Securities Exchange Act of 1934, 15 U.S.C. 78c(a)(53)(A), that is rated investment grade or is the credit equivalent thereof, that is fully secured by interests in a pool of loans to numerous obligors.

(2) A commercial mortgage-related security that is offered or sold pursuant to section 4(5) of the Securities Act of 1933, 15 U.S.C. 77d(5), that is rated investment grade or is the credit equivalent thereof, or a commercial mortgage-related security as described in section 3(a)(41) of the Securities Exchange Act of 1934, 15 U.S.C. 78c(a)(41), that is rated investment grade in one of the two highest investment grade rating categories, and that represents ownership of a promissory note or certificate of interest or participation that is directly secured by a first lien on one or more parcels of real estate upon which one or more commercial structures are located and that is fully secured by interests in a pool of loans to numerous obligors.

(3) A residential mortgage-related security that is offered and sold pursuant to section 4(5) of the Securities Act of 1933, 15 U.S.C. 77d(5), that is rated investment grade or is the credit equivalent thereof, or a residential mortgage-related security as described in section 3(a)(41) of the Securities Exchange Act of 1934, 15 U.S.C. 78c(a)(41)), that is rated investment grade in one of the two highest investment grade rating categories, and that does not otherwise qualify as a Type I security.

(n) *Type V security* means a security that is:

(1) Rated investment grade;

(2) Marketable;

(3) Not a Type IV security; and

(4) Fully secured by interests in a pool of loans to numerous obligors and in which a national bank could invest directly.

[61 FR 63982, Dec. 2, 1996, as amended at 66 FR 34791, July 2, 2001]

§1.3 Limitations on dealing in, underwriting, and purchase and sale of securities.

(a) *Type I securities.* A national bank may deal in, underwrite, purchase, and sell Type I securities for its own account. The amount of Type I securities that the bank may deal in, underwrite, purchase, and sell is not limited to a specified percentage of the bank's capital and surplus.

(b) *Type II securities.* A national bank may deal in, underwrite, purchase, and sell Type II securities for its own account, provided the aggregate par value of Type II securities issued by any one obligor held by the bank does not exceed 10 percent of the bank's capital and surplus. In applying this limitation, a national bank shall take account of Type II securities that the bank is legally committed to purchase or to sell in addition to the bank's existing holdings.

(c) *Type III securities.* A national bank may purchase and sell Type III securities for its own account, provided the aggregate par value of Type III securities issued by any one obligor held by the bank does not exceed 10 percent of the bank's capital and surplus. In applying this limitation, a national bank shall take account of Type III securities that the bank is legally committed to purchase or to sell in addition to the bank's existing holdings.

(d) *Type II and III securities; other investment securities limitations.* A national bank may not hold Type II and III securities issued by any one obligor with an aggregate par value exceeding 10 percent of the bank's capital and surplus. However, if the proceeds of each issue are to be used to acquire and lease real estate and related facilities to economically and legally separate industrial tenants, and if each issue is payable solely from and secured by a first lien on the revenues to be derived from rentals paid by the lessee under net noncancellable leases, the bank may apply the 10 percent investment limitation separately to each issue of a single obligor.

(e) *Type IV securities*—(1) *General.* A national bank may purchase and sell Type IV securities for its own account. Except as described in paragraph (e)(2) of this section, the amount of the Type IV securities that a bank may purchase and sell is not limited to a specified percentage of the bank's capital and surplus.

(2) *Limitation on small business-related securities rated in the third and fourth highest rating categories by an NRSRO.* A national bank may hold small business-related securities, as defined in section 3(a)(53)(A) of the Securities Exchange Act of 1934, 15 U.S.C. 78c(a)(53)(A), of any one issuer with an aggregate par value not exceeding 25 percent of the bank's capital and surplus if those securities are rated investment grade in the third or fourth highest investment grade rating categories. In applying this limitation, a national bank shall take account of securities that the bank is legally committed to purchase or to sell in addition to the bank's existing holdings. No percentage of capital and surplus limit applies to small business related securities rated investment grade in the highest two investment grade rating categories.

(f) *Type V securities.* A national bank may purchase and sell Type V securities for its own account provided that the aggregate par value of Type V securities issued by any one issuer held by the bank does not exceed 25 percent of the bank's capital and surplus. In applying this limitation, a national bank shall take account of Type V securities that the bank is legally committed to purchase or to sell in addition to the bank's existing holdings.

(g) *Securitization.* A national bank may securitize and sell assets that it holds, as a part of its banking business. The amount of securitized loans and obligations that a bank may sell is not limited to a specified percentage of the bank's capital and surplus.

(h) *Pooled investments*—(1) *General.* A national bank may purchase and sell for its own account investment company shares provided that:

(i) The portfolio of the investment company consists exclusively of assets that the national bank may purchase and sell for its own account; and

(ii) The bank's holdings of investment company shares do not exceed the limitations in § 1.4(e).

(2) *Other issuers.* The OCC may determine that a national bank may invest in an entity that is exempt from registration as an investment company under section 3(c)(1) of the Investment Company Act of 1940, provided that the portfolio of the entity consists exclusively of assets that a national bank may purchase and sell for its own account.

(3) Investments made under this paragraph (h) must comply with § 1.5 of this part, conform with applicable published OCC precedent, and must be:

(i) Marketable and rated investment grade or the credit equivalent of a security rated investment grade, or

(ii) Satisfy the requirements of § 1.3(i).

(i) *Securities held based on estimates of obligor's performance.* (1) Notwithstanding §§ 1.2(d) and (e), a national bank may treat a debt security as an investment security for purposes of this part if the security is marketable and the bank concludes, on the basis of estimates that the bank reasonably believes are reliable, that the obligor will be able to satisfy its obligations under that security.

(2) The aggregate par value of securities treated as investment securities under paragraph (i)(1) of this section may not exceed 5 percent of the bank's capital and surplus.

[61 FR 63982, Dec. 2, 1996, as amended at 64 FR 60098, Nov. 4, 1999; 73 FR 22235, Apr. 24, 2008]

§ 1.4 Calculation of limits.

(a) *Calculation date.* For purposes of determining compliance with 12 U.S.C. 24 (Seventh) and this part, a bank shall determine its investment limitations as of the most recent of the following dates:

(1) The last day of the preceding calendar quarter; or

(2) The date on which there is a change in the bank's capital category for purposes of 12 U.S.C. 1831o and 12 CFR 6.3.

(b) *Effective date.* (1) A bank's investment limit calculated in accordance with paragraph (a)(1) of this section