with generally accepted accounting principles.

(b) *Disposition efforts and documentation.* A national bank shall make diligent and ongoing efforts to dispose of each parcel of OREO, and shall maintain documentation adequate to reflect those efforts.

§ 34.84 Future bank expansion.

A national bank normally should use real estate acquired for future bank expansion within five years. After holding such real estate for one year, the bank shall state, by resolution of the board of directors or an appropriately authorized bank official or subcommittee of the board, definite plans for its use. The resolution or other official action must be available for inspection by national bank examiners.

§ 34.85 Appraisal requirements.

(a) *General.* (1) Upon transfer to OREO, a national bank shall substantiate the parcel's market value by obtaining either:

(i) An appraisal in accordance with subpart C of this part; or

(ii) An appropriate evaluation when the recorded investment amount is equal to or less than the threshold amount in subpart C of this part.

(2) A national bank shall develop a prudent real estate collateral evaluation policy that allows the bank to monitor the value of each parcel of OREO in a manner consistent with prudent banking practice.

(b) *Exception.* If a national bank has a valid appraisal or an appropriate evaluation obtained in connection with a real estate loan and in accordance with subpart C of this part, then the bank need not obtain another appraisal or evaluation when it acquires ownership of the property.

(c) *Sales of OREO.* A national bank need not obtain a new appraisal or evaluation when selling OREO if the sale is consummated based on a valid appraisal or an appropriate evaluation.

§ 34.86 Additional expenditures and notification.

(a) *Additional expenditures on OREO.* For OREO that is a development or improvement project, a national bank may make advances to complete the project if the advances:

(1) Are reasonably calculated to reduce any shortfall between the parcel's market value and the bank's recorded investment amount;

(2) Are not made for the purpose of speculation in real estate; and

(3) Are consistent with safe and sound banking practices.

(b) *Notification procedures.* (1) A national bank shall notify the appropriate supervisory office at least 30 days before implementing a development or improvement plan for OREO when the sum of the plan's estimated cost and the bank's current recorded investment amount (including any unpaid prior liens on the property) exceeds 10 percent of the bank's capital and surplus. A national bank need notify the OCC under this paragraph (b)(1) only once. A national bank need not notify the OCC that the bank intends to re-fit an existing building for new tenants or to make normal repairs and incur maintenance costs to protect the value of the collateral.

(2) The required notification must demonstrate that the additional expenditure is consistent with the conditions and limitations in paragraph (a) of this section.

(3) Unless informed otherwise, the bank may implement the proposed plan on the thirty-first day (or sooner, if notified by the OCC) following receipt by the OCC of the bank's notification, subject to any conditions imposed by the OCC.

§ 34.87 Accounting treatment.

A national bank shall account for OREO, and sales of OREO, in accordance with the Instructions for the preparation of the Consolidated Reports of Condition and Income.

PART 35—AGRICULTURAL LOAN LOSS AMORTIZATION (Eff. until 1–1–99)

Sec.

AUTHORITY: 12 U.S.C. 1823(j) and 93a.

SOURCE: 53 FR 28376, July 28, 1988, unless otherwise noted.

EFFECTIVE DATE NOTE: At 60 FR 27401, May 24, 1995, part 35 was removed, effective January 1, 1999.

§ 35.1 Authority and OMB control number.

(a) *Authority*. This part is issued by the Office of the Comptroller of the Currency (*OCC*) pursuant to 12 U.S.C. 1823(j) and 12 U.S.C. 93a.

(b) *OMB control number*. The collection of information requirements contained in this regulation were approved by the Office of Management and Budget under control number 1557–0186.

§ 35.2 Definitions.

For purposes of this part:

(a) *Agricultural Bank* means a national bank—

(1) The deposits of which are insured by the Federal Deposit Insurance Corporation;

(2) Which is located in an area of the country the economy of which is dependent on agriculture;

(3) Which has total assets of $100,000,000 or less as of the most recent Report of Condition; and

(4) Which has—(i) At least 25 percent of its total loans in qualified agricultural loans and agriculturally related other property, as defined below; or

(ii) Less than 25 percent of its total loans in qualified agricultural loans and agriculturally related other property, but which bank the OCC has recommended to the Federal Deposit Insurance Corporation for eligibility under this part.

(b) *Qualified Agricultural Loans* means:

(1) Loans qualifying as *loans to finance agricultural production and other loans to farmers* or as *loans secured by farm land* for purposes of Schedule RC–C of the FFIEC Consolidated Reports of Condition and Income or such other comparable schedule that may be in effect;

(2) Loans secured by farm machinery;

(3) Other loans or leases that a bank proves to be sufficiently related to agriculture for classification as an agricultural loan by the OCC; and

(4) The remaining unpaid balance of any loans, as described in paragraphs (b) (1), (2) and (3) of this section, that have been charged off since January 1, 1984, and that qualify for deferral under this part.

(c) *Agriculturally related other property* means any property, real or personal, that a bank owned on January 1, 1983, and any such additional property that it acquires prior to January 1, 1992, in connection with a qualified agricultural loan. For purposes of §§ 35.2(a)(4)(i) and 35.6(d) the value of such property includes amounts previously charged-off.

(d) *Accepting Official* means the head of the appropriate supervisory office designated by the OCC for the applicant bank.

§ 35.3 Loss amortization and reappraisal.

(a) Provided that there is no evidence that the loss resulted from fraud or criminal abuse on the part of the bank, its officers, directors, or principal shareholders, a bank that has been accepted under this part may, in the manner described below, amortize on its Reports of Condition and Income:

(1) Any loss on any qualified agricultural loan reflected in a bank's annual financial statements for any period between and including 1984 and 1991; and

(2) Any loss reflected in a bank's financial statements for any period between and including 1983 and 1991 resulting from a reappraisal or sale of agriculturally related other property.

(b) Amortization under this section shall be computed over a period not to exceed seven years on a quarterly straight-line basis commencing in the first quarter after the loss was or is charged off so as to be fully amortized not later than December 31, 1998.

§ 35.4 Accounting for amortization.

(a) *General rule*. Any bank which is permitted to amortize losses in accordance with § 35.3, above, may restate its capital and other relevant accounts and account for future authorized deferrals and amortizations in accordance with the instructions to the

FFIEC Consolidated Reports of Condition and Income. Any resulting increase in the capital account shall be included in primary capital under § 3.100 of this chapter.

(b) *Relationship with the substitute lending limit.* Unamortized losses on loans and other assets, which are capitalized under this rule for agricultural loan loss amortization, are not to be included in capital for the purpose of calculating the substitute lending limit under § 32.8 of this chapter.

§ 35.5 Eligibility.

A proposal submitted in accord with § 35.7 shall be accepted, subject to the conditions described in § 35.6, if the Accepting Official finds that:

(a) The proposing bank is an agricultural bank;

(b) The proposing bank's current capital is in need of restoration, but the bank remains an economically viable, fundamentally sound institution;

(c) There is no evidence that fraud or criminal abuse by the bank or its officers, directors or principal shareholders led to significant losses on qualified agricultural loans and agriculturally related other property; and

(d) The proposing bank has submitted a capital plan approved by the OCC or the Accepting Official that will restore its capital to an acceptable level.

§ 35.6 Conditions on acceptance.

All acceptances of proposals shall be subject to the following conditions:

(a) The bank shall fully adhere to the approved capital plan and shall obtain the prior approval of the Accepting Official for any modifications to the plan;

(b) With respect to each asset subject to loss deferral under the program, the bank shall maintain accounting records adequate to document the amount and timing of the deferrals, repayments and amortizations;

(c) The financial condition of the bank shall not deteriorate to the point where it is no longer a viable, fundamentally sound institution;

(d) The bank agrees to make a reasonable effort, consistent with safe and sound banking practices, to maintain in its loan portfolio a percentage of agricultural loans, including agriculturally related other property, not lower than the percentage of such loans in its loan portfolio on January 1, 1986; and

(e) The bank agrees to provide the Accepting Official, upon request, with such information as the Accepting Official deems necessary to monitor the bank's amortization, its compliance with conditions, and its continued eligibility.

§ 35.7 Submission of proposals.

(a) A bank wishing to amortize losses on qualified agricultural loans or agriculturally related other property shall submit a proposal to the appropriate Accepting Official.

(b) The proposal shall contain the following information:

(1) Name and address of the bank;

(2) Information establishing that the bank is located in an area the economy of which is dependent on agriculture; such as a description of the bank's location, dominant lines of commerce in its service area, and any other information the bank believes will support the contention that it is located in such area;

(3) A copy of the bank's most recent Reports of Condition and Income;

(4) If the Reports of Condition and Income fail to show that at least 25 percent of the bank's total loans are qualified agricultural loans, the basis upon which the bank believes that it should be declared eligible to amortize losses;

(5) A capital plan demonstrating that the bank will achieve an acceptable capital level not later than the end of the bank's amortization period. The plan should provide for a realistic improvement in the bank's capital over the course of the bank's amortization period from earnings retention, capital injections, or other sources. It should also include specific information regarding dividend levels, compensation to directors, executive officers and individuals who have a controlling interest and their related interests, and payments for services or products furnished by affiliated companies;

(6) A list of the loans and agriculturally related other property upon which the bank proposes to defer loss, including for each such loan or property the following information:

(i) The name of the borrower, the amount of the loan that resulted in the loss, and the amount of the loss;

(ii) The date on which the loss was declared; and

(iii) The basis upon which the loss resulted from a qualified agricultural loan.

(7) A certification by the bank's chief executive officer that there is no evidence that the losses resulted from fraud or criminal abuse by the bank, its officers, directors, or principal shareholders;

(8) A copy of a resolution by the bank's Board of Directors authorizing submission of the proposal; and

(9) Such other information as the Accepting Official may require.

§ 35.8 Revocation of eligibility.

The failure to comply with any condition in an acceptance or the capital restoration plan is grounds for revocation of acceptance for loss amortization and for an administrative action against the bank under 12 U.S.C. 1818(b). Additionally, acceptance of a bank for loss amortization will not foreclose any administrative action against the bank that the OCC may deem appropriate.

PARTS 36–199—[RESERVED]