

financial products on bank premises; and

(2) The person is not involved in the bank's credit decision process.

**§2.4 Bonus and incentive plans.**

A bank employee or officer may participate in a bonus or incentive plan based on the sale of credit life insurance if payments to the employee or officer in any one year do not exceed the greater of:

- (a) Five percent of the recipient's annual salary; or
- (b) Five percent of the average salary of all loan officers participating in the plan.

**§2.5 Bank compensation.**

(a) Nothing contained in this part prohibits a bank employee, officer, director, or principal shareholder who holds an insurance agent's license from agreeing to compensate the bank for the use of its premises, employees, or good will. However, the employee, officer, director, or principal shareholder shall turn over to the bank as compensation all income received from the sale of the credit life insurance to the bank's loan customers.

(b) Income derived from credit life insurance sales to loan customers may be credited to an affiliate operating under the Bank Holding Company Act of 1956, 12 U.S.C. 1841 *et seq.*, or to a trust for the benefit of all shareholders, provided that the bank receives reasonable compensation in recognition of the role played by its personnel, premises, and good will in credit life insurance sales. Reasonable compensation generally means an amount equivalent to at least 20 percent of the affiliate's net income attributable to the bank's credit life insurance sales.

**PART 3—MINIMUM CAPITAL RATIOS; ISSUANCE OF DIRECTIVES**

**Subpart A—Authority and Definitions**

Sec.

- 3.1 Authority.
- 3.2 Definitions.
- 3.3 Transitional rules.
- 3.4 Reservation of authority.

**Subpart B—Minimum Capital Ratios**

- 3.5 Applicability.
- 3.6 Minimum capital ratios.
- 3.7 Plan to achieve minimum capital ratios.
- 3.8 Reservation of authority.

**Subpart C—Establishment of Minimum Capital Ratios for an Individual Bank**

- 3.9 Purpose and scope.
- 3.10 Applicability.
- 3.11 Standards for determination of appropriate individual minimum capital ratios.
- 3.12 Procedures.
- 3.13 Relation to other actions.

**Subpart D—Enforcement**

- 3.14 Remedies.

**Subpart E—Issuance of a Directive**

- 3.15 Purpose and scope.
- 3.16 Notice of intent to issue a directive.
- 3.17 Response to notice.
- 3.18 Decision.
- 3.19 Issuance of a directive.
- 3.20 Change in circumstances.
- 3.21 Relation to other administrative actions.

INTERPRETATIONS

- 3.100 Capital and surplus.
- APPENDIX A TO PART 3—RISK-BASED CAPITAL GUIDELINES
- APPENDIX B TO PART 3—RISK-BASED CAPITAL GUIDELINES; MARKET RISK ADJUSTMENT
- AUTHORITY: 12 U.S.C. 93a, 161, 1818, 1828(n), 1828 note, 1831n note, 1835, 3907, and 3909.
- SOURCE: 50 FR 10216, Mar. 14, 1985, unless otherwise noted.

**Subpart A—Authority and Definitions**

**§3.1 Authority.**

This part is issued under the authority of 12 U.S.C. 1 *et seq.*, 93a, 161, 1818, 3907 and 3909.

[59 FR 64563, Dec. 15, 1994]

**§3.2 Definitions.**

For the purposes of this part:

(a) *Adjusted total assets* means the average total assets figure required to be computed for and stated in a bank's most recent quarterly *Consolidated Report of Condition and Income* (Call Report) minus end-of-quarter intangible assets and deferred tax assets that are

### § 3.3

deducted from Tier 1 capital. The OCC reserves the right to require a bank to compute and maintain its capital ratios on the basis of actual, rather than average, total assets when necessary to carry out the purposes of this part.

(b) *Bank* means a national banking association or District of Columbia Bank.

(c) *Tier 1 capital* means *Tier 1 capital* as determined according to section 2 of appendix A of this part, including the deductions described therein.

(d) *Tier 2 capital* means *Tier 2 capital* as determined according to section 2 of appendix A of this part, including the limitations described therein.

(e) *Total capital* means *Total capital* as determined according to section 1(25) and section 2 of appendix A of this part, including the deductions described therein.

[55 FR 38800, Sept. 21, 1990, as amended at 60 FR 7907, Feb. 10, 1995]

### § 3.3 Transitional rules.

Intangible assets, other than mortgage servicing rights, purchased prior to April 15, 1985, and accounted for in accordance with the instruction of the OCC, need not be deducted from Tier 1 capital until December 31, 1992. However, when combined with other qualifying intangible assets, these intangibles may not exceed 25 percent of Tier 1 capital. After December 31, 1992, only those intangible assets that meet the criteria contained in section 2(c)(2) of appendix A will not be deducted from Tier 1 capital.

[55 FR 38800, Sept. 21, 1990]

### § 3.4 Reservation of authority.

Notwithstanding the definitions of *Tier 1 capital* and *Tier 2 capital* in § 3.2 (c) and (d), the OCC may find that a newly developed or modified capital instrument constitutes *Tier 1 capital* or *Tier 2 capital*, and may permit one or more banks to include all or a portion of funds obtained through such capital instruments as Tier 1 or Tier 2 capital, permanently or on a temporary basis, for the purposes of compliance with this part or for other purposes. Similarly, the OCC may find that a particular intangible asset need not be deducted from Tier 1 or Tier 2 capital.

### 12 CFR Ch. I (1–1–98 Edition)

Conversely, the OCC may find that a particular intangible asset or Tier 1 or Tier 2 capital component has characteristics or terms that diminish its contribution to a bank's ability to absorb losses, and may require the deduction of this component from the computation of Tier 1 or Tier 2 capital.

[55 FR 38800, Sept. 21, 1990]

## Subpart B—Minimum Capital Ratios

### § 3.5 Applicability.

This subpart is applicable to all banks unless the Office determines, pursuant to the procedures set forth in subpart C, that different minimum capital ratios are appropriate for an individual bank based upon its particular circumstances, or unless different minimum capital ratios have been established or are established for an individual bank in a written agreement or a temporary or final order pursuant to 12 U.S.C. 1818 (b) or (c), or as a condition for approval of an application.

### § 3.6 Minimum capital ratios.

(a) *Risk-based capital ratio.* All national banks must have and maintain the minimum risk-based capital ratio as set forth in appendix A (and, for certain banks, in appendix B).

(b) *Total assets leverage ratio.* All national banks must have and maintain Tier 1 capital in an amount equal to at least 3.0 percent of adjusted total assets.

(c) *Additional leverage ratio requirements.* An institution operating at or near the level in subsection (b) above is expected to have well-diversified risks, including no undue interest rate risk exposure; excellent control systems; good earnings; high asset quality; high liquidity; and well managed on- and off-balance sheet activities; and in general be considered a strong banking organization, rated composite 1 under the CAMEL rating system of banks. For all but the most highly-rated banks meeting the conditions set forth above, the minimum Tier 1 leverage ratio is to be 3 percent plus an additional cushion of at least 100 to 200 basis points. In all cases, banking institutions should hold