

percent. In all cases, banking institutions should hold capital commensurate with the level and nature of all risks.

[55 FR 38800, Sept. 21, 1990, as amended at 61 FR 47367, Sept. 6, 1996; 64 FR 10199, Mar. 2, 1999]

§ 3.7 Plan to achieve minimum capital ratios.

Effective December 31, 1990, any bank having capital ratios less than the minimums required under § 3.6 (a) and (b) shall, within 60 days, submit to the OCC a plan describing the means and schedule by which the bank shall achieve the applicable minimum capital ratios. The plan may be considered acceptable unless the bank is notified to the contrary by the OCC. A bank in compliance with an acceptable plan to achieve the applicable minimum capital ratios will not be deemed to be in violation of § 3.6.

[55 FR 38800, Sept. 21, 1990]

§ 3.8 Reservation of authority.

When, in the opinion of the Office the circumstances so require, a bank may be authorized to have less than the minimum capital ratios in § 3.6 during a time period specified by the Office.

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

§ 3.9 Purpose and scope.

The rules and procedures specified in this subpart are applicable to a proceeding to establish required minimum capital ratios that would otherwise be applicable to a bank under § 3.6. The OCC is authorized under 12 U.S.C. 3907 (a)(2) to establish such minimum capital requirements for a bank as the OCC, in its discretion, deems appropriate in light of the particular circumstances at that bank. Proceedings under this subpart also may be initiated to require a bank having capital ratios above those set forth in § 3.6, or other legal authority to continue to maintain those higher ratios.

[55 FR 38800, Sept. 21, 1990]

§ 3.10 Applicability.

The OCC may require higher minimum capital ratios for an individual bank in view of its circumstances. For example, higher capital ratios may be appropriate for:

- (a) A newly chartered bank;
- (b) A bank receiving special supervisory attention;
- (c) A bank that has, or is expected to have, losses resulting in capital inadequacy;
- (d) A bank with significant exposure due to the risks from concentrations of credit, certain risks arising from non-traditional activities, or management's overall inability to monitor and control financial and operating risks presented by concentrations of credit and nontraditional activities;
- (e) A bank with significant exposure to declines in the economic value of its capital due to changes in interest rates;
- (f) A bank with significant exposure due to fiduciary or operational risk;
- (g) A bank exposed to a high degree of asset depreciation, or a low level of liquid assets in relation to short term liabilities;
- (h) A bank exposed to a high volume or, or particularly severe, problem loans;
- (i) A bank that is growing rapidly, either internally or through acquisitions; or
- (j) A bank that may be adversely affected by the activities or condition of its holding company, affiliate(s), or other persons or institutions including chain banking organizations, with which it has significant business relationships.

[60 FR 39493, Aug. 2, 1995]

§ 3.11 Standards for determination of appropriate individual minimum capital ratios.

The appropriate minimum capital ratios for an individual bank cannot be determined solely through the application of a rigid mathematical formula or wholly objective criteria. The decision is necessarily based in part on subjective judgment grounded in agency expertise. The factors to be considered in the determination will vary in each case and may include, for example: