

the bank's operational risk exposure adjusted to incorporate qualifying operational risk mitigants; and

(2) The bank's methodology for incorporating the effects of insurance, if the bank uses insurance as an operational risk mitigant, captures through appropriate discounts to the amount of risk mitigation:

(i) The residual term of the policy, where less than one year;

(ii) The cancellation terms of the policy, where less than one year;

(iii) The policy's timeliness of payment;

(iv) The uncertainty of payment by the provider of the policy; and

(v) Mismatches in coverage between the policy and the hedged operational loss event.

(b) *Qualifying operational risk mitigants.* Qualifying operational risk mitigants are:

(1) Insurance that:

(i) Is provided by an unaffiliated company that has a claims payment ability that is rated in one of the three highest rating categories by a NRSRO;

(ii) Has an initial term of at least one year and a residual term of more than 90 days;

(iii) Has a minimum notice period for cancellation by the provider of 90 days;

(iv) Has no exclusions or limitations based upon regulatory action or for the receiver or liquidator of a failed depository institution; and

(v) Is explicitly mapped to a potential operational loss event; and

(2) Operational risk mitigants other than insurance for which the OCC has given prior written approval. In evaluating an operational risk mitigant other than insurance, the OCC will consider whether the operational risk mitigant covers potential operational losses in a manner equivalent to holding regulatory capital.

Section 62. Mechanics of Risk-Weighted Asset Calculation

(a) If a bank does not qualify to use or does not have qualifying operational risk mitigants, the bank's dollar risk-based capital requirement for operational risk is its operational risk exposure minus eligible operational risk offsets (if any).

(b) If a bank qualifies to use operational risk mitigants and has qualifying operational risk mitigants, the bank's dollar risk-based capital requirement for operational risk is the greater of:

(1) The bank's operational risk exposure adjusted for qualifying operational risk mitigants minus eligible operational risk offsets (if any); or

(2) 0.8 multiplied by the difference between:

(i) The bank's operational risk exposure; and

(ii) Eligible operational risk offsets (if any).

(c) The bank's risk-weighted asset amount for operational risk equals the bank's dollar risk-based capital requirement for operational risk determined under paragraph (a) or (b) of this section multiplied by 12.5.

PART VIII. DISCLOSURE

Section 71. Disclosure Requirements

(a) Each bank must publicly disclose each quarter its total and tier 1 risk-based capital ratios and their components (that is, tier 1 capital, tier 2 capital, total qualifying capital, and total risk-weighted assets).⁴

(b) A bank must comply with paragraph (b) of section 71 of appendix G to the Federal Reserve Board's Regulation Y (12 CFR part 225, appendix G) unless it is a consolidated subsidiary of a bank holding company or depository institution that is subject to these requirements.

[72 FR 69396, 69429, Dec. 7, 2007, 73 FR 21690, Apr. 22, 2008]

PART 4—ORGANIZATION AND FUNCTIONS, AVAILABILITY AND RELEASE OF INFORMATION, CONTRACTING OUTREACH PROGRAM, POST-EMPLOYMENT RESTRICTIONS FOR SENIOR EXAMINERS

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AUTHORITY: 12 U.S.C. 93a. Subpart A also issued under 5 U.S.C. 552. Subpart B also issued under 5 U.S.C. 552; E.O. 12600 (3 CFR 1987 Comp., p. 235). Subpart C also issued under 5 U.S.C. 301, 552; 12 U.S.C. 161, 481, 482, 484(a), 1442, 1817(a)(2) and (3), 1818(u) and (v), 1820(d)(6), 1920(k), 1821(c), 1821(o), 1821(t), 1831m, 1831p-1, 1831o, 1867, 1951 *et seq.*, 2601 *et seq.*, 2801 *et seq.*, 2901 *et seq.*, 3101 *et seq.*, 3401 *et seq.*; 15 U.S.C. 77uu(b), 78q(c)(3); 18 U.S.C. 641, 1905, 1906; 29 U.S.C. 1204; 31 U.S.C. 9701; 42 U.S.C. 3601; 44 U.S.C. 3506, 3510. Subpart D also issued under 12 U.S.C. 1833e.

SOURCE: 60 FR 57322, Nov. 15, 1995, unless otherwise noted.

12 CFR Ch. I (1-1-10 Edition)

Subpart A—Organization and Functions

§ 4.1 Purpose.

This subpart describes the organization and functions of the Office of the Comptroller of the Currency (OCC), and provides the OCC's principal addresses.

§ 4.2 Office of the Comptroller of the Currency.

The OCC supervises and regulates national banks and Federal branches and agencies of foreign banks by examining these institutions to determine compliance with applicable laws and regulations; approving or denying applications for new charters or for changes in corporate or banking structure; approving or denying activities; taking supervisory or enforcement actions; appointing receivers and conservators; and issuing rules and regulations applicable to these institutions, their subsidiaries, and affiliates.

§ 4.3 Comptroller of the Currency.

The Comptroller of the Currency (Comptroller), as head of the OCC, is responsible for all OCC programs and functions. The Comptroller is appointed by the President, by and with the advice and consent of the Senate, for a term of five years. The Comptroller serves as a member of the board of the Federal Deposit Insurance Corporation, a member of the Federal Financial Institutions Examination Council, and a member of the board of the Neighborhood Reinvestment Corporation. The Comptroller is advised and assisted by OCC staff, who perform the duties and functions that the Comptroller directs.

§ 4.4 Washington office.

The Washington office of the OCC is the main office and headquarters of the OCC. The Washington office directs OCC policy, oversees OCC operations, and is responsible for the direct supervision of certain national banks, including the largest national banks (through the Large Bank Supervision Department) and other national banks requiring special supervision. The