

§ 615.5205

U.S. depository institution means branches (foreign and domestic) of federally insured banks and depository institutions chartered and headquartered in the 50 states of the United States, the District of Columbia, Puerto Rico, and United States territories and possessions. The definition encompasses banks, mutual or stock savings banks, savings or building and loan associations, cooperative banks, credit unions, international banking facilities of domestic depository institutions, and U.S.-chartered depository institutions owned by foreigners. The definition excludes branches and agencies of foreign banks located in the U.S. and bank holding companies.

[70 FR 35348, June 17, 2005, as amended at 70 FR 53908, Sept. 13, 2005]

§ 615.5205 Minimum permanent capital standards.

Each institution shall at all times maintain permanent capital at a level of at least 7 percent of its risk-adjusted asset base.

[62 FR 4446, Jan. 30, 1997]

§ 615.5206 Permanent capital ratio computation.

(a) The institution's permanent capital ratio is determined on the basis of the financial statements of the institution prepared in accordance with generally accepted accounting principles except that the obligations of the Farm Credit System Financial Assistance Corporation issued to repay banks in connection with the capital preservation and loss-sharing agreements described in section 6.9(e)(1) of the Act shall not be considered obligations of any institution subject to this regulation prior to their maturity.

(b) The institution's asset base and permanent capital are computed using average daily balances for the most recent 3 months.

(c) The institution's permanent capital ratio is calculated by dividing the institution's permanent capital, adjusted in accordance with § 615.5207 (the numerator), by the risk-adjusted asset base (the denominator) as determined in § 615.5210, to derive a ratio expressed as a percentage.

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(d) Until September 27, 2002, payments of assessments to the Farm Credit System Financial Assistance Corporation, and any part of the obligation to pay future assessments to the Farm Credit System Financial Assistance Corporation that is recognized as an expense on the books of a bank or association, shall be included in the capital of such bank or association for the purpose of determining its compliance with regulatory capital requirements, to the extent allowed by section 6.26(c)(5)(G) of the Act. If the bank directly or indirectly passes on all or part of the payments to its affiliated associations pursuant to section 6.26(c)(5)(D) of the Act, such amounts shall be included in the capital of the associations and shall not be included in the capital of the bank. After September 27, 2002, no payments of assessments or obligations to pay future assessments may be included in the capital of the bank or association.

[70 FR 35351, June 17, 2005]

§ 615.5207 Capital adjustments and associated reductions to assets.

For the purpose of computing the institution's permanent capital ratio, the following adjustments must be made prior to assigning assets to risk-weight categories and computing the ratio:

(a) Where two Farm Credit System institutions have stock investments in each other, such reciprocal holdings must be eliminated to the extent of the offset. If the investments are equal in amount, each institution must deduct from its assets and its total capital an amount equal to the investment. If the investments are not equal in amount, each institution must deduct from its total capital and its assets an amount equal to the smaller investment. The elimination of reciprocal holdings required by this paragraph must be made prior to making the other adjustments required by this section.

(b) Where a Farm Credit Bank or an agricultural credit bank is owned by one or more Farm Credit System institutions, the double counting of capital is eliminated in the following manner:

(1) All equities of a Farm Credit Bank or agricultural credit bank that have been purchased by other Farm Credit institutions are considered to be

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permanent capital of the Farm Credit Bank or agricultural credit bank.

(2) Each Farm Credit Bank or agricultural credit bank and each of its affiliated associations may enter into an agreement that specifies, for the purpose of computing permanent capital only, a dollar amount and/or percentage allotment of the association's allocated investment between the bank and the association. Section 615.5208 provides conditions for allotment agreements or defines allotments in the absence of such agreements.

(c) A Farm Credit Bank or agricultural credit bank and a recipient, other than an association, of allocated earnings from such bank may enter into an agreement specifying a dollar amount and/or percentage allotment of the recipient's allocated earnings in the bank between the bank and the recipient. Such agreement must comply with the provisions of paragraph (b) of this section, except that, in the absence of an agreement, the allocated investment must be allotted 100 percent to the allocating bank and 0 percent to the recipient. All equities of the bank that are purchased by a recipient are considered as permanent capital of the issuing bank.

(d) A bank for cooperatives and a recipient of allocated earnings from such bank may enter into an agreement specifying a dollar amount and/or percentage allotment of the recipient's allocated earnings in the bank between the bank and the recipient. Such agreement must comply with the provisions of paragraph (b) of this section, except that, in the absence of an agreement, the allocated investment must be allotted 100 percent to the allocating bank and 0 percent to the recipient. All equities of a bank that are purchased by a recipient shall be considered as permanent capital of the issuing bank.

(e) Where a bank or association invests in an association to capitalize a loan participation interest, the investing institution must deduct from its total capital an amount equal to its investment in the participating institution.

(f) The double counting of capital by a service corporation chartered under section 4.25 of the Act and its stockholder institutions must be eliminated

by deducting an amount equal to the institution's investment in the service corporation from its total capital.

(g) Each institution must deduct from its total capital an amount equal to all goodwill, whenever acquired.

(h) To the extent an institution has deducted its investment in another Farm Credit institution from its total capital, the investment may be eliminated from its asset base.

(i) Where a Farm Credit Bank and an association have an enforceable written agreement to share losses on specifically identified assets on a predetermined quantifiable basis, such assets must be counted in each institution's risk-adjusted asset base in the same proportion as the institutions have agreed to share the loss.

(j) The permanent capital of an institution must exclude the net effect of all transactions covered by the definition of "accumulated other comprehensive income" contained in the Statement of Financial Accounting Standards No. 130, as promulgated by the Financial Accounting Standards Board.

(k) For purposes of calculating capital ratios under this part, deferred-tax assets are subject to the conditions, limitations, and restrictions described in § 615.5209.

(l) Capital may also need to be reduced for potential loss exposure on any recourse obligations, direct credit substitutes, residual interests, and credit-enhancing interest-only-strips in accordance with § 615.5210.

[70 FR 35351, June 17, 2005]

§ 615.5208 Allotment of allocated investments.

(a) The following conditions apply to agreements that a Farm Credit Bank or agricultural credit bank enters into with an affiliated association pursuant to § 615.5207(b)(2):

(1) The agreement must be for a term of 1 year or longer.

(2) The agreement must be entered into on or before its effective date.

(3) The agreement may be amended according to its terms, but no more frequently than annually except in the event that a party to the agreement is merged or reorganized.

(4) On or before the effective date of the agreement, a certified copy of the