§ 390.452 Notice of capital category.

(a) Effective date of determination of capital category. A State savings association shall be deemed to be within a given capital category for purposes of section 38 of the FDI Act and this subpart as of the date the State savings association is notified of, or is deemed to have notice of, its capital category, pursuant to paragraph (b) of this section.

(b) Notice of capital category. A State savings association shall be deemed to have been notified of its capital levels and its capital category as of the most recent date:

(1) A Thrift Financial Report (TFR) or Consolidated Reports of Condition or Income ("Call Report"), as applicable, is required to be filed with the FDIC; or

(2) A final report of examination is delivered to the State savings association; or

(3) Written notice is provided by the FDIC to the State savings association of its capital category for purposes of section 38 of the FDI Act and this subpart or that the State savings association’s capital category has changed as provided in paragraph (c) of this section or §390.453(c).

(c) Adjustments to reported capital levels and category.—(1) Notice of adjustment by State savings association. A State savings association shall provide the FDIC with written notice that an adjustment to the State savings association’s capital category may have occurred no later than 15 calendar days following the date that any material event has occurred that would cause the State savings association to be placed in a lower capital category from the category assigned to the State savings association for purposes of section 38 and this section on the basis of the State savings association’s most recent report of examination.

(2) Determination by the FDIC to change capital category. After receiving notice pursuant to paragraph (c)(1) of this section, the FDIC shall determine whether to change the capital category of the State savings association and shall notify the State savings association of the FDIC’s determination.

§ 390.453 Capital measures and capital category definitions.

(a) Capital measures. For purposes of section 38 and this subpart, the relevant capital measures shall be:

(1) The total risk-based capital ratio;

(2) The Tier 1 risk-based capital ratio; and

(3) The leverage ratio.

(b) Capital categories. For purposes of section 38 and this subpart, a State savings association shall be deemed to be:

(1) Well capitalized if the State savings association:

(i) Has a total risk-based capital ratio of 10.0 percent or greater; and

(ii) Has a Tier 1 risk-based capital ratio of 6.0 percent or greater; and

(iii) Has a leverage ratio of 5.0 percent or greater; and

(iv) Is not subject to any written agreement, order, capital directive, or prompt corrective action directive issued by FDIC under section 8 of the FDI Act, the International Lending Supervision Act of 1983 (12 U.S.C. 3907), the Home Owners’ Loan Act (12 U.S.C. 1464(t)(6)), or section 38 of the FDI Act, or any regulation thereunder, to meet and maintain a specific capital level for any capital measure.

(2) Adequately capitalized if the State savings association:

(i) Has a total risk-based capital ratio of 8.0 percent or greater; and

(ii) Has a Tier 1 risk-based capital ratio of 4.0 percent or greater; and

(iii) Has:

(A) A leverage ratio of 4.0 percent or greater; or