§ 565.3 Notice of capital category.

(a) Effective date of determination of capital category. A savings association shall be deemed to be within a given capital category for purposes of section 38 of the FDI Act and this part as of the date the 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 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) is required to be filed with the OTS;
(2) A final report of examination is delivered to the savings association; or
(3) Written notice is provided by the OTS to the savings association of its capital category for purposes of section 38 of the FDI Act and this part or that the savings association’s capital category has changed as provided in paragraph (c) of this section or § 565.4(c).

§ 565.4 Capital measures and capital category definitions.

(a) Capital measures. For purposes of section 38 and this part, 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 part, a savings association shall be deemed to be:

(1) Well capitalized if the 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 OTS 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)(A)(ii)), 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 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
      (B) A leverage ratio of 3.0 percent or greater if the savings association is assigned a composite rating of 1, as composite rating is defined in § 516.5(c) of this chapter; and
   (iv) Does not meet the definition of a well capitalized savings association.

(3) Undercapitalized if the savings association:

   (i) Has a total risk-based capital ratio that is less than 8.0 percent; or
   (ii) Has a Tier 1 risk-based capital ratio that is less than 4.0 percent; or
   (iii) (A) Except as provided in paragraph (b)(3)(iii) (B) of this section, has a leverage ratio that is less than 4.0 percent; or
   (B) Has a leverage ratio that is less than 3.0 percent if the savings association is assigned a composite rating of 1, as composite rating is defined in § 516.5(c) of this chapter.

(4) Significantly undercapitalized if the savings association has:
   (i) A total risk-based capital ratio that is less than 6.0 percent; or
   (ii) A Tier 1 risk-based capital ratio that is less than 3.0 percent; or
   (iii) A leverage ratio that is less than 3.0 percent.