97-67

DRAFT 7/15/97

DEPARTMENT OF THE TREASURY
Office of the Comptroller of the Currency

12 CFR Parts 3 and 6
[Docket No. 97-67
RIN 1557-AB14

FEDERAL RESERVE SYSTEM
12 CFR Parts 208 and 225
[Regulations H and Y: Docket No. R-0976]

FEDERAL DEPOSIT INSURANCE CORPORATION
12 CFR PART 325
RIN

DEPARTMENT OF THE TREASURY
Office Of Thrift Supervision
12 CFR Parts 565 and 567
[Docket No. 97- 67]
RIN 1550-AB11

Capital; Risk-Based Capital Guidelines; Capital Adequacy Guidelines; Capital Maintenance: Servicing Assets

AGENCIES: Office of the Comptroller of the Currency, Treasury; Board of Governors of the Federal Reserve System; Federal Deposit Insurance Corporation; and Office of Thrift Supervision, Treasury.

ACTION: Joint notice of proposed rulemaking.

SUMMARY: The Office of the Comptroller of the Currency, Treasury (OCC), Board of Governors of the Federal Reserve System (Board), Federal Deposit Insurance Corporation (FDIC), and Office of Thrift Supervision, Treasury (OTS) (collectively, the Agencies) propose to amend their capital adequacy standards for banks, bank holding companies, and savings

associations (banking organizations) to address the treatment of servicing assets on both mortgage assets and financial assets other than mortgages (non-mortgages). This proposed rule was developed in response to a recent Financial Accounting Standards Board (FASB) accounting standard that affects servicing assets; that is, Statement of Financial Accounting Standards No. 125, "Accounting for Transfers and Servicing of Financial Assets and Extinguishments of Liabilities" (FAS 125), issued in June 1996, which superseded Statement of Accounting Standards No. 122, "Accounting for Mortgage Servicing Rights," (FAS 122), issued in May 1995. Under this proposed rule, mortgage servicing assets included in regulatory capital would continue to be subject to certain prudential limitations. However, the limitation on the amount of mortgage servicing assets (and purchased credit card relationships) that can be recognized as a percent of Tier 1 capital would be increased from 50 to 100 percent. Also, all non-mortgage servicing assets would be fully deducted from Tier 1 capital. The Agencies are requesting comment on the regulatory capital limitations that are being proposed for servicing assets and on whether any interest-only strips receivable should be subject to the same regulatory capital limitations as servicing assets.

DATES: Comments must be received on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN FEDERAL REGISTER].

ADDRESSES: Interested parties are invited to submit written comments to any or all of the Agencies. All comments will be shared among the Agencies.

<u>OCC</u>: Written comments should be submitted to Docket No. , Communications Division, Ninth Floor, Office of the Comptroller of the Currency, 250 E Street, S.W., Washington, D.C. 20219. Comments will be available for inspection and photocopying at that address. In addition, comments may be sent by facsimile transmission to FAX number (202)-874-5274, or

by electronic mail to regs.comments@occ.treas.gov.

Board: Comments should refer to Docket No. , and may be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551. Comments also may be delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m. weekdays, and to the security control room at all other times. The mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, N.W. Comments received will be available for inspection in Room MP-500 of the Martin Building between 9:00 a.m. and 5:00 p.m. weekdays, except as provided in 12 CFR 261.8 of the Board's Rules Regarding Availability of Information.

FDIC: Written comments shall be addressed to Robert E. Feldman, Deputy Executive Secretary, Attention: Room F-402, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429. Comments may be hand delivered to Room F-402, 1776 F Street, N.W., Washington, D.C., 20429, on business days between 8:30 a.m. and 5:00 p.m. (Fax number: (202) 898-3838; Internet address: comments@fdic.gov) Comments will be available for inspection and photocopying in Room 100, 801 17th Street, N.W., Washington, D.C., between 9:00 a.m. and 5:00 p.m. on business days.

OTS: Send comments to Chief, Dissemination Branch, Records Management and Information Policy, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552, Attention Docket No. . These submissions may be hand-delivered to 1700 G Street, N.W. between 9 a.m. and 5 p.m. on business days; they may be sent by facsimile transmission to FAX Number (202) 906-7755; or by e-mail to public.info@ots.treas.gov. Those commenting by e-mail should include their name and telephone number. Comments will be available for inspection at 1700 G Street, N.W., from 9:00 a.m. until 4:00 p.m. on business days.

FOR FURTHER INFORMATION CONTACT:

OCC: Gene Green, Deputy Chief Accountant (202/874-5180); Roger Tufts, Senior Economic Adviser, or Tom Rollo, National Bank Examiner, Capital Policy Division (202/874-5070); Mitchell Stengel, Senior Financial Economist, Risk Analysis Division (202/874-5431); Saumya Bhavsar, Attorney or Ronald Shimabukuro, Senior Attorney (202/874-5090), Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency.

Board: Arleen Lustig, Supervisory Financial Analyst (202/452-2987), Arthur W. Lindo, Supervisory Financial Analyst, (202/452-2695) or Thomas R. Boemio, Supervisory Financial Analyst, (202/452-2982), Division of Banking Supervision and Regulation. For the hearing impaired only, Telecommunication Device for the Deaf (TDD), Diane Jenkins (202) 452-3544, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 20551.

FDIC: For supervisory issues, Stephen G. Pfeifer, Examination Specialist, (202/898-8904), Accounting Section, Division of Supervision; for legal issues, Marc J. Goldstom, Counsel, (202/898-8807), Legal Division.

OTS: John F. Connolly, Senior Program Manager for Capital Policy, Supervision Policy Division (202/906-6465), Christine Smith, Capital and Accounting Policy Analyst, (202/906-5740), or Timothy J. Stier, Chief Accountant, (202/906-5699), Accounting Policy Division, Vern McKinley, Attorney, Regulations and Legislation Division, (202/906-6241), Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION:

Background

Capital Treatment of Mortgage Servicing Rights Pre-FAS 122

Prior to the issuance of FAS 122, intangible assets generally were deducted from capital in determining the amount of Tier 1 capital under the Agencies' regulatory capital rules.[1] However, limited amounts of purchased mortgage servicing rights (PMSRs) and purchased credit card relationships (PCCRs) were allowed in Tier 1 capital.[2] The aggregate amount of PMSRs and PCCRs that could be recognized for regulatory capital purposes could not exceed 50 percent of Tier 1 capital, with PCCRs subject to a further sublimit of 25 percent of Tier 1 capital. In addition, PMSRs and PCCRs were each subject to a 10 percent "haircut" that permitted only the lower of book value or 90 percent of fair market value to be included in Tier 1 capital. This haircut is required for PMSRs under section 475 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 1828 note) (December 19, 1991)).

The regulatory capital treatment of servicing rights prior to the issuance of FAS 122 specified a treatment for PMSRs but not for originated mortgage servicing rights (OMSRs) or servicing rights on loans other than mortgages because generally accepted

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[1]For OTS purposes. Tier 1 capital is the same as core capital.

[2]Servicing rights are the contractual obligations undertaken by an institution to provide servicing for loans owned by others, typically for a fee. PMSRs are mortgage servicing rights that have been purchased from other parties. The purchaser is not the originator of the mortgage. Originated mortgage servicing rights (OMSRs), on the other hand, generally represent the servicing rights acquired when an institution originates mortgage loans and subsequently sells the loans but retains the servicing rights. Under the accounting standards that were in effect prior to FAS 122, mortgage servicing rights were characterized as intangible assets.

accounting principles (GAAP), at that time, did not permit institutions to book OMSRs nor did it generally allow institutions to book servicing rights on other assets. Furthermore, GAAP based the accounting for servicing rights on a distinction between normal servicing fees and excess servicing fees.[3] Although GAAP permitted all excess servicing fees receivable (ESFRs) to be recognized as assets, for regulatory reporting purposes, banks generally were allowed to book only ESFRs on first lien, one- to four-family residential mortgages. The Agencies did not allow banks to book ESFRs on any other loans and, thus, these ESFRs were also effectively excluded from capital for regulatory reporting and regulatory capital purposes.[4]

FAS 122 and the Interim Rule for Capital

In May 1995, FASB issued FAS 122, which eliminated the GAAP distinction between OMSRs and PMSRs and required that these assets, together known as mortgage servicing rights (MSRs), be treated as a single asset for financial statement purposes, regardless of how the servicing rights were acquired. Under FAS 122, OMSRs and PMSRs are treated the same for reporting, valuation, and disclosure purposes.[5] The GAAP accounting

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[3]A normal servicing fee was defined as a servicing fee that was representative of servicing fees most commonly used in comparable servicing agreements covering similar types of loans. Excess servicing fees arose only when a banking organization sold loans but retained the servicing and received a servicing fee that was in excess of a normal servicing fee. Excess servicing fees receivables were the present value of the excess servicing fees that were reported on the institution's books. GAAP continued to differentiate between normal and excess servicing fees until FAS 125 was implemented in January 1997.

[4]Bank holding companies and thrift institutions, however, were allowed to report ESFRs for regulatory purposes and recognize all ESFRs in capital in accordance with existing GAAP.

[5]Among other things, FAS 122 imposed valuation and impairment criteria, based
(continued...)

ATTACHMENT IS AVAILABLE UPON REQUEST

WRITE US AT:

DISSEMINATION BRANCH
OFFICE OF THRIFT SUPERVISION
1700 G STREET, NW
WASHINGTON, DC 20552

FAX US AT:

202/906-7755

E-MAIL US AT:

PUBLIC.INFO@OTS.TREAS.GOV