

Handbook: Thrift Activities
Subject: Capital Adequacy

Section: 320
TB 38-2

January 9, 1990

Capital Adequacy: Guidance on the Status of Capital and Accounting Forbearances and Capital Instruments Held by a Deposit Insurance Fund

RESCINDED

Summary: This Bulletin informs all savings associations that have been operating under capital or accounting forbearances that Section 5(t) of the Home Owners' Loan Act ("HOLA") eliminates such forbearances. Accordingly, these forbearances should be eliminated in determining whether or not an association complies with the new capital regulation. All associations that do not comply with the new capital regulation must submit a capital plan. This Bulletin also clarifies the treatment of capital instruments held by a deposit insurance fund.

For Further Information Contact: The District Office in which you are located or the Supervision Policy Division of OTS, Washington, D.C.

Thrift Bulletin 38-2

Introduction

Questions have been raised regarding the status of previously granted forbearances and waivers as well as the treatment of FSLIC-owned warrants and other capital instruments. This Bulletin provides guidance to savings associations on these matters.

Capital Compliance

The Office of Thrift Supervision is applying the new capital standards to all savings associations, including those associations that have been operating under previously granted capital and accounting forbearances. Section 5(t) of HOLA as amended by the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA) eliminates these forbearances. All savings associations presently operating with these forbearances, therefore, should eliminate them in determining whether or not they comply with the new minimum regulatory capital standards. (Any FSLIC capital contribution that resulted in the creation of goodwill will be subject to the

requirements for goodwill established in the capital regulation).

If the association determines that it will fail its minimum regulatory capital requirements upon the elimination of capital and accounting forbearances, it must submit a capital plan to its District Director in accordance with the regulatory capital regulation and Thrift Bulletin 36.

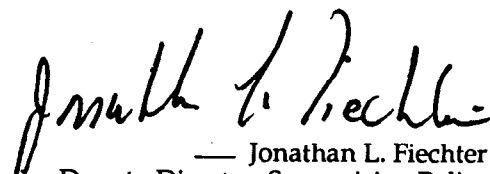
A capital plan will not be acceptable if it includes the continuation of previously granted capital and accounting forbearances. Capital plans already submitted that propose to continue previous capital and accounting forbearances will be either disapproved, returned for revision and resubmittal or conditionally approved with the requested forbearance denied.

Capital Instruments Held by a Deposit Insurance Fund

Capital instruments owned by a party with a financial obligation to a savings association will be treated in accordance with Generally Accepted Accounting Principles

(GAAP). For example, under 12 CFR 567, for the purpose of the inclusion in capital of instruments owned by the FSLIC or the FDIC, the Office will rely on the presentation standards established under GAAP. FSLIC or FDIC holdings of capital instruments (including, but not limited to, warrants, preferred stock and subordinated debentures) will be required to be offset by any receivables (on the asset side of the balance sheet) from FSLIC or the FDIC for the purpose of calculating the amount of such holdings to be included in capital. The amount of the offset is limited to the amount of the FSLIC or FDIC capital instrument.

When there is no offsetting obligation, the value of warrants and other qualifying core capital instruments may be counted as core capital unless the holder of the warrants and other instruments is a federal deposit insurance fund. If the holder of the capital instruments is a federal deposit insurance fund, then they must be classified as supplementary capital.


— Jonathan L. Fiechter
Senior Deputy Director, Supervision Policy