

Safety and Soundness

Capital
Adequacy
(C)

Asset
Quality
(A)

**Management
(M)**

Earnings
(E)

Liquidity
(L)

Sensitivity to
Market Risk
(S)

Other
Activities
(O)

Qualified Thrift Lender

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Introduction

The Office of the Comptroller of the Currency's (OCC) *Comptroller's Handbook* booklet, "Qualified Thrift Lender," provides guidance on how a federal savings association (FSA) can meet the Qualified Thrift Lender (QTL) requirement.

An FSA is required to be a QTL by the Home Owners' Loan Act (HOLA). A national bank is not required to be a QTL, therefore, this booklet applies only to FSAs.

Background

Under federal law, an FSA is a QTL if it meets one of the following two tests:

- HOLA QTL test (12 USC 1467a(m)).
- Internal Revenue Service (IRS) Domestic Building and Loan Association (DBLA) test (26 USC 7701(a)(19) and 26 CFR 301.7701-13A).

An FSA may use either test to qualify and may switch from one test to the other. The OCC has placed no limitations on the FSA's test election except to require that the FSA meet the time requirements of the respective test, that is, nine out of the last 12 months for the QTL test and at the close of the taxable year for the DBLA test. According to the IRS, a taxable year may be either a calendar or fiscal year.

Qualified Thrift Lender Test

Under the HOLA's QTL test, an FSA must hold qualified thrift investments (QTI) equal to at least 65 percent of the FSA's portfolio assets. QTIs must fit into one of the two following categories:

- Assets includable in QTIs without limit.
- Assets limited to 20 percent of portfolio assets.

The FSA's actual thrift investment percentage (ATIP) is the ratio of an FSA's QTIs divided by its portfolio assets. Portfolio assets are total assets minus goodwill and other intangible assets, office property (the value of the property used by the FSA to conduct its business), and liquid assets not exceeding 20 percent of total assets. An FSA ceases to meet the QTL test when its ATIP, at month's end, falls below 65 percent of portfolio assets for four months within any 12-month period.

Assets that are includable as QTI without limit:

- Loans to purchase, refinance, construct, improve, or repair domestic residential or manufactured housing.
- Real estate owned, including real estate in judgment, that if it had remained as a loan, would have been a QTI reported as a mortgage loan, a home equity loan, or small business loan.
- Home equity loans.
- Securities backed by or representing an interest in mortgages on domestic residential or manufactured housing.
- Educational loans.
- Small business loans.
- Loans made through credit cards or credit card accounts.
- Obligations of the Federal Deposit Insurance Corporation (FDIC) issued on or after July 1, 1989, for the five-year period beginning on the date of issuance of the obligation.
- Federal Home Loan Bank stock.

Assets that are includable as QTI up to 20 percent of portfolio assets:

- Fifty percent of the amount of domestic residential housing mortgage loans originated and sold within 90 days of origination. An FSA may, on a consistent basis, include as QTI either the sales amounts from a previous calendar quarter or the previous rolling 90 days or three-month period.
- Investments in an unconsolidated service corporation that derives at least 80 percent of its gross revenues from activities related to domestic or manufactured residential housing.
- Two hundred percent of the amount of loans and investments made to acquire, develop, and construct one- to four-family residences the purchase price of which is less than 60 percent of the median value of comparable newly constructed one- to four-family residences in the community where the housing is located. Up to 25 percent of the amount included here may consist of commercial properties related to the development described in the previous sentence if such commercial properties are directly related to providing services to the residents of the development.
- Two hundred percent of the amount of loans for the acquisition or improvement of residential real property and community service facilities and to small businesses located within any area that has been designated by the Comptroller of the Currency, in connection with any review or examination of community investment practices, as a geographic area or neighborhood in which the credit needs of the low- and moderate-income residents of such area or neighborhood are not being adequately met.
- Loans for the purchase, construction, development, or improvements of “community service facilities” not located in a geographic area or neighborhood in which the credit needs of the low- and moderate-income residents of such area or neighborhood are not being adequately met, and loans for the improvement and upkeep of such properties.

- Loans for personal, family, or household purposes (other than those reported in the assets includable without limit category).
- Fannie Mae and Freddie Mac stock.

Refer to appendix C, QTL Worksheet, and the accompanying instructions for more information on each asset category.

Domestic Building and Loan Association Test

Under the IRS DBLA test (26 CFR 301.7701-13A), an FSA must meet the following two tests:

- Business operations test.
- Sixty percent of assets test.

Business Operations Test

The business operations test requires the FSA's business to consist primarily of (1) acquiring the savings of the public and (2) investing in loans.

An FSA meets the *public savings* requirement when it meets one of two conditions:

- The FSA acquires savings of the general public in conformance with OCC rules and regulations.
- The general public holds more than 75 percent of the FSA's deposits, withdrawable shares, and other obligations. The general public may not include family or related business groups or persons who are officers or directors of the FSA.

An FSA meets the *investing in loans* requirement when more than 75 percent of its gross income consists of interest on loans and government obligations and various other specified types of operating income that FSAs ordinarily earn. See appendix B for a detailed list (26 CFR 301.7701-13A(c)(3)).

Sixty Percent of Assets Test

This test requires that at least 60 percent of an FSA's assets consist of assets listed in 26 USC 7701(a)(19)(C) and 26 CFR 301.7701-13A(d). The DBLA test does not include, as the QTL test does to a limited or optional extent, mortgage loans originated and sold into the secondary market and subsidiary investments.

See appendix A for the Internal Revenue Code statutory definition of DBLA (26 USC 7701(a)(19)). See appendix B for the IRS's implementing regulation defining DBLA (26 CFR 301.7701-13A).

Exceptions

Section 10(m)(2) of the HOLA authorizes the OCC to grant temporary and limited exceptions from compliance with the QTL requirement. The OCC may grant exceptions when extraordinary circumstances exist or to significantly facilitate an acquisition under sections 13(c) or 13(k) of the Federal Deposit Insurance Act (FDIA).

Section 10(m)(2)(A) of the HOLA presents an example of an extraordinary circumstance: “... when the effects of high interest rates reduce mortgage demand to such a degree that an insufficient opportunity exists for a savings association” to meet the QTL requirement. Similarly, the OCC recognizes that the efforts of FSAs to work with borrowers in communities affected by disasters, if conducted in a prudent manner, are consistent with the principles of safety and soundness and the public interest. Therefore, the OCC may temporarily waive the QTL requirement to allow FSAs to help rebuild affected businesses.

Section 13(c) of the FDIA authorizes the FDIC to provide financial assistance to facilitate a merger or consolidation of a troubled insured depository institution. Section 13(k) of the FDIA sets forth criteria for such emergency acquisitions of troubled depository institutions. When granting an exception to significantly facilitate a 13(c) or 13(k) acquisition, the OCC must determine the following:

- The acquired institution will comply with a 51-month incremental phase-in transaction period (see sections 10(m)(2)(B)(ii) and 10(m)(7)(B) of the HOLA).
- The exception will not have an undue adverse effect on competing savings associations in the relevant market and will further the purposes of the QTL requirement.

An FSA requesting an exception from the QTL requirement must file a request with the OCC Licensing division.

Definitions of QTL Terms

An FSA must demonstrate that items being counted as QTIs meet the following definitions.

Acquisition, Development, and Construction Loans

An FSA may include acquisition, development, and construction (ADC) loans in QTIs, without limit, provided the FSA is reasonably certain the property will become domestic residential housing. Moreover, to count as a QTI, an ADC loan must meet at least one of the following criteria:

- The loan is for property zoned exclusively for residential use.
- The loan is for property zoned to permit residential use and there are restrictions in the deed to the property that limit its use to primarily residential dwellings.
- The borrower will construct dwellings immediately on nearly all the residentially zoned property.

Community Service Facilities

Community service facilities are churches or other places of worship, schools, nursing homes, hospitals, and facilities serving similar functions within a community.

Domestic Housing

Domestic housing refers to housing located within the 50 states, the District of Columbia, any territory of the United States, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

Liquid Assets

Pursuant to 12 USC 1467a(m)(4)(B)(iii), liquid assets for QTL purposes are defined as the types listed in 12 USC 1465 as in effect on December 26, 2000. These assets include

- cash.
- balances maintained in Federal Reserve banks, Federal Home Loan Banks, and commercial banks.
- obligations of the United States and bankers acceptances.
- shares or certificates of any open-end management investment company registered with the U.S. Securities and Exchange Commission under the Investment Company Act of 1940 and the portfolio of which is restricted by such investment company's investment policy, changeable only if authorized by the shareholder vote, solely to any of the obligations or other investments enumerated in subparagraph (A) and in clauses (i), (ii), (iv), (v), (vi), and (vii) of this subparagraph.
- liquid, high-quality corporate debt obligations with three years or less remaining until maturity.
- high-quality commercial paper with 270 days or less remaining until maturity.
- mortgage-related securities that have one year or less remaining until maturity or are subject to an agreement to be purchased within one year by another insured depository institution that is in compliance with applicable capital standards, a primary dealer in U.S. government securities, or a broker or dealer registered under the Securities Exchange Act of 1934.
- mortgage loans on the security of a first lien on residential real property, if the mortgage loans qualify as backing for mortgage-backed securities issued by the Fannie Mae or Freddie Mac or guaranteed by the Ginnie Mae, and either the mortgage loans have one year or less remaining until maturity, or the mortgage loans are subject to an agreement of purchase by an insured depository institution not to exceed a period of one year.

Manufactured Housing

Manufactured housing is defined by the National Manufactured Home Construction and Safety Standards Act (42 USC 5402(6)) as:

“A structure, transportable in one or more sections, that in traveling mode measures at least eight feet by forty feet, or when erected is at least 320 square feet, and that is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein.”

Mutual Funds

An FSA may count mutual fund investments as QTIs on a pro rata basis to the same extent that the underlying investments are eligible as QTIs—if the FSA invested directly in the underlying investments. The mutual funds must also meet the other standards set forth in HOLA 5(c)(1)(Q).

Residential Housing

For QTL purposes, as defined in 12 CFR 141, residential housing includes residential real estate and dwelling units. Section 141.23 defines residential real estate (or residential real property):

- Homes (including condominiums and cooperatives).
- Combinations of homes and business property.
- Other real estate used primarily for residential purposes other than a home (but which may include homes).
- Combinations of such real estate and business property involving only minor business use.
- Farm residences and combinations of farm residences and commercial farm real estate.
- Property to be improved by the construction of such structures.
- Leasehold interests in the above real estate.

Section 141.10 defines dwelling unit as: “The unified combination of rooms designed for residential use by one family, other than a single-family dwelling.”

Small Business Loans

OCC Definition

The OCC’s definition of a small business loan (12 CFR 160.3) is: “Small business loans and loans to small businesses include any loan to a small business as defined in this section; or a loan that does not exceed \$2 million (including a group of loans to one borrower) and is for commercial, corporate, business, or agricultural purposes.” The following guidelines also apply:

- Generally, the original amount of a loan is the total amount of the loan at origination or the amount of the loan balance outstanding, whichever is larger.
- For loan participations and syndications, the original amount of the loan participation or syndication is the entire amount of the credit the lead lender originated.

- For loans drawn down under lines of credit or loan commitments, the original amount of the loan is the amount when the lender most recently approved, extended, or renewed the line of credit or loan commitment before the report date. However, if the amount currently outstanding as of the report date exceeds this size, the original amount is the amount currently outstanding.
- FSAs should combine multiple loans to one borrower and report them on an aggregated basis.

Small Business Administration (SBA) Definition

OCC regulation 12 CFR 160.3 also cites the SBA definition of small business loans. FSAs familiar with the SBA standards may prefer to use the eligibility criteria established by the SBA. See section 3(a) of the Small Business Act, 15 USC 632(a), as implemented by SBA's regulations set forth in 13 CFR 121.

Section 3(a) of the act states that a small business concern must be independently owned and operated and not dominant in its field of operation. The act provides that the definition shall vary from industry to industry in determining what a small business is to the extent necessary to properly reflect industry differences. In addition, the SBA is to make a detailed definition of the term based on, among other criteria, a business's number of employees and dollar amount of business.

The SBA size standards set forth in 13 CFR 121 define whether a business entity is small. The SBA has established size standards for types of economic activity, or industry, generally under the North American Industry Classification System (NAICS). The size standards are expressed as either the maximum number of employees or maximum annual receipts allowed for a concern to be considered small. Many exceptions exist and the SBA periodically changes size standards for different industries. Reference to the regulations is necessary to determine size eligibility requirements for a specific business concern.

Consolidation of Subsidiaries

An FSA has the option of consolidating, or not consolidating, a subsidiary's assets with the assets of the FSA in determining its portfolio assets and its ATIP, with the following exceptions:

- The FSA must consolidate the subsidiary's assets with the FSA's assets in calculating the FSA's portfolio assets when the FSA
 - consolidates the subsidiary's assets in determining its QTI, or
 - includes the subsidiary's residential mortgage loans originated and sold within 90 days of origination to determine the FSA's QTI.

If the subsidiary's assets are not consolidated, the FSA's investment in the subsidiary is considered in calculating QTI.

Where the FSA has the option of consolidating the subsidiary for QTL purposes, it may make its decision as frequently as monthly.

Consequences of QTL Failure

Section 10(m) of the HOLA imposes the following restrictions on an FSA that fails to become and remain a QTL:

- Immediately upon failure to become and remain a QTL, the FSA shall not make any new investment (including an investment in a subsidiary) or engage, directly or indirectly, in any new activity, unless the investment or activity would be permissible for the FSA if it were a national bank, and is also permissible for the FSA as an FSA.
- Immediately upon failure to become and remain a QTL, the FSA shall not establish any new branch office at any location at which a national bank located in the FSA's home state may not establish a branch office. For purposes of this provision, an FSA's home state is the state in which the FSA's deposits were largest on the date on which the FSA should have become or remained a QTL.
- Immediately upon failure to become and remain a QTL, the FSA may not pay dividends, except for dividends that
 - would be permissible for a national bank,
 - are necessary to meet obligations of a company that controls the FSA, and
 - are specifically approved by the OCC and the Board of Governors of the Federal Reserve System after a written request submitted to the OCC and the Board by the FSA not later than 30 days before the date of the proposed payment.¹
- Any company that controls an FSA that is subject to any of the above provisions and fails to regain its QTL status within one year after the date on which the savings association should have become or ceases to be a QTL must register as and be deemed to be a bank holding company subject to all of the provisions of the Bank Holding Company Act of 1956 (12 USC 1841 et seq.) and other statutes applicable to bank holding companies, in the same manner and to the same extent as if the company were a bank holding company and the FSA were a bank.
- Three years from the date an FSA should have become or ceases to be a QTL, the FSA must dispose of any investment or not engage in any activity unless the investment or activity is allowed for both a national bank and an FSA.

HOLA section 5(r) (12 USC 1464(r)) generally requires that an FSA must be a QTL to establish, retain, or operate a branch outside the state in which it has its home office and that an FSA shall not retain or operate an out-of-state branch unless the total assets of the FSA attributable to all branches of the FSA in that state would qualify the branches as a whole, as a QTL.²

¹ In addition, the FSA continues to be subject to the OCC regulations applicable to capital distributions by FSAs.

² The statute provides that the branching limitations do not apply in certain circumstances. See 12 USC 1464(r)(2). For additional guidance, discuss with legal staff in the OCC's Bank Activities and Structure division.

An FSA that fails to become or remain a QTL shall be deemed to have violated section 5 of the HOLA and is subject to actions authorized by section 5(d) (12 USC 1464(d)).

Requalification

An FSA may requalify as a QTL only once. Failure to maintain QTL status after requalification permanently subjects an FSA to the consequences of QTL failure described above.

Risks Associated With QTL and Risk Management

From a supervisory perspective, risk is the potential that events, expected or unexpected, will have an adverse effect on a bank's earnings, capital, or franchise or enterprise value. The OCC has defined eight categories of risk for bank supervision purposes: credit, interest rate, liquidity, price, operational, compliance, strategic, and reputation. These categories are not mutually exclusive. Any product or service may expose a bank to multiple risks. Risks also may be interdependent and may be positively or negatively correlated. Examiners should be aware of this interdependence and assess the effect in a consistent and inclusive manner. Refer to the "Bank Supervision Process" booklet of the *Comptroller's Handbook* for an expanded discussion of banking risks and their definitions.

The risks that might be associated with QTL are compliance, operational, strategic, reputation, credit, and liquidity.

The OCC expects each bank to identify, measure, monitor, and control risk by implementing an effective risk management system appropriate for its size and the complexity of its operations. When examiners assess the effectiveness of a bank's risk management system, they consider the bank's policies, processes, personnel, and control systems. Refer to the "Bank Supervision Process" booklet of the *Comptroller's Handbook* for an expanded discussion of risk management.

Compliance Risk

Compliance risk arises when the FSA fails to remain a QTL. Upon such failure, the FSA is at risk of limitations or penalties. The board of directors and management are responsible for ensuring that the FSA complies with the HOLA QTL or IRS DBLA requirements. Board and management must implement effective control systems that identify compliance system weaknesses.

Operational Risk

Operational risk arises from human error or inadequate or failed internal processes or systems that result in failing to qualify the FSA as a QTL. Management must have an effective internal control environment and processes and systems in place to monitor and track the FSA's QTL status. They must effectively communicate the processes and policies to staff.

Strategic Risk

Strategic risk arises when the FSA's business strategies are not aligned with QTL requirements, resulting in the FSA failing to remain a QTL. The board and management must ensure that strategic goals are compatible with meeting the QTL or DBLA requirements.

Reputation Risk

Reputation risk may arise when the FSA fails to remain a QTL and, under certain circumstances, may not pay dividends or establish, retain, or operate an out-of-state branch office. Reputation risk could cause the FSA to lose customers and investors to experience a decrease in the franchise value. The board and management must ensure compliance with the QTL or DBLA requirements.

Credit Risk

Concentrations of credit have the potential to pose risk to earnings and capital. In meeting the QTL test, the FSA may hold a concentration in residential mortgages or mortgage-backed securities. A concentration of these assets, however, does not automatically result in a greater threat to earnings and capital if the concentration is properly monitored and supported by a sufficient level of capital. For guidance in this area, refer to the "Concentrations of Credit" booklet of the *Comptroller's Handbook*.

Liquidity Risk

Liquidity risk may arise in the event an FSA has to restructure its balance sheet in order to comply with the QTL or DBLA test. Management must actively manage the balance sheet to remain in compliance with the QTL or DBLA requirements while maintaining adequate liquidity.

QTL Reporting

An FSA may use either the QTL or the DBLA test to qualify as a QTL. The FSA must complete the QTL test on Schedule RC-M of the Federal Financial Institutions Examination Council Consolidated Report of Condition and Income (call report). The FSA must indicate the test that it uses and whether it complies with (1) the QTL test as of each month's end during the quarter or (2) the DBLA test for its most recent taxable year, as applicable.

Examination Procedures

This booklet contains procedures intended to assist examiners in determining whether an FSA is a QTL. Examiners determine which procedures to use, if any, during examination planning or after drawing preliminary conclusions during the core assessment.

Scope

These procedures are designed to help examiners determine whether the FSA meets the requirements of the QTL test or DBLA test. Examiners need to perform only those objectives and steps that are relevant to the scope of the examination as determined by the following objective. Seldom will every objective or step of the procedures be necessary.

Objective: To determine the scope of the QTL examination and identify examination objectives and activities necessary to meet the needs of the supervisory strategy for the FSA.

1. Determine if the FSA calculates the QTL test or the DBLA test, or if the FSA has been granted an exception to the QTL requirement.
2. Obtain the FSA's QTL worksheets or other records of compliance with the QTL or DBLA test, as applicable.
3. Review previous reports of examination (ROE) and work papers and note any previously identified problems related to QTL that require follow-up.
4. Obtain policies, procedures, and reports FSA management uses to monitor QTL status.
5. In discussions with FSA management, determine if there have been any significant changes (for example, in policies or processes) since the previous examination of QTL.
 - Discuss management's plans and strategies for achieving or maintaining QTL or DBLA status.
 - Determine whether management intends to change the composition of the balance sheet to maintain QTL status.
6. Based on an analysis of data obtained in the previous steps, as well as input from the examiner-in-charge (EIC), determine the scope and objectives of the QTL examination.
7. Select from the following examination procedures the necessary steps to meet examination objectives and the supervisory strategy.

Quantity of Risk

Conclusion: The quantity of each associated risk is (low, moderate, or high).

Objective: To determine the quantity of compliance, operational, strategic, reputation, credit, and liquidity risks associated with the FSA's QTL status.

1. Confirm the FSA's status as a QTL.
 - Review the call report and the QTL worksheets or other records of compliance with the QTL or DBLA test, as applicable.
 - Determine whether the FSA met the requirements of the QTL or DBLA test since the last examination.
 - Determine if the FSA records all investments correctly.
 - Determine if all investments counted as QTIs meet the applicable standards.
 - Determine if all subsidiaries are treated appropriately.
 - Review documentation supporting the inclusion of any investments that are not clearly eligible.

2. If the FSA failed the QTL test or DBLA test:
 - Determine whether management observes any consequent limitations or penalties for QTL or DBLA failure.
 - Determine if the failure is the first one and how long the failure has lasted. Interview management to determine if the FSA intends to change the composition of its balance sheet to re-qualify as a QTL.
 - Determine management's plan for maintaining QTL status, and once regained, stress to management the consequences of a second failure.
 - If applicable, discuss with the EIC the next steps in contacting OCC Enforcement and Compliance staff regarding violation of HOLA section 5.

Quality of Risk Management

Conclusion: The quality of risk management is (strong, satisfactory, or weak).

The conclusion on risk management considers all risks associated with the FSA's QTL status.

Policies

Policies are statements of actions adopted by a bank to pursue certain objectives. Policies often set standards (on risk tolerances, for example) and should be consistent with the bank's underlying mission, values, and principles. A policy review should always be triggered when the bank's objectives or standards change.

Objective: To determine whether the board of directors has adopted effective policies to maintain the FSA's QTL status that are consistent with safe and sound banking practices.

1. Evaluate relevant policies to determine whether they provide appropriate guidance for achieving or maintaining QTL status and are consistent with the FSA's mission, values, and principles.
2. Verify that the board of directors periodically reviews and approves the FSA's QTL-related policies.

Processes

Processes are the procedures, programs, and practices that impose order on a bank's pursuit of its objectives. Processes define how daily activities are carried out. Effective processes are consistent with the underlying policies and are governed by appropriate checks and balances (such as internal controls).

Objective: To determine whether the FSA has processes in place to define how the FSA will meet the QTL or DBLA test.

1. Evaluate whether the FSA's processes are adequate in achieving QTL status, such as a process to categorize items counted as QTI; consistency with underlying policies; and effective communication with appropriate staff.
2. Verify the accuracy of the responses reported on Schedule RC-M Item 15, QTL test, of the call report.

Personnel

Personnel are the bank staff and managers who execute or oversee processes. Personnel should be qualified and competent and should perform appropriately. They should understand the bank's mission, values, principles, policies, and processes. Banks should design compensation programs to attract, develop, and retain qualified personnel. In addition, compensation programs should be structured in a manner that encourages strong risk management practices.

Objective: To determine management's ability to qualify the FSA as a QTL.

1. Determine whether officers and employees are operating in conformance with established policies and practices, and have the knowledge and training, in qualifying the FSA as a QTL.

Control Systems

Control systems are the functions (such as internal and external audits, risk review, and quality assurance) and information systems that bank managers use to measure performance, make decisions about risk, and assess the effectiveness of processes. Control functions should have clear reporting lines, adequate resources, and appropriate authority. Management information systems should provide timely, accurate, and relevant feedback.

Objective: To determine whether the FSA has systems in place to provide accurate and timely assessments of risk associated with its QTL status.

1. Determine whether management information systems provide timely, accurate, and useful information to monitor the FSA's QTL status.
2. Determine whether the FSA conducts periodic audit and compliance reviews to ensure that the FSA meets the QTL requirement.

Conclusions

Conclusion: The aggregate level of each associated risk is
(low, moderate, or high).
The direction of each associated risk is
(increasing, stable, or decreasing).

Objective: To determine, document, and communicate overall findings and conclusions regarding the examination of the FSA’s QTL status.

1. Determine preliminary examination findings and conclusions and discuss with the EIC. Consider the
 - quantity of associated risks (i.e., compliance, operational, credit, liquidity, strategic, and reputation).
 - quality of risk management.
 - aggregate level and direction of associated risks.
 - overall risk in the FSA’s QTL status.
 - deficiencies or noncompliance with written policies and procedures.
 - violations of laws and regulations.

| Summary of Risks Associated With QTL | | | | |
|--------------------------------------|-----------------------|------------------------------|-------------------------|----------------------------------|
| Risk category | Quantity of risk | Quality of risk management | Aggregate level of risk | Direction of risk |
| | (Low, moderate, high) | (Weak, satisfactory, strong) | (Low, moderate, high) | (Increasing, stable, decreasing) |
| Compliance | | | | |
| Operational | | | | |
| Credit | | | | |
| Liquidity | | | | |
| Strategic | | | | |
| Reputation | | | | |

2. Discuss examination findings with management. If necessary, obtain commitments for corrective action.
3. Compose conclusion comments, highlighting any issues that should be included in the ROE. State in the ROE whether the FSA has failed to maintain QTL status. If so, state whether it has complied with QTL restrictions since any such failure, whether the FSA has subsequently requalified, or whether the FSA has had a subsequent failure after requalifying. Outline the actions the FSA needs to take to comply with the applicable restrictions. If necessary, compose a Matters Requiring Attention comment.

4. Update the OCC's information system and any applicable ROE schedules or tables.
5. Write a memorandum specifically setting out what the OCC should do in the future to effectively supervise the FSA's QTL status or update the work program with any information that will facilitate future examinations.
6. Update, organize, and reference work papers in accordance with OCC policy.
7. Ensure that any paper or electronic media that contain sensitive FSA or customer information are appropriately disposed of or secured.

Appendixes

Appendix A: Internal Revenue Code Definition of Domestic Building and Loan Association

26 USC 7701(a)(19)

(19) *Domestic building and loan association.* The term “domestic building and loan association” means a domestic building and loan association, a domestic savings and loan association, and a federal savings and loan association—

- (A) which either (i) is an insured institution within the meaning of section 401(a) of the National Housing Act (12 USC, section 1724(a)), or (ii) is subject by law to supervision and examination by state or federal authority having supervision over such associations;
- (B) the business of which consists principally of acquiring the savings of the public and investing in loans; and
- (C) at least 60 percent of the amount of the total assets of which (at the close of the taxable year) consists of—
 - (i) cash,
 - (ii) obligations of the United States or of a state or political subdivision thereof, and stock or obligations of a corporation which is an instrumentality of the United States or of a state or political subdivision thereof, but not including obligations the interest on which is excludable from gross income under section 103,
 - (iii) certificates of deposit in, or obligations of, a corporation organized under a state law which specifically authorizes such corporation to insure the deposits or share accounts of member associations,
 - (iv) loans secured by a deposit or share of a member,
 - (v) loans (including redeemable ground rents, as defined in section 1055) secured by an interest in real property which is (or, from the proceeds of the loan, will become) residential real property or real property used primarily for church purposes, loans made for the improvement of residential real property or real property used primarily for church purposes, provided that for purposes of this clause, residential real property shall include single or multifamily dwellings, facilities in residential developments dedicated to public use or property used on a nonprofit basis for residents, and mobile homes not used on a transient basis,

- (vi) loans secured by an interest in real property located within an urban renewal area to be developed for predominantly residential use under an urban renewal plan approved by the Secretary of Housing and Urban Development under part A or part B of title I of the Housing Act of 1949, as amended, or located within any area covered by a program eligible for assistance under section 103 of the Demonstration Cities and Metropolitan Development Act of 1966, as amended, and loans made for the improvement of any such real property,
- (vii) loans secured by an interest in educational, health, or welfare institutions or facilities, including structures designed or used primarily for residential purposes for students, residents, and persons under care, employees, or members of the staff of such institutions or facilities,
- (viii) property acquired through the liquidation of defaulted loans described in clause (v), (vi), or (vii),
- (ix) loans made for the payment of expenses of college or university education or vocational training, in accordance with such regulations as may be prescribed by the Secretary,
- (x) property used by the association in the conduct of the business described in subparagraph (B), and
- (xi) any regular or residual interest in a REMIC³, but only in the proportion which the assets of such REMIC consist of property described in any of the preceding clauses of this subparagraph; except that if 95 percent or more of the assets of such REMIC are assets described in clauses (i) through (x), the entire interest in the REMIC shall qualify.

At the election of the taxpayer, the percentage specified in this subparagraph shall be applied on the basis of the average assets outstanding during the taxable year, in lieu of the close of the taxable year, computed under regulations prescribed by the Secretary. For purposes of clause (v), if a multifamily structure securing a loan is used in part for nonresidential purposes, the entire loan is deemed a residential real property loan if the planned residential use exceeds 80 percent of the property's planned use (determined as of the time the loan is made). For purposes of clause (v), loans made to finance the acquisition or development of land shall be deemed to be loans secured by an interest in residential real property if, under regulations prescribed by the Secretary, there is reasonable assurance that the property will become residential real property within a period of three years from the date of acquisition of such land; but this sentence shall not apply for any taxable year unless, within such three-year period, such land becomes residential real property. For purposes of determining whether any interest in a REMIC qualifies under clause (xi), any regular interest in another REMIC held by such REMIC shall be treated as a loan described in a preceding clause under principles similar to the principles of clause (xi); except that, if such REMICs are part of a tiered structure, they shall be treated as one REMIC for purposes of clause (xi).

³ Real Estate Mortgage Investment Conduit.

Appendix B: Internal Revenue Service’s Implementing Regulation Defining Domestic Building and Loan Association

26 CFR 301.7701-13A

301.7701-13A. Post-1969 Domestic Building and Loan Association.

- (a) *In general.* For taxable years beginning after July 11, 1969, the term “domestic building and loan association” means a domestic building and loan association, a domestic savings and loan association, a Federal savings and loan association, and any other savings institution chartered and supervised as a savings and loan or similar association under federal or state law which meets the supervisory test (described in paragraph (b) of this section), the business operations test (described in paragraph (c) of this section), and the assets test (described in paragraph (d) of this section). For the definition of the term “domestic building and loan association” for taxable years beginning after October 16, 1962, and before July 12, 1969, see section 301.7701-13.
- (b) *Supervisory test.* A domestic building and loan association must be either (1) an insured institution within the meaning of section 401(a) of the National Housing Act (12 USC 1724(a)) or (2) subject by law to supervision and examination by state or federal authority having supervision over such associations. An “insured institution” is one the accounts of which are insured by the Federal Savings and Loan Insurance Corporation.⁴
- (c) *Business operations test—*
- (1) *In general.* An association must utilize its assets so that its business consists principally of acquiring the savings of the public and investing in loans. The requirement of this paragraph is referred to in this section as the business operations test. The business of acquiring the savings of the public and investing in loans includes ancillary or incidental activities which are directly and primarily related to such acquisition and investment, such as advertising for savings, appraising property on which loans are to be made by the association, and inspecting the progress of construction in connection with construction loans. Even though an association meets the supervisory test described in paragraph (b) of this section and the assets test described in paragraph (d) of this section, it will nevertheless not qualify as a domestic building and loan association if it does not meet the requirements of both paragraphs (2) and (3) of this paragraph (c), relating, respectively, to acquiring the savings of the public and investing in loans.

⁴ The FDIC assumed the deposit insurance responsibilities of the Federal Savings and Loan Insurance Corporation in 1989.

(2) *Acquiring the savings of the public.* The requirement that an association’s business (other than investing in loans) must consist principally of acquiring the savings of the public ordinarily will be considered to be met if savings are acquired in all material respects in conformity with the rules and regulations of the Federal Home Loan Bank Board⁵ or substantially equivalent rules of a state law or supervisory authority. Alternatively, such requirement will be considered to be met if more than 75 percent of the dollar amount of the total deposits, withdrawable shares, and other obligations of the association are held during the taxable year by the general public, as opposed to amounts deposited or held by family or related business groups or persons who are officers or directors of the association. However, the preceding sentence shall not apply if the dollar amount of other obligations of the association outstanding during the taxable year exceeds 25 percent of the dollar amount of the total deposits, withdrawable shares, and other obligations of the association outstanding during such year. For purposes of this paragraph, the term “other obligation” means notes, bonds, debentures, or other obligations, or other securities (except capital stock), issued by an association in conformity with the rules and regulations of the Federal Home Loan Bank Board or substantially equivalent rules of a state law or supervisory authority. The term “other obligations” does not include an advance made by a Federal Home Loan Bank under the authority of section 10 or 10b of the Federal Home Loan Bank Act (12 USC 1430, 1430b) as amended and supplemented. Both percentages specified in this paragraph shall be computed either as of the close of the taxable year or, at the option of the taxpayer, on the basis of the average of the dollar amounts of the total deposits, withdrawable shares, and other obligations of the association held during the taxable year. Such averages shall be determined by computing each percentage specified either as of the close of each month, as of the close of each quarter, or semiannually during the taxable year and by using the yearly average of the monthly, quarterly, or semiannual percentages obtained. The method selected must be applied uniformly for the taxable year to both percentages, but the method may be changed from year to year.

(3) *Investing in loans—*

(i) *In general.* The requirement that an association’s business (other than acquiring the savings of the public) must consist principally of investing in loans will be considered to be met for a taxable year only if more than 75 percent of the gross income of the association consists of—

- (a) Interest or dividends on assets defined in paragraphs (1), (2), and (3) of paragraph (e) of this section,
- (b) Interest on loans,

⁵ The OCC became the regulator of FSAs on July 21, 2011.

- (c) Income attributable to the portion of property used in the association's business, as defined in paragraph (e)(11) of this section,
- (d) So much of the amount of premiums, discounts, commissions, or fees (including late charges and penalties) on loans which have at some time been held by the association, or for which firm commitments have been issued, as is not in excess of 20 percent of the gross income of the association,
- (e) Net gain from sales and exchanges of governmental obligations, as defined in paragraph (e)(2) of this section, or
- (f) Income, gain or loss attributable to foreclosed property, as defined in paragraph (e)(9) of this section, but not including such income, gain or loss which, pursuant to section 595 and the regulations thereunder, is not included in gross income.

Examples of types of income which would cause an association to fail to meet the requirements of this paragraph if, in the aggregate, they equal or exceed 25 percent of gross income, are: The excess of gains over losses from sales of real property (other than foreclosed property); rental income (other than on foreclosed property and the portion of property used in the association's business); premiums, commission, and fees (other than commitment fees) on loans which have never been held by the association; and insurance brokerage fees.

- (ii) *Computation of gross income.* For purposes of this paragraph, gross income is computed without regard to—
 - (a) Gain or loss on the sale or exchange of the portion of property used in the association's business as defined in paragraph (e)(11) of this section,
 - (b) Gain or loss on the sales or exchange of the rented portion of property used as the principal or branch office of the association, as defined in paragraph (e)(11) of this section, and
 - (c) Gains or losses on sales of participations, and loans, other than governmental obligations defined in paragraph (e)(2) of this section.

For purposes of this paragraph, gross income is also computed without regard to items of income which an association establishes arise out of transactions which are necessitated by

exceptional circumstances and which are not undertaken as recurring business activities for profit. Thus, for example, an association would meet the investing in loans requirement if it can establish that it would otherwise fail to meet that requirement solely because of the receipt of a nonrecurring item of income due to exceptional circumstances. For this purpose, transactions necessitated by an excess of demand for loans over savings capital in the association's area are not to be deemed to be necessitated by exceptional circumstances. For purposes of paragraph (c)(3)(ii)(c) of this section, the term "sales of participations" means sales by an association of interest in loans, which sales meet the requirements of the regulations of the Federal Home Loan Bank Board relating to sales of participations, or which meet substantially equivalent requirements of state law or regulations relating to sales of participations.

- (iii) *Reporting requirement.* In the case of income tax returns for taxable years beginning after July 11, 1969, there is required to be filed with the return a statement showing the amount of gross income for the taxable year in each of the categories described in paragraph (c)(3)(i) of this section.
- (d) *60 percent of assets test.* At least 60 percent of the amount of the total assets of a domestic building and loan association must consist of the assets defined in paragraph (e) of this section. The percentage specified in this paragraph is computed as of the close of the taxable year or, at the option of the taxpayer, may be computed on the basis of the average assets outstanding during the taxable year. Such average is determined by making the appropriate computation described in this section either as of the close of each month, as of the close of each quarter, or semiannually during the taxable year and by using the yearly average of the monthly, quarterly, or semiannual percentage obtained for each category of assets defined in paragraph (e) of this section. The method selected must be applied uniformly for the taxable year to all categories of assets, but the method may be changed from year to year. For purposes of this paragraph, it is immaterial whether the association originated the loans defined in paragraphs (4) through (8) and (10) of paragraph (e) of this section or purchased or otherwise acquired them in whole or in part from another. See paragraph (f) of this section for definition of certain terms used in this paragraph and in paragraph (e) of this section, and for the determination of amount and character of loans.
- (e) *Assets defined.* The assets defined in this paragraph are—
 - (1) *Cash.* The term "cash" means cash on hand, and time or demand deposits with, or withdrawable accounts in, other financial institutions.

- (2) *Governmental obligations.* The term “governmental obligations” means–
- (i) Obligations of the United States,
 - (ii) Obligations of a state or political subdivision of a state, and
 - (iii) Stock or obligations of a corporation which is an instrumentality of the United States, a state, or a political subdivision of a state,

other than obligations the interest on which is excludable from gross income under section 103 and the regulations thereunder.
- (3) *Deposit insurance company securities.* The term “deposit insurance company securities” means certificates of deposit in, or obligations of, a corporation organized under a state law which specifically authorizes such corporation to insure the deposits or share accounts of member associations.
- (4) *Passbook loan.* The term “passbook loan” means a loan to the extent secured by a deposit, withdrawable share, or savings account in the association, or share of a member of the association, with respect to which a distribution is allowable as a deduction under section 591.
- (5) *Residential real property loan.* [Reserved]
- (6) *Church loan.* [Reserved]
- (7) *Urban renewal loan.* [Reserved]
- (8) *Institutional loan.* [Reserved]
- (9) *Foreclosed property.* [Reserved]
- (10) *Educational loan.* [Reserved]
- (11) *Property used in the association’s business–*
- (i) *In general.* The term “property used in the association’s business” means land, buildings, furniture, fixtures, equipment, leasehold interests, leasehold improvements, and other assets used by the association in the conduct of its business of acquiring the savings of the public and investing in loans. Real property held for the purpose of being used primarily as the principal or branch office of the association constitutes property used in the association’s business so long as it is reasonably anticipated that such property will be occupied for such use by the association, or that construction work preparatory to such occupancy will be commenced thereon, within 2 years after

acquisition of the property. Stock of a wholly owned subsidiary corporation which has as its exclusive activity the ownership and management of property more than 50 percent of the fair rental value of which is used as the principal or branch office of the association constitutes property used in such business. Real property held by an association for investment or sale, even for the purpose of obtaining mortgage loans thereon, does not constitute property used in the association's business.

- (ii) *Property rented to others.* Except as provided in the second sentence of paragraph (11)(i) of this paragraph (e), property or a portion thereof rented by the association to others does not constitute property used in the association's business. However, if the fair rental value of the rented portion of a single piece of real property (including appurtenant parcels) used as the principal or branch office of the association constitutes less than 50 percent of the fair rental value of such piece of property, or if such property has an adjusted basis of not more than \$150,000, the entire property shall be considered used in such business. If such rented portion constitutes 50 percent or more of the fair rental value of such piece of property, and such property has an adjusted basis of more than \$150,000, an allocation of its adjusted basis is required. The portion of the total adjusted basis of such piece of property which is deemed to be property used in the association's business shall be equal to an amount which bears the same ratio to such total adjusted basis as the amount of the fair rental value of the portion used as the principal or branch office of the association bears to the total fair rental value of such property. In the case of all property other than real property used or to be used as the principal or branch office of the association, if the fair rental value of the rented portion thereof constitutes less than 15 percent of the fair rental value of such property, the entire property shall be considered used in the association's business. If such rented portion constitutes 15 percent or more of the fair rental value of such property, an allocation of its adjusted basis (in the same manner as required for real property used as the principal or branch office) is required.

(12) *Regular or residual interest in a REMIC—*

- (i) *In general.* If for any calendar quarter at least 95 percent of a REMIC's assets (as determined in accordance with section 1.860F-4(e)(1)(ii) or section 1.6049-7(f)(3) of this chapter) are assets defined in paragraph (e)(1) through (e)(11) of this section, then for that calendar quarter all the regular and residual interests in that REMIC are treated as assets defined in this paragraph (e). If less than 95 percent of a REMIC's assets are assets defined in paragraph (e)(1) through (e)(11) of this section, the percentage of each REMIC regular

or residual interest treated as an asset defined in this paragraph (e) is equal to the percentage of the REMIC's assets that are assets defined in paragraph (e)(1) through (e)(11) of this section. See section 1.860F-4(e)(1)(ii)(B) and 1.6049-7(f)(3) of this chapter for information required to be provided to regular and residual interest holders if the 95 percent test is not met.

- (ii) *Loans secured by manufactured housing.* For purposes of paragraph (e)(12)(i) of this section, a loan secured by manufactured housing treated as a single family residence under section 25(e)(10) is an asset defined in paragraph (e)(1) through (e)(11) of this section.

(f) *Special rules.* [Reserved]

Appendix C: QTL Worksheet

| | Line | \$ Bil, Mil, Thou |
|--|-----------|-------------------|
| PART 1 - PORTFOLIO ASSETS: | | |
| Total Assets | <u>1</u> | |
| 20% of Total Assets (<i>Line 1 x 20%</i>) | <u>2</u> | 0 |
| Office Property | <u>3</u> | |
| Liquid Assets - Cannot Exceed Line 2 | <u>4</u> | |
| Goodwill and Other Intangibles | <u>5</u> | |
| Deductions from Total Assets (<i>Sum of Lines 3, 4, and 5</i>) | <u>6</u> | 0 |
| PORTFOLIO ASSETS (<i>Line 1 Minus Line 6</i>) | <u>7</u> | 0 |
| 20% OF PORTFOLIO ASSETS (<i>Line 7 x 20%</i>) | <u>8</u> | 0 |
| PART 2 - QUALIFIED THRIFT INVESTMENTS (QTI): | | |
| ASSETS INCLUDABLE WITHOUT LIMIT: | | |
| Mortgage Loans | <u>9</u> | |
| Real Estate Owned | <u>10</u> | |
| Home Equity Loans | <u>11</u> | |
| Mortgage-Backed Securities | <u>12</u> | |
| Educational Loans | <u>13</u> | |
| Small Business Loans | <u>14</u> | |
| Credit Card Loans | <u>15</u> | |
| Obligations of the Federal Deposit Insurance Corporation | <u>16</u> | |
| Federal Home Loan Bank Stock | <u>17</u> | |
| TOTAL QTI INCLUDABLE WITHOUT LIMIT (<i>Sum of Lines 9 through 17</i>) | <u>18</u> | 0 |
| ASSETS INCLUDABLE UP TO 20% OF PORTFOLIO ASSETS: | | |
| 50% of Residential Mortgage Loans Originated and Sold Within 90 days of Origination | <u>19</u> | |
| Service Corporations with 80% Mortgage-Related Revenue | <u>20</u> | |
| 200% of 1-4 Family Residence Loans (Purchase Price < 60% Median Value) | <u>21</u> | |
| 200% of Loans in Certain Geographic Areas or Neighborhoods | <u>22</u> | |
| Community Service Facility Loans (Purchase, Construction, Improvement) | <u>23</u> | |
| Loans for Personal, Family, or Household Purposes | <u>24</u> | |
| Fannie Mae or Freddie Mac Stock | <u>25</u> | |
| PUERTO RICAN AND VIRGIN ISLAND INSTITUTIONS ONLY (ALL OTHER INSTITUTIONS GO TO LINE 29): | | |
| Loans for Personal, Family, Educational or Household Purposes | <u>26</u> | |
| Community Service Facility Loans (Purchase, Construction, Improvement) | <u>27</u> | |
| 200% of 1-4 Family Residence Loans (Price < Median Comparable Housing) | <u>28</u> | |
| Total QTI Includable Up to 20% of Portfolio Assets <i>(Lesser of the Sum of Lines 19 through 25 or Line 8)</i> | <u>29</u> | 0.0 |
| PART 3: | | |
| TOTAL QUALIFIED THRIFT INVESTMENTS (<i>Sum of Lines 18 and 29</i>) | <u>30</u> | 0.0 |
| ACTUAL THRIFT INVESTMENT PERCENTAGE (ATIP) <i>(Line 30 Divided by Line 7)</i> | <u>31</u> | |

Instructions for QTL Worksheet

To calculate the actual thrift investment percentage (ATIP), follow the instructions below and refer to the QTL worksheet. Each federal savings association (FSA) that elects to comply with the QTL test must perform these calculations on a monthly basis.

Part 1 – Portfolio Assets

Line 1 – Total Assets

Enter total assets. Consolidate a subsidiary if the FSA counts as a qualified thrift investment any of the subsidiary's assets, or mortgages originated and sold by such subsidiary within 90 days of origination. Also, if the FSA counts its investment in an 80% mortgage-related revenue subsidiary as qualified thrift investment on Line 20, it must include that investment in total assets.

Line 2 – 20% of Total Assets

Multiply Line 1 by 0.20.

Line 3 – Office Property

Enter the depreciated carrying value of the property, furniture, fixtures, and equipment that the FSA uses to conduct its business.

Line 4 – Liquid Assets

Enter the lesser of the FSA's liquid assets or the amount on Line 2. Do not include as liquidity any securities entered on Line 12.

Note: Pursuant to 12 USC 1467a(m)(4)(B)(iii), liquid assets for QTL purposes are defined as the types listed in 12 USC 1465 as in effect on December 26, 2000. These assets include: cash; balances maintained in Federal Reserve banks, Federal Home Loan Banks, and commercial banks; obligations of the United States and bankers acceptances; shares or certificates of any open-end management investment company that is registered with the U.S. Securities and Exchange Commission under the Investment Company Act of 1940 and the portfolio of which is restricted by such investment company's investment policy, changeable only if authorized by the shareholder vote, solely to any of the obligations or other investments enumerated in subparagraph (A) and in clauses (i), (ii), (iv), (v), (vi), and (vii) of this subparagraph; liquid, high quality corporate debt obligations with three years or less remaining until maturity; high quality commercial paper with 270 days or less remaining until maturity; mortgage related securities that have one year or less remaining until maturity or are subject to an agreement to be purchased within one year by another insured depository institution that is in compliance with applicable capital standards, a primary dealer in U.S. government securities, or a broker or dealer registered under the Securities Exchange Act of 1934; and mortgage loans on the security of a first lien on residential real property, if the mortgage loans qualify as backing for mortgage-backed securities issued by the Fannie Mae or Freddie Mac or guaranteed by the Ginnie Mae, and either the mortgage loans have one year or less remaining until maturity, or the mortgage loans are subject to an agreement of purchase by an insured depository institution not to exceed a period of one year.

Line 5 – Goodwill and Other Intangibles

Enter the current unamortized balance of goodwill and other intangibles (including mortgage loan servicing rights). While OCC does not consider servicing assets intangibles for regulatory capital purposes, our policy is to deduct mortgage servicing assets for QTL.

Line 6 – Deductions From Total Assets

Enter the sum of Lines 3, 4, and 5.

Line 7 – Portfolio Assets

Subtract Line 6 from Line 1.

Line 8 – 20% of Portfolio Assets

Multiply Line 7 by 0.20.

Part 2 – Qualified Thrift Investments

Note: For all calculations use the outstanding principal balance and add accrued interest and premiums; deduct charge-offs, deferred loan fees, loans in process and unearned discounts.

Assets Includable Without Limit:

Line 9 – Mortgage Loans

Enter loans held that were made to purchase, refinance, construct, improve, or repair domestic residential housing or manufactured housing. Note: The term “domestic” refers to units within the 50 states, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

Line 10 – REO

Enter property acquired through foreclosure, deed in lieu of foreclosure, or in-substance foreclosure that, if it had remained as a loan, would have been a qualified thrift investment reported on Lines 9, 11, or 14. Include real estate in judgment.

Line 11 – Home Equity Loans

Enter home equity loans. Note: Include here any consumer receivables secured in part by lien on domestic residential housing. If entered here do not include on Line 24.

Line 12 – Mortgage-Backed Securities

Enter securities backed by or representing an interest in domestic residential housing or manufactured housing. FSAs should include securities purchased and exclude securities sold from qualified thrift investments on their trade dates.

Note: This item encompasses mortgage-pool securities, mortgage-pool pass-through securities, mortgage-backed bonds, and mortgage-backed pay-through bonds. This item also encompasses any derivative mortgage-related security created by disaggregating and repackaging the cash flows received as payments on mortgages and traditional mortgage-pool securities. The underlying assets of such securities must be domestic residential housing. Bonds, including Federal Home Loan Bank, Freddie Mac, Fannie Mae, and Ginnie Mae bonds, count only if they are backed by mortgages. Do not include as a qualified thrift investment Resolution Funding Corporation (REFCO) bonds.

Line 13 – Educational Loans

Enter education loans.

Line 14 – Small Business Loans

Enter small business loans. Generally, small business loans are \$2 million or less at origination. See the definition in 12 CFR 160.3.

Line 15 – Credit Card Loans

Enter loans made in conjunction with the issuance or extension of credit through a credit card. This includes loans made to consolidate credit card debt (including credit card debt that other lenders previously held), participation certificates, securities and similar instruments secured by credit card receivables.

Line 16 – Obligations of the Federal Deposit Insurance Corporation (FDIC) Issued On or After July 1, 1989

Enter obligations of the FDIC issued on or after July 1, 1989, for a period not to exceed five years after the issue date.

Line 17 – Federal Home Loan Bank Stock

Enter Federal Home Loan Bank stock.

Line 18 – Total Qualified Thrift Investments Includable Without Limit

Enter the sum of Lines 9 through 17.

Assets Includable Up to 20% of Portfolio Assets:

Line 19 – 50% of Residential Mortgage Loans Originated and Sold Within 90 Days of Origination

Enter 50% of loans on domestic residential housing that the FSA originated and sold within 90 days of origination. An FSA may, on a consistent basis, include either the sales amounts from a previous calendar quarter or the previous rolling 90 days or three-month period.

Line 20 – Service Corporations With 80% Mortgage-Related Revenue

Enter the investment (capital stock, loans, advances, and securities) in service corporations that derive 80% of their gross revenues from activities directly related to purchasing, refinancing, constructing, improving, or repairing domestic residential housing or manufactured housing.

Note: FSAs that consolidate such subsidiaries in Line 1 (Total Assets) and count any service corporation assets as qualified thrift investments may not report the FSA's investment on this line.

Line 21 – 200% of One- to Four-Family Residence Loans (Purchase Price Less Than 60% Median)

Enter 200% of loans and investments in domestic residential housing (if not entered on Line 9), the price of which is, or is guaranteed to be, less than 60% of the median price of comparable housing in the community where the housing is located. Up to 25% of the amount included on this line may consist of commercial properties related to the development described in the previous sentence, if such commercial properties are directly related to providing services to the residents of the development. Note: To use this line item, FSAs must maintain records demonstrating that the housing meets the 60% of median value test.

Line 22 – 200% of Loans in Certain Geographic Areas

Enter 200% of loans on domestic residential housing, community service facilities (as defined below), and to small businesses in a geographic area or neighborhood in which the credit needs of the low- and moderate-income residents of such area or neighborhood are not being adequately met. Do not include any small business loans here if entered on Line 14.

Line 23 – Community Service Facility Loans (Purchase, Construction, Improvement)

Enter loans for community service facilities, except those included on Line 22, and loans for the improvement and upkeep of such properties. Community service facilities means churches, or other places of worship, schools, nursing homes, hospitals, and facilities serving similar functions within a community.

Line 24 – Loans for Personal, Family, or Household Purposes

Enter personal, family, or household loans, except those included on Lines 11, 13 and 15.

Line 25 – Stock of the Fannie Mae or the Freddie Mac

Enter Fannie Mae and Freddie Mac stock that the FSA holds.

Puerto Rican and Virgin Island FSAs Only – All Other FSAs Go to Line 29.

Lines 26 through 28 apply to FSAs headquartered and operating primarily in Puerto Rico and the Virgin Islands, respectively. The amounts that Puerto Rican FSAs enter may only be for investments in Puerto Rico. Similarly, the amounts that Virgin Islands FSAs enter may only be for investments in the Virgin Islands.

Line 26 – Loan for Personal, Family or Household Purposes

Enter personal, family, household, or educational loans made to persons residing or domiciled in Puerto Rico or the Virgin Islands. Do not include loans entered on Lines 11 or 24.

Line 27 – Community Service Facility Loans (Purchases, Construction, Improvement)

Enter loans for community service facilities and loans to small businesses in Puerto Rico or the Virgin Islands, except those included on Lines 22 and 23.

Line 28 – 200% of One- to Four-Family Residence Loans (Price Less Than Median Comparable Housing)

Enter 200% of loans and investments in one- to four-family residential real estate in Puerto Rico and the Virgin Islands, the price of which is, or is guaranteed to be, less than the median value of newly constructed one- to four-family residences in Puerto Rico or the Virgin Islands. Do not include loans entered on Line 21. Note: To use this line item, institutions must maintain records demonstrating that the housing meets the median value test.

Line 29 – Total Qualified Thrift Investments Includable Up to 20% of Portfolio Assets

Enter the lesser of the sum of Lines 19 through 25 or Line 8.

Part 3 – Total Qualified Thrift Investments and Actual Thrift Investment Percentage

Line 30 – Total Qualified Thrift Investments

Enter the sum of Lines 18 and 29. This is an FSA's total qualified thrift investment figure. Puerto Rican and Virgin Island FSAs must also add Lines 26 through 28.

Line 31 – Actual Thrift Investment Percentage (ATIP)

Divide Line 30 by Line 7.

References

Laws

- 12 USC 1464(d), “Regulatory Authority”
- 12 USC 1464(r), “Out-of-State branches”
- 12 USC 1467a(c), “Holding company activities”
- 12 USC 1467a(m), “Qualified Thrift Lender Test”
- 12 USC 1841 et seq., “Bank Holding Company Act of 1956”
- 15 USC 632(a), “Small Business Act”
- 26 USC 7701(a)(19), “Domestic Building and Loan Association Test”
- 42 USC 5402(6), “National Manufactured Home Construction and Safety Standards Act”

Regulations

- 12 CFR 141.10, “Dwelling unit”
- 12 CFR 141.23, “Residential real estate”
- 12 CFR 160.3, “Definitions” (small business and small business loans)
- 13 CFR 121, “Small Business Regulations”
- 26 CFR 301.7701-13A, “Post-1969 Domestic Building and Loan Association”