

## **FEDERAL RESERVE SYSTEM**

### **12 CFR Part 225**

**[Regulation Y; Docket No. R-0948]**

#### **Leverage Capital Standards: Tier 1 Leverage Ratio**

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Final rule.

**SUMMARY:** The Board of Governors of the Federal Reserve System (Board) is amending its Tier 1 leverage capital standard for bank holding companies. The effect of this final rule is to simplify the Board's leverage capital standard for bank holding companies and to incorporate the market risk capital rule into the leverage standard.

**EFFECTIVE DATE:** June 30, 1998

**FOR FURTHER INFORMATION CONTACT:** Norah Barger, Assistant Director (202/452-2402), Barbara Bouchard, Manager (202/452-3072), T. Kirk Odegard, Financial Analyst (202/530-6225), 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.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On October 27, 1997, the Board issued a proposal to amend its risk-based and Tier 1 leverage capital standards for bank holding companies (62 FR 55692). This proposal stemmed in large part from an interagency effort to streamline capital standards pursuant to section 303 of the

Riegle Community Development and Regulatory Improvement Act of 1994 (CDRI Act).<sup>1</sup> That Act required the Agencies to review their own regulations and written policies and to streamline those regulations where possible, and also required the Agencies to work jointly to make uniform all regulations and guidelines implementing common statutory or supervisory policies. To fulfill the section 303 mandate, the Agencies reviewed their capital standards for banks and thrifts to identify areas where they had substantively different capital treatments or where streamlining was appropriate. As a result of these reviews, the Agencies proposed conforming amendments to their risk-based and leverage capital standards for banks and thrifts (62 FR 55686) concurrently with the Board's proposal for bank holding companies on October 27, 1997.

While not technically mandated under section 303 of the CDRI Act, the Board decided to amend the risk-based and leverage capital standards for bank holding companies to make them more uniform with those for banks and thrifts. The concurrently issued interagency and Board proposals were identical with respect to risk-based capital standards,<sup>2</sup> but differed with respect to Tier 1 leverage capital standards. Specifically, the Board's proposal for bank holding companies incorporated the Board's market risk capital rule, which became effective this year. The Agencies are currently working to complete a final rule based on the proposal for banks and thrifts. The Board intends to implement amendments to the risk-based capital standards for bank holding companies concurrently with the implementation of the interagency CDRI Act rulemaking for

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<sup>1</sup>The Board has worked with the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision (collectively, the Agencies) to fulfill the CDRI Act section 303 mandate.

<sup>2</sup>Both proposals would make uniform the risk-based capital treatment of construction loans on presold residential properties, loans secured by junior liens on 1- to 4-family residential properties, and investments in mutual funds.

banks and thrifts. Because the Board's proposal to amend the leverage capital standard for bank holding companies differed from the interagency proposal for banks and thrifts, however, the Board has decided that it is not necessary to wait for the completion of the interagency rulemaking to finalize its rulemaking on the bank holding company leverage capital standard.

### **The Board's Proposal**

The Board's proposal established a minimum Tier 1 leverage ratio (Tier 1 capital to total assets) of 3.0 percent for all bank holding companies that are rated a composite "1" under the BOPEC<sup>3</sup> rating system or that have implemented the risk-based capital market risk measure set forth in the Board's capital adequacy guidelines (12 CFR 225, Appendix E). All other bank holding companies must maintain a minimum Tier 1 leverage ratio of 4.0 percent. Higher capital ratios could be required for bank holding companies that had significant financial and/or operational weaknesses, had a high risk profile, or were undergoing or anticipating rapid growth. Prior to implementation of this final rule, bank holding companies that were not "1"-rated under the BOPEC system were required to maintain a minimum leverage ratio of 3.0 percent, plus an additional 100 to 200 basis points. This proposal differed from the interagency proposal for banks in that the interagency proposal did not lower the minimum leverage capital standard for banks that had adopted the market risk capital rule.

### **Comments Received**

The Board received three public comments on the Tier 1 leverage component of the bank holding company proposal (two from bank holding companies and one from an industry trade

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<sup>3</sup>The BOPEC rating system is used by supervisors to summarize their evaluations of the strength and soundness of bank holding companies in a comprehensive and uniform manner.

group), all of which supported the proposal.<sup>4</sup> Two of these commenters supported immediate adoption of the proposal to reduce regulatory burden on bank holding companies engaged in significant trading activities. Moreover, these commenters encouraged the Board to discontinue entirely the use of the leverage ratio as an indicator of safety and soundness for such institutions. They argued that the leverage ratio was an inadequate measure of relative risk, and was unnecessary in light of strict international risk-based capital standards. Moreover, these commenters argued that the existence of the leverage capital requirement placed domestic institutions at a competitive disadvantage relative to broker-dealers and foreign banking organizations that were not subject to minimum leverage requirements. In the absence of elimination of the leverage ratio, however, these commenters supported the proposed reduction of the minimum required leverage ratio for bank holding companies that have adopted the market risk capital rule. These commenters also requested that the Agencies: a) apply the leverage ratio reduction to banks that have adopted the market risk capital rule; and b) exclude the leverage ratio requirement entirely from the prompt corrective action guidelines for banks.

### **Final Rule**

The Board has determined to adopt a final rule that is consistent with the original proposal with respect to the bank holding company leverage capital standard. The final rule provides that the minimum Tier 1 leverage ratio for the most highly-rated bank holding companies, as well as those that have implemented the market risk capital rule, is 3.0 percent. The minimum leverage ratio for all other bank holding companies is 4.0 percent. The final rule also incorporates certain

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<sup>4</sup>In addition, a bank holding company commenting on the proposal for banks and thrifts expressed support for the Tier 1 leverage component of the bank holding company proposal.

changes in wording to adjust for these new provisions. These stylistic changes are not intended to alter in any substantial way the other provisions of the leverage capital standard for bank holding companies. The Board acknowledges commenter concerns about the usefulness of the leverage ratio as a supervisory tool for those institutions that have adopted the market risk capital measure. Although further modifications to the leverage ratio are beyond the scope of this final rule, the Board may consider whether the leverage requirements should be further modified in the future.

### **Regulatory Flexibility Act Analysis**

Pursuant to section 605(b) of the Regulatory Flexibility Act, the Board has determined that this final rule would not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). The effect of the final rule will be to reduce regulatory burden on bank holding companies by simplifying the Tier 1 leverage standard. The most highly-rated bank holding companies, as well as those that have adopted the market risk capital rule, will be required to meet a lower leverage capital standard under this rule. Accordingly, a regulatory flexibility analysis is not required.

### **Paperwork Reduction Act**

The Board has determined that the final rule does not involve a collection of information pursuant to the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

### **Deferred Effective Date**

The Board has determined that the delayed effective date requirements of the Administrative Procedure Act (5 U.S.C. 553) do not apply with respect to this final rule. A delayed effective date is not required with respect to agency action that relieves a restriction (5 U.S.C. 553(d)(1)). Because this final rule would relieve a restriction on certain bank holding

companies and would not impose any new restrictions on bank holding companies, the Board concludes that the requirements of section 553 do not apply to this final rule.

**List of Subjects in 12 CFR Part 225**

Administrative practice and procedure, Banks, banking, Federal Reserve System, Holding companies, Reporting and recordkeeping requirements, Securities.

For the reasons set forth in the preamble, part 225 of chapter II of title 12 of the Code of Federal Regulations is amended as set forth below.

**PART 225--BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL  
(REGULATION Y)**

1. The authority citation for part 225 is revised to read as follows:

**Authority:** 12 U.S.C. 1817(j)(13), 1818, 1828(o), 1831i, 1831p-1, 1843(c)(8), 1844(b), 1972(1), 3106, 3108, 3310, 3331-3351, 3907, and 3909.

2. In appendix D to part 225, section II.a. is revised to read as follows:

**APPENDIX D TO PART 225--CAPITAL ADEQUACY GUIDELINES FOR BANK HOLDING COMPANIES: TIER 1 LEVERAGE MEASURE**

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**II. \* \* \***

a. The Board has established a minimum ratio of Tier 1 capital to total assets of 3.0 percent for strong bank holding companies (rated composite “1” under the BOPEC rating system of bank holding companies), and for bank holding companies that have implemented the Board’s risk-based capital measure for market risk as set forth in appendices A and E of this part. For all other bank holding companies, the minimum ratio of Tier 1 capital to total assets is 4.0 percent.

Banking organizations with supervisory, financial, operational, or managerial weaknesses, as well as organizations that are anticipating or experiencing significant growth, are expected to maintain capital ratios well above the minimum levels. Moreover, higher capital ratios may be required for any bank holding company if warranted by its particular circumstances or risk profile. In all cases, bank holding companies should hold capital commensurate with the level and nature of the risks, including the volume and severity of problem loans, to which they are exposed.

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By order of the Board of Governors of the Federal Reserve System, May 29, 1998.

Jennifer J. Johnson  
Secretary of the Board.  
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