

*** DRAFT - NOT YET FILED ***

1301:2-2-01

Net worth requirement.

Net worth as referred to in section 1151.33 of the Revised Code shall consist of tier 1 capital as defined by 12 C.F.R. Part 324, as in effect on July 15, 2015.

~~(A) Net worth as referred to in section 1151.33 of the Revised Code shall consist of core or tier one capital components computed as follows:~~

~~(1) Common stockholders' equity, which is common stock and related surplus, undivided profits, capital reserves that represent a segregation of undivided profits, and foreign currency translation adjustments, less net unrealized losses on available for sale securities with readily determinable fair values;~~

~~(2) Noncumulative perpetual preferred stock, including any related surplus where the issuer has the option to waive payment of dividends and where dividends waived do not accumulate to future periods or represent a contingent claim on the issuer, but is not preferred stock where the dividend is reset periodically based, in whole or in part, on the savings and loan association's current credit standing, including, but not limited to, auction rate, money market, and remarketable preferred stock regardless of whether the dividends are cumulative or noncumulative; and~~

~~(3) Minority interests in consolidated subsidiaries, unless the minority interests fail to provide meaningful capital support to the consolidated savings and loan association.~~

~~(B) All of the following shall be deducted from the sum of a savings and loan association's core or tier one capital components:~~

~~(1) All intangible assets except the following:~~

~~(a) Mortgage servicing assets to which both of the following apply:~~

~~(i) The carrying amounts are not excessive in relation to their market value or the level of the savings and loan association's capital accounts; and~~

~~(ii) The mortgage servicing assets satisfy all of the following conditions, limitations, and restrictions:~~

~~(a) A valuation of the estimated fair market value of mortgage servicing assets shall be performed at least quarterly. The quarterly valuation shall include adjustments for any significant changes in the original valuation assumptions, including changes in pre-payment estimates or attrition~~

~~rates. The superintendent, in his or her discretion, may require independent market evaluations on a case-by-case basis where appropriate for safety and soundness purposes;~~

- ~~(b) For purposes of calculating tier one capital, but not for financial statement purposes, the balance sheet assets for mortgage servicing assets is reduced to an amount equal to the lesser of ninety per cent of the fair market value of the intangible assets, determined in accordance with paragraph (B)(1)(a)(ii)(a) of this rule or one hundred per cent of the remaining unamortized book value of the intangible assets, determined in accordance with the instructions for the preparation of consolidated reports of condition and income; and~~
- ~~(c) The maximum allowable amount of mortgage servicing assets, purchased credit card relationships, and nonmortgage servicing assets, in the aggregate, will be limited to the lesser of either: one hundred per cent of the amount of tier one capital that exists before deduction of the total of: any disallowed mortgage servicing assets, any disallowed purchased credit card relationships, any disallowed nonmortgage servicing assets, and any disallowed deferred tax assets; or, the sum of the amounts of mortgage servicing assets, purchased credit card relationships, and nonmortgage servicing assets determined in accordance with paragraphs (B)(1)(a)(ii)(b), (B)(1)(b)(ii)(b), and (B)(1)(c)(ii)(b) of this rule.~~
- ~~(b) Purchased credit card servicing relationships to which both of the following apply:
 - ~~(i) The carrying amounts are not excessive in relation to their market value or the level of the savings and loan association's capital accounts; and~~
 - ~~(ii) The purchased credit card servicing relationships satisfy all of the following conditions, limitations, and restrictions:
 - ~~(a) A valuation of the estimated fair market value of purchased credit card relationships shall be performed at least quarterly. The quarterly valuation shall include adjustments for any significant changes in the original valuation assumptions, including changes in prepayment estimates or attrition rates. The superintendent, in his or her discretion, may require independent market evaluations on a~~~~~~

~~ease-by-case basis where appropriate for safety and soundness purposes;~~

- ~~(b) For purposes of calculating tier one capital, but not for financial statement purposes, the balance sheet assets for purchased credit card relationships is reduced to an amount equal to the lesser of ninety per cent of the fair market value of the intangible assets, determined in accordance with paragraph (B)(1)(b)(ii)(a) of this rule or one hundred per cent of the remaining unamortized book value of the intangible assets, determined in accordance with the instructions for the preparation of consolidated reports of condition and income;~~
- ~~(c) The maximum allowable amount of mortgage servicing assets, purchased credit card relationships, and nonmortgage servicing assets, in the aggregate, will be limited to the lesser of either: one hundred per cent of the amount of tier one capital that exists before deduction of the total of: any disallowed mortgage servicing assets, any disallowed purchased credit card relationships, any disallowed nonmortgage servicing assets, and any disallowed deferred tax assets; or, the sum of the amounts of mortgage servicing assets, purchased credit card relationships, and nonmortgage servicing assets determined in accordance with paragraphs (B)(1)(a)(ii)(b), (B)(1)(b)(ii)(b), and (B)(1)(c)(ii)(b) of this rule; and~~
- ~~(d) In addition to the aggregate limitation on mortgage servicing assets, purchased credit card relationships, and nonmortgage servicing assets in paragraphs (B)(1)(a)(ii)(c), (B)(1)(b)(ii)(c), and (B)(1)(c)(ii)(c) of this rule, a sub-limit will apply to purchased credit card relationships and nonmortgage servicing assets. The maximum allowable amount of purchased credit card relationships and nonmortgage servicing assets will be limited to the lesser of twenty-five per cent of the amount of tier one capital that exists before the deduction of any disallowed mortgage servicing assets, any disallowed purchased credit card relationships, any disallowed nonmortgage servicing assets, and any disallowed deferred tax assets, or the sum of the amounts of purchased credit card relationships and nonmortgage servicing assets, determined in accordance with paragraphs (B)(1)(b)(ii)(b) and (B)(1)(c)(ii)(b) of this rule.~~

~~(c) Nonmortgage servicing rights to which both of the following apply:~~

~~(i) The carrying amounts are not excessive in relation to their market value or the level of the savings and loan association's capital accounts; and~~

~~(ii) The nonmortgage servicing rights satisfy all of the following conditions, limitations, and restrictions:~~

~~(a) A valuation of the estimated fair market value of nonmortgage servicing assets shall be performed at least quarterly. The quarterly valuation shall include adjustments for any significant changes in the original valuation assumptions, including changes in prepayment estimates or attrition rates. The superintendent, in his or her discretion, may require independent fair value estimates on a case-by-case basis where appropriate for safety and soundness purposes;~~

~~(b) For purposes of calculating tier one capital, but not for financial statement purposes, the balance sheet assets for nonmortgage servicing assets will be reduced to an amount equal to the lesser of ninety per cent of the fair market value of the intangible assets, determined in accordance with paragraph (B)(1)(c)(ii)(a) of this rule or one hundred per cent of the remaining unamortized book value of the intangible assets, determined in accordance with the instructions for the preparation of the consolidated reports of condition and income;~~

~~(c) The maximum allowable amount of mortgage servicing assets, purchased credit card relationships, and nonmortgage servicing assets, in the aggregate, will be limited to the lesser of either: one hundred per cent of the amount of tier one capital that exists before deduction of the total of: any disallowed mortgage servicing assets, any disallowed purchased credit card relationships, any disallowed nonmortgage servicing assets, and any disallowed deferred tax assets; or, the sum of the amounts of mortgage servicing assets, purchased credit card relationships, and nonmortgage servicing assets determined in accordance with paragraphs (B)(1)(a)(ii)(b), (B)(1)(b)(ii)(b), and (B)(1)(c)(ii)(b) of this rule; and~~

~~(d) In addition to the aggregate limitation on mortgage servicing assets, purchased credit card relationships, and~~

~~nonmortgage servicing assets, determined in accordance with paragraphs (B)(1)(a)(ii)(c), (B)(1)(b)(ii)(c), and (B)(1)(c)(ii)(c) of this rule, a sublimit will apply to purchased credit card relationships and nonmortgage servicing assets. The maximum allowable amount of purchased credit card relationships and nonmortgage servicing assets, in the aggregate, will be limited to the lesser of twenty five per cent of the amount of tier one capital that exists before the deduction of any disallowed mortgage servicing assets, any disallowed purchased credit card relationships, any disallowed nonmortgage servicing assets, and any disallowed deferred tax assets, or the sum of the amount of purchased credit card relationships and nonmortgage servicing assets, determined in accordance with paragraphs (B)(1)(b)(ii)(b) and (B)(1)(c)(ii)(b) of this rule.~~

~~(d) Other types of intangible assets that are explicitly approved by the superintendent, on a case by case basis, under the terms and conditions specifically approved:~~

~~(i) To evaluate whether other types of intangibles should be recognized, the superintendent will accord special attention to the general characteristics of the intangibles, including:~~

~~(a) The separability of the intangible asset and the ability to sell it separate and apart from the savings and loan association or the bulk of the savings and loan association's assets;~~

~~(b) The certainty that a readily identifiable stream of cash flows associated with the intangible asset can hold its value notwithstanding the future prospects of the savings and loan association; and~~

~~(c) The existence of a market of sufficient depth to provide liquidity for the intangible asset.~~

~~(ii) The superintendent will not give specific approval to goodwill and other unidentifiable intangible assets.~~

~~(2) Deferred tax assets subject to all of the following conditions, limitations, and restrictions:~~

~~(a) Deferred tax assets that are dependent on future taxable income are both of the following:~~

~~(i) Deferred tax assets arising from deductible temporary differences~~

~~that exceed the amount of taxes previously paid that could be recovered through loss carrybacks if existing temporary differences, both deductible and taxable and regardless of where the related deferred tax effects are reported on the balance sheet, fully reverse at the calendar quarter-end date; and~~

~~(ii) Deferred tax assets arising from operating loss and tax credit carryforwards.~~

~~(b)~~

~~(i) The maximum allowable amount of deferred tax assets that are dependent on future taxable income, net of any valuation allowance for deferred tax assets, is limited to the lesser of the following:~~

~~(a) The amount of deferred tax assets that are dependent on future taxable income that is expected to be realized within one year of the calendar quarter-end date, based on projected future taxable income for that year; or~~

~~(b) Ten per cent of the amount of tier one capital that exists before the deduction of any disallowed mortgage servicing assets, any disallowed purchased credit card relationships, any disallowed nonmortgage servicing assets, and any disallowed deferred tax assets.~~

~~(ii) For purposes of this limitation, all existing temporary differences should be assumed to fully reverse at the calendar quarter-end date. The recorded amount of deferred tax assets that are dependent on future taxable income, net of any valuation allowance for deferred tax assets, in excess of the limitation are deducted from assets and from equity capital for purposes of determining tier one capital under this rule. The amount of deferred tax assets that can be realized from taxes paid in prior carryback years and from the reversal of existing taxable temporary differences generally are not deducted from assets and from equity capital. However, the amount of carryback potential that may be considered in calculating the amount of deferred tax assets that a member of a consolidated group, for tax purposes, may include in tier one capital may not exceed the amount the member could reasonably expect to have refunded by its parent;~~

~~(iii) Projected future taxable income does not include net operating loss carryforwards to be used within one year of the most recent calendar quarter-end date or the amount of existing temporary~~

~~differences expected to reverse within that year. Projected future taxable income should include the estimated effect of tax planning strategies that are expected to be implemented to realize tax carryforwards that will otherwise expire during that year. Future taxable income projections for the current fiscal year, adjusted for any significant changes that have occurred or are expected to occur, may be used when applying the capital limit at an interim calendar quarter end date rather than preparing a new projection each quarter;~~

~~(iv) The deferred tax effects of any unrealized holding gains and losses on available-for-sale debt securities may be excluded from the determination of the amount of deferred tax assets that are dependent upon future taxable income and the calculation of the maximum allowable amount of those assets. If these deferred tax effects are excluded, this treatment must be followed consistently over time; and~~

~~(v) A deferred tax liability that is specifically related to an intangible asset, other than mortgage servicing rights and purchased credit card relationships, acquired in a non-taxable purchase business combination may be netted against this intangible asset. Only the net amount of an intangible asset must be deducted from tier one capital. When a deferred tax liability is netted in this manner, the taxable temporary difference that gives rise to this deferred tax liability must be excluded from existing taxable temporary differences when determining the amount of deferred tax assets that are dependent on future taxable income and calculating the maximum allowable amount of those assets.~~

~~(e) Identified losses to the extent common stockholders' equity would have been reduced if the appropriate accounting entries to reflect the identified losses had been recorded on the savings and loan association's books.~~

~~(d) Investments in securities subsidiaries that are subject to 12 C.F.R. 337.4.~~

~~(C) The minimum net worth of a savings and loan association with a composite rating of one as defined in the "Uniform Financial Institutions Rating System" shall be not less than three per cent of adjusted total assets.~~

~~(D) For all other savings and loan associations not meeting the conditions set forth in paragraphs (A) and (B) of this rule, the minimum acceptable net worth or capital requirement shall be not less than four per cent of total assets.~~

~~(E) Nothing in this or any other rule shall preclude the superintendent from requiring a~~

~~savings and loan association to maintain a higher net worth level commensurate with the savings and loan association's risk profile.~~

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Date

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