

(B) the Corporation is otherwise classified as within level II under subsection (b) of this section.

(3) Level III

The Corporation shall be classified as within level III if—

(A) the Corporation—

(i) does not equal or exceed the minimum capital level; and

(ii) equals or exceeds the critical capital level established under section 2279bb-3 of this title; or

(B) the Corporation is otherwise classified as within level III under subsection (b) of this section.

(4) Level IV

The Corporation shall be classified as within level IV if the Corporation—

(A) does not equal or exceed the critical capital level; or

(B) is otherwise classified as within level IV under subsection (b) of this section.

(b) Discretionary classification

If at any time the Director determines in writing (and provides written notification to the Corporation and the Farm Credit Administration) that the Corporation is taking any action not approved by the Director that could result in a rapid depletion of core capital or that the value of the property subject to mortgages securitized by the Corporation or property underlying securities guaranteed by the Corporation, has decreased significantly, the Director may classify the Corporation—

(1) as within level II, if the Corporation is otherwise within level I;

(2) as within level III, if the Corporation is otherwise within level II; or

(3) as within level IV, if the Corporation is otherwise within level III.

(c) Quarterly determination

The Director shall determine the classification of the Corporation for purposes of this part on not less than a quarterly basis (and as appropriate under subsection (b) of this section). The first such determination shall be made for the quarter ending March 31, 1992.

(d) Notice

Upon determining under subsection (b) or (c) of this section that the Corporation is within level II or III, the Director shall provide written notice to the Congress and to the Corporation—

(1) that the Corporation is within such level;

(2) that the Corporation is subject to the provisions of section 2279bb-5 or 2279bb-6 of this title, as applicable; and

(3) stating the reasons for the classification of the Corporation within such level.

(e) Implementation

Notwithstanding paragraphs (1) and (2) of subsection (a) of this section, during the period beginning on December 13, 1991, and ending on the effective date of the risk based capital regulation issued by the Director under section 2279bb-1 of this title, the Corporation shall be classified as within level I if the Corporation equals or exceeds the minimum capital level established under section 2279bb-2 of this title.

(Pub. L. 92-181, title VIII, § 8.35, as added Pub. L. 102-237, title V, § 503(b)(2), Dec. 13, 1991, 105 Stat. 1874; amended Pub. L. 104-105, title I, § 116, Feb. 10, 1996, 110 Stat. 168.)

AMENDMENTS

1996—Subsec. (e). Pub. L. 104-105 substituted “during the period beginning on December 13, 1991, and ending on the effective date of the risk based capital regulation issued by the Director under section 2279bb-1 of this title,” for “during the 30-month period beginning on December 13, 1991.”

§ 2279bb-5. Mandatory actions applicable to level II

(a) Capital restoration plan

If the Corporation is classified as within level II, the Corporation shall, within the time period determined by the Director, submit to the Director a capital restoration plan and, after approval, carry out the plan.

(b) Restriction on dividends

If the Corporation is classified as within level II, the Corporation may not make any payment of dividends that would result in the Corporation being reclassified as within level III or IV.

(c) Reclassification from level II to level III

The Director shall immediately reclassify the Corporation as within level III (and the Corporation shall be subject to the provisions of section 2279bb-6 of this title), if—

(1) the Corporation is within level II; and

(2)(A) the Corporation does not submit a capital restoration plan that is approved by the Director; or

(B) the Director determines that the Corporation has failed to make, in good faith, reasonable efforts necessary to comply with such a capital restoration plan and fulfill the schedule for the plan approved by the Director.

(d) Effective date

This section shall take effect upon the expiration of the 30-month period beginning on December 13, 1991.

(Pub. L. 92-181, title VIII, § 8.36, as added Pub. L. 102-237, title V, § 503(b)(2), Dec. 13, 1991, 105 Stat. 1876.)

§ 2279bb-6. Supervisory actions applicable to level III

(a) Mandatory supervisory actions

(1) Capital restoration plan

If the Corporation is classified as within level III, the Corporation shall, within the time period determined by the Director, submit to the Director a capital restoration plan and, after approval, carry out the plan.

(2) Restrictions on dividends

(A) Prior approval

If the Corporation is classified as within level III, the Corporation—

(i) may not make any payment of dividends that would result in the Corporation being reclassified as within level IV; and

(ii) may make any other payment of dividends only if the Director approves the payment before the payment.