

§ 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.

(B) Standard for approval

If the Corporation is classified as within level III, the Director may approve a payment of dividends by the Corporation only if the Director determines that the payment (i) will enhance the ability of the Corporation to meet the risk-based capital level and the minimum capital level promptly, (ii) will contribute to the long-term safety and soundness of the Corporation, or (iii) is otherwise in the public interest.

(3) Reclassification from level III to level IV

The Director shall immediately reclassify the Corporation as within level IV if—

(A) the Corporation is classified as within level III; and

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

(ii) 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.

(b) Discretionary supervisory actions

In addition to any other actions taken by the Director (including actions under subsection (a) of this section), the Director may, at any time, take any of the following actions if the Corporation is classified as within level III:

(1) Limitation on increase in obligations

Limit any increase in, or order the reduction of, any obligations of the Corporation, including off-balance sheet obligations.

(2) Limitation on growth

Limit or prohibit the growth of the assets of the Corporation or require contraction of the assets of the Corporation.

(3) Prohibition on dividends

Prohibit the Corporation from making any payment of dividends.

(4) Acquisition of new capital

Require the Corporation to acquire new capital in any form and in any amount sufficient to provide for the reclassification of the Corporation as within level II.

(5) Restriction of activities

Require the Corporation to terminate, reduce, or modify any activity that the Director determines creates excessive risk to the Corporation.

(6) Conservatorship

Appoint a conservator for the Corporation consistent with this chapter.

(c) Effective date

This section shall take effect on January 1, 1992.

(Pub. L. 92-181, title VIII, §8.37, as added Pub. L. 102-237, title V, §503(b)(2), Dec. 13, 1991, 105 Stat. 1876.)

§ 2279bb-7. Recapitalization of Corporation**(a) Mandatory recapitalization**

The Corporation shall increase the core capital of the Corporation to an amount equal to or greater than \$25,000,000, not later than the earlier of—

(1) the date that is 2 years after February 10, 1996; or

(2) the date that is 180 days after the end of the first calendar quarter that the aggregate on-balance sheet assets of the Corporation, plus the outstanding principal of the off-balance sheet obligations of the Corporation, equal or exceed \$2,000,000,000.