

(D) the Director may take into account other methods or tests to determine credit risk developed by the Corporation before December 13, 1991; and

(E) the Director shall consider any other information submitted by the Corporation in writing during the 180-day period beginning on December 13, 1991.

(2) Revising test

Upon the expiration of the 8-year period beginning on December 13, 1991, the Director shall examine the risk-based capital test under subsection (a) and may revise the test. In making examinations and revisions under this paragraph, the Director shall take into account that, before December 13, 1991, the Corporation has not issued guarantees for pools of qualified loans. To the extent that the revision of the risk-based capital test causes a change in the classification of the Corporation within the enforcement levels established under section 2279bb-4 of this title, the Director shall waive the applicability of any additional enforcement actions available because of such change for a reasonable period of time, to permit the Corporation to increase the amount of regulatory capital of the Corporation accordingly.

(c) Risk-based capital level

For purposes of this part, the risk-based capital level for the Corporation shall be equal to the sum of the following amounts:

(1) Credit and interest rate risk

The amount of regulatory capital determined by applying the risk-based capital test under subsection (a) to the Corporation, adjusted to account for foreign exchange risk.

(2) Management and operations risk

To provide for management and operations risk, 30 percent of the amount of regulatory capital determined by applying the risk-based capital test under subsection (a) to the Corporation.

(d) Specified contents

(1) In general

The regulations establishing the risk-based capital test under this section shall—

(A) be issued by the Director for public comment in the form of a notice of proposed rulemaking, to be first published after the expiration of the period referred to in subsection (a); and

(B) contain specific requirements, definitions, methods, variables, and parameters used under the risk-based capital test and in implementing the test (such as loan loss severity, float income, loan-to-value ratios, taxes, yield curve slopes, default experience, prepayment rates, and performance of pools of qualified loans).

(2) Specificity

The regulations referred to in paragraph (1) shall be sufficiently specific to permit an individual other than the Director to apply the test in the same manner as the Director.

(e) Availability of model

The Director shall make copies of the statistical model or models used to implement the

risk-based capital test under this section available for public acquisition and may charge a reasonable fee for such copies.

(Pub. L. 92-181, title VIII, § 8.32, as added Pub. L. 102-237, title V, § 503(b)(2), Dec. 13, 1991, 105 Stat. 1871; amended Pub. L. 102-552, title III, § 308(b)(3), Oct. 28, 1992, 106 Stat. 4116; Pub. L. 104-105, title I, §§ 109(b)(3), 113, Feb. 10, 1996, 110 Stat. 165, 166; Pub. L. 110-234, title V, § 5406(d), May 22, 2008, 122 Stat. 1159; Pub. L. 110-246, § 4(a), title V, § 5406(d), June 18, 2008, 122 Stat. 1664, 1920; Pub. L. 115-334, title V, § 5411(48), Dec. 20, 2018, 132 Stat. 4685.)

Editorial Notes

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

AMENDMENTS

2018—Subsec. (a). Pub. L. 115-334, § 5411(48)(A), substituted “The” for “Not sooner than the expiration of the 3-year period beginning on February 10, 1996, the” in introductory provisions.

Subsec. (a)(1)(B). Pub. L. 115-334, § 5411(48)(B), substituted “section 2279aa(7)(C)” for “section 2279aa(9)(C)”.

2008—Subsec. (a)(1). Pub. L. 110-246, § 5406(d), designated existing provisions as subpar. (A), inserted heading, and added subpar. (B).

1996—Subsec. (a). Pub. L. 104-105, § 113(1), in first sentence, substituted “Not sooner than the expiration of the 3-year period beginning on February 10, 1996,” for “Not later than the expiration of the 2-year period beginning on December 13, 1991.”

Subsec. (b)(1)(C). Pub. L. 104-105, § 109(b)(3), substituted “Director may” for “Director shall” and inserted before semicolon at end “(as in effect before February 10, 1996)”.

Subsec. (b)(2). Pub. L. 104-105, § 113(2), substituted “8-year” for “5-year” in first sentence.

Subsec. (d). Pub. L. 104-105, § 113(3), designated first sentence of existing provisions as par. (1), inserted heading, added subpar. (A), and designated part of first sentence as subpar. (B), designated second sentence of existing provisions as par. (2), inserted heading, and substituted “The regulations referred to in paragraph (1) shall” for “The regulations shall”.

1992—Subsecs. (a), (b)(1)(D). Pub. L. 102-552, § 308(b)(3)(A), substituted “December 13, 1991” for “the date of the enactment of this section”.

Subsec. (b)(1)(E). Pub. L. 102-552, § 308(b)(3)(B), substituted “December 13, 1991” for “the date of the enactment of such Act”.

Subsec. (b)(2). Pub. L. 102-552, § 308(b)(3)(A), substituted “December 13, 1991” for “the date of the enactment of this section” in two places.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

§ 2279bb-2. Minimum capital level

(a) In general

Except as provided in subsection (b), for purposes of this part, the minimum capital level for the Corporation shall be an amount of core capital equal to the sum of

(1) 2.75 percent of the aggregate on-balance sheet assets of the Corporation, as determined in accordance with generally accepted accounting principles; and

(2) 0.75 percent of the aggregate off-balance sheet obligations of the Corporation, which, for the purposes of this part, shall include

(A) the unpaid principal balance of outstanding securities that are guaranteed by the Corporation and backed by pools of qualified loans;

(B) instruments that are issued or guaranteed by the Corporation and are substantially equivalent to instruments described in subparagraph (A); and

(C) other off-balance sheet obligations of the Corporation.

(b) Transition period

(1) In general

For purposes of this part, the minimum capital level for the Corporation—

(A) prior to January 1, 1997, shall be the amount of core capital equal to the sum of—

(i) 0.45 percent of aggregate off-balance sheet obligations of the Corporation;

(ii) 0.45 percent of designated on-balance sheet assets of the Corporation, as determined under paragraph (2); and

(iii) 2.50 percent of on-balance sheet assets of the Corporation other than assets designated under paragraph (2);

(B) during the 1-year period ending December 31, 1997, shall be the amount of core capital equal to the sum of—

(i) 0.55 percent of aggregate off-balance sheet obligations of the Corporation;

(ii) 1.20 percent of designated on-balance sheet assets of the Corporation, as determined under paragraph (2); and

(iii) 2.55 percent of on-balance sheet assets of the Corporation other than assets designated under paragraph (2);

(C) during the 1-year period ending December 31, 1998, shall be the amount of core capital equal to—

(i) if the Corporation's core capital is not less than \$25,000,000 on January 1, 1998, the sum of—

(I) 0.65 percent of aggregate off-balance sheet obligations of the Corporation;

(II) 1.95 percent of designated on-balance sheet assets of the Corporation, as determined under paragraph (2); and

(III) 2.65 percent of on-balance sheet assets of the Corporation other than assets designated under paragraph (2); or

(ii) if the Corporation's core capital is less than \$25,000,000 on January 1, 1998, the amount determined under subsection (a); and

(D) on and after January 1, 1999, shall be the amount determined under subsection (a).

(2) Designated on-balance sheet assets

For purposes of this subsection, the designated on-balance sheet assets of the Corporation shall be—

(A) the aggregate on-balance sheet assets of the Corporation acquired under section 2279aa-6(d) of this title; and

(B) the aggregate amount of qualified loans purchased and held by the Corporation under section 2279aa-3(c)(13) of this title.

(Pub. L. 92-181, title VIII, § 8.33, as added Pub. L. 102-237, title V, § 503(b)(2), Dec. 13, 1991, 105 Stat. 1873; amended Pub. L. 104-105, title I, § 114, Feb. 10, 1996, 110 Stat. 166; Pub. L. 115-334, title V, § 5411(49), Dec. 20, 2018, 132 Stat. 4685.)

Editorial Notes

AMENDMENTS

2018—Subsec. (b)(2)(A). Pub. L. 115-334 substituted “section 2279aa-6(d)” for “section 2279aa-6(e)”.

1996—Pub. L. 104-105 amended section generally, substituting present provisions for provisions relating to minimum capital level, including general provisions, provisions relating to 18-month transition, and provisions relating to linked portfolio assets.

§ 2279bb-3. Critical capital level

For purposes of this part, the critical capital level for the Corporation shall be an amount of core capital equal to 50 percent of the total minimum capital amount determined under section 2279bb-2 of this title.

(Pub. L. 92-181, title VIII, § 8.34, as added Pub. L. 102-237, title V, § 503(b)(2), Dec. 13, 1991, 105 Stat. 1874; amended Pub. L. 104-105, title I, § 115, Feb. 10, 1996, 110 Stat. 167.)

Editorial Notes

AMENDMENTS

1996—Pub. L. 104-105 amended section generally. Prior to amendment, section read as follows: “For purposes of this part, the critical capital level for the Corporation shall be an amount of core capital equal to the sum of—

“(1) 1.25 percent of the aggregate on-balance sheet assets of the Corporation (other than assets referred to in paragraph (3)), as determined in accordance with generally accepted accounting principles;

“(2) 0.25 percent of the unpaid principal balance of outstanding securities guaranteed by the Corporation and backed by pools of qualified loans and substantially equivalent instruments issued or guaranteed by the Corporation, and other off-balance sheet obligations of the Corporation; and

“(3) a percentage of any aggregate assets of the Corporation acquired pursuant to the linked portfolio option under section 2279aa-6(g) of this title, which shall be—

“(A) during the 5-year period beginning on December 13, 1991, one-half of the percentage that is determined under section 2279bb-2(c)(1) of this title; and

“(B) after the expiration of such 5-year period, 1.25 percent of any such aggregate assets.”

§ 2279bb-4. Enforcement levels

(a) In general

The Director shall classify the Corporation, for purposes of this part, according to the following enforcement levels:

(1) Level I

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

(A) maintains an amount of regulatory capital that is equal to or exceeds the risk-based capital level established under section 2279bb-1 of this title; and