the allocated investments of the nonagreeing associations, all of the remaining allocated investments of the nonagreeing associations must be allotted to the bank.

(c) If a payment or part of a payment to the Farm Credit System Financial Assistance Corporation pursuant to section 6.9(e)(3)(D)(ii) of the Act would cause a bank to fall below its minimum permanent capital requirement, the bank and one or more associations shall amend their allocation agreements to increase the allotment of the allocated investment to the bank sufficiently to enable the bank to make the payment to the Farm Credit System Financial Assistance Corporation, provided that the associations would continue to meet their minimum permanent capital requirement. In the case of a nonagreeing association, the Farm Credit Administration may require a revision of the allotment sufficient to enable the bank to make the payment to the Farm Credit System Financial Assistance Corporation, provided that the association would continue to meet its minimum permanent capital requirement. The Farm Credit Administration may, at the request of one or more of the institutions affected, waive the requirements of this paragraph if the FCA deems it is in the overall best interest of the institutions affected.

[70 FR 35351, June 17, 2005]

§ 615.5209 Deferred-tax assets.

For purposes of calculating capital ratios under this part, deferred-tax assets are subject to the conditions, limitations, and restrictions described in this section.

(a) Each institution must deduct an amount of deferred-tax assets, net of any valuation allowance, from its assets and its total capital that is equal to the greater of:

(1) The amount of deferred-tax assets that is dependent on future income or future events in excess of the amount that is reasonably expected to be realized within 1 year of the most recent calendar quarter-end date, based on financial projections for that year, or

(2) The amount of deferred-tax assets that is dependent on future income or future events in excess of 10 percent of the amount of core surplus that exists before the deduction of any deferred-tax assets.

(b) For purposes of this calculation:

(1) 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 may not be deducted from assets and from equity capital.

(2) All existing temporary differences should be assumed to fully reverse at the calculation date.

(3) Projected future taxable income should not include net operating loss carryforwards to be used within 1 year or the amount of existing temporary differences expected to reverse within that year.

(4) Financial projections must include the estimated effect of tax-planning strategies that are expected to be implemented to minimize tax liabilities and realize tax benefits. Financial 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 date within the fiscal year.

(5) 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 such assets. If these deferred-tax effects are excluded, this treatment must be followed consistently over time.

[70 FR 35351, June 17, 2005]

§ 615.5210 Risk-adjusted assets.

(a) *Computation*. Each asset on the institution's balance sheet and each off-balance-sheet item, adjusted by the appropriate credit conversion factor in § 615.5212, is assigned to one of the risk categories specified in § 615.5211. The aggregate dollar value of the assets in each category is multiplied by the percentage weight assigned to that category. The sum of the weighted dollar values from each of the risk categories comprises ''risk-adjusted assets,'' the denominator for computation of the permanent capital ratio.

(b) *Ratings-based approach.* (1) Under the ratings-based approach, a rated position in a securitization (provided it satisfies the criteria specified in paragraph (b)(3) of this section) is assigned to the appropriate risk-weight category based on its external rating.

(2) Provided they satisfy the criteria specified in paragraph (b)(3) of this section, the following positions qualify for the ratings-based approach:

(i) Recourse obligations;

(ii) Direct credit substitutes;

(iii) Residual interests (other than credit-enhancing interest-only strips); and

(iv) Asset-or mortgage-backed securities.

(3) A position specified in paragraph (b)(2) of this section qualifies for a ratings-based approach provided it satisfies the following criteria:

(i) If the position is traded and externally rated, its long-term external rating must be one grade below investment grade or better (*e.g.*, BB or better) or its short-term external rating must be investment grade or better (*e.g.*, A–3, P–3). If the position receives more than one external rating, the lowest rating applies.

(ii) If the position is not traded and is externally rated,

(A) It must be externally rated by more than one NRSRO;

(B) Its long-term external rating must be one grade below investment grade or better (*e.g.*, BB or better) or its short-term external rating must be investment grade or better (*e.g.*, A–3, P–3 or better). If the ratings are different, the lowest rating applies;

(C) The ratings must be publicly available; and

(D) The ratings must be based on the same criteria used to rate traded positions.

(c) *Positions in securitizations that do not qualify for a ratings-based approach.* The following positions in securitizations do not qualify for a ratings-based approach. They are treated as indicated.

(1) For any residual interest that is not externally rated, the institution must deduct from capital and assets the face amount of the position (dollar-for-dollar reduction).

(2) For any credit-enhancing interest-only strip, the institution must deduct from capital and assets the face amount of the position (dollar-for-dollar reduction).

(3) For any position that has a long-term external rating that is two grades below investment grade or lower (*e.g.*, B or lower) or a short-term external rating that is one grade below investment grade or lower (*e.g.*, B or lower, Not Prime), the institution must deduct from capital and assets the face amount of the position (dollar-for-dollar reduction).

(4) Any recourse obligation or direct credit substitute (*e.g.*, a purchased subordinated security) that is not externally rated is risk weighted using the amount of the recourse obligation or direct credit substitute and the full amount of the assets it supports, *i.e.*, all the more senior positions in the structure. This treatment is subject to the low-level exposure rule set forth in paragraph (e) of this section. This amount is then placed into a risk-weight category according to the obligor or, if relevant, the guarantor or the nature of the collateral.

(5) Any stripped mortgage-backed security or similar instrument, such as an interest-only strip that is not credit-enhancing or a principal-only strip (including such instruments guaranteed by Government-sponsored agencies), is assigned to the 100-percent risk-weight category described in § 615.5211(d)(7).

(d) *Senior positions not externally rated.* For a position in a securitization that is not externally rated but is senior in all features to a traded position (including collateralization and maturity), an institution may apply a risk weight to the face amount of the senior position based on the traded position's external rating. This section will apply only if the traded position provides substantial credit support for the entire life of the unrated position.

(e) *Low-level exposure rule.* If the maximum contractual exposure to loss retained or assumed by an institution in connection with a recourse obligation or a direct credit substitute is less than the effective risk-based capital requirement for the credit-enhanced assets, the risk-based capital required under paragraph (c)(4) of this section is limited to the institution's maximum contractual exposure, less any recourse liability account established in accordance with generally accepted accounting principles. This limitation does not apply when an institution provides credit enhancement beyond any contractual obligation to support assets it has sold.

(f) *Reservation of authority*. The FCA may, on a case-by-case basis, determine the appropriate risk weight for any asset or credit equivalent amount that does not fit wholly within one of the risk categories set forth in § 615.5211 or that imposes risks that are not commensurate with the risk weight otherwise specified in § 615.5211 for the asset or credit equivalent. In addition, the FCA may, on a case-by-case basis, determine the appropriate credit conversion factor for any off-balance sheet item that does not fit wholly within one of the credit conversion factors set forth in § 615.5212 or that imposes risks that are not commensurate with the credit conversion factor otherwise specified in § 615.5212 for the item. In making this determination, the FCA will consider the similarity of the asset or off-balance sheet item to assets or off-balance sheet items explicitly treated in §§ 615.5211 or 615.5212, as well as other relevant factors.

[70 FR 35351, June 17, 2005]

§ 615.5211 Risk categories—balance sheet assets.

Section 615.5210(c) specifies certain balance sheet assets that are not assigned to the risk categories set forth below. All other balance sheet assets are assigned to the percentage risk categories as follows:

(a) *Category 1: 0 Percent*.

(1) Cash (domestic and foreign).

(2) Balances due from Federal Reserve Banks and central banks in other OECD countries.

(3) Direct claims on, and portions of claims unconditionally guaranteed by, the U.S. Treasury, government agencies, or central governments in other OECD countries.

(4) Portions of local currency claims on, or unconditionally guaranteed by, non-OECD central governments (including non-OECD central banks), to the extent the institution has liabilities booked in that currency.

(5) Claims on, or guaranteed by, qualifying securities firms that are collateralized by cash held by the institution or by securities issued or guaranteed by the United States (including U.S. Government agencies) or OECD central governments, provided that a positive margin of collateral is required to be maintained on such a claim on a daily basis, taking into account any change in the institution's exposure to the obligor or counterparty under the claim in relation to the market value of the collateral held in support of the claim.

(b) *Category 2: 20 Percent*. (1) Cash items in the process of collection.

(2) Loans and other obligations of and investments in Farm Credit institutions.

(3) All claims (long- and short-term) on, and portions of claims (long- and short-term) guaranteed by, OECD banks.

(4) Short-term (remaining maturity of 1 year or less) claims on, and portions of short-term claims guaranteed by, non-OECD banks.

(5) Portions of loans and other claims conditionally guaranteed by the U.S. Treasury, government agencies, or central governments in other OECD countries and portions of local currency claims conditionally guaranteed by non-OECD central governments to the extent that the institution has liabilities booked in that currency.

(6) All securities and other claims on, and portions of claims guaranteed by, Government-sponsored agencies.

(7) Portions of loans and other claims (including repurchase agreements) collateralized by securities issued or guaranteed by the U.S. Treasury, government agencies, Government-sponsored agencies or central governments in other OECD countries.

(8) Portions of loans and other claims collateralized by cash held by the institution or its funding bank.

(9) General obligation claims on, and portions of claims guaranteed by, the full faith and credit of states or other political subdivisions or OECD countries, including U.S. state and local governments.