§ 34.81 Definitions.

(a) Capital and surplus means:
(1) A bank’s Tier 1 and Tier 2 capital as calculated under the OCC’s risk-based capital standards set out in appendix A to part 3 of this chapter based upon the bank’s Consolidated Report of Condition and Income filed under 12 U.S.C. 161; plus
(2) The balance of a bank’s allowance for loan and lease losses not included in the bank’s Tier 2 capital, for purposes of the calculation of risk-based capital under appendix A to 12 CFR part 3, based upon the bank’s Consolidated Report of Condition and Income filed under 12 U.S.C. 161.

(b) Debts previously contracted (DPC) real estate means real estate (including capitalized and operating leases) acquired by a national bank through any means in full or partial satisfaction of a debt previously contracted.

c) Former banking premises means real estate (including capitalized and operating leases) for which banking use no longer is contemplated. This includes real estate originally acquired for future expansion that no longer will be used for expansion or other banking purposes.

d) Market value means the value determined in accordance with subpart C of this part.

e) Other real estate owned (OREO) means:
(1) DPC real estate; and
(2) Former banking premises.

(f) Recorded investment amount means:
(1) For loans, the recorded loan balance, as determined by generally accepted accounting principles; and
(2) For former banking premises, the net book value.
be suspended for the duration of the sublease, and will begin running again upon termination of the sublease. A national bank holding a lease as OREO may enter into an extension of the lease that would exceed the holding period referred to in §34.82 if the extension meets the following criteria: 
(A) The extension is necessary in order to sublease the master lease; 
(B) The national bank, prior to entering into the extension, has a firm commitment from a prospective subtenant to sublease the property; and 
(C) The term of the extension is reasonable and does not materially exceed the term of the sublease; 
(ii) Should the OCC determine that a bank has entered into a lease, extension of a lease, or a sublease for the purpose of real estate speculation in violation of 12 U.S.C. 29 and this part, the OCC will take appropriate measures to address the violation, which may include requiring the bank to take immediate steps to divest the lease or sublease; and 
(4) With respect to a transaction that does not qualify as a disposition under paragraphs (a)(1) through (3) of this section, by receiving or accumulating from the purchaser an amount in a down payment, principal and interest payments, and private mortgage insurance totalling at least 10 percent of the sales price, as measured in accordance with generally accepted accounting principles. 
(b) Exception. If a national bank has a valid appraisal or an appropriate evaluation obtained in connection with a real estate loan and in accordance with subpart C of this part, then the bank need not obtain another appraisal or evaluation when it acquires ownership of the property.

§34.85 Appraisal requirements.
(a) General. (1) Upon transfer to OREO, a national bank shall substantiate the parcel’s market value by obtaining either: 
(i) An appraisal in accordance with subpart C of this part; or 
(ii) An appropriate evaluation when the recorded investment amount is equal to or less than the threshold amount in subpart C of this part. 
(2) A national bank shall develop a prudent real estate collateral evaluation policy that allows the bank to monitor the value of each parcel of OREO in a manner consistent with prudent banking practice. 
(b) Exception. If a national bank has a valid appraisal or an appropriate evaluation when selling OREO if the sale is consummated based on a valid appraisal or an appropriate evaluation.

§34.86 Additional expenditures and notification.
(a) Additional expenditures on OREO. For OREO that is a development or improvement project, a national bank may make advances to complete the project if the advances: 
(1) Are reasonably calculated to reduce any shortfall between the parcel’s market value and the bank’s recorded investment amount; 
(2) Are not made for the purpose of speculation in real estate; and 
(3) Are consistent with safe and sound banking practices. 
(b) Disposition efforts and documentation. A national bank shall make diligent and ongoing efforts to dispose of each parcel of OREO, and shall maintain documentation adequate to reflect those efforts.

§34.84 Future bank expansion.
A national bank normally should use real estate acquired for future bank expansion within five years. After holding such real estate for one year, the bank shall state, by resolution of the board of directors or an appropriately authorized bank official or sub-committee of the board, definite plans for its use. The resolution or other official action must be available for inspection by national bank examiners.