

## § 34.81

in which the lender has a perfected interest. Financial instruments and bullion must be salable under ordinary circumstances with reasonable promptness at a fair market value determined by quotations based on actual transactions, on an auction or similarly available daily bid and ask price market. Readily marketable collateral should be appropriately discounted by the lender consistent with the lender's usual practices for making loans secured by such collateral.

*Value* means an opinion or estimate, set forth in an appraisal or evaluation, which ever may be appropriate, of the market value of real property, prepared in accordance with the agency's appraisal regulations and guidance. For loans to purchase an existing property, the term "value" means the lesser of the actual acquisition cost or the estimate of value.

*1- to 4-family residential property* means property containing fewer than five individual dwelling units, including manufactured homes permanently affixed to the underlying property (when deemed to be real property under State law).

[57 FR 62896, Dec. 31, 1992; 58 FR 4460, Jan. 14, 1993, as amended at 79 FR 11312, Feb. 28, 2014; 84 FR 56374, Oct. 22, 2019]

### Subpart E—Other Real Estate Owned

SOURCE: 61 FR 11301, Mar. 20, 1996, unless otherwise noted.

#### § 34.81 Definitions.

*Debts previously contracted (DPC) real estate* means real estate (including leases) acquired by a national bank or Federal savings association through any means in full or partial satisfaction of a debt previously contracted.

*Former banking premises* means real estate permissible under § 7.1000(a)(1) of this chapter that is no longer used or contemplated to be used for the purposes permitted under that section.

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

*Other real estate owned (OREO)* means:

- (1) DPC real estate; and
- (2) Former banking premises.

*Recorded investment amount* means:

(1) For loans, the recorded loan balance, as determined by generally accepted accounting principles; and

#### 12 CFR Ch. I (1-1-23 Edition)

(2) For former banking premises, the net book value.

[61 FR 11301, Mar. 20, 1996, as amended at 79 FR 11313, Feb. 28, 2014; 84 FR 56374, Oct. 22, 2019]

#### § 34.82 Holding period.

(a) *Holding period for OREO*—(1) *National bank*. A national bank shall dispose of OREO at the earliest time that prudent judgment dictates, but not later than the end of the holding period (or an extension thereof) permitted by 12 U.S.C. 29.

(2) *Federal savings association*. A Federal savings association may hold OREO for not more than five years after commencement of the holding period. On the request of a Federal savings association, the OCC may extend the holding period for not more than an additional five years.

(b) *Commencement of holding period*. The holding period begins on the date that:

(1) Ownership of the property is originally transferred to a national bank or Federal savings association, including as a result of a merger with or acquisition of another organization holding OREO;

(2) A national bank or Federal savings association completes relocation from former banking premises to new banking premises or ceases to use the former banking premises without relocating;

(3) A national bank or Federal savings association decides not to use real estate acquired for future banking expansion;

(4) An institution converts to a national bank or Federal savings association, unless the institution was a national bank or Federal savings association immediately prior to the conversion; or

(5) Is January 1, 2020, for OREO obtained by a Federal savings association prior to that date.

(c) *Effect of statutory redemption period*. For DPC real estate that is subject to a redemption period imposed under State law, the holding period begins at the expiration of that redemption period.

**Comptroller of the Currency, Treasury****§ 34.83**

(d) *Effect of failed disposition.* If a national bank or Federal savings association disposes of OREO, but the real estate subsequently is conveyed back to the institution within five years as a result of a valid rescission or invalidation of the original disposition, then the holding period will be tolled for the period during which the real estate was not in possession of the national bank or Federal savings association.

(e) *Re-acquisition of former OREO.* If a national bank or Federal savings association reacquires a property that had been OREO and was disposed of consistent with § 34.83, the holding period will reset.

[61 FR 11301, Mar. 20, 1996, as amended at 84 FR 56375, Oct. 22, 2019; 84 FR 64193, Nov. 21, 2019]

**§ 34.83 Disposition of OREO.**

(a) *Disposition.* A national bank or Federal savings association may dispose of OREO in the following ways:

(1) With respect to OREO in general:

(i) By entering into a transaction that is a sale under generally accepted accounting principles;

(ii) By entering into a transaction that involves a loan guaranteed or insured by the United States government or by an agency of the United States government or a loan eligible for purchase by a Federally-sponsored instrumentality that purchases loans; or

(iii) By selling the property pursuant to a land contract or a contract for deed;

(2) With respect to DPC real estate, by retaining the property for its own use as bank premises or by transferring it to a subsidiary or affiliate for use in the business of the subsidiary or affiliate;

(3) With respect to a lease:

(i) By obtaining an assignment or a coterminous sublease. If a national bank or Federal savings association enters into a sublease that is not coterminous, the period during which the master lease must be divested will be suspended for the duration of the sublease, and will begin running again upon termination of the sublease. A national bank or Federal savings association 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 or Federal savings association, 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 national bank or Federal savings association has entered into a lease, extension of a lease, or a sublease for the purpose of real estate speculation, the OCC will take appropriate measures to address the violation, which may include requiring the bank or savings association 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; or

(5) By any other method approved by the OCC.

(b) *Additional method for Federal savings associations.* A Federal savings association also may transfer OREO to a service corporation. A service corporation may hold real property transferred to it:

(1) As OREO, subject to the requirements otherwise applicable to the Federal savings association under this subpart E; or

(2) As an investment in real estate under § 5.59.

(c) *Disposition efforts and documentation.* A national bank or Federal savings association shall make diligent and ongoing efforts to dispose of each parcel of OREO, and shall maintain documentation adequate to reflect those efforts.

[61 FR 11301, Mar. 20, 1996, as amended at 84 FR 56375, Oct. 22, 2019; 85 FR 43422, July 17, 2020]

## § 34.84

### § 34.84 [Reserved]

### § 34.85 Appraisal requirements.

(a) *General.* (1) Upon transfer to OREO, a national bank or Federal savings association 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 or Federal savings association shall develop a prudent real estate collateral evaluation policy that allows the bank or savings association to monitor the value of each parcel of OREO in a manner consistent with prudent banking practice.

(b) *Exception.* If a national bank or Federal savings association 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 or savings association need not obtain another appraisal or evaluation when it acquires ownership of the property.

(c) *Sales of OREO.* A national bank or Federal savings association need not obtain a new appraisal or evaluation when selling OREO if the sale is consummated based on a valid appraisal or an appropriate evaluation.

[61 FR 11301, Mar. 20, 1996, as amended at 84 FR 56375, Oct. 22, 2019]

### § 34.86 OREO expenditures and notification.

(a) *Operating expenditures.* A national bank or Federal savings association may pay operating expenses on OREO, including taxes, insurance, utilities, and maintenance, that are reasonable and consistent with safe and sound banking practices.

(b) *Business expenditures.* A national bank or Federal savings association may pay expenses for OREO that includes the operation of a business, provided the expenses are:

(1) Reasonably calculated to reduce any shortfall between the property's market value and the recorded investment amount; and

(2) Consistent with safe and sound banking practices.

## 12 CFR Ch. I (1-1-23 Edition)

(c) *Additional expenditures.* For OREO that is a development or improvement project, a national bank or Federal savings association may make advances to complete the project if the advances are:

(1) Reasonably calculated to reduce any shortfall between the property's market value and the recorded investment amount;

(2) Not made for the purpose of speculation in real estate; and

(3) Consistent with safe and sound banking practices.

(d) *Notification procedures for additional expenditures.* (1) A national bank or Federal savings association shall notify the appropriate supervisory office at least 30 days before implementing a development or improvement plan for OREO when the sum of the plan's estimated cost and the bank's or savings association's current recorded investment amount (including any unpaid prior liens on the property) exceeds 10 percent of the bank's or savings association's total equity capital on its most recent report of condition. A national bank or Federal savings association need notify the OCC under this paragraph (d)(1) only once.

(2) The required notification must demonstrate that the additional expenditure is consistent with the conditions and limitations in paragraph (c) of this section.

(3) Unless informed otherwise, the national bank or Federal savings association may implement the proposed plan on the thirty-first day (or sooner, if notified by the OCC) following receipt by the OCC of the notification, subject to any conditions imposed by the OCC.

[84 FR 56375, Oct. 22, 2019]

### Subpart F [Reserved]

### Subpart G—Appraisals for Higher-Priced Mortgage Loans

SOURCE: 78 FR 10432, Feb. 13, 2013, unless otherwise noted.

#### § 34.201 Authority, purpose and scope.

(a) *Authority.* This subpart is issued by the Office of the Comptroller of the