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DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 3

[Docket No. 95-28]

RIN 1557-AB14

Capital; Capital Adequacy Guidelines

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Correction to final rule.

SUMMARY: This document contains a correction to the final rule which was published Wednesday, December 20, 1995 (60 FR 66042). The final rule related to the risk-based capital requirements for claims on or guaranteed by a country that is a member of the Organization for Economic Cooperation and Development (OECD).

EFFECTIVE DATE: April 1, 1996.

FOR FURTHER INFORMATION CONTACT: Geoffrey White, Senior International Economic Advisor, International Banking and Finance Department, (202) 874-5235; Saumya Bhavsar, Attorney, Legislative and Regulatory Activities Division, (202) 874-5090; or Ronald Shimabukuro, Senior Attorney, Legislative and Regulatory Activities Division, (202) 874-5090, Office of the Comptroller of the Currency, Washington, D.C. 20219.

SUPPLEMENTARY INFORMATION: The amendatory instructions to the final rule incorrectly identified paragraphs (c)(20) and (c)(17) of section 1 of appendix A to part 3 as paragraphs (c)(19) and (c)(16), respectively.

Correction of Publication

Accordingly, the publication on December 20, 1995, of the final rule which was the subject of FR Doc. 95-30664, is corrected as follows:

On page 66044, in the second column, amendatory instruction 2 to appendix A to part 3, in the second line, "(c)(19)" should read "(c)(20)". On page 66044, in the second column, amendatory instruction 3 to appendix A to part 3, in the second line, "(c)(16)" should read "(c)(17)". On page 66044, in the third column, in the regulatory text, in the second line, "(16)" should read "(17)".

Dated: January 11, 1996.

Eugene A. Ludwig,
Comptroller of the Currency.

[FR Doc. 96-555 Filed 1-18-96; 8:45 am]

BILLING CODE 4810-33-P

FEDERAL RESERVE SYSTEM

12 CFR Part 231

[Regulation EE; Docket No. R-0912]

Netting Eligibility for Financial Institutions

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board has amended Regulation EE to clarify that, for purposes of qualifying as a financial institution under Regulation EE, a person may represent that it is a financial market intermediary either orally or in writing. This amendment is intended to remove uncertainty in the financial markets as to the form of such representations.

EFFECTIVE DATE: February 20, 1996.

FOR FURTHER INFORMATION CONTACT: Oliver Ireland, Associate General Counsel (202/452-3625), or Stephanie Martin, Senior Attorney (202/452-3198), Legal Division. For users of Telecommunications Device for the Deaf, please contact Dorothea Thompson (202/452-3544).

SUPPLEMENTARY INFORMATION:

Background

The Federal Deposit Insurance Corporation Improvement Act of 1991 (Act) (Pub. L. 102-242, §§ 401-407; 105 Stat. 2236, 2372-3; 12 U.S.C. 4401-4407) validates netting contracts among financial institutions. Parties to a netting contract agree that they will pay or receive the net, rather than the gross, payment due under the netting contract. The Act provides certainty that netting

contracts will be enforced, even in the event of the insolvency of one of the parties. The Act's netting provisions are designed to promote efficiency and reduce systemic risk within the banking system and financial markets.

The netting provisions apply to bilateral netting contracts between two financial institutions and multilateral netting contracts among members of a clearing organization. Section 402(9) of the Act defines "financial institution" to include a depository institution, a securities broker or dealer, a futures commission merchant, and any other institution as determined by the Board. In addition, the Act's definition of "broker or dealer" (section 402(1)(B)) includes any affiliate of a registered broker or dealer, to the extent consistent with the Act, as determined by the Board.

In 1994, the Board adopted Regulation EE (12 CFR part 231) to expand the application of the Act's netting provisions to a broader range of financial market participants (59 FR 4780, February 2, 1994). Under Regulation EE, persons meeting certain tests based on market activity will qualify as "financial institutions" under the Act. The tests were designed to capture institutions that are significant market participants whose coverage could enhance market liquidity and whose failure without coverage could have systemic risk implications.

The Regulation EE tests have both a qualitative and a quantitative aspect. First, to qualify as a financial institution under the rule, a person¹ must represent that it will engage in financial contracts as a counterparty on both sides of one or more financial markets. Second, the person must meet one of two quantitative thresholds: It must have either (1) had one or more financial contracts of a total gross dollar value of at least \$1 billion in notional principal amount outstanding on any day during the previous 15-month period with counterparties that are not its affiliates, or (2) had total gross mark-to-market positions of at least \$100 million (aggregated across counterparties) in one or more financial contracts on any day during the previous 15-month period

¹ "Person" is defined broadly to include any legal entity, such as a corporation, partnership, or individual.