

**PART 956—SWEET ONIONS GROWN IN THE WALLA WALLA VALLEY OF SOUTHEAST WASHINGTON AND NORTHEAST OREGON**

■ 1. The authority citation for 7 CFR part 956 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

■ 2. Section 956.163 is amended by adding a new paragraph (b) to read as follows:

**§ 956.163 Handling for specified purposes.**  
\* \* \* \* \*

(b) *Market preparation outside the production area.* (1) Persons desiring to ship or receive Walla Walla sweet onions for grading, packing, or storing outside the production area, but within Oregon and Washington, shall apply to the Committee on a “*Shippers/Receivers Application for Certificate of Privilege*” form. Such application shall contain the following:

(i) Company name, contact name, address, contact telephone numbers, date, and signature of the applicant;

(ii) Whether the applicant is the shipper or receiver;

(iii) Agreement to provide a *Special Purpose Shipment Report* to the Committee as required after shipping or receiving Walla Walla sweet onions for grading, packing, or storing out of the production area under a Certificate of Privilege.

(iv) Certification by the applicant that all provisions of the rules and regulations of this part will be adhered to including, but not limited to, any grade, size, quality, maturity, pack, or container requirements that may be currently in effect;

(v) Certification by the applicant, if a receiver under the Certificate of Privilege, that they will forward to the Committee office all assessments due on Walla Walla sweet onions handled.

(vi) Such other information as the Committee may require.

(2) Each approved applicant shall furnish to the Committee a *Special Purpose Shipment Report* form no later than thirty (30) days after the final shipment of sweet onions are shipped or received pursuant to the Certificate of Privilege. That report shall contain the following information:

(i) Company name, contact name, address, contact telephone numbers, signature, and date;

(ii) Names of shippers or receivers who have either shipped Walla Walla sweet onions out of the production area or received the same;

(iii) The total quantity of Walla Walla sweet onions shipped or received under this section during the period covered;

(iv) Certification by the receiver that all assessments due on Walla Walla sweet onions handled under the respective Certificate of Privilege are being forwarded to the Committee; and

(v) Such other information as the Committee may require.

(3) The Committee may cancel any Certificate of Privilege if proof satisfactory to the Committee is obtained that any Walla Walla sweet onions shipped or received were done so contrary to the provisions of this section. Upon cancellation of such Certificate of Privilege the shipper or receiver may appeal to the Committee for reconsideration.

■ 3. Section 956.180 is revised to read as follows:

**§ 956.180 Reports.**

(a) Each handler shall furnish to the Committee, no later than May 31 each year, a preseason *Walla Walla Sweet Onion Handler Registration Form*. Such form shall include:

(1) Company name, contact name, mailing and physical addresses, contact telephone numbers, and signature of handler;

(2) Season covered by registration;

(3) Brand names or labels to be used; and

(4) Estimated number of acres of fall planted and spring planted Walla Walla Sweet Onions to be packed during the season.

(b) Each handler shall furnish to the Committee a *Handler's Statement of Walla Walla Sweet Onion Shipments* containing the information paragraphs (a)(1), (a)(2), and (a)(3) of this section, except that gift box and roadside stand sales shall be exempt from paragraph (a)(2) of this section: *Provided*, That for Walla Walla Sweet Onions handled prior to September 1, such report shall be furnished to the Committee by September 1, and that for Walla Walla Sweet Onions handled during the period September 1 through May 31 of each fiscal period, such report shall be furnished to the Committee no later than thirty (30) days after the end of the month in which such onions were handled:

(1) The number of 50 lb. equivalents of Walla Walla Sweet Onions shipped by each handler during each week of the shipping season and the total for the season;

(2) The geographical regions as defined by the Committee to which each shipment is made;

(3) The name, address, and signature of each handler; and

(4) The name of each producer and the number of 50 lb. equivalents of Walla Walla Sweet Onions that were

handled on behalf of or acquired from that producer.

Dated: April 21, 2004.

**Kenneth C. Clayton,**

*Acting Administrator, Agricultural Marketing Service.*

[FR Doc. 04–9426 Filed 4–23–04; 8:45 am]

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**DEPARTMENT OF THE TREASURY**

**Office of the Comptroller of the Currency**

**12 CFR Part 3**

[Docket No. 04–10]

RIN 1557–AC76

**FEDERAL RESERVE SYSTEM**

**12 CFR Parts 208 and 225**

[Regulations H and Y; Docket No. R–1156]

**FEDERAL DEPOSIT INSURANCE CORPORATION**

**12 CFR Part 325**

RIN 3064–AC74

**DEPARTMENT OF THE TREASURY**

**Office of Thrift Supervision**

**12 CFR Part 567**

[No. 2004–15]

RIN 1550–AB79

**Risk-Based Capital Guidelines; Capital Adequacy Guidelines; Capital Maintenance: Interim Capital Treatment of Consolidated Asset-Backed Commercial Paper Program Assets; Extension**

**AGENCIES:** Office of the Comptroller of the Currency, Treasury; Board of Governors of the Federal Reserve System; Federal Deposit Insurance Corporation; and Office of Thrift Supervision, Treasury.

**ACTION:** Interim final rule; extension of applicability date.

**SUMMARY:** The Office of the Comptroller of the Currency (OCC), Board of Governors of the Federal Reserve System (Board), Federal Deposit Insurance Corporation (FDIC), and Office of Thrift Supervision (OTS) (collectively, the agencies) are extending the applicability date in the interim final rule on the capital treatment of consolidated asset-backed commercial paper (ABCP) programs that was issued on October 1, 2003 (68 FR 56530)

(October 2003 interim final rule). The October 2003 interim final rule amended the agencies' risk-based capital standards by providing an interim capital treatment for assets in ABCP programs that are consolidated onto the balance sheets of sponsoring banks, bank holding companies, and thrifts (collectively, sponsoring banking organizations) as a result of Financial Accounting Standards Board Interpretation No. 46, Consolidation of Variable Interest Entities (FIN 46). The interim capital treatment that is being extended allows a sponsoring banking organization to remove the consolidated ABCP program assets from risk-weighted assets for the purpose of calculating its risk-based capital ratios. The October 2003 interim final rule indicated that the capital treatment is applicable only for the regulatory reporting periods ending September 30 and December 31, 2003, and March 31, 2004. This extension permits affected institutions to apply the designated capital treatment through July 1, 2004.

**DATES:** *Effective Date:* This interim final rule is effective April 26, 2004.

**FOR FURTHER INFORMATION CONTACT:**

*OCC:* Amrit Sekhon, Risk Expert, Capital Policy Division, (202) 874-5211; Laura Goldman, Senior Attorney, or Ron Shimabukuro, Special Counsel, Legislative and Regulatory Activities Division, (202) 874-5090, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

*Board:* Thomas R. Boemio, Senior Project Manager, Policy, (202) 452-2982, David Kerns, Supervisory Financial Analyst, (202) 452-2428, Barbara Bouchard, Deputy Associate Director, (202) 452-3072, Division of Banking Supervision and Regulation; or Mark E. Van Der Weide, Senior Counsel, (202) 452-2263, Legal Division. For the hearing impaired only, Telecommunication Device for the Deaf (TDD), (202) 263-4869.

*FDIC:* Jason C. Cave, Chief, Policy Section, Capital Markets Branch, (202) 898-3548, Robert F. Storch, Chief Accountant, Division of Supervision and Consumer Protection, (202) 898-8906; Michael B. Phillips, Counsel, Supervision and Legislation Branch, Legal Division, (202) 898-3581, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

*OTS:* Christine A. Smith, Project Manager, Supervision Policy, (202) 906-5740; or Karen Osterloh, Special Counsel (202) 906-6639, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

**SUPPLEMENTARY INFORMATION:** In January 2003, the Financial Accounting

Standards Board (FASB) issued interpretation No. 46, "Consolidation of Variable Interest Entities" (FIN 46), which requires the consolidation of variable interest entities (VIEs) onto the balance sheets of companies deemed to be the primary beneficiaries of those entities.<sup>1</sup> On December 23, 2003, the FASB published interpretation 46-R (FIN 46-R), which revised FIN 46 to clarify some of the provisions of FIN 46 and to exempt certain entities from its requirements. FIN 46-R (and its predecessor FIN 46) resulted in the consolidation of many ABCP programs onto the balance sheets of sponsoring banking organizations beginning in the third quarter of 2003. In contrast, under pre-FIN 46 accounting standards, banking organizations normally were not required to consolidate the assets of these programs. Where a banking organization is required to consolidate ABCP program assets under FIN 46 it must include all of the program assets (mostly receivables and securities) and liabilities (mainly commercial paper) on its balance sheets for purposes of the bank Reports of Condition and Income (Call Report), the Thrift Financial Report (TFR), and the bank holding company financial statements (FR Y-9C Report).

The agencies believe that the consolidation of ABCP program assets onto the balance sheets of a sponsoring banking organization could result in risk-based capital requirements that are excessive in light of the risks faced by that organization. Accordingly, the agencies published the October 2003 interim final rule providing temporary capital relief for sponsoring banking organizations with assets in ABCP programs that are consolidated onto the balance sheets of those organizations as a result of FIN 46. *See* 68 FR 56530 (October 1, 2003). The agencies requested public comment on the October 2003 interim final rule. The comment period closed November 17,

<sup>1</sup> Under FIN 46, the FASB broadened the criteria for determining when one entity is deemed to have a controlling financial interest in another entity and, therefore, when an entity must consolidate another entity in its financial statements. An entity generally does not need to be analyzed under FIN 46 if it is designed to have "adequate capital" as described in FIN 46 and its shareholders control the entity with their share votes and are allocated its profits and losses. If the entity fails these criteria, it typically is deemed a VIE and each stakeholder in the entity (a group that can include, but is not limited to, legal-form equity holders, creditors, sponsors, guarantors, and servicers) must assess whether it is the entity's "primary beneficiary" using the FIN 46 criteria. This analysis considers whether effective control exists by evaluating the entity's risks and rewards. The stakeholder who holds the majority of the entity's risks or rewards is the primary beneficiary and must consolidate the VIE.

2003. The agencies' October 2003 interim final rule became effective on October 1, 2003, and the applicability of the capital treatment guidelines expired on April 1, 2004 (April 1st sunset date).

In addition, the agencies received comments on a notice of proposed rulemaking (68 FR 56568) (proposed rule) issued concurrently with the October 2003 interim final rule. That rulemaking proposed capital charges on certain ABCP conduit exposures and indicated that the October 2003 interim final rule would not be finalized until the issues addressed in the proposed rule were resolved. The agencies are continuing to work on developing a more risk-sensitive approach to dealing with exposures to ABCP conduits, taking into account comments received on the proposed rule.

Because the agencies have not yet fully resolved issues addressed in the proposed rule, especially those related to banking organization exposures to ABCP conduits, they are amending the October 2003 interim final rule to extend the April 1st sunset date to July 1, 2004. The agencies believe that an explicit extension of the April 1st sunset date is necessary in order to eliminate potential industry confusion and uncertainty with respect to the calculation of regulatory capital ratios pending the issuance of a final rule.

#### Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act, the agencies have determined that this interim final rule would not have a significant impact on a substantial number of small entities in accordance with the spirit and purposes of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). For purposes of the Regulatory Flexibility Act, "small entities" are banking organizations having assets of \$150 million or less. There are approximately 18 sponsoring banking organization for purposes of this interim final rule, and all of them are well over that asset size threshold. Accordingly, a regulatory flexibility analysis is not required. In addition, the interim final rule would reduce regulatory burden with respect to the agencies' risk-based capital standards.

#### Administrative Procedure Act

The Agencies find that there is good cause to dispense with prior notice and public comment on this interim final rule and with the 30-day delay of effective date generally prescribed by the Administrative Procedure Act (APA), 5 U.S.C 553.

Under section 553(b) of the APA, the agencies are not required to provide notice and an opportunity for public

comment on a rule if they find, for good cause, that notice and comment are “impracticable, unnecessary or contrary to the public interest.” The agencies find that notice and public comment are unnecessary because the agencies have given the public a prior opportunity to comment on the substance of the October 2003 interim final rule, which is to preserve the pre-existing non-consolidated risk-based capital treatment for sponsoring banking organizations pending the agencies’ determination of the capital charge appropriate to certain ABCP conduct exposures. Most commenters favored this result. This extension of the effective date merely provides additional time for the agencies to complete that process. Further, the agencies find that further notice and public comment are not in the public interest because a failure to extend the April 1st sunset date could create confusion regarding the calculation of regulatory capital ratios pending the issuance of a final rule. The agencies also find that it is impracticable to provide an additional opportunity for comment before the April 1, 2004 expiration date established by the October 2003 interim rule.

Under section 553(d) of the APA, the agencies must generally provide a 30-day delayed effective date for final rules. The agencies may waive the 30-day delayed effective date requirement “for good cause found and published with the rule.” Similarly, section 302 of the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRI), requires a banking agency to make a rule effective on the first day of the calendar quarter that begins on or after the date on which the regulations are published in final form, unless the agency finds good cause for an earlier effective date. 12 U.S.C. 4802(b)(1). The agencies find that there is good cause to waive the two effective date requirements because a failure to extend the April 1st sunset date could create confusion and uncertainty regarding the calculation of regulatory capital ratios pending the issuance of a final rule. Further, the purpose of the APA and CDRI delayed effective date provisions is to afford affected persons a reasonable time to comply with rule changes. Because institutions have complied with the requirements since October 2003, it is not necessary to delay the effective date to achieve this purpose.

#### **Paperwork Reduction Act**

The agencies have determined that this interim final rule does not involve a collection of information pursuant to the provisions of the Paperwork

Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### **Unfunded Mandates Reform Act of 1995**

*OCC and OTS:* Section 202 of the Unfunded Mandates Reform Act of 1995, Pub. L. 104-4 (Unfunded Mandates Act) requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. This interim final rule is designed to temporarily offset the effect on risk-based capital ratios of FIN 46 with respect to ABCP programs. The OCC and OTS have determined that this interim final rule will not result in expenditures by State, local, or tribal governments, or by the private sector, of \$100 million or more in any one year. Accordingly, section 202 of the Unfunded Mandates Act does not require the OCC or OTS to prepare a budgetary impact statement for this interim final rule.

#### **Executive Order 12866**

The Director of the OTS and the Comptroller of the OCC have determined that this interim final rule does not constitute a “significant regulatory action” for the purposes of Executive Order 12866.

#### **List of Subjects**

##### *12 CFR Part 3*

Administrative practice and procedure, Capital, National banks, Reporting and recordkeeping requirements, Risk.

##### *12 CFR Part 208*

Accounting, Agriculture, Banks, banking, Confidential business information, Crime, Currency, Federal Reserve System, Mortgages, Reporting and recordkeeping requirements, Securities.

##### *12 CFR Part 225*

Administrative practice and procedure, Banks, banking, Federal Reserve System, Holding companies, Reporting and recordkeeping requirements, Securities.

##### *12 CFR Part 325*

Administrative practice and procedure, Bank deposit insurance,

Banks, banking, Capital adequacy, Reporting and recordkeeping requirements, Savings associations, State non-member banks.

##### *12 CFR Part 567*

Capital, Reporting and recordkeeping requirements, Savings associations.

#### **Department of the Treasury**

#### **Office of the Comptroller of the Currency**

##### *12 CFR Chapter I*

#### **Authority and Issuance**

■ For the reasons set out in the joint preamble, part 3 of chapter I of title 12 of the Code of Federal Regulations is amended as follows:

#### **PART 3—MINIMUM CAPITAL RATIOS; ISSUANCE OF DIRECTIVES**

■ 1. The authority citation for part 3 continues to read as follows:

**Authority:** 12 U.S.C. 93a, 161, 1818, 1828(n), 1828 note, 1831n note, 1835, 3907, and 3909.

#### **Appendix A to Part 3—[Amended]**

■ 2. In Appendix A to part 3:

- a. In section 2, paragraph (a)(3)(ii), remove “April 1” and add “July 1” in its place; and
- b. In section 4, paragraphs (j)(4) and (k)(2), remove “April 1” and add “July 1” in its place.

Dated: April 9, 2004.

**John D. Hawke, Jr.,**

*Comptroller of the Currency.*

#### **Federal Reserve System**

##### *12 CFR Chapter II*

#### **Authority and Issuance**

■ For the reasons set forth in the joint preamble, the Board of Governors of the Federal Reserve System amends parts 208 and 225 of chapter II of title 12 of the Code of Federal Regulations as follows:

#### **PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM (REGULATION H)**

■ 1. The authority citation for part 208 continues to read as follows:

**Authority:** 12 U.S.C. 24, 36, 92a, 93a, 248(a), 248(c), 321-338a, 371d, 461, 481-486, 601, 611, 1814, 1816, 1818, 1820(d)(9), 1823(j), 1828(o), 1831, 1831o, 1831p-1, 1831r-1, 1831w, 1831x, 1835a, 1882, 2901-2907, 3105, 3310, 3331-3351, and 3906-3909; 15 U.S.C. 78b, 78l(b), 78l(g), 78l(i), 78o-4(c)(5), 78q, 78q-1, and 78w; 31 U.S.C. 5318; 42 U.S.C. 4012a, 4104a, 4104b, 4106, and 4128.

**Appendix A to Part 208—[Amended]**

■ 2. In Appendix A to part 208, the following amendments are made:

- a. In section II.A.1.c., remove “April 1” and add “July 1” in its place; and
- b. In section III.B.6.c., remove “April 1” and add “July 1” in its place.

**PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (REGULATION Y)**

■ 1. The authority citation for part 225 continues to read as follows:

**Authority:** 12 U.S.C. 1817(j)(13), 1818, 1828(o), 1831i, 1831p–1, 1843(c)(8), 1844(b), 1972(1), 3106, 3108, 3310, 3331–3351, 3907, and 3909; 15 U.S.C. 6801 and 6805.

**Appendix A to Part 225—[Amended]**

■ 2. In Appendix A to part 225, the following amendments are made:

- a. In section II.A.1.c., remove “April 1” and add “July 1” in its place; and
- b. In section III.B.6.c., remove “April 1” and add “July 1” in its place.

By order of the Board of Governors of the Federal Reserve System, April 16, 2004.

**Jennifer J. Johnson,**

*Secretary of the Board.*

**Federal Deposit Insurance Corporation***12 CFR Chapter III***Authority and Issuance**

■ For the reasons set forth in the joint preamble, the Board of Directors of the Federal Deposit Insurance Corporation amends part 325 of chapter III of title 12 of the Code of Federal Regulations as follows:

**PART 325—CAPITAL MAINTENANCE**

■ 1. The authority citation for part 325 continues to read as follows:

**Authority:** 12 U.S.C. 1815(a), 1815(b), 1816, 1818(a), 1818(b), 1818(c), 1818(t), 1819(Tenth), 1828(c), 1828(d), 1828(i), 1828(n), 1828(o), 1831o, 1835, 3907, 3909, 4808; Pub. L. 102–233, 105 Stat. 1761, 1789, 1790 (12 U.S.C. 1831n note); Pub. L. 102–242, 105 Stat. 2236, 2355, as amended by Pub. L. 103–325, 108 Stat. 2160, 2233 (12 U.S.C. 1828 note); Pub. L. 102–242, 105 Stat. 2236, 2386, as amended by Pub. L. 102–550, 106 Stat. 3672, 4089 (12 U.S.C. 1828 note).

**Appendix A to Part 325—[Amended]**

■ 2. In Appendix A to part 325, the following amendments are made:

- a. In section I.A.1.iii.e., remove “April 1” and add “July 1” in its place; and
- b. In section II.B.6.c., remove “April 1” and add “July 1” in its place.

By order of the Board of Directors.

Dated at Washington, DC, this 6th day of April, 2004.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**  
*Executive Secretary.*

**Department of the Treasury****Office of Thrift Supervision***12 CFR Chapter V***Authority and Issuance**

■ For the reasons set out in the preamble, part 567 of chapter V of title 12 of the Code of Federal Regulations is amended as follows:

**PART 567—CAPITAL**

■ 1. The authority citation for part 567 continues to read as follows:

**Authority:** 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 1828 (note).

**567.5 [Amended]**

■ 2. In § 567.5(a)(1)(iii), remove “April 1” and add “July 1” in its place.

**567.6 [Amended]**

■ 3. In § 567.6, paragraphs (a)(3)(iv) and (a)(4)(ii), remove “April 1” and add “July 1” in its place.

Dated: March 30, 2004.

By the Office of Thrift Supervision.

**Richard M. Riccobono,**  
*Acting Director.*

[FR Doc. 04–9361 Filed 4–23–04; 8:45 am]

**BILLING CODE 4810–33–P; 6210–01–P; 6714–01–P; 6720–01–P**

**DEPARTMENT OF TRANSPORTATION****14 CFR Part 11**

[Docket No. FAA 1999–6622; Amendment No. 11–50]

**General Rulemaking Procedures**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Technical amendment.

**SUMMARY:** The FAA published a final rule on August 21, 2000 (65 FR 50850) that revised and clarified its rulemaking procedures by putting them into plain language and by removing redundant and outdated material. This technical amendment revises regulations on “How and to whom do I submit my petition for rulemaking or petition for exemption,” and directs petitioners for certain rulemaking or exemptions to submit the petition to the appropriate FAA airport field office in whose area the petitioner proposes to establish or has established its airport in addition to sending the petition to the U.S. Department of Transportation, Docket Management System.

**DATES:** Effective April 26, 2004.

**FOR FURTHER INFORMATION CONTACT:**

Komal K. Jain, Attorney-Advisor, Regulations Division, AGC–200, Federal Aviation Administration, 800 Independence Ave. SW., Washington, DC 20591; telephone: (202) 267–3073.

**SUPPLEMENTARY INFORMATION:****Background**

The FAA is amending 14 CFR 11.63, “How and to whom do I submit my petition for rulemaking or petition for exemption,” and directs petitioners for rulemaking or exemptions pertaining to 14 CFR part 139 to submit the petition to the appropriate FAA airport field office in whose area the petitioner proposes to establish or has established its airport in addition to sending a copy to the U.S. Department of Transportation, Docket Management System. Under the December 14, 1999, Notice of Proposed Rulemaking (64 FR 69856), the FAA proposed to retain the part 11 rule that any petition filed under part 139 of this chapter be submitted to the appropriate FAA airport field office in whose area the petitioner proposes to establish or has established its airport. In its effort to revise and clarify its rulemaking procedures by putting them into plain language and by removing redundant and outdated material, the FAA published the final rule on August 21, 2000 (65 FR 50850) and required that all petitions for rulemaking and exemptions be sent to one central address. The FAA’s experience since the last revision to part 11 indicates that streamlining is not appropriate for part 139 petition processes. The FAA realizes the nature of these petitions, with unique concerns and characteristics, are not appropriate for the streamlined general rulemaking and exemption process. Therefore, the FAA now revises part 11 to re-establish a specific process for petitions for rulemaking and exemptions pertaining to part 139.

**List of Subjects in 14 CFR Part 11**

Administrative practice and procedure, Reporting and recordkeeping requirements.

**The Amendment**

■ In consideration of the above, the Federal Aviation Administration amends chapter 1 of title 14, Code of Federal Regulations as follows:

**PART 11—GENERAL RULEMAKING PROCEDURES**

■ 1. The authority citation for part 11 continues to read as follows: