

## PART 611—ADVANCED TECHNOLOGY VEHICLES MANUFACTURING ASSISTANCE PROGRAM

■ 2. The authority citation for part 611 continues to read as follows:

**Authority:** Pub. L. 110–140 (42 U.S.C. 17013), Pub. L. 110–329.

■ 3. Section 611.2 is revised to read as follows:

### § 611.2 Definitions.

The definitions contained in this section apply to provisions contained in both this subpart and subpart B of this part.

*Adjusted average fuel economy* means a harmonic production weighted average of the combined fuel economy of all vehicles in a fleet, which were subject to CAFE.

*Advanced technology vehicle* means a passenger automobile or light truck that meets—

(1) The Bin 5 Tier II emission standard established in regulations issued by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act (the Act) (42 U.S.C. 7521(i)), as of the date of application, or a lower-numbered Bin emission standard;

(2) Any new emission standard in effect for fine particulate matter prescribed by the Administrator under the Act (42 U.S.C. 7401 *et seq.*), as of the date of application; and

(3) At least 125 percent of the harmonic production weighted average combined fuel economy, for vehicles with substantially similar attributes in model year 2005.

*Agreement* means the contractual loan arrangement between DOE and a Borrower for a loan made by and through the Federal Financing Bank with the full faith and credit of the United States Government on the principal and interest.

*Applicant* means a party that submits a substantially complete application pursuant to this part.

*Application* means the compilation of the materials required by this part to be submitted to DOE by an Applicant. One Application can include requests for one or more loans and one or more projects. However, an Application covering more than one project must contain complete and separable information with respect to each project.

*Automobile* is used as that term is defined in 49 CFR part 523.

*Borrower* means an Applicant that receives a loan under the program under this part.

*CAFE* means the Corporate Average Fuel Economy program of the Energy

Policy and Conservation Act, 49 U.S.C. 32901 *et seq.*

*Combined fuel economy* means the combined city/highway miles per gallon values, as are reported in accordance with section 32904 of title 49, United States Code. If CAFE compliance data is not available, the combined average fuel economy of a vehicle must be demonstrated through the use of a peer-reviewed model.

*DOE or Department* means the United States Department of Energy.

*Eligible Facility* means a manufacturing facility in the United States that produces qualifying advanced technology vehicles, or qualifying components.

*Eligible Project* means:

(1) Reequipping, expanding, or establishing a manufacturing facility in the United States to produce qualifying advanced technology vehicles, or qualifying components; or

(2) Engineering integration performed in the United States for qualifying advanced technology vehicles and qualifying components; or

(3) Manufacturing, recycling, processing, reprocessing, remediation, or reuse of materials, components, or subcomponents involving critical minerals, critical minerals production, or the supply chain for such materials, as set forth in Executive Order 13953 (“Executive Order Addressing the Threat to the Domestic Supply Chain from Reliance on Critical Minerals from Foreign Adversaries,” dated September 20, 2020), and Executive Order 13817 (“A Federal Strategy to Ensure Secure and Reliable Supplies of Critical Minerals,” dated December 20, 2017), as amended.

*Engineering integration* costs are the costs of engineering tasks relating to—

(1) Incorporating qualifying components into the design of advanced technology vehicles; and

(2) Designing tooling and equipment and developing manufacturing processes and material suppliers for production facilities that produce qualifying components or advanced technology vehicles.

*Equivalent vehicle* means a light-duty vehicle of the same vehicle classification as specified in 10 CFR part 523.

*Financially viable* means a reasonable prospect that the Applicant will be able to make payments of principal and interest on the loan as and when such payments become due under the terms of the loan documents, and that the Applicant has a net present value that is positive, taking all costs, existing and future, into account.

*Grantee* means an entity awarded a grant made pursuant to section 136 of the Energy Independence and Security Act of 2007 and this part.

*Light-duty vehicle* means passenger automobiles and light trucks.

*Light truck* is used as that term is defined in 49 CFR part 523.

*Loan Documents* mean the Agreement and all other instruments, and all documentation among DOE, the Borrower, and the Federal Financing Bank evidencing the making, disbursing, securing, collecting, or otherwise administering the loan [references to loan documents also include comparable agreements, instruments, and documentation for other financial obligations for which a loan is requested or issued].

*Model year* is defined as that term is defined in 49 U.S.C. 32901.

*Passenger automobile* is used as that term is defined in 49 CFR part 523.

*Qualifying components* means components that the DOE determines are:

(1) Designed for advanced technology vehicles; and

(2) Installed for the purpose of meeting the performance requirements of advanced technology vehicles; or

(3) Involving critical minerals, as set forth in Executive Order 13953 (“Executive Order Addressing the Threat to the Domestic Supply Chain from Reliance on Critical Minerals from Foreign Adversaries,” dated September 20, 2020), and Executive Order 13817 (“A Federal Strategy to Ensure Secure and Reliable Supplies of Critical Minerals,” dated December 20, 2017), as amended, as a component of advanced technology vehicles.

*Secretary* means the United States Secretary of Energy.

*Security* means all property, real or personal, tangible or intangible, required by the provisions of the Loan Documents to secure repayment of any indebtedness of the Borrower under the Loan Documents.

[FR Doc. 2020–29278 Filed 1–14–21; 8:45 am]

BILLING CODE 6450–01–P

---

## FEDERAL RESERVE SYSTEM

### 12 CFR Part 217

[Docket R–1703]

RIN 7100–AF77

#### Regulatory Capital Rule: Eligible Retained Income; Correction

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Final rule; correcting amendments.

**SUMMARY:** The Board of Governors of the Federal Reserve System (Board) is correcting changes to the definition of eligible retained income in the capital rule. This definition is used for calculating limitations on capital distributions and discretionary bonus payments and was adopted in an interim final rule published on March 18, 2020, and as a final rule published on October 8, 2020.

**DATES:** This correction is effective January 15, 2021.

**FOR FURTHER INFORMATION CONTACT:**

Benjamin McDonough, Associate General Counsel, (202) 452-2036; Mark Buresh, Senior Counsel, (202) 452-5270; or Andrew Hartlage, Counsel, (202) 452-6483, Legal Division, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551. Users of Telecommunications Device for the Deaf (TDD) only, call (202) 263-4869.

**SUPPLEMENTARY INFORMATION:** The Board of Governors of the Federal Reserve System (Board) is issuing this correction to the definition of eligible retained income in the capital rule, 12 CFR part 217. This definition is used for calculating limitations on capital distributions and discretionary bonus payments and was adopted as an interim final rule published on March 18, 2020 (ERI interim final rule),<sup>1</sup> and as a final rule published on October 8, 2020 (ERI final rule).<sup>2</sup> In the ERI interim final rule, the Board, together with the Office of the Comptroller of the Currency (OCC) and the Federal Deposit Insurance Corporation (FDIC, and together with the Board and the OCC, the agencies), revised the definition of eligible retained income at section 217.11(a)(2)(i) of the capital rule on an interim basis and sought comment on the revisions. In the ERI final rule, the agencies adopted these changes to the definition of eligible retained income, introduced through the ERI interim final rule, without change.

On March 20, 2020, the Board published in the **Federal Register** a final rule, effective May 18, 2020, implementing the stress capital buffer requirement in the capital rule (SCB final rule), which revised section 217.11 of the Board's capital rule generally. The

SCB final rule revised the definition of eligible retained income in section 217.11 of the Board's capital rule in a manner inconsistent with the the Board's intent in the ERI interim final rule and the ERI final rule. The Board is issuing this notice to correct the definition of eligible retained income so that it is consistent with the definition established by the ERI interim final rule and affirmed by the ERI final rule.

**List of Subjects in 12 CFR Part 217**

Administrative practice and procedure; Banks, banking; Capital; Federal Reserve System; Holding companies.

*12 CFR Chapter II*

**Authority and Issuance**

For the reasons set forth in the Supplementary Information, chapter II of title 12 of the Code of Federal Regulations is amended as follows:

**PART 217—CAPITAL ADEQUACY OF BANK HOLDING COMPANIES, SAVINGS AND LOAN HOLDING COMPANIES, AND STATE MEMBER BANKS (REGULATION Q)**

■ 1. The authority citation for part 217 continues to read as follows:

**Authority:** 12 U.S.C. 248(a), 321-338a, 481-486, 1462a, 1467a, 1818, 1828, 1831n, 1831o, 1831p-1, 1831w, 1835, 1844(b), 1851, 3904, 3906-3909, 4808, 5365, 5368, 5371, 5371 note; and Pub. L. 116-136, 134 Stat. 281.

■ 2. Section 217.11 is amended by revising paragraph (a)(2)(i) to read as follows:

**§ 217.11 Capital conservation buffer, countercyclical capital buffer amount, and GSIB surcharge.**

(a) \* \* \*

(2) \* \* \*

(i) *Eligible retained income.* The eligible retained income of a Board-regulated institution is the greater of:

(A) The Board-regulated institution's net income, calculated in accordance with the instructions to the FR Y-9C or Call Report, as applicable, for the four calendar quarters preceding the current calendar quarter, net of any distributions and associated tax effects not already reflected in net income; and

(B) The average of the Board-regulated institution's net income, calculated in accordance with the instructions to the FR Y-9C or Call Report, as applicable, for the four calendar quarters preceding the current calendar quarter.

\* \* \* \* \*

By order of the Board of Governors of the Federal Reserve System, acting

through the Secretary of the Board under delegated authority.

**Ann Misback,**

*Secretary of the Board.*

[FR Doc. 2021-00906 Filed 1-14-21; 8:45 am]

**BILLING CODE 6210-01-P**

**BUREAU OF CONSUMER FINANCIAL PROTECTION**

**12 CFR Part 1002**

**Equal Credit Opportunity (Regulation B); Special Purpose Credit Programs**

**AGENCY:** Bureau of Consumer Financial Protection.

**ACTION:** Advisory opinion.

**SUMMARY:** The Bureau of Consumer Financial Protection (Bureau) is issuing this Advisory Opinion (AO) to address regulatory uncertainty regarding Regulation B, which implements the Equal Credit Opportunity Act, as it applies to certain aspects of special purpose credit programs designed and implemented by for-profit organizations to meet special social needs. Specifically, this AO clarifies the content that a for-profit organization must include in a written plan that establishes and administers a special purpose credit program under Regulation B. In addition, this AO clarifies the type of research and data that may be appropriate to inform a for-profit organization's determination that a special purpose credit program is needed to benefit a certain class of persons.

**DATES:** This advisory opinion is effective on January 15, 2021.

**FOR FURTHER INFORMATION CONTACT:** Christopher Davis, Attorney-Advisor; Office of Fair Lending and Equal Opportunity, at [CFPB\\_FairLending@cfpb.gov](mailto:CFPB_FairLending@cfpb.gov) or 202-435-7000. If you require this document in an alternative electronic format, please contact [CFPB\\_Accessibility@cfpb.gov](mailto:CFPB_Accessibility@cfpb.gov).

**SUPPLEMENTARY INFORMATION:** The Bureau is issuing this AO through the procedures for its Advisory Opinions Policy.<sup>1</sup> Refer to those procedures for more information.

**I. Advisory Opinion**

**A. Background**

Congress enacted the Equal Credit Opportunity Act (ECOA or the Act) in 1974, initially prohibiting discrimination in credit on the basis of

<sup>1</sup> Regulatory Capital Rule: Eligible Retained Income, 85 FR 15909 (March 20, 2020).

<sup>2</sup> Regulatory Capital Rule and Total Loss-Absorbing Capacity Rule: Eligible Retained Income, 85 FR 63423 (October 8, 2020). The final rule is effective January 1, 2021.

<sup>1</sup> 85 FR 77987 (Dec. 3, 2020).