**ASTORIA FEDERAL SAVINGS**
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January 10, 2006

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Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, NW
Washington, DC 20552
Attention No. 2005-40

**Re: Risk-Based Capital Guidelines; Capital Adequacy Guidelines; Capital Maintenance: Domestic Capital Modifications - OTS Document No. 2005-40**

Gentlemen:

Astoria Federal Savings and Loan Association ("Astoria Federal") is pleased to have the opportunity to comment on the interagency advance notice of proposed rulemaking *"Risk-Based Capital Guidelines; Capital Adequacy Guidelines; Capital Maintenance: Domestic Capital Modifications"*, issued October 20, 2005, regarding potential revisions to the existing risk-based capital framework. Astoria Financial Corporation (the "Company" or "we"), the holding company for Astoria Federal, with assets of $22.6 billion is the second largest thrift depository headquartered in New York and the sixth largest thrift institution in the United States. The Company operates 86 banking offices in New York. The Company also originates mortgage loans through loan production offices in New York, an extensive broker network in 23 states, primarily the East Coast and the District of Columbia, and through correspondent relationships in 44 states and the District of Columbia.

After reviewing ANPR 2005-40 ("ANPR"), Astoria Federal applauds the federal banking agencies efforts to level the playing field between large complex banking companies and community and regional banking organizations by eliminating the potential competitive disadvantage of a bifurcated regulatory framework in the United States under Basel II. While the Thrift Financial Report would need to be modified to provide the data to determine risk based capital, we believe that it is reasonably feasible to comply with the revisions described in the ANPR. We further believe that the direct and indirect costs of doing so would not be economically significant since the majority of data required to comply with the proposed framework is currently available as part of Astoria Federal's credit approval and portfolio management systems.

The most serious concerns that we have relate to the proposal's treatment of *Multifamily Residential Mortgages*, *Loans 90 Days or More Past Due or in Nonaccrual*, and *Commercial Real Estate* exposures. Our comments, which follow, are ordered to correspond to specific issues raised by the interagency APNR published in Vol. 70, No. 220 of the Federal Register on October 20, 2005. In the section *"Miscellaneous"* below, we make several observations and offer suggestions on ways for the Agencies to fairly risk-weight certain exposures in a manner that is sensitive to an institution's individual risk profile.

***Multi-family Residential Mortgages***

Multi-family Loans are generally perceived as having a greater degree of credit risk than One-to-four Family Loans because they typically have larger balances and may be more affected by adverse changes in the economy. This perception has become so embedded that in practice many industry participants tend to group this loan type with Commercial Real Estate and Construction Loans when evaluating portfolio risks and setting reserves. A thorough and extended analysis (September, 1995 – September, 2005) of non-current loan statistics shows that Multi-family Residential Mortgages substantially outperformed One-to-four Family Loans, Consumer Loans, Commercial Real Estate Loans, Construction and Land Loans and, C&I Loans over the last 10 years (Exhibit A). This finding was consistent both nationally and across Office of Thrift Supervision ("OTS") Regions throughout the time horizon of the analysis. An analysis of quarterly net charge-off experience for all OTS regions shows that the average net loss for Multi-family and One-to-four Family loans was 3 and 2 basis points respectively over the same period (Exhibit B). In view of this, all seasoned credits within this asset class should be accorded a lower risk-weight than is currently permitted under the Agencies' rules.

***Loans 90 Days or More Past Due or in Nonaccrual***

While we concur that a loan 90 days or more past due or in nonaccrual is statistically more likely to result in a loss, we do not support moving all such loans to a risk-weight category that is higher than the 100 percent under today's risk-based capital rules. The risk-based capital framework ultimately adopted by the Agencies must provide some mechanism, possibly a risk-weight formula or matrix, which evaluates collateral, current loan to value ratios, appropriate guarantees and specific reserves allocated to cover potential losses on past due or nonaccrual assets. In those cases where the aforementioned items are already mitigating risk and credit losses, it should be unnecessary to assign a potential exposure to a greater than 100 percent risk-weight category.

*Commercial Real Estate Exposures*

Astoria Federal is adamantly opposed to any revision to the capital requirements which would require that all acquisition, development and construction ('ADC") loans be assigned to a higher than 100 percent risk-weight. Since our ADC loans are typically supported by substantial (30%) borrower equity, we would expect any final directive to include the specific carve out of those loans meeting the Interagency Real Estate Lending Standards at 12 CFR 560.100-101.

With respect to your request for comments on alternative ways to make risk-weights for commercial real estate loans more risk sensitive, we suggest that the Agencies consider setting standards for leases and credit tenants, especially when the tenant exhibits substantial financial strength, and then keeping the risk-weight for such credits rather low to encourage community lending. The Agencies should also consider the percentage of pre-sold or pre-leased units within projects and recognize that mixed-use projects should typically be assigned lower risk weights that single-use projects.

*Miscellaneous*

1. External Credit Ratings. Astoria Federal favors the retention of the zero percent risk-weight for short- and long-term U.S. government and agency exposures and the 20 percent risk-weight for U.S. government-sponsored entities as well as the expanded use of Nationally Recognized Statistical Rating Organization ("NRSRO") credit ratings to assign risk-weights. We suggest, however, that in their final rulemaking the Agencies specifically address the proposed treatment and risk-weights of unrated exposures which have insurance wraps that effectively convert the risk profile of such securities to that of an AAA investment.

2. One-to-four Family LTV Ratios and Other Measures of Credit Quality. We generally support the concept of LTV tiering for risk-weights but suggest that borrower strength should receive equal emphasis since most problem loans do not lead to foreclosure and loss, but simply added management time, expense and monitoring. The ANPR suggests that a capacity measure such as a debt-to-income ratio could be paired with LTV ratios to determine capital requirements. Debt-to-income ratios while helpful in some cases are of limited value in others, such as retired persons or wealthy individuals who do not need to work. It is also important to note that it is especially difficult to calculate disposable income available for debt service for people with high fixed payments for medical expenses, alimony, child support and the like. Lastly, there are different opinions within the industry and individual institutions about how to calculate normalized income for self-employed persons. In view of the many factors upon which sound underwriting is based, we suggest that the Agencies determine risk-weights for

setting capital via a matrix which combines collateral, borrower strength and capacity measures.

In response to your specific request for comment as to the update frequency of LTVs and other measures of creditworthiness, we believe that it would be costly and difficult to conduct an annual review of the entire residential mortgage portfolio for resetting capital levels. While it may be possible to perform some form of an automatic LTV update, based on loan count, outstanding principal balance and geographic location which would interface with and reset portfolio risk buckets; potentially expensive systems upgrades may place an undue hardship on smaller community banks.

In summary, Astoria Federal generally supports the federal banking agencies efforts to level the playing field among "Basel II", regional and community banks while being sensitive to the risk profiles of individual financial institutions. Nevertheless, we strongly feel that:

(i) national statistics over the last 10 years support a lower risk-weight for multi-family residential mortgages than is currently permitted under the Agencies' rules;

(ii) not all loans 90 days or more past due or in nonaccrual should be assigned a risk-weight of greater than 100 percent; and,

(iii) any consideration of a "one size fits all" approach to ADC lending is misguided and detrimental to those institutions originating ADC loans that are backed by substantial borrower equity.

We appreciate the opportunity to comment on the issues contained in interagency APNR 2005-40 regarding potential revisions to the existing risk-based capital framework.

Respectively submitted,

Yours sincerely,

Peter M. Finn
First Vice President

## Exhibit A: OTS Quarterly NonCurrent Loans to Toal Assets for All Regions

| Quarter Ended | *a* All Loan Types | *b* Construction | *c* CRE | *d* MF | *e* SF | *d-e* Difference |
|---|---|---|---|---|---|---|
| Jun-95 | 0.87 | 1.50 | 3.04 | 1.64 | 1.16 | 0.48 |
| Sep-95 | 0.84 | 1.39 | 2.25 | 1.53 | 1.18 | 0.35 |
| Dec-95 | 0.88 | 1.33 | 2.03 | 1.62 | 1.28 | 0.34 |
| Mar-96 | 0.92 | 1.24 | 2.07 | 1.55 | 1.35 | 0.20 |
| Jun-96 | 0.86 | 1.03 | 1.80 | 1.44 | 1.25 | 0.19 |
| Sep-96 | 0.87 | 0.97 | 1.88 | 1.49 | 1.24 | 0.25 |
| Dec-96 | 0.85 | 0.92 | 1.69 | 1.45 | 1.21 | 0.24 |
| Mar-97 | 0.88 | 1.34 | 1.75 | 1.34 | 1.26 | 0.08 |
| Jun-97 | 0.81 | 1.12 | 1.66 | 1.15 | 1.16 | -0.01 |
| Sep-97 | 0.83 | 1.10 | 1.80 | 0.88 | 1.20 | -0.32 |
| Dec-97 | 0.76 | 1.23 | 1.62 | 0.74 | 1.11 | -0.37 |
| Mar-98 | 0.71 | 1.11 | 1.66 | 0.77 | 1.02 | -0.25 |
| Jun-98 | 0.67 | 1.07 | 1.45 | 0.63 | 0.98 | -0.35 |
| Sep-98 | 0.61 | 1.08 | 1.36 | 0.56 | 0.90 | -0.34 |
| Dec-98 | 0.59 | 1.10 | 1.25 | 0.49 | 0.87 | -0.38 |
| Mar-99 | 0.56 | 0.91 | 1.19 | 0.43 | 0.84 | -0.41 |
| Jun-99 | 0.51 | 0.73 | 1.07 | 0.39 | 0.78 | -0.39 |
| Sep-99 | 0.52 | 0.66 | 1.07 | 0.38 | 0.77 | -0.39 |
| Dec-99 | 0.50 | 0.61 | 0.86 | 0.30 | 0.77 | -0.47 |
| Mar-00 | 0.49 | 0.70 | 0.91 | 0.24 | 0.73 | -0.49 |
| Jun-00 | 0.47 | 0.76 | 0.90 | 0.20 | 0.65 | -0.45 |
| Sep-00 | 0.48 | 0.77 | 0.94 | 0.18 | 0.65 | -0.47 |
| Dec-00 | 0.50 | 1.13 | 0.96 | 0.15 | 0.67 | -0.52 |
| Mar-01 | 0.53 | 1.26 | 1.22 | 0.18 | 0.69 | -0.51 |
| Jun-01 | 0.54 | 1.39 | 1.19 | 0.16 | 0.72 | -0.56 |
| Sep-01 | 0.58 | 1.68 | 1.43 | 0.16 | 0.77 | -0.61 |
| Dec-01 | 0.60 | 1.57 | 1.46 | 0.16 | 0.81 | -0.65 |
| Mar-02 | 0.62 | 1.82 | 1.45 | 0.17 | 0.87 | -0.70 |
| Jun-02 | 0.60 | 1.66 | 1.35 | 0.21 | 0.82 | -0.61 |
| Sep-02 | 0.60 | 1.63 | 1.28 | 0.18 | 0.79 | -0.61 |
| Dec-02 | 0.65 | 1.60 | 1.24 | 0.13 | 0.93 | -0.80 |
| Mar-03 | 0.63 | 1.55 | 1.26 | 0.15 | 0.86 | -0.71 |
| Jun-03 | 0.60 | 1.16 | 1.14 | 0.19 | 0.84 | -0.65 |
| Sep-03 | 0.59 | 1.14 | 1.03 | 0.16 | 0.85 | -0.69 |
| Dec-03 | 0.58 | 0.85 | 0.87 | 0.13 | 0.84 | -0.71 |
| Mar-04 | 0.48 | 0.94 | 0.93 | 0.21 | 0.63 | -0.42 |
| Jun-04 | 0.43 | 0.75 | 0.77 | 0.12 | 0.54 | -0.42 |
| Sep-04 | 0.43 | 0.77 | 0.81 | 0.15 | 0.52 | -0.37 |
| Dec-04 | 0.43 | 0.71 | 0.79 | 0.13 | 0.52 | -0.39 |
| Mar-05 | 0.41 | 0.75 | 0.68 | 0.08 | 0.49 | -0.41 |
| Jun-05 | 0.37 | 0.49 | 0.64 | 0.09 | 0.44 | -0.35 |
| Sep-05 | 0.41 | 0.51 | 0.53 | 0.14 | 0.80 | -0.66 |
| Avg. | **0.62** | **1.10** | **1.32** | **0.53** | **0.88** | **-0.34** |

***Summary:***
Every quarter from 6/95 to 3/97:
- On 8 occassions, MF noncurrent loans to toal assets exceeded the SF loss percentages.

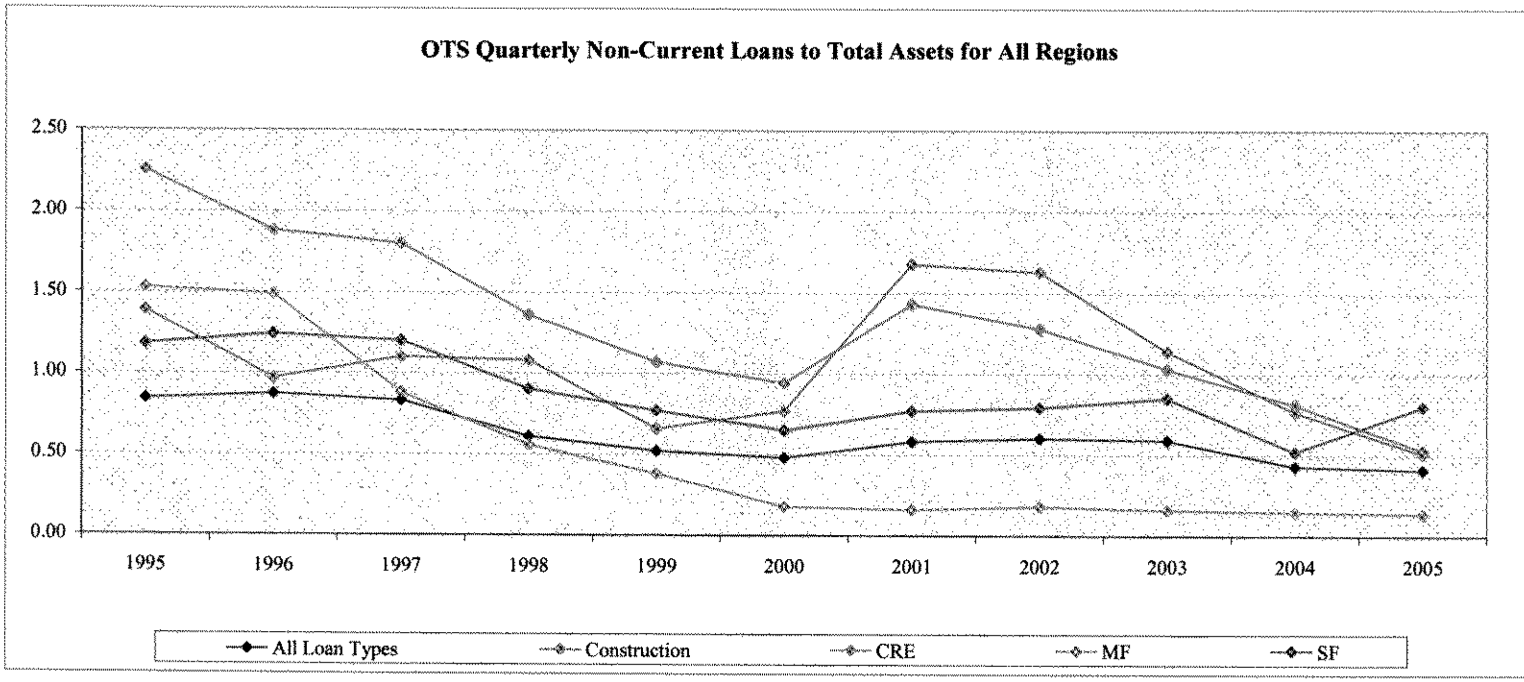
Every quarter from 6/97 to 9/05:
- On 34 occassions, MF noncurrent loans to total assets were less than the SF percentages.

***Note:***
OTS non-current loans are a percentage of total assets.

## OTS Quarterly Non-Current Loans to Total Assets for All Regions

| Quarter | a | b | c | d | e | d-e |
|---|---|---|---|---|---|---|
| Ended | All Loan Types | Construction | CRE | MF | SF | Difference |
| Sep-95 | 0.84 | 1.39 | 2.25 | 1.53 | 1.18 | 0.35 |
| Sep-96 | 0.87 | 0.97 | 1.88 | 1.49 | 1.24 | 0.25 |
| Sep-97 | 0.83 | 1.10 | 1.80 | 0.88 | 1.20 | -0.32 |
| Sep-98 | 0.61 | 1.08 | 1.36 | 0.56 | 0.90 | -0.34 |
| Sep-99 | 0.52 | 0.66 | 1.07 | 0.38 | 0.77 | -0.39 |
| Sep-00 | 0.48 | 0.77 | 0.94 | 0.18 | 0.65 | -0.47 |
| Sep-01 | 0.58 | 1.68 | 1.43 | 0.16 | 0.77 | -0.61 |
| Sep-02 | 0.60 | 1.63 | 1.28 | 0.18 | 0.79 | -0.61 |
| Sep-03 | 0.59 | 1.14 | 1.03 | 0.16 | 0.85 | -0.69 |
| Sep-04 | 0.43 | 0.77 | 0.81 | 0.15 | 0.52 | -0.37 |
| Sep-05 | 0.41 | 0.51 | 0.53 | 0.14 | 0.80 | -0.66 |
| **Avg.** | **0.61** | **1.06** | **1.31** | **0.53** | **0.88** | **-0.35** |

***Note:***
OTS non-current loans are a percentage of total assets.



## Exhibit B: OTS Quarterly Net Charge-off Percentages for All Regions

| Quarter Ended | *a* All Loan Types | *b* Construction | *c* CRE | *d* MF | *e* SF | *d-e* Difference |
|---|---|---|---|---|---|---|
| Jun-95 | 0.09 | 0.10 | 0.31 | 0.20 | 0.05 | 0.15 |
| Sep-95 | 0.07 | 0.11 | 0.21 | 0.15 | 0.04 | 0.11 |
| Dec-95 | 0.07 | 0.08 | 0.09 | 0.16 | 0.05 | 0.11 |
| Mar-96 | 0.07 | 0.02 | 0.10 | 0.15 | 0.05 | 0.10 |
| Jun-96 | 0.07 | 0.03 | 0.12 | 0.13 | 0.05 | 0.08 |
| Sep-96 | 0.07 | 0.02 | 0.08 | 0.15 | 0.05 | 0.10 |
| Dec-96 | 0.08 | 0.03 | 0.09 | 0.10 | 0.06 | 0.04 |
| Mar-97 | 0.05 | 0.03 | 0.04 | 0.06 | 0.03 | 0.03 |
| Jun-97 | 0.06 | 0.03 | 0.03 | 0.08 | 0.04 | 0.04 |
| Sep-97 | 0.07 | 0.01 | 0.05 | 0.04 | 0.05 | -0.01 |
| Dec-97 | 0.06 | 0.06 | -0.03 | 0.01 | 0.03 | -0.02 |
| Mar-98 | 0.05 | 0.01 | 0.01 | 0.03 | 0.02 | 0.01 |
| Jun-98 | 0.05 | 0.02 | 0.03 | 0.02 | 0.02 | 0.00 |
| Sep-98 | 0.05 | 0.02 | 0.01 | 0.02 | 0.02 | 0.00 |
| Dec-98 | 0.05 | 0.02 | 0.04 | 0.00 | 0.04 | -0.04 |
| Mar-99 | 0.04 | 0.01 | -0.01 | -0.06 | 0.02 | -0.08 |
| Jun-99 | 0.04 | 0.01 | 0.01 | 0.03 | 0.02 | 0.01 |
| Sep-99 | 0.04 | 0.00 | 0.03 | -0.02 | 0.01 | -0.03 |
| Dec-99 | 0.04 | 0.02 | 0.01 | -0.01 | 0.01 | -0.02 |
| Mar-00 | 0.05 | 0.02 | 0.00 | -0.02 | 0.01 | -0.03 |
| Jun-00 | 0.05 | 0.01 | 0.00 | 0.00 | 0.01 | -0.01 |
| Sep-00 | 0.04 | 0.02 | 0.01 | -0.01 | 0.01 | -0.02 |
| Dec-00 | 0.05 | 0.02 | 0.02 | 0.00 | 0.01 | -0.01 |
| Mar-01 | 0.05 | 0.01 | 0.02 | 0.00 | 0.01 | -0.01 |
| Jun-01 | 0.05 | 0.05 | 0.06 | 0.00 | 0.02 | -0.02 |
| Sep-01 | 0.06 | 0.04 | 0.07 | 0.00 | 0.01 | -0.01 |
| Dec-01 | 0.07 | 0.03 | 0.03 | 0.00 | 0.01 | -0.01 |
| Mar-02 | 0.05 | 0.03 | 0.01 | 0.00 | 0.02 | -0.02 |
| Jun-02 | 0.05 | 0.02 | 0.04 | 0.00 | 0.01 | -0.01 |
| Sep-02 | 0.06 | 0.03 | 0.01 | 0.00 | 0.01 | -0.01 |
| Dec-02 | 0.09 | 0.02 | 0.02 | 0.00 | 0.03 | -0.03 |
| Mar-03 | 0.07 | 0.04 | 0.02 | 0.00 | 0.01 | -0.01 |
| Jun-03 | 0.07 | 0.05 | 0.03 | 0.00 | 0.01 | -0.01 |
| Sep-03 | 0.06 | 0.03 | 0.01 | 0.00 | 0.01 | -0.01 |
| Dec-03 | 0.06 | 0.03 | 0.01 | 0.00 | 0.01 | -0.01 |
| Mar-04 | 0.06 | 0.01 | 0.05 | 0.00 | 0.01 | -0.01 |
| Jun-04 | 0.06 | 0.01 | 0.02 | 0.01 | 0.01 | 0.00 |
| Sep-04 | 0.05 | 0.02 | 0.03 | 0.00 | 0.01 | -0.01 |
| Dec-04 | 0.06 | 0.02 | 0.01 | 0.00 | 0.01 | -0.01 |
| Mar-05 | 0.05 | 0.01 | 0.00 | 0.00 | 0.01 | -0.01 |
| Jun-05 | 0.05 | 0.02 | 0.00 | 0.00 | 0.01 | -0.01 |
| Sep-05 | 0.04 | -0.01 | 0.00 | -0.01 | 0.01 | -0.02 |
| **Avg.** | **0.06** | **0.03** | **0.04** | **0.03** | **0.02** | **0.01** |

***Summary:***
Every quarter from 6/95 to 6/97, MF net charge-offs exceeded SF net loss percentages.

From 9/97 to 9/05:

- On 2 occassions, MF charge-offs exceeded the SF loss percents.
- On 4 occassions, MF charge-offs were equal to SF loss percents.
- On 27 occassions, MF charge-offs were less than the SF loss percents.

***Note:***
OTS net charge-offs are a percentage of total assets

## OTS Quarterly Net Charge-off Percentages for All Regions

| Quarter | *a* | *b* | *c* | *d* | *e* | *d-e* |
|---|---|---|---|---|---|---|
| **Ended** | **All Loan Types** | **Construction** | **CRE** | **MF** | **SF** | **Difference** |
| **Sep-95** | 0.07 | 0.11 | 0.21 | 0.15 | 0.04 | 0.11 |
| **Sep-96** | 0.07 | 0.02 | 0.08 | 0.15 | 0.05 | 0.10 |
| **Sep-97** | 0.07 | 0.01 | 0.05 | 0.04 | 0.05 | -0.01 |
| **Sep-98** | 0.05 | 0.02 | 0.01 | 0.02 | 0.02 | 0.00 |
| **Sep-99** | 0.04 | 0.00 | 0.03 | -0.02 | 0.01 | -0.03 |
| **Sep-00** | 0.04 | 0.02 | 0.01 | -0.01 | 0.01 | -0.02 |
| **Sep-01** | 0.06 | 0.04 | 0.07 | 0.00 | 0.01 | -0.01 |
| **Sep-02** | 0.06 | 0.03 | 0.01 | 0.00 | 0.01 | -0.01 |
| **Sep-03** | 0.06 | 0.03 | 0.01 | 0.00 | 0.01 | -0.01 |
| **Sep-04** | 0.05 | 0.02 | 0.03 | 0.00 | 0.01 | -0.01 |
| **Sep-05** | 0.04 | -0.01 | 0.00 | -0.01 | 0.01 | -0.02 |
| **Avg.** | **0.06** | **0.03** | **0.05** | **0.03** | **0.02** | **0.01** |

***Note:***
OTS net charge-offs are a percentage of total assets