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DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 3

[Docket No. **00**-24]
RIN 1557--AB14

FEDERAL RESERVE SYSTEM

12 CFR Parts 208 and 225

[Regulations H and Y; Docket No. R-1084]

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 325

RIN 3064-AC44

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 567

[Docket No. 2000-90]
RIN 1550-AB11

Simplified Capital Framework for Non-Complex Institutions

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: Advance notice of proposed rulemaking.

SUMMARY: The Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (Board), the Federal Deposit Insurance Corporation (FDIC), and the Office of Thrift Supervision (OTS) (collectively, the Agencies) are considering developing a simplified regulatory capital framework applicable to non-complex banks and thrifts (non-complex institutions). The Agencies believe that the size, structure, complexity, and risk profile of many banking and

thrift institutions (banking organizations or institutions) may warrant the application of a simplified capital framework that could relieve regulatory burden associated with the existing capital rules.

The Agencies are considering the advantages and disadvantages associated with developing a regulatory capital framework specifically for non-complex institutions. The main objective of this advance notice of proposed rulemaking is to obtain preliminary views from the industry and the public regarding such a framework. The information gathered as a result of this advance notice of proposed rulemaking will assist the Agencies in determining whether to propose a simplified capital framework and, if so, how the framework should be structured and implemented.

In considering the development of a less burdensome regulatory framework, the Agencies would not lower capital standards or encourage a reduction in existing capital levels. Rather, a simplified, less burdensome framework may result in higher minimum regulatory capital requirements for certain institutions than required under current capital standards. Many non-complex institutions currently maintain levels of capital in excess of the regulatory minimum requirements, and the Agencies would therefore expect that most banking organizations subject to a simplified framework would not have to increase capital levels.

This advance notice of proposed rulemaking sets forth broad options for a simplified framework. The options advanced for comment include adopting a simplified risk-based framework (and maintaining the leverage ratio requirement) or adopting a leverage-based approach. The leverage-based approach may include either a traditional leverage framework or one that is modified to address off-balance sheet risks.

DATES: Comments must be received by no later than February 1, 2001.

ADDRESSES: Comments should be directed to:

OCC: Comments may be submitted to Docket No. **00**-24, Communications Division, Third Floor, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219. Comments will be available for inspection and photocopying at that address. In addition, comments may be sent by facsimile transmission to (202) 874-5274, or by electronic mail to regs.comments@occ.treas.gov. You can make an appointment to inspect the comments by calling (202) 874-5043.

Board: Comments, which should refer to Docket No. R-1084, may be mailed to Ms. Jennifer J. Johnson, Secretary, the Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551, or mailed electronically to regs.comments@federalreserve.gov. Comments addressed to Ms. Johnson may be delivered to the Board's mailroom between 8:45 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mailroom and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, NW.. Comments may be inspected in Room MP-500 between 9 a.m. and 5 p.m. weekdays pursuant to Sec. 261.12, except as provided in Sec. 261.14 of the Board's Rules Regarding Availability of Information, 12 CFR 261.12 and 261.14.

FDIC: Send written comments to Robert E. Feldman, Executive Secretary, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street, NW, Washington, DC 20429. Comments may be hand-delivered to the guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m.

(facsimile number (202) 898-3838; Internet address: comments@fdic.gov). Comments may be inspected and photocopied in the FDIC Public Information Center, Room 100, 801 17th Street, NW, Washington, DC 20429, between 9 a.m. and 4:30 p.m. on business days.
OTS: Send comments to Manager, Dissemination Branch, Information Management & Services Division, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552, Attention Docket No. 2000-90. Hand deliver comments to Public Reference Room, 1700 G Street, NW, lower level, from 9 a.m. to 4 p.m. on business days. Send facsimile transmissions to FAX number (202) 906-7755 or (202) 906-6956 (if the comment is over 25 pages). Send e-mails to public.info@ots.treas.gov and include your name and telephone number. Interested persons may inspect comments at 1700 G Street, NW, from 10 a.m. until 4 p.m. on Tuesdays and Thursdays, or obtain comments or an index of comments by facsimile by telephoning the Public Reference Room at (202) 906-5900 from 9 a.m. until 5 p.m. on business days. Comments and the related index will also be posted on the OTS Internet Site at ``http://frwebgate.access.gpo.gov/cgi-bin/leaving.cgi?from=leavingFR.html&log=linklog&to=http://www.ots.treas.gov.''

FOR FURTHER INFORMATION CONTACT:

OCC: Amrit Sekhon, Risk Specialist, Capital Policy Division, (202) 874-5211; or Ron Shimabukuro, Senior Attorney, Legislative and Regulatory

Activities Division, (202) 874-5090, Office of the Comptroller of the Currency, 250 E Street SW, Washington, DC 20219.
Board: Norah Barger, Assistant Director (202/452-2402), Barbara Bouchard, Manager (202/452-3072), Division of Banking Supervision and Regulation, or David Adkins, Supervisory Financial Analyst (202/452-5259). For the hearing impaired only, Telecommunication Device for the Deaf (TDD), Janice Simms (202/872-4984), Board of Governors of the Federal Reserve System, 20th and C Streets, NW, Washington, DC 20551.
FDIC: Mark S. Schmidt, Associate Director, (202/898-6918), Division of Supervision, William A. Stark, Assistant Director, (202/898-6972), Division of Supervision, or Keith A. Ligon, Chief, Policy Unit, (202/898-3618), Division of Supervision.

OTS: Michael D. Solomon, Senior Program Manager for Capital Policy (202/906-5654), or Teresa A. Scott, Counsel (Banking and Finance) (202/906-6478), Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

I. Background

In 1989, the Agencies each adopted regulatory capital standards based on the Basel Capital Accord (1988 Accord).\1\ The 1988 Accord sets forth a general framework for measuring the capital adequacy of internationally active banks under which assets and off-balance-sheet items are ``risk-weighted'' based on their perceived credit risk using four broad risk categories.\2\ Institutions subject to the 1988 Accord are required to maintain a minimum ratio of regulatory capital \3\ to total risk-weighted assets of 8 percent.\4\

\1\ The 1998 Accord was developed by the supervisory authorities represented on the Basel Committee on Banking Supervision and endorsed by the G-10 Central Bank Governors. The framework is described in a document entitled ``International Convergence of Capital Measurement'' issued in July 1998 (with subsequent amendments). The Basel Committee on Banking Supervision is comprised of representatives of the central banks and supervisory authorities from the G-10 countries (Belgium, Canada, France, Germany, Italy, Japan, Netherlands, Sweden, Switzerland, the United Kingdom, and the United States) and Luxembourg. The Agencies' risk-based capital standards implementing the 1988 Accord are set forth in 12 CFR part 3 (OCC), 12 CFR parts 208 and 225, Appendices A and E (Board), 12 CFR part 325 (FDIC) and 12 CFR part 567 (OTS).

\2\ The categories are 100 percent (the standard risk weight for most claims); 50 percent (primarily for residential mortgages); 20 percent for claims on, or guarantees provided by, certain entities (for example, qualifying depository institutions); and zero percent for very low risk assets (such as claims on, or guarantees provided by, qualifying governments).

\3\ Regulatory capital may be comprised of three components. In general terms, Tier 1 capital includes common stockholder's equity, qualifying noncumulative perpetual preferred stock (and for bank holding companies limited amounts of cumulative perpetual preferred stock), and minority interests in the equity accounts of consolidated subsidiaries. Tier 2 capital includes limited amounts of the allowance for loan and lease losses, perpetual preferred stock, hybrid capital instruments and mandatory convertible debt, and term subordinated debt. Tier 3 capital (available only for certain institutions that apply specific rules for market risk) consists of short-term subordinated debt subject to certain restrictions on repayment. Items deducted from regulatory capital include goodwill and certain other intangible assets, investments in unconsolidated subsidiaries, reciprocal holdings of other banking institutions' capital instruments and some deferred tax assets. At least 50 percent of regulatory capital must be Tier 1. See each agency's capital rules referenced in footnote 1 for a more complete discussion.

\4\ The 1988 Accord and the implementing United States standards addressed capital in relation to credit risk. In January 1996, the 1988 Accord was amended to include a measure for market risk. The amendment was incorporated into FRB, FDIC, and OCC standards in September 1996.

In addition to risk-based capital requirements, United States banking organizations must comply with a minimum leverage ratio requirement. \5\ Generally, strong banking organizations (e.g., institutions assigned a composite rating of 1 under the Uniform Financial Institutions Ratings System) must maintain a minimum ratio of Tier 1 capital to average total consolidated on-balance sheet assets of 3 percent. For other banking organizations, the minimum leverage ratio is 4 percent. The Agencies view the risk-based and leverage capital requirements as minimums. Institutions should hold capital at a level that is commensurate with their individual risk profile.

\5\ Leverage guidlines for each agency are located at 12 CFR part 3 (OCC); 12 CFR part 208, Appendix B and 12 CFR part 225, Appendix D (Board); 12 CFR part 325 (FDIC); and 12 CFR part 567 (OTS).

United States banking organizations are also subject to Prompt Corrective Action (PCA) regulations. Generally, under these rules an institution's regulatory capital ratios are used to classify the institution into a PCA category. Institutions with the highest capital ratios (i.e., at or above a 10 percent total risk-based capital ratio, at or above a 6 percent Tier 1 risk-based capital ratio, and at or above a 5 percent leverage capital ratio) are usually categorized as ``well capitalized.'' Institutions with lower capital ratios are assigned to lower capital categories. Institutions that are less than well capitalized have restrictions or conditions on certain activities and may also be subject to mandatory or discretionary supervisory action.

Although the 1988 Accord was developed for large and internationally active banking organizations, when the Agencies adopted the risk-based capital standards domestically, the standards were applied to all banking organizations regardless of size, structure, complexity, and risk profile. The four broad risk-weight categories, while imperfect, were viewed as a significant improvement over the previous domestic capital framework that did not take into account asset credit quality and discouraged banking organizations from holding low-risk assets. In addition, the capital adequacy framework incorporated off-balance sheet items into the risk-based capital formula. The consistent application of an international regulatory capital regime was also expected to minimize competitive equity concerns.

The 1988 Accord has had a stabilizing effect on the international banking system. Since its inception, capital levels have risen and competitive equity has been enhanced. Over the past decade, however, the world financial system has become more complex and challenging. The Basel Committee on Banking Supervision (Basel Committee) recognizes that the 1988 Accord needs to evolve along with recent financial innovations and changes in the financial marketplace. Accordingly, the Basel Committee is working to develop a new capital adequacy framework that would enhance the 1988 Accord.

As outlined in its June 1999 consultative paper, A New Capital Adequacy Framework, the Basel Committee is contemplating substantial revisions to the 1988 Accord. \6\ Among other things, the Basel Committee is exploring the concept of using sophisticated internal risk measurement systems in the development of minimum capital standards. The Basel Committee is also developing a standardized approach that proposes revisions to the risk-weight framework of the 1988 Accord which might incorporate external ratings in the assessment of a minimum capital requirement.

\6\ The Basel Committee consultative document was issued on June 3, 1999. Comment was requeted through March 2000. The document is available through the Bank for International Settlements website at http://frwebgate.access.gpo.gov/cgi-bin/leaving.cgi?from=leavingFR.html&log=linklog&to=http://www.bis.org.

While the approaches contemplated in the proposed revisions to the 1988 Accord may be appropriate for some large, complex, internationally active banks, many small domestic banking organizations may not have or need the infrastructure to implement a sophisticated internal ratings-based approach to regulatory capital.

Regardless of what revisions are made to the 1988 Accord, however, given the complexity of existing regulatory capital rules, a simplified capital framework could reduce regulatory burden for many institutions without compromising the principles of prudential supervision.

The Agencies wish to explore all options in the development of a regulatory framework for non-complex institutions. The following discussion outlines the Agencies' preliminary views on ways to simplify the regulatory capital framework for such institutions. The Agencies encourage comments from the industry and the public on all aspects of this advance notice of proposed rulemaking.

II. Discussion

A. Overview

This advance notice of proposed rulemaking discusses how non-complex institutions could be defined and presents three possible alternatives for measuring the regulatory capital of non-complex institutions. The Agencies believe that three key factors could serve to define a non-complex institution. These are the nature of the institution's activities, its asset size, and its risk profile. Broadly stated, a relatively small institution engaged in non-complex activities that presents a low-risk profile could be subject to a more simplified capital framework without compromising the safety and soundness of the institution or the banking system. The three broad alternatives for a simplified framework are a simple leverage ratio, a modified leverage ratio and a risk-based framework.

Question 1: Do institutions view maintenance of the current risk-based capital standards as posing undue burden for small institutions? If so, how? Would views change if the current standards were revised to make them more risk-sensitive, in line with the contemplated revisions to the 1988 Basel Accord as set forth in the June 1999 consultative paper?

Question 2: For non-complex institutions, should the Agencies maintain the current risk-based capital standards or develop a simplified capital adequacy framework? What are the advantages and disadvantages of adopting a separate framework?

B. Defining a Non-Complex Institution

The Agencies are considering the nature of a non-complex institution's activities, its asset size, and its risk profile as determinants of eligibility for the simplified capital framework. In general, the Agencies believe that a ``non-complex institution'' would possess the following characteristics:

--A relatively small asset size (e.g., consolidated assets of less than $5 billion).
--A relatively simple and low-risk balance sheet (e.g., primarily traditional, nonvolatile assets and liabilities).
--A moderate level of off-balance sheet activity that is compatible with core business activities (e.g., commitments, in the case of residential lenders).
--A minimal use of financial derivatives (i.e., institution uses financial derivatives solely for risk management purposes.)
--A relatively simple scope of operations and relatively little involvement in nontraditional activities as a source of income.

In this section, the Agencies describe possible criteria that could be used to determine whether an institution could be considered a non-complex institution.

Nature of Activities

Objective criteria could be used to measure the level of complexity associated with the activities conducted by domestic banking organizations. The Consolidated Reports of Condition and Income and Thrift Financial Reports (regulatory reports) provide the Agencies with information on the structure and operations of an institution. While subject to certain limitations, these data elements could provide objective support for defining a set of non-complex institutions.

The Agencies are considering using various data elements as an initial screen for determining whether a particular institution exhibits a ``complex'' profile. That is, where an institution reports a significant amount of certain data elements, the Agencies may consider the institution to be complex. Items collected within regulatory reports that could be used include: Trading assets and liabilities; interest only strips; credit derivatives--guarantor and beneficiary; foreign exchange spot contracts; other off-balance sheet assets and liabilities; foreign exchange, equity, commodity, and other derivatives; purchased mortgage servicing rights; purchased credit card relationships; structured notes; performance standby letters of credit; and interest rate derivatives. Data elements such as these could provide an initial screen for determining whether a particular institution exhibits a ``complex'' profile.

The Agencies envision using additional data elements that might become available due to revisions to regulatory reporting requirements. A concern about such screening criteria is setting an appropriate threshold level for reported activities. The number of institutions that may qualify as non-complex depends upon the threshold level set in establishing the screening criteria.

Question 3: What specific data elements should be considered in determining whether an institution is non-complex? At what level should the thresholds be set for such elements to qualify for the non-complex framework?

Question 4: What information sources other than regulatory reports are available for measuring the level of complexity of domestic banking organizations (e.g., examination reports or other supervisory information or ratings)?

Asset Size

The Agencies believe that a strong relationship exists between the asset size of an institution and its relative complexity. In general, banking organizations of larger asset size exhibit greater levels of complexity. The strength of this correlation changes with the size of the institution. For example, banking organizations with assets of less than $5 billion generally engage in less complex activities than larger banking organizations. This effect is generally more pronounced for institutions with less than $1 billion in assets. However, some smaller banking organizations are engaged in activities reflecting a high level of complexity. The Agencies are considering the extent to which asset size alone might be sufficient to determine which banking organizations may be eligible for the non-complex capital framework.

Question 5: What are the advantages and disadvantages of using asset size to determine ``complexity''? What would be a reasonable and appropriate asset size limit for banking organizations to qualify for the non-complex framework?

Question 6: Should banking organizations within a holding company be subject to an asset size limit based on an aggregate or individual institution basis?

Question 7: Should the Agencies apply a simplified framework to all non-complex institutions regardless of size?

Question 8 :Should off-balance sheet assets (e.g., securitized assets) be considered within the asset size limit? If not, why not?

Risk Profile

The Agencies are considering whether banking organizations of any size that present a higher risk profile should be

required to comply with a more sophisticated risk measurement and capital adequacy framework. A small asset size and lack of complexity do not necessarily equate to lower risk. There can be instances where a small and otherwise non-complex banking organization may be exposed to risks that warrant excluding the institution from the simplified framework.

Factors considered when assessing an institution's overall risk profile should include the level of involvement in activities that present greater degrees of credit, liquidity, market, or other risks, such as sub-prime lending activities, significant asset securitization activities, or trading activities. The issues encountered in trying to define ``high-risk'' are similar to those encountered in trying to define ``non-complex.'' Approaches could include objective measures derived from regulatory reporting data (as discussed previously) or more subjective alternatives that incorporate assessments made by supervisors in reports of examination, or some combination of objective measures and subjective assessments.

Question 9: What methods for determining a ``low-risk'' institution are reasonable and appropriate?

C. Setting a Minimum Capital Threshold for Non-Complex Institutions

While a simplified capital framework for non-complex institutions might be less burdensome, such a framework might also be less risk sensitive and flexible. For this reason, the Agencies believe that the minimum capital standard should be set at a level that more than adequately addresses the risks that may not precisely or specifically be measured and identified by the simplified framework. The minimum capital level in such a framework should be a relatively high threshold above which supervisory concerns regarding capital adequacy are minimized. Therefore, a higher minimum capital requirement may ensure that banking organizations that are exempted from the risk-sensitive measures continue to hold sufficient capital.

Setting a higher minimum capital threshold for non-complex institutions raises issues and concerns. To the greatest extent possible, the simplified framework should avoid creating regulatory arbitrage incentives vis-a-vis the risk-based capital standards. However, the minimum capital level for non-complex institutions must continue to promote safety and soundness. A higher minimum threshold in exchange for simpler standards, therefore, may be an appropriate trade-off.

One method to address these concerns is to establish a system that allows a degree of flexibility in designating an institution non-complex and subject to the simplified capital framework. For example, a non-complex institution could be allowed, but not required, to calculate its capital under the simplified framework. A non-complex institution could instead elect to use the more sophisticated, risk-based framework applicable to international or ``complex'' banking organizations. The trade-off between burden and benefit could be a determination reached by the individual institution, with appropriate supervisory oversight.

Question 10: What factors should be considered in the determination of a minimum threshold capital level for non-complex institutions? Should additional or different elements be included in the definition of capital under a non-complex framework?

Question 11: Should the institution have the option to decide whether to use the simplified framework?

D. Options for Measuring the Capital Adequacy of Non-Complex Institutions

Each option should promote safety and soundness while minimizing regulatory burden. In addition, any alternative to the existing framework would have to be compatible with PCA mandates. The Agencies have some flexibility in establishing a relevant capital measure for non-complex institutions for PCA purposes.\7\ The Agencies do not foresee eliminating the leverage requirements established under the Prompt Corrective Action standards.

\7\ Section 38 of the Federal Deposit Insurance Act (12 U.S.C. 1831o) establishes PCA guidelines as they relate to capital standards. In general, the capital standards prescribed by each appropriate Federal banking agency shall include a leverage limit and a risk-based capital requirement. However, the section also states that an appropriate Federal banking agency may, by regulation, establish any additional relevant capital measures to carry out the purpose of this section, or rescind any relevant capital measure upon determining that the measure is no longer an appropriate means for carrying out the purpose of this section.

The alternatives set out in the following paragraphs are: (1) A risk-based ratio (that maintains a leverage requirement); (2) a leverage ratio; and (3) a modified leverage ratio that incorporates certain off-balance sheet exposures. The Agencies also recognize that the risk-based capital framework remains a viable option for non-complex institutions. The Agencies are seeking input on these and any other alternatives to measure regulatory capital commensurate with the size, structure, complexity, and risk profile of non-complex institutions. Comment is requested on the benefits and drawbacks and potential impact on banking organizations of each approach.

A Risk-Based Ratio

One alternative for a non-complex framework is a risk-based capital standard. Such a risk-based capital standard would be consistent with the principles underlying the evolving risk-based standards under discussion by the Basel Committee, but could be tailored to the size, structure, and risk profile of less complex banking organizations. For example, the risk-based approach could be based upon a modified risk-weight system that is consistent with the structure of non-complex institutions.

Potentially, such a risk-based standard for non-complex institutions could both reduce burden and set capital requirements in relation to risk. Implementation of such a system could also prove advantageous because it would not require a structural overhaul to the way banking organizations currently compute capital requirements.

A potential weakness of such an approach could be that, while striving for the dual purposes of greater simplicity and a better match between capital requirements and risk, the approach might fall short of attaining either goal. In effect, it may turn out that greater simplicity in risk-based capital measures means requirements that are less closely aligned to risk (and closer to a leverage measure).

Alternatively, finer and more accurate measurements of risk that require greater computational complexity in the determination of regulatory capital means greater regulatory burden. A key consideration in the development of a simplified framework is to strike an appropriate balance between these potentially conflicting goals.

A Leverage Ratio

Another option for a capital adequacy measure for non-complex institutions is to use only a leverage ratio. Under this alternative, non-complex institutions would no longer be required to comply with the risk-based capital framework. The leverage ratio provides a simple, straightforward measure of capital relative to total assets.

A concern is that the leverage ratio does not adequately account for off-balance sheet exposures and that a minimum capital requirement should accommodate this expanding area of banking risk. Even non-complex institutions can generate significant off-balance sheet exposures (e.g., by issuing standby letters of credit, selling loans with recourse, or extending short-term loan commitments). Another weakness

of the leverage ratio is that it does not account for the wide spectrum of credit risk and creates an incentive for the institution to avoid investing in low-risk assets.

A Modified Leverage Ratio

To address some of the concerns with the leverage ratio discussed above, it might be appropriate to consider modifying the measure to account for off-balance sheet exposures. A modified leverage ratio could incorporate the simplicity of the leverage ratio while seeking to remedy its main weaknesses. A modified leverage ratio would be a relatively simple measure--a major objective of the non-complex framework. A disadvantage of the modified leverage ratio is that, unlike the risk-based approach, it would provide no capital benefit to banking organizations that maintain a low-risk profile and might encourage institutions to invest in higher-risk assets.

The appropriate capital framework for a non-complex institution depends partly on the screening criteria chosen to assess complexity or risk. If complex or high-risk banking organizations can be effectively screened out of the non-complex category, then the benefits of a leverage-based approach will likely be enhanced. Similarly, if banking organizations with significant off-balance sheet items are screened out of the non-complex framework, then use of a modified leverage ratio (that incorporates off-balance sheet items) might be unnecessary to assure sufficient levels of regulatory capital.

Question 12: What elements of the current risk-based framework should be retained within a simplified risk-based framework? What elements should not be included?

Question 13: Should classes of assets be re-assigned to other and potentially new risk weights, based on relative comparisons of historical charge-off data or other empirical sources, including but not limited to credit ratings?

Question 14: Is a leverage ratio a sufficient method for determining capital adequacy of non-complex institutions in a range of economic conditions?

Question 15: If off-balance sheet items are incorporated into a modified leverage ratio, what items should be incorporated, and how?

Question 16: What degree of burden reduction is foreseeable regarding any of the alternatives? Do the foreseeable benefits of burden reduction outweigh any concerns about establishing a non-complex domestic framework?

E. Implementation Issues

The establishment of a simplified capital framework presents a host of implementation issues. How would banking organizations be placed within the simplified framework? Once subjected to the simplified framework, how would the institution transition to a more complex framework, if needed? Would there be a transition or adjustment period? These implementation issues can be foreseen, but not fully addressed, until a framework is determined.

Moreover, the Agencies must determine the least burdensome and most efficient manner to collect data necessary to identify the universe of non-complex institutions and to provide this information to banking organizations in a timely manner. Options include requiring the Agencies to determine which banking organizations are subject to the non-complex framework using current regulatory reports, or requiring a banking organization to seek entry into the non-complex framework by filing an application.

On an ongoing basis, a change in size, structure, complexity, or risk profile of a non-complex institution could impact its continued eligibility for the simplified framework. Institutions that were no longer deemed ``non-complex'' could be required to comply with the standards applicable to complex banking organizations or to take other remedial steps. For an institution transitioning from the non-complex framework to the complex regime, an adjustment period might be necessary to meet reporting and capital requirements.

Establishment of a process for monitoring on-going eligibility for the simplified framework should also be considered. The process used to collect and report data should not undermine burden reduction, one of the primary objectives of a non-complex framework.

Question 17: How could the non-complex capital adequacy framework be initially implemented and thereafter applied on an ongoing basis?

Question 18: Should banking organizations no longer deemed ``non-complex'' be required to comply with the otherwise applicable capital standards? What other alternatives could be made available for these banking organizations? What types of transition would be most appropriate?

III. OCC and OTS Executive Order 12866 Determination

The Comptroller of the Currency and the Director of the Office of Thrift Supervision have determined that this advance notice of proposed rulemaking does not constitute a significant regulatory action under Executive Order 12866.

Dated: October 26, 2000.

John D. Hawke, Jr.,

Comptroller of the Currency.

By order of the Board of Governors of the Federal Reserve System, October 23, 2000.

Jennifer J. Johnson,

Secretary of the Board.

By order of the Board of Directors.

Dated at Washington, DC, this 17th day of October, 2000.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

Dated: October 19, 2000.

By the Office of Thrift Supervision.

Ellen Seidman,

Director.

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