



6714-01-P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 324

RIN 3064–AE12

Regulatory Capital Rules: Regulatory Capital, Final Revisions Applicable to Banking Organizations Subject to the Advanced Approaches Risk-Based Capital Rule

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Final rule; technical amendment.

SUMMARY: The FDIC is issuing this technical amendment to return text to its regulations that was altered due to a procedural error that allowed a 2014 rule to become effective on January 1, 2018. FDIC did not intend for the 2014 rule to become effective but did not rescind it before its effective date. This rule returns text to a section on capital measures and capital category definitions as it appeared before the codification of the 2014 rule.

DATES: Effective **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]** and applicable beginning April 15, 2016.

FOR FURTHER INFORMATION CONTACT: Valerie J. Best, Supervisory Counsel (Assistant Executive Secretary), vbest@fdic.gov, ph. 202-898-3812; or Michael Phillips, Counsel, mphilips@fdic.gov; Legal Division, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION: This document sets out the text of § 324.403(b)(1)(v) as adopted by the FDIC Board of Directors on June 16, 2015. This technical correction is needed to rescind the impact of a delayed effective date initially prescribed in 2014. On April 8, 2014, the FDIC issued revisions to § 324.403(b)(1)(v), with a delayed effective date of January 1, 2018. 79 FR 24528 at 24541 (May 1, 2014). On July 15, 2015, the FDIC revised § 324.403(b)(1)(i) through (vi). 80 FR 41409 at 41426 (July 15, 2015). In the 2015 **Federal Register** the FDIC specified an effective date of October 1, 2015, but did not specifically rescind the delayed effective date prescribed in the 2014 **Federal Register**. On April 12, 2016, the FDIC issued a correcting amendment with respect to § 324.403 but, again, did not specifically rescind the delayed effective date prescribed in the 2014 **Federal Register**. Because the FDIC did not specifically rescind the delayed effective date, when the delayed effective date occurred on January 1, 2018, the text of § 324.403(b)(1)(v) reverted to the text as it appeared in the 2014 **Federal Register**. But, because the FDIC Board had adopted revisions to the text of § 324.403(b)(1)(v) and (vi) in 2015, as illustrated in the 2015 and 2016 **Federal Registers**, the effect, if uncorrected, is that the text of paragraph (v) duplicates the text of paragraph (vi).

List of Subjects in 12 CFR Part 324

Administrative practice and procedure, Banks, Banking, Capital adequacy, Reporting and recordkeeping requirements, Savings associations, State non-member banks.

12 CFR CHAPTER III

Authority and Issuance

For the reasons stated in the preamble, the Federal Deposit Insurance Corporation amends part 324 of chapter III of Title 12, Code of Federal Regulations as follows:

PART 324—CAPITAL ADEQUACY

1. The authority citation for part 324 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; 5371; 5412; 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); Pub. L. 111–203, 124 Stat. 1376, 1887 (15 U.S.C. 78o–7 note).

2. In § 324.403, revise paragraph (b)(1)(v) to read as follows:

§ 324.403 Capital measures and capital category definitions.

* * * * *

(b) * * *

(1) * * *

(v) Is not subject to any written agreement, order, capital directive, or prompt corrective action directive issued by the FDIC pursuant to section 8 of the FDI Act (12 U.S.C. 1818), the International Lending Supervision Act of 1983 (12 U.S.C. 3907), or the Home Owners' Loan Act (12 U.S.C. 1464(t)(6)(A)(ii)), or section 38 of the FDI Act (12 U.S.C. 1831o), or any regulation thereunder, to meet and maintain a specific capital level for any capital measure; and

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Dated at Washington, DC, on April 17, 2018.

Federal Deposit Insurance Corporation.

Valerie Best,

Assistant Executive Secretary.

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