

BUREAU OF FINANCIAL INSTITUTIONS  
Department of Professional and Financial Regulation  
State of Maine  
January 23, 2015

Bulletin #79 Accumulated Other Comprehensive Income (AOCI) Opt Out Provision

To the Chief Executive Officer Addressed:

On January 1, 2015, revisions to capital regulations affecting U.S. depository institutions took effect.<sup>[1]</sup> The new rules, often known as Basel III, have several provisions, many of which phase-in over time. A key provision of the new rules permits all non-advanced approaches institutions<sup>[2]</sup> to make a one-time, irrevocable election to determine how most items reported in Accumulated Other Comprehensive Income (AOCI) will be handled for regulatory capital purposes. As a reminder, AOCI includes such items as unrealized gains and losses on certain securities. The following information is intended to underscore the importance of this irrevocable election and to encourage you and the institution's board of directors to fully understand the implications of this election prior to March 31, 2015.

With the filing of the March 31, 2015 Consolidated Reports of Condition and Income (Call Report), an institution that is not an advanced approaches institution must choose to either opt out or not opt out of the requirement to include most components of AOCI in common equity tier 1 capital. This election is irrevocable.

- For institutions that opt out, most AOCI items will not be included in the calculation of common equity tier 1 capital. In other words, most AOCI items will be treated, for regulatory capital purposes, in the same manner in which they were prior to the effective date.
- For institutions that do not opt out, most AOCI items will be included in the calculation of common equity tier 1 capital. This will affect the calculation of your legal lending limit pursuant to Title 9-B §439-A and Bureau Regulation 28.
- If a top-tier banking organization makes the AOCI opt-out election, all consolidated banking subsidiary organizations under it must make the same election.

The March 31, 2015 Call Report forms and instructions for Schedule RC-R, Regulatory Capital<sup>[3]</sup> illustrate how to make this election on the reporting forms.

It is recommended that the board of directors of all state-chartered, non-advanced approaches institutions carefully consider all implications of this election in both the long and short terms, as well as in different economic environments. As a reminder, examiners consider the amount of unrealized losses in the investment portfolio (and exposure to the possibility of unrealized losses) when qualitatively assessing capital adequacy and liquidity, regardless of the election decision. This could affect the assignment of CAMELS ratings and supervisory determinations going forward.

The Federal Financial Institutions Examination Council (FFIEC) is expected to conduct a banker teleconference or webcast on the revised Call Report regulatory capital reporting requirements during the first quarter of 2015. Further information about this training opportunity will be forthcoming from the FFIEC. I encourage appropriate staff from your institution to participate. Attached to this notice is a list of references which may also help you and your staff more fully understand these changes.

Please contact Deputy Superintendent Robert Studley (207-624-8573 or [Robert.b.studley@maine.gov](mailto:Robert.b.studley@maine.gov)) of this office if your staff has any questions regarding this important election.

/s/ Lloyd P. LaFountain III  
Superintendent

**Note: This bulletin is intended solely for informational purposes. It is not intended to set forth legal rights, duties or privileges nor is it intended to provide legal advice. Readers are encouraged to consult applicable statutes and regulations and to contact the Bureau of Financial Institutions if additional information is needed.**

#### **Revised Capital Rule References**

To better illustrate the importance of this election, it is helpful to focus on the largest single component of AOCI—unrealized gains and losses on available-for-

sale (AFS) securities. The table below compares how these items impact capital before and after the revised rules take effect and for both institutions that opt out and institutions that do not opt out.

| <b>Investment position</b>   | <b>Treatment for institutions that opt out (same as current treatment)</b> | <b>Treatment for institutions that do not opt out</b> |
|--|--|---|
| <b>Unrealized gains <i>or</i> losses on AFS <i>debt</i> securities</b> | Net Amount Filtered out (excluded from) regulatory capital                 | Recognized in Common Equity Tier 1 Capital            |
| <b>Unrealized losses on AFS <i>equity</i> securities</b>               | Net Amount Recognized in Common Equity Tier 1 Capital                      | Recognized in Common Equity Tier 1 Capital            |
| <b>Unrealized gains on AFS <i>equity</i> securities</b>                | Net Amount Recognized (up to 45%) in Tier 2 Capital                        | Recognized in Common Equity Tier 1 Capital            |

The following online references may prove helpful in further understanding this election and other capital rule revisions.

- [Interagency Community Bank Guide to the New Capital Rule](http://www.fdic.gov/regulations/capital/Community_Bank_Guide.pdf)  
http://www.fdic.gov/regulations/capital/Community\_Bank\_Guide.pdf
- [Expanded Community Bank Guide to the New Capital Rule for FDIC-Supervised Banks](http://www.fdic.gov/regulations/capital/Community_Bank_Guide_Expanded.pdf)  
http://www.fdic.gov/regulations/capital/Community\_Bank\_Guide\_Expanded.pdf
- Part 324: September 3, 2014 Final Rule: Regulatory Capital Rules: [Regulatory Capital, Revisions to the Supplementary Leverage Ratio](https://www.fdic.gov/news/board/2014/2014-09-03_notice_dis_c_fr.pdf)  
https://www.fdic.gov/news/board/2014/2014-09-03\_notice\_dis\_c\_fr.pdf
- FDIC: [Regulatory Capital page](http://www.fdic.gov/regulations/capital/index.html)  
http://www.fdic.gov/regulations/capital/index.html
- FDIC: [Capital Estimation Tool](http://www.fdic.gov/regulations/capital/Bank_Estimation_Tool.xlsm)  
http://www.fdic.gov/regulations/capital/Bank\_Estimation\_Tool.xlsm
- [CSBS Revised Regulatory Capital Rules, Part 324 \(Basel III\) Examiner Job Aid](http://www.csbs.org/regulatory/resources/Documents/Capital%20Basics%20Job%20Aid.pdf)  
http://www.csbs.org/regulatory/resources/Documents/Capital%20Basics%20Job%20Aid.pdf

[1] Federal Register, Vol. 78, No. 198, October 11, 2013. <http://www.gpo.gov/fdsys/pkg/FR-2013-10-11/pdf/2013-21653.pdf>

[2] Generally, those institutions with less than \$250 billion in total assets. These institutions may also be referred to as those using the standardized approach for certain capital calculation purposes.

[3] <https://www.fdic.gov/regulations/resources/call/index.html>