than March 30, 1997, and remain in place for a period of at least five years.

Paulette V. Twine,

Chief, Documentary Services.

[FR Doc. 97–1250 Filed 1–16–97; 8:45 am]

BILLING CODE 4910–62–P

Coast Guard

[CGD 97–002]

Chemical Transportation Advisory Committee; Subcommittee on the Review/Update of Vapor Control System Regulations Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: The Vapor Control System (VCS) Regulations Review/Update Subcommittee of the Chemical Transportation Advisory Committee (CTAC) will meet to evaluate the need for revision of the marine vapor control regulations found in Title 33, Code of Federal Regulations, Part 154 and Title 46, Code of Federal Regulations, Part 39. The meeting is open to the public.

DATES: The meeting of the VCS Subcommittee will be held on January 29–30, 1997, from 9:30 a.m. to 3 p.m. Written material and requests to make oral presentations should reach the Coast Guard on or before January 24, 1997.

ADDRESSES: The meeting of the VCS Subcommittee will be held in the training room at Marine Safety Office Houston-Galveston, 9640 Clinton Drive, Houston, TX 77029. For directions to MSO Houston-Galveston, please contact Lieutenant J.J. Plunkett, Commandant (G–MSO–3), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001.

FOR FURTHER INFORMATION CONTACT: Lieutenant J.J. Plunkett, Commandant (G–MSO–3), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001; telephone (202) 267–0087, fax (202) 267–4570.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. 2.

Agenda of Meeting

The agenda includes the following:

(1) Presentation of each subcommittee member's work thus far and plans for the future.

(2) Review and discuss the work completed by each member.

After a brief meeting together, the subcommittee members will form into two work groups to discuss in detail their assigned tasks. The two groups are Facility VCS work group and Vessel VCS work group.

Procedural

This meeting is open to the public. At the Subcommittee Chairperson's discretion, members of the public may make oral presentations during the meeting. Persons wishing to make oral presentations at the meeting should notify Mr. Paul J. Book no later than January 24, 1997. Written material for distribution at the meeting should reach the Coast Guard no later than January 24, 1997. If a person submitting material would like a copy distributed to each member of the subcommittee on advance of the meeting, that person should submit 25 copies to Mr. Book no later than January 24, 1997.

Information on Services for the Handicapped

For information on facilities or services for the handicapped or to request special assistance at the meeting, contact Lieutenant Plunkett as soon as possible.

Dated: January 10, 1997.

Joseph J. Angelo,

Director of Standards, Marine Safety and Environmental Protection.

[FR Doc. 97–1175 Filed 1–16–97; 8:45 am]

BILLING CODE 4910–14–M

Surface Transportation Board

[STB Docket No. AB–43 (Sub-No. 163)]

Illinois Central Railroad Company—Abandonment—Between Aberdeen Junction and Kosciusko, in Holmes and Attala Counties, MS

AGENCY: Surface Transportation Board.

ACTION: Notice of Findings.

SUMMARY: The Board has found that the public convenience and necessity permit Illinois Central Railroad Company to abandon its 21.70-mile rail line between milepost H–0.20 at Aberdeen Junction and milepost H–21.90 at Kosciusko, in Holmes and Attala Counties, MS, subject to environmental conditions and standard employee protective conditions.

DATES: The Board's decision will be effective and abandonment may be carried out on February 12, 1997, unless, prior to that date, the Board finds that one or more financially responsible persons have offered financial assistance (through subsidy or purchase) regarding the line.

Financial assistance offers must be filed with the Board and the railroad no later than January 28, 1997. Any offer previously made must be remade by the due date.

ADDRESSES: Send offers of financial assistance referring to STB Docket No. AB–43 (Sub-No. 163) to: (1) Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, NW, Washington, DC 20423; and (2) Illinois Central's representative: Myles L. Tobin, Illinois Central Railroad Company, 455 North Cityfront Plaza Drive, Chicago, IL 60611–5504. The following notation must be typed in bold face on the lower left-hand corner of the envelope containing the offer mailed to the Board: ''Office of Proceedings, AB-OFA.''

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 927–5660. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10904 and 49 CFR 1152.27.

Decided: January 13, 1997.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 97–1215 Filed 1–16–97; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[No. 97–3]

Capital and Accounting Standards

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Notice.

SUMMARY: Pursuant to the reporting requirements of section 121 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA), we have submitted our report to the Chairman and ranking minority member of the Committee on Banking, Housing and Urban Affairs of the Senate and the Chairman and ranking minority member of the Committee on Banking and Financial Services of the House of Representatives identifying the differences between the capital and accounting standards used by the office of Thrift Supervision (OTS) and the capital and accounting standards used by the Office of the Comptroller of the Currency (OCC), the Federal Deposit Insurance Corporation (FDIC) and the Board of Governors of, the Federal Reserve System (FRB)(collectively, the banking agencies).

Our report contains two attachments. Attachment I, ''Summary of Differences in Capital Standards,'' identifies and explains the reasons for differences in the OTS capital standards and those of the other banking agencies. Attachment II, ''Summary of Differences in Accounting Practices,'' identifies and explains the reasons for the major differences between OTS and the other banking agencies in supervisory reporting practices that affect their respective capital standards.

Despite some differences, the capital and accounting rules of OTS generally parallel those of the banking agencies (collectively, the ''agencies''). Many of the differences result from either statutory requirements (*e.g.*, deduction of investment in subsidiaries engaged in activities impermissible for national banks) or historical differences between the banking and thrift industries (*e.g.*, investment authorities, mutual form of organization).

Moreover, the agencies continue to work together to minimize their current differences and to ensure that the new rules and policies they adopt are consistent and result in a uniform national banking policy. The agencies frequently issue joint regulatory and policy documents in working toward the general goal of interagency consistency set forth in section 303 of the Reigle Community Development and Regulatory Improvement Act of 1994 (CDRIA).

Today's report reflects differences as of September 30, 1996. It indicates how these differences will be resolved, in accordance with the agencies' *Joint Report: Streamlining of Regulatory Requirements* (Sept. 23, 1996) (Joint Report).

Furthermore, the OTS requires that savings associations follow generally accepted accounting principles (GAAP) for regulatory reports. This complies with the requirement of section 121(a) of FDICIA that the accounting principles applicable to reports or statements filed with OTS be consistent with GAAP.

The OTS capital standards comply with the requirements of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), including the general requirement that the capital standards applicable to savings associations be no less stringent than those applicable to national banks.

EFFECTIVE DATE: January 17, 1997.

FOR FURTHER INFORMATION CONTACT: John Connolly, Senior Program Manager for Capital Policy, (202) 906–6465, Supervision Policy; or Timothy J. Stier, Chief Accountant, (202) 906–5699, Accounting Policy, Supervision, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

Attachment I—Summary of Differences in Capital Standards

FDICIA requires a report to Congress on the differences in the capital standards for banks and savings associations. Below is a summary of the differences.

A. Major Differences

1. Interest-Rate Risk Component

Interest-Rate Risk Component: The OTS has adopted a final rule incorporating an interest-rate risk component into its risk-based capital requirements. Under the rule, institutions with an above-normal level of interest-rate risk will be subject to a capital charge commensurate with their risk exposure. Institutions have been submitting their interest-risk data and receiving a report on their interest-risk exposure under the OTS model from OTS staff since March 1991. This interest-rate risk analysis is considered so valuable by savings associations that a considerable number of associations not required to file reports do so voluntarily. Furthermore, the OTS supervisory staff considers institutions' interest-rate risk exposure in assessing institutions' capital adequacy and asset/liability management. OTS has not yet implemented the requirement for associations to deduct an interest-rate risk component in calculating their risk-based capital.

The banking agencies also are implementing policies under which they consider banks' interest-rate risk exposure in the examination process. On August 2, 1995, the banking agencies published a joint final rule in the Federal Register on interest-rate risk. See 60 FR 39490 (August 2, 1995). The final rule amends their capital adequacy guidelines to clarify the authority of the banking agencies to include in their evaluation of bank capital adequacy an assessment of banks' exposure to declines in capital due to interest rate movements. Concurrent with the publication of the final rule, the banking agencies issued a joint policy statement for comment that describes the process that the banking agencies will use to measure and assess the exposure of a bank's economic value to changes in interest rates. See 60 FR 39495 (August 2, 1995).

The OTS interest-rate risk approach differs from that of the banking agencies in important respects. The major differences are the methodology and data used to measure interest rate exposure.

Reason for OTS Difference: Because interest-rate risk is a significant risk to savings associations, OTS believes that it is important to use a relatively sophisticated model to measure the interest-rate risk exposure of individual institutions. OTS believes that it is particularly important to use a model that is capable of measuring the option component in mortgages and the effect of financial derivatives on an institution's overall interest-rate-risk exposure. As a consequence, OTS uses an option-based pricing model to measure exposure and collects detailed financial data on a reporting form that was designed to provide the financial data that OTS needs to measure exposure.

2. Leverage Ratio Standard

The agencies use uniform leverage ratio standards for purposes of the capital ratio thresholds used in defining the prompt corrective action (PCA) categories under section 38 of the Federal Deposit Insurance Act (FDIA). Institutions, other than CAMEL–1 rated institutions, must satisfy a leverage ratio standard requiring institutions to have Tier 1 (core) capital equal to four percent of assets to be adequately capitalized for purposes of the prompt corrective action system. The leverage ratio standard for CAMEL–1 rated institutions only requires them to have Tier 1 (core) capital equal to three percent of assets, although most CAMEL–1 rated institutions exceed this requirement by a wide margin. The leverage ratio requirements in the banking agencies' capital regulations mirror those in their PCA regulations.

Although the OTS capital rule continues to contain a three percent leverage ratio requirement, the four percent leverage ratio requirement to be ''adequately capitalized'' for PCA purposes is, in effect, the controlling standard for thrifts.

Reason for OTS Difference: Initial adoption of a three percent leverage ratio requirement in the OTS capital rule in 1989 prior to adoption of the banking agencies' current standard. As indicated in the September 23 Joint Report, the agencies will be issuing a proposed rule to make all of their leverage ratio regulations uniform.

3. Subsidiaries

Subsidiary (general): OTS defines a subsidiary as a five percent or greater ownership interest in an entity. The OTS requires full consolidation of any subsidiary with its parent association if the subsidiary is consolidated for reporting purposes consistent with generally accepted accounting principles (GAAP) (except for subsidiaries engaged as principal in activities impermissible for national banks, as described below). If an association owns a five percent or greater interest, but does not have control under GAAP, OTS requires pro-rata consolidation, as discussed below.

The banking agencies generally follow the GAAP approach for the definition and consolidation of subsidiaries, but do not require consolidation of subsidiaries not exceeding certain ''de minimis'' thresholds. Subject to these exceptions, subsidiaries generally are fully consolidated if the parent institution holds more than 50 percent of the outstanding voting stock, or if the subsidiary is otherwise controlled or capable of being controlled by the parent institution (*see* exception for depository institutions).

The OTS, however, instead of applying, ''pro rata'' consolidation, has decided to use its discretion under its capital rule to follow GAAP and the banking agencies' approach in consolidating community development subsidiaries and low-income housing tax credit limited partnerships.

Reason for OTS Difference: Policy decision in 1989 based, in part, on the wide array of subsidiaries that state-chartered associations had previously been permitted to hold. In 1994, however, the OTS decided to follow the consolidation approach of GAAP and the other Federal banking agencies in consolidating community development subsidiaries. This beneficial capital treatment avoids the requirement for associations to deduct their investments in community development subsidiaries engaged in activities that are permissible for subsidiaries of national banks, but impermissible for national banks themselves. In June 1996, the OTS proposed to define ''subsidiary'' for capital purposes generally in the same manner as the banking agencies.

Subsidiaries (impermissible): FIRREA and the OTS capital rule require the deduction from core capital of savings associations' investments in and loans to subsidiaries that engage in activities not permissible for national banks. Generally, any new investment after April 13, 1989, in such nonincludable subsidiaries has had to be deducted immediately. Furthermore, because all transition schedules for grandfathered investments in nonincludable subsidiaries expired as of June 30, 1996, all investments in nonincludable subsidiaries must be deducted in computing core capital.

As of July 1, 1996, savings associations must deduct all investments in, and extensions of credit to, nonincludable real estate subsidiaries, consistent with the deduction requirement applicable to other types of nonincludable subsidiaries since July 1, 1994.

The banking agencies may require the deduction of investments in certain subsidiaries, generally on a case-by-case basis. For example, the FRB deducts investments in, and unsecured advances to, Section 20 securities subsidiaries from a member bank's capital. The FDIC similarly deducts investments in, and unsecured advances to, securities subsidiaries and mortgage banking subsidiaries. The FDIC also exercises similar authority over the subsidiaries of state nonmember banks engaged in activities not permissible for national banks.

Reason for OTS Difference: The Home Owners' Loan Act, as amended by FIRREA, requires associations to deduct investments in and loans to subsidiaries engaged as principal in activities impermissible for national banks. Generally, savings associations are required to deduct the total amount of their investments in, and advances to, such nonincludable subsidiaries.

The deduction of investments in subsidiaries from parent associations' capital is designed to insulate associations' capital from activities potentially riskier than those in which associations are permitted to engage. The statutory standard for whether an activity is risky is whether a national bank may engage in that activity, plus certain other expressly permissible activities.

Subsidiaries (Permissible—Minority Ownership): The OTS capital rule, as discussed above, requires the pro-rata consolidation of subsidiaries where the association does not have control, as defined under GAAP, but owns a five percent or greater ownership interest in the subsidiary. The banking agencies generally require capital to be held only against the investments in such subsidiaries but may, on a case-by-case basis, deduct them from capital or consolidate them either fully or on a pro-rata basis.

Reason for OTS Difference: Policy decision in 1989 to ensure ample capital against the diverse assets then held by thrift subsidiaries, particularly subsidiaries of certain state-chartered associations. The proposed changes to the OTS's definition of subsidiary for capital purposes will remove this difference.

Subsidiaries (Lower-tier Depository Institutions): Under OTS rules, a depository institution subsidiary is automatically consolidated with its parent association if the subsidiary was acquired prior to May 1, 1989. The parent association's investment in such subsidiaries is automatically excluded from the parent association's capital if the depository institution subsidiary was acquired on or after May 1, 1989, unless it engages only in activities permissible for a national bank. On a case-by-case basis, the OTS requires consolidation of lower-tier depository institutions, if consolidation results in a higher capital requirement than the exclusion requirement. For purposes of risk-based capital, the banking agencies generally consolidate majority-owned subsidiaries.

Reason for OTS Difference: The Home Owners' Loan Act, as amended by FIRREA, requires associations to deduct investments in and loans to subsidiaries, including depository institutions acquired after May 1, 1989, engaged as principal in activities impermissible for national banks. OTS's policy addresses the need for both the parent and subsidiary institutions to have adequate capital on a consolidated and unconsolidated basis. It also ensures that OTS capital standards are at least as stringent as those imposed on banks. (HOLA sections 5(t)(5)(A), (C), (E)) .

4. *Equity Investments:* Savings associations must deduct the amount of their equity investments, as defined in the OTS capital rule, in computing total capital used to satisfy their risk-based capital requirements. The banking agencies allow only a limited range of equity investments and place those investments in the 100 percent risk-weight category, rather than requiring deduction.

In March 1993, OTS issued a final rule that provides parallel treatment of equity investments for thrifts and national banks. Equity investments of thrifts that are permissible for national banks (primarily stock of Freddie Mac, stock of Fannie Mae and certain loans with equity characteristics) are placed in the 100 percent risk-weight category.

Reason for OTS Difference: OTS will continue to require the deduction from capital of equity investments that are impermissible for national banks. This approach is designed to insulate the institution and the insurance fund from the risk of these investments. This policy is intended to result in such investments being either divested or ''pushed down'' into subsidiaries, where savings associations can limit their liability and attempt to attract partial market funding for the subsidiaries. The OTS will address the safety and soundness of equity investments of thrifts that are permissible for national banks through the same capital and supervisory approach used by the banking agencies.

5. *20 Percent Risk-Weight for High Quality Mortgage-backed Securities:* OTS includes agency securities (i.e., issued by Freddie Mac or Fannie Mae) in the 20 percent risk-weight category. OTS also places high-quality, private-issue, mortgage-related securities (i.e., eligible securities under the Secondary Mortgage Market Enhancement Act (SMMEA)) in the 20 percent risk-weight category. These private-issue mortgage-backed securities represent interests in residential or mixed-use real estate and are rated in one of the two highest investment-grade rating categories by a nationally recognized statistical rating organization. Generally, the banking agencies place private-issue, mortgage-backed securities in the 50 percent or 100 percent risk-weight category.

Reason for OTS Difference: Policy decision to take the high credit quality of these securities into account in risk-weighting these securities.

6. *Qualifying Multifamily Mortgage Loans:* OTS and the banking agencies have uniform rules placing multifamily loans satisfying the criteria of section 618(b) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 (RTC Act), in the 50 percent risk-weight category.

The OTS, however, extended grandfathered treatment to multifamily mortgage loans that were in the 50 percent risk-weight category under a prior OTS rule in March 1994, when OTS adopted its rule implementing section 618(b) of the RTC Act. Those low-risk, grandfathered multifamily loans must continue to satisfy the criteria of the prior OTS rule. Those criteria are that the loans are secured by multifamily residential buildings with 5–36 units, have maximum 80 percent loan-to-value ratios and maintain occupancy rates of at least 80 percent.

Reason for OTS Difference: The rules of the OTS and the banking agencies are generally consistent. The OTS, however, decided to extend grandfathered treatment to low-risk multifamily loans previously qualifying for the 50 percent risk-weight category under the prior OTS multifamily rule.

7. *Intangible Assets and Mortgage Servicing Rights:* The final rule on the capital treatment of intangible assets adopted by the OTS generally is consistent with the rules adopted by the banking agencies. The OTS rule, however, contains a grandfathering provision and a transition provision for purchased mortgage servicing rights included in capital prior to adoption of the revised final rule.

The OTS rule also contains a grandfathering provision allowing continued inclusion of core deposit premiums included in associations' capital on the effective date of the final rule. These core deposit premiums were previously included in capital pursuant to temporary OTS guidance if an association's management determined that they passed a three-part test and the amount included did not exceed 25 percent of core capital. The new rule requires the deduction of nongrandfathered core deposit premiums from capital.

In August 1995, the OTS also issued a joint rule with the other banking agencies adopting uniform interim capital treatment of originated mortgage servicing rights. The Financial Accounting Standards Board required originated mortgage servicing rights to be capitalized in accordance with prescribed valuation criteria by adopting Statement of Financial Accounting Standard No. 122, ''Accounting for Mortgage Servicing Rights'', in May 1995. The joint interim rule generally applies the same treatment to originated mortgage servicing rights that the agencies previously applied to purchased mortgage servicing rights. This capital treatment includes a 50 percent of Tier 1 capital limit and valuation at the lower of 90 percent of fair market value or 100 percent of amortized book value.

Reason for OTS Difference: The treatment of intangible assets and mortgage servicing rights under the capital rules of OTS and the banking agencies are generally uniform. The OTS, however, decided to allow associations to continue to include purchased mortgage servicing rights and core deposit premiums in capital computations if the specific assets had previously been included in associations' capital under prior OTS rule or policy.

8. Recourse Arrangements

Assets Sold with Recourse (Nonmortgage): If a savings association makes a GAAP sale of nonmortgage assets with recourse, the OTS (i) treats the transaction as a sale for purpose of reporting and leverage ratio computation and (ii) requires capital to be held against the total amount of the loans sold with recourse in calculating the association's risk-based capital requirement. Despite being a GAAP sale, the banking agencies treat the transaction as a financing. This means that the original assets are considered still on the books, along with the proceeds received, in computing the leverage and risk-based assets.

Reason for OTS Difference: OTS follows GAAP in determining whether a transaction is a sale for reporting purposes and in computing associations' leverage ratio capital requirements. The OTS policy also ensures that the economic risk to associations from sales with recourse is captured in determining associations' risk-based capital requirements.

Assets Sold with Recourse (Mortgages—Private Transactions): If a savings association sells mortgage assets with recourse to private entities and the transaction is treated as a sale under GAAP, OTS follows the same policy as it follows regarding sales of nonmortgage assets. Under this policy, OTS (i) treats the transaction as a sale and (ii) requires capital to be held against the total amount of loans sold with recourse in calculating the association's risk-based capital requirement.

A bank that sells pools of residential mortgages to private entities with recourse generally is required to hold the full amount of capital against the mortgages sold, as well as the proceeds received, regardless of the amount of recourse retained and the treatment of the transactions for regulatory reporting purposes.

The rules of the FRB and OCC, however, provide that no capital is required against pools of 1- to 4-family mortgages sold to private entities with ''insignificant recourse'' (i.e., less than expected losses) for which a specific noncapital reserve or liability account is established and maintained for the maximum amount of possible loss under the recourse provision.

If ''*significant*'' recourse is retained, the transaction is not reported as a sale and the assets remain on the balance sheet. Capital is required to be held against the on-balance sheet amount of the assets. The FDIC follows this approach for all sales with recourse; the FDIC has not adopted an ''insignificant recourse'' policy.

Reason for OTS Difference: OTS follows GAAP in determining whether a transaction is a sale for reporting purposes and in computing associations' leverage ratio capital requirement. The OTS policy also ensures that the economic risk to associations from sales with recourse will be captured in determining their risk-based capital requirements. The banking agencies' application of their limited recourse provisions for computing banks' risk-based capital requirements has affected the significance of the ‘‘insignificant recourse’’ provisions of the FRB and OCC.

Assets Sold with Recourse (Limited Recourse): In accordance with section 350 of the Riegle Community Development and Regulatory Improvement Act of 1994, the banking agencies adopted a low-level recourse rule. The OTS adopted its low-level recourse provision in 1989. The remaining difference regarding such sales with recourse is that the OTS follows GAAP in according sales treatment to those transactions for reporting and leverage computation purposes. The banking agencies generally do not accord sales treatment to sales with low-level recourse and continue to treat the transaction as a financing in computing banks’ leverage ratio requirements, subject to the ‘‘insignificant recourse’’ provisions of the FRB and OCC.

Reason for OTS Difference: The agencies, low-level recourse provisions, in accordance with section 350 of the Riegle Act, limit an institution’s capital requirement to its maximum contractual liability under its recourse obligation. The difference between OTS and the banking agencies for reporting and leverage ratio purposes is caused by the OTS decision to follow GAAP in determining whether to accord sales treatment.

Recourse Servicing: Where savings associations are responsible for credit losses on loans they service, OTS requires capital against the amount of the underlying loans consistent with the recourse policy set forth above. Although savings associations do not own the underlying assets, they have a contingent liability and are subject to losses on those loans. OTS requires associations to hold capital against the underlying loans posing economic risk for the associations. The banking agencies do not assess capital on the underlying loans but only on the value of the servicing rights.

Reason for OTS difference: Policy decision to assess capital on underlying loans to buffer associations from the risk of loss on such loans.

9. *Purchased Subordinated Securities:* The OTS risk-based capital standard requires associations to hold capital against the amount of their subordinated securities and any more senior securities. It does not matter whether the subordinated securities were acquired from others or result from the securitization of loans they originated. Associations’ risk-based capital requirements are limited, however, by the low-level recourse provision.

Banks are only required to hold capital against the amount of more senior securities if the institution originated and sold the underlying loans. The banking agencies do not require banks to hold capital against securities senior to acquired subordinated securities if a bank acquired the securities in the market from third parties.

Reason for OTS Difference: Policy decision to ensure appropriate capital against risk of these assets. Whether institutions create subordinated securities or purchase subordinated securities, the risks are similar.

10. *Consequences of Failure to Meet Capital Standards:* The PCA provisions of FDICIA impose a stringent regulatory regimen on thrifts and banks failing their capital requirements. The PCA provisions of section 131 of FDICIA establish five regulatory categories, with the distinctions primarily based on institutions’ capital ratios. Section 131 imposes various sanctions and restrictions on institutions in the lower three PCA categories, while other regulations (brokered deposits and the risk-based premium rules of the FDIC) provide preferential treatment to the well-capitalized institutions. The agencies issued a joint preamble and parallel rules implementing PCA.

Savings associations are also subject to additional restrictions and requirements under the HOLA, as enacted in FIRREA. The OTS will continue to apply these provisions to savings associations, but is coordinating their implementation with the PCA provisions to the extent possible. The HOLA provisions do not apply to banks.

Reason for OTS Difference: The agencies have adopted uniform rules implementing the PCA provisions of FDICIA. The HOLA, however, continues to impose additional restrictions on savings associations (HOLA section 5(t)(6)).

11. Collateralized Transactions

Since December 1994, the agencies have had three different rules for the capital treatment of transactions that are supported by qualifying collateral. The FDIC’s and OTS’s risk-based capital standards provide that the portion of a transaction collateralized by cash on deposit in the lending institution or by the market value of central government securities of countries that are members of the Organization for Economic Cooperation and Development (OECD securities) may be assigned to the 20 percent risk-weight category. The FRB’s general rule is like the FDIC’s and OTS’s rule, but with a limited exception. The exception is that transactions fully collateralized with cash or OECD securities marked-to-market daily with positive collateral margin maintained. The OCC’s rule permits the portion of a transaction that is collateralized with a positive margin by cash or OECD securities, which must be marked-to-market daily, to receive a zero percent risk-weighting.

Reason for OTS Difference: The OTS and FDIC regulations on collateralized transactions have not been changed since 1989. The FRB and OCC revised their regulations in different ways in 1992 and 1994, respectively. As indicated in the September 23 Joint Report, consistent with section 303 of the Riegle Act, in August, 1996, the agencies jointly proposed a uniform approach to the capital treatment of collateralized transactions. Under the proposed approach, designated portions of claims are included in the zero percent risk-weight category if the institution marks the designated portion to market daily and requires the obligor to adjust the amount of underlying collateral to maintain a positive daily margin on the designated portion of the claim.

B. Minor Differences

1. *1.5 Percent Tangible Capital Requirement:* OTS has an explicit 1.5 percent tangible capital requirement; the bank regulators do not.

Reason for OTS Difference: FIRREA required OTS to establish a tangible capital requirement of at least 1.5 percen of assets. (HOLA 5(t)(2)(B)).

2. *Collateralized Mortgage Obligations (CMO) Tranches:* In its final interest-rate risk rule, OTS eliminated the placement of stripped securities and certain collateralized mortgage obligations in the 100 percent risk-weight category because of their interest-rate risk sensitivity. The OTS interest-rate risk model evaluates the interest-rate risk stemming from these assets. The OTS examination and supervisory staffs consider associations, interest-rate risk exposure, along with aspects of associations, capital position, in determining the associations, capital adequacy under the CAMEL system. Residual securities remain in the 100 percent risk-weight category because of their degree of credit risk and other risks.

The banking agencies vary in their approach: OCC has stated that any CMO tranche absorbing more than its pro-rata share of the risk of losing principal is risk-weighted at 100 percent (others generally at 20 percent); FRB has stated that any CMO tranche absorbing more than its pro-rata share of loss is risk-weighted at 100 percent (others generally at 20 percent); FDIC undertakes a case-by-case review.

Reason for OTS Difference: Policy decision to address the interest-rate risk of CMOs through the OTS interest-rate risk rule, model and supervisory oversight. Policy determination that dealing with these securities in this way made continued risk-weighting for credit risk in the 100 percent risk-weight category unwarranted. The degree of credit risk and other risks to which residual securities expose associations warrant their continued risk-weighting in the 100 percent risk-weight category.

3. *Pledged Deposits/Nonwithdrawable Accounts:* OTS includes these instruments as core capital for mutual associations if they meet the same requirements as non-cumulative perpetual preferred stock. If they do not meet the requirements for inclusion in core capital, OTS includes them as supplementary capital provided they meet the standards for preferred stock or subordinated debt. The banking agencies do not address this issue because these instruments represent the capital of mutual associations legally restricted from issuing equity securities (i.e., their depositor members are their owners). Banks generally are not organized in mutual form.

Reason for OTS Difference: Policy decision to treat these instruments the same as the equity instruments of corporate thrifts because they provide the same protection as equity to the mutual associations and the deposit insurance fund.

4. *Qualifying Single Family Mortgage Loans:* In order to be placed in the 50 percent risk-weight category, OTS requires that mortgages have no more than an 80 percent loan-to-value (LTV) ratio (unless they have private mortgage insurance (PMI) bringing the LTV ratio down to 80 percent). The banking agencies require ''prudent, conservative'' underwriting without specific LTV ratio requirements.

Reason for OTS Difference: Policy decision to make explicit what OTS believes is generally ''prudent and conservative''; the banking agencies generally include a similar LTV standard in their examiner guidance.

5. *Loans to Individual Purchasers for the Construction of Their Homes:* OTS and OCC place these assets in the 50 percent risk-weight category. The FRB and FDIC may treat them as construction loans (100 percent) or as mortgage loans (50 percent) depending on their characteristics.

Reason for OTS Difference: Policy decision to include such loans in standard treatment of 1–4 family mortgage loans, as does the OCC. As indicated in the September 23 Joint Report, the agencies expect to issue a proposal to make their regulations uniform in this area.

6. *Holding of First and Second Liens on Home Mortgages by the Same Institution:* The FRB and OTS generally treat first and second liens held by the same institution as single loans if there are no intervening liens. The OCC generally places second liens in the 100 percent risk-weight category. The FDIC combines first and second liens in evaluating whether the first lien is prudently underwritten, but places all second liens in the 100 percent risk-weight category.

Reason for OTS Difference: Policy decision generally to treat two extensions of credit to the same individual and secured by the same 1–4 family residence the same as a single extension of credit. The combined credit should be placed in the appropriate risk-weight depending on whether the combined credit meets the other criteria for a qualifying mortgage loan. As indicated in the September 23 Joint Report, the agencies expect to issue a proposal to make their regulations uniform in this area.

7. *Rules on Maturing Capital Instruments (MCI):* OTS and the banking agencies use different rules to determine how much of MCI counts toward capital. OTS (i) grandfathers issuances of MCI issued on or before November 7, 1989 (which was the date of the rule change) and (ii) allows two options for issuances of MCI after November 7, 1989 (a) the bank rule (five year amortization) or (b) a limit of 20 percent of total capital maturing in any one year for instruments within seven years of maturity.

The banking agencies require use of the straight five-year approach.

Reason for OTS Difference: Policy decision to minimize unnecessary disincentives for issuance of subordinated debt and to avoid unduly penalizing pre-FIRREA issuances of MCI.

8. *Limitation on Subordinated Debt:* The banking agencies limit subordinated debt to 50 percent of core capital. OTS has no limit on the amount of subordinated debt that can count as supplementary capital.

Reason for OTS Difference: Policy decision to encourage issuance of supplementary capital.

9. *Nonresidential Construction and Land Loans:* OTS requires the amount of these loans above an 80 percent LTV ratio to be deducted from total capital (with a five year phase-in). The banking agencies place the whole loan amount in the 100 percent risk-weight category.

Reason for OTS Difference: Policy decision to ensure appropriate capital against risk of these assets. OTS experience indicates that high-LTV ratio land loans and nonresidential construction loans present particularly high levels of risk.

10. *FSLIC/FDIC-covered Assets:* OTS places these assets in the zero percent risk-weight category. The banking agencies generally place these assets in the 20 percent risk-weight category.

Reason for OTS Difference: Policy decision to recognize OTS Capital and Accounting Standards that these assets have never resulted in losses and that these government guaranteed obligations are supported by a ''backup'' call on the United States Treasury.

11. *Mutual Funds*: In general, OTS establishes the risk weighting for mutual funds on the asset with the highest capital requirement actually held by the mutual fund. The banking agencies base their capital charge on the highest risk-weighted asset that is a permissible investment by the mutual fund. The 20 percent risk-weight category is the lowest risk-weight category in which associations may place mutual fund investments.

OTS allows, on a case-by-case basis, ''pro-rata'' risk-weighting of investments in mutual funds, based on the assets of the mutual fund (i.e., if 90 percent of a mutual fund's assets are 20 percent risk-weight assets and 10 percent are 100 percent risk-weight assets, we may allow 90 percent of the investment in 20 percent risk-weight category and 10 percent in the 100 percent risk-weight category). The OCC permits national banks to pro-rate mutual fund investments between risk-weight categories based on the maximum amount of different types of assets that mutual funds may hold in accordance with their prospectuses. The FDIC and FRB do not allow banks to pro-rate mutual fund investments between risk-weight categories.

Reason for OTS Difference: Policy decision to ensure appropriate capital against the risk of these assets. OTS believes that allowing institutions to pro-rate their investments and focus on ''actual'' assets ensures that savings associations hold capital in an amount essentially equivalent to that required if they directly held the assets in which the mutual fund invested. However, as indicated in the September 23 Joint Report, the agencies expect to issue a proposal in the near future to make their regulations uniform in this area.

12. *Capital Requirement on Holding Companies:* FRB applies the risk-based

capital requirements to bank holding companies; OTS does not apply them to thrift holding companies.

Reason for OTS Difference: OTS policy decision to not impose capital requirements on corporate entities because they do not pose a risk to the deposit insurance fund.

13. *Agricultural Loan Losses:* The banking agencies, due to a statutory requirement, allow such losses to be deferred (and, effectively, allow these losses to be ''included'' in supplementary capital). OTS does not allow such losses to be deferred or included in assets or capital.

Reason for OTS Difference: OTS has no statutory requirement to allow such deferred losses in assets or capital.

14. *Income Capital Certificates (ICCS) and Mutual Capital Certificates (MCCs):* OTS allows inclusion in supplementary capital. Because these items do not exist in the banking industry, the banking agencies do not address them.

Reason for OTS Difference: ICCs/MCCs are counted as supplementary capital due to their being functionally equivalent to net worth certificates (which are required, by statute, to be included in capital).

Attachment II—Summary of Differences in Accounting Practices

Differences by each agency in accounting or supervisory reporting practices may cause differences in amounts of regulatory capital maintained by depository institutions. These differences are the result of an evolutionary process that primarily reflects historical agency philosophy and industry trends.

The OTS follows generally accepted accounting principles for regulatory reporting purposes. The other banking agencies require banks to follow certain prescribed regulatory accounting principles (RAP) instead of GAAP for reporting purposes. The banking agencies, however, are contemplating moving toward GAAP reporting in 1997, which will eliminate most remaining differences between the reporting of OTS and the other banking agencies.

A summary of these differences is presented below.

1. Futures and Forward Contracts

OTS practice is to follow generally accepted accounting principles. In accordance with SFAS 80, when hedging criteria are satisfied, the accounting for the futures contract shall be related to the accounting for the hedged item. Changes in the market value of the futures contract are recognized in income when the effects of related changes in the price or interest rate of the hedged item are recognized. Such reporting can result in deferred gains and losses in accordance with GAAP.

The banking agencies do not follow GAAP, but report changes in the market value of futures contracts even when used as hedges in the current period's income statement. However, futures contracts used to hedge mortgage banking operations are reported in accordance with GAAP.

2. Excess Service Fees

OTS practice is to follow GAAP in valuing excess service fees. When loans are sold with servicing retained and the stated servicing fee rate differs materially from a normal servicing fee rate, the sales price should be adjusted in determining the gain or loss from the sale of the loans. This provides for the recognition of a normal fee in each subsequent year that servicing continues on the loans. The gain recorded at the date of sale cannot be larger than the gain assuming the loans were sold servicing released. The subsequent valuation of the excess servicing is adjusted based upon anticipated prepayment rates and interest rates.

The banking agencies follow GAAP for residential mortgage loan pools. For all other types of loans, the banking agencies do not follow GAAP. In those cases they require that excess servicing fees retained on loans sold be reported as realized over the contractual life of the transferred asset.

3. In-Substance Defeasance of Debt

OTS practice is to follow GAAP. In accordance with SFAS 76, when a debtor irrevocably places risk-free monetary assets in a trust solely to satisfy the debt and the possibility that the debtor will be required to make further payments is remote, the debt is considered extinguished. The transfer can result in a gain or loss in the current period.

The banking agencies do not follow GAAP. The banking agencies continue to report the defeased debt as a liability and the securities contributed to the trust as assets with no recognition of any gain or loss on the transaction.

4. Sales of Assets with Recourse

OTS practice is to follow GAAP. A transfer of receivables with recourse is recognized as a sale under GAAP if (i) the transferor surrenders control of the future economic benefits, (ii) the transferor's obligation under the recourse provisions can be reasonably estimated, and (iii) the transferee cannot require repurchase of the receivables except pursuant to the recourse provisions.

However, in the calculation of OTS risk-based capital, certain off-balance sheet conversions are performed that result in capital being required for the risk retained. See further discussion of capital differences with respect to this item in Attachment I, Capital Differences.

The practice of the banking agencies is generally to report transfers of receivables with recourse as sales only when the transferring institution (i) retains no risk of loss from the assets transferred and (ii) has no obligation for the payment of principal or interest on the assets transferred. As a result, assets transferred with recourse are reported as financings, not as sales.

However, this general rule does not apply to the transfer of mortgage loans under one of the government programs of the Government National Mortgage Association, Freddie Mac or Fannie Mae. Transfers of mortgages under one of these programs are automatically treated as sales. Furthermore, the OCC and FRB provide for the treatment of private transfers of mortgages as sales if the transferring institution does not retain a significant risk of loss on the assets transferred.

5. Negative Goodwill

OTS practice is to follow GAAP for reporting purposes. OTS permits negative goodwill to offset goodwill reported as an asset. The banking agencies require that negative goodwill be reported as a liability, and not be netted against goodwill assets.

6. Push-Down Accounting

OTS practice is to follow GAAP. OTS requires push-down accounting when there is at least a 90 percent change in ownership. Push-down accounting generally applies the fair value concepts of purchase accounting in the context of a holding company's acquisition of a company to be held as a separate subsidiary or combined with an existing subsidiary.

The banking agencies require push-down accounting when there is at least a 95 percent change in ownership.

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By the Office of Thrift Supervision.

Nicolas P. Retsinas,

Director.

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