Development Act of 1992 with respect to impermissible subsidiaries that are subject to this requirement solely by reason of their real estate investments and activities. The OTS may extend the transition period until July 1, 1996, on a case-by-case basis if certain conditions are met.

B.4. Intangible Assets

The banking agencies' rules permit purchased credit card relationships and purchased mortgage servicing rights to count toward capital requirements, subject to certain limits. Both forms of intangible assets are in the aggregate limited to 50 percent of core capital. In addition, purchased credit card relationships alone are restricted to no more than 25 percent of an institution's core capital. Any purchased mortgage servicing rights and purchased credit card relationships that exceed these limits, as well as all other intangible assets such as goodwill and core deposit intangibles, are deducted from capital and assets in calculating an institution's core capital.

In February 1994, the OTS issued a final rule making its capital treatment of intangible assets generally consistent with the banking agencies' rules. However, the OTS rule grandfathers preexisting core deposit intangibles up to 25 percent of core capital and all purchased mortgage servicing rights acquired before February 1990.

B.5. Capital Requirements for Recourse Arrangements

B.5.a. Leverage Capital Requirements—The banking agencies require full leverage capital charges on most assets sold with recourse, even when the recourse is limited. This includes transactions where the recourse arises because the seller, as servicer, must absorb credit losses on the assets being serviced. The exceptions to this rule pertain to certain pools of first lien one-to-four family residential mortgages and to certain agricultural mortgage loans.

Banks must maintain leverage capital against most assets sold with recourse because the banking agencies' regulatory reporting rules generally do not permit assets sold with recourse to be removed from a bank's balance sheet (see ''Sales of Assets With Recourse'' in Section C.1. below for further details). As a result, such assets continue to be included in the asset base which is used to calculate a bank's leverage capital ratio.

Because the regulatory reporting rules for thrifts enable them to remove assets sold with recourse from their balance sheets when such transactions qualify for sales under GAAP, the OTS capital rules do not require thrifts to hold leverage capital against such assets.

B.5.b. Low Level Recourse Transactions—The banking agencies and the OTS generally require a full risk-based capital charge against assets sold with recourse. However, in the case of assets sold with limited recourse, the OTS limits the capital charge to the lesser of the amount of the recourse or the actual amount of capital that would otherwise be required against that asset, i.e., the full effective risk-based capital charge. This is known as the ''low level recourse'' rule.

The banking agencies proposed in May 1994 to adopt the low level recourse rule that OTS already has in place. Such action was mandated four months later by Section 350 of the Riegle Community Development and Regulatory Improvement Act of 1994 (RCDRIA). The FDIC adopted the low level recourse rule on March 21, 1995, and the other banking agencies have taken similar action.

B.5.c. Senior-Subordinated Structures—Some securitized asset arrangements involve the creation of senior and subordinated classes of securities. When a bank originates such a transaction and retains the subordinated interest, the banking agencies require that capital be maintained against the entire amount of the asset pool. However, when a bank acquires a subordinated interest in a pool of assets that it did not own, the banking agencies assign the investment in the subordinated security to the 100 percent risk weight category.

In general, the OTS requires a thrift that holds the subordinated interest in a senior-subordinated structure to maintain capital against the entire amount of the underlying asset pool regardless of whether the subordinated interest has been retained or has been purchased.

In May 1994, the banking agencies proposed to require banking organizations that purchase subordinated interests which absorb the first dollars of losses from the underlying assets to hold capital against the subordinated interest plus all more senior interests.

B.5.d. Recourse Servicing—The right to service loans and other assets may be retained when the assets are sold. This right also may be acquired from another entity. Regardless of whether servicing rights are retained or acquired, recourse is present whenever the servicer must absorb credit losses on the assets being serviced. The banking agencies and the OTS require risk-based capital to be maintained against the full amount of assets upon which a selling institution, as servicer, must absorb credit losses. Additionally, the OTS applies a capital charge to the full amount of assets being serviced by a thrift that has purchased the servicing from another party and is required to absorb credit losses on the assets being serviced.

The banking agencies' May 1994 proposal also would require banking organizations that purchase certain loan servicing rights which provide loss protection to the owners of the loans serviced to hold capital against those loans.

B.6. Collateralized Transactions

The FRB and the OCC have lowered from 20 percent to zero percent the risk weight accorded collateralized claims for which a positive margin of protection is maintained on a daily basis by cash on deposit in the institution or by securities issued or guaranteed by the U.S. Government agencies or the central governments of countries that are members of the Organization of Economic Cooperation and Development (OECD).

The FDIC and the OTS still assign a 20 percent risk weight to claims collateralized by cash on deposit in the institution or by securities issued or guaranteed by U.S. Government agencies or OECD central governments. The FDIC staff is preparing a proposal that will lower the risk weight for collateralized transactions.

B.7. Limitation on Subordinated Debt and Limited Life Preferred Stock

Consistent with the Basle Accord, the banking agencies limit the amount of subordinated debt and intermediate-term preferred stock that may be treated as part of Tier 2 capital to an amount not to exceed 50 percent of Tier 1 capital. In addition, all maturing capital instruments must be discounted by 20 percent each year of the five years before maturity. The banking agencies adopted this approach in order to emphasize equity versus debt in the assessment of capital adequacy.

The OTS has no limitation on the ratio of maturing capital instruments as part of Tier 2. Also, for all maturing instruments issued on or after November 7, 1989 (those issued before are grandfathered with respect to the discounting requirement), thrifts have the option of using either (a) the discounting approach used by the banking regulators, or (b) an approach which allows for the full inclusion of all such instruments provided that the amount maturing in any one year does not exceed 20 percent of the thrift's total capital.