

paragraph (a) introductory text as paragraphs (a) and (b) introductory text, respectively; adding a new paragraph (c); and revising newly designated paragraph (a) to read as follows:

**§ 615.5240 Permanent capital requirements.**

(a) The capitalization bylaws shall enable the institution to meet the minimum permanent capital adequacy standards established under subpart H of this part and the total capital requirements established by the board of directors of the institution.

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(c) An institution's board of directors may delegate to management the decision whether to retire borrower stock, provided that:

(1) The institution's permanent capital ratio will be in excess of 9 percent after any such retirements;

(2) The institution meets and maintains all applicable minimum surplus and collateral standards;

(3) Any such retirements are in accordance with the institution's capital plan; and

(4) The aggregate amount of stock purchases, retirements, and the net effect of such activities are reported to the board of directors on a quarterly basis.

**§ 615.5250 [Amended]**

9. Section 615.5250 is amended by removing paragraph (c); redesignating paragraphs (d) and (e) as paragraphs (c) and (d) respectively; by removing the words "(including interim standards)" in paragraphs (a)(4)(ii) and newly designated (c)(3); and by removing the words ", including interim standards" in paragraph (a)(4)(iii).

**Subpart J—Retirement of Equities**

**§ 615.5260 [Amended]**

10. Section 615.5260 is amended by removing "; or" at the end of paragraph (a)(2)(ii) and inserting a period in its place and by removing paragraphs (a)(2)(iii) and (d).

**§ 615.5270 [Amended]**

11. Section 615.5270 is amended by removing the words "(including interim standards)" in paragraph (b).

12. Subpart K is revised to read as follows:

**Subpart K—Surplus and Collateral Requirements**

Sec.

615.5301 Definitions.

615.5330 Minimum surplus ratios.

615.5335 Bank net collateral ratio requirements.

615.5336 Compliance.

**Subpart K—Surplus and Collateral Requirements**

**§ 615.5301 Definitions.**

For the purposes of this subpart, the following definitions shall apply:

(a) The terms *institution*, *permanent capital*, *risk-adjusted asset base*, and *total capital* shall have the meanings set forth in § 615.5201.

(b) *Net collateral ratio* means a bank's collateral position as defined by § 615.5050, less an amount equal to that portion of the allocated investments of affiliated associations that is not counted as permanent capital of the bank, divided by the bank's total liabilities.

(c) *Net investment in the bank* means the total investment by an association in its affiliated bank, less reciprocal investments and investments resulting from a loan originating/service agency relationship, including participations.

(d) *Risk-Sharing Agreement* means a binding contract between a bank and its affiliated association, under which a bank agrees to share losses that the affiliated association may incur and which specifies at least the following:

(1) The maximum dollar amount of association losses to be shared by the bank shall be specified and shall not be greater than the amount of the association's allocated investment in the bank that is counted as association permanent capital.

(2) The participation in losses shall begin on or before the point when losses of the association exceed its current year's earnings, net of non-cash allocated earnings allocated to the association from the affiliated bank.

(3) The percentage of bank participation in a loss shall be not less than 25 percent and shall automatically increase to 100 percent when the association's unallocated surplus less the net investment in the bank is zero.

(4) The dollar amount committed to risk sharing by the bank under the agreement shall not be reduced except by payment to the association, unless the association has an unallocated surplus ratio in excess of 3.5 percent, net of the net investment in the bank.

(5) At any time a bank's permanent capital ratio, surplus ratios, or net collateral ratio is less than the minimum applicable standards or would fall below upon payment, the bank shall defer its payments under the agreement until such time as the payments do not result in the bank's failure to meet its minimum standards.

(6) The bank shall allocate any and all losses shared under the agreement back to the association where the loss was incurred.

(e)(1) *Total surplus* means:

(i) Unallocated retained earnings;

(ii) Allocated equities, including allocated surplus and stock which, if subject to revolvment, have a revolvment of not less than 5 years and are eligible to be included in permanent capital pursuant to § 615.5201(j)(4)(iv); and

(iii) Stock that is not purchased as a condition of obtaining a loan, provided that it is either perpetual stock or term stock with an original maturity of at least 5 years, and provided that the institution has and adheres to a policy of not retiring such perpetual stock and of not retiring such term stock prior to its stated maturity. The amount of term stock that is eligible to be included in total surplus shall be reduced by 20 percent in each of the last 5 years of the life of the instrument.

(2) The surplus of an institution shall exclude any impact from unrealized holding gains or losses for available-for-sale securities.

(f) *Unallocated surplus* means unallocated retained earnings and any common or non-cumulative perpetual preferred stock held by non-borrowers, provided that the institution has and adheres to a policy of not retiring the stock. Any impact from unrealized holding gains or losses for available-for-sale securities shall be excluded from unallocated surplus.

**§ 615.5330 Minimum surplus ratios.**

(a) *Total surplus*. Each institution shall achieve and maintain a ratio of at least 7 percent of total surplus to risk-adjusted assets.

(b) *Unallocated surplus*. (1) Each institution shall achieve and maintain a ratio of unallocated surplus to risk-adjusted assets of at least 3.5 percent.

(2) Each association shall compute its unallocated surplus ratio by deducting an amount equal to the net investment in its affiliated Farm Credit bank from which it has received allocated equities from both its unallocated surplus and its risk-adjusted asset base, except that the amount specified as the maximum amount of losses to be shared by the bank in a Risk-Sharing Agreement that is in effect shall not be deducted from the unallocated surplus or risk-adjusted asset base.

(c) An institution's total and unallocated surplus ratios shall be computed as of the end of each month.

**§ 615.5335 Bank net collateral ratio requirements.**

(a) Each bank shall achieve and maintain a net collateral ratio of at least 104 percent of net collateral to total liabilities.