OMSRs and PMSRs and the need for companies engaged in mortgage banking to sell OMSRs in order to realize their value for financial statement purposes. FAS 122 specifies that capitalized mortgage servicing rights are to be treated as a single type of asset, regardless of how these rights were acquired. As a result, upon an institution's adoption of FAS 122, both OMSRs and PMSRs must be capitalized as balance sheet assets, a treatment previously permitted only for PMSRs. Both types of mortgage servicing rights may be reported in the same balance sheet asset category. Thus, on a prospective basis, under generally accepted accounting principles (GAAP), there generally will no longer be any significant accounting distinction between OMSRs and PMSRs for reporting, valuation, or disclosure purposes.

Prior to the issuance of FAS 122, GAAP referred to PMSRs as intangible assets. FAS 122 eliminates the reference to PMSRs as intangible assets but does not characterize mortgage servicing rights as either intangible or tangible assets. FAS 122 indicates that no characterization of mortgage servicing rights as either intangible or tangible assets is necessary because similar characterizations are not made for most other assets. However, FAS 122 also indicates that the elimination of the intangible asset reference does not imply that mortgage servicing rights are tangible assets.

FAS 122 requires that mortgage servicing rights be considered impaired whenever their fair value is less than their amortized cost. A valuation allowance is required for the amount of any impairment, which must be measured by stratifying mortgage servicing rights based on one or more of the predominant risk characteristics of the underlying loans. These characteristics may include loan type, size, note rate, date of origination, term and geographic location.

FAS 122 is effective for financial statements prepared in accordance with GAAP for fiscal years beginning after December 15, 1995, although FASB encourages earlier application. On June 21, 1995, the Federal Financial Institutions Examination Council (FFIEC) announced that banks must adopt FAS 122 for purposes of the Reports of Condition and Income (Call Report) as of the same effective date and with earlier application permitted to the extent allowable in this accounting standard. The OTS requires savings associations to follow GAAP for regulatory reporting and, thus, FAS 122's effective date provisions are also applicable for Thrift Financial Report purposes.[1]

Interim Amendments to the Capital Adequacy Guidelines

Banking organizations adopting FAS 122 early could reflect OMSRs on their regulatory reports as soon as June 30, 1995.[2] In view of this implementation schedule, the Agencies are now adopting an interim rule that is effective immediately in order to give banking organizations that adopt FAS 122 early direction on the regulatory capital treatment of OMSRs.

Under the interim rule, for risk-based and leverage capital purposes, mortgage servicing rights, including both PMSRs and OMSRs[3], and purchased credit card relationships (PCCRs) may be included in capital only to the extent that, in the aggregate, they do not exceed 50 percent of Tier 1 (core) capital.[4] For purposes of calculating Tier 1 (core) capital, all mortgage servicing rights are valued—as PMSRs previously were—at the lesser of 90 percent of fair market value or 100 percent of their book value (net of any valuation allowance). In addition, under the interim rule, the amount of mortgage servicing rights that may be included in tangible equity for purposes of prompt corrective action is the same as that permitted in Tier 1 (core) capital.

The Agencies are adopting this interim rule because they believe that the risk characteristics of OMSRs are similar to those of PMSRs. In view of the subjectivity and uncertainty surrounding the valuation of PMSRs and the consequent risks resulting from a high concentration of these assets, the Agencies previously decided to limit the amount of PMSRs that an institution could include in regulatory capital. Therefore, the Agencies believe that it is consistent to limit OMSRs in the same manner as PMSRs, pending a review of the comments received on this interim rule and the Agencies' resulting determination of the appropriate capital treatment of mortgage servicing rights. This interim capital rule is consistent with the recommendations provided on June 21, 1995, to the Agencies by the FFIEC's Task Force on Supervision.

The Agencies are seeking comment on all aspects of this interim rule. The Agencies also request specific comment on the following:

(1) For regulatory capital purposes, the Agencies have considered PMSRs as intangible assets. This determination was based, in part, on the prior GAAP characterization of this asset. FAS 122 indicates indifference toward any characterization of mortgage servicing rights (both PMSRs and OMSRs) as intangible or tangible assets.

(a) Should mortgage servicing rights be viewed as intangible assets for regulatory capital purposes?

(b) If mortgage servicing rights are considered to be intangible assets for regulatory capital purposes, should they continue to be subject to the regulatory capital limitations previously applied only to PMSRs?

(c) If mortgage servicing rights are considered to be tangible assets for regulatory capital purposes, what regulatory capital limitations, if any, should apply?

(2) How should any deferred tax liability associated with PMSRs and OMSRs be treated when calculating a regulatory capital limit?

(3) When an institution originates mortgage loans and swaps them for mortgage-backed securities, including agency guaranteed mortgage-backed securities, FAS 122 requires the institution to attribute a separate cost basis to the loan and servicing right components of such mortgage-backed securities. What is the appropriate regulatory capital treatment of mortgage servicing rights that are associated with mortgage-backed securities that are

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[1] Commercial banks are required to file quarterly Consolidated Reports of Condition and Income (Call Reports) and should report OMSRs and PMSRs in Schedule RC-M (Memoranda), item 6.a., ''Mortgage servicing rights'' and in Schedule RC (Balance Sheet), item 10, ''Intangible assets.'' Bank holding companies with total consolidated assets of $150 million or more file quarterly Consolidated Financial Statements for Bank Holding Companies (FR Y–9C reports) with the Federal Reserve, and should report OMSRs and PMSRs in Schedule HC—Consolidated Balance Sheet, item 10.a., ''Mortgage servicing rights.'' Savings Associations are required to file quarterly Thrift Financial Reports and should report capitalized OMSRs and PMSRs on Thrift Financial Report Schedule SC, line 640, which is currently labeled ''purchased loan servicing rights.''

[2] Banking organizations that do not adopt FAS 122 early may not capitalize OMSRs in 1995 and would not reflect the asset on their regulatory reports. In the interim, such institutions should continue to report PMSRs in accordance with the existing Call Report and Thrift Financial Report instructions until they adopt FAS 122 in 1996.

[3] Due to the 50 percent of Tier 1 (core) capital limitation, it is possible that at least some of the OMSRs an institution reports as balance sheet assets for Call Report and Thrift Financial Report purposes may be required to be deducted in computing regulatory capital under this interim rule. For purposes of determining the amount of any OMSRs that would be deducted (or disallowed) under this 50 percent of Tier 1 (core) capital limitation, institutions may choose to reduce their otherwise disallowed OMSRs by the amount of any associated deferred tax liability. Any such deferred tax liability used in this manner would not be available for the institution to use in determining the amount of any net deferred tax assets that may be included in Tier 1 (core) capital for risk-based and leverage capital purposes.

[4] The 25 percent of Tier 1 (core) capital sublimit on PCCRs is not affected by this rulemaking. In addition, all other intangible assets continue to be fully deducted from capital.