

§ 208.43 Capital measures and capital category definitions.

(a) Capital measures. For purposes of section 38 and this subpart, the relevant capital measures are:

- (1) The total risk-based capital ratio;
- (2) The Tier 1 risk-based capital ratio; and
- (3) The leverage ratio.

(b) *Capital categories.* For purposes of section 38 and this subpart, a member bank is deemed to be:

- (1) “Well capitalized” if the bank:
 - (i) Has a total risk-based capital ratio of 10.0 percent or greater; and
 - (ii) Has a Tier 1 risk-based capital ratio of 6.0 percent or greater; and
 - (iii) Has a leverage ratio of 5.0 percent or greater; and
 - (iv) Is not subject to any written agreement, order, capital directive, or prompt corrective action directive issued by the Board pursuant to section 8 of the FDI Act, the International Lending Supervision Act of 1983 (12 U.S.C. 3907), or section 38 of the FDI Act, or any regulation thereunder, to meet and maintain a specific capital level for any capital measure.
- (2) “Adequately capitalized” if the bank:
 - (i) Has a total risk-based capital ratio of 8.0 percent or greater; and
 - (ii) Has a Tier 1 risk-based capital ratio of 4.0 percent or greater; and
 - (iii) Has:
 - (A) A leverage ratio of 4.0 percent or greater; or
 - (B) A leverage ratio of 3.0 percent or greater if the bank is rated composite 1 under the CAMELS rating system in the most recent examination of the bank and is not experiencing or anticipating significant growth; and
 - (iv) Does not meet the definition of a “well capitalized” bank.
- (3) “Undercapitalized” if the bank has:
 - (i) A total risk-based capital ratio that is less than 8.0 percent; or
 - (ii) A Tier 1 risk-based capital ratio that is less than 4.0 percent; or
 - (iii) Except as provided in paragraph (b)(2)(iii)(B) of this section, has a leverage ratio that is less than 4.0 percent; or
 - (iv) A leverage ratio that is less than 3.0 percent, if the bank is rated composite 1 under the CAMELS rating sys-

tem in the most recent examination of the bank and is not experiencing or anticipating significant growth.

(4) “Significantly undercapitalized” if the bank has:

- (i) A total risk-based capital ratio that is less than 6.0 percent; or
- (ii) A Tier 1 risk-based capital ratio that is less than 3.0 percent; or
- (iii) A leverage ratio that is less than 3.0 percent.

(5) “Critically undercapitalized” if the bank has a ratio of tangible equity to total assets that is equal to or less than 2.0 percent.

(c) *Reclassification based on supervisory criteria other than capital.* The Board may reclassify a well capitalized member bank as adequately capitalized and may require an adequately-capitalized or an undercapitalized member bank to comply with certain mandatory or discretionary supervisory actions as if the bank were in the next lower capital category (except that the Board may not reclassify a significantly undercapitalized bank as critically undercapitalized) (each of these actions are hereinafter referred to generally as “reclassifications”) in the following circumstances:

(1) *Unsafe or unsound condition.* The Board has determined, after notice and opportunity for hearing pursuant to 12 CFR 263.203, that the bank is in unsafe or unsound condition; or

(2) *Unsafe or unsound practice.* The Board has determined, after notice and opportunity for hearing pursuant to 12 CFR 263.203, that, in the most recent examination of the bank, the bank received and has not corrected, a less-than-satisfactory rating for any of the categories of asset quality, management, earnings, liquidity, or sensitivity to market risk.

§ 208.44 Capital restoration plans.

(a) *Schedule for filing plan—(1) In general.* A member bank shall file a written capital restoration plan with the appropriate Reserve Bank within 45 days of the date that the bank receives notice or is deemed to have notice that the bank is undercapitalized, significantly undercapitalized, or critically undercapitalized, unless the Board notifies the bank in writing that the plan is to be filed within a different period.