Federal Deposit Insurance Corporation
550 17th Street NW, Washington, DC 20429-9990

Financial Institution Letter
FIL-17-2006
February 22, 2006

Capital Standards
Joint Final Rule on Securities Borrowing Transactions

Summary:
The FDIC, along with the Federal Reserve Board and the Office of the Comptroller of the Currency, has issued the attached joint final rule clarifying the capital treatment for securities borrowing transactions for banks and bank holding companies that are subject to the Market Risk Capital Rule. Securities borrowing transactions are generally used in conjunction with short sales, securities fails (securities sold but not made available for delivery on the settlement date), and option and arbitrage positions. The final rule takes effect on February 22, 2006.

Statement of Applicability to Institutions with Total Assets Under $1 Billion:

Distribution:
FDIC-Supervised Banks (Commercial and Savings)

Suggested Routing:
Chief Executive Officer
Chief Financial Officer
Chief Accounting Officer

Related Topics:
Securities Borrowings
Risk-Based Capital Rules – Part 325, Appendix C

Attachment:
Risk-Based Capital Guidelines; Market Risk Measure; Securities Borrowing Transactions 73k (PDF Help)

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Note:
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Highlights:

The final rule:

- Applies only to state nonmember banks subject to the Market Risk Capital Rule, 12 CFR Part 325, Appendix C.
- Replaces the "Interim Rule on Securities Borrowing Transactions," published in the Federal Register on December 5, 2000 (see FIL-90-2000, dated December 22, 2000).
- Maintains the requirements that the borrowed securities are liquid and marketable; the transaction is marked-to-market daily and is subject to daily margin maintenance to minimize possible losses.
- Retains the requirement that transactions involving borrowed securities with counterparties that are subject to U.S. bankruptcy or FDIC receivership action not be subject to an automatic stay in bankruptcy.
- Expands the scope of the capital relief to cover securities borrowing transactions with counterparties that are not subject to U.S. bankruptcy or FDIC receivership action, provided these transactions are unconditionally cancelable or overnight, or may be netted and closed out in the event of default, including counterparty insolvency.
- More closely aligns the capital requirement with the risk associated with securities borrowings, a long-established financial activity where losses have been minimal given the structure of these transactions.