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

CAPITAL STANDARDS

FIL-6-2002
January 28, 2002

TO: CHIEF EXECUTIVE OFFICER

SUBJECT: *Final Capital Rule for Nonfinancial Equity Investments*

The Federal Deposit Insurance Corporation (FDIC) has issued the attached final rule governing the regulatory capital treatment for equity investments in nonfinancial companies (nonfinancial equity investments) held by FDIC-supervised banks. The final rule takes effect on April 1, 2002.

The FDIC developed its final rule in consultation with the Office of the Comptroller of the Currency (OCC) and the Federal Reserve Board (FRB). The three agencies jointly published their respective final rules in the *Federal Register* on January 25, 2002. The rules are substantially similar to the proposals that were jointly issued by the agencies last year.

The agencies' new capital requirements for nonfinancial equity investments will apply symmetrically to banks and their holding companies. Investments covered by the final rules include those made under the new merchant banking authority granted to holding companies by the Gramm-Leach-Bliley Act and to nonfinancial equity investments made under certain other specified pre-existing authorities, including investments made under Section 24 of the Federal Deposit Insurance Act and those made through small business investment companies (SBICs) in accordance with the Small Business Investment Act. Covered investments also include nonfinancial equity investments made in accordance with the authorities set forth under certain provisions of the FRB's Regulation K and under Section 4(c) of the Bank Holding Company Act.

Under the final rule, covered equity investments are subject to a Tier 1 capital charge (for both risk-based and leverage capital purposes) that increases in steps as the banking organization's level of concentration in equity investments increases. The following capital charges will be deducted in determining the amount of a banking organization's Tier 1 capital:

- An 8 percent Tier 1 capital charge will apply to the portion of a nonfinancial equity investment portfolio that represents up to 15 percent of the organization's Tier 1 capital.
- A 12 percent capital charge will be imposed on the portion of nonfinancial equity investments that is at least 15 percent (but less than 25 percent) of Tier 1 capital.
- A top marginal Tier 1 capital charge of 25 percent will be set for overall investment portfolios under all authorities that exceed 25 percent of the organization's Tier 1 capital.

These Tier 1 capital charges will not apply to individual investments made by banking organizations prior to March 13, 2000. Further, these capital charges will not apply to nonfinancial equity investments made through SBICs unless the amount of those investments exceeds 15 percent of Tier 1 capital.

Grandfathered investments made by state banks under section 24(f) of the Federal Deposit Insurance Act are exempt from coverage under the final rule. With respect to other Section 24 investments covered by the final rule, the FDIC retains the authority, under certain circumstances, to impose capital requirements that are higher or lower than the capital charges in this final rule.

For more information about the final rule, please contact Stephen G. Pfeifer (202-898-8904) or Curtis Vaughn (202-898-6759), Division of Supervision; or Michael B. Phillips (202-898-3581), Legal Division.

Michael J. Zamorski
Director

Attachment: Federal Register, pages 3783-3807

Distribution: FDIC-Supervised Banks (Commercial and Savings)

NOTE: Paper copies of FDIC financial institution letters may be obtained through the FDIC's Public Information Center, 801 17th Street, NW, Room 100, Washington, DC 20434 (800-276-6003 or (703) 562-2200).