

regard to an explicit requirement for deduction of examiner-identified losses. The agencies require their examiners to determine whether their respective supervised institutions have appropriately identified losses. The FDIC's capital rule, however, explicitly requires FDIC-supervised institutions to deduct identified losses from common equity tier 1 capital elements, to the extent that the institutions' common equity tier 1 capital would have been reduced if the appropriate accounting entries had been recorded.<sup>15</sup> Generally, identified losses are those items that an examiner determines to be chargeable against income, capital, or general valuation allowances.

For example, identified losses may include, among other items, assets classified as loss, off-balance-sheet items classified as loss, any expenses that are necessary for the institution to record in order to replenish its general valuation allowances to an adequate level, and estimated losses on contingent liabilities. The Board and the OCC expect their supervised institutions to promptly recognize examiner-identified losses, but the requirement is not explicit under their capital rule. Instead, the Board and the OCC apply their supervisory authorities to ensure that their supervised institutions charge off any identified losses.

#### *Subsidiaries of Savings Associations*

There are special statutory requirements for the agencies' capital treatment of a savings association's investment in or credit to its subsidiaries as compared with the capital treatment of such transactions between other types of institutions and their subsidiaries. Specifically, the Home Owners' Loan Act (HOLA) distinguishes between subsidiaries of savings associations engaged in activities that are permissible for national banks and those engaged in activities that are not permissible for national banks.<sup>16</sup>

When subsidiaries of a savings association are engaged in activities that are not permissible for national banks,<sup>17</sup> the parent savings association generally must deduct the parent's investment in and extensions of credit to these subsidiaries from the capital of the parent savings association. If a subsidiary of a savings association engages solely in activities permissible for national banks, no deduction is

required, and investments in and loans to that organization may be assigned the risk weight appropriate for the activity.<sup>18</sup> As the appropriate federal banking agencies for federal and state savings associations, respectively, the OCC and the FDIC apply this capital treatment to those types of institutions. The Board's regulatory capital framework does not apply to savings associations and, therefore, does not include this requirement.

#### *Tangible Capital Requirement*

Federal law subjects savings associations to a specific tangible capital requirement but does not similarly do so with respect to banks. Under section 5(t)(2)(B) of HOLA, savings associations are required to maintain tangible capital in an amount not less than 1.5 percent of total assets.<sup>19</sup> The capital rule of the OCC and the FDIC includes a requirement that savings associations maintain a tangible capital ratio of 1.5 percent.<sup>20</sup> This statutory requirement does not apply to banks and, thus, there is no comparable regulatory provision for banks. The distinction is of little practical consequence, however, because under the Prompt Corrective Action (PCA) framework, all institutions are considered critically undercapitalized if their tangible equity falls below 2 percent of total assets.<sup>21</sup> Generally speaking, the appropriate federal banking agency must appoint a receiver within 90 days after an institution becomes critically undercapitalized.<sup>22</sup>

#### *Enhanced Supplementary Leverage Ratio*

The agencies adopted enhanced supplementary leverage ratio standards that took effect beginning on January 1, 2018.<sup>23</sup> These standards require certain BHCs to exceed a 5 percent supplementary leverage ratio to avoid limitations on distributions and certain discretionary bonus payments and also require the subsidiary institutions of these BHCs to meet a 6 percent supplementary leverage ratio to be

<sup>18</sup> A deduction from capital is only required to the extent that the savings association's investment exceeds the generally applicable thresholds for deduction of investments in the capital of an unconsolidated financial institution.

<sup>19</sup> 12 U.S.C. 1464(t)(1)(A)(ii) and (t)(2)(B).

<sup>20</sup> 12 CFR 3.10(a)(6) (OCC); 12 CFR 324.10(a)(1)(vi) (FDIC). The Board's regulatory capital framework does not apply to savings associations and, therefore, does not include this requirement.

<sup>21</sup> See 12 U.S.C. 1831o(c)(3); see also 12 CFR 6.4 (OCC); 12 CFR 208.45 (Board); 12 CFR 324.403 (FDIC).

<sup>22</sup> 12 U.S.C. 1831o(h)(3)(A).

<sup>23</sup> See 79 FR 24528 (May 1, 2014).

considered "well capitalized" under the PCA framework.<sup>24</sup> The rule text establishing the scope of application for the enhanced supplementary leverage ratio differs among the agencies. The Board and the FDIC apply the enhanced supplementary leverage ratio standards for institutions based on parent BHCs being identified as global systemically important BHCs as defined in 12 CFR 217.2.<sup>25</sup> The OCC applies enhanced supplementary leverage ratio standards to the institution subsidiaries under their supervisory jurisdiction of a top-tier BHC that has more than \$700 billion in total assets or more than \$10 trillion in assets under custody.<sup>26</sup>

**Michael J. Hsu,**

*Acting Comptroller of the Currency.*

Board of Governors of the Federal Reserve System.

**Ann E. Misback,**

*Secretary of the Board.*

Federal Deposit Insurance Corporation.

Dated at Washington, DC, on December 12, 2022.

**James P. Sheesley,**

*Assistant Executive Secretary.*

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### **Proposed Collection; Comment Request for Revenue Procedure 2011-34, Rules for Certain Rental Real Estate Activities**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning Revenue Procedure 2011-34, Rules for Certain Rental Real Estate Activities.

**DATES:** Written comments should be received on or before March 31, 2023 to be assured of consideration.

<sup>24</sup> 12 CFR 6.4(b)(1)(i)(D)(2) (OCC); 12 CFR 208.43(b)(1)(iv)(B) (Board); 12 CFR 324.403(b)(1)(v) (FDIC).

<sup>25</sup> 12 CFR 208.43(b)(1)(iv)(B) (Board); 12 CFR 324.403(b)(1)(ii) (FDIC).

<sup>26</sup> 12 CFR 6.4(b)(1)(i)(D)(2) (OCC).

<sup>15</sup> 12 CFR 324.22(a)(9).

<sup>16</sup> 12 U.S.C. 1464(t)(5).

<sup>17</sup> Subsidiaries engaged in activities not permissible for national banks are considered non-includable subsidiaries.

**ADDRESSES:** Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to [pra.comments@irs.gov](mailto:pra.comments@irs.gov). Include OMB Control No. 1545–2194 in the subject line of the message.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions should be directed to Sara Covington (202) 317–5744, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at [sara.l.covington@irs.gov](mailto:sara.l.covington@irs.gov).

**SUPPLEMENTARY INFORMATION:**

*Title:* Revenue Procedure 2011–34 Rules for Certain Rental Real Estate Activities.

*OMB Number:* 1545–2194.

*Abstract:* This revenue procedure grants relief under Section 1.469–9(g) for certain taxpayers to make late elections to treat all interests in rental real estate as a single rental real estate activity.

*Current Actions:* There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Individuals or Households.

*Estimated Number of Respondents:* 2,000.

*Estimated Time per Response:* 30 mins.

*Estimated Total Annual Burden Hours:* 1,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the

collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 24, 2023.

**Sara L. Covington,**

*IRS Tax Analyst.*

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**DEPARTMENT OF THE TREASURY**

**Agency Information Collection Activities; Submission for OMB Review; Comment Request; Hizballah Financial Sanctions Regulations Report on Closure by U.S. Financial Institutions of Correspondent Accounts and Payable-Through Accounts**

**AGENCY:** Departmental Offices, U.S. Department of the Treasury.

**ACTION:** Notice.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other federal agencies to comment on proposed or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the Office of Foreign Assets Control (OFAC) within the Department of the Treasury is soliciting comments concerning OFAC's Hizballah Financial Sanctions Regulations Report on Closure by U.S. Financial Institutions of Correspondent Accounts and Payable-Through Accounts.

**DATES:** Comments should be received on or before March 1, 2023 to be assured of consideration.

**ADDRESSES:** Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function. Copies of the submissions may be obtained from Melody Braswell by emailing [PRA@treasury.gov](mailto:PRA@treasury.gov), calling (202) 622–1035, or viewing the entire information collection request at [www.reginfo.gov](http://www.reginfo.gov).

**FOR FURTHER INFORMATION CONTACT:** OFAC: Assistant Director for Licensing, 202–622–2480; Assistant Director for Regulatory Affairs, 202–622–4855; or Assistant Director for Sanctions Compliance & Evaluation, 202–622–2490.

**SUPPLEMENTARY INFORMATION:**

**Office of Foreign Assets Control (OFAC)**

*Title:* Hizballah Financial Sanctions Regulations Report on Closure by U.S. Financial Institutions of Correspondent Accounts and Payable-Through Accounts.

*OMB Number:* 1505–0255.

*Type of Review:* Extension without change of a currently approved collection.

*Description:* Section 566.504(b) of the Hizballah Financial Sanctions Regulations, 31 CFR part 566 (HFSR) provides that a U.S. financial institution that maintained a correspondent account or payable-through account for a foreign financial institution whose name is added to the List of Foreign Financial Institutions Subject to Correspondent Account or Payable-Through Account Sanctions (the "CAPTA List") on OFAC's website ([www.treasury.gov/ofac](http://www.treasury.gov/ofac)) as subject to a prohibition on the maintaining of such accounts, must file a report with OFAC that provides full details on the closing of each such account, and on all transactions processed or executed through the account pursuant to § 566.504, including the account outside of the United States to which funds remaining in the account were transferred. This report must be filed with OFAC within 30 days of closure of the account. This collection of information assists in verifying that U.S. financial institutions are complying with prohibitions on maintaining correspondent accounts or payable-through accounts for foreign financial institutions listed on the CAPTA List pursuant to 31 CFR part 566. The reports will be reviewed by OFAC and may be used for compliance and enforcement purposes by the agency.

*Affected Public:* The likely respondents affected by this collection of information are U.S. financial institutions maintaining correspondent accounts or payable-through accounts for foreign financial institutions.

*Estimated Number of Respondents:* OFAC assesses that the estimate for the number of unique reporting respondents is approximately 1.

*Frequency of Response:* The estimated annual frequency of responses is approximately 1 response per respondent.