
31 C.F.R. § 35.21

Definitions.

Except as modified in this regulation or unless the context otherwise requires, the terms used in this regulation have the same meaning as set forth in the relevant statutes. For purposes of this subpart:

Act means the Community Development Banking and Financial Institutions Act of 1994, as amended (12 U.S.C. 4701 *et seq.*).

Appropriate Federal banking agency has the same meaning as in 12 U.S.C. 1813 and also includes the NCUA with respect to a federally insured credit union.

Capital distributions means:

- (1) Dividends, including discretionary dividends, on non-senior securities and any other payments on a share of stock or other equity or equivalent interest;
- (2) Payments, including interest payments, on non-senior securities, that the issuer has full discretion to permanently or temporarily suspend without triggering a default;
- (3) Redemptions or repurchases of non-senior securities; or
- (4) Any similar transaction that the Department of the Treasury determines to be in substance a capital distribution;
- (5) Provided, that a “capital distribution” does not include:
 - (i) Redemptions or repurchases of shares that are part of an employee stock ownership plan for an ECIP recipient that is not publicly traded, provided that the repurchase is required solely by virtue of the Employee Retirement Income Security Act of 1974, as amended;
 - (ii) In the case of federally insured credit unions:

(A) Payments of dividends and interest (as defined by 12 CFR 707.2(h) and (o)) on accounts held by their members; provided that this exclusion does not apply to any extraordinary or special dividend by a credit union; or

(B) Redemptions of membership share interests upon voluntary or involuntary terminations of membership by a credit union or its members, as applicable; and

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