136.515 Net capital determination -- Effect of changes in identity, form, or place of organization -- Effect of combination of financial institutions.

(1) Net capital shall be determined by adding the value determined under subsection (2) of this section for the current taxable and preceding four (4) calendar years and dividing the resulting sum by five (5). If a financial institution has not been in existence for a period of five (5) calendar years, net capital shall be determined by adding together the values determined under subsection (2) of this section for the number of calendar years the financial institution has been in existence and dividing the resulting sum by the number of years the financial institution has been in existence. For purposes of this section, a partial year shall be treated as a full year.

(2) (a) The value of net capital for each year for purposes of subsection (1) of this section shall be determined by:

1. Adding together the book value of:
   a. Capital stock paid in;
   b. Surplus;
   c. Undivided profits and capital reserves;
   d. Net unrealized holding gains or losses on available for sale securities; and
   e. Cumulative foreign currency translation adjustments; and
2. Deducting from the total determined under subparagraph 1. of this subsection an amount equal to the same percentage of the total as the book value of United States obligations and Kentucky obligations bears to the book value of the total assets of the financial institution.

(b) For purposes of this subsection, net capital shall include equity related to investment in subsidiaries.

(c) For purposes of this subsection, except as provided in paragraphs (d) and (e) of this subsection, the foregoing book values and deductions for United States obligations and Kentucky obligations for each year shall be determined by the reports of condition for each quarter filed in accordance with the requirements of the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or other applicable regulatory authority. Book values shall be calculated by averaging the quarterly book values as determined by the reports of condition.

(d) For any year in which a financial institution does not file four (4) quarterly reports of condition, book values and deductions for United States obligations and Kentucky obligations shall be determined by adding together the respective book values and deductions for United States obligations and Kentucky obligations as determined by each quarterly report of condition filed for the year and the respective book values and deductions for United States obligations and Kentucky obligations determined in accordance with generally accepted accounting principles as of the end of each of the remaining quarters and dividing the resulting sums by four (4).

(e) For any calendar year in which a financial institution ceases to be in existence for four (4) quarters, other than by combination with another financial institution, the book value for that year shall be determined by adding together the book values and deductions for United States obligations and Kentucky obligations for each quarter in which the financial institution was in existence and dividing the sums by four (4).

(f) In the case of a financial institution which does not file reports of condition, book values shall be determined in accordance with generally accepted accounting principles.

(3) For purposes of this section:

(a) A change in identity, form, or place of organization of one (1) financial institution shall be treated as if a single financial institution had been in existence prior to as well as after the change;

(b) The combination of two (2) or more financial institutions into one (1) shall be treated as if the constituent financial institutions had been a single financial institution in existence prior to as well as after the combination, and the book values and deductions for United States obligations and Kentucky obligations from the reports of condition of the constituent institutions shall be combined. A combination shall include any acquisition required to be accounted for by the surviving financial institution under the pooling of interest method in accordance with generally-accepted accounting principles or a statutory merger or consolidation; and

(c) 1. The combination of one (1) or more financial institutions and one (1) or more savings and loan associations taxable under KRS 136.300 into a single financial institution shall be treated for the taxable year in which the combination occurred as if the single financial institution had been in existence prior to as well as after the combination, and the book values and deductions for United States obligations and Kentucky obligations from the reports of condition of the financial institution and the reports to the federal regulatory agency which are the equivalent of reports of condition for a savings and loan association shall be combined.

2. The conversion of a savings and loan association taxable under KRS 136.300 into a financial institution shall be treated for the taxable year in which the conversion occurred as if the savings and loan association had been a financial institution prior to as well as after the conversion, and the book values and deductions for United States obligations and Kentucky obligations from the reports to the federal regulatory agency which are the equivalent of reports of condition for a savings and loan association shall be used.

3. The savings and loan association shall not be relieved of the responsibilities of filing and paying tax under KRS 136.300 for taxable years prior to the year of any combination or conversion.

4. Notwithstanding any other provision of KRS 136.500 to 136.575, the financial institution resulting from a combination with or conversion of

a saving and loan association shall receive a credit on the bank franchise tax return equal to the amount of tax paid under KRS 136.300 for the assessment date occurring within the taxable year during which the combination or conversion takes place for bank franchise tax purposes.

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