

§ 624.103

on the obligation over the market price for the obligation on October 21, 1986.

(c) An institution that defers any expenses associated with actions taken in accordance with this section shall amortize such expenses over a period not to exceed 20 years using straight-line amortization. The unamortized portion of debt-related costs that are deferred or are eligible to be deferred shall not be considered as capital of the institution.

§ 624.103 Deferral of the provisions for loan losses.

An institution is authorized during the period July 1, 1986, through December 31, 1992, to capitalize the amount of its provision for loan losses made on an annual basis in excess of 1/2 of 1 percent of loans outstanding. An institution that defers a portion of its provision for loan losses in accordance with this section shall amortize such amount over a period to not exceed 20 years, using straight-line amortization. Institutions using RAP to defer their provisions for loan losses shall maintain an allowance for loan losses determined in accordance with GAAP.

§ 624.104 Interest rate evaluation.

An institution may take into consideration the use of RAP, among other factors, for purposes of evaluating the interest rates charged on loans. Such other factors include the institution's cost of funds, overhead, expected losses, margin to provide for adequate capital, return to stockholders, and any other relevant factors. In no event shall such an institution charge a rate of interest which is less than the competitive interest rates charged by other lending institutions in the same area, for a loan with similar terms, to a borrower of equivalent creditworthiness and access to alternative credit.

§ 624.105 Financial reporting and disclosure.

Each institution that uses RAP in accordance with the provisions of this part shall prepare and issue its financial statements to stockholders in accordance with part 620 of this chapter. In addition, each such institution shall disclose clearly in the management commentary to its financial state-

12 CFR Ch. VI (1-1-04 Edition)

ments the purpose and use of the regulatory accounting practices adopted by the institution and shall reconcile the differences between the application of GAAP and RAP.

PART 625—APPLICATION FOR AWARD OF FEES AND OTHER EXPENSES UNDER THE EQUAL ACCESS TO JUSTICE ACT

Subpart A—General Provisions

- Sec.
- 625.1 Purpose.
- 625.2 Proceedings covered.
- 625.3 Eligibility of applicants.
- 625.4 Standards for awards.
- 625.5 Allowable fees and expenses.
- 625.6 Rulemaking on maximum rates for attorney fees.
- 625.7 Awards against other agencies.

Subpart B—Applicant Information Required

- 625.10 Contents of application.
- 625.11 Net worth exhibit.
- 625.12 Documentation of fees and expenses.
- 625.13 When an application may be filed.

Subpart C—Procedures for Considering Applications

- 625.20 Settlement.
- 625.21 Filing and service of documents.
- 625.22 Answer to application.
- 625.23 Reply.
- 625.24 Comments by other parties.
- 625.25 Further proceedings.
- 625.26 Recommended decision.
- 625.27 Board decision.
- 625.28 Judicial review.
- 625.29 Payment of award.

AUTHORITY: 5 U.S.C. 504, 12 U.S.C. 2252.

SOURCE: 57 FR 60109, Dec. 18, 1992, unless otherwise noted.

Subpart A—General Provisions

§ 625.1 Purpose.

These rules implement the Equal Access to Justice Act, 5 U.S.C. 504 (EAJA). The EAJA provides for the award of attorney fees and other expenses to eligible individuals and entities who are parties to certain administrative proceedings (designated by the EAJA as "adversary adjudications") before Federal agencies. An eligible party may receive an award when it prevails over an agency, unless the agency's position was substantially