

*Revision of FR Notice Published on 01/25/2008: Correction to Lead Agency from FAA to FTA.*

EIS No. 20080040, Draft EIS, IBR, CA, Folsam Lake State Recreation Area & Folsam Powerhouse State Historic Park, General Plan/Resource Management Plan, Implementation, Placer County, CA, *Comment Period Ends: 03/24/2008, Contact: Laura Cabollero 916-989-7172. Revision to FR Notice Published 02/08/2008: Correction to the County and State.*

Dated: February 12, 2008.

**Robert W. Hargrove,**

*Director, NEPA Compliance Division, Office of Federal Activities.*

[FR Doc. E8-2951 Filed 2-14-08; 8:45 am]

**BILLING CODE 6560-50-P**

## EXPORT-IMPORT BANK OF THE UNITED STATES

### Notice of Open Special Meeting of the advisory Committee of the Export-Import Bank of the United States (Ex-Im Bank).

**SUMMARY:** The advisory committee was established by Public Law 98-181, November 30, 1983, to advise the Export-Import Bank on its programs and to provide comments for inclusion in the reports of the Export-Import Bank of the United States to Congress

*Time and Place:* Wednesday, March 5, 2008 from 9 a.m. to 12 p.m. The meeting will be held at Ex-Im Bank in the Main Conference Room 1143, 811 Vermont Avenue, NW., Washington, DC 20571.

*Agenda:* Agenda items include an understanding of the ECA environment and the factors to consider when designing credit underwriting processes and programs.

*Public Participation:* The meeting will be open to public participation, and the last 10 minutes will be set aside for oral questions or comments. Members of the public may also file written statement(s) before or after the meeting. If you plan to attend, a photo ID must be presented at the guard's desk as part of the clearance process into the building, and you may contact Susan Houser to be placed on an attendee list. If any person wishes auxiliary aids (such as a sign language interpreter) or other special accommodations, please contact, prior to February 25, 2008, Susan Houser, Room 1273, 811 Vermont Avenue, NW., Washington, DC 20571, Voice: (202) 565-3232 or TDD (202) 565-3377.

*Further Information:* For further information, contact Susan Houser,

Room 1273, 811 Vermont Ave., NW., Washington, DC 20571, (202) 565-3232.

**Howard A. Schweitzer,**

*General Counsel.*

[FR Doc. 08-681 Filed 2-14-08; 8:45 am]

**BILLING CODE 6690-01-M**

## FEDERAL DEPOSIT INSURANCE CORPORATION

### Statement of Policy on Bank Merger Transactions

**AGENCY:** Federal Deposit Insurance Corporation ("FDIC").

**ACTION:** Amendment of statement of policy.

**SUMMARY:** The FDIC is amending its Statement of Policy on Bank Merger Transactions ("Statement of Policy") in order to conform it to the Bank Merger Act, as amended by the Financial Services Regulatory Relief Act of 2006 ("FSRRA"). The FSRRA (i) eliminated the need for the FDIC to obtain a competitive factors report from the other three Federal banking agencies in processing a merger application and (ii) eliminated both the post-approval waiting period and the need to obtain any competitive factors reports, when the merger solely involves an insured depository institution and one or more affiliates. In addition, the FDIC is amending its Statement of Policy in order to remove any discussion of "Oakar Transactions" since the Federal Deposit Insurance Reform Act of 2005 consolidated the former Savings Association Insurance Fund ("SAIF") and the former Bank Insurance Fund ("BIF") into the Deposit Insurance Fund. Finally, the FDIC is amending its Statement of Policy in order to conform the description of the factors to be considered in evaluating a merger more closely to the language of the Bank Merger Act, and for other technical reasons.

**DATES:** February 15, 2008.

#### FOR FURTHER INFORMATION CONTACT:

Brett A. McCallister, Review Examiner (816) 234-8099 x4223, in the Division of Supervision and Consumer Protection; Julia E. Paris, Senior Attorney (202) 898-3821 or Robert C. Fick, Counsel, (202) 898-8962, in the Legal Division.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On October 13, 2006, the President signed into law the FSRRA, Public Law No. 109-351. The stated purpose of the law is to reduce regulatory burden and improve productivity for insured depository institutions. Many of the

provisions of this law amended statutes that the FDIC administers. One of those statutes is the Bank Merger Act.<sup>1</sup> In addition, the Federal Deposit Insurance Reform Act of 2005 ("FDIRA")<sup>2</sup> consolidated the SAIF and the BIF into the Deposit Insurance Fund. As a result, the FDIC is amending its Statement of Policy<sup>3</sup> to conform it to the Bank Merger Act, as amended by FSRRA, and to the changes made by FDIRA. The FDIC is not seeking comment on the amendments that it is making to the Statement of Policy, and the amendments are effective upon publication in the **Federal Register**.

## II. FSRRA Amendments to the Bank Merger Act

### A. Section 606 of FSRRA

Four Federal banking agencies must utilize the Bank Merger Act to approve merger transactions subject to their respective jurisdiction; those agencies are the FDIC, the Federal Reserve Board ("FRB"), the Office of the Comptroller of the Currency ("OCC"), and the Office of Thrift Supervision ("OTS"). Prior to FSRRA, the Federal banking agency responsible for processing a particular merger application had to request and obtain a competitive factors report from each of the other three Federal banking agencies. Section 606 of FSRRA amended section 18(c)(4) of the Federal Deposit Insurance Act ("FDI Act"), 12 U.S.C. 1828(c)(4), to eliminate that requirement. Section 606 did not, however, eliminate the requirement that the responsible agency obtain a competitive factors report from the Attorney General of the United States; that requirement remains unchanged. In addition, section 606 also added the requirement that in processing a merger application, the FRB, the OCC, or the OTS, as the case may be, must submit a copy of each request for a competitive factors report to the FDIC.

Section 606 also made two changes to the Bank Merger Act that apply to mergers that solely involve an insured depository institution and one or more affiliates ("Affiliate Mergers"). First, for Affiliate Mergers, section 606 amended section 18(c)(4) of the FDI Act, 12 U.S.C. 1828(c)(4), to eliminate the need for the responsible Federal banking agency to request competitive factors reports from either the other Federal banking agencies or the Attorney General of the

<sup>1</sup> Section 18(c) of the Federal Deposit Insurance Act, 12 U.S.C. 1828(c).

<sup>2</sup> Pub. L. 109-171, 120 Stat. 9 (Feb. 8, 2006).

<sup>3</sup> The FDIC's Statement of Policy on Bank Merger Transactions was published in the **Federal Register** at 63 FR 44761 on August 20, 1998; subsequent amendments were published at 67 FR 48178 on July 23, 2002 and at 67 FR 79278 on December 27, 2002.

United States. Prior to FSRRA the responsible Federal banking agency had to request competitive factors reports for Affiliate Mergers. Second, section 606 revised section 18(c)(6) of the FDI Act, 12 U.S.C. 1828(c)(6), to eliminate the post-approval waiting period for Affiliate Mergers. Prior to FSRRA the applicant in an Affiliate Merger had to wait up to thirty days after obtaining the agency's approval before it could consummate the transaction.

Therefore, the FDIC is conforming its Statement of Policy to the Bank Merger Act, as amended by the FSRRA. Accordingly, the FDIC is hereby amending paragraphs 4 and 5 of Section II of the Statement of Policy to read as follows:

#### **FDIC Statement of Policy on Bank Merger Transactions**

\* \* \* \* \*

#### **II. Application Procedures**

\* \* \* \* \*

4. *Reports on competitive factors.* As required by law, the FDIC will request a report on the competitive factors involved in a proposed merger transaction from the Attorney General. This report must ordinarily be furnished within 30 days, and the applicant upon request will be given an opportunity to submit comments to the FDIC on the contents of the competitive factors report.

5. *Notification of the Attorney General.* After the FDIC approves any merger transaction, the FDIC will immediately notify the Attorney General. Generally, unless it involves a probable failure, an emergency exists requiring expeditious action, or it is solely between an insured depository institution and one or more of its affiliates, a merger transaction may not be consummated until 30 calendar days after the date of the FDIC's approval. However, the FDIC may prescribe a 15-day period, provided the Attorney General concurs with the shorter period.

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#### **III. Consolidation of the SAIF and the BIF**

In addition to changes necessitated by the FSRRA, the FDIC is amending its Statement of Policy to reflect the enactment of the FDIRA. Section 2102(a) of FDIRA merged the BIF and the SAIF into a single new fund, the Deposit Insurance Fund. Among the many consequences of this legislative action, it obviated the need for special rules governing merger transactions that involved a member of the BIF and a member of the SAIF, commonly known as Oakar transactions. As a result, the

discussion in the Statement of Policy addressing Oakar transactions is no longer necessary. Thus the FDIC is amending the Statement of Policy to remove paragraph 3 *Optional Conversion* of Section IV Related Considerations. The removed paragraph read as follows:

#### **FDIC Statement of Policy on Bank Merger Transactions**

\* \* \* \* \*

#### **IV. Related Considerations**

\* \* \* \* \*

3. *Optional conversion.* Section 5(d)(3) of the Federal Deposit Insurance Act, 12 U.S.C. 1815(d)(3), provides for "optional conversions" (commonly known as Oakar transactions) which, in general, are merger transactions that involve a member of the Bank Insurance Fund and a member of the Savings Association Insurance Fund. These transactions are subject to specific rules regarding deposit insurance coverage and premiums. Applicants may find additional guidance in § 327.31 of the FDIC rules and regulations (12 CFR 327.31).

Additionally, as a consequence of deleting the above paragraph, the FDIC is renumbering the following paragraphs in Section IV Related Considerations. Accordingly, *Branch Closings; Legal Fees and Other Expenses; and Trade Names* are renumbered as paragraphs 3, 4, and 5 respectively.

#### **IV. Technical Amendments**

The FDIC is also taking this opportunity to conform the description of the factors to be considered in evaluating a merger more closely to the language of the Bank Merger Act. Specifically, the FDIC is inserting text omitted from the description of the antitrust factor in Section I Introduction and Section III Evaluation of Merger Applications and also inserting a reference to the anti-money laundering factor omitted from Section I Introduction.

In addition, the FDIC is revising certain text in the discussion of the evaluation of certain anticompetitive mergers involving failing banks. The second paragraph of subsection 4 *Consideration of the public interest* of section III Evaluation of Merger Applications can be read to indicate that the FDIC may approve a merger involving a failing bank contrary to its statutory duty to resolve an institution in the manner that results in the least cost to the Deposit Insurance Fund.<sup>4</sup> As a result, the FDIC is revising that

<sup>4</sup> See 12 U.S.C. 1823(c)(4).

paragraph to simply state that where a proposed merger transaction is the least costly alternative to the probable failure of an insured depository institution, the FDIC may approve the merger transaction even if it is anticompetitive.

Finally, a change is being made to reflect the new address of the FDIC's Public Information Center.

Accordingly, the third and fourth unnumbered paragraphs of Section I Introduction; paragraph 6 of Section II Application Procedures; and paragraph 4 of Section III Evaluation of Merger Applications of the Statement of Policy are hereby amended to read as follows:

#### **FDIC Statement of Policy on Bank Merger Transactions**

\* \* \* \* \*

#### **I. Introduction**

\* \* \* \* \*

The Bank Merger Act prohibits the FDIC from approving any proposed merger transaction that would result in a monopoly, or would further a combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States. Similarly, the Bank Merger Act prohibits the FDIC from approving a proposed merger transaction whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade. An exception may be made in the case of a merger transaction whose effect would be to substantially lessen competition, tend to create a monopoly, or otherwise restrain trade, if the FDIC finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served. For example, the FDIC may approve a merger transaction to prevent the probable failure of one of the institutions involved.

In every proposed merger transaction, the FDIC must also consider the financial and managerial resources and future prospects of the existing and proposed institutions, the convenience and needs of the community to be served, and the effectiveness of each insured depository institution involved in the proposed merger transaction in combating money-laundering activities, including in overseas branches.

#### **II. Application Procedures**

\* \* \* \* \*

6. *Merger decisions available.* Applicants for consent to engage in a

merger transaction may find additional guidance in the reported bases for FDIC approval or denial in prior merger transaction cases compiled in the FDIC's annual "Merger Decisions" report. Reports may be obtained from the FDIC Public Information Center, 3501 North Fairfax Drive, Room E-1002, Arlington, VA 22226. Reports may also be viewed at <http://www.fdic.gov>.

### III. Evaluation of Merger Applications

\* \* \* \* \*

4. *Consideration of the public interest.* The FDIC will deny any proposed merger transaction whose overall effect likely would be to reduce existing competition substantially by limiting the service and price options available to the public in the relevant geographic market(s), unless the anticompetitive effects of the proposed merger transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served. For this purpose, the applicant must show by clear and convincing evidence that any claimed public benefits would be both substantial and incremental and generally available to seekers of banking services in the relevant geographic market(s) and that the expected benefits cannot reasonably be achieved through other, less anticompetitive means.

Where a proposed merger transaction is the least costly alternative to the probable failure of an insured depository institution, the FDIC may approve the merger transaction even if it is anticompetitive.

By Order of the Board of Directors.

Dated at Washington, DC, the 19th day of December, 2007.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**  
*Executive Secretary.*

[FR Doc. E8-2885 Filed 2-14-08; 8:45 am]

BILLING CODE 6714-01-P

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## FEDERAL HOUSING FINANCE BOARD

### Sunshine Act Meeting Notice; Announcing a Partially Open Meeting of the Board of Directors

**TIME AND DATE:** The open meeting of the Board of Directors is scheduled to begin at 10 a.m. on Wednesday, February 20, 2008. The closed portion of the meeting will follow immediately the open portion of the meeting.

**PLACE:** Board Room, First Floor, Federal Housing Finance Board, 1625 Eye Street NW., Washington DC 20006.

**STATUS:** The first portion of the meeting will be open to the public. The final portion of the meeting will be closed to the public.

**MATTER TO BE CONSIDERED AT THE OPEN PORTION:** *Amendment to the Capital Structure Plan of the Federal Home Loan Bank of Seattle.*

**MATTER TO BE CONSIDERED AT THE CLOSED PORTION:** Periodic Update of Examination Program Development and Supervisory Findings.

**CONTACT PERSON FOR MORE INFORMATION:** Shelia Willis, Paralegal Specialist, Office of General Counsel, at 202-408-2876 or [williss@fhfb.gov](mailto:williss@fhfb.gov).

Dated: February 12, 2008.

By the Federal Housing Finance Board.

**Neil R. Crowley,**

*Acting General Counsel.*

[FR Doc. 08-742 Filed 2-13-08; 1:24 pm]

BILLING CODE 6725-01-P

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Agency for Healthcare Research and Quality

#### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** Agency for Healthcare Research and Quality, HHS.

**ACTION:** Notice.

**SUMMARY:** This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the proposed information collection project: "*Feasibility of secure messaging for pediatric patients with chronic disease: Pilot implementation in pediatric respiratory medicine.*" In accordance with the Paperwork Reduction Act of 1995, 44 U.S.C. 3506(c)(2)(A), AHRQ invites the public to comment on this proposed information collection.

**DATES:** Comments on this notice must be received by April 15, 2008.

**ADDRESSES:** Written comments should be submitted to: Doris Lefkowitz, Reports Clearance Officer, AHRQ, by e-mail at [doris.lefkowitz@ahrq.hhs.gov](mailto:doris.lefkowitz@ahrq.hhs.gov).

Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from the AHRQ Reports Clearance Officer.

**FOR FURTHER INFORMATION CONTACT:** Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427-1477, or by e-mail at [doris.lefkowitz@ahrq.hhs.gov](mailto:doris.lefkowitz@ahrq.hhs.gov).

### SUPPLEMENTARY INFORMATION:

#### Proposed Project

*Feasibility of Secure Messaging for Pediatric Patients With Chronic Disease: Pilot Implementation in Pediatric Respiratory Medicine*

AHRQ proposes to evaluate how the implementation of a secure email messaging (e-messaging) system between clinicians and adolescent patients affects: (1) Time spent by providers communicating with patients, (2) Emergency Department utilization for medication refills, and (3) qualitative satisfaction with care of the patients. The study will be conducted in the Yale University School of Medicine Pediatric Respiratory Medicine Clinic.

Several studies have evaluated the use of e-mail between providers and patients and found that it is typically satisfactory to both, has not been abused by patients, and has not been used inappropriately for urgent items. Studies have not evaluated the use of e-mailing or secure messaging by children or adolescents with chronic diseases as well as their families. The setting of chronic disease provides a natural forum for discussion about the use of such technologies since these families may need more frequent contact with their care-providers, need more frequent medication refills, and may have close relationships with their providers that encourage a communication genre such as secure messaging.

In particular, because many adolescents are comfortable with text messaging and email, the investigators hypothesize that adolescent patients themselves may feel empowered to contact their providers using this medium. This potential shift to having adolescents communicate with the providers presents two main hypotheses of interest. (1) Adolescents may be more prone to send a message that may be of an urgent nature because of the sense that messaging is "instant" as well as a possible feeling of more privacy. This issue presents the concern that adolescents in particular could send a secure message about information that is potentially urgent in nature such as a severe asthma exacerbation or suicidal ideation. Such messages will need immediate attention. (2) Adolescents may be more apt to disclose questions about their care that they would not have otherwise brought up with the provider. By giving adolescents a medium where they feel comfortable communicating, clinicians may be able to better meet the medical and psychosocial needs of adolescents and their families.